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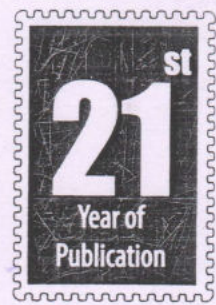


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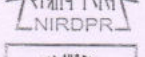
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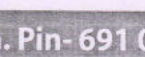
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The Citizenship (Amendment) Act, 2019: Constitutional and Legal Dimensions

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The Citizenship (Amendment) Act, 2019 (CAA) is an Act passed by the Indian Parliament, amending the Citizenship Act of 1955. This new legislation gives an opportunity to illegal migrants who entered India on or before 31 December 2014 for Indian Citizenship. The Act also specified that illegal migrant category include Hindus, Sikhs, Buddhist, Jains, Parsis and Christians who came from Afghanistan, Pakistan and Bangladesh. It also seeks to relax the requirement of residence in India for citizenship by naturalisation from 11 years to 5 years for these migrants. The Act excludes Muslims from such eligibility. The Union Cabinet cleared the Bill on 4th December 2019. It was passed by Lok Sabha 10 December 2019 and subsequently in the Rajya Sabha on 11 December 2019. Keeping this in background this paper attempts to examine the constitutional, legal and political implications of this legislation. The study has been classified under six broad heads- introduction, background of CAA provisions of granting citizenship, argument for and against CAA, its impact on north - east and finally views of various political parties on it.

No doubt, the CAA is a very serious move with far-reaching consequences and deeper impact on the basic character of the Constitution and therefore it needs a closer look. It seeks to give shelter and protection to persecuted minorities in Bangladesh, Pakistan and Afghanistan. This ushers in a fundamental change in country's process of citizenship by naturalisation which allows foreigners to become Indians. Under the current legal dispensation, illegal immigrants cannot apply for Indian citizenship. Current law bars Hindu migrants from Bangladesh, who have en-

tered India without papers to become citizens. It also excludes anyone who has entered using a legal document but has overstayed visa. At the same time, the CAA also shortens the waiting period for naturalisation for these chosen communities who would now require a six-year residence instead of the previous condition of having been a resident of India for at least 11 out of the last 14 years. Thus, once again creating two kinds of citizens that is a serious violation of fundamental rights granted to Indian citizens by the Constitution.

The stated objective of the CAA sounds logical but going through its text is stunningly shocking as it not only seriously questions its own stated objective but also negates the fundamental character of the Constitution. It also tears apart the plural fabric of Indian society. The present legislation, with its careful listing of protected communities, has explicitly and deliberately left out Muslims which is nothing but discriminatory. It excludes creating different categories of citizenship in which one is superior to the other where in religious faith is the sole determining criteria.

In other words, the CAA paves way for Indian citizenship to lakhs of immigrants, who identify themselves with any of the given religions, even if they lacked any document to prove their residency. It also means that any immigrant who does not belong to the said communities would not be eligible for Indian citizenship. Also, as per the Citizenship (Amendment) Act, any illegal immigrant from Afghanistan, Pakistan and Bangladesh who belongs to these said communities will not be deported or

imprisoned if they are not carrying any valid documents for their residency in India.

Earlier, the duration of the immigrants' residency was 11 years. The amended bill has reduced it to five years. This means that immigrants from the three countries and from the mentioned religions, who have entered India before December 31, 2014, would not be treated as illegal immigrants.

Background of the CAA

During the 2014 elections, the Bharatiya Janata Party had promised to grant citizenship to Hindu refugees from Bangladesh and Pakistan. In the party's election manifesto in 2014, the BJP had promised to welcome Hindu refugees and give shelter to them. The Citizenship (Amendment) Bill, 2016 was introduced and passed in Lok Sabha but there was widespread political opposition and protests in the northeast India. Their chief concern was that the demography of Northeast India will change with the influx of migrants from Bangladesh. In the 2019 election campaign, the BJP's manifesto reiterated its commitment to bring in the Bill. The National Register of Citizens (NRC) was updated in Assam state in 2019, leaving out 1.9 million residents, a majority of whom were Hindus, without citizenship. This matter brought urgency to the bring in the Bill.

The Bill was introduced in Lok Sabha on 19 July 2016 as the Citizenship (Amendment) Bill, 2016. It was referred to the Joint Parliamentary Committee on 12 August 2016. The Committee submitted its report on 7 January 2019. In January 2016, the Citizenship (Amendment) Bill was introduced to amend the Citizenship Act, 1955. It was introduced in Lok Sabha on 19 July 2016 and was referred to a Joint Parliamentary