



CITIZENSHIP AMENDMENT BILL OF INDIA ANOTHER BLOW AGAINST MUSLIM MINORITY



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Opinion Piece on

Citizenship Amendment Bill of India: Another Blow against Muslim Minority

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Indian lower House of the Parliament (Lok Sabha) has recently passed the Citizenship Amendment Bill (CAB). This controversial bill seeks to amend the 64-year-old Indian Citizenship Law of 1955 which prohibits



Amit Shah Presenting the bill in Lok Sabha, via scroll.in

illegal immigrants to become Indian citizens. This bill not only defined illegal immigrants but also amended the provision which deals with the eligibility of citizenship by naturalization. All illegal immigrants would be deported and jailed as per the bill, if becomes law. Earlier, it was mandatory for a citizenship seeking person to have lived in India or worked for the federal government for at least 11 years. Now, the new bill (CAB) provides an exception for six 'persecuted' religious minorities Hindu, Sikh, Buddhist, Jain, Parsi and Christian - of Afghanistan, Bangladesh and Pakistan, clearly excluding Muslims. If the members of the above – mentioned religious minorities can prove that they are from Afghanistan, Bangladesh or

Pakistan, they will only have to live or work in India for 6 years instead of 11 years to become eligible for Indian citizenship through the process of naturalization.

The current Indian government of Hindu nationalist Bhartiya Janata Party (BJP) led by supremacist Narendra Modi said that this bill will provide sanctuary to the people fleeing religious persecution. However, many legal experts and Indian opposition leaders claim that this bill is unconstitutional. They



argue that this bill violates Article 14 of the Indian Constitution which ensures the right to equality and non-discrimination before the law. Indubitably, the Indian current constitution prohibits any discrimination based on religion. However, the current proposed law violates this basic principle of the so called secular Indian constitution as it distinguishes illegal migrants on the basis of religion. Contrary to the so-called secular democratic constitutional ethos of India, this new proposed bill, explicitly and blatantly, seeks to bring 'otherwise already practical' religious discrimination into law. This void-ab-initio amendment to the Citizenship Act of 1955 would bring untold suffering and widespread division across India. A leading Indian historian, Mukul Kesavan, says the bill is "couched in the language of refuge and seemingly directed at foreigners, but its main purpose is the delegitimization of Muslims citizenship".



Interestingly, if the bill is aimed at protecting religious minorities essentially, the bill should not have excluded the Rohingyas of Myanmar who are facing the worst state-sponsored genocide. It is the hypocrisy of the so-called Indian democrats that they have approached

their Supreme Court for the deportation of Rohingya refugees from India while talking about protection of religious minorities.

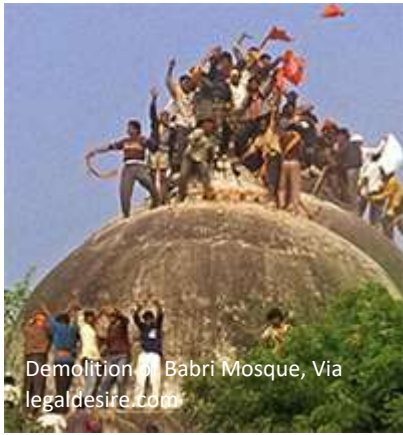
The CAB should not be seen in isolation rather it should be seen in conjunction with the BJP's recent announcement to implement the National Register of Citizens (NRC) in the whole country. The NRC is a list containing the name of those people who can prove that they came to Assam, India before the creation of Bangladesh. In August 2019, almost 2 million residents of the north-eastern state of Assam, mostly Muslims, were left off the Citizen Register by the state thereby making them stateless. Actually, the above-mentioned amendment bill, the CAB, was first placed in the parliament in July 2016. Although the bill was passed by the Lower House of the Parliament (Lok Sabha) where the BJP was in majority, the upper House of the Parliament (Rajya Sabha) could not pass it due to widespread protests especially in the north-eastern states. It was again passed in the Lower House of the Parliament in January 2019. However, before going to the Upper House, the government withdrew it due to widespread protests. In India, a bill has to be passed and ratified by the both Houses of the Parliament in identical form in order to become law. Now, the bill has been passed again by the Lower House of the Parliament where the BJP is in majority. This bill is yet to be passed by the Upper House of the Parliament, where the BJP still lacks a majority.

This new bill, the CAB, most probably be aimed at legitimizing all those non-Muslim citizens who may have been declared illegal immigrants and stateless as per the NRC in August. Now, the CAB will provide protection to non-Muslims against deportation or internment. This new bill, the CAB, most probably be aimed at

legitimizing all those non-Muslim citizens who may have been declared illegal immigrants and stateless as per the NRC in August. Now, the CAB will provide protection to non-Muslims against deportation or internment. This is not for the first time that the



Muslims in India are being marginalized. Since the partition of India, the Rashtriya Swayamsevak Sangh, the ideological fountainhead of the Bharatiya Janata Party, has been following the Hindutva policy. Narendra Modi of the BJP has been pursuing an agenda of the totalitarian, fascist regime to “other” minorities especially the Muslims. Owing to his anti-Muslim extremist mindset and ultra-nationalist election manifesto, Modi’s BJP came into power with an increased majority in 2019. The intentions of BJP became clear when the special constitutional status of the Indian Occupied Kashmir was revoked. Since then the IOK, a Muslim majority disputed territory, is under complete lockdown with detention and arrests. Similar to revoking the article 370 of the Indian constitution, the BJP has also promised to build a magnificent Ram Temple on a disputed site where the RSS led Hindu extremists blasphemously razed the 16th-century iconic Babri Mosque in 1992. In November, last month, the Indian Supreme Court ruled that a temple will be constructed on the disputed site of Babri mosque. Now, the Citizenship Amendment Bill and its hidden link with



the NRC is the continuity of anti-Muslim moves of the BJP-RSS leadership. With the CAB, the Hindu extremist government would not only rescue and rehabilitate the persecuted Hindus from the neighbouring states but also be able to disenfranchise the Muslim citizens by labelling them infiltrators and illegal immigrants.

This discriminatory move of the BJP government has been widely criticized across the globe. The U.S. Commission on International Religious Freedom (USCIRF) has not only raised serious concerns but also warned India for sanctions. “USCIRF is deeply troubled by the passage of the Citizenship (Amendment) Bill (CAB)...If the CAB passes



in both houses of parliament, the United States government should consider sanctions against the Home Minister [Amit Shah who introduced the bill] and other principal leadership.” Imran Khan, the Prime Minister of Pakistan, says, “The legislation from India’s ‘fascist’ government violated all norms of international human rights law and bilateral agreements with Pakistan.” Only in India, more than 1200 prominent individuals including writers, former judges, officials and research think tanks have urged the government to withdraw this chauvinistic bill. There are widespread protests across India especially in the north-eastern states against this illegal legislation.

The international community and the proponents of international law should take this emerging crisis seriously. No one can deny the legal importance of ‘Nationality’ because it is indispensable for a wide range of activities, including the acquisition of passport, travelling, registration of births and deaths, contracting marriages, housing, health care facilities, educational admission, employment, right to vote and many other social benefits. About nationality, state sovereignty is not merely the supreme authority, it should match the substance of international law. Article 1 of Convention on Certain Questions Relating to the Conflict of Nationality Laws 1930 states, “It is for each State to determine under its own law that who are the nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized about nationality.” In 1923 the Permanent Court of International Justice stated that laws and practices of citizenship must comply with the principle of the international law. In the Case of the Yean and Bosico Children. The Dominican Republic, the Inter-American Court of Human Rights (IACHR) decided that exclusion of Haitians from acquiring citizenship of the Dominican Republic based on their ethnicity is an arbitrary and discriminatory attitude which cannot be justified or allowed. Therefore, India’s citizenship bill having religion as criteria for citizenship is unconstitutional and illegal as per the principles of international law. Hence, India should ensure that citizenship laws do not discriminate on religious grounds. If corrective measures are not taken timely, a major humanitarian crisis similar to that of Rohingya crisis can erupt. Ultimately, regional peace and stability

would be in danger. Additionally, Pakistan has to deal with this whole scenario very carefully as it would have to take tough decisions in case a refugee crisis emerges in future. Pakistan should morally, ethically and diplomatically support suppressed Muslim in India. Pakistan should take this case to all regional and global Human Rights forums including the SCO, the SAARC, the OIC and the UN.



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