Citizenship Provisions in Pakistan

What is the issue?

- The newly passed Citizenship Amendment Act in India provides for religious minorities of 3 neighbouring countries (Afghanistan, Bangladesh, Pakistan) to get Indian citizenship.
- In this context, here are the constitutional and legal provisions for citizenship and rights of religious minorities in Pakistan.

How is preamble to Pakistan's Constitution different from India's?

- The preamble to the Indian Constitution declares the country as a "sovereign, socialist, secular, democratic republic".
- [The terms "socialist" and "secular" were added by the 42nd Amendment, 1976.]
- On the other hand, as many as 60 Constitutions in the world refer to God including those in Germany, Brazil, Greece and Ireland.
- Pakistan's Constitution starts with "In the name of Allah, the most beneficent, the merciful".
- It acknowledges the sovereignty of God in respect of the universe, and contains references to Muslims and Islam.
- When this provision in the Objective Resolution was moved by Liaquat Ali Khan in 1949, it was opposed by non-Muslim members of Constituent Assembly.

Whom does Pakistan recognize as citizens?

- Although an Islamic state, Pakistan does not have any religious test for citizenship.
- Its Citizenship Act, 1951 is similar to India's Citizenship Act; in certain respects may be seen as more liberal.
- Section 6 lays down that any person who migrated to Pakistan before January 1, 1952 is a citizen.
- Section 3 gives citizenship on the commencement of the Act (April 13, 1951) to anyone who, or any of whose parents or grandparents, was born in the territories included in Pakistan on March 31, 1973.
- Pakistan grants citizenship to any person who migrated there before April 13, 1951 from any territory in the subcontinent with the intention of

permanently residing there.

- [India's cutoff is July 19, 1948, except in Assam, where it is March 25, 1971.]
- Like India's law, Section 7 in Pakistan says that a person who migrated to India after March 1, 1947 shall not be a citizen of Pakistan except if s/he returned under resettlement or permanent return.
- Section 4 in the Pakistan law lays down that every person born in Pakistan after the commencement of the Act shall be a Pakistan citizen by birth.
- In contrast, India has added restrictive qualifications by amendments -
    1. in 1986 (one parent should be an Indian citizen)
    2. in 2003 (both parents should be Indian citizens, or one a citizen and the other not an illegal migrant)
- Section 5 of the Pakistan Act talks of citizenship by descent if one of the parents was a Pakistani citizen at the time of the person's birth.
- J&K migrants to Pakistan are deemed to be Pakistan citizens until Kashmir's relationship with Pakistan is finally determined.
- British residents were similarly deemed to be citizens.
- Citizenship can also be given to Commonwealth citizens by the government.

How does the 'freedom of religion' differ?

- Pakistan's Constitution explicitly provides for minorities rights in the Preamble itself.
- It mentions that adequate provision shall be made for the minorities to freely profess, practice freedom of religion and develop their culture.
- It also notes that adequate provision shall be made to protect legitimate interests of minorities and backward classes.
- Of course, the expression "legitimate interests" in respect of minorities is restrictive.
- Unlike India, Pakistan gives the right to freedom of religion only to citizens.
- In India, everyone, including foreigners, has freedom of religion.
- Unlike in India, freedom of speech in Pakistan specifically includes freedom of press but this is subject to "glory of Islam".
- Due to this restriction, Pakistan has a regressive blasphemy law with a mandatory death penalty.
- This runs contrary even to the fundamental principles of Islamic criminal law.
- Its widespread abuse raises questions about Pakistan's commitment to free speech.

What are the steps taken to protect the minorities in Pakistan?

- Article 36 says the state shall safeguard the legitimate rights and interests of minorities.

- These include their due representation in the federal and provincial services.
- While religious minorities do face discrimination, the Constitution makes a provision of reservation for them.
- In the National Assembly, 10 seats are reserved for them.
- There are also personal laws for religious minorities in Pakistan.
- There is a provision that laws that are inconsistent with the state religion are to be struck down as unconstitutional.
- However, Article 227(3) of Pakistan's Constitution does exempt personal law of minorities from this provision.
- [In India, any provision of personal law that is inconsistent with the Constitution is null and void.
- Triple talaq was thus declared invalid in 2017.]
- In 2016, Sindh province, which has the highest number of Hindus in Pakistan, passed legislation outlawing forced conversions.
- The Punjab Assembly enacted the Sikh Anand Marriage Act in 2018.

Source: Indian Express

