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Send subscription at
South Asia Politics
D-298, Sarvodaya Enclave,
New Delhi-110017
Phone : 011-40521168, 26963389
Fax : 011-26528044
E-mail : sapolitics@mail.com

Articles on governance, development, economics and politics and books for review are invited.

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Editor Abhaya Kashyap

The Citizenship (Amendment) Act, 2019

M R Biju & M R B Anantha Padmanabha

The Citizenship (Amendment) Act, 2019 (CAA) is an Act passed by the Indian Parliament, amending the Citizenship Act of 1955. This new legislation gives an opportunity to illegal migrants who entered India on or before 31 December 2014 because of religions persecution in their own country for award of Indian Citizenship. The Act also specified that eligible migrant category shall include Hindus, Sikhs, Buddhist, Jains, Parsis and Christians who may have come from Afghanistan, Pakistan and Bangladesh. It also seeks to relax the requirement of residence in India for citizenship from 11 years to 5 years for these migrants. The Act excludes Muslims from such eligibility. The Union Cabinet cleared the Bill on 4th December 2019. It was passed by Lok Sabha 10 December 2019 and subsequently in the Rajya Sabha on 11 December 2019. Keeping this in background this paper attempts to examine the constitutional, legal and political implications of this legislation. The study has been classified under six broad heads- introduction, background of CAA provisions of granting citizenship, argument for and against CAA, its impact on north-east and finally views of various political parties on it.

No doubt, the CAA is a very serious move with far-reaching



Amit Shah speaks in Rajya Sabha during the discussions on the Citizenship (Amendment) Bill 2019

consequences and deeper impact on the basic character of the Constitution and therefore it needs a closer look. It seeks to give shelter and protection to persecuted minorities in Bangladesh, Pakistan and Afghanistan. This ushers in a fundamental change in country's process of citizenship by naturalisation which allows foreigners to become Indians. Under the current legal dispensation, illegal immigrants cannot apply for Indian citizenship. Current law bars Hindu migrants from Bangladesh, who have entered India without papers to become citizens. It also excludes anyone who has entered using a legal document but has overstayed visa. At the same time, the CAA also shortens the waiting period for naturalisation for these chosen communities who would now

require a six-year residence instead of the previous condition of having been a resident of India for at least 11 out of the last 14 years. Thus, once again creating two kinds of citizens that is a serious violation of fundamental rights granted to Indian citizens by the Constitution.

The stated objective of the CAA sounds logical but going through its text is stunningly shocking as it not only seriously questions its own stated objective but also negates the fundamental character of the Constitution. It also tears apart the plural fabric of Indian society. The present legislation, with its careful listing of protected communities, has explicitly and deliberately left out Muslims which is nothing but discriminatory. It excludes creating different categories of citizenship in which one is superior to the other

The CAA 2019 not against Indian Muslims

There is a perception that has gathered steam that the CAA will deny rights to Indian Muslims. The truth is, the Act can't do it even if anyone tries to. This perception is due to a perceived connection made between CAA and proposed nationwide NRC. While the CAA makes it easier for the non-Muslim immigrants

from India's three Muslim-majority neighbours – Pakistan, Bangladesh and Afghanistan – to become citizens of India, it cannot take away the citizenship of Indian Muslims. Even a proposed pan-India NRC can only detect illegal immigrants and detain them, who can be from any faith. Moreover the nationwide NRC is still at a proposal stage.