

**Bill No. III of 2010**

THE INFILTRATION OF ILLEGAL IMMIGRANTS (PREVENTION,  
IDENTIFICATION AND DEPORTATION) BILL, 2010

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BILL

*to provide for the prevention of infiltration of illegal immigrants into the country from the neighbouring countries and for their identification and deportation to the countries of their origin by setting up a National Commission for that purpose and for matters connected therewith and incidental thereto.*

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

1. (1) This Act may be called the Infiltration of Illegal Immigrants (Prevention, Identification and Deportation) Act, 2010.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of India.

5 (3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government.

Definitions.

(b) "Commission" means the National Commission on the Illegal Immigrants established under section 3 of this Act.

(c) "illegal immigrants" means any foreign national who comes to India or infiltrates through the borders or otherwise without any visa or proper and valid documents issued by the designated authority of Government of India in any foreign country; 5

(d) "prescribed" means the prescribed by rules made under this Act;

(e) terms and expressions used and not defined in this Act, but defined in the Foreigners Act, 1946 shall have the meanings respectively assigned to them in that Act. 31 of 1946. 10

Establishment  
of  
Commission.

**3. (1) The Central Government shall within six months of the commencement of this Act, establish a Commission to be known as the National Commission on Illegal Immigrants for carrying out the purposes of this Act.**

(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued. 15

(3) The Commission shall consist of,—

(a) a Chairperson who shall be a serving or retired Judge of the Supreme Court to be appointed by the President of India in consultation with the Chief Justice of India and the Prime Minister; 20

(b) four other members, with such qualifications and experience as may be prescribed, to be appointed by the President of India.

(c) a Vice-Chairperson to be elected from amongst its members who shall exercise such powers and perform such of the functions of the Chairperson as may be prescribed and as may be delegated to him by the Chairperson from time to time. 25

(4) The Chairperson and other members of the Commission shall hold office for a term of five years and shall be entitled to such salaries and allowances and facilities as may be prescribed.

(5) The Head Office of the Commission shall be at Shillong in the State of Meghalaya.

(6) The Commission shall have a Secretariat consisting of a Secretary and such other officers and employees to assist the Commission in discharging its functions with such terms and conditions of service as may be prescribed and determined by the Central Government from time to time. 30

(7) The Commission may associate with itself in such manner and for such purposes, as may be prescribed, any person whose assistance or advice it may desire in complying with any of the provisions of this Act and the person so associated shall have the right to take part in the discussions of the Commission relevant to the purposes for which he or she has been associated but shall not have the right to vote. 35

(8) The Commission while discharging its functions shall follow such procedure and meet in such manner as may be prescribed. 40

Establishment  
of State  
Commission.

**4. (1) The Central Government may, by notification in the Official Gazette, establish a State Commission on Illegal Immigrants for a State or group of States for carrying out the purposes of this Act.**

(2) The State Commission shall consist of,—

(a) a Chairperson who shall be a serving or retired judge of a High Court; and 45

(b) three other members with such qualifications, as may be prescribed.

**(3) The Provisions of the Commission relating to tenure of office, salary and allowances, Secretariat and procedure to be followed shall apply *mutatis mutandis* to the State Commission.**

5 **5. (1)** The Commission shall be an advisory and implementing body for the prevention of infiltration of illegal immigrants from the porous borders of the neighbouring countries and for the identification of illegal immigrants throughout the country and for their deportation to their countries of origin within time frame. Functions of the Commission.

(2) Without prejudice to the generality of sub-section (1) of Section 5, the measures referred to therein may provide for,—

10 (a) prescribing guidelines for prevention of infiltration of and identification of illegal immigrants and their nationality throughout the country;

(b) identification of illegal immigrants and their nationality in the Union Territories;

(c) direct the appropriate Government for deportation of illegal immigrants from their territorial jurisdiction in the manner prescribed by it;

15 (d) facilitate speedy hearing of cases against illegal immigrants;

(e) hear any complaint against or appeal against the findings of the State Commission; and

(f) taking such measures as the Commission may deem necessary or expedient for carrying out the purposes of this Act.

20 **6.** The State Commission shall perform the following functions, namely:—

(a) Carry out the requisite necessary exercise to identify illegal immigrants and their respective nationality residing in their respective territorial areas of jurisdiction in a time bound manner;

25 (b) Prepare and forward the list of the identified illegal immigrants to the Commission and the appropriate Government for their deportation to their countries of origin.

**7.** Notwithstanding anything contained in any other law for the time being in force, the Commission shall have the powers of a Civil Court in respect of the following matters, namely:— Commission to have powers of Civil Court.

30 (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) requiring any public record or copy thereof from any Court or Office;

35 (e) issuing summons for examination of witness or documents;

(f) any other matter as may be prescribed.

**8. (1)** Notwithstanding anything contained in any other law for the time being in force, the Commission may direct the appropriate Government to,— Power of the Commission to direct the appropriate Governments.

40 (a) stop all assistance whether provided by the Government or otherwise enjoyed by the illegal immigrants forthwith;

(b) impound the ration card, voter's identity card and other forged or genuine documents of their residential proof obtained illegally by such illegal immigrants;

(c) delete the names of illegal immigrants from the electoral rolls of the territorial jurisdiction of the respective Governments;

(d) terminate the services of illegal immigrants in case they got employment either in public or private sector;

(f) take immediate action for deporting the illegal immigrants to their countries of origin.

(2) The appropriate Government shall, as soon as may be, take such appropriate action as directed by the Commission. 5

Representation to the Commission.

**9. (1)** Any illegal immigrant or person, as the case may be, aggrieved or who has any complaint against a decision or finding of any State Commission shall have the right to represent to the Commission who shall consider the same and dispose it of within one month. 10

(2) Whoever represents to the Commission under sub-section (1) of Section 9 shall be given an opportunity of being heard before disposing of such application by the Commission.

Bonafide citizens not to be harassed.

**10.** It shall be the duty of the appropriate Government and the State Commissions to ensure that no inconvenience is caused to any bonafide citizen of the nation during the implementation of the Act. 15

Central Government to provide requisite funds.

**11. The Central Government shall after due appropriation made by the Parliament by law on this behalf, provide the requisite funds for carrying out the purposes of this Act.**

Power to remove difficulty.

**12.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty. 20

Act to have overriding effect.

**13.** The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to illegal immigrants and foreign nationals in the country. 25

Power to make rules.

**14.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

Our country is very vast and is surrounded by many countries with porous borders. As a result, many foreigners find it easy to infiltrate into the country be it for livelihood or with dubious intentions but the fact of the matter is that this infiltration into our country is going on unabated. As a result there are millions of illegal immigrants staying in various parts of the country and more so in the North-Eastern States, West Bengal and even in the National Capital and the National Capital Region. These illegal immigrants are not only increasing the number of our over-populated nation but have also been found indulging in criminal and anti-national activities and try to destabilize the country by helping terrorists from across the borders. Our country is not in a position to feed and sustain these illegal immigrants as we are already over-populated and struggling hard to provide basic necessities of life to our people. Unfortunately, these illegal immigrants are from our neighbouring countries they easily mix up with the local population and it is difficult to detect them unless sincere efforts are made by the authorities with the help of local people. It is also very stunning that many of them have become voters and got their electors cards alongwith ration cards and other documents to show themselves as Indian citizens. This nexus has to be broken and therefore it has become entirely necessary to identify these illegal immigrants and deport them from our country.

Earlier there was a law namely the Illegal Migrants (Determination by Tribunals) Act, 1983 to deal with the problem of Illegal Immigrants but the same has since been struck down by the Supreme Court. As such practically there is no law at present to deal with this serious problem.

Hence this Bill.

THOMAS SANGMA

## FINANCIAL MEMORANDUM

Clause **3** of the Bill provides for the establishment of the National Commission on Illegal Immigrants. Clause **4** provides for the establishment of the State Commission. Clause **11** makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees three hundred crore may involve as recurring expenditure per annum.

A sum of rupees two hundred crore may also involve as non-recurring expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause **14** of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

RAJYA SABHA

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*(Shri Thomas Sangma, M.P.)*