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## Voices from India's Borderlands against the Citizenship Amendment Act (CAA-2019) An Explanatory study

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**Abstract:** India is the largest populous democracy in the world, however there are many others. India has conducted itself as a responsible democracy ever since it gained its freedom. The world community has concurred on this as well. It has proven capable of adjusting to a variety of difficult situations. In order to revise India's Constitution, it is necessary to change the fundamental or ultimate law of the nation. Article 368 of Part XX (the Constitution's governing provision) governs constitutional amendments in India. With the help of this mechanism, the Indian Parliament's arbitrary power is constrained and the Indian Constitution is safeguarded. There are two different categories of modifications allowed under the Indian Constitution. A majority of all Indian states must ratify, as well as a special majority in both the Lok Sabha and Rajya Sabha (the lower house of Parliament). When the Indian Constitution was up for review again in October 2021, 105 amendments had been made. In 1950, the First Amendment to the US Constitution was ratified. The Constitution has undergone 104 amendments since that period. The Citizenship Amendment Bill, introduced in Lok Sabha, was an attempt to update the Citizenship Act of 1955. (CAA Bill 2019). A Joint Parliamentary Committee received it, and on January 7, 2019, it issued a report outlining its conclusions and suggestions. The Citizenship Amendment Bill was passed on January 8, 2019, and the 16th Lok Sabha was dissolved. Amit Shah, the minister of home affairs, reintroduced the bill in the 17th Lok Sabha on December 9, and it was approved on December 10 of that same year. Despite the Rajya Sabha voting to adopt the measure on December 11th, India has been quite critical of it due to its discriminatory nature among neighbouring nations. A bill of this sort is fiercely opposed by the populace. The paper aims to explain all of the bill's provisions and presents the arguments against it.

**Keywords:** Citizenship, Parliament, Amendment and Criticism and Voices.

## **1. INTRODUCTION**

It is the concept of citizenship that best illustrates the link between a nation and its citizens. Specific obligations or responsibilities that are owed by individuals to the state are exchanged for certain privileges, such as protection from government agencies or protection from voting or holding public office, amongst others, in return for those privileges. People who fulfill their responsibilities or commitments receive these rights in return. The Indian Constitution recognizes only one type of citizenship, and this type of citizenship is recognized throughout the country. Article 11 of the Indian Constitution grants the Parliament of India the authority to establish laws covering all aspects of the citizen's right. The government of India passed the Citizenship Act in 1955 as a direct result of this. In order to become an Indian citizen, one must complete the steps described in this statute.

The topics of citizenship, naturalization, and foreign nationals are addressed in Entry 17, List 1, of the Seventh Schedule. Parliament is the only entity having the authority to adopt laws relating to citizenship because of this. Prior to 1987, a person could be eligible for Indian citizenship if they had been born in the country. In 1987, this stipulation was dropped. At least one parent had to be an Indian citizen before the rules for citizenship were changed. This was done in response to a call from populist groups who claimed that Bangladesh was a major source of illegal immigration. It was built in response to client input. Another change implemented in 2004 required that neither the child's biological nor adoptive parents be in the country illegally. Instead, it is ideal if both parents are descended from Indians. This legislation, commonly referred to as the CAA Bill, was first introduced to the Lok Sabha in 2016 to amend India's citizenship law. This legislation, known as the Citizenship Amendment Act (CAA), is also known as the Citizenship Act. On January 7, 2019, a Joint Parliamentary Committee submitted a report on this piece of legislation after it was recommended to the committee. On January 8, 2019, the Lok Sabha passed the Citizenship Amendment Bill. Since the 16th Lok Sabha was disbanded, the bill has ceased to be in effect. Amit Shah, the Minister of Home Affairs, reintroduced this Bill in the 17th Lok Sabha on December 9, 2019, and it was passed on December 10, 2019. The measure was also passed by the Rajya Sabha chamber on the 11th of December. Indian citizenship was granted to illegal immigrants who entered the country before December 31, 2014 under the Citizenship Act of India (CAA), often known as CAA. On or before the deadline, such people must have entered the nation to be eligible.

### **Objectives of the Research**

1. To shed light on citizenship amendment bill provisions.
2. To explain how citizenship bill is discriminatory in nature.
3. To describe Voices from India's Borderlands and analyse why citizenship amendment bill is highly criticised and why it triggers protest India.

## **2. METHODOLOGY**

This research paper is mostly based on secondary sources of information, including research

papers, books, and official documents downloaded from the ministry of foreign affairs website, one of the official portals of the Indian government. An empirical methodology has been used to analyse and explain the facts and relationship critically. To get a just conclusion, qualitative data were gathered and used. For this research investigation, direct approaches including scientific observation and expert interviewing have also been used. Focus has been placed on empiricism, observation, critical analysis, and exploratory methodologies to contextualise the study's subject matter. With the use of such approaches, new, rational, and empirically supported information has been added to the body of literature.

### **3. DISCUSSION AND RESULTS**

#### **Who is an illegal migrant in India?**

The Act identifies the characteristics of an individual who is in the country without authorization like enters the country without possessing the appropriate travel documentation, which may include a passport and a visa. Is able to enter the nation with the appropriate travel credentials, but remains inside for a longer amount of time than is permitted. The Illegal immigrants in India face the threat of being imprisoned or deported from the country according to the Foreigners Act of 1946 and the Passport (Entry into India) Act of 1920. These laws were passed in India.

Given the conditions that existed before to the passage of the Act, it is abundantly evident that an illegal immigrant does not meet the qualifications to submit an application for acquiring citizenship under the existing regulations. They can't enroll as an Indian resident or naturalize as an Indian resident, subsequently they can't turn into an Indian resident. Both the Foreigners Act and the Passport Act make it unlawful for an individual to get identification under these circumstances, and the two regulations grant the detainment or ejection of expatriates. The most common way of turning into an Indian resident starts with enrollment, which is the underlying stage. Section 5(a) of the Citizenship Act of 1955 states that an individual is qualified for Indian citizenship assuming they are of Indian legacy and have typically dwelled in India for a time of seven years past to making an application for enrollment. To make an application for citizenship, they were likewise expected to exhibit that they had been ceaselessly dwelled in India for one year. As per the Citizenship Act of 1955, one of the requirements for Indian citizenship by naturalization is that the candidate probably lived in India during every one of the latest a year and for 11 of the latest 14 years. One more condition is that the candidate was brought into the world in India. Notwithstanding the necessity that the applicant probably been brought into the world in India, this must likewise be fulfilled.

#### **• Glances of the CAA in the Year 2019**

The goal of this bill is to alter the Citizenship Act of 1955 so that unlawful residents of Afghanistan, Bangladesh, and Pakistan who practise Hinduism, Sikhism, Buddhism, Jainism, and Parsi faiths as well as Christians may petition for Indian citizenship. The House of Representatives has introduced this bill. In other words, the purpose of the Act is to make it easier for persons who are persecuted in India's neighbouring nations to petition for Indian citizenship. To be eligible for the safeguards provided by this legislation, a person must be

able to demonstrate that they "were coerced or compelled to seek asylum in India due to religious persecution." Its purpose is to shield these persons from the legal consequences of illegal immigration. The amendment reduces from 11 to 5 the minimum number of years that candidates must have been naturalised. This is a special condition for eligibility. Only individuals who identify with one of these six religions are influenced by this trend. The deadline for submitting citizenship petitions is December 31, 2014; therefore applicants must have arrived in India on or before that date to be eligible. The following provisions become applicable to an individual who has earned citizenship in line with the Act: From the date of their induction into India, these people will be ventured to be Indian residents, and all lawful cycles relating to their unlawful relocation or citizenship will be finished up. It further specifies that holders of Overseas Citizen of India (OCI) cards — a migration status that permits unfamiliar residents of India plunge to dwell and work in India endlessly - could lose their status assuming they commit huge or minor offenses and infringement. This applies to both serious and minor offenses and offenses. This applies to the most serious offenses and infringement as well as those of a lesser seriousness. The Act determines that the guidelines overseeing citizenship for unlawful settlers wouldn't be implemented in the Sixth Schedule ancestral zones. This provision can be tracked down in the Act. Assam, Meghalaya, Mizoram, and Tripura all involve lots delegated ancestral grounds. These ancestral spots remember Karbi Anglong for the territory of Assam, the Garo Hills in the province of Meghalaya, the Chakma District in the province of Mizoram, and the Tripura Tribal Territories District. These locales are situated in Meghalaya, Mizoram, and Tripura, three Indian states. Likewise, it won't have any significant bearing to the districts covered by the Inner Line Permit laid out by the Bengal Eastern Frontier Regulation of 1873. These locales won't be dependent upon this regulation. One of the most fundamental problems with the Act is that it discriminates against Muslims in particular. In light of this, establishing religion as a prerequisite for citizenship goes against not only the spirit of secularism as an ideal, but also liberalism, equality, and justice. In Pakistan, it prevents persecuted Shia, Balochi, and Ahmadiyya Muslims, as well as Afghan Hazaras, from obtaining citizenship. It prevents Hazaras in Afghanistan from applying. The fact that the CAA does not offer protection to persecuted individuals in countries such as Myanmar and Sri Lanka, from whom Rohingya Muslims and Tamils have fled to the United States in pursuit of asylum, is one of the key grounds used by opponents of the CAA. Some believe that doing so violates Article 14 of the United States Constitution, which states that all citizens have the right to equality and protects that right. The CAA is in direct conflict with Article 14, which not only requires reasonable categorization and the achievement of a rational and just objective for a classification to be valid, but also requires that such classifications be non-arbitrary. The CAA stipulates that each classification must be reasonable and serve a reasonable and just objective. The CAA directly contradicts Article 14 of the Constitution. In light of the fact that it is wrong to differentiate between individuals on the basis of their religious beliefs, one of the accusations levelled against this Act is that it is an example of class legislation. This is among the complaints that have been made. As a result of the potential that citizenship could be granted to a substantial number of Bangladeshi illegal immigrants, inhabitants of the north-eastern states of the United States have begun to experience intense levels of worry. These apprehensions include concerns about population shifts, the loss of possible economic sources, and the extinction of the indigenous way of life. The Act appears to be in violation



of both the language and spirit of the Assam Accord. The Assam Accord, which was endorsed between the focal government that was driven at the time by Rajiv Gandhi and the All Assam Students' Union (AASU), had laid out March 24, 1971 as the cut-off date for the affirmation of unfamiliar settlers. The individuals who endeavoured to wrongfully enter the territory of Assam after this date would be gotten and sent back out of the country, no matter what their strict alliance. The Citizenship Amendment Act got the removed date for six religions to December 31, 2014, which the Assamese-speaking occupants of the Brahmaputra Valley don't acknowledge. These people are resolved that every individual who unlawfully enters the country ought to be viewed as a crook. Because of the Citizenship Amendment Act, the cut-off date has been pushed ahead. Furthermore, the economy is a wellspring of uneasiness. Assuming huge number of individuals leaves Bangladesh and start remaining legitimately in Assam and the North East, the land will be immediately stressed. Land is the main financial asset. This is because of the way that land is the main financial asset. What's more, since these people will be real residents, there will be an expansion in the quantity of people looking for business. This might decrease the amount of chances accessible to locals and occupants in the area. All that will at last reduce to the political privileges of the state's occupants. Movement has been perhaps of the main issue confronting Assam lately. There is a school of thought that claims illegal immigrants, many of whom will one day become legal citizens, will have a substantial impact on the state's political future. According to this school of thought, illegal immigrants will have a substantial impact on the political trajectory of the state. The CAA avoids Jews and other people who don't put stock in god. They are in no way, shape, or structure covered by the Act. It is hazy why Afghanistan, Pakistan, and Bangladesh are being lumped together, and accordingly, other (adjoining) countries are by and large avoided with regard to the conversation. Afghanistan was never a piece of British India and has forever been its own country; subsequently, it can't act as the reason for a common verifiable encounter. Nepal, Bhutan, and Myanmar, what share a land line with India, have not been welcome to partake in this occasion. The motivation behind the Act is to safeguard "strict minorities" inside these religious systems, as the constitutions of these three countries each accommodate a "state religion." This is on the grounds that the constitutions of everyone of the three countries specify a "state religion." This is depicted in more prominent profundity in the rule's "Explanation of Objects and Reasons" segment. Bhutan is an adjoining country whose official religion is Vajrayana Buddhism. Bhutan is a strict state by constitution, and Vajrayana Buddhism is the significant type of Buddhism there. In this case, the first support doesn't stand up to anything. Non-Buddhists may just partake in restricted preacher exercises, the development of non-Buddhist strict offices is unlawful, and the recognition of specific non-Buddhist strict occasions is precluded. Regardless of this, Bhutan was not decided to be remembered for the rundown. It's just concern is the concealment of assorted strict networks: The Act safeguards just the people who have been exposed to strict oppression, while disregarding any remaining types of mistreatment. As to grouping of people, the Act gives insurances to the individuals who have been exposed to a solitary sort of oppression. In certain regions of the planet, being aggrieved for one's political convictions can be essentially as extreme as being mistreated for one's strict convictions. In the event that the goal is to allow assurance to abused people, it is nonsensical to bind such security to simply the individuals who have been mistreated by virtue of their strict practice. By and by,



notwithstanding, it will give citizenship to the people who are less meriting to the detriment of other people who are seriously meriting. As per the naysayers, the arrangements of the CAA will deny equivalent legitimate security to comparably arranged "unlawful travellers" in India. In fact, however, it will concede citizenship to others less meriting it. As per the people who go against the CAA, its arrangements could prompt a circumstance in which a Rohingya man who escaped mistreatment in Myanmar and advanced toward India wouldn't be qualified for citizenship, while a Hindu man from Bangladesh who might be a monetary transient and have never been straightforwardly oppressed would be qualified. In this present circumstance, the Rohingya fellow wouldn't be qualified for citizenship thought. Regardless of the way that the Rohingya man escaped mistreatment in Myanmar and advanced toward India, this is the situation. A Tamil from Jaffna who escapes the barbarities in Sri Lanka will keep on being delegated a "unlawful worker" and won't ever be qualified to apply for citizenship through naturalization. This is because of their unlawful presence in Sri Lanka. The past necessity of eleven years of residency in the nation has been diminished to five, and the base number of years as of now required is likewise five. It indistinct elements prompted the determination of a specific time span as the one to be used.

- **It is not biased or prejudiced towards Muslims.**

Ahmediyas and Rohiyas still have the ability to apply for Indian citizenship through the naturalisation process (if they enter with valid travel documents). In any case, they would not be returned since India adheres to the principle of non-refoulement, which prohibits repatriation even though India has not ratified the 1951 Refugee Convention. This is the case despite the fact that India has not joined the 1951 Refugee Convention. If a Shia Muslim is in danger of being persecuted and has sought asylum in India, his application to remain legally in India as a refugee will be reviewed based on the merits of his case and the circumstances. If his request is approved, he will be granted refugee status and be permitted to remain in India. Due to Balochistan's decades-long battle for independence from Pakistan, it is likely that incorporating Balochis into the CAA will be regarded as interference in Pakistan's internal affairs. When considering the Balochi refugees, this must be taken into account. As a result, the CAA does not prohibit Muslims from Afghanistan, Pakistan, or Bangladesh from applying for Indian citizenship. It is conceivable for them to continue in the same manner that, for example, musician Adnan Sami applied for U.S. citizenship. It is of the utmost importance to remember that even members of a minority group will not be awarded automatic citizenship. They would be required to demonstrate that they meet the qualifications established in the Third Schedule of the Citizenship Act of 1955. In addition to possessing a physical residence in India, these conditions also stipulate that the applicant must exhibit a good character. The Citizenship Amendment Act has no anti-Muslim bias, at least according to statements made by Harish Salve, one of the most prominent national and international law figures in India. According to Salve, each CAA member adheres to its own interpretation of Islamic law and practises its own official religion. He continued by stating that inhabitants of mostly Muslim nations are categorised based on whether or not they practise Islam as a religion. The purpose of the CAA is not to address governance issues in neighbouring nations that affect Canada. Regarding the Rohingya crisis, Salve remarked that a rule that addresses one problem does not have to solve other problems in all countries. He was referring to the reality that Rohingya people are discriminated against. Myanmar

does not have a state religion, despite having a Buddhist majority, and the CAA law does not mention Myanmar as a country that would be affected by its provisions. Despite having a majority Buddhist population, Myanmar does not have an official religion.

- **The Act does not violate Article 14 of the United States Constitution.**

To begin with, the justifiability of citizenship or laws that limit the entry of foreigners is generally viewed as a "sovereign space" in which courts are unwilling to act for fear of disturbing the power balance. This is because the courts are concerned that undermining the justifiability of citizenship or legislation regulating the entry of foreigners could have unexpected repercussions. Consequently, in *Trump v. Hawaii* No. 17-965, 585 U.S. (2018), the Supreme Court of the United States upheld a ban on travel from some predominately Muslim countries. The court reached its finding on the basis that the regulation of foreigners, including ingress, is a "fundamental sovereign attribute exercised by the political departments of the government that is basically immune to judicial oversight." In the vast majority of instances considered by Indian courts, same lines of reasoning have been utilised. In the 1997 case *David John Hopkins vs. Union of India*, the Madras High Court ruled that the Union's ability to refuse citizenship is unrestricted and does not fall under the Article 14 equal protection guarantee of the Indian Constitution. This choice has been made. In a similar spirit, the Supreme Court of India declared in the 1991 case *Louis De Raedt vs. Union of India* that a foreigner's rights in India are confined to those mentioned in Article 21, and that the foreigner does not have the right to seek citizenship as of right. This decision was made in view of the fact that foreigners in India have no inherent right to seek citizenship. The Citizenship Amendment Act in no way diminishes the relevance of the Assam Accord in regards to the March 24, 1971 cutoff date specified for the identification and deportation of illegal immigrants. The establishment of this day occurred on March 24, 1971. In no way is Assam the main point of the Citizenship Amendment Act. It applies uniformly to the entirety of the nation. The National Register of Citizens (NRC), which is undergoing an update to better protect native communities from the threat presented by illegal immigration, is not in any manner in conflict with the newly enacted Citizenship Amendment Act. In addition, there is a cut-off date of December 31, 2014, and those belonging to religious minorities who migrate to India after the cut-off date will not be eligible for the Citizenship Amendment Act's advantages. As a result of the Act, Sikhs, Christians, and Hindus existing in a nation other than India are unable to relocate to India and apply for citizenship there. At this point, only these three nations will be taken into account. Why? India has been a significant cultural effect on each of these since each has a long and illustrious history of cultural interaction with India. Since the partition took place as a result of the conditions under which they were split from India, the Hindu population as well as the populations of other minority groups have experienced a gradual decline in both countries. This is because of the circumstances surrounding their separation from India. Regarding the incorporation of other nations into the neighbourhood, one line of thought could be that we can deal with each of them individually if the situation calls for it, just as we did with the tortured Sri Lankan Tamils. This is comparable to what we did in the preceding example.

- **Nehru-Liaquat accord**

In 1950, Jawaharlal Nehru and Liaquat Ali Khan, who were the separate state heads of India

and Pakistan at that point, consented to an arrangement between the legislatures of India and Pakistan with respect to the security and privileges of minorities. In a specific order, Liaquat Ali Khan and Jawaharlal Nehru filled in as the heads of India and Pakistan, separately. After the segment of India and Pakistan, which was gone before by far and wide shared viciousness, a minority in the two countries perceived the requirement for such a deal. This affirmation followed the parcel of India and Pakistan. In 1950, strict strains and aggravations, for example, the 1950 East Pakistan riots and the Noakhali riots brought about the relocation of north of 1,000,000 Hindus and Muslims out of and into what is presently Bangladesh. These uproars happened, separately, in East Pakistan and Noakhali. A few evaluations demonstrate that more than 1,000,000 people are progressing. The settlement expressed, "The Governments of India and Pakistan gravely concur that each will guarantee, to the minorities all through every nation's domain, finished equity of citizenship paying little mind to religion; a full feeling of safety as for life, culture, property, and individual honor; opportunity of development inside every nation; and opportunity of occupation, discourse, and love subject to regulation and ethical quality." "The Governments of India and Pakistan truly promise to guarantee, across their separate regions, the security of minorities. This understanding was reached because of the way that the two countries perceive the meaning of safeguarding the privileges of minority gatherings, which prompted the development of this responsibility. That's what this arrangement expresses "individuals from minority networks will have similar open doors as individuals from the greater part local area to take part in the public existence of their country, to hold political or different workplaces, and to serve in the common and military of their country." That's what this segment determines "individuals from the minority networks should have equivalent open doors with individuals from the larger part local area to partake in the public existence of their country," possess political or different positions, and serve in the common and military of their country." Both states perceive the meaning of these freedoms and emphasize their commitment to regarding their obligations to safeguard them.

#### **4. CONCLUSION**

Parliament has the exclusive authority to enact national laws pertaining to citizenship-related matters. On the other side, members of the opposition and members of other political parties say that this Act passed by the government contradicts a number of the fundamental constitutional norms. These concepts include secularism and equality as examples. It is possible that it will be brought to the United States Supreme Court, which will be responsible for interpreting the law definitively. It will be invalidated if it violates the constitutional provisions and goes ultra-vires; however, the law will remain in effect if it does not violate the constitutional provisions and does not go ultra-vires. In this scenario, which also concerns New Delhi's neighbouring nations, the capital city of Delhi must discover a way to achieve equilibrium. This is the single most crucial consideration. The accumulated goodwill must not be jeopardised by an excessive effort to house the migrants. India must continue to defend the ideas of secularism since it is a land of countless customs and traditions, the birthplace of religions, and a protector of people who have been persecuted in the past. In addition, given that India is the birthplace of faiths, it is essential that India continue to defend the principles of secularism.



This paper talks about how India's 2019 Citizenship Amendment Act affects and voices from borderlands, provisions in bill, arguments in favour of bill as well as antagonistic views against the bill are explained. This paper looks at the Indian Citizenship Act of 1955, which governs Part 2 Articles 5–11. This study looks at groups that are different because of their race, religion, culture, or sexual orientation. The Citizenship Amendment Act of 2019 has been looked at and talked about with minorities in mind, especially religious minorities. Socioeconomic and political effects on minorities have also been talked about. This study looks at India's national and foreign policies, how they affect the country, and how they are carried out. In this study, Hindus, Buddhists, Christians, Jains, Parsis, and Muslims are all looked at. Muslims can't get citizenship under the 2019 Citizenship Amendment Act. Minority groups in Pakistan, Bangladesh, and Afghanistan who are fleeing religious persecution are shown. People say that three South Asian countries are mostly Muslim. Because it doesn't get in trouble. Muslims are not welcome. This makes it harder to follow the law. After this Act was passed, it was harder to make rules. Problems with implementation call for a realistic approach. A second commission should say that Muslims should be left out and treated badly. In 2019, the (HLC) committee said that clause 6 of the Assam Accord would be put into effect for excluded people, especially the north-eastern states' native culture and the general improvement of minorities. Minorities promote diversity, culture, and a sense of self-worth. Such Acts and Policies can put an end to wars, falling behind, not being able to read or write, and poverty. This will help progress as a whole. The problems and challenges in these towns lead to slow economic growth, weak democracy, and social and cultural decline. There need to be ways to stop people from neighbouring countries from coming in illegally. Problems can be solved by growth and working together. Several plans, programmes, and projects have failed since 1947. Policies and plans that don't work well don't have methods that are easy and proactive. For Myriad to work, it needs non-political experts and minority groups.

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