

Chapter 9 - The Idea of Citizenship

“The State is a compound made of citizens,” wrote Aristotle, placing the citizen at the heart of the political order. Citizenship is not just a legal label; it signifies belonging – a relationship between the individual and the state rooted in participation, identity, and mutual obligation. In a democracy, this bond takes on an even greater weight, for it is the citizen who constitutes, sustains, and shapes the republic.

Aristotle aptly observed, “The State is a compound made of citizens,” highlighting that citizens form the very foundation of political life. Citizenship extends beyond a mere legal status; it embodies a sense of belonging, linking the individual and the state through identity, participation, and mutual obligations. In a democracy, this relationship is even more vital, as citizens not only uphold but actively shape and sustain the republic through their engagement and consent.

Yet, defining citizenship has always been complex. **B.R. Ambedkar, reflecting on the framing of citizenship in India, once remarked: “I do not know how many drafts were prepared and how many were destroyed as being inadequate to cover all the cases...”**

This challenge is not unique to India, as most modern constitutions also do not explicitly define citizenship. For instance, the French Constitution of the Fifth Republic invokes the Declaration of the Rights of Man but does not clarify who qualifies as a citizen, while the U.S. Constitution remained silent on the matter until the Fourteenth Amendment. However, for India, ambiguity was unaffordable. The rupture of Partition made citizenship an urgent and foundational issue. Determining who belonged to the newly formed Republic, who would enjoy its rights, and who would shoulder its duties was not merely a legal concern, it was an existential question for the nascent nation.

In modern democracies, citizenship goes beyond mere legal status, it embodies participation, rights, duties, and a sense of belonging to the political community. In India, a sovereign democratic republic, citizens are not passive subjects but active participants in shaping the nation’s democratic ethos. The Indian model of citizenship thus emphasizes civic engagement, equality, and the rights necessary for meaningful self-rule.

A key distinction lies between nationality and citizenship. While nationality denotes a person’s status under international law, citizenship is defined within domestic legal frameworks and grants essential political rights, such as voting and contesting elections. In this sense, citizenship in India is not merely a legal formality but a gateway to political empowerment and inclusion in the national narrative.

Citizenship Debates in the Constituent Assembly: The Core Dilemmas

When the Constituent Assembly convened to frame the Constitution, the issue of citizenship sparked intense and protracted debates. **Jawaharlal Nehru** once admitted that the citizenship provisions had received “far more thought and consideration than any other part of the Constitution.” The framers were confronted with fundamental dilemmas: Should citizenship be based on *jus soli* (right of the soil) or *jus sanguinis* (right of blood)? Should it be inclusive or guarded, liberal or ethnonationalist?

The concept of Indian citizenship emerged as a response to colonial legacies, the trauma of Partition, and the aspiration to build an inclusive nation. Under British rule, the British Nationality and Status of Aliens Act, 1914, had created a hierarchy that treated Indians as second-class subjects. The framers of the Indian Constitution sought to dismantle this system, establishing citizenship on egalitarian and democratic principles.

During the Constituent Assembly debates, citizenship sparked intense deliberation. Jawaharlal Nehru noted that its provisions received “far more thought and consideration than any other part of the Constitution.” Central questions

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included whether citizenship should be based on **jus soli** (right of the soil) or **jus sanguinis** (right of blood), and whether it should be inclusive or restrictive. The Assembly ultimately adopted **jus soli**, reflecting a modern and democratic ethos. As Sardar Vallabhbhai Patel observed, it was an “enlightened, modern, civilised” approach, in contrast to the “racial ideal” of **jus sanguinis**. Some, like P.S. Deshmukh advocated broader inclusion based on religion, proposing citizenship for all Hindus and Sikhs globally, but Nehru firmly rejected any religious basis, upholding secularism as a foundational democratic norm.

The Partition of 1947 further complicated these debates further, as millions crossed borders amid violence and displacement. Questions arose over whether returnees from Pakistan should automatically qualify as Indian citizens or whether allegiance to Pakistan constituted a final choice. Balancing liberal inclusion with pragmatic regulation, Ambedkar and the Drafting Committee classified returnees into two categories: those arriving **before July 19, 1948**, granted automatic citizenship, and those arriving afterward, who had to satisfy procedural requirements. This framework sought to address both moral and legal imperatives in the wake of one of the largest human migrations in history.

Citizenship in the Constitution: Articles 5 to 11

The Constitution of India came into effect on January 26, 1950, but the citizenship provisions (Articles 5 to 11) were enforced earlier, on November 29, 1949, excluding the then State of Jammu & Kashmir.

While the term ‘citizenship’ is not explicitly defined in the Constitution, Articles 5 to 11 outline the framework for citizenship at the commencement of the Constitution. These articles deal with who would be considered a citizen of India as of January 26, 1950, while leaving the future acquisition and termination of citizenship to be legislated by Parliament. The Constitution defines the following categories of persons as citizens of India at its commencement on January 26, 1950:

- Citizens: Members of the political community who enjoy full civil and political rights.
- Aliens: Subdivided into- a) Friendly Aliens, those who are considered friendly towards India, and b) Enemy Aliens, those who are considered hostile towards India.

Understanding Citizenship: The bond between individual and state

Citizenship establishes the fundamental relationship between an individual and the state, creating a framework of mutual rights and responsibilities. The state grants citizens essential rights such as protection against socio-economic injustice, equality of opportunity, freedom of speech, and trade rights, which reflect the nation's character. In return, citizens fulfill duties including obeying laws, paying taxes, defending national ideals, and respecting national symbols.

Key characteristics of citizenship

1. Political membership and rights foundation: Citizenship provides full membership in a political community, typically a nation-state, establishing a permanent legal connection between individual and state. It grants "the right to have rights" - serving as the foundation upon which all other rights are built and protected.
2. Exclusive civil and political rights: Citizens enjoy comprehensive civil and political rights under the state's constitution, many of which are unavailable to non-citizens. In India, for example, fundamental rights like equality of opportunity in public employment and freedom of speech are specifically reserved for citizens.
3. Democratic self-governance: In well-functioning democracies, citizens determine their own privileges through elected representatives, ensuring that citizenship rights evolve according to the people's will and needs.

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Modes of acquiring citizenship

1. Birth-based principles:
 - a. Jus Soli (Right of the Soil): Citizenship granted based on place of birth within territorial boundaries, regardless of parents' nationality. Practiced by countries like the United States and Canada.
 - b. Jus Sanguinis (Right of Blood): Citizenship determined by parents' nationality rather than birthplace. Children inherit citizenship even when born abroad. Followed by countries including India and most European nations.
2. Other pathways
 - a. Jus Matrimonii (marriage-based): Citizenship acquired through marriage to a citizen, though most countries impose specific requirements and waiting periods.
 - b. Investment-based citizenship: Modern programs offering citizenship for substantial economic investment, implemented by countries like Malta and Cyprus through "golden passport" schemes.

Citizenship remains a cornerstone of modern political organization, defining the mutual obligations between individuals and states while providing security, rights, and opportunities for full societal participation. As globalization advances, citizenship continues evolving while maintaining its essential function of structuring the relationship between people and governments.

Related concepts:

1. **Alien & Foreigner:** An alien in a State is someone who is not a citizen of that State. The Foreigners Act of 1946 initially didn't use the term "alien." Instead, it defined "foreigner" in Section 2(a). This Act was later amended in 1957 to equate "foreigner" with "alien," meaning someone who is not a citizen of India.
Determining whether someone is an alien depends on the laws of the State in question. An enemy alien refers to a person who is a citizen of a State that is at war with India. This definition also includes Indian citizens who choose to live in or trade with a country that is considered an enemy of India. In contrast, a friendly alien who resides in India may receive full civil rights, but not political rights. However, an enemy alien is not entitled to either civil or political rights.
2. **Refugee:** A refugee is someone who flees their own country due to severe risks of human rights violations and persecution. This decision is often made because their safety and life are in imminent danger, and they have no protection from their own government. Refugees seek safety outside their homeland, where they hope to find international protection. The principle of non-refoulement, outlined in Article 33(1) of the 1951 Refugee Convention, is a fundamental human right that prohibits states from returning refugees to places where their life or freedom would be threatened based on race, religion, nationality, membership of a particular social group, or political opinion. Similarly, Article 5 of the Universal Declaration of Human Rights guarantees the right to freedom from torture or cruel, inhuman, or degrading treatment or punishment.
India, while not a signatory to the 1951 Refugee Convention and its 1967 Protocol, has a commendable track record in safeguarding refugees. The Supreme Court, in cases such as National Human Rights Commission v. State of Arunachal Pradesh (1996), has affirmed that all individuals, including foreign citizens, are entitled to fundamental rights such as equality and the right to life.
3. **Asylum seeker:** An asylum seeker is someone who has fled their own country to find safety from persecution and severe human rights abuses in another country. They are waiting for a decision on their request for

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asylum, which is their right to seek under international law.

4. **Migrants:** Migrants are individuals who move away from their usual place of residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons. This term encompasses a broad range of people, including those who move for economic, social, or educational opportunities, as well as those who are forced to flee due to various circumstances.

Migrants decide to move to seek better opportunities such as jobs, education, reuniting with family, or other personal reasons, rather than fleeing immediate danger like refugees. Unlike refugees who cannot safely go back, migrants can return home anytime and still receive protection from their government. While both groups may face challenges during their migration journey, there are significant distinctions:

- **Motivations:** Migrants move primarily for economic or social reasons, while refugees flee due to direct threats of persecution or violence.
- **Barriers to Return:** Refugees face impediments in returning to their countries of origin, whereas migrants do not.
- **Government Protection:** Migrants who choose to return can expect to receive protection from their government, whereas refugees may not have the same level of protection.

The Constitution defines the following categories of persons as citizens of India at its commencement on January 26, 1950:

- **Citizens:** Members of the political community who enjoy full civil and political rights.
- **Aliens:** Subdivided into- a) Friendly Aliens, those who are considered friendly towards India, and b) Enemy Aliens, those who are considered hostile towards India.

Definition of Citizenship under the Constitution

Article 5: Citizenship at the commencement of the Constitution

At the commencement of this Constitution, every person who has his domicile in the territory of India and-

- (a) who was born in the territory of India; or
- (b) either of whose parents was born in the territory of India; or
- (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement, shall be a citizen of India.

Article 5 defines who qualifies as a citizen of India at its commencement. It states that every person who has established their permanent residence (domicile) in the territory of India and meets certain conditions shall be considered a citizen of India. Firstly, a person qualifies if they were born within the territory of India. This means anyone born on Indian soil automatically becomes a citizen regardless of their parent's citizenship status. Secondly, citizenship is granted if either of the person's parents was born within the territory of India. This recognizes the principle of *jus sanguinis* (right of blood), allowing individuals to inherit citizenship through their parents' Indian citizenship. Lastly, a person can also qualify for citizenship if they have been living in India continuously for at least five years immediately preceding the commencement of the Constitution. This condition acknowledges the principle of *jus domicile* (right of residence), providing a pathway to citizenship for individuals who have integrated into Indian society through long-term residence.

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Citizenship Rights for Migrants from Pakistan

Article 6: Rights of citizenship of certain persons who have migrated to India from Pakistan

Notwithstanding anything in Article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if:

1. He or either of his parents or any of his grandparents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and
2. In the case where such person has so migrated before the nineteenth day of July 1948, he has been ordinarily resident in the territory of India since the date of his migration, and
3. In the case where such person has so migrated on or after the nineteenth day of July 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government.

It specifies that such persons shall be considered citizens of India under certain conditions. Firstly, the person, or at least one of their parents or grandparents, must have been born in India as defined by the Government of India Act, 1935. Secondly, if the migration occurred before July 19, 1948, the person must have been living in India continuously since the date of their migration. Thirdly, if the migration took place on or after July 19, 1948, the individual must have been formally registered as a citizen of India by a designated officer of the Government of Dominion of India, upon submitting an application before the commencement of the Indian Constitution.

Restrictions on Citizenship for Post-Partition Migrants:

Article 7: Rights of citizenship of certain migrants to Pakistan

Notwithstanding anything in articles 5 and 6, a person who has, after the first day of March 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India:

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of article 6 be deemed to have migrated to the territory of India after the nineteenth day of July 1948.

This Article addresses the status of individuals who moved from India to Pakistan after March 1, 1947. According to this article, any person who had made such a migration will no longer be considered a citizen of India. This rule was applied uniformly unless the individual in question subsequently returned to India under specific circumstances.

The exception outlined in Article 7 stipulates that if a person who had migrated to Pakistan later decides to return to India, they can retain their Indian citizenship status under certain conditions. Specifically, this exception was applied to individuals who had returned to India with a permit issued for resettlement or permanent return by the relevant authorities. In such cases, despite their earlier migration to Pakistan, these individuals are recognized as having migrated to India after July 19, 1948, for the purposes of citizenship determination.

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Rights of Persons of Indian Origin

Article 8: Rights of citizenship of certain persons of Indian origin residing outside India

Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grandparents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country.

Where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

Article 8 provides citizenship rights to certain individuals of Indian origin who reside outside India. It states that anyone born in India, or whose parents or grandparents were born in India as defined by the Government of India Act, 1935, is eligible for Indian citizenship. To become a citizen of India under this provision, such individuals must apply for registration as a citizen with the Indian diplomatic or consular representative in their country of residence. This application can be submitted either before or after the Constitution came into effect, and it must follow the format and procedures specified by the Indian government.

Dual Citizenship

Article 9: Persons voluntarily acquiring citizenship of a foreign State not to be citizens

No person shall be a citizen of India by virtue of article 5 or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State.

This article ensures that individuals who voluntarily acquire citizenship of a foreign state will automatically lose their Indian citizenship. It aims to maintain the integrity and unity of the nation by preventing dual citizenship.

Reimagining Citizenship: The Case for Dual Citizenship in India

India has seen a sharp rise in voluntary migration, particularly among skilled professionals. Over 8.8 lakh Indians renounced citizenship between 2015 and 2021, primarily due to the lack of a dual citizenship option. This has resulted in significant brain drain and tax revenue loss. Popular destinations such as the US, UK, Canada, and Australia allow dual citizenship, making it an attractive option for Indians seeking global opportunities without severing ties with their roots.

In 2000, **L.M. Singhvi Committee** on the Indian Diaspora observed that “dual citizenship is an idea whose time has come.” It found no constitutional bar to dual citizenship and noted that security concerns could be addressed through procedural safeguards. This recommendation led to the launch of Overseas Citizenship of India (OCI) scheme in 2005. But critics say it falls short of the expectations of the diaspora. OCI holders cannot vote, hold public office, or buy agricultural land, and their rights can be withdrawn arbitrarily. This limited status fails to foster a meaningful connection with India, especially among second-generation migrants who feel increasingly detached from their heritage.

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Dual citizenship offers a pragmatic solution. It would allow Indians to retain their nationality while acquiring another, ensuring continuity of identity, emotional bonds, and economic engagement. It can reverse the brain drain, encourage high-net-worth individuals to invest more in India, and better integrate the diaspora into India's growth story.

Security concerns, often cited against dual citizenship, can be managed through thorough vetting and conditional exclusions from sensitive roles. Political rights can be selectively extended, as done in other democracies. A well-crafted policy can retain loyalty without compromising national interest.

Protection of Citizenship Status

Article 10: Continuance of the rights of citizenship

Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

Article 10 of the Constitution ensures that every person who is or is deemed to be a citizen of India shall continue to be such a citizen, subject to any laws that may be made by Parliament. This provision guarantees the continuance of the rights and privileges associated with citizenship and ensures that the rights of existing citizens are not arbitrarily taken away or restricted.

Supreme Authority in Citizenship Legislation

Article 11: Parliament to regulate the right of citizenship by law

Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

The Constitution grants Parliament the power to regulate the right of citizenship by law. This provision ensures that the Parliament can make laws regarding the acquisition and termination of citizenship, as well as all other matters related to citizenship. This authority is exercised through the Citizenship Act, 1955, which has been amended several times to accommodate changing needs and scenarios.

Acquiring Indian citizenship: There are five primary methods of acquiring citizenship in India, including:

1. **By Birth:** This method involves acquiring citizenship through birth in India. The provisions for acquiring citizenship by birth are as follows:
 - a. Any person born in India on or after January 26, 1950, but before July 1, 1987, is considered an Indian citizen by birth, regardless of the nationality of their parents.
 - b. A person born in India on or after July 1, 1987, is considered an Indian citizen by birth if either of their parents is a citizen of India at the time of their birth.
 - c. A person born in India on or after December 3, 2004, is considered an Indian citizen by birth if both their parents are citizens of India at the time of their birth.
 - d. Moreover, according to the Citizenship Act of India, children born in India to foreign diplomats who are posted in India are not eligible for Indian citizenship by birth. Similarly, children born to enemy aliens

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(individuals who belong to countries at war with India) are also not eligible for Indian citizenship by birth.

2. **By descent:** Descent in the context of citizenship refers to acquiring citizenship through one's parent(s) who are citizens of a particular country. According to Indian citizenship laws:
 - a. Before December 10, 1992: A person born outside India is eligible for citizenship by descent if their father was an Indian citizen by birth at the time of their birth.
 - b. Between December 10, 1992, and December 3, 2004: A person born outside India is eligible for citizenship by descent if either of their parents was an Indian citizen by birth at the time of their birth.
 - c. On or after December 3, 2004: A person born outside India is eligible for citizenship by descent if their birth is registered at an Indian consulate within one year of birth or with the permission of the Central Government after the expiry of the said period.
 - d. Additionally, the parents of such a person must register their child's birth and declare in writing that the minor does not hold a passport of another country.
3. **By Registration:** The Indian government allows individuals who meet certain criteria to apply for citizenship through registration. These criteria include:
 - a. Persons of Indian origin who have lived in India for at least seven years before applying.
 - b. Persons of Indian origin residing outside undivided India. Spouses of Indian citizens who have lived in India for at least seven years before applying.
 - c. Minor children of Indian citizens.
 - d. Individuals whose parents are registered as Indian citizens.
 - e. Individuals or their parents who were citizens of independent India and have been living in India for the past twelve months before applying.
 - f. Overseas citizens of India who have held OCI status for five years and have been residing in India for the past twelve months before applying.

A person is considered of Indian origin if they or either of their parents were born in undivided India or in a territory that became part of India after August 15, 1947.

All applicants under these categories must take an oath of allegiance before they can be registered as Indian citizens.
4. **By Naturalization:** Naturalization is a process through which the Central Government can grant Indian citizenship to a person who meets certain qualifications. These qualifications include:
 - a. Not a Citizen of Restricted Countries: The applicant must not be a citizen of any country where Indian citizens are not allowed to become citizens by naturalisation.
 - b. Renunciation of Other Citizenship: If the applicant is a citizen of another country, they must agree to renounce their citizenship from that country if granted Indian citizenship.
 - c. Residence or Service Requirement: The applicant must have either 'Lived in India continuously for 12 months immediately before applying', or 'been in the service of the Indian Government during this period, or a combination of residence and service.'
 - d. Long-term Stay in India: During the last 14 years before the 12-month period, the applicant must have lived in India or been in the Indian government service for a total of at least 11 years.
 - e. Good Character: The applicant must demonstrate good character.
 - f. Language Proficiency: They should have adequate knowledge of a language specified in the Eighth Schedule of the Indian Constitution.

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- g. **Intent to Reside or Serve:** If granted naturalisation, the applicant must intend to live in India, work for the Indian government, or work for an international organization where India is a member, or a society, company, or body in India.

Exceptions to these conditions may be made by the Government for individuals who have made significant contributions to fields like science, philosophy, art, literature, world peace, or human progress. Finally, every person granted naturalization must take an oath of allegiance to the Constitution of India.

5. **By Incorporation of Territory:** When a foreign territory becomes part of India, the Indian government decides who among the inhabitants of that territory will become Indian citizens. This decision is made through an official notification. For instance, when Pondicherry joined India, the government issued the Citizenship (Pondicherry) Order in 1962 under the Citizenship Act of 1955.


Methods of Losing Indian Citizenship:

According to government data presented in the Rajya Sabha, more than 12 lakh people decided to give up their Indian nationality and acquire citizenships of other nations between 2015 and 2023. This reflects a growing trend globally where citizenship can be lost through different means. The Citizenship Act (1955) outlines three primary methods through which individuals can lose their citizenship. These methods are renunciation, termination, and deprivation.




1. **Renunciation:** It is a voluntary act of a person who makes a declaration renouncing citizenship. Any adult citizen of India who wishes to give up their Indian citizenship can do so by making a formal declaration. Once this declaration is registered, they are no longer considered an Indian citizen. However, if this declaration is made during a war involving India, the central government can decide to not register it. When a person renounces their Indian citizenship, any minor children they have also lose their Indian citizenship. But once these children turn eighteen years old, they have the option to regain their Indian citizenship if they choose to do so.
2. **Termination:** When an Indian citizen voluntarily acquires the citizenship of another country, they automatically lose their Indian citizenship. This means that if an Indian citizen consciously, knowingly, and without any duress, undue influence, or compulsion, obtains citizenship of another country, they will no longer be considered an Indian citizen.
However, there is an exception to this rule. If the Indian citizen acquires foreign citizenship during a time when India is engaged in a war, then the loss of Indian citizenship will be withheld until the Indian government directs otherwise.
3. **Deprivation:** The deprivation of Indian citizenship is a process wherein the Central Government can compulsorily terminate a person's citizenship under certain circumstances. This is outlined in Section 10 of the Citizenship Act, 1955. The following are the grounds under which a person's citizenship can be deprived:
 - a. **Fraudulent Acquisition:** If a person has obtained their citizenship through fraud, false representation, or the concealment of a material fact, their citizenship can be terminated.
 - b. **Disloyalty to the Constitution:** If a citizen shows disloyalty or disaffection towards the Constitution of India, their citizenship can be deprived.
 - c. **Unlawful Trading with the Enemy:** During a war, if a citizen is found to have traded or communicated with the enemy in a manner that assists the enemy, their citizenship can be terminated.
 - d. **Imprisonment:** If a citizen is sentenced to imprisonment for a term of at least two years in any country within five years of registration or naturalization, their citizenship can be deprived.

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- e. **Continuous Residence Outside India:** If a citizen has been ordinarily residing outside India for a continuous period of seven years and has not been registered annually at an Indian consulate, their citizenship can be terminated.



LOSS OF CITIZENSHIP IN INDIA

<p>RENUNCIATION</p> <ul style="list-style-type: none"> • Voluntary act by citizen of full age and capacity • Formal declaration submitted to the Government 	 <p>TERMINATION</p> <ul style="list-style-type: none"> • Acquires citizenship of another country • Acts against India's interests • Found to be a foreign citizen at birth
<p>DEPRIVATION</p> <ul style="list-style-type: none"> • Obtained citizenship through fraud • Involved in serious crimes • Decision by Government after due inquiry 	

Single Citizenship Vs. Dual Citizenship:

The Indian Constitution, being a federal system, is designed to balance the powers between the central government and the states. However, unlike some other federal systems like the United States and Switzerland, India does not recognize dual citizenship at the state level. Instead, it has a single citizenship, which is Indian citizenship. This means that all citizens of India owe allegiance only to the Union and enjoy the same set of rights and privileges across the country, without any distinction based on the state of their birth or residence.

In contrast, the United States and Switzerland have a system of dual citizenship, where each person is a citizen of both the federal government and the state they belong to. This creates a situation where individuals have dual sets of rights, one conferred by the national government and another by the state government. This can lead to issues of discrimination, where states may favour their own citizens in matters such as voting rights, public offices, and

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professional practices. In India, this problem is avoided because all citizens enjoy the same political and civil rights regardless of their state of origin or residence. This ensures that there is no discrimination between citizens and that they are treated equally across the country. However, there are exceptions to the general rule of the absence of discrimination.

The general rule of equality of opportunity in public employment under Article 16 is subject to certain exceptions. First, the Parliament can prescribe residence within a state or union territory as a condition for certain employment or appointments in that state or union territory, or local authority or other authority within that state or union territory. Parliament enacted the Public Employment (Requirement as to Residence) Act, 1957, to authorise the government to prescribe residential qualifications for non-Gazetted posts in a few states like Andhra Pradesh and Telangana.

Second, while the Constitution prohibits discrimination on grounds of religion, race, caste, sex, or place of birth under Article 15, it does not prohibit discrimination on the grounds of residence. This means that states can provide special benefits or preferences to their own residents in matters outside the purview of the fundamental rights granted to citizens, such as offering concessions in education fees to state residents. Third, the freedom of movement and residence under Article 19 is subject to restrictions to protect the interests of the scheduled tribes. The legislature can limit the entry, residence, and settlement of non-tribals in tribal areas to safeguard the distinctive culture, language, customs, and traditional vocations of the scheduled tribes.

Also, until 2019, the erstwhile state of Jammu and Kashmir had special powers under Article 35A to define permanent residents of the state and confer special rights and privileges to them regarding employment, property acquisition, settlement, and scholarships. However, this special status was abolished in 2019 by a new presidential order. Thus, the Constitution of India has introduced the system of single citizenship to promote unity and equality among its citizens. This system ensures that all Indians, regardless of their state of birth or residence, enjoy uniform rights and are treated equally under the law. The objective of single citizenship is to foster a sense of fraternity and unity among the people of India, thereby building an integrated nation.

Citizenship Amendment Act, 2019:

The Citizenship Amendment Act (CAA), 2019 marks a shift in India's citizenship policy by making religion a criterion for granting Indian nationality. The Act seeks to provide Indian citizenship to members of six religious communities—Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians—who fled religious persecution in Pakistan, Afghanistan, and Bangladesh. This benefit applies only to those who entered India on or before December 31, 2014.

This amendment modifies the Citizenship Act of 1955, primarily by easing the naturalization process for these specific communities. The residency requirement for naturalization has been reduced from eleven to five years, allowing these migrants a faster route to Indian citizenship. In addition, the Act provides immunity to these individuals from legal proceedings related to illegal migration, exempting them from the provisions of the Foreigners Act, 1946, and the Passport (Entry into India) Act, 1920.

However, the applicability of the CAA is not uniform across India. Certain regions are exempt from its provisions. These include states and regions protected by the Inner Line Permit (ILP) system—such as Arunachal Pradesh, Mizoram, and Nagaland—as well as areas governed under the Sixth Schedule of the Constitution, which includes parts of Assam,

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Meghalaya, Tripura, and Mizoram. These exceptions are aimed at safeguarding the demographic and cultural identity of indigenous and tribal populations in the Northeast.

Arguments For And Against

Supporters of the CAA argue that the Act embodies India's civilizational ethos of protecting the persecuted and upholding humanitarian values. It is seen as a measure to offer a dignified life to refugees who have long suffered in neighboring countries due to their religious identity. Proponents also point to historical precedents—such as India's acceptance of responsibility for persecuted minorities in 1948 and 1972—and the failure of the Nehru-Liaquat Pact of 1950, which had promised protection to minorities in both India and Pakistan. From this perspective, the CAA is framed as a moral and historical corrective, especially for victims of the Partition of India.

Who benefits from CAA?

In terms of actual impact, the Intelligence Bureau (IB) informed a Joint Parliamentary Committee in January 2019 that approximately 31,313 individuals would be immediate beneficiaries of the Act. These include 25,447 Hindus, 5,807 Sikhs, 55 Christians, two Buddhists, and two Parsis, all of whom are living in India on long-term visas.

Conversely, the Act has sparked widespread criticism and constitutional challenges. Critics argue that it violates the Right to Equality under Article 14 of the Constitution, which guarantees equal treatment to all individuals irrespective of religion. Although the government defends the Act as a case of reasonable classification, opponents contend that it is discriminatory and exclusionary, especially as it leaves out other persecuted communities such as Rohingyas (Myanmar), Ahmadiyyas and Shias (Pakistan), Hazaras (Afghanistan), and Tamil refugees (Sri Lanka).

In the Northeastern states, the opposition is rooted in concerns over demographic imbalance and the violation of the Assam Accord (1985), which sought to protect the cultural identity of the region by setting March 24, 1971, as the cut-off date for detecting illegal immigrants. Several states in the region, such as Mizoram, have even passed resolutions against the implementation of the CAA. Kerala has taken its resistance further by filing a petition in the Supreme Court, terming the law as “colourable legislation”, i.e., a law enacted under the guise of legality but with an ulterior, unconstitutional motive.

National Register of Citizens (NRC): An Overview

The National Register of Citizens (NRC) is a government-maintained register that contains the names of all genuine Indian citizens. Its core objective is to systematically identify illegal immigrants and maintain a verified database of citizens. Although conceptualized as a nationwide initiative, as of now, Assam remains the only state where the NRC has been implemented.

While the NRC may be extended to other states in the future, similar exercises have already begun in some regions. For instance, Nagaland has initiated the creation of a “Register of Indigenous Inhabitants”, which serves a parallel function of documenting legitimate residents. Additionally, the Centre is working on a National Population Register (NPR) — a broader database that aims to record the demographic and biometric details of all usual residents of India, which may potentially lay the groundwork for a nationwide NRC.

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NRC in Assam: Context and Implementation

The NRC exercise in Assam is rooted in the region's long-standing issue of illegal immigration from Bangladesh, due to its porous borders. The objective was to distinguish Indian citizens from illegal migrants and thereby address local concerns about demographic imbalance, cultural dilution, and political instability. The current process was launched following a Supreme Court directive in 2013, leading to an exhaustive verification exercise involving nearly 33 million residents of the state. Applicants were required to prove that they or their ancestors were Indian citizens before the cut-off date of March 24, 1971, as laid down by the Assam Accord of 1985.

Proving Citizenship: Criteria and Documentation

To be included in the NRC, applicants needed to establish their lineage and residence using official documentation. The foundational criteria required the applicant's name, or that of their ancestor, to appear in either the first NRC prepared in 1951 or in the electoral rolls up to March 24, 1971. In addition to these, a wide array of documents could be submitted to substantiate claims — such as refugee registration certificates, birth certificates, passports, LIC policies, land or tenancy records, citizenship certificates, bank or post office records, and educational or court documents. This extensive documentary requirement led to widespread challenges, especially for economically and educationally disadvantaged sections of society.

The 2019 NRC List and Its Consequences

The final NRC list was published on August 31, 2019, and excluded more than 1.9 million individuals from citizenship. This sparked significant anxiety and debate across the nation regarding the fate of those left out. However, the government clarified that non-inclusion in the NRC does not automatically imply that a person is a foreigner. Those excluded have the right to appeal before Foreigners' Tribunals, quasi-judicial bodies established under the Foreigners Act. If unsatisfied with the tribunal's decision, individuals can further approach the High Court and ultimately the Supreme Court. Importantly, the Assam government assured that no person will be detained until declared a foreigner by the tribunal.

For those unable to locate necessary documents or "legacy data," the government established NRC Seva Kendras across all districts in Assam. These centers assist people in tracing legacy records, generating legacy data codes, and facilitating application processes. Despite this support, navigating the bureaucratic maze remained a daunting task for many.

Historical Context: The 1951 NRC and Assam Accord

The first NRC was compiled in 1951, primarily for Assam, to address concerns of mass migration from East Pakistan (now Bangladesh). Although states like Manipur and Tripura were also allowed to conduct similar exercises, the NRC remained unique to Assam.

The Assam Accord of 1985, signed between the Government of India and the All Assam Students' Union (AASU), sought to resolve the agitation against illegal immigrants. It set January 1, 1966, as the base date for identifying and deleting illegal migrants from electoral rolls. However, it provided a pathway to citizenship for those who had entered before March 24, 1971 — a provision that was later codified in Section 6-A of the Citizenship Act, 1955.

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Section 6-A and the Supreme Court Verdict

Section 6-A of the Citizenship Act was introduced specifically to operationalize the Assam Accord. It created a legal framework to grant citizenship to migrants who entered Assam between 1966 and 1971, subject to certain conditions. This provision was challenged on constitutional grounds, primarily questioning whether it violated Article 14 (Right to Equality) and whether Parliament had the authority to legislate on such matters post-Constitution. However, in a landmark verdict delivered by a five-judge Constitution Bench in October 2024, the Supreme Court upheld the validity of Section 6-A, affirming Parliament's powers and the unique socio-political context of Assam.

Key Concerns and Criticisms: Despite judicial backing, the NRC process has raised serious concerns:

- **Right to Equality:** Critics argue that Section 6-A treats migrants in Assam differently from those in other states, potentially violating Article 14.
- **Burden of Proof:** The onus of proving citizenship rests on individuals, which can be disproportionately harsh on marginalized communities.
- **Cultural Preservation vs. Human Rights:** Granting citizenship to migrants under Section 6-A is seen by some as a threat to the Assamese identity and cultural heritage, leading to tensions between indigenous rights and humanitarian considerations.
- **Implementation and Exclusion:** The exclusion of genuine citizens due to documentation gaps raises humanitarian and ethical concerns.

Different Categories of Overseas Indians:

India has a large and diverse population living abroad, collectively known as the Indian diaspora. These individuals are categorized into three main groups: Non-Resident Indians (NRIs), Overseas Citizens of India (OCIs), and Persons of Indian Origin (PIOs). Let's explore the definitions and key differences between these categories:

- **Non-Resident Indians (NRIs):** NRIs are Indian citizens who are residing outside India for various reasons, such as employment, education, or business. To be considered an NRI, an individual must have stayed outside India for more than 182 days in the preceding financial year. NRIs maintain strong ties to India, including financial, cultural, and familial connections. They have specific rights and obligations under Indian laws, particularly related to taxation and investment opportunities.
- **Overseas Citizens of India (OCIs):** OCIs are foreign nationals (except those from Pakistan and Bangladesh) who were eligible to become Indian citizens on January 26, 1950, or were citizens of India at any time after that date. This includes individuals whose parents or grandparents were born in and were permanent residents of India. OCIs are granted a lifelong visa to visit India and are also exempted from the requirement to register with the Foreigners Regional Registration Office (FRRO) for any length of stay in the country.
- **Persons of Indian Origin (PIOs):** PIOs are individuals who were born outside of India and hold a passport of a country other than Pakistan, Bangladesh, Afghanistan, China, or any other country specified by the Government of India. PIOs are eligible for certain benefits and privileges in India, such as the ability to purchase certain types of properties and investments. However, the PIO card scheme was merged with the OCI card scheme in 2015, and new PIO cards are no longer issued.

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