

UPSC Civil Services Examination

UPSC Notes GS-II

Topic: Citizenship Amendment Bill (CAB)

The Citizenship Amendment Bill was first introduced in 2016 by the Lok Sabha by amending the Citizenship Act of 1955. This bill was referred to a Joint Parliamentary Committee, whose report was later submitted on January 7, 2019. The Citizenship Amendment Bill was passed on January 8, 2019, by the Lok Sabha which lapsed with the dissolution of the 16th Lok Sabha. This Bill was introduced again on 9 December 2019 by the Minister of Home Affairs Amit Shah in the 17th Lok Sabha and was later passed on 10 December 2019. The CAB was passed to provide Indian citizenship to the illegal migrants who entered India on or before 31st December 2014. The bill was passed for migrants of six different religions such as Hindus, Sikhs, Buddhists, Jains, Parsis and Christians belonging from Afghanistan, Bangladesh and Pakistan. Any individual will be considered eligible for this bill if he/she has resided in India during the last 12 months or for 11 of the previous 14 years.

Background of Citizenship Amendment Bill 2019

In the year 2016, the Citizenship Amendment Bill was introduced to amend the Citizenship Act, 1955. Introduction of the bill led to mass protests and political opposition in North-east India. The Bill was introduced in the Lok Sabha with an objective to make the illegal migrants belonging to Afghanistan, Bangladesh and Pakistan eligible for the citizenship of India. The Bill also made some provisional changes for Overseas Citizens of India (OCI) cardholders.

As promised by the Bharatiya Janata Party (BJP) in the 2019 election campaign, the Bill was passed by the Lok Sabha on January 8, 2019, to grant citizenship to the migrants of six different religions such as Hindus, Sikhs, Buddhists, Jains, Parsis and Christians except for the Muslims.

But this bill later was lapsed with the dissolution of the 16th Lok Sabha.

As per the updates of National Register of Citizens (NRC) 2019 in Assam, a majority of Hindus were found without citizenship which led to the urgency for the introduction of this bill.

Thus, under the Minister of Home Affairs Amit Shah on 9th December 2019, the Citizenship Amendment Bill (CAB) 2019 was introduced in the 17th Lok Sabha.

Recently, the passing of the bill on 10th December 2019, created a lot of opposition and conspiracies in Assam regarding the violation of Article 14.

The Citizenship Amendment Bill does not apply to the states included under the sixth schedule of the Constitution which majorly includes the tribal areas of Assam, Meghalaya, Mizoram and Tripura.

Who are eligible for CAB 2019?

As per the Citizenship Amendment Bill, any migrants fulfilling the following criteria will be considered eligible for the citizenship of India.

1. Any individual belonging to any of these six religions which include Hinduism, Sikhism, Buddhism, Jainism, Christianity and the Parsis can be eligible for citizenship.
2. The migrants must belong to Afghanistan, Bangladesh or Pakistan and should have entered India on or before December 31, 2014.
3. The Bill also exempts the areas under the sixth schedule of the Constitution including certain tribal areas of Assam, Meghalaya, Mizoram and Tripura.
4. CAB is also not applicable for the migrants of Arunachal Pradesh, Mizoram, and Nagaland falling under the Inner Line Permit.
5. The bill also made some provisional changes for the OCI registration. The Bill as per the 1955 Act allows cancellation of OCI registration on violation of any law notified by the central government.

What was Citizenship Act, 1955?

As per the Citizenship Act, 1955 an individual is granted with the citizenship of India if he/she fulfills the below mentioned criteria:

- The citizen must be domiciled in India as on 26th November 1949. If so, he/she will be automatically provided with the citizenship as per the Constitution.
- He/she should be born before 1st July 1987 in India or he/she should be born on or after 26th January 1950.
- Any individual will be considered a citizen of India if he/she is born after 1st July 1987 and if either of his/her parents was a citizen of India during that time.
- If both the parents of an individual born after 3rd December 2004 are Indian citizens, then he/she is eligible for Indian citizenship. Also, if one of the parents is an Indian citizen and the other is not an illegal migrant at the time of his/her birth.

Any foreigner who enters the country without any valid documents and stays beyond the permitted time period is considered as an illegal migrant. Therefore, citizenship provides a legal authority to an individual to be recognised as a legal member of a sovereign state under law.

What are the controversies of CAB 2019?

The passing of the Citizenship Amendment Bill, 2019 by the Rajya Sabha on 11th December 2019 created a lot of controversy throughout the country. On 10th December, 2019 at 12:11 a.m. the bill was passed with 311 MPs coming in favour of this bill and 80 members opposing this bill.

While this bill was again decided by the Rajya Sabha on 11th December, 2019 with included 125 votes in favour and 99 votes against it. Janata Dal (United), AIADMK, Biju Janata Dal, TDP and YSR-Congress, apart from BJP voted in favour of this bill.

As per the opposition party, the Bill is said to be violative of Article 14 of the Constitution — the Right to Equality as they claim that a citizenship can't be given on the basis of religious grounds. Few political parties including the Congress, Trinamool Congress and CPI(M) have been opposing this bill whereas, there has also been widespread protests across North East in Assam, Meghalaya, Manipur, Tripura, Mizoram, Nagaland and Sikkim. As per the opposition groups of North-east, any permanent settlement of illegal immigrants in this region will hinder the demography and resources of the region thus, decreasing employment opportunities for indigenous people.

CAB 2019-Criticism

The fundamental criticism of the Citizenship Amendment Bill has been that it specifically targets Muslims. The bill also violates the principles of secularism, liberalism, equality and justice as a citizenship cannot be differentiated on the basis of religious grounds. The Citizenship Amendment Bill 2019 also fails to allow Shia, Balochi and Ahmadiyya Muslims in Pakistan and Hazaras in Afghanistan who also face persecution, to apply for citizenship. A key argument against the CAB is that it will not extend to those persecuted in Myanmar and Sri Lanka, from where Rohingya Muslims and Tamils are staying in the country as refugees.

Why North East is objecting to CAB?

The Assam Accord, signed between the then Rajiv Gandhi-led central government and the All Assam Students' Union (AASU), had fixed March 24, 1971 as the cutoff date for foreign immigrants. Those illegally entering Assam after this date were to be detected and deported, irrespective of their religion. The North-eastern states are opposing the Citizenship Amendment Bill passed by the Rajya Sabha

recently, as it appears to violate the Assam Accord, both in letter and spirit. The prospect of citizenship for massive numbers of illegal Bangladeshi migrants has triggered deep anxieties, including fears of demographic change, loss of livelihood opportunities, and erosion of the indigenous culture in the North-eastern states.

There is a view that illegal immigrants, who will eventually become legitimate citizens, will be determining the political future of the state.

Arguments in support of the bill

Some of the political parties are in support of the Citizenship Amendment Bill because of the following reasons:

- The Ahmediyas and Rohingyas can still seek Indian citizenship through naturalization (if they enter with valid travel documents). Since India follows the principle of non-refoulement (even without acceding to the Refugee Convention 1951), they would not be pushed back in any case.
- If a Shia Muslim is facing persecution and is in India seeking shelter, his case to continue to reside in India as a refugee shall be considered on its merits and circumstances.
- Since, Balochistan has long struggled to be independent of Pakistan, therefore, including the Balochis in the CAB can create an interference in Pakistan's internal affairs.

It is important to note that even minorities shall not be granted automatic citizenship. They would need to fulfill conditions specified in the Third Schedule to the Citizenship Act, 1955, namely, the good character requirement as well as physical residence in India. Harish Salve, one of India's biggest names in national and international law, has stated that the Citizenship Amendment Bill is not anti-Muslim. Salve stated that the countries specified in the CAB have their own state religion and Islamic rules. He added that Islamic majority nations identify their people as per who follows Islam and who does not. Addressing governance problems in neighbouring countries is not the purpose of the CAB.

Over the issue of Rohingyas, Salve stated that a law that addresses one evil does not need to address all the evils in all countries. It is notable here that Myanmar, though a Buddhist majority nation, does not have a state religion and Myanmar does not feature in CAB.

Conclusion

The parliament has unfractured powers to make laws for the country when it comes to Citizenship. But the opposition and other political parties allege this bill by the Government violates some of the basic features of the constitution like secularism and Equality. It may reach the doors of the Supreme Court

where the Supreme Court will be the final interpreter. If it violates the constitutional features and goes ultra-wires it will be striked down, if it is not we will have a new law.

But one thing that is most important is, an equilibrium has to be attained by New Delhi as this involves neighboring countries too. Any exaggerated attempt to host the migrants should not be at the cost of goodwill earned over years. India being a land of myriad customs and traditions, a birthplace of religions and the acceptor of faiths and protector of persecuted in the past should always uphold the principles of Secularism going forward.

