FREQUENTLY ASKED QUESTIONS ABOUT THE CAA, NPR AND NRC

Apprehensions and Possibilities



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A public gathering against the CAA at Azad Maidan in Mumbai.

What is the Citizenship Amendment Act 2019?

After long and acrimonious debates in both the Houses, Parliament of India passed the Citizenship Amendment Bill (CAB) 2019. On December 12, 2019, the bill was signed into law by the President of India and came to be known as the Citizenship (Amendment) Act, 2019, (CAA).[1] The act provides Indian citizenship to refugees from Afghanistan, Bangladesh and Pakistan belonging to the six minority religious communities --- Hindu, Sikh, Buddhist, Jain, Parsi and Christian --- provided they have lived in India for six years and entered the country on or before December 31, 2014. The Report Of The Joint Committee On The Citizenship (Amendment) Bill, 2016, mentions that it has been informed by the Intelligence Bureau that there are 31,313 people (Hindus - 25,447, Sikhs - 5,807, Christians - 55, Buddhists – 2 and Parsis - 2) who have been given Long Term Visa on the basis of their claim of religious persecution in their respective countries and will be the immediate beneficiaries of the then proposed amendment.

Why are there nationwide protests against this law?

After India's citizenship laws were amended by Parliament, protests have been sweeping through the country, bringing droves of people on the streets who fear that the amended law is a threat to a secular, inclusive nation. CAA critics feel that the act adds a religious criterion for Indian citizenship, violating the constitutional principle of secularism. Critics have raised their voices on how CAA violates Article 14 of the Constitution which provides that "the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." It also prohibits discrimination on grounds of religion, caste, sex or place of birth.

As part of the debate on the Citizenship (Amendment) Bill in the Lok Sabha, Union Home Minister Amit Shah said that the bill will give relief to those minorities who have been living a painful life after facing persecution in neighbouring countries.[2]

However, critics have argued that the text of the Citizenship Amendment Act, 2019, does not mention "religious persecution" in the law. The Statement of Objects and Reasons of the

Bill, which was presented in Parliament, has the phrase: "persecution on grounds of religion."[3]

But opinions vary on this. It has also been pointed out that while the term 'religious persecution' itself is not mentioned in the Act, the government had clarified that "the Bill has been drafted in such a way that it gives reference to the Notifications dated September 7, 2015 and July 18, 2016 which mention the term 'Religious Persecution.'"[4]

Protesters have also raised doubts about the inclusiveness of the Act and fear that it, used along with the planned National Register of Citizens, could lead to widespread disenfranchisement of Muslims.[5] In addition, anti-CAA protesters have also claimed the Act to be anti-Constitution.[6]

There has been uproar in other quarters as well, with Opposition parties questioning the Centre on why only three countries - Pakistan, Afghanistan and Bangladesh – have been included, whereas other persecuted groups from nations like Nepal, Myanmar, Sri Lanka have been left out in the Act. They have also asked why Tamils have been excluded in CAA, despite over one lakh Tamil refugees living in India.[7]

In addition to the protests, over 144 petitions against CAA have been filed in the Apex Court so far, challenging the validity of the Act.[8]

Trinamool Congress MP Mahua Moitra has also moved the top court with a petition challenging the CAA, which states: "By introducing a religion test in India's citizenship law, the Amendment strikes a body blow to the basic structure of India's constitution, specifically its non-denominational character; and is manifestly arbitrary, constitutionally immoral, both in letter and in spirit."[9]

Turning up the volume is the widespread anti-CAA protests in all North Eastern states.[10] However, tribal states of the Northeast have got protection from the CAA with the ILP (Inner Line Permit) system, unlike Assam. The CAA, 2019, while inserting a new sub-section 6B, listing out the provisions to grant citizenship rights to Hindu and other non-Muslim minorities of three countries, says "nothing in this section shall apply to tribal area[s] of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under 'The Inner Line' notified under the Bengal Eastern Frontier Regulation, 1873."

The Sixth Schedule allows the constitution of autonomous district councils in tribal areas: of Assam (three), Meghalaya (three), Mizoram (three) and Tripura (one) — 10 in all in the Northeast. Thus in Assam, there are the Karbi Anglong Autonomous Council (for the Karbi Anglong District), the Dima Hasao Autonomous Council (for the Dima Hasao or the erstwhile North Cachar Hills District) and the Bodoland Territorial Council (The Bodoland Territorial Areas District). These regions are exempt from the purview of the Act.[11]



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A crowd in support of CAA 2019 at the Gandhi Ashram in Ahmedabad.

Who is an illegal migrant?

The term "illegal immigrants" is not defined in the CAA Act 2019.

The Citizenship Act, 1955 defines "illegal immigrants" as 2 (b) "illegal migrant" means a foreigner who has entered into India–

(i) without a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf; or

(ii) with a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law

in that behalf but remains therein beyond the permitted period of time.

The Act of 2019 has added the following proviso to this section:

"Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made thereunder, shall not be treated as illegal migrant for the purposes of this Act;".

Why has the NRC exercise in Assam faced criticism?

The National Register of Citizens (NRC) in Assam is a list of Indian citizens living in the state. It sought out to find foreign nationals in the state bordering Bangladesh. The register updating process started in the wake of a Supreme Court order in 2013, whereby the state's nearly 33 million people had to prove that they were Indian nationals prior to March 24, 1971. The updated final citizenship list was published on August 31, 2019, with over 1.9 million applicants being left out of the list.[12]

In fact the first NRC came into being in Assam in 1951 after the Census 1951 was conducted. The main intent of the exercise is to identify and possibly deport the so-called illegal migrants.[13]

It was also a state-specific effort towards safeguarding the identity of the Assamese people. In 2013, Assam Public Works and Assam Sanmilita Mahasangha filed a writ petition before the Supreme Court demanding the deletion of the names of illegal migrants from voter lists in Assam. As a result, the updation of the of NRC was ordered by the SC in 2014, in accordance with Citizenship Act, 1955 and Citizenship Rules, 2003 in all parts of Assam. The process officially started in 2015.[14]

This colossal exercise, however, has faced criticism from every quarter. The All Assam Students' Union (AASU) is unhappy with the total number of people excluded from the final citizenship list. The AASU is a signatory to the Assam Accord, a 1985 agreement between the Centre and protesters with clauses dealing with the "detection, deletion and deportation" of illegal foreigners from Assam.[15] In fact it has gone ahead and filed a petition at the Supreme Court seeking a thorough rectification of the NRC to omit the errors.[16]

Even the Assam Finance Minister Dr Himanta Biswa Sarma has spoken in favour of the present NRC process in Assam being

> ***"The National Register of Citizens in Assam has faced criticism from every quarter."***

scrapped. "Assam state BJP [Bharatiya Janata Party] and Assam government opined that the NRC, which was prepared under the supervision of the Supreme Court and by the state coordinator Prateek Hajela in Assam, has failed to fulfill the aspiration of the people of Assam," he said.[17]

Earlier, the Supreme Court while extending the deadline for publication of the final NRC for Assam by a month to August 31, also rejected the central and Assam government's pleas to conduct 20 per cent sample re-verification of the draft NRC in areas bordering Bangladesh.[18]

The costs of the exercise have been steep as well. According to the report, "The Economic Cost of Draft NRC: Poor Made Extremely Poor," by the New Delhi-based Rights and Risks Analysis Group (RRAG), the people in Assam excluded from the draft NRC spent Rs 7,836 crore for the hearings. The group also pointed out that respondents during a survey carried out by RRAG said they have spent an average of Rs 19,065 per person for attending the hearing.[19]

In addition, the Government

> ***There is a lack of clarity with regard to the documents that will be accepted as proof of citizenship.***

of India spent a whopping Rs 1,220 crore in preparing the Assam NRC, and employed 52,000 government employees, according to media reports.

Why are marginalised people fearing the new law?

Several groups have come out in opposition to the Citizenship Amendment Act and the proposed National Register of Citizens. Among them are women, oppressed castes and LGBTQ people who fear that these laws are a threat to their citizenship rights. In fact, the National Coalition for Inclusive and Sustainable Urbanisation (NCU), a network of activists, researchers, urban practitioners, lawyers, informal sector workers, has condemned the trio of CAA-NPR-NRC, saying that the combination will directly target unorganised sector workers, homeless people, migrant workers, basti dwellers and transgender persons. It based its concerns on its survey conducted in Andhra Pradesh, Bihar, Jharkhand, Maharashtra and Tamil Nadu, which revealed that on average 99 per cent of the homeless people do not have birth certificates, which the network feels will be a dangerous proposition in the context of NRC-NPR-CAA.[20]

Also, even now there is a lack of clarity with regard to the documents that will be accepted as proof of citizenship.[21] Therefore, critics say that several migrant workers who do not possess documents feel threatened by the challenge of proving their citizenship.[22] Sub-rule (4) of Rule 4 of the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 under which the NPR is being prepared mentions "Doubtful" Citizen. The said proviso is reproduced below for reference:

"During the verification process, particulars of such individuals, whose Citizenship is doubtful, shall be entered by the Local Registrar with appropriate remark in the Population Register for further enquiry and in case of doubtful Citizenship, the individual or the family shall be informed in a specified pro forma immediately after the verification process is over."

The provision of 'doubtful citizen,' has been identified by critics as a cause of grave concern in the present day scenario. The 2003 Rules, which sets the ground rule and provides for procedures and processes to be followed for preparing the NPR and National Register of Indian Citizens (NRIC) does not say how an individual or a family would be identified as "doubtful". Once an individual or a family is marked as "doubtful" citizen, they would be (a) asked to provide information "in a specified pro-forma" and (b) given opportunity to be heard by "the Sub-district or Taluk Registrar of Citizen Registration" before a final decision is taken on whether to include them in the NRIC or not.

While a Sub-district or Taluk Registrar gets all the power to decide who is an Indian citizen and who is not, the pro forma on the basis of which it would be decided does not exist. Since this is the job of the 2003 Rules, it is clear that the entire exercise would depend on the whims and fancies of these local officials and hence, there is an immense possibility of arbitrariness and misuse.[23]

Several voices have also emerged expressing the vulnerability of the tribal population. Tribal rights activists are apprehensive that tribals are bound to fail to produce documents in relation to their existence as they fight an everyday battle to survive and are on the last rungs of the caste hierarchy.[24]

National marches have also been taken out by women, transgender and queer communities against the CAA and the proposed NRC. Organisers are anxious that the combination of CAA and NRC is going to adversely affect

the transgender community as transfolk choose their names, genders and religions post the transformation process. Since these are not reflected on birth certificates, they run the risk of being excluded from citizenship due to discrepancies in documentation.[25]

What is the National Population Register (NPR)?

The NPR has been envisioned as a register for all the usual residents of the country. It is being prepared under provisions of the Citizenship Act, 1955 and the Citizenship (Registration of Citizens and issue of National Identity Cards) Rules, 2003.

The term 'usual resident' in this context, has been defined as a person who has resided in a local area for the past six months or more or a person who intends to reside in that area for the next six months or more. According to official information, NPR is to be prepared at the local (Village/sub-Town), sub-District, District, State and National level.[26]

The NPR was first put together in 2010, and was subsequently updated in 2015. According to the official website, the objective of the NPR is to create a comprehensive identity database for every usual resident in the country. The government has said that the NPR was being updated to allow the rightful beneficiaries get the benefit of government welfare schemes.[27]

The official website also states that it has been decided to update the NPR along with the House-listing phase of Census 2021 during April to September 2020 in all the States/UTs except Assam.

However, news reports have stated that the exercise to update the NPR and the first phase of the Census 2021 will not be held as scheduled due to the lockdown announced by Prime Minister Narendra Modi, to combat the coronavirus outbreak.

Owing to the prevailing situation, the NPR and Census exercises have been deferred till further orders.

Why are critics linking the NPR to the all-India National Register of Citizens (NRC)?

In West Bengal, activists and protesters have already attacked the NPR exercise, alleging that it is actually the first step to creating an all-India National Register of Citizens.[28]

However, the government has assured people that updating the NPR is not linked to the NRC in any way. Union Home Minister Amit Shah stressed on the fact that NPR is a database for policy while NRC is the process where people are asked to prove citizenship.[29]

Nevertheless, the legal framework for the NPR is grounded in the Citizenship Act, 1955. In 2003, the Act was amended by the Atal Bihari Vajpayee-led BJP government to introduce the category of an "illegal migrant." To implement this amendment, a set of rules (Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.) were issued.

The rules read: "The Central Government shall, for the purpose of National Register of Indian Citizens, cause to carry throughout the country a house-to-house enumeration for collection of specified particulars relating to each family and individual, residing in a local area including the Citizenship status."

For administrative purposes, there are a collection of registers: the "National Register of Indian Citizens shall be divided into sub-parts consisting of the State Register of Indian Citizens, the District Register of Indian Citizens, the Sub-district Register of Indian Citizens and the Local Register of Indian Citizens."

The rules also specify how these registers of citizens would be created: "The Local Register of Indian citizens shall contain details of persons after due verification made from the Population Register."

When the Local Register is generated from the Population Register, a "verification process" would be carried out which would create the category of "doubtful citizenship." The final

National Register of Citizens would be prepared by asking doubtful citizens to prove they are Indians as part of a "claims and objections" process.

This Population Register mentioned in the rules is the National Population Register, which is slated to be updated.[30]

Meanwhile, the Home Minister said in Parliament that no document would have to be submitted for the NPR and no one would be declared "D" (doubtful) if they failed to produce such papers.[31]

What are the differences between the NPR and the Census?

The NPR is a register of usual residents of the country. It is being prepared at the local (village/sub-town), subdistrict, district, state and national level under provisions of the Citizenship Act, 1955 and the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.

A usual resident is defined, for the purposes of the NPR, as a person who has resided in a local area for the past six months or more, or a person who intends to reside in that area for the next six months. The law compulsorily seeks to register every citizen of India and issue a national identity card.

The objective of the NPR, being carried out under the aegis of the Registrar General and ex-Officio Census Commissioner, India, is to create a comprehensive identity database of every usual resident in the country.

The demographic details of every individual are required for every usual resident. The data for NPR was last collected in 2010 along with the house listing phase of the Census 2011. Updating of this data was done during 2015 by conducting door to door survey.[32]

The decennial census, on the other hand, is the largest single source of a variety of statistical information on different characteristics of the people of India conducted on the basis of the Census Act enacted in 1948.

The census is the basis for reviewing the country's progress in the past decade, monitoring the ongoing schemes of the government and plan for the future. It provides detailed and authentic information on demography, economic activity, literacy and education, housing and household amenities, urbanisation, fertility and mortality, scheduled castes and scheduled tribes, language, religion, migration, disability, besides others.

The enumerators also collect data related to cultivators and agricultural labourers, their sex, occupational classification of workers in non-households industry, trade, business, profession or service by class of worker and sex. There will also be detailed survey on gender and literacy rate, number of towns, slum households and their population.

Information is also collected on sources of potable water, energy, irrigation, method of farming, whether a house is concrete, thatched or others.

With a history of more than 130 years, this reliable, time tested exercise has been bringing out a veritable wealth of statistics every 10 years, beginning from 1872 when the first census was conducted in India non-synchronously in different parts.

The government of India decided in May 1949 to initiate steps for developing systematic collection of statistics on the size of population, its growth, etc., and established an organisation in the Ministry of Home Affairs under Registrar General and ex-Officio Census Commissioner, India.

This organisation was made responsible for generating data on population statistics including vital statistics and census. Later, this office was also entrusted with the responsibility of the implementation of Registration of Births and Deaths Act, 1969 in the country.[33]

(Endnotes)

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