

# PEMS

Sunday, December 1, 2019,

## Ardour

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I have seen many and many more;  
I have had felt many and many times;  
I have had said it many and many repeatedly;  
I know I did it all I did care and I do;  
Seems you failed and may I know 'am wrong;  
Feelings are not you see and I pay for;  
How bad I stay and many I do shall I doubt?  
Let me stay and let me speak I really do;  
Oh! Soul, do I be blessed I ask again and again;  
Am I wrongly do I appreciate the way I feel really;  
Hate me or kill me; catch me and stab me;  
Still harder I do clinging on, life's a great expectations;  
Killing me inside so badly, unexpectedly my dear;  
Journey so hard I do care of cutting off possibly sooner;

Your presence a monopoly, your exit an empty vessel;  
Clinging harder to fetching emotions I really don't know;  
Every step I adore blading me and cutting me every inch;  
Oh well! You really pinching me so sharply  
Shall I or shall I not? Exception a real dangerous emotions;  
I do carry all along within my soul speaking thoughts;  
Show me your move ; show me how you actually maintain;  
Echoing through again and again piercing my ears so directly;  
Hate or kill; treasure me or stable me harder;  
'I love you' oh! So cutely design I may know how you perfectly perform;  
Sincerely- you know why and what for isn't that a lie?

How lone I do care; how crazy I do manage solitary egos;  
Unaccompanied and unescorted and detached and isolated;  
I try and tired carrying all along my side;  
Am I wrong with the way I really feel and worry about;  
Every inch of thought I do dream and I dance with the rhythm;  
Sorry I may find feeling and still it's better sooner or latter;  
Emotions! My opinions a damn sickly thing I can't take off;  
Every move you take I seek peace, please don't take off;  
Jealousy! A hatred, an envy I really adore being with you;  
Leave me or take me ; hate me or miss me forever;  
I seek the way I do really do care, grudging my emotions;  
Insecurity! I culture most and I'm defensive holding harder.

## Anti-CAA protest: One more dies in Assam, death toll touches five



NE NOW  
Guwahati, Dec. 15

Iswar Nayak, a resident of Tangla in Udalguri district in Assam and who was injured during an anti-CAA (then anti-CAB) protest in Guwahati on Wednesday, succumbed to his injuries on Sunday.  
The 25-year-old was shot at from behind while he was protesting against the Citizenship (Amendment) Bill in Down Town area of the city on Wednesday. He was working in Fashion Big Bazar for the last one year.  
"We entered an ATM on Wednesday evening to take out cash for buying vegetables and other grocery items. But the ATM had dried out of cash then," said one of his colleagues.  
"After that, we joined a protest nearby and raised slogans against the contentious Citizenship (Amendment) Bill, 2019. After some time when we decided to return home, we saw security

personnel attacking the protesters," he added.  
"Iswar was shot at from behind and we shifted him immediately to Downtown Hospital and later to the Guwahati Medical College and Hospital (GMCH)," he added.  
Batting with life and death for four days, the 25-year-old Nayak succumbed to his injuries on Sunday and with his demise, the death toll in anti-CAA related shooting touched five in the state. One Dipanjal Das of Chaygaon died in police firing at Lachit Nagar area, while 17-year-old San Stafford was shot dead in Hatigaon area of Guwahati and two other persons in Basistha area of Guwahati and Tinsukia district.  
Assam DGP Bhaskar Jyoti Mahanta on Saturday informed that around 25 persons received bullet injuries and another 50 civilians were injured during clashes with security forces. He further informed that so far 85 persons have been arrested in various violence-related incidents.

# Why the Citizenship (Amendment) Bill Is Unconstitutional

Courtesy The Wire  
By: Justice Markandey Katju

The Citizens (Amendment) Bill, 2019 (CAB) has been passed by both houses of parliament, and got the assent of the president. Since a lot of controversy has been raised over it, it needs a dispassionate analysis.  
Assam has had an influx of a large number of Bangladeshi immigrants who came after the Partition of 1947. Some (Hindus, Buddhists, etc.) came due to religious persecution by the Muslim majority. But many poor Muslims also came for a better life. Such 'economic refugees' – those who migrate not due to religious persecution but to seek a better life – are not, strictly speaking, refugees as defined in the UN Refugee Convention, 1951. But the fact is that worldwide, there are a large number of 'economic refugees'. For example, the US has about 11 million undocumented immigrants from Mexico who migrated to have a better life. Many of them have been living there for decades, and now have little roots in Mexico.  
What is to be done to them? President Donald Trump wants them deported to Mexico, but that is easier said than done.

In India under the Assam Accord, only those Bangladeshis who came into Assam before March 1971 would be granted citizenship under the Citizenship Act. But CAB will make people of six religions – Hindus, Sikhs, Christians, Parsis, Buddhists and Jains – who came from Pakistan, Afghanistan and Bangladesh Indian citizens, provided they have lived in India since before 2014.  
The CAB omits mention of Muslims, and this is where the controversy lies. The Bharatiya Janata Party government justifies this discrimination by saying that Muslims did not come into India due to persecution, whereas people of other religions did. But this is only a pretext. The real reason is that the BJP knows that Muslims will vote against them in elections, and so wishes to deny them citizenship (which carries voting rights).  
Also, what is overlooked is that many Muslims in Pakistan – Shias, Ahmadiyyas, etc. – are also persecuted there, and may come to India to avoid persecution. While by a constitutional amendment Pakistan has declared Ahmadiyyas to be non-Muslims, the Kerala High Court has declared them Muslims, and

Ahmadiyyas regard themselves Muslims. However, they are treated horrifically in Pakistan.  
Many Assamese are protesting because they do not want any immigrants in Assam, whether Muslim or non-Muslim, and object to citizenship being given to any immigrant. Others are objecting to the CAB for other reasons. The whole of Assam is in flames, and in many places the army has been called.  
The truth is that many Bangladeshi Muslims have been living in Assam for decades, though they may not have come here legally. Many were even born in Assam. They have no roots now in Bangladesh. Where are they to go if deported? Bangladesh has said it will not accept them. This is a humanitarian problem, not just a legal one.  
One of us (Justice Katju) remembers once when he was sitting on a Supreme Court bench, a case came regarding illegal squatters in *Jhugji jhopsis* in Mumbai. The senior judge on the bench shouted that these illegal squatters have no legal right to remain where they were living, and must be thrown out, to which Justice Katju coolly retorted, "But brother, where are they to go? Should they be

dumped into the Arabian Sea? It is not just a legal problem, it has also a humanitarian aspect."  
It may be noted that under the Indian constitution while certain rights, like those mentioned in Article 19, are available only to citizens, others like the right to equality mentioned in Article 14 and the right to life and liberty mentioned in Article 21 (which has been interpreted by the Supreme Court to mean the right to live with dignity) are available to all persons. A non-citizen is certainly a person, and hence is also entitled to those rights.  
In *National Human Rights Commission vs State of Arunachal Pradesh*, 1996, the question was about Chakma refugees, who were undocumented immigrants from Bangladesh. The court observed that the fundamental right to life and liberty guaranteed by Article 21 of the constitution is also available to Chakmas, though they were not Indian citizens.  
In light of that, the CAB is unconstitutional as it violates both Articles 14 and 21 of the constitution.  
**Justice Markandey Katju is a former judge of the Indian Supreme Court and Dhruv Kapadia is advocate on record, Supreme Court solicitor, Bombay high court.**

## Article 371 (A) & ILP Cannot Protect Us From CAB, Citizenship Amendment Bill, Should Be Opposed Tooth And Nail: SC Jamir

Former Chief Minister of Nagaland, Dr SC Jamir on Monday came out strongly against the Citizenship Amendment Bill (CAB) 2016 while also stating that Article 371A and the Inner Line Permit (ILP) cannot protect Nagaland and its people from the Bill. Speaking exclusively to Nagaland Page, Dr Jamir, who is also the former Governor of Maharashtra, Goa & Odisha, said the PDA Government in Nagaland should also come out with a clear stand on the controversial CAB. (The interview was taken before the State Cabinet's decision to oppose and reject the CAB).  
"I think we should oppose it tooth and nail so that we do not allow outside forces/elements to overwhelm the entire State. And my personal view is that Nagaland should come out with clear stand on this very important crucial issue that will jeopardize the future of the people of the State," he said.  
Nagaland Chief Minister Neiphiu Rio and the State Cabinet have claimed that the CAB will not be applicable to Nagaland as the State is protected under Article 371A and the Bengal Eastern Frontier Regulation Act, 1873 (ILP). Even the Governor of Nagaland in his customary Republic Day address on January 26 said the CAB is not applicable to Nagaland.  
"We are of the unequivocal view that the Citizenship (Amendment) Bill, 2016 is not applicable to Nagaland as we stand protected under the provisions of Article 371(A) of the Constitution of India and the Inner Line Permit mechanism as per Bengal Frontier Regulation, 1873 which was

reaffirmed as Clause 16 of the 16-Point Agreement," the State Governor had said. But the lone surviving signatory of the 16-Point Agreement of 1960, Dr SC Jamir, said Article 371A and Citizenship Bill are quite different. "I think Government of Nagaland has declared that this (Art 371A) can prevent CAB but I don't think so. Article 371A has specific subjects – but the Citizenship Bill is quite different," he stated. Article 371 (A) (1) begins with a "non-obstante" provision to the effect "notwithstanding anything in this Constitution" and further stipulates that no Act of Parliament in respect of:  
i) religious or social practices of the Nagas,  
(ii) Naga customary law and procedure, (iii) administration of civil and criminal justice involving decisions according to Naga customary law,  
(iv) ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides.  
"These are very specific... And therefore it will be wrong on the part of the Government to say that Article 371 (A) safeguards our interest vis-à-vis Amendment to the Citizenship Act," he stated.  
Jamir reminded that he had been telling from the very beginning that if Nagaland has to preserve its identity the Government has to be very careful regarding immigrants from Bangladesh. He recalled that during Partition 9 lakhs refugees were supposed to be placed in Dimapur but NNC elders said we

cannot accept any refugees because this will swarm up our population.  
"So they retreated from Dimapur. And that has saved Nagaland because Nagaland population that time was hardly 3 lakhs."  
"Tripura lost to immigrants from Bangladesh. We might have faced the same fate in Naga Hills also. But our leaders of yester years, they were foresighted and far-sighted as a result of which today we are remaining as Naga people," he said.  
Jamir also recalled that while drafting the 16 Point Memorandum, "we had taken care that outsiders should not be allowed to settle here. And therefore we have mentioned that the Inner Line Regulation should remain."  
But of course, it does not necessarily give power to Nagaland on Citizenship issue, he added.  
Reiterating that Inner Line Permit cannot prevent or supersede Citizenship Amendment Act, the former Chief Minister said ILP is only to prevent foreigners to enter into the land either for business or otherwise. But it is not for settlement.  
According to Jamir, the objective was that we should not allow outsiders to just enter Nagaland for business or otherwise, for they may exploit us. So ILP was a preventive measure, he said.  
"Thirdly we saw that unless we preserve our land and resources, then capitalists may exploit us in matters of minerals and other commercial activities. That is the reason why we mentioned in Article

371 (A) about land and its resources."  
Jamir summed up his observation on the PDA Government's stand on the CAB thus:  
"I don't know who have advised this (PDA Government) that we are free from this Citizenship Bill. I don't think neither the ILP nor 371(A) will be able to prevent the amendment to the Citizenship Act. The Home Minister has made it clear that those people coming from Bangladesh, Afghanistan, etc will be placed everywhere in the country."  
On the opposition from other NE State Governmentsto the Bill and the protest across the NE states, he said people of Assam, Meghalaya, Mizoram and Manipur know what the situation will be as a consequence of the Bill becoming an Act.  
"If outsiders are majority, then we shall be minority in our own land, so people are conscious about that. But Nagaland appears not to be conscious of that," he stated.  
Jamir reminded that even the BJP Chief Minister of Manipur has opposed the Bill and sought exemption of Manipur from the Bill. But here in Nagaland, our leaders don't think of the people, they only think of their position, he ried. On the statement made by the Home Ministry that citizenship won't be given without the State Government's nod, Jamir said, "I don't know. If all the states refuses then what? No state will be willing to invite them (foreigners). Where are we going to send them? There is no logic in what they (MHA) are saying."

## Problem in Meghalaya, says CM Sangma; Amit Shah calls him for more talks

Agency  
New Delhi Dec.15

After Meghalaya chief minister Conrad Sangma raised concerns over the Citizenship Amendment Act (CAA) causing "problems" in his state, Union home minister Amit Shah invited him for talks post Christmas to discuss the issue even as the homeminister blamed the Congress party for instigating violence in the northeast, where protests have erupted leading to the death of at least three people.  
Amit Shah said he wants to assure the people of Assam and other states of the northeast that their culture, language, social identity and political rights will not be affected by the act.  
Protesters have clashed with the

police in several areas of the northeast since Parliament approved the amended act earlier in the week, triggering a debate on whether the grant of citizenship could be linked to religion. The new law allows citizenship to Hindus, Parsis, Sikhs, Jains, Christians and Buddhists fleeing persecution in Pakistan, Afghanistan and Bangladesh. It has roiled the northeast, which has for long demanded protections to safeguard its cultural identity.  
The violence continued on Saturday in the northeast, which saw several incidents of arson and the killing of one person, taking the death toll in the protests up to three.

"It is the responsibility of the government under the leadership of Prime Minister Narendra Modi to protect them," the Bharatiya Janata Party's president said at an election rally in Jharkhand's Giridih on Saturday.  
Shah, who was addressing his first poll rally after the citizenship law was amended, said Meghalaya's chief minister Conrad Sangma and his cabinet ministers met him on Friday to discuss the issue.  
"They said there is a problem in Meghalaya. I tried to make them understand that there is no issue. Yet, they requested me to change something (in the act). I have asked Sangma ji to come to me when he is free after

Christmas and we can think of a constructive a solution for Meghalaya. Nobody has anything to fear," he said.  
The homeminister said the grand old party had a habit of branding important steps like the ban on triple talaq, scrapping of Article 370 and citizenship for religiously persecuted minorities as anti-minority since it was accustomed to vote bank politics. "Congress has for years done Hindu-Muslim politics and encouraged evils like Naxalism and terrorism. When a Prime Minister like Narendra Modi takes a strong stand against terrorism, the Congress accuses him of vote bank politics and appeasement," he later tweeted.  
Shah attacked Rahul Gandhi, saying the former Congress president is making "noises" and is ignorant of India's history as he has "Italian sunglasses" on.

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