

Concept of Citizenship Amendment Bill- 2019

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Abstract

In this article author critically analyze the citizenship amendment bill, 2019, citizen is legal relation between a people with the state The Citizenship (Amendment) Bill is seen in Assam as against the letters and spirit of Clause 6 of the Assam Accord. The local population from the state and other parts of northeast India feel that, with this bill coming into effect, the region will be flooded with a large number of immigrants, which will dilute their culture and identity. On the other hand, the Union government of India argues that the persecuted religious minorities from the neighbouring countries have nowhere to go except India. It has also been clarified that those people can go to any state of India, and not only to Assam. However, given the history of immigration and tensions due to it, a section of Assamese and people from the neighbouring states are not convinced by this argument. This bill is also against the basis structure of the constitution that is Secularism. One organization from Assam has filed writ petition against this bill in Supreme Court as it is unconstitutional. This particular bill is also against the ASSAM ACCORD, 1985, and even inside the government some members and the allies parties of government are against this bill. The author analyzed the social condition of Assam and the consequences of this bill over the state of Assam. February 2020 Special Issue 038 The citizenship Amendment bill, 2019 tries to amend the existing The Citizenship Act, by including provisos in Sec 2(1) (b) and in clause (d) of third schedule. This amendment bill caused disturbance and violence in northeast region especially in the State of Assam.

1. Introduction

The citizenship Amendment Bill, 2019 tries to amend the existing The Citizenship Act, by including provisions in section 2(1)(b) and in clause (d) of Third schedule. This amendment bill caused disturbance and violence in northeast region especially in the State of Assam.

1.1 These two provisos are as follows:

In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 2, in sub-section (1), after clause (b), the following provisos shall be inserted, namely: "Provided that persons belonging to minority communities, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, who have 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 order made there under, shall not be treated as illegal migrants for the purposes of that Act: Provided further that on and from the date of commencement of the Citizenship (Amendment) Act, 2019, any proceeding pending against any person referred to in the first proviso shall be abated and such person shall be eligible to apply for naturalization under section 6." In the principal Act, in the Third Schedule, in clause (d), the following proviso shall be inserted, namely: - "Provided that for the persons belonging to minority communities, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, the aggregate period of residence or service of a Government in India as required under this clause shall be read as "not less than seven years" in place of "not less than eleven years" 1 (PRS) Earlier this bill was presented before Loka Sabha on 19 July 2016 but because of the protest of the opposition parties in the discussion it is referred to Joint Parliamentary Committee on 12 Aug 2016. 2 On 8 January

2019, the Citizenship (Amendment) Bill was passed by the Lower House of the Indian Parliament (Lok Sabha). This bill amends the Citizenship Act of 1955 by relaxing the eligibility rules for selected immigrants to get Indian citizenship. The Citizenship Bill amendment, introduced by the Union Home Minister of India Rajnath Singh, seeks to facilitate acquisition of citizenship by six identified minority communities namely Hindus, Sikhs, Jains, Buddhists, Christians and Parsees from Afghanistan, Pakistan and Bangladesh who came to India before 31 December 2014. (Affairs). 3

On 8 January 2019, the Citizenship (Amendment) Bill was passed by the Lower House of the Indian Parliament (Lok Sabha). This bill amends the Citizenship Act of 1955 by relaxing the eligibility rules for selected immigrants to get Indian citizenship. The Citizenship Bill amendment, introduced by the Union Home Minister of India Rajnath Singh, "seeks to facilitate acquisition of citizenship by six identified minority communities namely Hindus, Sikhs, Jains, Buddhists, Christians and Parsees from Afghanistan, Pakistan and Bangladesh who came to India before 31 December 2014".⁴⁴ In this bill, the minimum residency period for citizenship has been reduced from the existing 12 years, under the present law, to seven years.⁵ The initial draft had proposed six years of residency.

Since its introduction in the Lower House of the parliament on 15 July 2016, the Citizenship (Amendment) Bill has been opposed by many groups, especially from Assam. They feel that it will lead to further immigration into the state. Addressing their concerns, in 2019 speaking on the bill Singh said that the burden of the Hindu migrants who become citizens will be shared by the whole country, and not only by Assam.⁶ He also highlighted the discrimination and religious persecution faced by these communities in these countries. To protect February 2020 Special Issue 039 themselves, he said, they have no place to go, except India.⁷ In its election manifesto of 2014 the Bharatiya Janata Party (BJP) promised to 'address the issue of infiltration and illegal immigrants in the northeast region on a priority basis. This will include clear policy directions and effective control at the ground level'.⁸ On the contrary, the party also feels that it has an obligation to protect the religious minorities who face persecution in the neighbouring countries. However, a number of people, mainly from Assam feel that this bill is detrimental to their cultural identity. They also look at it as a betrayal of the BJP-led state government's 2016 assembly election slogan of jati (identity), mati (land), bheti (base). Notably the BJP did well in northeast India because of its promise of providing Khilonjia Sarkar- a government made up of locals that works in their interest- instead of the one which draws strength and support from the immigrants, whether Hindu or Muslim.⁹ This paper looks at the identity issue and the row that erupted over the Citizenship (Amendment) Bill.

1.2 Immigration in Assam: Religion versus Cultural identity .

Most of the beneficiaries of the Citizenship (Amendment) Bill are the immigrants who would be eligible to become Indian citizens, if they are from the communities stated in it. However, this definition is against a basic tenet of the Indian Constitution - secularism." For a number of commentators this bill reflects the BJP'S Hinduisation agenda." Addressing a public rally at Silchar on January 4, 2019, the Indian Prime Minister, Narendra Modi described the as a penance against the injustice and wrongdoings in the past' He also said that 'the citizenship bill is an atonement of the wrong that was done during India's partition. I hope this bill is passed soon in parliament. India will safeguard all who had been victims of partition.⁴ Notably, Silchar is a home of many immigrant Hindus from Bangladesh. Supporting the bill, Himanta Biswa Sarma, Finance Minister of Assam said that 'I strongly believe that if this bill is not passed, then Hindus in Assam will become minority in just next five years. That will be advantageous to those elements who want Assam to be another Kashmir and a part of the uncertain phase there'¹⁵ However, beyond the Bengali dominated Barak valley, the bill has been opposed by a significant number of people. Historically, one of the

early evidences of large Scale immigration from East Bengal into Assam can be traced back to the late 1820s and 1830s when tea plantations¹⁶ started at a large scale. By the 1850s, this industry expanded and required a large number of workers." A few years after the tea plantation sector developed, oil was detected in Assam. This sector too attracted many labourers from other parts of India, including Bengal.¹⁸ Later, with the emergence of modern professions, a number of Hindu Bengalis too moved to Assam and grabbed such jobs. Another factor which encouraged immigration in the region were democratic elections where the number of votes mattered to win elections. In the late 1930s and 40s, the Muhammed Saadulah government in Assam was accused of settling a large number of Muslims from Bengal in Assam.¹⁹ Gradually, such immigration started affecting the local culture of the region.

In 1947, due to the partition of India, parts of Assam also became a part of Pakistan. Muslims formed a majority in those parts while Hindus became the minority. In post independent India, the region witnessed another large-scale immigration when in 1971, as the Pakistani army unleashed unprecedented violence against their Bengali speaking population, between 7.5 and 8.5 million²⁰ people crossed into the Indian side of the border. Many among them sought shelter in Assam. To settle the issue, after the liberation of Bangladesh, in 1971, a process to repatriate the refugees In 1972, an agreement between the then Indian Prime Minister Indira Gandhi and the then President of Bangladesh Sheikh Mujibur Rehman saw the two countries decide that those who crossed the border before 1971 were not Bangladeshi citizens.

Despite repatriation, a large number of refugees remained in Assam. On the issue of protection of their identity, the immigration from Bangladesh into Assam, and the government of India's reluctance to address such issues, the "anti-foreigner", Assam Agitation (1979-1985) took place. It was led by the All Assam Students Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP), where the state also witnessed violence against immigrants at Nellie when about 2, 000 workers were killed in 1983. To satisfy the agitators, the government of India enacted the Illegal Migrant (Determination by Tribunal) IM(DT) Act 1983 and the Assam accord was signed in 1985.

As the IM (DT) Act was seen as ineffective to check on the immigration issue, it was challenged in the Supreme Court of India, which struck it off in 2005. In 2012, during a hearing of another Public Interest Litigation on the issue of immigrants, the Indian government clarified to the Supreme Court that does not support cross border immigration and will take steps to deport those living illegally in Indian territory. Later, in 2014, hearing a petition filed by the Assam Public Works, the Supreme Court of India issued directives to the state government to start updating the National Register of Citizens (NRC).²² Consequently, in 2015, the process of updating a list of Indian Citizens in Assam started.

In July 2018, the second draft of the NRC update was published and it declared that about 4 million people are not eligible for the Indian citizenship. The process to prepare the final list is going on. The NRC is mainly an attempt to protect the local culture by moving out the non Assamese population out of Assam.

Its primary target are the immigrants from Bangladesh who crossed the international boundary and are living in the state after the midnight of 24 March 1971. This includes people from all religion and ethnic groups. On contrary, the Citizenship (Amendment) Bill paves the way for immigrants from selected communities to become citizens of India and to live in the state, and other parts of India.

1.3 Row over the Citizenship Bill

There is a conflict between religion and culture. The groups which oppose the bill advocate that it is against the letter and spirit of the Assam Accord signed among the Union government the AASU and AAGSP. Article 6 of the accord states that 'Constitutional, legislative and administrative safeguards, as may be appropriate shall be provided to protect, preserve and promote the culture, social, linguistic identity and heritage of the Assamese people'²³ In Assam most of the non-BJP groups, such as the AASU and the Assam Jatiyatabadi Yuba Chhatra Parishad, are protesting against the bill. On this issue, the Prafulla Kumar Mahanta led Asom Gana Parishad, an ally of the BJP led government in Assam, has withdrawn its support from the government. Even within the BJP, a number of party workers and also five Members of the Legislative Assembly from Assam have spoken against the bill. The BJP General Secretary, Ram Madhav, had reached out to the members opposing the bill and had requested them to respect the party line. However, not all have been satisfactorily convinced with Madhav's assurances that the bill does not allow a new batch of illegal immigrants from Bangladesh in Assam.²⁴ February 2020 Special Issue was vandalised and set on fire by Oikya Sena Assam activists at Palashbari. The protestors also set fire to the effigies of the Prime Minister Narendra Modi and Sonowal. Later, they also blocked the national highway and shouted slogans against the BJP-led National Democratic Alliance government.²⁶ However this bill finds support from many in the Bengali speaking clusters of Tripura and Barak valley in Assam. A large number of people from these areas were impacted by the partitioned geography of Sylhet. Many Hindus living in these areas are considered as illegal immigrants under the current citizenship law."

As the bill will affect the other parts of northeast India too, on 8 January 2019, the North East Students' Organisation called for an 11 hour shutdown, which was supported by organisations such as the Mizo Zirlai Pawal, the All Arunachal Pradesh Student's Union, the Naga Students Federation, and AASU.²⁸

Before introducing the bill in the lower house of the parliament, on 6 January 2019, as per Clause 6 of the Assam Accord.²⁹ the Union cabinet had set up a High Level Committee to suggest constitutional, legislative and administrative safeguards. This committee has to examine the effectiveness of actions since 1985 to implement Clause 6 of the Assam Accord; hold discussions with all stakeholders and assess the required quantum of reservation of seats in the Assam Legislative Assembly and local bodies for Assamese people and; assess the requirement of measures to be taken to protect Assamese and other indigenous languages of Assam; assess the quantum of reservation in employment under the Government of Assam and other measures to protect, preserve and promote cultural, social, linguistic identity and heritage of Assamese people.⁰ The 10-member committee was headed by former Indian Administrative Service Officer M.P. Bezbaruah. It has to submit its report within six months from the date of its Government of Assam and other measures to protect, preserve and promote cultural, social, linguistic identity and heritage of Assamese people. The 10-member committee was headed by former Indian Administrative Service Officer M.P. Bezbaruah. It has to submit its report within six months from the date of its constitution. soon after its constitution, the committee landed into problems. Dr Nagen Saikia, Dr Mukunda Rajbangshi and Rongbong Terang refused to be a part of it. AASU, which was offered to fill a slot of one nominated member, refused to be a part of the panel.¹ Later, the Chairman himself resigned from the position.

The ripples of the bill have also been felt in other north-eastern states such as Tripura, Manipur and Meghalaya. In Tripura, the BJP coalition partner Indigenous People's Front of Tripura have opposed the bill. In Manipur, the Chief Minister, from the BJP, had already expressed his concerns on the bill to Singh. The state cabinet, in a note issued on 10 January 2019, stated that 'There is apprehension also that once (the Bill) is implemented; the state could be flooded with a large number of illegal

immigrants and foreigners from neighbouring countries....³² In Meghalaya, the government, which also includes two BJP members, passed a resolution against the bill.³³

Among the BJP's national level allies, the Janata Dal (United) has decided that it would oppose the bill in the Rajya Sabha (upper house of the Indian Parliament), and send a team to Assam to back the ongoing protests.³⁴

2. Consequences of illegal Migration On State Of Assam

2.1 Social Consequences

- **Crisis of identity:** The influx of immigrants has created a crisis of identity among the indigenous people. Their cultural survival is in serious jeopardy, their political control has been weakened and their employment opportunities have been undermined by such illegal migration.
- **Environmental degradation:** Large areas of forest land have been encroached upon by the immigrants for settlement and cultivation. The state has experienced a declining percent of land area under forest.
- **Community tension:** The commission on integration and Cohesion found that tension usually exist with the presence of high levels of migration combine with other forms of social exclusion like poverty, poor housing etc.
- **Economic consequences :** The economic consequences between the illegal immigrants and the indigenous tribes people in Assam has much to do with the large Scale land alienation of tribals because land is seen not only as the prime economic resource in a rather backward pre-capitalist agrarian society like Assam but also as the symbol of the ethnic preponderance.
- **Increase financial burden:** Immigration has increased pressure on the part of state government, as the government has to increase the expenditure on education and health facilities to the immigrants.
- **Displacing native workers:** There is a genuine fear particularly during a recession that immigrants take jobs which would otherwise be taken by local people; in particular place and circumstances this leads to avoidable and conflict in as much as that the States resources are stretched.
- **Decreases wage level with the increase of population:** Illegal immigrants in every year have been adding a good number of people in Assam. It is one of the main reasons of population explosion. Due to this there has been a decreasing trend in the wage level.
- **Political consequences :** The failure of the government of the day to respond the issue of illegal migration led to the agitation by the students under the banner of AASU. Assam witnessed governmental instability, sustained civil disobedience campaigns and worst cases of ethnic violence.
- **Illegal voters:** Most of the Bangladeshi immigrants have got their names enlisted in the voting list illegally, thereby claiming themselves as citizens of the state. The immigrants population act as a vote bank for the political parties in Assam. They form the majority of the Voters in several constituencies thereby diminishing the political control of the indigenous people in their own home land. On account of illegal immigration the indigenous tribal people lost out on numbers, thus facing the real threat of imminent marginalization in share of political power. Electoral politics and the lust for votes of the illegal immigrants have only helped to deepen the fault lines.

3. Conclusion

As mentioned in this paper, more than religion, an idea of being Assamese has been a major factor to protest against immigrants. The fear is that in the name of providing shelter to the "persecuted" communities from the neighbouring countries, this bill could damage the cultural identity of the people from that state. Not only in Assam, but protests against the bill are also on-going in Tripura, Meghalaya and Manipur. In these states too the locals do not wish to sacrifice their cultural identity for the sake of religion. (Ranjan, 2019) The census based on language reveals that the percentage of Assamese speaker in Assam is further declined to 48.38% in 2011 from 48.80 in 2001. While percentage of Bengali speaker increased to 28.97% in 2011 from 27.54% (India, 2011). The state of Assam has different socio-culture conditions and because of its geographical location and history this bill if passed will adversely affect the rights of the native of Assam.

Religion is an important part of one's identity but not the most essential. The Citizenship (Amendment) Bill purportedly tries to define the individual's identity on the basis of religion per se without looking at other identities individuals have. This often creates a dilemma where people have to choose one out of two options-religion or culture. A perfect example of such a dilemma is the birth of Bangladesh in 1971. In 1947, East Bengal (now Bangladesh) became a part of Pakistan on the basis of religion. However soon after the Bengali speaking population realised that culture, language etc. are more important identity markers than religion per se. A number of protest movements to secure their cultural traits began in East Pakistan and, eventually in 1971, Bangladesh was born as a country. As mentioned in this paper, more than religion, an idea of being Assamese has been a major factor to protest against immigrants. The fear is that in the name of providing shelter to the "persecuted" communities from the neighbouring countries, this bill could damage the cultural identity of the people from that state. Not only in Assam, but protests against the bill are also on-going in Tripura, Meghalaya and Manipur. In these states too the locals do not wish to sacrifice their cultural identity for the sake of religion.

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