

AS INTRODUCED IN THE RAJYA SABHA
ON THE 3RD AUGUST, 2018

Bill No. XIX of 2018

THE ILLEGAL IMMIGRANTS (IDENTIFICATION AND
DEPORTATION) BILL, 2018

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to provide for an institutional mechanism for identification of illegal immigrants in the country and their deportation and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Identification and Deportation of Illegal Immigrants Act, 2018.

Short title and
commence-
ment.

5 (2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.	<p>2. In this Act, unless the context otherwise requires,—</p> <p>(a) 'appropriate Government' means, in the case of a State, the Government of that State, and in other cases, the Central Government.</p> <p>(b) "illegal immigrant" means a foreign national who comes to India without any visa or proper and valid documents issued by the designated authority of the Government of India and settles or attempts to settle in India in the garb of bonafide Indian citizen by obtaining ration card and other government documents by fraudulent means;</p> <p>(c) 'National Commission' means the National Commission for Identification and Deportation of Illegal Immigrants constituted under Section 3 of the Act;</p> <p>(d) 'State Commission' means the State Commission or a Joint State Commission for identification and deportation of illegal immigrants constituted under section 6 of the Act;</p> <p>(e) "prescribed" means prescribed by rules made under this act;</p>	5 5 10
National Commission for Identification and Deportation of Illegal Immigrants.	<p>3. The Central Government shall, by notification in the official gazette, constitute a Commission to be known as the National Commission for Identification and Deportation of Illegal Immigrants for carrying out the purposes of this Act.</p>	15
Composition of National Commission.	<p>4. (1) The National Commission shall consist of—</p> <p>(i) a Chairperson who shall be a retired Judge of the Supreme Court, to be appointed by the President of India in such manner as may be prescribed; and</p> <p>(ii) four other members to be appointed by the President of India in such manner as may be prescribed.</p> <p>(2) The Chairperson and other members shall hold office for a term of five years or till they attain the age of seventy years and shall be entitled to such salaries and allowances as may be determined by the Central Government.</p>	20 25
Officers and other employees of National Commission.	<p>5. (1) The Central Government shall provide the National Commission with such officers and other employees as may be necessary for the efficient functioning of the National Commission under this Act.</p> <p>(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the national Commission shall be such as may be prescribed.</p>	30
Setting up of State Commissions.	<p>6. The Central Government shall set up a State Commission for each State or a Joint State Commission for two or more States for identification and deportation of illegal immigrants.</p>	
Composition of State Commission.	<p>7. (1) Every State Commission shall consist of,—</p> <p>(i) a Chairperson who shall be a retired Judge of the High Court; and</p> <p>(ii) four other members.</p> <p>(2) The Chairperson and other members of the State Commission shall be appointed by the Central Government in consultation with the Chairperson of the National Commission in such manner as may be prescribed.</p> <p>(3) The Chairperson and other members of the State Commission shall hold office for a term of five years or till they attain the age of seventy years and shall be entitled to such salaries and allowances as may be determined by the Central Government.</p>	35 40

8. (1) The State Government shall provide the State Commission with such officers and other employees as may be necessary for the efficient functioning of the State Commission under this Act.

Officers and other employees of State Commission.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the State Commission shall be such as may be prescribed.

9. (1) Every State Commission shall—

Identification and deportation of illegal immigrants.

(i) carry out necessary exercise to identify illegal immigrants and their nationality within the areas under their jurisdiction; and

(ii) prepare a list of illegal immigrants and supply it to—

(a) the National Commission; and

(b) the district administration, which shall publish such list in the official gazette:

Provided that an appeal against the inclusion of the name of an individual in the list of illegal immigrants by the State Commission shall be made before the National Commission within ninety days of publication of the said list in the official gazette.

(2) The National Commission shall take necessary action for deportation of illegal immigrants named in the list of illegal immigrants supplied by the State Commission;

10. The Central Government may, if it considers so in national interest, exempt any illegal immigrants or any class of illegal immigrants from deportation or any other provisions of this Act.

Power of Central Government to exempt certain immigrants.

11. (1) The National Commission and the State Commission shall, for the purposes of discharging its functions under this Act, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

National Commission and State Commission to have powers of civil court.

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) subject to the provisions of section 123 and section 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

(e) issuing summons for the examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(2) No court, except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution shall entertain any suit, application or other proceedings in respect of any order made by the National Commission and the State Commission.

12. The National Commission may direct the respective State Government to:—

Power of National Commission to direct State Governments.

(i) stop all assistance or benefits being enjoyed by the illegal immigrants immediately;

(ii) impound the ration card in the possession of illegal immigrants;

(iii) terminate the services of illegal immigrants, in case such immigrants are employed in any public sector organisation and inform persons concerned in case they are employed in private sector;

(iv) seize and dispose of any movable or immovable property owned by illegal immigrants and take such necessary action to recover loans, if any, borrowed by them; and

(v) facilitate speedy hearing of any civil or criminal cases against illegal immigrants.

Central Government to provide funds. **13.** The Central Government shall, after due appropriation made by law by Parliament, provided requisite funds for the purposes of this Act, from time to time. 5

Act to have overriding effect. **14.** The Provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Removal of Difficulties. **15.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty: 10

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament. 15

Power to make rules. **16.** (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 20
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STATEMENT OF OBJECTS AND REASONS

Historically, India has attracted people from all corners of the world. Many were so smitten with the greatness of our culture that they chose to settle here permanently and over time they have been assimilated into the Indian society. However, in the recent few decades, illegal immigration into the country has increased manifold so much so that the influx of immigrants created a crisis of identity among the indigenous citizens of our country. As a result, the cultural survival of citizens is in jeopardy, their political control is weakened and their employment opportunities are undermined by such illegal migration. It is found that though the immigrants had settled in various States of our country, most of them failed to identify themselves with the mainstream.

Due to linguistic similarities between illegal migrants from Bangladesh, Myanmar and other neighbouring countries and the indigenous people, it becomes difficult to identify and deport the illegal immigrants from Indian soil. Illegal immigrants have increased pressure on resources of our country and the Government has to increase expenditure on education and health facilities. Illegal immigrants are not only adding number to our booming population but are indulging in criminal and anti-national activities. Most of the illegal immigrants have got their names enlisted in the voting list illegally, thereby claiming the rights of citizens. The NRC (National Register of Citizens) has taken initiatives for the detection of illegal migrants. However, success of such initiatives will depend on strong political will. This silent and insidious demographic invasion may result in the loss of the geo-strategic importance of several bordering districts in the States of Assam, Tripura, Jammu and Kashmir, West Bengal and other States. The influx of these illegal migrants is turning these regions into such ghettos where the original inhabitants have been reduced to a minority and are facing an identity crisis.

In view of the dangers posed by illegal immigrants, the problem is required to be dealt effectively. Illegal migration from neighbouring countries is no longer a regional problem which can be pushed under the carpet since these migrants have now settled in several States including the NCT of Delhi, Madhya Pradesh and Maharashtra.

Since we do not want our country to become world's capital of refugees and immigrants, it is high time to solve the problems of illegal migration to save culture and identity of our people in their own land and to save the nation from the moment threat of immigrants.

With the above objectives, the Bill seeks to —

(i) establish a National Commission and State Commissions for Identification and Deportation of Illegal Immigrants;

(ii) provide that the State Commission shall carry out necessary exercise for identification of illegal immigrants;

(iii) provide that Appeal against inclusion of an individual's name in the list of illegal immigrants shall lie with the National Commission;

(iv) provide that the illegal immigrants identified by the State Commission shall be deported by the National Commission;

(v) provide that the Central Government may, if it considers so in national interest, exempt any illegal immigrants or any class of illegal immigrants from deportation or any other provision of the Bill.

(vi) confer powers of civil court upon both the National Commission and the State Commission; and

(vii) empower the National Commission to direct the State Governments to withdraw all services provided to illegal immigrants and seize and dispose of their property to meet their liabilities;

The Bill seeks to achieve the above objects.

NARAYANLAL PANCHARIYA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for Constitution of the National Commission for Identification and Deportation of Illegal Immigrants. Clause 4 seeks to provide for appointment of a Chairperson and other members of the National Commission.

Clause 13 of the Bill provides that the Central Government shall, after due appropriation made by law by Parliament, provide requisite funds for the purposes of this Bill.

The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. The recurring and non-recurring expenditure on this count cannot be estimated at this stage, but has to be worked out by the Central Government while implementing the provisions of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill empowers the Central Government to frame rules by notification in the Official Gazette, to carry out the provision of the Bill. The rules to be framed by the Government pertain to matters of administrative detail only, which cannot be laid down in the Bill itself. The delegation is, therefore, normal in character.

RAJYA SABHA

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to provide for an institutional mechanism for identification of illegal immigrants in the country and their deportation and for matters connected therewith or incidental thereto.

(Shri Narayan Lal Panchariya, M.P.)