

# Granting citizenship to people persecuted for their faith does not violate the Constitution

Bhupendra Yadav, 18<sup>th</sup> December 2019

The Indian Express: <https://indianexpress.com/article/opinion/columns/winter-session-of-parliament-citizenship-amendment-bill-6172238/>

If the government of a welfare state segregates people on any ground and then extends equal rights to all members of the segregated group, then that arrangement is valid under Article 14.

The winter session of Parliament has come to an end. Just like the previous session, it was a productive one. While on the one hand, the government had to deal with critical issues such as the state of the economy, and had to decide whether to join the Regional Comprehensive Economic Partnership, on the other hand, some important bills were passed.

Among the bills that were passed, the most important was the Citizenship Amendment Bill.

Citizenship of any country is a critical political question. When the government recognises a person as a citizen of the country, it extends to them all kinds of rights related to their safety and security so that they can live their lives according to their beliefs and value systems.

Among the rights guaranteed under the Indian Constitution, some are granted to everyone, while some extend only to citizens. A lot of questions were raised by the opposition parties and sections from the North-east in relation to the Bill. Under the legislation, there is a provision to grant citizenship to minority groups, especially Hindus, Jains, Sikhs, Buddhists and Parsis who have come to India from Pakistan, Bangladesh and Afghanistan.

There are three critical questions here. First, why did the government feel the need to bring this legislation? Second, does it discriminate among people on the basis of religion in granting citizenship? And third, does the entire process of bringing in the Bill stand constitutional validity?

The answer to the first question about why these people are being given citizenship lies hidden in India's history. It is a fact that our country was partitioned along religious lines in 1947, and East and West Pakistan came into existence. In 1950, a pact was signed between the then Prime Minister of India Jawaharlal Nehru, and his Pakistani counterpart Liaquat Ali Khan, which avowed to provide security to the minority communities in both countries.

Islamabad reneged on that promise, and hence, people in large numbers have been coming to India from Pakistan and Bangladesh. The main reason why these people flocked to India was religious persecution and a grave threat to their religious identity in their host countries.

It is not like this problem has been recognised only by the incumbent government. Between 2004 and 2014, the UPA government reiterated at least 15 times that religious minorities in Pakistan, Bangladesh and Afghanistan were being persecuted, and hence they have come to India. Not just that. In 2003, when the NDA government was in power at the Centre, Manmohan Singh raised the question of granting citizenship to these persecuted religious minorities. CPM leader Prakash Karat had written a letter to Manmohan Singh on the basis of the statement he made in 2003. To address this long festering problem, the incumbent government brought in the Citizenship Amendment Bill.

On the question of its constitutional validity, we must remember that the Preamble to the Constitution says that every person has, “Liberty of thought, expression, belief, faith and worship.” People who believe in any religious ritual have an equal right of religious freedom to practise those rites and rituals.

The main question raised by the Opposition is with reference to Article 14 of the Constitution. They are contending that by giving citizenship only to certain religious minorities of neighbouring countries, the government is indulging in the politics of discrimination.

The truth, however, is far removed from the Opposition’s allegations. If the government of a welfare state segregates people on any ground and then extends equal rights to all members of the segregated group, then that arrangement is valid under Article 14.

It is the same as segregating people to grant them the benefits of reservations. It doesn’t mean that if 10 per cent of the people in the country are granted reservations, the policy is against the taxpayers of the country. It also doesn’t mean that reservations for OBC Muslims is against upper caste Hindus. In the TMA Pai case, the Supreme Court upheld the segregation of people on religious and linguistic grounds. Hence, such issues being raised by the Opposition are baseless.

There is also a charge that the legislation is against Northeastern states. This also is not true. The government has exempted all Inner Line Permit regions of the Northeast from its ambit. Further, it has not included the tribal areas in the northeast.

The government has set a cutoff date of December 31, 2014, for granting citizenship to people under the Act. This means that new immigrants will not be included among the people for granting of citizenship. It only grants citizenship to people who have entered on or before the cut-off date.

The NDA government in 2003 and even the UPA government in 2013 had granted citizenship to Hindus immigrants from Pakistan through a circular. Hence, granting citizenship to people on the basis of religious persecution is not a violation of the tenets of the Constitution.

In fact, by passing the Bill, the government has provided a definitive answer to a long-festering problem. By granting citizenship to people who had been living a life of uncertainty and insecurity without any rights, seeing only darkness in the name of future, the Indian government has done a service to the cause of human rights.

Today, no doubt, we are hearing voices of dissent against the Act. But all governments, across the world, need to standardise and streamline immigration. If India needs to move ahead on the road of development, ensuring that each citizen benefits from the country's development, then we need to know what is the exact number and condition of citizens in our country. Once we are able to determine these facts, it will help the government take the fruits of development to each Indian citizen.

This legislation is a step towards Sabka Saath, Sabka Vikas, and the credit for this step goes to the Prime Minister of the country, Narendra Modi.

*(This article first appeared in the print edition on December 18, 2019 under the title 'Addressing a Partition left-over'. The writer is National General Secretary, BJP and & Member of Parliament, Rajya Sabha).*