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CITIZENSHIP AMENDMENT BILL – AN ANALYSIS

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ABSTRACT

This paper examines the provisions of the Citizenship Amendment Act (CAA) which was recently enacted by the union parliament. And how this bill is fundamentally discriminatory. In this paper I have discussed how this bill has been enacted and how it is directly targeting India's largest minority community i.e. Muslim community. The Citizenship Act 1955 which is the principle act; has provides five ways of acquiring Indian citizenship, viz-Birth, Descent, Registration, Naturalisation and Incorporation of some territory into India. But latest bill that has come into force seeks to grant citizenship rights to religious minorities of neighbouring countries on the basis of religion, which is fundamentally impractical. Not only impractical but also it is against the Article 14 i.e. equality before the law or the equal protection of the laws; of the Indian Constitution. The defence taken by the government is not valid under the eyes of law and is fundamentally wrong and unconstitutional. It destroys the secular fabric of our Constitution.

INTRODUCTION

In India the word 'secular' seems to be as unsafe as the vulnerable female group. India's 'anti-muslim' citizenship law or the controvercial Citizenship Amendment Bill which was an amendment to a 1955 legislation, allows Indian citizenship to "persecuted" minorities which includes Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Bangladesh, Afghanistan and Pakistan, but makes no reference to Muslims sects like Shias and Ahmediyas who also face "persecution" in Pakistan. The Citizenship Act, 1955 directs who may acquire Indian citizenship and on what grounds.¹

A person may become an Indian citizen on the off chance that they are born in India or have Indian parentage or have lived in India for a period of time, etc.

However, illegal migrants are restricted from obtaining Indian citizenship.

¹ <http://prsindia.org/theprsblog/explainer-citizenship-amendment-bill-2019>

Illegal migrants are those who:

1. Enters the country without valid travel documents, like a passport and visa, or
2. Enters with valid documents, but stays beyond the permitted time period.

ANALYSIS OF THE CITIZENSHIP (AMENDMENT) BILL

The legislation is applicable on the group of people who had arrived in India on or before 31st December of 2014. The bill also relaxes the provisions for "Citizenship by naturalisation". One of the necessities for citizenship by naturalization under the demonstration was that the applicant probably dwelled in India in the last 12 months, and for 11 of the previous 14 years. The proposed law diminishes these 11 years to only 6 years for individuals belonging to the same six religions and three nations referenced previously.²

The consequences of acquiring citizenship is that the persons acquiring the citizenship such person shall be deemed to be citizens of India from the date of their entry into India, and all legal proceedings against them in respect of illegal migration or citizenship will be closed.

There are few exceptions to this bill, the bill adds that the provisions on citizenship for illegal will not apply to the tribal areas of Assam, Meghalaya, Mizoram, or Tripura, as included in the Sixth Schedule to the Constitution, it gives considerable autonomy. These tribal areas include Karbi Anglong(in assam), Garo Hill(in Meghalaya), Chakma District(in Mizoram), and Tripura Tribal Areas District.

It will likewise not have any significant bearing to the regions under the Inner Line under the Bengal Eastern Frontier Regulation, 1873. The Inner Line Permit regulates the visit of Indians to Arunachal Pradesh, Mizoram, and Nagaland.

The legislation was pushed through India's Parliament by the ruling Hindu nationalist Bharatiya Janata Party (BJP) and ratified by President Ram Nath Kovind on December 12. Opposition parties say the law is discriminatory as it singles out Muslims in an officially secular nation of 1.3 billion people. Muslims form nearly 15 percent of the population. At the same time the government argues

²<https://www.outlookindia.com/website/story/india-news-explained-what-is-citizenship-amendment-bill-cab-which-states-are-exempted-and-why-what-next/343874>

that the minorities in those countries are dwindling, and that they face persecution on the grounds of their faith.³ Raj Nath Singh says that minorities in the neighbouring theocratic countries have been subjected to continuous persecutions as these religions who are minority they have often been persecuted and which forced them to seek asylum in India giving citizenship to six minorities will be yet another push from the Modi government to the spirit to protect those group. But it is important to know what the opposition is saying, the opposition says that this is a sort of a legislation which is going to be at odds with the constitution and it does not abide by the basic tenets of our constitution. As the constitution does not differentiate between citizens on the basis of their faith and this act chooses to do exactly that because it only talks about the above six communities who are not Indian nationals but want to escape persecution from the above mentioned Islamic countries. It implies that migrants, who identify themselves with any group or community other than whom the act is talking about, from these countries won't be eligible for citizenship. That's the contentious which the opposition puts regarding the act being unconstitutional. The constitution does not give luxury to the government to differentiate on the basis of religion. Critics argue that this act is violative of Article 14 of the Constitution and specifically targets Muslims. Basically, this act is saying that in secular India person's surname will now decide that he can acquire citizenship within 6 years of residence or not. Despite of the exceptions given to the north-eastern states, the north-eastern states are against the Bill as they believe it will lead to a greater influx of illegal migrants. In the north-eastern states, the possibility of citizenship for the massive number of illegal Bangladeshi transients has activated deep anxieties, including fears of statistic change, loss of work and livelihood opportunities, and disintegration of indigenous culture.

If we see internationally, any big democracy does not give asylum or citizenship on the basis of religion or caste but they give asylum or citizenship on the basis of needs, requirement or the potential. If an Indian domicile leaves India to settle in any foreign state they are not asked their religion but instead they are asked that what they can do for their new country.

BJP through this act is on the path of Jinnah. Both after this amendment seems to be the two sides of the same coin. Jinnah divided the country on the basis of religion. And now BJP is giving citizenship on the basis of religion.

³<https://www.aljazeera.com/news/2019/12/india-anti-muslim-citizenship-bill-191209095557419.html>

The Citizenship Amendment Act is based on religion, and is different from National Register of Citizens (NRC) as NRC is not based on religion. NRC detected any illegal immigrant, regardless of their caste, creed or religion and then detain them and eventually deported them. On Supreme Court order NRC identified and detained illegal immigrants from Assam,. The National Register of Citizenship, which took ten years, employed 52,000 government employees and cost the Government of India a whopping Rs 1,220 crore, is now being considered as a fruitless exercise by the very same people who sought it.⁴ Out of the 40 lakh excluded from the complete draft of NRC (National Register of Citizens), 22 lakh were found to be Hindus.⁵ Meaning through the new Amended Act all those 22 lakh illegal migrants can easily acquire citizenship.

This act is not only unconstitutional but it will be an economic disaster, a monetary catastrophe, because it will greatly accelerate the ongoing employment and income crisis which most Indians have been experiencing. India has seen six successive quarters of declining GDP growth equalling the longest slowdown in the past 23 years⁶ i.e. worst than that of Delhi pollution. In the Global Hunger Index (GHI) India has ranked 102 among 117 countries as there is a continues down slide in the ranking of India. Pakistan ranked (94), Bangladesh (88) and Sri Lanka (66) among South Asian nations that is better than that of India. As per the report prepared by Welthungerhilfe and Concern Worldwide, India is among the 45 countries that have serious levels of hunger.

Indian Prime Minister Narendra Modi vowed 5 years ago to halt illegal immigration from Bangladesh into Assam, saying they were “destroying” the north-eastern state.⁷ But the detained illegal migrants or to be more specific the Hindus, Sikhs, Buddhists, Jains, Parsis and Christians migrants can easily get citizenship through this Act which has clearly betrayed the people of Assam.⁸

⁴ <https://www.firstpost.com/india/rs-1220-cr-and-10-years-later-nrc-leaves-group-favouring-exercise-disastified-final-list-raises-questions-false-claims-on-migrants-7271991.html>

⁵ <https://economictimes.indiatimes.com/news/politics-and-nation/20-lakh-bangladeshi-hindus-to-become-indians-if-citizenship-bill-is-passed-krishak-mukti-sangram-samiti/articleshow/67574226.cms?from=mdr>

⁶ <https://www.businesstoday.in/current/economy-politics/gdp-slowdown-longest-india-2019/story/391754.html>

⁷ <https://www.livemint.com/Politics/r0yv2tLDKFbeilppRDmjKN/Narendra-Modi-vows-to-halt-illegal-immigration-from-Banglade.html>

⁸ <https://timesofindia.indiatimes.com/india/caa-and-nrc-know-the-difference/articleshow/72880836.cms>

There is huge protest in various states across India. A huge number of protesters rioted in three states across India's northeast, some resisting a government curfew and military deployment to demonstrate against the passage of the contentious Citizenship Amendment Bill, The government had also shutdown the internet in Assam. India was spotted as the country with the most internet blackouts in the world. India was responsible for 67 percent of the world's internet shutdowns last year, with 134 incidents, although India is the country in the world with the world's largest democracy According to Access Now, a digital information advocacy center.⁹

CONCLUSION

If the secular fabric of our Constitution is destroyed and the norms of citizenship are changed, which has already happened, we are no longer what we were.

The face of the crisis is this abyss. The historian Eric Hobsbawm, once rightly said that democracy is no measure for nature of states. Today Indian democracy seems to have proven that just right by showing how basic fabric of a democracy can be destroyed through the system itself.

⁹ <https://www.nytimes.com/2019/12/12/world/asia/india-protests-citizenship-bill.html>