

# The Citizenship (Amendment) Bill, 2016

January 10, 2019

## Manifest Pedagogy

Citizenship as a topic has become highly important due to various issues in news. Trump's position against migrants, refugee issue and Brexit, Rohingya issue, NRC in North East and the Citizenship Amendment Bill. Questions can be expected in both prelims and mains. The focus in prelims could be on the concept of citizenship as conceptual questions in Polity have been on a rise in recent times.

## In news

Lok sabha passes the Citizenship amendment bill

## Placing it in syllabus

Indian Constitution- historical underpinnings, evolution, features, amendments, significant provisions

## Static dimensions

1. Citizenship act 1955
2. Issue of OCI

## Current dimension

1. The Citizenship (Amendment) Bill, 2016

## Content

### Aim of the bill

- With The Citizenship (Amendment) Bill, 2016, the

government plans to change the definition of illegal migrants.

- The bill seeks to amend the Citizenship Act, 1955 to provide citizenship to illegal migrants, from Afghanistan, Bangladesh and Pakistan, who are of Hindu, Sikh, Buddhist, Jain, Parsi or Christian extraction. However, the Act doesn't have a provision for Muslim sects like Shias and Ahmediyas who also face persecution in Pakistan.
- The Bill also seeks to reduce the requirement of 11 years of continuous stay in the country to six years to obtain citizenship by naturalisation.

### Features of the bill

- **Definition of illegal migrants:** The Act prohibits illegal migrants from acquiring Indian citizenship. It defines an illegal migrant as a foreigner: (i) who enters India without a valid passport or travel documents, or (ii) stays beyond the permitted time.
- The Bill amends the Act to provide that that the following groups of persons will not be treated as illegal migrants: (i) Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, (ii) who have been exempted from provisions of the Passport (Entry into India) Act, 1920, and the Foreigners Act, 1946 by the central government. The 1920 Act mandates foreigners to carry passport, while the 1946 Act regulates the entry and departure of foreigners in India.
- **Citizenship by Naturalisation:** The Act allows a person to apply for citizenship by naturalisation, if the person meets certain qualifications. One of the qualifications is that the person must have resided in India or been in service of the central government for at least 11 years before applying for citizenship.
- The Bill creates an exception for Hindus, Sikhs,

Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, with regard to this qualification. For these groups of persons, the 11 years' requirement will be reduced to six years.

- **Cancellation of Registration of OCIs:** The Bill also makes amendments to provisions related to Overseas Citizen of India (OCI) cardholders. A foreigner may register as an OCI under the 1955 Act if they are of Indian origin (eg. former citizen of India or their descendants) or the spouse of a person of Indian origin. This will entitle them to benefits such as the right to travel to India, and to work and study in the country. The Bill amends the Act to allow cancellation of OCI registration if the person has violated any law.

### **Criticisms**

- The Bill makes illegal migrants eligible for citizenship on the basis of religion. This may violate Article 14 of the Constitution which guarantees right to equality.
- The Bill allows cancellation of OCI registration for violation of any law. This is a wide ground that may cover a range of violations, including minor offences.

### **Impact of the Bill on the updated NRC list**

- While Bill is designed to grant citizenship to non-Muslim refugees persecuted in neighbouring countries, NRC does not distinguish migrants on the basis of religion.
- It will consider deporting anyone who has entered the State illegally post-March 24, 1971, irrespective of their religion.
- The process of deportation or duration of detention is not clear as it has not been stated by the government. But if the Bill becomes an Act, the non-Muslims need not go through any such process, meaning this will be clearly discriminating against Muslims identified as

undocumented immigrants.

### **Impact of the bill on other states**

- States sharing borders with Bangladesh, Pakistan and Afghanistan are likely to be affected.
- The Meghalaya government has opposed the Bill. Calling the bill “dangerous,” the Meghalaya government said that they don’t agree with the idea of non-Muslims acquiring citizenship after six years of living in the country.

### **Test yourself : Mould your thoughts**

Enumerate the features of the Citizenship (Amendment) Bill, 2016. Do you think it violates Constitutional principles? Substantiate.

### **Prelims Questions**

1. Citizenship as a concept should necessarily involve
  - a) Rights only
  - b) Duties only
  - c) Both Rights and Duties
  - d) Political Rights only
2. Citizenship as a legal identity is a product of
  - a) State
  - b) Nation
  - c) Nation-State
  - d) Neither Nation nor state

(Solution will be given during Fortnightly Manifest Test solution discussion)