



## **SOCIO LEGAL PERSPECTIVE OF CITIZENSHIP IN INDIA WITH REFERENCE TO C A A – 2019**

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### **INTRODUCTION:**

The concept of citizenship in India, involves a multifaceted interaction among socio-legal structures, human rights considerations, and the difficulties associated with cooperative federalism. An individual's rights and obligations inside a state are determined by their citizenship, which is a legal status that is defined in India by the Constitution and Citizenship Act, 1955. However, citizenship is viewed from a socio-legal viewpoint that is distinguished by distinct historical, cultural, and political settings that have heightened discussions and disputes, particularly in light of the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA) being put into effect.<sup>1</sup>

In Citizenship in India is governed by the Constitution and various statutes. It defines the legal relationship between an individual and the state, conferring specific rights and duties. The concept of citizenship is crucial in a diverse democracy like India, where it determines an individual's political and civil rights, including voting, holding public office, and accessing public services.<sup>2</sup>

Citizenship is a privilege of individuals residing in democratic states. Individuals feel it prestigious and proud to have citizenship in their state. In fact, citizenship differentiates citizens from other categories of persons in a state. People feel that citizenship enables them to lead a happy, honorable and harmonious life in the state. To say in a word, citizenship instils the feelings of patriotism, sacrifice, broad outlook etc., among the people.

Citizenship denotes status of a person recognized under the custom or law of a state. Persons who possess citizenship are known as citizens. Citizens participate in the affairs of the political organization, i.e., state. According to Salmond Citizens, as members of state, will have personal and permanent relations with the state. They enjoy several rights and privileges. State bestows several rights and privileges on the citizens. These include rights to vote, property; residence in the state etc. besides every citizen has certain responsibilities like paying taxes, rendering military service etc.

Citizenship is the basic building block of political order to any country. It conflates the right to reside and move about within a given territory and, the obligation to defend these very same rights. Citizens share their rights and the duty to defend the integrity of their territorial space on equal terms. Conceptually, the 'alien' is the diametrical opposite of the citizen. Being an alien is to be devoid of both rights and obligations. Putting the two concepts in their ideal typical form at opposite ends, one could generate a scale to describe individuals at different levels of citizenship, or alienation, in countries around the world. The main objective of the eleven essays brought together in this volume is to describe the state of citizenship in a number of national and transnational sites..

### **NEED OF THE STUDY:**

It is the duty of the State to protect the fundamental rights of the citizens as well as the right to property. The Citizenship Act, 1955 regulates who may acquire Indian citizenship and on what grounds. A person may become an Indian citizen if they are born in India, have Indian parentage, or have resided in the country for a period of time, etc. However, illegal migrants are prohibited from acquiring Indian citizenship. An illegal migrant is a foreigner who: (i) enters the country without valid travel documents, like a passport and visa, or (ii) enters with valid documents, but stays beyond the permitted time period.

<sup>1</sup> Citizenship Amendment Act 2019.

<sup>2</sup> Constitution of India 1950.



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Illegal migrants may be imprisoned or deported under the Foreigners Act, 1946 and the Passport (Entry into India) Act, 1920. The 1946 and the 1920 Acts empower the central government to regulate the entry, exit and residence of foreigners within India. In 2015 and 2016, the central government issued two notifications exempting certain groups of illegal migrants from provisions of the 1946 and the 1920 Acts. These groups are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, who arrived in India on or before December 31, 2014.<sup>2</sup> This implies that these groups of illegal migrants will not be deported or imprisoned for being in India without valid documents.

As a law Research scholar in India, understanding transformative legislation like the CAA is crucial for our legal education. The CAA's wide-ranging impact on constitutional law, human rights, and immigration makes it a critical topic for aspiring for researcher. We focus on to critically evaluate laws in the context of India's dynamic legal framework.

### **SCOPE OF THE STUDY :**

The scope of the current study shall be limited to examining the study to delve into the legal frameworks governing citizenship in India, exploring constitutional provisions and judicial interpretations, with a focus on their application and implications in the Indian context. Additionally, the scope extends to the analysis of contemporary citizenship controversies and challenges, such as those related to migration, identity documentation, and legal disputes, within the socio-legal framework.

The Citizenship Amendment Act (CAA) has created further complexity in the legal environment by offering outsiders from nearby countries a pathway to citizenship. This has led to problems regarding the secular basis of the Indian Constitution and equal protection under the law.

India's concept of citizenship has always been complex and dynamic, with roots in both the colonial past of the nation and the nation-building initiatives that followed independence. The Indian Constitution, in particular Part II (Articles 5–11), which establishes the requirements for citizenship at the outset of the document and gives Parliament the power to regulate citizenship through legislation, provides the constitutional basis for citizenship.<sup>3</sup>

### **AIMS AND OBJECTIVES OF THE STUDY**

In the backdrop of the brief introduction that has been presented and the problem that was outlined, the aim of the current study is for the researcher to gain an understanding of the nature of the problem of the ethno nationalist citizenship rhetoric that has increased in India. Especially in the north-east and its effects on the identity of the Assamese people. The researcher also aims to understand the implementation of government policies directed at controlling the controversies surrounding the statelessness of the indigenous people.

Considering the aims, the following objectives will be formulated:

To understand the citizenship dynamics.

To analyses the challenges and legal frameworks.

To address the contemporary challenges relating to CAA and NRC.

To Study the related provisions provided under the constitution and Citizenship Act.

<sup>3</sup> Constitution of India 1950



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## RESEARCH PROBLEM:

The present Study mainly the legal system has undergone constant modification to take into account the shifting socio political conditions. The Citizenship Act of 1955 and its amendments in 1986, 2003, 2005, and 2019 are significant legislative achievements. These changes have frequently, has been made in reaction to pressures from both internal and foreign migration, wars within regions, and changes in demographics. The Citizenship Amendments are the result of a continuous dialogue between the exclusive imperatives motivated by issues of national security, identity, and sovereignty and the inclusive ideals of universal citizenship.

In India, the question of citizenship has long been a source of heated discussion and contention, especially in the state of Assam in the northeast. In light of recent legal and policy developments like the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA) of 2019, the specific issue addressed in this research is the legal and social problems of defining and proving citizenship in India. The position of underprivileged communities, human rights, and the idea of citizenship in general in India are all significantly impacted by these activities.

## HYPOTHESIS OF THE STUDY

The hypothesis put forth by this research is that constitutional provisions, legal interpretations, and socio-political movements are manifested by larger problems between human rights, regional autonomy, and national sovereignty. The 2019 Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC) implementation, which raised important issues regarding human rights, statelessness, and cooperative federalism in India, exemplify these tensions. In order to comprehend the effects of citizenship laws on underprivileged populations and the study intends to investigate these issues related to the Act.

---The CAA 2019 is an affirmative act so that it contributes to the wellbeing of the citizens of the country.

---The Citizenship Amendment Act, 2019, by using religion as a primary criterion for naturalisation, challenges the fundamental 'Right to Equality' (Article 14) and the basic structure of secularism in the Indian Constitution.

--- The implementation of the CAA, when viewed in conjunction with the proposed National Register of Citizens (NRC), fosters a sense of marginalisation among the Muslim minority and contributes to socio-political polarisation within Indian society.

--- The CAA creates a legal conflict between the humanitarian goal of protecting persecuted minorities and the indigenous rights protected under regional agreements like the Assam Accord, potentially altering the demographic and cultural fabric of the Northeast.

## RESEARCH QUESTIONS:

Research questions regarding the 2019 Citizenship Amendment Act (CAA)2019 in India, as discussed in sources like and, focus on the legality of religion-based citizenship, its impact on secularism, and its interaction with existing policies. Key themes include constitutional validity, regional impacts in the Northeast, and refugee rights.

Here are research questions categorized by theme, focusing on the Citizenship Amendment Act 2019:

How does the CAA 2019 test the "basic structure" doctrine of the Indian Constitution, specifically concerning secularism and equality (Article 14)?

Does the exclusion of specific religious groups from the CAA's protection constitute reasonable classification, or does it violate fundamental rights?



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- How do the new Rules notified in 2024 intersect with the Citizenship Act of 1955 regarding naturalization procedures?
- What are the legal implications of the CAA on the cancellation of Overseas Citizens of India (OCI) registration?
- How does the CAA 2019 redefine the concept of "citizenship" in India—moving from a secular model to one based on religious persecution?
- Is the presumed definition of "religious persecution" within the CAA consistent with international refugee law standards?
- Does the exemption of specific religious communities from being classified as "illegal migrants" create a hierarchy of citizenship?
- How CAA 2019 impact the Sixth Schedule and Autonomous council in northeast, particularly in light of Article 371B?

### **LITERATURE REVIEW:**

Prof. (Dr.) Kavita Singh, Dr. Shailendra Kumar, Aditya Mishra's book titled 'Immigration, Citizenship, and Indian Laws: Domestic and International Perspective' discussed the issues of citizenship which are closely connected with the preservation of cultural identity, demography coordination, and regional peace. The book contains fourteen chapters dealing, starting with an "Analysis of citizenship amendment act 2019" to "Women and citizenship in India."

Sangeeta Barooah Pisharoty wrote 'Assam: The Accord, The Discord'. The book explains this question through the events of the 1985 Assam Accord, which was a Memorandum of Settlement signed between the Indian government and the leaders of the Assam movement. The accord defined March 25, 1971, as the date on which any 'foreigner' entering Assam would be identified and deported, the national border would be supported with a wall and security forces against any further infiltration.

Anupama Roy, in her book 'Mapping Citizenship in India', identifies the amendments in the Citizenship Act as transitions that are framed by major historical choices and decisions. It examines the liminal categories of citizenship produced in the period between the commencement of the constitution and the enactment of the Citizenship Act, which continue to make citizenship fraught with uncertainties and exclusions.

Sanjib Baruah, "In the Name of the Nation: India and Its Northeast"<sup>16</sup> provides a comprehensive examination of the complex political and social dynamics of India's northeastern region. This review delves into Baruah's exploration of the region's historical context, ethnic diversity, and the impact of national policies on its development. The analysis highlights the critical perspectives presented in the book, emphasizing its contributions to the discourse on nation-building and regional autonomy in India.

M.P. Jain, "Indian Constitutional Law" Jain explores the concept of the citizenship regulations that were formulated at the outset of the Constitution in his chapter on citizenship. He goes on to talk about the Citizenship Act of 1955 and other court rulings regarding the definition of an Indian citizen.

### **THE CONCEPT OF CITIZENSHIP UNDER INDIAN CONSTITUTION:**

Citizenship constitutes the most fundamental legal and political bond between an individual and a modern nation-state. A status confers a specific bundle of civil and political rights, demands a corresponding set of obligations, and signifies membership in a national community. Within the Indian constitutional framework, this status is paramount, distinguishing the 'citizen' from the 'alien' or 'non-citizen'. While certain fundamental rights, such as the right to life and equality before the law, are extended to all persons within India's territory, a core set of rights are reserved exclusively for its citizens. These include the right against discrimination on grounds of religion, race, caste, sex, or place of birth (Article 15); the right to equality of opportunity in matters of public employment (Article 16); and the cluster of fundamental freedoms enshrined in



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Article 19, including freedom of speech, assembly, and movement.

The architecture of Indian citizenship law is unique, shaped profoundly by the cataclysmic events that preceded its birth as a republic. Unlike many other post-colonial nations, India's constitutional framers could not afford the luxury of defining citizenship in the abstract. They confronted with the immediate and staggering reality of the 1947 Partition, a violent schism that displaced millions across newly drawn borders, creating an unprecedented crisis of identity and belonging. The question of who was an Indian citizen was not a theoretical exercise but a pressing, existential challenge. This historical crucible necessitated the inclusion of specific, detailed, and ultimately transitional provisions on citizenship directly within the Constitution itself, a feature not commonly found in the foundational documents of other nations.

This complex historical inheritance has resulted in a two-tiered legal structure governing Indian citizenship. The first tier is constitutional, laid out in Part II (Articles 5 to 11) of the Constitution of India. These articles were primarily designed to address the immediate question of who would be considered a citizen at the moment the Constitution came into force on January 26, 1950. They were a legal mechanism to settle the status of millions affected by the Partition. Recognizing the time-bound nature of these provisions, the framers included a second, more enduring tier. Article 11 of the Constitution grants the Indian Parliament plenary and supreme power to legislate on all future matters concerning the acquisition and termination of citizenship. It was in the exercise of this sovereign power that Parliament enacted the Citizenship Act, 1955, the primary legislative instrument that has governed Indian citizenship since its inception. This report provides an exhaustive exposition of this dual framework, tracing the evolution of the concept of the Indian citizen from its constitutional origins, through its legislative codification and subsequent amendments, to its interpretation by the judiciary in landmark cases that continue to shape the nation's identity.<sup>4</sup>

**The Citizenship Amendment Act (CAA), 2019** is a significant legislative change to the Citizenship Act of 1955, aimed at providing a pathway to Indian citizenship for certain categories of illegal migrants from neighbouring countries. The Act was enacted on December 12, 2019, amidst widespread protests and debates regarding its implications for India's secular framework and its impact on various communities. The CAA specifically targets six religious minority communities—Hindus, Sikhs, Buddhists, Jains, Parsi, and Christians—who fled persecution from Afghanistan, Bangladesh, and Pakistan before December 31, 2014. The amendment reduces the residency requirement for these groups from 11 years to 5 years to qualify for citizenship.

### Interpreting Modern Citizenship Dilemmas

As global mobility increases, the courts are being called upon to interpret citizenship laws in novel and complex situations. A recent and illustrative example is *Union of India v. Pranav Srinivasan* (2024). The case involved a person born in Singapore to Indian parents who had subsequently acquired Singaporean citizenship. When the person turned 18, he sought to "resume" his Indian citizenship under Section 8(2) of the Citizenship Act, which applies to minor children whose parents have "renounced" their Indian citizenship. The Supreme Court rejected his plea, drawing a sharp distinction between "renunciation" under Section 8 and automatic "termination" under Section 9. The Court held that when the parents acquired Singaporean citizenship, their Indian citizenship did not get "renounced" but was "terminated" automatically by operation of law. Therefore, the provision for resumption was not applicable. The judgment underscored a strict, literal interpretation of the statutory provisions, emphasizing that citizenship is a matter of clear legal entitlement and cannot be conferred based on liberal interpretations or equitable considerations.

These cases demonstrate the judiciary's dynamic role in defining the contours of Indian citizenship—from establishing broad constitutional principles like a single national domicile to making fine-grained statutory interpretations that have profound consequences for individuals' lives.

### Impact of the Citizenship Amendment Act (CAA), 2019 on Assam

The Citizenship Amendment Act (CAA), 2019, which has major ramifications for the Northeast Indian state of Assam, is a noteworthy legislative amendment in India's citizenship legislation. The CAA aims to give non-Muslim refugees who have

<sup>4</sup> Citizenship Act 1955.



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experienced religious persecution in Pakistan, Bangladesh, and Afghanistan a route to Indian citizenship. In particular, the Act circumvents the Citizenship Act of 1955's limitations by enabling Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians who immigrated to India on or before December 31, 2014, to petition for citizenship.<sup>5</sup>

### **Legal and Constitutional challenges**

Legal challenges to the constitutionality of the CAA have also been raised, with petitions being filed in the Supreme Court of India. Opponents contend that by specifically excluding Muslims, the Act transgresses the secular values contained in the Indian Constitution. In addition, there are worries that the Act goes against the legally binding Assam Accord. The way the Supreme Court interprets these matters will have a big impact on how the CAA is applied in Assam and throughout India.<sup>6</sup>

### **Case Studies**

"Indian Union Muslim League v. Union of India" is a Supreme Court case: The petitioners in this case claimed that the CAA infringes upon the Constitution's Articles 14 (Right to Equality), 21 (Right to Life and Personal Liberty), and 25 (Freedom of Religion). Although the Supreme Court has not yet rendered a decision, preliminary views point to a careful analysis of the ramifications and provisions of the Act..

NRC and CAA intersection in Assam: The National Register of Citizens (NRC) roll out in Assam has added to the state of unease around the CAA. Although the two processes are different legally and procedural, the media frequently confuses them. The CAA offers a route to citizenship for particular populations, whereas the NRC seeks to detect undocumented immigrants in Assam. Legal disputes in this context have primarily focused on ensuring due process and preventing arbitrary exclusion from the NRC.<sup>7</sup>

In Assam, the Citizenship Amendment Act, 2019 has caused a great deal of debate and anxiety. It has a significant effect on the political climate, cultural identity, and demographic makeup of the state. As legal disputes develop and demonstrations persist.

Assam's socio-political structure's future is still unclear. The Act has brought attention to the fine line that must be drawn between national policy and local sensibilities, highlighting the difficulties in resolving citizenship and identity concerns in a multicultural society such as India.

### **Conclusion:**

Legally speaking, citizenship includes ideas of legal identity, obligations, and rights. Sociopolitical developments, ethnic variety, and historical migrations have had a significant impact on these notions in Assam. Although the NRC was once designed to identify illegal immigrants, it has raised concerns about the possibility of statelessness and abuses of human rights. The CAA's implementation, which gives some non-Muslim minorities from nearby nations a route to citizenship, has further complicated the legal system and raised concerns about equal protection under the law and the secular foundation of the Indian Constitution.

The procedure for confirming citizenship should be made simpler with clear rules, to minimize bureaucratic obstacles and inconsistencies. It is imperative to provide accessible documentation methods, particularly for underprivileged groups who do not have access to traditional paperwork. The process of standardizing under the Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC) should be used consistently across all demographic groups to prevent artificial distinctions and guarantee equal treatment under the law.

<sup>5</sup> Citizenship Amendment Act 2019 (India).

<sup>6</sup> Supreme Court of India, 'Writ Petitions on Citizenship Amendment Act' (2020).

<sup>7</sup> Indian Union Muslim League v. Union of India: Supreme Court of India, W.P (Civil) No. 1470 of 2019