



CITIZENSHIP AMENDMENT ACT 2019- IS IT JUSTICE TO ALL PEOPLE RESIDING IN INDIA?

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ABSTRACT

The enactment of the Citizenship Amendment Act 2019 which was passed by both the houses on 10th December 2019 and signed by the President Ram Nath Kovind on 10th January 2020 has created a very awful situations in our country where many students and people with fragmented information about the amended act, is doing violent protests.

In Citizenship Amendment Act 2019 says that the illegal immigrants, who came to India before 2014 from Pakistan, Bangladesh and Afghanistan belonging to Hindu, Sikh, Buddhist, Christian, Parsi and Jain will be given Indian Citizenship. Here we can see that the Muslim community is being excluded, in my research paper the analysis of the Citizenship amendment act 2019 is being done and, also it gives information regarding the reason behind not including the Muslim community and how it is justice to all people residing in India.

LITERATURE REVIEW

The Prime Minister Narendra Modi in his speech mention his views regarding Citizenship Amendment Act as “CAA has nothing to do with snatching away the citizenship of any person belonging to the Muslim community who are legally residing in India at the time of partition and it only promises to give the citizenship to only those immigrants who have come to India from Bangladesh, Pakistan and Afghanistan before

31 Dec 2014 belonging to Buddhist, Sikh, Hindu, Jain, Christian and Parsi community”. Amit Shah and Narendra Modi in his speech mentioned the wordings of the Mahatma Gandhi at the time of partition that he mentioned” that any person belonging to above mentioned five community, if returned India back from Pakistan because of persecution faced by them then they will be accepted by the India and citizenship will be allotted to them”.

The Governor of Kerela ‘Arif Mohammad Khan’ mentioned the reason for not including the Muslim community in CAA in the interview with Rajat Sharma in ‘APP KI ADALAT’, he says that, “as Pakistan was declared to be the Islamic state officially because of which the minority group of Hindu, Sikh, Buddhist, Christian, Jain and Parsi community suffered from persecution and It’s the responsibility of India to give citizenship to these people so that they can live a healthy life in India and not to those illegal immigrants of Muslim who has come India because of unemployment”.

Rajat Sharma, the famous journalist in his show ‘Aj ki Baat’ telecasted the story of the Pakistani Hindu girl who was forced to marry the Muslim men forcefully and also highlighted that the conditions of the minority group are pathetic in Pakistan and they are being compelled to come to India for their survival because what they are facing in the Pakistan, Bangladesh, and Afghanistan is persecution.

Ravish Kumar the famous journalist in his show prime time says that “ the CAA and NRC is a conspiracy to create a rift between a Hindu and a Muslim community by raising a question from the BJP party that “Why



Muslim community is being excluded from Citizenship Amendment Act?”, he further added that the young student of Hyderabad University Rohith Vemula who committed suicide “My birth is my fatal accident” one year ago, students doing protest are holding his photograph as a symbol to raise their voice against the acceptance of Citizenship Amendment Act and National Registration of Citizenship”.

Ghulam Nabi Azad the Leader of the congress party has brought down the distinction of President's office by incorporating CAA in his location, he further said that Resistance groups considered the administration answerable for the far-reaching turmoil in the nation following the institution of the new citizenship law and said the general public was perilously crawling toward a common war-like circumstance.

"The general public is perilously crawling toward a common war-like circumstance and the legislature is exclusively answerable for it," CPI(M) general secretary Sitaram Yechury said.

AIM OF THE STUDY

- To study about the citizenship amendment act 2019.
- To find out whether any article of Indian constitution is violated or not.
- To relate CAA with the article 14 and 21.
- The effect of CAA in India as a whole.
- Reason behind excluding the Muslim Community.

LIMITATIONS OF RESEARCH-

Limited information was provided on online sources because of which I have only limited access to the information regarding my topic

and also couldn't find relevant and a good source to gather information regarding the problems faced by the people as because of Covid-19, the registration and identifications of people for citizenship has not started yet and also couldn't find any research study of any professor for the reference .

RESEARCH METHODOLOGY

Doctrinal method has been used by me for my research paper where the analysis of the data is being done on the basis of second hand information collected from the online sources and books.

IS CAA JUSTICE TO ALL PEOPLE RESIDING IN INDIA?

SECTION 1: INTRODUCTION

The Citizenship Act of India was introduced by the parliament of India on 30th December 1955 in which according to Article 5 of the Indian constitution all the people who were residing in India at the time of commencement of constitution were given the citizenship and also to those people who were born in India. This act also upholds the provision to acquire citizenship by the foreigners and the overseas citizenship of India followed by renunciation and termination of citizenship as well. The Citizenship act was also further amended in 1985, 1986, 1992, 2003, 2005, 2015 and, 2019.

The latest Amendment of the Citizenship act 1955 which is Citizenship Amendment Act 2019 submits the evidence of bringing hatred and brutality among the Hindu's and Muslim's because in the amendment the central government ceased the citizenship of the Muslim's who have migrated to India



before 2014 from Pakistan, Bangladesh and, Afghanistan and agreed to award Indian Citizenship to the migrants of Hindu, Sikh, Buddhism, Jain, Christian and Parsi community who have come to India from Pakistan, Bangladesh and, Afghanistan.

On 4th December, 2019 the Citizenship Amendment bill was cleared by the Union ministers to be introduced in the parliament. Amit Shah, the minister of home affairs introduced the bill on 9th December in the Lok Sabha which was passed by it on 10th December with 311 members voting in favor of it and 80 against it. the Rajya Sabha passed the bill on 10th December with 125 votes in favor of it and 105 against it. after the signing of the bill by the president, Ram Nath Kovind the bill got enacted on 10th January 2020.

The enactment of the Citizenship Amendment Act, 2019 seems to be obvious but it has created a conflict between the Muslim and other communities. People criticized this Act, based on discrimination against religion and claimed their remedies for the violation of Article 14 and 20 of the Indian Constitution by undoing the enactment of the law. They are also concerned about the bureaucratic exercise of NRC where they will have to show evidence of their Citizenship.

The protest was first started when the bill was introduced in the parliament in Assam on 4th December and later spread to the northeastern states of India and eventually to major cities of India. On 15th December major protest held in Jamia Milia Islamia (New Delhi) and Aligarh Muslim University, as it broke out mobs were burnt, public property was destroyed as well as private properties and railway stations were wrecked. Police forcibly entered the campus

of Jamia did the lathi charge to stop the crowd and detained over 100 Students, many were Injured and the action of the police was also criticized by the public. Another protest was held in Shaheen Bagh which was held for months before the outbreak of coronavirus causing trouble to many students and people because of which people in bulk suffered traffic jams and difficulty in reaching offices, schools and, colleges.

SECTION 2: HISTORY OF CITIZENSHIP AMENDMENT ACT 2019

The commencement of the Indian citizenship act for the first time in India was done in 1955, where under Article 11 of the constitution powers were assigned to the union parliament under which they can make a law for the acquisition of the constitution and all other related matters. The 1955 act gives the methods to acquire the Indian citizenship by the people residing in India for a longer period of time that is citizenship by birth, descent, registration, naturalization, incorporation of territory and overseas citizenship for a person in India origin, followed by termination and renunciation of citizenship of India.

The amendment of citizenship act 1955 was done for the first time that is citizenship of persons covered by Assam accord 1985, in this amendment section 6-A was inserted in the 1955 act which gives the effect to memorandum of settlement related to the foreigner's issue in Assam. It says that people who came to Assam after 1st January 1966 but before 25th March 1971 who have been identified as being foreigners would have to register themselves and they will have the same right as the rights which Indian citizens acquire but they shall be deemed to be the



citizens of India for all-purpose as from the date of expiry of a period of ten years from the day they were being identified as foreigners.

Another amendment of citizenship act 1955 was done on 1986 which says that the section 3 provides that citizenship by birth can only be acquired for such persons whose one of the parent is the citizen of India at the time of their birth and this amendment was enforced on 1st July 1987 and therefore it applies to the cases occurring on and after 1st July 1987.

In Citizenship Amendment 1992, amend Section 4 of the citizenship act 1955 in which the word "father" was replaced by the word "either of his parents" has been added. Thus, a person who is born outside India shall be a citizen of India if at the time of his birth either of his parents is a citizen of India. It has also amended subsection (2) of section 8 in which the word "a male person" is being substituted with the word "a person" and the minor children of that person, whether male or a female who renounces his/her Indian citizenship shall also cease to become the citizens of India.

In Citizenship Amendment Act 2003 again section 4 was amended which says that the birth of such a person as aforesaid shall not be registered on or after the commencement of this Amendment Act unless that person parents declare in such form and such a manner prescribed that the minor does not hold the passport of any other country. A minor who is a citizen of India by under this Section shall cease to be a citizen of India if he doesn't renounce the citizenship or nationality of any another country within the time period of six months of attaining the maturity age, it also provides the registration

of the following persons as overseas citizens of India-

- Any person of Indian origin of full age and capacity, who is a citizen of any country specified in the fourth schedule to the acts.
- Any persons of full age and capacity who has obtained the citizenship of a specified country on or after the commencement of the amendment act 2003 and who was the citizen of India immediately before such commencement.
- Any minor children of a person mentioned above in (a) and (b) category.

No person shall be registered as the citizen of India who has been deprived under Citizenship Amendment Act 2003 and can only be registered by an order of the central government.

The section 7-C of the Indian Citizenship Amendment Act 2003 enables an overseas citizen of India, of full age and capacity to pronounce his overseas citizenship of India by making a declaration and getting it registered with the Central Government. upon such registration he shall cease to be an overseas citizen of India.

The Citizenship amendment act 2005 has inserted a new clause (5) in Article 14 of the constitution. This clause gives the special power to the state to make law based on any special provision, for the advancement of any socially and educationally backward classes of citizens or the scheduled castes and scheduled tribes as well, in so far as, such special provisions related to their admission to educational institutions, including private educational institutions, whether aided or unaided by the state, other than minority



educational institutions, referred to in clause (!) of Article 30.

The citizenship amendment 2015 says that At present one-year ceaseless remain in India is compulsory for Indian Citizenship and if the Central Government is fulfilling the unique conditions exists, it might, in the wake of recording such conditions recorded as a hard copy, loosen up the time of a year indicated up to a limit of thirty days which might be in various breaks. To empower for enlistment as Overseas Citizen of India (OCI) by a minor, whose guardians are Indian Citizens. To empower for enrollment as Overseas Citizen of India (OCI) by minor or a grandchild or a great-grandchild of such a resident. To empower for enrollment as Overseas Citizen of India (OCI) by such life partner of a resident of India or companion of an OCI enlisted under Section 7A and whose marriage has been enlisted and remained alive for a consistent time of at the very least two years quickly going before the introduction of the application under this area. regarding concerning with existing PIO card Holders, the central government may, by notice in Official Gazette, indicate a specific date from which all current PIO cardholders will be considered to be OCI cardholders.

The Citizenship amendment act 2019 says that), in section 2, in sub-section (1), in clause (b), the following proviso shall be inserted, namely:— "Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted

by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made thereunder, shall not be treated as illegal migrant for the purposes of this Act;".¹

SECTION 3: IS CAA violating any article?

As we all know that preamble of India is like a guardian of our Indian Constitution which means that the laws made by the legislature must be in accordance with our preamble, let's have a glance at our preamble once, which says that " WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC REPUBLIC and to secure to all its citizens:

- JUSTICE, Social, Economic and Political,
- LIBERTY of Thoughts, Expression, Belief, Faith and, Worship.
- EQUALITY of status of opportunity; and to promote among them all.
- Fraternity assuring the dignity of the individual and the unity land of the Nation.²

Now if we look at the first line of our preamble it says that "WE THE PEOPLE OF INDIA" which means that any law made and amendment in the constitution must related to Citizens of India assuring that their fundamental rights must not be violated and it should be justice, liberal, equal and fraternal to all. But there are other laws as well which gives some rights to the foreigners residing in our country on a

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<http://egazette.nic.in/WriteReadData/2019/214646.pdf>

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http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/india/india--e.htm



temporary basis and it is obvious that those who have already applied the application for the citizenship will be enjoying all the rights which the Indian Citizens are enjoying by default but there is one difference that they have not get the citizenship else everything is same for them as it is or the Indian citizen.

If we relate the Citizenship Amendment Act 2019 which says that “ any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made thereunder, shall not be treated as illegal migrant for the purposes of this Act;”³

It is clear that this law is not for the citizens of India and it has nothing to do with the citizenship of those people who are already the Citizens of India and it is only related with the refugees and illegal immigrants who have entered in India before 31st December 2014, let's get to the point that Article 14 (Right to equality before law) and 21(Right to personal life and Liberty) is a legal right provided to any person residing in India along with the fundamental right on Indian citizens, but any illegal migrant will be excluded from giving these rights to them because there are the legal methods provided by the Indian government so that any person from any other country can migrate to India and reside in the country as well legally.

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<http://egazette.nic.in/WriteReadData/2019/214646.pdf>

The Central Government allow all the other communities to provide citizenship of India but not to the Muslim Communities because Pakistan, Afghanistan and, Bangladesh are an Islamic country and the minority groups are being persecuted there because of which the people who at the time of partition belonging to Hindu, Buddhist, Christian, Jain, Sikh and, Parsi who stayed back to these three countries suffered persecution and no such laws are being made for the betterment of these minority groups but India has the better laws and schemes related to these people and of course better schemes for the people who fall under the category of the poverty line and with deteriorated conditions. According to Article 15 (iii), 15(iv) and Article 16(iii), 16(iv) state has been given the special powers to make any law regarding the minority sections of the country, so the 2019 amendment is not violating the rights of Muslims who come under the majority group in Pakistan, Bangladesh, and Afghanistan.

SECTION 4: WHY MUSLIM COMMUNITY HAS BEEN EXCLUDED?

- Firstly, Pakistan, Bangladesh, and Afghanistan are the Islamic countries where Islam is being followed by 96.4% people in Pakistan, 82.8% people in Bangladesh and 84.7% by Sunni and 15% by Shia Islam in Afghanistan, Which is the clear evidence, as it proves that these countries are the Islamic state. The minorities group of Hindu and other religions mentioned in the CAA is 3.6% in Pakistan, 8.2% in Bangladesh and 0.3% in Afghanistan whose percentage was less as we



compared to the percentage at the time of partition which was nearly about 30% and 23% of Hindu religion and other communities in Bangladesh and Pakistan where people were being persecuted and they have to change their religion forcefully and for those whose survival was fatiguing, migrated to India with the hope of living a life with secularism and dignity.

- Amit Shah in his interview in 'AGENDA AAJ TAK' by Rahul Kanwal mentioned the following reasons for giving citizenship to Hindu and other 5 community as:
 1. He said that the Prime Minister Jawaharlal Nehru, Rajendra Prasad and Father of the Nation Mahatma Gandhi said in his speech said that if Hindu and Sikhs are being tortured, persecuted and treated with atrocities in the name of religion then they can come back to India to live a better, religious and respectful life.
 2. He said that if they allow Muslim people to come and reside in India then they will come to India in a huge ratio in the search of employment opportunities and a better livelihood in here because we all know that India is a better economic country than Pakistan, Bangladesh, and Afghanistan where there is no such laws and schemes for the minority group.
 3. He further added that if people who are doing protest think that Article 14 is being violated then they should know that this amendment is not for the citizens of India but for the minority group in Pakistan, Afghanistan and Bangladesh so that in India they can have a better living opportunities.
- Moreover, the Islamic state means that Muslims have been given all the rights and no such laws are being made for the minority

group. But if we think for the Muslims who are being persecuted in these countries then it is contrary to the conditions of minority groups in India because if we just have a glance in Indian history then Dalits and other backward classes were treated with atrocities by the Brahmin's, kshatriya's, Vaishya's and Shudra's but it will not be justified if they illegally migrated to any other country just for the sake of better employment and living in there.

- Last but not the least, if India would allow the migration of Muslim refugees or illegal migrant than the population of 21.22 crore in Pakistan, 16.4 crore in Bangladesh and 3.77 crore in Afghanistan in which majority is of Islam's will start migrating to India for Indian citizenship and secularism of India can be converted into a theocracy because the majority group always have an upper hand in controlling the minority groups and making them the part of their group. Imagine the situation of the people who are living in India by birth and who fall under the category of poverty line and are struggling daily for their daily bread which will be worse than ever because of the increase in population rate because of the increase in migration rate and also it will affect the GDP of our country and various other factors in economic sense, along with the riots between Muslim and Hindu in the name of god (Babri Masjid case 6 Dec 1992).

SECTION 5: How CAA WILL AFFECT INDIA IN GENERAL SENSE?

- There would be a change in population ratio and also it will affect the lives of the illegal immigrant which will be sent back but for the poor citizens of India it will be beneficial in



terms of employment and can lower the struggle of daily bread.

- It will also lower the poverty rate in India because in India these illegal migrants were living a life of poverty.
- The funds invested for the various schemes launched by the government for poor people can now be targeted to many people.
- It will also affect the GDP rate in India as well as the per day consumption of food, water resources, electricity and diesel etc.

SECTION 6: CONCLUSION

In this research paper, I have found that the amendment of citizenship act 1955 in 2019 is not taking away the rights of any person who is already the citizen of India. It only talks about giving the Citizenship to those illegal migrants who came back to India because of the persecution faced by them in Pakistan, Bangladesh, and Afghanistan. The people protesting is also being misinterpreted because of fragmented knowledge about the act. This amendment has nothing to do with the secularism of this country and does not violate any article of the constitution. This CAA is necessary because Hinduism, Sikhism, Jainism, Parsi, and Buddhism was the religion who was originally originated in India and to assure that these religion doesn't suffer from any of the atrocities this Law was enforced by the BJP to give the rights to the minority groups of aforesaid countries. It also proves that it is justice to all the people residing in India excluding the Muslim illegal immigrants because according to our home minister India cannot give citizenship to those people who are the majority group of any other country and came to India just for the employment where already many people are struggling for their daily bread, In fact, none of the any other country would give the

citizenship to any person from any country until and unless their terms and conditions are not fulfilled. This amendment also talks about the people who migrated to India after 2014 from Pakistan, Afghanistan and Bangladesh belonging to any community will not be considered as the citizen or residents of India and will be sent back to the respective countries from where they have migrated.

SECTION7: BIBLOGRAPHY

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