

Article 7

Rights of citizenship of certain migrants to Pakistan

Came into effect in 26 January 1950

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.

In simpler terms:

Basically, even if someone moved from India to what's now Pakistan after March 1, 1947, they won't be considered a citizen of India. But if they left for Pakistan and then came back to India with permission to settle permanently, they'll still be treated as if they migrated after July 19, 1948, for certain purposes.

Key Provision:

Article 7 specifies that individuals who migrated from the territory of India to the territory now included in Pakistan after March 1, 1947, shall not be considered citizens of India.

Exception for Returnees:

However, there is an exception provided in the article. It states that individuals who migrated to Pakistan after March 1, 1947, but later returned to India under a permit for resettlement or permanent return issued by or under the authority of any law, are exempted from losing their Indian citizenship.

Deemed Date of Migration:

Furthermore, Article 7 specifies that individuals who returned to India from Pakistan under the conditions mentioned above will be deemed to have migrated to India after July 19, 1948, for the purposes of Clause (b) of Article 6 of the Indian Constitution.

Importance:

Article 7 addresses the citizenship status of individuals who migrated from India to Pakistan after the partition of British India. It ensures clarity regarding their citizenship rights and provides exceptions for those who later returned to India with permission.

Historical Context:

The enactment of Article 7 reflects the complexities and challenges associated with the partition of British India and the mass migration that occurred as a result. It acknowledges the circumstances of individuals who were displaced by the partition and migrated to Pakistan but later returned to India.

The historical context surrounding Article 7 of the Indian Constitution is deeply intertwined with the partition of British India in 1947 and the subsequent mass migration that occurred between India and Pakistan. Here's a closer look at the historical context:

- **Partition of British India:**

The partition of British India in 1947 resulted in the creation of two separate nations, India and Pakistan. The partition was based primarily on religious lines, with Pakistan being established as a separate homeland for Muslims. This division led to widespread

communal violence and displacement as people migrated to the country that corresponded with their religious identity.

- **Mass Migration:**

The partition triggered one of the largest mass migrations in human history, with millions of people uprooted from their homes and forced to migrate across newly drawn borders. Hindus and Sikhs migrated from Pakistan to India, while Muslims migrated from India to Pakistan. This migration was marked by violence, atrocities, and human suffering, as communities were torn apart and homes destroyed.

- **Impact on Society:**

The partition and subsequent migration had profound social, cultural, and economic implications for both India and Pakistan. It led to the fragmentation of communities, the loss of lives and livelihoods, and the reconfiguration of social and political landscapes. The scars of partition continue to shape the collective memory and identity of people in the region.

Legal Implications:

Article 7 has legal implications for individuals who migrated to Pakistan after March 1, 1947, and their descendants. It defines their citizenship status in India and establishes conditions under which they may retain or lose their Indian citizenship.

Example:

1. **Loss of Indian Citizenship:**

Initially, the individual lost their Indian citizenship upon migrating to Pakistan after March 1, 1947, as per the provisions of Article 7.

2. **Exception for Returnees:**

However, since the individual returned to India under a permit for resettlement or permanent return, they qualify for an exception under Article 7. The article specifies that individuals who return to India under

such conditions will be deemed to have migrated to India after July 19, 1948, for the purposes of citizenship determination.

3. Deemed Date of Migration:

As a result of the exception provided in Article 7, the individual is treated as if they migrated to India after July 19, 1948, which may have implications for their citizenship rights under Clause (b) of Article 6 of the Indian Constitution or relevant citizenship laws and regulations.

Scenario where this article may be used:

Consider a case where an individual migrated from India to Pakistan after March 1, 1947, due to the partition. Years later, they decide to return to India seeking resettlement or permanent return under a permit issued by the Indian government. Upon their return, questions arise regarding their citizenship status under Indian law.

More Information:

- **Presumption of Non-Citizenship:**

Anyone who migrated from India to Pakistan after March 1, 1947, is not automatically considered an Indian citizen.

- **Exception for Permit Holders:**

This article provides an exception for those who migrated to Pakistan but later returned to India with a valid permit for resettlement or permanent return issued by the Indian government. These individuals can be considered Indian citizens under certain conditions.

- The permit must have been issued under a law authorized by the Indian government.
- The person must have migrated back to India after July 19th, 1948.

- **Overrides Conflicting Articles:**

Article 7 takes precedence over any provisions in Articles 5 and 6 that might seem to contradict it in this specific situation.