

Joint Committee Report Summary

The Citizenship (Amendment) Bill, 2016

- The Joint Parliamentary Committee on the Citizenship (Amendment) Bill, 2016 (Chairperson: Mr. Rajendra Agrawal) submitted its report on January 7, 2019. The Bill seeks to amend the Citizenship Act, 1955. The Act provides various ways in which citizenship may be acquired including birth, descent, registration, and naturalisation. In addition, it regulates registration of Overseas Citizen of India Cardholders (OCIs). Key observations and recommendations of the Committee include:
 - **Definition of illegal migrants:** The Act prohibits illegal migrants from acquiring Indian citizenship. It defines an illegal migrant as a foreigner: (i) who enters India without a valid passport or travel documents, or (ii) stays in India beyond the permitted time. The Bill amends the Act to provide that the following groups of persons will not be treated as illegal migrants: Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan (minority communities). They must also have been exempted from provisions of the Passport (Entry into India) Act, 1920, and the Foreigners Act, 1946 by the central government. The 1920 Act mandates foreigners to carry passports, while the 1946 Act regulates the entry and departure of foreigners in India.
 - Some stakeholders had raised concerns that the inclusion of six religious communities in the Bill would violate Article 14 (the right to equality) and Article 25 (the right to freedom of religion). In this regard, the Committee stated that the Bill does not violate Article 14 since it creates a valid distinction between the communities, based on the object of the law. Further, the Bill does not violate Article 25 since it does not affect the right of any person to practice any religion in the country.
 - **Conflict with Assam Accord:** The Committee noted that the proposed amendment may be in conflict with the Assam Accord. The Accord was signed to protect the social, cultural, and linguistic identity of the Assamese people. It states that foreigners who have entered Assam from Bangladesh after March 25, 1971, will be detected and expelled. The Committee noted that there may be cases under the Accord related to persons belonging to the minority communities. However, they would be deemed as legal migrants on enactment of the Bill. Therefore, the Committee recommended that an additional provision should be added to state that any proceedings under the Accord against a person belonging to the minority communities should be withdrawn. Further, such persons should be eligible to apply for naturalisation.
- **Cancellation of registration of OCIs:** The Act provides that the central government may cancel registration of OCIs on certain grounds. These include: (i) if the OCI has obtained registration through fraud, or (ii) within five years of registration the OCI has been sentenced to imprisonment for two years or more. The Bill adds one more ground for cancelling registration, that is, if the OCI has violated any law that is in force in the country.
- The Committee stated that the scope of this additional ground should be restricted as it may lead to harassment of OCI cardholders for very minor violations of law. It recommended that the provision should be amended to state that registration may be cancelled if the OCI violates the provisions of laws, notified by the central government. Further, it recommended that orders for cancellation of OCI should not be passed till the cardholder is given an opportunity to be heard.
- **Notes of dissent:** Notes of dissent were submitted by nine Members of Parliament. Ms. Sushmita Dev, Mr. Adhir Ranjan Chowdhury, and Mr. Bhubaneswar Kalita and Mr. Pradip Bhattacharya (who submitted a joint note of dissent) stated that the Bill violated the right to equality under the Constitution. Mr. Adhir Ranjan Chowdhury stated that the Bill provides differential treatment to illegal migrants on the basis of their religion.

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