

PEOPLE'S UNION FOR CIVIL LIBERTIES

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PRESS RELEASE

Repeal CAA, 2019 and Rules, 2021!!

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PUCL is outraged at the move of the Central Government to implement the CAA 2019 weeks before the election and demands that the law be repealed.

PUCL has filed an urgent application for stay on the implementation of the law before the Supreme Court.

PUCL will continue to fight against citizenship laws such as the CAA which are unconstitutional and discriminate on grounds of religion.

People's Union for Civil Liberties (PUCL) strongly condemns the move of the Central Government to implement the Citizenship Amendment Act, 2019 (CAA 2019), by notifying the amended Rules in the official gazette on 11th March 2024, four years after the law was enacted, even as more than 200 petitions challenging the law are currently pending before the Supreme Court. It is deeply concerning that this decision has been announced just before the General Elections, putting to question the political motivations behind the decision, especially since the government itself took several extensions over this period and has shown no urgency in implementing the law.

PUCL has maintained through its statements and public position in the last four years that this divisive piece of legislation is a betrayal of the ideals of our freedom struggle, disregards the inclusive and plural history of India and squarely violates the letter and spirit of the Indian Constitution. It is illegal, constitutionally immoral and unconstitutional as it makes an arbitrary and discriminatory link between religion and citizenship. The Indian Constitution through its citizenship provisions (articles 5, 6, 7, 8, 9 and 10) and the Citizenship Act, 1955 (before the amendment brought in by the CAA 2019) do not make religion the basis of citizenship.

However unlike both the constitutional provisions as well as existing statutory provisions on citizenship, the CAA 2019 is a statute which is discrimination writ large. While the aim of providing a pathway to citizenship to 'illegal immigrants' is to be welcomed, such a pathway cannot violate the Indian Constitution. The problematic heart of the CAA 2019 is that it chooses to provide eligibility for Indian citizenship to 'illegal immigrants' residing in India from the viewpoint of their religion and expressly excludes from its purview Muslims, while including persons belonging to the Hindu, Sikh, Buddhist, Jain, Parsi or Christian community. Further only those from the above religious backgrounds from three countries, namely Afghanistan, Bangladesh or Pakistan can seek the benefits of the law.

Arbitrary and Discriminatory CAA

It is important for every Indian to ask, what is the logic of selecting only three Muslim-majority countries and excluding immigrants from the Muslim community? If one thinks the logic is to create a pathway for citizenship for persecuted minorities, as narrated by the Home Minister in umpteen speeches, this

narrative is debunked and exposed by the arbitrary nature of the exclusion of Muslim community and persons from several non-Muslim neighbouring countries from benefit of the law.

It is a well-known fact that there are religious and non-religious persecuted people found in India's entire neighbourhood including China, Myanmar, Sri Lanka, Bhutan, Maldives and Nepal, who too should have been considered, if the intention of the law was indeed to provide succour to persecuted minorities in the region. It should be pointed out here that over 100,000 Sri Lankan refugees of Tamil origin who fled racial persecution in Sri Lanka, many of whom are Hindu by religion and a large proportion of whom have been residing in camps in Tamil Nadu for over 40 years. These stateless Sri Lankan Tamils have been seeking citizenship in India with several generations born and bred in India. They are arbitrarily ignored by the 2019 amendment to the Citizenship Act which considers only persons from the above 3 countries. Moreover, the community that has faced the worst religious persecution in South Asia, being the Rohingya Muslims who have faced military crackdowns over decades, and over the years more than 1.5 million have been forced to flee Myanmar and rendered refugees, are also excluded from the ambit of the law.

It bears noting that people persecuted in Pakistan include the Ahmadiyyas who are considered heretics and are not allowed to adopt and practice their religion. The only reason they are excluded from the benefits of the law is they claim to be Muslims, albeit persecuted Muslims. In Bangladesh the LGBTQI community has been subjected to relentless persecution, but no LGBTQI person can claim the benefit of this law. They stand excluded because the benefit of the CAA 2019 is only on the basis of religion.

The benefit of CAA 2019 is not on the basis of persecution which is a constitutionally permissible ground of classification, but on the ground of belonging to a religion. This *prima facie* discriminatory piece of legislation goes against the core value of secularism enshrined in the Indian Constitution and also violates Article 14 and 21 of the Indian Constitution, under which the protection by the State of persons, both citizens and non-citizens has been underscored. Therefore discrimination against persons solely on the grounds of religion is unacceptable.

The Imminent threat of NPR-NRC

As the Home Minister of India indicated, the CAA should not be seen in isolation but as part of a chronology, with it being followed by the National Population Register (NPR) and the National Register of Citizens (NRC). First the NPR, being the register of all persons residing in a place, is to be prepared, which is to be followed by the NRC process under the Citizenship Rules, 2003. For conducting NRC, the Local Registrar is empowered to verify and scrutinise the particulars collected of every family and individual and identify those having 'doubtful' citizenship, to send for further enquiry. In an empowerment of third party vigilantism, the rules give the power to anyone to 'object to the inclusion or exclusion of certain names', from the first list.

The NPR and NRC process will create two categories of citizens in India, Citizens and Doubtful citizens. Those who are not included in the NRC upon failure to provide sufficient documentary proof, could be rendered without citizenship and essentially treated as foreigners or stateless. Depending upon the kind of proof of citizenship required, a threat of detention will hang over the heads of many millions who do not have the documentation required to prove citizenship.

The NPR and NRC process gives the Local Registrar unprecedented and unchecked power to target certain communities and individuals. Based on the animus the state has shown towards Muslims there is also a legitimate fear that this power will be exercised with a discriminatory intent. The NPR and NRC will adversely affect not only Muslims who do not have documentation, but also other categories of persons without documents such as single women, LGBT persons estranged from their families, divorced

women, homeless people, tribals or poor people. The fears around the NRC are not abstract as seen from the experience in Assam NRC of 2018 which required citizens to prove their citizenship based on documents. The process resulted in 1.9 million Indians being struck off the citizenship rolls, with more than sixty percent of those who were declared non-citizens and illegal migrants being Hindus.

The NPR and NRC process will entrench the discrimination embedded in the CAA. Persons from communities eligible under the CAA will be able to take benefit of the law and apply for citizenship, meanwhile persons belonging to the Muslim community who have been excluded from the benefit of CAA, will be rendered remediless and termed “infiltrators” who cannot be given citizenship under the 2003 amendment to the Citizenship Act, 1955. Those whose citizenship is considered doubtful will potentially be deprived of their right to vote and be subjected to a process of deportation as foreigners. As it is extremely unlikely that any neighbouring country will accept these detainees, they will be indefinitely detained in camps. Thus the animus towards the Muslim community which is at the heart of the CAA/NPR/NRC has serious implications for the future of the Indian polity.

Overwhelming public opposition to the law cannot be ignored

The law has seen overwhelming public opposition. Massive and peaceful protests and sit ins were held in 2019-2020 after the law was passed by citizens, youth from across universities and led by Muslim women from all over the country. The protests focussed on raising awareness about the discrimination and uncertainty of existence Muslims would have to face in their own land of birth and that of their ancestors, if unable to produce requisite documents.

In Delhi, the assertive Muslim youth who coordinated the peaceful and democratic protests, ended up in Jail for exercising their constitutional right to expression and assembly. Several youth have been unjustly and falsely implicated in the communal violence in Delhi in February, 2020 in which 54 persons were killed, with more than 21 being booked under UAPA. The message sent out to the people was that they should be prepared for reprisals if they challenge the Government’s decisions even through constitutional means by exercising their right to protest in opposition to discriminatory laws that violate the Preamble promise of equality and secularism.

The government’s optics in notifying rules for implementation of the law on 11th of March, 2023, the first day of the holy month of Ramzan for the Muslims, communicates a harsh message of intolerance to a minority community facing the brunt of humiliation on a daily basis with the increasing communalism . The notification of the law, which comes around the eve of the Parliamentary elections of 2024, indicates that the ruling party at the centre is promoting divisive politics which will fray the bonds that bind India together.

PUCL strongly condemns this deeply polarising decision that has been taken just weeks from the election and demands that the law be repealed. PUCL has filed an urgent application to stay the implementation of the law in the Supreme Court and challenge the rules notified to implement CAA 2019. PUCL will continue to work to raise awareness of how discrimination in citizenship laws is the beginning of the end of the constitutional idea of India.

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