

### **"If Parliament passes the Citizenship Amendment Bill, India's constitutional structure, as we know it, will lose its soul."**

Despite being under constant siege, the edifice of India's Constitution has endured so far. The onslaught has intensified since the expanded mandate to the Narendra Modi government in May.

However, if Parliament passes the Citizenship Amendment Bill, India's constitutional structure will cave in. Make no mistake. The Constitution will not need to be rewritten. But, its soul will be annihilated. A new nation will emerge from its rubble — wrathful, muscular, majoritarian, and inhospitable to its minorities.

This Bill weighs upon tangled contestations of belonging and rights. Who belongs to India, and on what terms? And indeed, who does India belong to? A young Bengali-origin Assamese poet Kazi Neel lamented, "This land is mine. But I am not of this land". He loves India, but India refuses to own him.

Citizenship ultimately is the right to have rights. Who in this country should have rights, and from whom should these be withheld?

The answer to these fraught questions were settled within the humanist and inclusive framework of the Indian Constitution. Its iridescent central premise was that religious faith has no bearing on eligibility for Indian citizenship. India belongs equally to its Muslim, Christian and Parsi residents, as much as to its Hindus, Sikhs, Buddhists and Jains.

Questions of belonging — and religion as politics — have torn India apart. The Muslim League regarded religion as the key to citizenship; therefore, India was not one but two nations — Hindu India and Muslim Pakistan. V D Savarkar concurred. India's Constituent Assembly steadfastly rejected this idea that India belonged only to its Hindu majority. Jawaharlal Nehru declared, "We accept as Indian anyone who calls himself a citizen of India".

By introducing the Citizenship Amendment Bill (CAB), the BJP-led government has deliberately reopened old wounds, reviving old fears, anxieties and hatred of Partition. This Bill, in effect, endorses the two-nation theory by creating a hierarchy of citizenship based on religious faith, excluding Muslims from this hierarchy.

The moral fig leaf offered is that this intends to provide refuge to people suffering religious persecution in neighbouring countries, Pakistan, Bangladesh and Afghanistan. If religious persecution was truly to become the yardstick for eligibility for Indian citizenship, then few neighbours are more tormented than the Ahmadiyas

in Pakistan who face even death for worshipping in a mosque, the Rohingyas battling genocide in Myanmar, and the Uighurs held in internment camps in China.

Until 1987, to be eligible for Indian citizenship, it was sufficient for a person to be born in India. Then, spurred by the populist movements alleging massive illegal migrations from Bangladesh, citizenship laws were first amended to additionally require that at least one parent should be Indian. In 2004, the law was further amended to prescribe that not just one parent be Indian; but the other should not be an illegal immigrant.

The unease of the BJP-led governments of India and Assam with the NRC is that a much larger number of Bengali-origin Hindus have been excluded from it than Muslims. If they are judged as illegal immigrants, not just they, but their offsprings would become illegal because of the 2004 amendment. The CAB alone can rescue the BJP from this political conundrum. It will treat Bengali Hindus as refugees, and only the Bengali-origin Muslims and all their later generations would become illegal, even if they were born in India and know no other country as their home.

Treating Bengali-origin Hindus, excluded from the Assam NRC, as persecuted refugees from Bangladesh, however, will require multiple extraordinary leaps of official faith. Not one of these persons would have claimed in any official forum — the NRC offices, Foreigners' Tribunals or police stations — that they are illegal Bangladeshi immigrants. They would have strenuously tried to establish exactly the opposite. But after the CAB, to secure Indian citizenship, they would have to claim to be foreigners to become eligible for Indian citizenship. There will also be questions of evidence. How will they prove that they were citizens of neighbouring countries and that they were persecuted? The truth is that most had not crossed any border, but were unable to produce documents which satisfied officials that they were Indian citizens.

The CAB is the harbinger of a national NRC. By passing the CAB, effectively, the government is clearly messaging that if people of any identity except Muslims are unable to produce the required documents, they will be accepted as refugees and given citizenship. This means that the real burden to prove that they are Indian citizens of the national NRC after CAB is only thrust on Muslims, because only they will risk statelessness. Most Indians would find it impossible to muster the required documents to prove their citizenship, but only document-less Muslims will face the prospect of detention centres, or being stripped of all citizenship rights.

And then, since this imagination of citizenship is all vested in documents, which documents will prove my religion? At present, it is only one's own declaration during the decadal census which is the official evidence of one's religious persuasion. I can be born into a religion, and can reject it when I am an adult. I can be born to parents who claim no religion. But if religion becomes the principal fulcrum of whether or not one is a citizen, then which document will the state rely upon to decide if I am a refugee or should be thrown into a detention centre?

For a republic built on guarantees of equality and non-discrimination on the basis of religion, creating a class of potentially stateless persons exclusively because of their religious identity would mark decisively the demise of India as a secular republic. The responsibility for this catastrophic collapse of the edifice of our constitution would be shared by a political opposition emptied out of its moral and political convictions.

CAB-NRC poses the gravest threat to India's secular democratic constitution since India became a republic, and must be fought with a nation-wide civil disobedience movement. The contours of this struggle need to be worked out by We the People.

But, I have decided on my form of civil disobedience. If the CAB is passed, I will, in solidarity with those whose citizenship alone will be contested, first declare myself to be Muslim. When the national NRC is organised, I will boycott it, and refuse to produce any documents. I will then demand that I be given the same punishment to which my undocumented Muslim sisters and brothers will be subjected, be it detention or the extinguishing of my citizenship rights.

### Expected Questions (Prelims Exams)

**1. Consider the following statements in the context of the Citizenship Amendment Bill-2019.**

1. Even before this Bill is tabled in Rajya Sabha, the Supreme Court has repealed it as a violation of 'Right to Equality'.
2. After the enactment of this bill, it will be relatively easy to get citizenship for those non-Muslim people who have been excluded from the National Citizen Register.

Which of the above statements is/are correct?

- (a) Only 1                      (b) Only 2  
(c) Both 1 and 2              (d) Neither 1 nor 2

**Note:** Answer of Prelims Expected Question given on 10 Dec., is 1 (c)

### Expected Questions (Mains Exams)

- Q.** The Citizenship Amendment Bill, which was recently laid on the table of the Parliament has been questioned both on ground of constitutionality and its ethics. Discuss the major disputes related to the proposed bill in the context of this statement. (250 words)

**Note:** - The question of the main examination given for practice is designed keeping in mind the upcoming UPSC main examination. Therefore, to get an answer to this question, you can take the help of this source as well as other sources related to this topic.