

Brief on Citizenship Amendment Act - 2019 and FAQs

A Brief on Citizenship (Amendment) Act, 2019

1. The Citizenship Act, 1955 provides for acquisition, determination and termination of Indian citizenship. Citizenship of India can be acquired by Birth (Section-3), by descent (section 4), by registration (section 5), or by naturalisation (section 6) or by incorporation of territory (section 7). Any foreigner on becoming eligible can acquire citizenship by registration or by naturalisation irrespective of his country or his community.
2. The Citizenship (Amendment) Act, 2019 (CAA) enables migrants/foreigners of six minority communities from three specified countries who have come to India because of persecution on grounds of their religion to apply for Indian citizenship. It does not amend any existing legal provision which enables any foreigner of any class, creed, religion, category etc to apply for Indian citizenship through registration or naturalisation modes. Such a foreigner has to become eligible to apply for citizenship after fulfilling the minimum legal requirements.
3. The CAA does not apply to Indian citizens. They are completely unaffected by it. It seeks to grant Indian citizenship to particular foreigners who have suffered persecution on grounds of their religion in three neighbouring countries.
4. During the last six years, approximately 2830 Pakistani citizens, 912 Afghani citizens and 172 Bangladeshi citizens have been given Indian citizenship. Hundreds of them are from majority community of these three countries. Such migrants continue to get Indian citizenship and shall also continue to get it if they fulfil the eligibility conditions already provided in the law for registration or naturalisation. About 14,864 Bangladeshi nationals were also granted Indian citizenship after incorporating more than fifty enclaves of Bangladesh into Indian territory post the boundary agreement between the two countries in 2014.
5. The Citizenship (Amendment) Bill has been in public domain since 2016. It was cleared by a 30-member Parliamentary Committee consisting of Lok Sabha and Rajya Sabha members. The present Act is broadly based on the same Bill.

6. By amending the appropriate rules during 2015-16 the Govt. of India had already legalized entry as well as stay of such foreign migrants belonging to six minority communities from these three countries who had come into India upto December, 2014 because of persecution on grounds of religion. The Government of India had made such migrants also eligible for grant of Long Term Visa (LTV) to stay in India for a long time. The CAA now enables them to take Indian citizenship if they fulfill conditions/qualifications for such citizenship provided they migrated from these three countries before 31st December, 2014.
7. On different occasions special provisions have been made by Govt. of India in the past also to accommodate the concerns of stay and citizenship of foreigners of Indian origin who had to flee to India. For example Article 6 of The Constitution of India provides that a person who has migrated to India from Pakistan before 19th July, 1948 shall be deemed to be Indian citizen. Secondly, even if he has migrated on or after this date he was registered as Indian citizen after staying for only six months in India.
8. Similarly, 4.61 lakh Tamils of Indian origin were given Indian citizenship during the years 1964-2008 after signing of international agreements in 1964 and 1974 between the two countries. Presently, about 95 thousand Sri Lankan refugees are living in Tamil Nadu. They are being given rations, doles and other facilities by Govt. of India and Govt. of Tamil Nadu. They can apply for Indian citizenship as and when they become eligible to do so.
9. During 1962-78 more than two lakh Burmese of Indian origin fled from Burma after many trades and businesses were nationalized there and properties of such Indians were forcibly taken by the State. They were settled in various parts of India.
10. In 2004, the Central Government delegated the power to grant citizenship by registration to six collectors of Gujarat and Rajasthan states and Government of Gujarat in respect of Hindu migrants displaced due to 1965 and 1971 wars or those Hindu migrants who had migrated from Pakistan five years back. This delegation of power was initially for one year but the same was extended for another year in 2005 and then again in 2006.

11. The CAA does not target any religious community from abroad. It only provides a mechanism for some migrants who may otherwise have been called “illegal” depriving them of opportunity to apply for Indian citizenship provided they meet certain conditions. The Central Government will frame rules to operationalise the provisions of the CAA. No migrant from these communities will become Indian Citizen automatically. He will have to apply online and the competent authority would see whether he fulfils all the qualifications for registration or naturalization as Indian citizen.
12. The CAA protects the interests of the tribals and indigenous people of North-Eastern region by excluding areas under Sixth Schedule of the Constitution and areas covered by Inner line Permit system. Such migrants living in these areas will not be able to apply for Indian citizen. So, there is no question of any influx of foreigners swamping the indigenous population. The CAA provides a cut-off date of 31st December 2014. Such migrants are therefore already in India since last several years.

FAQs on Citizenship (Amendment) Act (CAA), 2019

Question 1. Does the CAA affect any Indian citizen?

Answer: No. It has absolutely nothing to do with any Indian citizen in any way. The Indian citizens enjoy Fundamental Rights conferred on them by the Constitution of India. No statute including the CAA can, abridge or take them away. There has been a mis-information campaign. The CAA does not affect any Indian citizen, including muslim citizens.

Question 2. Then, who does the CAA apply to?

Answer: It is relevant only for Hindu, Sikh, Jain, Buddhist, Parsi and Christian foreigners who have migrated from Pakistan, Bangladesh and Afghanistan into India upto 31.12.2014 on account of persecution faced by them due to their religion. It does not apply to any other foreigners including Muslims migrating to India from any country including these three countries.

Question 3. How does it benefit Hindu, Sikh, Jain, Buddhist, Parsi and Christian foreigners hailing from these three countries?

Answer: If their travel documents like passport and visa are not in order or are not available, still they can apply for Indian citizenship if they were persecuted back home. The CAA creates this legal right for such migrants. Secondly, they get faster route for Indian citizenship through the Naturalisation Mode. The minimum Residency requirement in India would be only 1+5 years instead of 1+11 years as applicable for all other categories of foreigners.

Question 4. Does this mean that Muslims from Pakistan, Bangladesh and Afghanistan can never get Indian citizenship?

Answer: No. The present legal process of acquiring Indian citizenship by any foreigner of any category through Naturalization (Section 6 of the Citizenship Act) or through Registration (Section 5 of the Act) stays operational. The CAA does not amend or alter it in any manner whatsoever. Hundreds of Muslims migrating from these three countries have been granted Indian citizenship during the last few years. If found eligible, all such future migrants shall also get Indian citizenship irrespective of their numbers or religion. In 2014, after the settlement of Indo-Bangladesh boundary issues, 14,864 Bangladeshi Citizens were given Indian Citizenship when their enclaves were incorporated into the territory of India. Thousands of these foreigners were Muslims.

Question 5. Will illegal Muslim immigrants from these three countries be deported under the CAA?

Answer: No. The CAA has absolutely nothing to do with deportation of any foreigner from India. The deportation process of any foreigner irrespective of his religion or country is implemented as per the mandate of the Foreigners Act, 1946 and / or The Passport (Entry into India) Act, 1920. These two laws govern entry, stay, movement within India and exit from India of all foreigners irrespective of their religion or country.

Therefore, the usual deportation process would apply to any illegal foreigner staying in India. It is a well-considered judicial process which is based on a proper enquiry by the local police or administrative authorities to detect an illegal foreigner. It is ensured that such an illegal foreigner has been issued

proper travel document by the embassy of his country so that he can be duly received by officials of his country when he is deported.

In Assam, the process of deportation happens only after determination of such a person as a "foreigner" under The Foreigners Act, 1946. Then he becomes liable for deportation. Therefore, there is nothing automatic, mechanical or discriminatory in this exercise. State Governments and their district level authorities enjoy the power of Central Govt. under Section 3 of the Foreigners Act and Section 5 of The Passport (Entry into India) Act, 1920 to detect, detain & deport any illegal foreigner.

Question 6. Can Hindus facing persecution on grounds of religion in countries other than these 3 countries apply under the CAA?

Answer: No. They will have to apply through the usual process to get Indian Citizenship just like any other foreigner for either registration or naturalization as a citizen of India. They would get no preference under The Citizenship Act, 1955 even after the CAA.

Question 7. Does the CAA also cover other forms of persecution - on grounds of race, gender, membership of a political or social group, language, ethnicity etc.?

Answer: No. The CAA is a very focused law which deals specifically with foreigners of six minority community groups hailing from three neighbouring countries which have their distinct state religion. Any foreigner persecuted abroad on any account may apply for registration or naturalization as a citizen of India like any other foreigner if he fulfills the minimum qualifications laid down in The Citizenship Act, 1955.

Question 8. The CAA will gradually exclude Indian Muslims from the citizenship of India?

Answer: The CAA does not apply to any Indian citizen at all. All Indian citizens enjoy the fundamental rights guaranteed by the Constitution of India. CAA is not meant to deprive any Indian citizen of his citizenship. Rather it is a special law to enable certain foreigners facing a particular situation in three neighboring countries to get Indian citizenship.

Question 9. CAA will be followed by NRC and all migrants except Muslims will be given citizenship and Muslims will be sent to detention camps?

Answer: The CAA has nothing to do with NRC. The legal provisions regarding NRC have been part of The Citizenship Act, 1955 since December, 2004. Also, there are specific statutory rules of 2003 to operationalise these legal provisions. They govern the process of registration of Indian citizens and issuance of national identity cards to them. These legal provisions have been on the statute books since last 15-16 years. The CAA has not altered them in any way whatsoever.

Question 10. What are the rules for citizenship under CAA?

Answer: Appropriate rules under the CAA are being framed. They will operationalise various provisions of the CAA.
