

1. A Bill that undercuts key constitutional values

Context:

- ▶▶ Recent debate about the implementation of the National Register of Citizens all over the country. This in fact echoing the provisions of the Citizenship Amendment Bill, which the previous National Democratic Alliance government introduced in **Parliament** before the last election, but was unable to enact because of widespread protests in the North-east Indian States.

What is Citizenship Amendment Bill 2016?

- ▶▶ It seeks to allow illegal migrants from certain minority communities in Afghanistan, Bangladesh and Pakistan eligible for Indian citizenship by amending the Citizenship Act of 1955. These individuals are made eligible for naturalisation as Indian citizens, and furthermore, the normal precondition for naturalisation — having spent 12 years in the country — is halved to six years i.e. 6 years.
- ▶▶ In simple language, therefore, the Citizenship Amendment Bill does two things: it shields a set of individuals from being declared illegal migrants; and it creates a fast-track to citizenship for these individuals.

What are the issues in the Amendment Bill?

- ▶▶ The problem, of course, is that it does so on an explicitly communal basis: it categorically excludes Muslims from its ambit.
- ▶▶ The implications are clear: if the government goes ahead with its plan of implementing a nation-wide National Register of Citizens, then those who find themselves excluded from it will be divided into two categories: (predominantly) Muslims, who will now be deemed illegal migrants, and all others, who would have been deemed illegal migrants, but are now immunised by the Citizenship Amendment Bill.
- ▶▶ The Bill will be the first time that religion or ethnicity will be made the basis of citizenship. That would do grave damage to the very idea of India as an inclusive and diverse polity, where religion has no bearing on who can become a full member of society.

What is the logic behind the Adoption of the Bill by the Government?

- ▶▶ Both the text of the Bill and its ‘Statement of Objects and Reasons’ refers to “minority communities” from Afghanistan, Bangladesh and Pakistan. The logic appears to be that as these three countries are Muslim-majority, they may be subject to persecution on account of their faith, and, therefore, need refuge in a country such as India.

Flawed Logic:

- ▶▶ If that is the logic of the Bill, however, then it is so evidently flawed that it borders on irrationality. First, PRS Legislative Research points out that there are Muslim religious minorities within these countries who are subjected to grave and serious persecution: the classic example is that of the Ahmadis in Pakistan.
- ▶▶ Secondly, there is no explanation for why only these three countries have been singled out.

Violating the Constitution:

- ▶▶ Some people have argued that even if this is true, **Article 15 of the Constitution — that bars religious discrimination — applies only to citizens.**
- ▶▶ But **Article 14** of the same Constitution, which guarantees to all persons equality before the law, and the equal protection of law.
- ▶▶ Discriminatory treatment and especially, discrimination that is arbitrary, and classifications that are unreasonable violate the essence of the equal treatment clause.
- ▶▶ A state that separates individuals and treats them unequally on palpably arbitrary grounds violates the prescription of Article 14, and the heart and soul of the Indian Constitution: respecting the dignity of all.

National Register of Citizens Argument and Reality:

- ▶▶ The National Register of Citizens (NRC) is a register maintained by the Government of India containing names & certain relevant information for identification of Indian citizens. The register was specifically made for Assam state.
- ▶▶ However, from the now-public knowledge of how flawed the NRC process has been in Assam, there is a key question: why do we need to have a national NRC?
- ▶▶ Government has stated that it is required for national security, and that India cannot “run smoothly under the weight of so many intruders”. However, there is absolutely no evidence to suggest that there is a huge influx of illegal migrants into India: in fact, recent evidence suggests that the rate of migration has been declining.
- ▶▶ The Assam NRC arose out of a very specific historical experience, and Assam’s own position as a border State;

Conclusion:

- ▶▶ For the rest of India, Assam’s own experience shows that an exercise such as this — flawed and riddled with errors as it is — will only lead to misery and exclusion on a national scale, with no reason whatsoever to justify it.