

By ALBERTINA ALMEIDA



The Citizenship (Amendment) Act, 2019: A Dangerous Law  
The Citizenship Amendment Act 2019 (CAA), got onto India's statute book on 12<sup>th</sup> December, 2019, after it was passed in the Lok Sabha on 10<sup>th</sup> December, 2019, in the Rajya Sabha on 11<sup>th</sup> December, 2019, and got the assent of the President on 12<sup>th</sup> December, 2019, and was promptly notified in the Government Gazette on the same day. This Act comes at a moment when there is widespread discontent on account of an economic slowdown. It comes at a time after the National Register of Citizens in Assam, a Supreme Court directed exercise, has resulted in 19 lakh people, most of them Hindu, being excluded from the register.

*What does the Act contain?*

The CAA is an amendment to the Citizenship Act, 1955. As per the CAA, citizenship can now be granted to Hindu, Buddhist, Sikh, Jain, Parsi and Christian immigrants from Pakistan, Bangladesh, and Afghanistan, who have been residing in India before 31<sup>st</sup> December, 2014. The other salient feature of the Act is that the Overseas Citizenship of India (OCI) is now also subject to cancellation IF any OCI card holder is found to be in violation not only of the Citizenship Act, but also any other law in force that the Government notifies as a law whose violation renders the OCI liable to cancellation. The Act also comes close on the heels of *certain* other election promises kept by the BJP, such as revocation of Article 370 (which has effectively been abrogated).

Each of these provisions seems very innocuous but they are imbued with meanings that have widespread repercussions. This is the result of both, the context of the wording of the law, as well as the context of the manner in which the Government has been functioning. Further, while at first glance it may seem that Goans will not be impacted, this is not true. For these reasons, and for greater ethical reasons, the law has to be opposed for the kinds of legislative precedents it is either setting or reinforcing big time.

*Baseless Selective Exclusion!*

Let us take the provision for illegal Hindu, Buddhist, Sikh, Jain, Parsi and Christian immigrants from Pakistan, Bangladesh and Afghanistan, upto 31<sup>st</sup> December, 2014, to be granted citizenship. Note that Muslim illegal immigrants are not included. The justification given in the public domain is that this law has been brought in "to provide refuge to the persecuted minorities of Pakistan, Bangladesh and Afghanistan", who had to immigrate upto 31<sup>st</sup> December, 2014, implying therefore that there are no Muslims persecuted in those three countries. But the fact that Ahmadiya Muslims are persecuted in Pakistan is well-known. To add to it is the fact that immigrants of the stated faiths from *three particular countries* have been chosen. There is no basis for this choice.

Again the justification by the Government in the public domain is that these three are neighbouring Islamic theocratic countries. In this lie two false assumptions. The first is that those who do not profess the religion of the theocratic country alone are being persecuted, and that there is no persecution of any persons professing Islam in these countries. This assertion has been refuted above by reference to the Ahmadiyahs. The second assumption is that non-theocratic, or secular, countries persecute no one. Both the assumptions are baseless.

There is thus a selective exclusion of persons professing a particular religion, which sets a bad legislative precedent. The irony is that India is not a theocratic country as per the Constitution of India, but the ruling dispensation is behaving as if it were a theocratic country. They have begun with excluding Muslims, which are the largest minoritized group in India, and it will not be long before a pattern of excluding other minoritized groups through legislation, will follow. In Goa, Muslims are a small minority as compared to Catholics who are a large minority. The idea of selective exclusion through legislation therefore has to be nipped in the bud.

There are also people persecuted in other neighbouring countries like Myanmar and Sri Lanka. Rohingya Muslims are being persecuted in Myanmar and Tamilian Hindus have been persecuted in Sri Lanka. Some of them have been immigrating to India. What is the basis for excluding these illegal immigrants? These immigrants are also from the countries bordering India. There is no rationale either for selecting 31<sup>st</sup> December, 2014, as the cut-off date. The only reasoning that suggests itself is the fact that the BJP came to power in May 2014.

*Are we suggesting mass inclusion?*

Are we suggesting that concerns about the selective exclusion would be addressed by inclusion of Muslim immigrants upto 31<sup>st</sup> December, 2014? Certainly not. That would be a facile solution. While some of the protests in various parts of India are articulating concerns about exclusion, others are articulating concerns about the selective inclusion. This has precisely been the concern of the North Eastern States. The Government wanted to manoeuvre the exercise of preparing the National Register of Citizens directed by the Supreme Court, to exclude Muslims. While several people were put through extreme hardships and some activists involved with assisting citizens to get themselves enrolled, were also slapped with false charges, the ruling dispensation was still not successful in their efforts to render the exercise a communal one. This Amendment therefore seems like, among other things, a course correction on the Government's part to exercise to achieve that objective.

The people from the North East are opposing the Amendment for reasons other than exclusion. They are opposing the inclusion of illegal immigrants. Some of the North Eastern

states have burnt their fingers with inclusion. Tripura, for instance, initially welcomed Indian immigrants from the Bangladesh war, but soon found the Tripuri people and the indigenous people of Tripura being minoritized and began resisting. Eventually they filed a petition against the inclusion. It was reported that years of illegal “influx” from across the border with Bangladesh has apparently reduced Tripura’s tribal inhabitants to a minority, resulting in land alienation, loss of livelihood and the threat of cultural annihilation. “Illegal immigration” is as big a problem in Tripura as in Assam, the Tripura People’s front claimed.

This is something that Goans can well identify with and understand, given how they have been swamped in their own land. But the hype that is created is that all the immigrants in Goa, legal or illegal, be they from India or from outside India, are Muslims, which bears no statistical corroboration. Therefore, a certain section of Goans may be baselessly excited that with the exclusion of Muslim illegal immigrants, and the inclusion of Hindu, Sikh, Jain, Buddhist, Parsi and Christian immigrants, the impact on Goa will be negligible in terms of affecting the demography of Goa. Goans over the years have a sense of being swamped. Their numbers have reached below replacement level, as the National Family Health Survey affirms. Therefore something like the CAA may seem like a welcome relief, and hence it is necessary to expose the implications of the Citizenship Amendment Act for what they really are.

*Making all the appropriate sounds!*

The ruling dispensation has been making the appropriate sounds both in the run up to, during and following the passage of the CAA. The BJP General Secretary Ram Madhav said that “India is duty-bound to give persecuted minorities from neighbouring countries citizenship as they are ‘victims’ of the decision to divide the country on religious lines”. Home Minister Amit Shah was quoted as saying “It’s a humanitarian issue, beyond political ideologies”.

Also, refugees need to be accorded all the rights of persons who are given a refugee status, and must have the options of going back to their country of origin, which the prevailing laws do not afford. There are ever so many narratives of refugees, who are grateful for being recognised as refugees and given amenities accordingly, but want to go home eventually because home is home. Take this narrative of children of Rohingya families: “Apne watan waapas jaana hai.” (I want to go back to my country) They were very grateful for having got a place to live, but they did miss their homeland.

The professed humanitarianism rings hollow, with India having no defined refugee policy, and leaving the citizenship of each such immigrant to individual determination, thereby wielding power to silence those who dissent.

*Remember the OCI Registration cancellation?*



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A little over a month ago, the Union Home Ministry cancelled the OCI registration of Journalist Atish Taseer on the pretext that he had not revealed that his father was of Pakistani origin. His mother is a prominent Indian journalist. Further, the cancellation, following an article written by him which was critical of the Modi Government, makes it very obvious how individual determination gets handled in India.

And that brings us to the Goan OCI Card holders. There is a large number of Portuguese passport holders among these, who have migrated to United Kingdom, availing of the fact that Goans can reclaim their Portuguese citizenship and availing of the advantage Portuguese Citizenship has for employment opportunities in the European Union and upward social mobility back home. These persons are deprived of their Indian citizenship once they acquire the Portuguese passport. Indian citizenship is critical to these persons because their homes and hearths are in Goa, which is politically part of India, after the Indian annexation in 1961. Many of these OCI card holders belong to communities that have been traditionally marginalized, and many times economically. But the Indian citizenship is important to them. At the cost of repetition, one would say that their homes, hearts and hearths are in Goa. They are culturally rooted in Goa, they have grown up engaging with the land, the trees, the rivers, and the sea in Goa, in a struggle to produce and earn a bare minimum living in Goa. But with the assaults on the environment through projects styled as development projects and the consequent land grab, land became scarce as a resource, the fish resources began to deplete. But whatever is there and which these OCI card holders have helped retain, is now, post Goa's annexation by India, politically a part of India. Therefore their full and proper access to land with decision making rights about the future of that land already got restricted when they were required to surrender their Indian citizenship as a result of which their citizenship rights were taken away. Now, there is even a chance that their OCI cards can be cancelled if they speak up against the so-called development projects like marinas and coal hub threatening the identity of their homeland Goa.

This means that if you voice your opposition to the policies of the ruling dispensation, you could be booked for threatening, let's say, the energy security of the country, and would be considered to be in violation of, let's say, the Unlawful Activities Prevention Act. The Amendment does provide for an opportunity to be heard, but does not prescribe the detailed procedure, which therefore could mean summary inquiries, followed by cancellation of OCI cards of those who speak up, which means that even the limited citizenship of OCI card holders can be lost.

It is therefore necessary to bring pressure on the Government to repeal the Citizenship

Amendment Act, both for its actual provisions and the precedent it sets.



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(First Published in *Goa Today*, dt: 6 January, 2020)



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