



ISSN NO. 2320-5407

Journal Homepage: - www.journalijar.com

INTERNATIONAL JOURNAL OF ADVANCED RESEARCH (IJAR)

Article DOI: 10.21474/IJAR01/12798
DOI URL: <http://dx.doi.org/10.21474/IJAR01/12798>



INTERNATIONAL JOURNAL OF
ADVANCED RESEARCH (IJAR)
ISSN 2320-5407
Journal Homepage: <http://www.journalijar.com>
Journal DOI: 10.21474/IJAR01

RESEARCH ARTICLE

CAA 2019: FOR AND AGAINST

Amar Kumar¹ and Vishal²

1. M.Phil. Research Scholar, Center for Deendayal Upadhyay Studies, CUHP, Sapta Sindhu Parisar Dehra kangra-177101(H.P.).
2. Ph.D. Research Scholar, Department of Political Science, HPU, Summer Hill Shimla-171005(H.P.).

Manuscript Info

Manuscript History

Received: 25 February 2021

Final Accepted: 30 March 2021

Published: April 2021

Key words:-

Citizenship, Persecuted Minority,
Immigrants, Amendment

Abstract

Citizenship Amendment Act was passed in parliament in 2019 that renders citizenship to persecuted minorities of India's three neighboring countries i.e., Bangladesh, Pakistan and Afghanistan. Subsequently, wave of protests emerged to oppose this law. Jamia University and different parts of India had seen such protests somewhere it took the shape of violence. Assamese people have their apprehension of illegal immigrants irrespective of religion. But somewhere this bill is colored with religious color as it didn't mention about persecution of Ahmadis in Pakistan. On the other hand why they chose only three neighboring countries, why not Sri-Lanka and Myanmar. Supporters of this law asserted that it is going to defend persecuted minorities who are living in these three countries. And India is playing its duty on its mantra of humanity is first. But on the other hand, opposes alleged this law bias in favor of Hindus and damage very fundamental Structure of constitution. We draw both points in detail. In the introduction, we covered its fundamental feature, then analyzed views in Opposition and at the last views that vindicated this law.

Copy Right, IJAR, 2021,. All rights reserved.

Introduction:-

Having passed by both the Houses of Parliament, then, assented by the president of India, the Citizenship Amendment Act came into the current form. Assam had seen some protests meanwhile debate in Parliament. Punjab, Kerala and Assam, non-BJP ruled states, declared not to follow this Act. New law would grant Citizenship to persecuted religious minorities in Bangladesh, Pakistan and Afghanistan such as Hindus, Sikhs, Jains, Buddhists, Parsis and Christians. "It has become controversial because it excludes Muslims". Cut-off date in this Act is December 31, 2014 which is going to contrary to Assam Accord 1985 and Assam's NRC cut-off March 24, 1971. Indeed, People of Assam are worried about the illegal migration in their region regardless any religion. That's why they are protesting against it. They are not against at all because it is excluding to Muslims, but against because it includes to some sections outside the Assam particularly from Bangladesh. "The Assam Movement (1979-85) was built around migration from Bangladesh which many Assamese fear will lead to their culture and language being overtaken, besides putting pressure on land resources and job opportunities". The entire North East has been exempted with partial exemption from this act, areas which are tribal and fall "under the Inner Line Permit" - Arunachal Pradesh, Nagaland, Mizoram and extended to Manipur recently- and areas under Sixth Schedule "exempts entire Meghalaya except a part of Shillong, large parts of Tripura and a section of Assam". Art 6 of the Indian Constitution holds that if a person migrated to India from Pakistan (West and East Pakistan i.e., Bangladesh

Corresponding Author:- Amar Kumar

Address:- M.Phil. Research Scholar, Center for Deendayal Upadhyay Studies, CUHP, Sapta Sindhu Parisar Dehra kangra-177101(H.P.).

now) before July 19, 1948 to be granted citizenship. But such date was replaced by the Assam Accord for Assam, if a person migrated into Assam before the 1971 will get citizenship, due to large influx of migration from East Pakistan (Bangladesh now). So far India doesn't have national policy so long as granting refugee and asylum status is concerned that illegal immigrants can claim and demand respectively. However, the Home Ministry has a "standard operating system" to deal with foreign nationals who claims to be refugees who have been dealt case-by-case, by the government, "either granting them work permits or long term visas". Only this latest Amendment made the provision of citizenship to minorities or refugees, there was no provision of citizenship on such basis in the citizenship Act. (Vishwanath, A. and Firaque, K., 2019)¹

Objectives of Research Paper:-

To know the causes of Opposition and Vindication of CAA

Methodology:-

Secondary Data

For and Against Views of CAA

Then protests and violence against such act erupted in some parts of country- Jamia University, Delhi, Uttar Pradesh, Bihar, West Bengal, Assam and so on. Police had to take the recourse of *Lathi-charge* to maintain law and order. Section 144 imposed in the various parts of the country where violence took place or chances of the violence. Even Supreme Court made request to stop violent protests. Subsequently, we are listening that some sections are opposing it. On the other hand, some sections of the society are supporting it. They have their own grounds to endorse or oppose it. Let's see this Act through the lens of those who are favoring or against it.

Opposing -

The CAA must be rejected on below mentioned grounds (according to Pinarayi Vijayan; first three points of criticism made by him)

1. It is going against the letter and spirit of the constitution: By setting new criteria, it goes against the premise of the common citizenship regardless of difference of caste, creed, gender, religion. He further says Art-14 of the constitution lays down that the state shall not deny to any person equality before law or equal protection of law within the territory of India.
2. It is divisive, deeply discrimination and violating the human rights: The CAA attempts to create and deepen communal division and social polarization in the country. The Act gives eligibility for citizenship to Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, not to Muslims, from the neighboring countries who entered India before December 14, 2014.
3. Vision of Hindu Nation: It seeks to impose the politics and philosophy of Hindutva with its vision of Hindu Nation (Vijayan, 2019)².
4. Ahmadis declared non-Muslims in 1974 when Zulfikar Ali Bhutto was the Prime Minister. In 1984, then, then President of Pakistan issued an ordinance "which amended the Pakistan Penal Code (PPC) by adding sections 298-B and 298-C, both laws restricted Freedom of religion and expression of Ahmadis. Under section 298- C Ahmadis could not call themselves Muslims, greet other fellow Muslims with "customary Islamic manners", holy book Quran as their holy book, places of worship in Islamic style and so on (Malik, 2011, pp. 70-77).³ Why Ahmadis have not been included in CAA if they persecuted and oppressed in Pakistan since 1970s? Why only these countries had been chosen for such law which are Muslim majority neighbours, why not Buddhist majority Sri Lanka or Myanmar? If the Muslims would not be able to produce their documents for claim of citizenship who are already residing in India, then it will expel the Muslims. On the other hand in such situation Hindus have no need to produce any document except produce if he/she is persecuted in one of these three countries (Varshney, 2019).⁴

¹Apurva Vishwanath, (25 December, 2019). Explained: What is Citizenship Amendment Act?. *The Indian Express*.

²Pinarayi Vijayan, (18 December, 2019). Time to Defend India's Secularism. *The Hindu*.

³AtifM Malik,(2011). Denial of Flood Aid to the Ahmadiyya Muslim Community in Pakistan. *Health and Human Rights*, Vol. 13, No.1. pp. 70-77.

⁴Ashutosh Varshney,(16 December, 2019). Recent Exclusionary Steps Can Only Bring India's International Image Down. *The Indian Express*.

5. Lately Supreme Court monitored NRC conducted in Assam, cut-off date 1971, around 19 lakh people were identified as the foreigners. Local people of Assam seeing the CAA as an attempt to accommodate to those Hindus who had not get any place in the Assam's NRC because majority of people are Hindus or indigenous tribes who have been excluded. The CAA will give shelter to many Hindus from Bangladeshi immigrants so that all burden of resources would be borne by Assam and threaten to culture, tradition and language of this state which all parts of this state admitted except Barak Valley where Bengali speakers are in majority. It will alienate to Muslims and instill the feeling of second-class citizens in the entire country, ultimately it is disastrous for the ethos of secularism and pluralism.
6. Even in History of Hindu nationalism, Savarkar and Golwalkar consider Indian culture as Hindu culture and requested to minorities to merge Hindu culture that is national identity. (Jafferlot, 2007. 97)⁵

Supporting views-

In response of the Pinarayi Vijayan's arguments on December 18, 2019 Dr. Subramanian Swamy wrote on December 21, 2019 to rebut his arguments in THE HINDU newspaper. (First four are Swamy's response to Vijayan)

1. Dr. Swamy asserted, first of all, objectives and aims of this legislation. The Citizenship (Amendment) Bill was introduced in 2016 on the table of both the Houses after the long deliberation by the Joint Select Committee members of Parliament. But it was intervened by election of Lok Sabha in 2019. It was re-introduced in December, 2019. The three neighboring countries have chosen because these three countries are theocratic Islamic nations. And the proportion of non-Muslim minorities in these countries have fallen sharply, brutally persecuted since 1947. Remaining survived have to enter illegally to India just to escape from forcible conversion. Hindus, Sikhs, Jains, Buddhists, Christians and Parsis who were categorised as illegal immigrants. "As of December 31, 2014, they numbered 31,313: Hindus (25,447), Sikhs (5807), Buddhists (2), Christians (55), and Parsis(2)." Muslims and Jews, two religions, were not in this list. Jews migrated to Israel who were in small numbers. On the basis of religious persecution, no Muslims and Jews came to India. Different parties' leaders had expressed their concern regarding such illegal immigrants who came to India. They have not valid documents of citizenship or passport or Aadhar cards so that they could avail proper employment to live a better life. First authority who made concern over it was the Working Committee of the United Congress Party which adopted a resolution on November 25, 1947 asserted citizenship and "full protection to all those non-Muslims from Pakistan who have come over to India or may do so to save their life and honour". And "on December 18, 2003(a video clip is available in the Parliament Library)" Dr. Manmohan Singh echoed a same voice in Rajyasabha, then leader of Opposition in the same House. He insisted "after the partition of our country, minorities in countries like Bangladesh have faced persecution, and it is our moral obligation that if circumstances force people-these unfortunate people- to seek refuge in our country, our approach for approach for granting citizenship to these unfortunate persons should be more liberal." In 2014, then Chief Minister of Assam, Tarun Gogoi expressed some concern by writing a letter to Prime Minister Narendra Modi. The historical context of the CAA didn't exerted on such minorities. On three grounds he denounced the CAA;
2. It especially violates the articles 5 to 11 and 14, it is ultra vires the Constitution.
3. Response of Dr. Swami- Articles 5 to 10 do not deal with CAA, it is Art 11 which empowered to the Parliament to bring the CAA. So far as article 14 is concerned, there are multiple judgments of the Supreme Court regarding the interpretation of the Article 14. An example if Brahmins claims "reservation in education and schools on a par with scheduled castes" just because it is equality before law, contradicts with the contention of Vijayan. So Supreme Court repeated unequivocally asserted that equal would be treated equally under the Equality before Law. Muslims are not placed here equally with the minorities in those countries who have persecuted on the religious grounds. Mr. Vijayan, too, raised that contention on the application of Art 14 "Article 14 applies not only to citizens but all persons within the territory of India." Is there any single instance where any Muslim came to India, from these three countries, on the grounds of religious persecution and is it possible for the official agencies to identify such illegal immigrants to qualify for the citizenship under the CAA? No any Muslim has been identified by the Union Home Ministry, list prepared, such illegal immigrants from these three countries.
4. "By descent, registration, naturalization, and incorporation of territory" are five ways, under the Citizenship Act, 1955, through which a foreigner can become the citizen of India. Any Muslim could become the citizen of India by the naturalization, although CAA 2019 instilled country specific exception in the naturalization section.

⁵Jafferlot, Christophe. (2007). *Hindu Nationalism: A Reader*. Princeton University Press, New Jersey. p. 97

5. Other point Mr. Vijayan made that this is an effort to make it a Hindu Nation. So no any amendment can take place which goes beyond the basic structure of constitution. And Hindutva is itself incorporated in the constitution of India " for example, the use of Sanskrit vocabulary [Article 351], official promotion of the Devanagari script and its modified numerals [Article 343], the ban of cow slaughter [Article 48], the uniform civil code [Article 44], and faith as part the unamenable basic structure." These are suffice attributions of the Hindu Nation, because Hinduism only the religion which teaches us all the religions lead us to God "(Sarva Dharma Sama Bhava)." This Hindutva is not against the secularism (Swami, 2019).⁶
6. India has a long tradition or social philosophy to give shelter to helpless people since immemorial times. Jews and Parsis got place over this piece of land, they had to leave their native places because they faced threats to their "right to worship and religious identity." "According to the 1931 census, there were 1, 09,752 Parsis and 24,000 Jews in India." CAA is compatible with the long secular tradition of India. Aspiration for religious hegemony among the different sects of Islam i.e., Sunni, Shia, and Ahmadiya is the reality that is why they are competing with each other "over interpretations of the historical evolution of Islam." Such conditions cannot compare with the religious persecution. Thus religious persecution and aspiration for hegemony are two different things. Mahatma Gandhi on December 4, 1947 urged to Nehru to bring those schedule castes from Pakistan who are brutally converted and being persecuted. CAA is the fulfillment of the historical requirement (Sinha, 2019).⁷
7. Then Union Home Minister P. Chidambaram got letter written by then Chief Minister of Rajasthan on the misery of Pakistan's Sikhs and Hindus. The CAA would not affect Muslims of India, persecuted minorities get citizenship by this. It is regarding inclusion, not exclusion (Meghwal, 2019)⁸

Conclusion:-

Citizenship Amendment Act provided citizenship to persecuted minorities of three neighboring countries of India Bangladesh, Pakistan and Afghanistan. This act was criticized after having passed by two houses, then assented by the president of India. Many protests were visible in India. So we have discussed it in detail from its starting. There are supporting views of this act as well as opposing view that targeted this Act. In this opposition alleged that this is a way to give shelter Hindus and consolidate them. On the other hand Muslims will be at the marginalized position. India not only covers Hindus but other minorities also except Muslims. Supporters are endorsing on the basis of India's duty for humanity. And India is providing citizenship who are brutally persecuted in these three countries. So why this act doesn't include other neighboring countries like Myanmar and Sri-Lanka.

Suggestions:-

1. Apprehension could be thrown away by taking Muslim minority, properly, into consideration
2. Positive steps also could be taken by the Opposition instead of getting only political benefit
3. Parliament should constitute a committee so that it could be scrutinized properly
4. Judiciary should take action immediately if any damage to fundamental feature of constitution and Indian citizenship rights
5. If people's think that CAA violate is fundamental rights than Indian government should enact a new law .so that people who get a new citizenship of india after 2020 get secondary citizenship status for 30 years .after that they should be given permanent membership if their behavior is compatible with the Indian constitution of india.

⁶Subramanian Swamy, (27 December, 2019). A Premature Denouncement of the Citizenship Act. *The Hindu*.

⁷Rakesh Sinha, (24 December, 2019). Citizenship Act is an Extension of and Commitment to the Idea of Secularism. *The Indian Express*.

⁸Arjun Ram Meghwal, (26 December, 2019). CAA Will Not Take Away Anyone's Citizenship, Only Seeks to Confer Dignity and Rights to the Persecuted. *The Indian Express*.