# The Citizenship Amendment Bill, 2019 and Its Impact Over State of Assam

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**ABSTRACT:**

*In this article Author critically analyze the citizenship amendment bill, 2019. Citizenship is legal relationship between a people with the state. This amendment is in issue because in this "religion" is criteria for granting citizenship. Government is allowing the citizenship to illegal migrants of six communities (Hindu, Sikh, Christian, Jain, Parsi and Buddhist) from three neighboring countries (Afghanistan, Pakistan and Bangladesh). This bill has been criticized in the house and outside the house. Many claimed that this bill is brought by the government for alluring the majority vote-bank in near general election. The north east region especially state of Assam is going to be adversely affected by this bill, because it will significantly affect the demography, culture and social environment. Consequently there is great protest and uproar against this bill in Assam and North East region. When India is facing the problem of population explosion and the national recourses are not enough even for the citizens, this bill looks unreasonable because certainly it will increase the burden of the country.. The exclusion of Muslims is greatly crtitciszed, one parliamentarian during the discussion over this bill said that this government cannot run India like Israel. 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.*

**Keywords:** Citizenship, Immigrants, Refugees, Secularism

## I. CITIZENSHIP AMENDMENT BILL, 2019: AN OVERVIEW

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 north-east region especially in the State of Assam. These two provisos are as follows:

1. 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 thereunder, **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."

2. 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 loksabha 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 (LokSabha). 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]

## II. WHAT DOES THE CITIZENSHIP ACT 1955 SAYS

According to the Citizenship Amendment Act, 1955 illegal migrants are prohibited to acquiring the citizenship of India. Sec 1 (b) of the Citizenship Act, 1955 defines the meaning of Illegal migrants as:

'(b) "Illegal migrant" means a foreigner who has entered into India—

(i) without a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf; or

(ii) with a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf but remains therein beyond the permitted period of time;[4] (MANUPATRA)

On the other hand, the Foreigners Act, 1946, and the Passport (Entry into India) Act, 1920, put forth the provision that illegal migrants can be imprisoned or deported. These acts empower the central government to regulate the entry, exit and residence of foreigners within the territory of India. In 2015[5] and 2016[6], the central government issued two notifications exempting certain groups of illegal migrants from provisions of the 1946 and the 1920

[1]https://prsindia.org/sites/default/files/bill_files/Citizenship%20%28A%29%20Bill%2C%202019%20as%20passed%20by%20LS.pdf (Date accessed- 29/03/2019)
[2] https://www.prsindia.org/billtrack/the-citizenship-amendment-bill-2016-4348/ (Date accessed- 29/03/2019)
[3] Ministry of Home Affairs, Government of India, Press Information Bureau, 8 January 2019 (Accessed on 29 Mar 2019.)
[4] http://www.manupatrafast.in/ba/dispbot.aspx?nActCompID=1282&iActID=25 (Accessed on 30 Mar 2019.)
[5] G.S.R. 685 (E) and G.S.R. 686 (E), Gazette of India, September 7, 2015; https://www.prsindia.org/billtrack/the-citizenship-amendment-bill-2016-4348/ (Accessed on 30 Mar 2019.)
[6] G.S.R. 702(E) and G.S.R. 703(E), Gazette of India, July 18, 2016.

Acts. These groups are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, who arrived in India on or before December 31, 2014. This implies that these groups of illegal migrants will not be deported or imprisoned for being in India without valid documents.

## III. WHAT DOES THE CITIZENSHIP AMENDMENT BILL, 2019 SAYS

By this amendment bill the illegal migrants belonging to the Hindu, Sikh, Jain, Parsi, Buddhist, christen who came from three countries namely, Afghanistan. Pakistan and Bangladesh will not be treated as illegal migrants and shall be eligible for the citizenship. It also specifies that the minimum number years of residency in India to apply for citizenship should be lessened from at 11 to six years for the illegal migrants belonging to the six communities coming from three countries.

In other words, the proposed amendment seeks to make two changes, specifically for non-Muslim migrants from these three neighboring countries: it removes the possibility of their and their descendants' disqualification from citizenship, and accelerates obtaining citizenship by naturalization[7]. (Bhat, 2019)

## IV. CRITICISM OF THIS BILL

This bill has faced several criticisms inside the house and outside.

1. Religion first time became the criteria for granting citizenship. There is different treatment between the illegal migrants only on the basis of their religion. If a Sikh illegal migrant from Afghanistan is living in India and in same condition a Muslim migrant from Bangladesh is living then the Sikh illegal migrant get citizenship because of his religion.
2. This bill is against the basic tenants of our Indian constitution, Secularism. State should maintain equi-distant with every religion. State will neither support nor deport any of the religion. This bill is clearly supporting these six communities on ignoring all other religion.
3. The reason behind this classification which was given by the government does not hold good. Govt. is saying that these are the religious persecuted minorities of these three countries. But there are numerous Muslim communities from Afghanistan, Pakistan, and Bangladesh has suffered and continues to suffer from religious persecution. Persecution against the Ahmadiyas is both socially pervasive and state-backed in Pakistan. Shia Muslim communities, particularly the Hazaras, have been subjected to severe persecution in Afghanistan because of their religious beliefs. Despite suffering from religious persecution, these minority communities have been explicitly excluded only on the grounds of their Muslim religious

[7] https://www.epw.in/journal/2019/3/commentary/constitutional-case-against-citizenship.html?0=ip_login_no_cache%3Dba3ef2b389f303527a94669bc7fd319c (Accessed on 31 Mar 2019.)

faith.[8]

4. This bill is clear violation of fundamental rights Art. 14 right to equality. It is an unjustified, unconstitutional, arbitrary and discriminatory law.

5. This bill if passed in Rajyasabha and becomes the law then it will increase the migration in India and it will increase the burden of the country. The culture, demography and the condition of the indigenous and tribe people will be adversely affected by the presence of illegal migrants. Providing these illegal migrants citizenship will be against the clause 6 of the Assam Accord, 1985.

## V. ILLIGAL MIGRATION IN ASSAM

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 plantations[9] started at a large scale. By the 1850s, this industry expanded and required a large number of workers. (Gait, 1926).A few years after the tea plantation sector developed, oil was detected in Assam. This sector too attracted many laborers from other parts of India, including Bengal. (Dutta, 2013) 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 was 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. (Nag, 1990). 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 million (UNHCR, 1972)[10] 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 began. 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

[8] ibid
[9] Tea plantations in Assam were introduced by Scottish, See "History of Indian Tea" Indian Tea Association. https://www.indiatea.org/history_of_indian_tea . (Accessed on 31 Mar 2019.)
[10] https://www.unhcr.org/4e1ee779b.pdf (Accessed on 31 Mar 2019.)

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[11] 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.

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).[12] 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 is the immigrants from Bangladesh who crossed the international boundary and is 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.

## VI. PROTEST AGAINST THIS 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 Assam 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'.[13]

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 Mahantaled 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.[14] On 14 January 2019, the agitators showed a black flag to the Assam Chief Minister, Sarbanand Sonowal, in his home constituency Majuli and also treated him similarly when he attended the convocation ceremony at

[11] http://www.india-eu-migration.eu/media/legalmodule/Illegal%20Migrants%20Act%201983.pdf. (Accessed on 31 Mar 2019.)
[12] Kashyap, Samudra Gupta"Assam NRC: All happy with first part draft, but what happens next?", (The Indian Express, 3 January 2018). http://indianexpress.com/article/beyond-the-news/assam-national-register-ofcitize ns-nrc-all-happy-with-first-part-draft-but-what-happens-next-5009742/ (Accessed on 31 Mar 2019.)
[13] "Accord between AASU, AAGSP and the Central Government on the Foreign National Issue (Assam Accord)" https://peacemaker.un.org/sites/peacemaker.un.org/files/IN_850815_Assam%20Accord.pdf. (Accessed on 31 Mar 2019.)
[14] Saha, Abhishek "Citizenship Bill: BJP also fights opposition within in Assam", (The Indian Express 21 January 2019). https://indianexpress.com/article/north-east-india/assam/citizenship-bill-bjp-also-fights-oppositionwithin-in-assam-5547612/ . (Accessed on 1 Apr 2019.)

Kaziranga University.[15] BJP's South Kamrup's district office was vandalized and set on fire by Oikya Sena Asom 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.[16]

As the bill will affect the other parts of northeast India too, on 8 January 2019, the North East Students' Organization called for an 11-hour shutdown, which was supported by organizations such as the Mizo Zirlai Pawal, the All Arunachal Pradesh Student's Union, the Naga Students Federation, and AASU.[17]

The ripples of the bill have also been felt in other northeastern 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 neighboring countries…..'[18] In Meghalaya, the government, which also includes two BJP members, passed a resolution against the bill.[19]

Consequently one N.G.O. from state of Assam filed a Public Interest Litigation[20] against this bill as claiming it is unconstitutional and it is against the rights of the people of state of Assam. The Supreme Court sought the response of centre on the plea challenging the citizenship amendment bill.

## VII. CONSEQUENCES OF ILLIGAL MIGRATION ON STATE OF ASSAM

**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.

[15] "This Bihu, Assam Lays Stress on Secularism amid Citizenship Bill Row" (NDTV 14 January 2019.) https://www.ndtv.com/india-news/this-bihu-assam-lays-stress-on-secularism-amid-citizenship-bill-row-1977629. (Accessed on 1 Apr 2019.)
[16] "BJP Office Vandalized in Assam" (The Morung Express 20 January 2019). http://morungexpress.com/bjpoffice-vandalised-in-assam/ . (Accessed on 1 Apr 2019.).
[17] "Citizenship Amendment Bill: Northeast Student Bodies Support Shutdown Call". (NDTV, 7 January 2019). https://www.ndtv.com/india-news/citizenship-amendment-bill-northeast-student-bodies-supportshutdown-call-1973831 (Accessed on 1 Apr 2019.)
[18] "Four members of Centre's panel on Assam Accord quit". (United News of India. 11 January 2019). http://www.uniindia.com/four-members-of-centre-s-panel-on-assam-accord-quit/east/news/1464744.html. (Accessed on 1 Apr 2019.)
[19] ibid
[20] https://drive.google.com/file/d/1CwqvrebfsRLRXGoNKggTEd9Gef_E_NY9/view (Accessed on 1 Apr 2019.)

- 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 immigrant's 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.

## VIII. 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

neighboring 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 in2001. While percentage of Bengali speaker increased to 28.97% in 2011 from 27.54% (India, 2011)[21].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.

[21] http://www.censusindia.gov.in/2011Census/C-16_25062018_NEW.pdf (Accessed on 1 Apr 2019.)