



Indo Asian Journal of Management and Entrepreneurship (IAJOME)

|| ISSN: 2319-2992, Impact Factor 5.007 ||

|| Peer-Reviewed | Open Access | International Journal ||

|| Volume: 17 | Issue: 08 | August 2026 | www.iajome.com ||

Citizenship in India: Historical Evolution and the Citizenship (Amendment) Act, 2019

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Abstract

Citizenship is a central element of the relationship between the individual and the Indian state. The constitutional framework places citizenship in Part II of the Constitution, while Article 11 authorizes Parliament to regulate the acquisition and loss of citizenship. The Citizenship Act, 1955 subsequently became the principal statutory framework and has been amended at important stages, including 1986, 1992, 2003, 2005, 2015 and 2019. This article traces the historical development of Indian citizenship from the constitutional settlement after Partition to the Citizenship (Amendment) Act, 2019 (CAA). Particular attention is given to the movement from a relatively broad birth-based principle toward more conditional rules involving descent, parental citizenship and the status of illegal migrants. The 2003 amendment introduced the statutory concept of an illegal migrant and provided for the National Register of Indian Citizens, while the 2019 amendment created a special naturalisation route for specified religious communities from Afghanistan, Bangladesh and Pakistan who entered India on or before 31 December 2014. The article also examines the constitutional and political debate surrounding the 2019 amendment, including concerns about equality, religion, migration and the relationship between the CAA and the NRC. It concludes that the history of Indian citizenship reflects an ongoing attempt to

balance constitutional inclusion, national security, migration management and humanitarian concerns.

Keywords: Citizenship; Citizenship Act, 1955; Citizenship Amendment Act, 2019; illegal migration; NRC; constitutionalism; India

Introduction

The idea of citizenship in India developed in the context of colonial rule, Partition and the creation of a new constitutional order. Before independence, Indians did not possess citizenship rights in the modern constitutional sense. The constitutional settlement of 1950 therefore had to address the immediate question of who would belong to the newly independent state, particularly after the large-scale movement of people across the India–Pakistan border in 1947. Part II of the Constitution, comprising Articles 5 to 11, addressed citizenship at the commencement of the Constitution, while Article 11 left the broader regulation of citizenship to Parliament (Goel, 2022; Pandey, 2014).

Parliament enacted the Citizenship Act, 1955 to provide a statutory framework for acquisition and loss of citizenship. Over time, the law was amended in response to changing concerns relating to migration, border management, overseas Indians, national identity and the demographic consequences of cross-border movement. The amendments of 1986, 1992, 2003, 2005, 2015 and 2019 demonstrate this evolution. The 2019 amendment is particularly significant because it introduced religion as a criterion in a specific citizenship pathway, making it one of the most debated changes to Indian citizenship law (Varma, 2020; Thakar, 2018).

Constitutional and Historical Foundations of Indian Citizenship

The Constitution of India deals with citizenship in Part II. Articles 5 to 11 identify the persons who were to be regarded as citizens at the commencement of the Constitution and establish Parliament's authority to legislate on citizenship. The constitutional provisions were shaped by the circumstances of Partition, when millions of people moved between India and Pakistan. The Constituent Assembly therefore adopted provisions capable of addressing immediate questions of citizenship while leaving future regulation to Parliament (Pandey, 2014).

The Citizenship Act, 1955 provided routes for citizenship by birth, descent, registration and naturalisation. The original framework was comparatively broad in its recognition of birth-based citizenship. Subsequent amendments progressively introduced additional conditions. The 1986 amendment, for example, altered the principle of citizenship by birth by requiring that at least one parent be an Indian citizen for persons born during the relevant period. The change represented a movement away from an unrestricted *jus soli* approach toward a more conditional model of citizenship (Midha, 2014).

The Citizenship (Amendment) Act, 1986

The 1986 amendment was closely associated with concerns about migration, particularly in the north-eastern region. The Assam movement and the Assam Accord of 1985 brought the question of illegal migration into national political debate. The amendment restricted citizenship by birth by linking eligibility to the citizenship of a parent. According to the source material, persons born in India between 1 July 1987 and 4 December 2003 became eligible on the basis that at least one parent was an Indian citizen at the time of birth.

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The legislative change generated strong political debate. Contemporary commentary recorded objections that the amendment altered the traditional basis of citizenship and raised constitutional, social and administrative questions (Midha, 2014). The development is important because it marks an early stage in the gradual tightening of citizenship by birth.

The Citizenship (Amendment) Act, 2003

The 2003 amendment was a major turning point. It introduced the statutory concept of an 'illegal migrant' and applied the concept across several modes of acquiring citizenship. A foreigner entering India without valid travel documents, or remaining beyond the permitted period, could fall within this category. Illegal migrants were excluded from citizenship by registration and naturalisation, while the conditions for citizenship by birth were also tightened.

For children born in India after the commencement of the amendment, citizenship by birth required both parents to be Indian citizens, or one parent to be an Indian citizen while the other was not an illegal migrant. The amendment also increased the residence requirement for naturalisation and provided for the creation and maintenance of a National Register of Indian Citizens (NRC) and national identity cards. These provisions linked citizenship law more closely with border management, documentation and national registration (Citizenship (Amendment) Act, 2003; Singh, 2019).

Citizenship (Amendment) Acts of 2005 and 2015

The 2005 amendment primarily concerned Overseas Citizenship of India (OCI). It developed the framework for overseas persons of Indian origin and clarified the statutory treatment of OCI registration. The framework did not amount to full dual citizenship in the constitutional sense, but it provided a special status and certain facilities to eligible persons of Indian origin residing abroad (Chakrabarti & Varghese, 2016).

The 2015 changes further reorganised the relationship between the Person of Indian Origin (PIO) and OCI schemes. The amendment enabled the consolidation of the two arrangements and introduced provisions relating to minors, descendants of Indian citizens and spouses in specified circumstances. It also allowed relaxation of the continuous one-year residence requirement for citizenship applications in special circumstances, subject to government satisfaction and recorded reasons.

The Citizenship (Amendment) Act, 2019

The Citizenship (Amendment) Bill was introduced in the Lok Sabha in 2016 and was subsequently passed by Parliament in December 2019. The President gave assent on 12 December 2019. The amendment altered the Citizenship Act, 1955 by creating a special legal route for specified persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities from Afghanistan, Bangladesh and Pakistan who entered India on or before 31 December 2014 and satisfied the statutory conditions (Goel, 2022; Varma, 2020).

One of the principal changes was the insertion of a proviso defining certain persons from these six communities and the three specified countries as not being illegal migrants for the

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purposes of the Citizenship Act, subject to the conditions in the law. Section 6B created a route through registration or naturalisation for persons covered by the new provision. The amendment therefore did not create a general citizenship entitlement for all undocumented migrants; rather, it established a differentiated pathway for a defined group.

The amendment also reduced the residence requirement applicable to the specified category for naturalisation. The stated rationale centred on the protection of persons belonging to communities described as persecuted minorities in the three neighbouring countries. The legislation was consequently presented by its supporters as a humanitarian measure directed toward people facing religious persecution (Prasad & Chakravarti, 2019).

Geographical Exceptions and Special Provisions

The 2019 amendment contains important geographical exclusions. Its citizenship provisions for the specified category do not apply to tribal areas of Assam, Meghalaya, Mizoram and Tripura included in the Sixth Schedule of the Constitution. The provisions also exclude areas covered by the Inner Line regime under the Bengal Eastern Frontier Regulation, 1873. These exceptions reflect the distinctive constitutional, tribal and administrative arrangements of parts of north-eastern India.



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Constitutional and Political Debate

The CAA generated intense constitutional and political debate because the amendment uses religious identity as part of the eligibility framework for the specified category. Critics argued that this approach conflicts with the constitutional commitment to equality and secular citizenship. The United Nations High Commissioner for Human Rights expressed concern that the amendment was discriminatory and suggested that protection for persecuted groups should be pursued through a non-discriminatory asylum framework. Critics also raised concerns about the possible interaction between the CAA and the NRC, particularly for persons who may face difficulties establishing citizenship through documentary evidence (Mustafa, 2018; Thakar, 2018).

Supporters of the amendment, in contrast, argued that the three countries identified in the legislation have Islam as the majority or state religion and that specified non-Muslim minorities have historically experienced religious persecution. The government therefore presented the amendment as a targeted humanitarian measure rather than a general religious test for citizenship. The debate illustrates the competing principles of equality, secularism, humanitarian protection, national security and sovereign control over citizenship.

The exclusion of Muslim communities has been a major focus of criticism. Commentators have pointed out that some Muslim groups, including Ahmadis and Hazaras, have experienced persecution in the countries named in the law. Critics have also questioned why persecuted minorities from other neighbouring regions, including Tibet, Sri Lanka and Myanmar,

are not covered. These arguments have made the CAA a significant case study in the relationship between citizenship policy and the constitutional principle of equality (Thakar, 2018).

Citizenship, Illegal Migration and the NRC

The relationship between citizenship law and illegal migration became increasingly prominent after the 1980s. The Assam movement, the Assam Accord and the subsequent legislative changes reflected concerns about cross-border migration and its social, economic and political consequences. The 2003 amendment institutionalised the category of illegal migrant and linked citizenship acquisition to the absence of that status.

The NRC provisions introduced in 2003 represented another important development. The legislation authorised the Central Government to compulsorily register citizens and maintain a National Register of Indian Citizens. The idea of a national register was intended to strengthen the identification of citizens, but its implementation has also raised questions about documentation, exclusion and the possibility of statelessness. The CAA debate therefore cannot be understood independently of the wider history of citizenship documentation and migration management in India.

Evolution of the Citizenship Framework

Taken together, the amendments show a broad historical movement. The early constitutional and statutory framework gave considerable importance to birth and residence. The 1986 amendment introduced stronger parental conditions; the 2003 amendment added the category of illegal migrant and strengthened registration requirements; the 2005 and 2015



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amendments expanded the framework for overseas Indians; and the 2019 amendment created a differentiated humanitarian route for specified religious communities from three neighbouring countries. Thus, Indian citizenship law has evolved from a relatively open birth-based model toward a more differentiated framework combining territorial birth, descent, parental status, migration status, overseas affiliation and, in the 2019 amendment, specified religious identity.

Conclusion

The history of Indian citizenship demonstrates that citizenship is not a static legal category but a changing institution shaped by constitutional principles, historical events, migration patterns and political priorities. The Constitution established the basic framework and authorised Parliament to legislate on citizenship. The Citizenship Act, 1955 then became the principal statutory instrument through which the meaning and conditions of citizenship were progressively modified.

The amendments of 1986, 2003, 2005 and 2015 reveal different dimensions of this evolution. The 1986 and 2003 changes tightened citizenship by birth and introduced stronger controls concerning illegal migration and documentation. The 2003 amendment also provided the statutory foundation for the National Register of Indian Citizens. The 2005 and 2015 reforms, meanwhile, focused significantly on India's relationship with its overseas population through the OCI framework.

The Citizenship (Amendment) Act, 2019 represents a distinctive stage because it establishes a special pathway based partly on religious identity for specified migrants from Afghanistan, Bangladesh and Pakistan. Its supporters emphasise humanitarian protection for persecuted minorities, while critics focus on equality, secularism, exclusion and the possible relationship with citizenship documentation mechanisms such as the NRC. The controversy surrounding the amendment demonstrates that citizenship policy involves not only legal rules but also fundamental questions about belonging, equality and the character of the Indian republic.

A balanced assessment therefore requires attention to both the historical circumstances that produced successive amendments and the constitutional principles against which citizenship legislation is evaluated. The evolution of Indian citizenship ultimately reflects the continuing challenge of reconciling national sovereignty and migration management with constitutional equality and humanitarian concerns.

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