



**NATIONAL REGISTRAR OF CITIZEN
AND CITIZENSHIP AMENDMENT
BILL, 2016**

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The burning issue of the alleged illegal migrants in Assam and some other states in the North-East has assumed worrisome proportions, significantly in the light of the Citizenship (Amendment) Bill, 2016, that has been passed by the Lok Sabha and is awaiting its passage through the Rajya Sabha. The bill signifies the collective contorted thinking of the political system that is piloting it.¹ The research paper discusses a study to grasp the origin, background and aim of the Citizenship Amendment Bill, 2016. The government has started updating the National Register of Citizens in Assam so that to gain a specified number of illegal migrants from the neighbouring countries into the state. of National Register of Citizens and describes its pros and cons in the society.

“Probably the most important event in the province during the last 25 years- an event, moreover, which seems likely to alter permanently the whole feature of Assam and to destroy the whole structure of Assamese culture and civilization has been the invasion of a vast horde of land-hungry immigrant.”²

Considering the seriousness of the matter regarding the persistent inflow of illegal migrants, the Government of India prepared for the first time in the province of Assam, The National Register of Citizens, during the

conduct of 1951 census. In 1965 the government of India collaborated with the government of Assam to expedite completion of the National Register of Citizens and to issue National Identity Cards on the basis of this register to Indian citizens in order to aid identification of illegal immigrants.³ But in 1966 the Central Government dropped the proposal to issue identity cards in consultation with the Government of Assam, having found the project infeasible.

However, ultimately it was taken up at the bid of the Honourable Supreme Court’s order following writ petitions by Assam Public Works. Hon’ble Supreme Court in 2013, headed by the Bench of

Justice Ranjan Gogoi and Justice Rohinton Fali Nariman directed the Union Government and the State Government to complete the update of NRC, to be implemented in adherence to Citizenship Act, 1955 and The Citizenship Rules, 2003 in all parts of Assam with the objective to rule out immigrants from the state. Pursuant to the directive of the Hon’ble Court, the Registrar General of India notified commencing of NRC on December 6, 2013⁴. On July 19, 2016, The Indian Citizenship Amendment Bill was proposed in Lok Sabha, amending the Citizenship Act of 1955.

If this Bill is passed in Parliament, illegal migrants from minority communities like Hindu, Sikh, Buddhist, Jain, Parsi or Christian coming from Afghanistan, Bangladesh, and Pakistan will then be eligible for Indian citizenship but exclude Muslim community. The Bill relaxes the 11



year requirement of residing in India to 6 years for the above migrants to India.

Objectives of the Research

- To study the origin and aim of Citizenship Amendment Bill, 2016.
- To study the opposition being faced by the Citizenship Amendment Bill, 2016.
- To study the concept of National Register of Citizens of India (NRC).
- To study the difference between Citizenship Amendment Bill, 2016 and National Register of Citizens (NRC).
- To have a sociological aspect of the issue.

RESEARCH METHODOLOGY

The research follows doctrinal and qualitative method. The data is from secondary sources like books, articles, journals, law reviews etc. The research work is original and due acknowledgement has been given to the sources of this research paper. It involves descriptive analysis with critical analysis and evaluation of various steps taken by the government to curb the stated problem.

RESEARCH DESIGN

The research paper begins with a study of origin, background and aim of Citizenship Amendment Bill, 2016. As the bill is being opposed by the people in many states of India, the research paper studies the opposition being faced by the bill. Thirdly, the research paper describes the concept of National Register of Citizens (NRC) as it is being updated by the government to identify

the illegal migrants in Assam. Many people take the wrong perceptive that Citizenship Amendment Bill, 2016 and National Register of Citizens is the same concept. Thus a study describing the difference between both of them has been done in the research paper. Lastly, the researchers have tried to connect the issue of migration with the subject of Sociology and have described the sociological aspect of the issue.

Origin and Aim of Citizenship Amendment Bill, 2016

The original Citizenship Amendment Bill (CAB), 2016 was introduced in the Lok Sabha on 19 July 2016 by the Government of India. The Citizenship Amendment Bill (CAB), 2016 passed by the Lok Sabha on 8 January, 2019 seeks to amend the Citizenship Act, 1955 to provide citizenship to illegal migrants from Afghanistan, Bangladesh and Pakistan, who are of Hindu, Sikh, Buddhist, Jain, Parsi or Christian.

It doesn't have any provision for Muslims. The Bill also seeks to reduce the requirement of 11 years of continuous stay in the country to six years to obtain citizenship by naturalization. The Bill covers all the States and Union Territories. The Citizenship Act, 1955 was enacted to provide for the acquisition and determination of Indian citizenship. Under the existing provisions of the Citizenship (Amendment) Bill (CAB), 2016, persons belonging to the minority communities, such as Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, who have either entered into India without valid travel documents or the validity of their documents have expired are regarded as illegal migrants



and hence ineligible to apply for Indian citizenship. It is proposed to make them eligible for applying for Indian citizenship.

Many persons of Indian origin together with persons belonging to the aforesaid minority communities from the aforesaid countries are applying for citizenship under section 5 of the Act but are unable to provide proof of their Indian origin. Hence, they are forced to apply for citizenship by naturalization under section 6 of the Act, which, inter alia, prescribes twelve years residency as qualification for naturalization in terms of the Third Schedule to the Act.

This denies them several opportunities and advantages that may accrue solely to the citizens of India, even though they are likely to stay in India permanently. It is proposed to amend the Third Schedule to the Act to make the applicants belonging to minority communities from the aforesaid countries eligible for citizenship by naturalization in seven years rather than the existing twelve years. The BJP led government is very much inquisitive about the bill because in the General Election Manifesto during 2014, the BJP had promised to welcome the Hindu refugees and give shelter to them and grant citizenship to Hindus persecuted within the neighbouring countries. Hence it may be seen as a part of the fulfilment of the BJP's election promise to the people. According to the Citizenship Act, 1955, an illegal immigrant as defined in section 2(1)(b) of the Act is a foreigner who entered India (i) without a valid passport or other prescribed travel documents or (ii) with a valid passport or other prescribed travel documents but remains in India beyond the permitted period of time.

With The Citizenship Amendment Bill, 2016, the government plans to alter the definition of illegal migrants by welcoming the Hindu refugees and giving shelter to them and grant citizenship to Hindus persecuted within the neighbouring countries.

The opposition being faced by the Citizenship Amendment Bill, 2016

Assam is in the whirlpool of pro and antimigrant politics and the immediate cause to it is the Citizenship Amendment Bill, 2016 which grants the Indian Citizenship to non-Muslim migrants from Bangladesh, Afghanistan and Pakistan on the grounds of religious prosecution. As per the bill, the last date for granting citizenship is December 31, 2014 from March 24, 1971 as mentioned in the 1985 Assam Accord. According to Bharatiya Janata Party (BJP), the provision will prevent Assam from being soaked by the Muslims. The party believes that Assam needs an additional Hindu population to ensure Muslims do not form a majority within the politics. In Assam, illegal migrants are not identified along with spiritual lines and people want such migrants from Bangladesh, both Muslims and Hindus, who are incidentally Bengali speaking, to be deported. The Assamese concern that illegal migrants from Bangladesh create a threat to their cultural and linguistic identity. In Bengali dominated Barak valley, most of the people welcome the religion-based citizenship rules, which they hope, will shield them from National Register of Citizens (NRC). Until now, nearly 40 lakh people have not found any place on the National Register of Citizens of India. Bengali speaking Muslims, who outnumber everybody else in a minimum of



eight districts of western and central Assam, are against the proposal to offer citizenship only to non-Muslim migrants. The minority dominated All India United Democratic Front (AIUDF), headed by Bengali speaking Billionaire Badruddin Ajmal, supports the campaign launched by about 70 indigenous outfits, including Asom Gana Parishad (AGP) and All Assam Students' Union (AASU), against the proposed bill. In terms of percentage, Assam has the country's second highest Muslim population after Jammu and Kashmir. Muslims, mostly Bengali speaking, comprise 34% of Assam's little over 3 crore people. Assamese speaking Muslims, who are miniscule in number, support campaigns against migrants from all religious denominations.

All North East states are against the Citizenship Amendment Bill, 2016. Meghalaya and Nagaland, where BJP shares power with regional forces, and Mizoram, where NDA ally MNP is in power, desire a review. Mizoram fears Buddhist Chakmas from Bangladesh may make profit from the Act. Meghalaya and Nagaland are apprehensive of the migrants of Bengali stock. Groups in Arunachal Pradesh, where BJP is in power, concern the new rules may benefit Chakmas and Tibetans. Manipur wants the Inner-line Permit System to prevent outsiders from entering the state. In Tripura, the BJP's ruling partner, Indigenous People's Front of Tripura, and opposition Indigenous Nationalist Party of Tripura are against the Centre's move.

The Concept of National Register of Citizens of India (NRC)

The National Register of Citizens (NRC) is a register containing names of all genuine Indian citizens residing in Assam. The

register was first prepared after the 1951 Census of India. In the 19th & 20th century, Colonial Assam (1826-1947) witnessed migration from numerous provinces of British India especially after the Yandabo treaty (signed on 24 February 1825). The liberal perspective of the Colonial authorities further encouraged the continuous arrival of peasants from Bengal to Assam in search of fertile lands. Considering the seriousness of the matter regarding the persistent inflow of illegal migrants, the Government of India went on to formulate the Immigrants (Expulsion from Assam) Act, 1950. This act which came into effect from 1 March 1950 mandated expulsion of illegal immigrants from the state of Assam.¹³ To identify illegal immigrants, the National Register of Citizens was prepared for the first time in Assam throughout the conduct of 1951 Census. It was administered under a directive of the Ministry of Home Affairs (MHA) by recording particulars of every single person enumerated during that Census. However, this measure against illegal migrants too suffered a significant setback due to the fact that only from October 1952 onwards the regulations of passport and visa became operational between India and Pakistan. Further, "the definition of a foreigner to cover a Pakistan national was only clearly spelt out with the amendment of the Foreigners Act 1946 in 1957". In 1965 the government of India collaborated with the government of Assam to expedite completion of the National Register of Citizens and to issue National Identity Cards on the basis of this register to Indian citizens in order to help identification of illegal immigrants.



However in 1966 the Central Government dropped the proposal to issue identity cards in consultation with the Government of Assam, having found the project infeasible. But ultimately it was taken up at the bid of the Hon'ble Supreme Court's order following writ petitions by Assam Public Works. Hon'ble Supreme Court in 2013, headed by the Bench of Justice Ranjan Gogoi and Justice Rohinton Fali Nariman, directed the Union Government and the State Government to complete the update of NRC, to be implemented in adherence to Citizenship Act, 1955 and The Citizenship Rules, 2003, in all parts of Assam with the objective to rule out immigrants from the state. Pursuant to the directive of the Hon'ble Court, the Registrar General of India via its notification Number S.O. 3591 E dated December 6, 2013 notified Commencing of NRC that was the inception of the giant task of identification of illegal migrants and the Supreme Court thereupon took up the task of monitoring the entire process of NRC Update in Assam. The aim of NRC update is to identify illegal migrants residing in North eastern state who entered Indian territories after midnight on 24 March 1971 and to determine the citizenship of the applicants who have applied for inclusion of their names in the updated NRC thereafter making the states immigrants free. It is being done to incorporate the names of those persons (or their descendants) who appear in the NRC, 1951, or in any of the Electoral Rolls up to the midnight of 24 March 1971 or in any one of the other admissible documents issued up to mid-night of 24 March 1971, which might prove their presence in Assam or in any part of India on or before 24 March 1971. The update process of NRC started in the year 2013 under the strict monitoring of Supreme

Court of India. On the midnight of 31 December 2017, Part Draft NRC was released and subsequently on 30 July 2018, the Complete Draft NRC was released.

The difference between Citizenship Amendment Bill, 2016 and NRC

Citizenship has been the biggest pain point of Assam's political and social life during the past several decades. The first draft of the National Register of Citizens (NRC) kicked up a storm as over 3 million people were said to have been left out of the roster.

The Citizenship bill and NRC is not one and the same thing. Much of the discourse has been seen to have confused one with another. The Bill seeks to facilitate acquisition of citizenship by six known minority communities namely Hindus, Sikhs, Jains, Buddhists, Christians and Parsis from Afghanistan, Pakistan and Bangladesh who came to India before December 31, 2014. Migrants from these communities were earlier given protection against legal proceedings in the years 2015 & 2016 and long term visa provision was made for them. Citizenship will be awarded to them only after due scrutiny and recommendation of district authorities and the State Government. The Minimum residency period for citizenship is being reduced from existing 12 years underneath the present law to 7 years. The law will not be confined to the state of Assam but will also provide relief to persecuted migrants who have come through western borders of the country to states like Gujarat, Rajasthan, Delhi and Madhya Pradesh. The beneficiaries of Citizenship Amendment Bill will be able to reside in any state of the country and the burden of those persecuted



migrants will be shared by the whole country.

National Register of Citizens is a roster of all those who settled in Assam up to the midnight of March 24, 1971. In 1978-79, several local leaders spotted a rapid increase in the number of Muslims in electoral rolls. A six-year long agitation followed against illegal migrants from Bangladesh, which culminated with the signing of an agreement called the Assam Accord. The Assam Accord mandated that those who settled in the state after the cut off date of March 24, 1971 would be weeded out and stripped of citizenship rights. Over the next few decades the NRC was stalled until the Supreme Court intervened. The apex court ordered the state government to update the NRC by a deadline and monitored its progress. Subsequently, the first draft of the roster was published on 30 July, 2018.

The general sentiment in Assam with relation to the bill has been that it will defeat the purpose of the NRC.

The perverse decision of the Centre to ram through the Citizenship (Amendment) Bill, 2016 against the desires of the people of Assam will end up in the migration of millions of Bangladeshi Hindus to Assam. While the Bill aims to grant citizenship to non-Muslim refugees persecuted in neighbouring countries, NRC does not distinguish migrants on the basis of religion. It will consider deporting anyone who has entered the State lawlessly post March 24, 1971, irrespective of their religion. currently there are six detention camps for illegal migrants in Assam but it is still not clear how long the people will be detained in these camps. The process of

deportation or duration of detention is not clear as it has not been stated by the government. But if the Bill becomes an Act, the non-Muslims need not go through any such process, meaning this will be clearly discriminating against Muslims identified as undocumented immigrants.

Sociological Aspect of the Issue

In the context of situation of disorder in Assam, it might help us to replicate on the very fact that human story is, in fact, the story of migrations. All the variations observed these days among humans in terms of height, weight, hair texture, colour of eyes and overall complexion in different parts of the world have come about over just 2000 generations. After all, human history has been a saga of migrations to a great extent. So now, if someone calls another a migrant or an immigrant, it just has to do with time in the sense that one had arrived earlier than the other. In a practical sense, everybody is a migrant and the only ones who can claim to be the original settlers are those who left Africa ages ago and settled in different parts of the world. Their habitats changed their habits and appearances. So, looking at the issue pragmatically, everybody is a migrant and this migration is necessary for founding and spreading the cultures. By granting citizenship to the migrants, it will boost the spread of culture and traditions and more people will be able to join the community and live a better life together.

CONCLUSION

The release of the National Register of Citizens (NRC) in Assam, containing names of 1.9 crore citizens out of 3.29 crore applicants, has brought up questions about



the contested idea citizenship in India, and its evolving nature. Assam is the only state to have come out with such a list, and its updated draft is being seen as a new chapter in addressing the inflow from Bangladesh. This issue has dropped at the surface important questions about citizenship, and how we view it in the Indian context. The debate is not in any way new and can be found in the discussions of the Constituent Assembly. The introduction of this Bill has sparked off a dialogue around the religiously biased manner in which this Bill gives preferential treatment to minorities coming from these Muslim majority countries. It must be clarified at the first instance, however, that this Bill does not immediately grant citizenship to said minority communities. It just makes them eligible for applying, something that illegal immigrants cannot do as per the current provisions. This Bill also does not describe whether or not they will definitely secure citizenship, a process which is often protracted and highly rigorous. The Bill must be taken in a positive sense to the extent that it legalises the existence of these refugees in India. However, just as suffering and cruelty are not partial to some, we must not be partial in our generosity. The central government must look to accommodate the Ahmadiyyas, Uyghurs and Rohingyas who are persecuted minorities and have knocked at India's door in times of need. Further, the central government must also state how it shall provide opportunities for employment, education, and a better life that these people have been bereft of. It must be noted here that a national spirit to give shelter and refuge is noble. Indeed, India has had a protracted history of hosting the victims of persecution. Be it the Zoroastrians in the 12th century, or more recently, the Tibetans, India has always

shown humanity and generosity in opening her arms for people seeking asylum.

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