



75 Years: Laws that Shaped India | The Citizenship Act, 1955

For Prelims: Citizenship Act, 1955, Constitutional Provisions Regarding Citizenship in India.

For Mains: Acquisition and Determination of Indian Citizenship, Amendments of Citizenship Act, 1955.

Why in News?

The **Citizenship Act, 1955** provides for the acquisition and loss of citizenship after the commencement of the Constitution. Originally, the Act 1955 also provided for Commonwealth Citizenship. But, this provision was repealed by the **Citizenship (Amendment) Act, 2003**.

What are the Constitutional Provisions Regarding Citizenship in India?

- The Constitution deals with citizenship from [Articles 5 to 11 under Part II](#). However, it contains neither any permanent nor any elaborate provisions in this regard.
- It only identifies the persons who became citizens of India **at its commencement** (i.e., on January 26, 1950).
- It **does not deal with the problem of acquisition or loss of citizenship** subsequent to its commencement.
- It empowers the [Parliament](#) to enact a law to provide for such matters and any other matter relating to citizenship. Accordingly, the Parliament has enacted the Citizenship Act (1955), which has been amended from time to time.

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Article No.	Subject Matter
5.	Citizenship at the commencement of the Constitution
6.	Rights of citizenship of certain persons who have migrated to India from Pakistan
7.	Rights of citizenship of certain migrants to Pakistan
8.	Rights of citizenship of certain persons of Indian origin residing outside India
9.	Persons voluntarily acquiring citizenship of a foreign State not to be citizens
10.	Continuance of the rights of citizenship
11.	Parliament to regulate the right of citizenship by law

How is Citizenship Defined?

- Citizenship **signifies the relationship between individual and state.**
- Like any other modern state, **India has two kinds of people—citizens and aliens.** Citizens are full members of the Indian State and owe allegiance to it. They enjoy all civil and political rights.
- Citizenship is an idea of exclusion as it **excludes non-citizens.**
- There are two **well-known principles** for the grant of citizenship:
 - While **'jus soli'** confers citizenship on the basis of place of birth, 'jus sanguinis' gives recognition to blood ties.
 - From the time of the **Motilal Nehru Committee** (1928), the Indian leadership was in favour of the enlightened concept of jus soli.
 - The racial idea of **jus sanguinis** was also **rejected by the Constituent Assembly** as it was against the Indian ethos.

How does this Citizenship Act come into Being?

- The right of citizenship in India commenced only upon its independence. The British rule provided no such rights the pre-independence era had the British citizenship and alien rights act of 1914 which **got repealed in 1948.**
- Indians were provisionally classed as British subjects without citizenship under the British nationality act.
- The **partition of India in 1947 resulted in large-scale population movements** across the new borders separating India and Pakistan.
 - The people were liberated to reside in a country of their choice and acquire that nation's citizenship.
- In this context, the constituent assembly limited the scope of the constitution's citizenship provisions for addressing the immediate purpose of determining the citizenship of these migrants.
- The **citizenship act later enacted by the parliament in 1955** made specific provisions for the citizenship requirements and eligibility.

What is Acquisition and Determination of Indian Citizenship?

The Citizenship Act of 1955 prescribes five ways of acquiring citizenship, viz, **birth, descent, registration, naturalisation and incorporation of territory.**

- **By Birth:**
 - A person born in India on or after January 26, 1950 but before July 1, 1987 is a citizen of India by birth irrespective of the nationality of his parents.
 - A person born in India on or after July 1, 1987 is considered as a citizen of India only if either of his/her parents is a citizen of India at the time of his birth.
 - Further, those born in India on or after December 3, 2004 are considered citizens of India only if both of their parents are citizens of India or one of whose parents is a citizen of India and the other is not an illegal migrant at the time of their birth.
 - The children of foreign diplomats posted in India and enemy aliens cannot acquire Indian citizenship by birth.
- **By Registration:**
 - The Central Government may, on an application, register as a citizen of India any person (not being an illegal migrant) if he belongs to any of the following categories, namely:-
 - A person of Indian origin who is ordinarily resident in India for seven years before making an application for registration;
 - A person of Indian origin who is ordinarily resident in any country or place outside undivided India;
 - A person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration;
 - Minor children of persons who are citizens of India;
 - A person of full age and capacity whose parents are registered as citizens of India;

- A person of full age and capacity who, or either of his parents, was an earlier citizen of independent India, and is ordinarily resident in India for twelve months immediately before making an application for registration;
- A person of full age and capacity who has been registered as an overseas citizen of India cardholder for five years, and who is ordinarily resident in India for twelve months before making an application for registration.
- A person shall be deemed to be of Indian origin if he, or either of his parents, was born in undivided India or in such other territory which became part of India after August 15, 1947.
- All the above categories of persons must take an oath of allegiance before they are registered as citizens of India
- **By Descent:**
 - A person born outside India on or after January 26, 1950 but before December 10, 1992, is a citizen of India by descent, if his father was a citizen of India at the time of his birth.
 - A person born outside India on or after December 10, 1992 is considered as a citizen of India if either of his parents is a citizen of India at the time of his birth.
 - If a person born outside India or after December 3, 2004, has to acquire citizenship, his/her parents have to declare that the minor does not hold a passport of another country and his/her birth is registered at an Indian consulate within one year of birth.
- **By Naturalisation:**
 - A person can acquire citizenship by naturalisation if he/she is ordinarily resident of India for 12 years (throughout 12 months preceding the date of application and 11 years in the aggregate) and fulfills all qualifications in the third schedule of the Citizenship Act.
- **By Territorial Incorporation:**
 - If any foreign territory becomes a part of India, the Government of India specifies the persons who among the people of the territory shall be the citizens of India. Such persons become citizens of India from the notified date.
- The Act **does not provide for dual citizenship or dual nationality**. It only allows citizenship for a person listed under the provisions above ie: by birth, descent, registration, naturalisation and territorial incorporation.
- **The act has been amended four times** in 1986, 1992, 2003, 2005, 2015 and 2019.
- Through these amendments, Parliament has narrowed down the wider and universal principles of citizenship based on the fact of birth.
- Moreover, the **Foreigners Act places a heavy burden on the individual** to prove that he/she is not a foreigner.

What are the Important Amendments?

- **1986 Amendment:** Unlike the constitutional provision and the original Citizenship Act that **gave citizenship on the principle of jus soli to everyone born in India**, the 1986 amendment to Section 3 was less inclusive as it added the condition that those who were born in India on or after January 26, 1950 but before July 1, 1987, shall be an Indian citizen.
 - Those born after July 1, 1987 and before December 4, 2003, in addition to one's own birth in India, can get citizenship only if either of his parents was an Indian citizen at the time of birth.
- **2003 Amendment:** The amendment made the above condition more stringent, keeping in view infiltration from Bangladesh.
 - Now the law requires that for those born on or after December 4, 2004, in addition to the fact of their own birth, both parents should be Indian citizens or one parent must be an Indian citizen and others should not be illegal migrants.
 - With these restrictive amendments, India has almost moved towards the narrow principle of **jus sanguinis or blood relationship**.
 - This lays down that an illegal migrant cannot claim citizenship by naturalisation or registration even if he has been a resident of India for seven years.
- **2015 Amendment:** The Citizenship (Amendment) Act, 2015, has modified the provisions pertaining to the **Overseas Citizen of India (OCI)** in the Principal Act. It has introduced a new scheme called "**Overseas Citizen of India Cardholder**" by merging the Persons of Indian Origin (PIO) card scheme and the OCI card scheme.
- **2019 Amendment:** The amendment proposes to permit members of six communities — **Hindus, Sikhs, Buddhists, Jains, Parsis and Christians** from Pakistan, Bangladesh and Afghanistan to

continue to live in India if they entered India before December 31, 2014.

- It also reduces the requirement for citizenship from 11 years to just 5 years.
- Two notifications also exempted these migrants from the Passport Act and Foreigners Act.
- A large number of organisations in Assam protested against this Bill as it may grant citizenship to Bangladeshi Hindu illegal migrants.
- The justification given for the bill is that Hindus and Buddhists are minorities in Bangladesh, and fled to India to avoid religious persecution, but Muslims are a majority in Bangladesh and so the same cannot be said about them.

UPSC Civil Services Examination, Previous Year's Question (PYQs)

Prelims

Q. With reference to India, consider the following statements:

1. There is only one citizenship and one domicile.
2. A citizen by birth only can become the Head of State.
3. A foreigner once granted citizenship cannot be deprived of it under any circumstances.

Which of the statements given above is/are correct?

- (a)** 1 only
- (b)** 2 only
- (c)** 1 and 3
- (d)** 2 and 3

Ans: (a)