

India is an Indestructible Union of Destructible states:

Article 1 describes India, that is, Bharat as a 'Union of States'.

- There was no unanimity in the Constituent Assembly about the name of the country.
- Some members suggested the traditional name (Bharat), while other advocated the modern name (India). Hence, the Constituent Assembly had to adopt a mix of both ('India, that is, Bharat')

Why union not federation under Article 1?

- One, the Indian Federation is not the result of an agreement among the states like the American Federation; and
- two, the states have no right to secede from the federation.

Article 2: 'Power to admit into the Union of India, or establish, new states on such terms and conditions as it thinks fit.

two powers to the Parliament:

- (a) the power to admit into the Union of India new states; and
- (b) the power to establish new states.

The first refers to the admission of states which are already in existence, while the second refers to the establishment of states which were not in existence before.

Article 3 Reorganization of States:

Empowers the Parliament to:

- (a) form a new state by separation of territory from any state or by uniting two or more states or parts of states or by uniting any territory to a part of any state;
- (b) increase the area of any state;
- (c) diminish the area of any state;
- (d) alter the boundaries of any state; and
- (e) alter the name of any state.

Rules Regarding State Reorganisation:





State Reorganisation on the basis of Language:

Originally the constitution of India contained a fourfold classification of all the territories.

Part A- erstwhile governor's provinces of British India

Part B- Princely States with legislatures

Part C- erstwhile chief commissioner's provinces of British India and some of the erstwhile princely states

Part D- Andaman and Nicobar

After facing initial hurdles though we were able to integrate states in India's union, but that could not survive for long as there were demands from various regions especially the southern portion of India to carve states on linguistic basis and these demands kept on intensifying.

To examine the feasibility of states based on language the government appointed Linguistic Provinces Commission under the chairmanship of S.K. Dhar (popularly known as Dhar commission). But when the committee submitted its report in 1948 it suggested to reorganize states based on administrative convenience rather on languages.

However, this could not pacify the demands and Congress was bound to appoint a three membered committee to study the question afresh under Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitarammaiah (JVP). This committee had no convenor or chairman. This committee too formally rejected language as the basis for Reorganisation of states.

Meanwhile in 1953, government was forced to create Andhra Pradesh out of Madras on basis of language and therefore it intensified lingering demands and yet again government of India had to constitute a committee in December 1953, the States Reorganisation Commission under the chairmanship of Fazl Ali to re-examine the whole question. Its other two members were K.M. Panikkar and H.N. Kunzru. Finally, it accepted language as the basis of Reorganisation of states. But it rejected the theory of 'one language-one state'. This commission recommended to abolish the four-fold classification of states and recommended to create 16 states.

By the States Reorganisation Act (1956) and the 7th Constitutional Amendment Act (1956), the distinction between Part A and Part B states was done away with and Part C states were abolished. Some of them were merged with adjacent states and some other were designated as union territories. As a result, 14 states and 6 union territories were created on November 1, 1956.

States

1. Andhra Pradesh
2. Assam
3. Bihar
4. Bombay
5. Jammu and Kashmir
6. Kerala
7. Madhya Pradesh
8. Madras
9. Mysore
10. Orissa
11. Punjab
12. Rajasthan
13. Uttar Pradesh
14. West Bengal

Union Territories

1. Andaman and Nicobar Islands
2. Delhi
3. Himachal Pradesh
4. Laccadive, Minicoy, and Amindivi
5. Manipur
6. Tripura

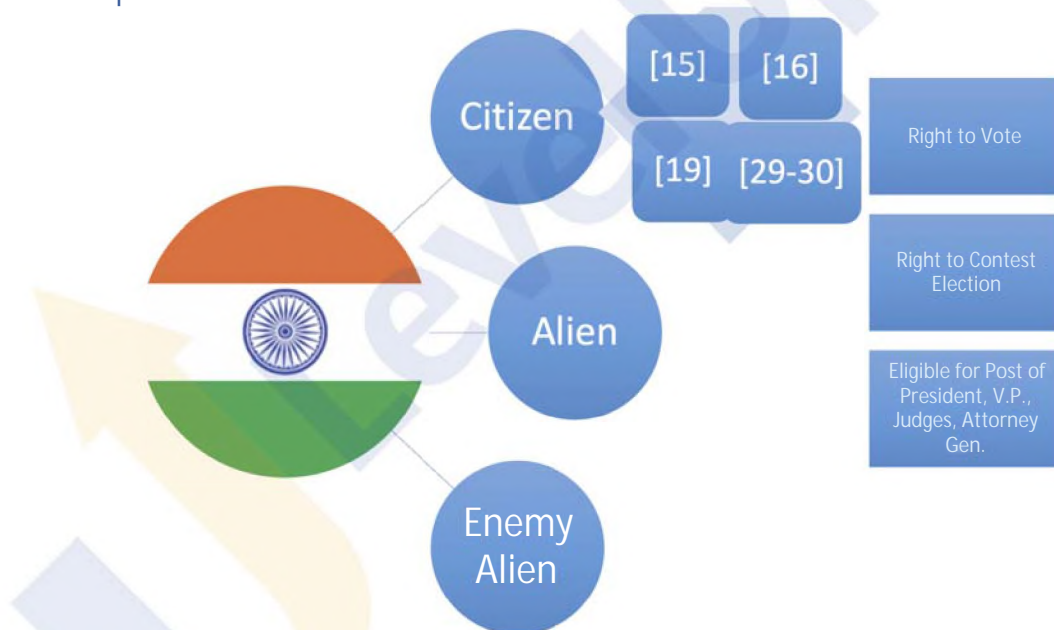
However, this was not the end of the story. Rather the political map of India has been kept changing till very recent.

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|---------------------------------|------|---|
| Maharashtra and Gujarat | 1960 | the bilingual state of Bombay was divided into two separate states- Maharashtra for Marathi speaking people Gujarat for Gujarati speaking people |
| Dadra and Nagar Haveli | 1961 | Liberated from Portuguese in 1954, and made UT in 1961 |
| Pondicherry | 1962 | The French handed over this territory to India in 1954. Subsequently, it was administered as an 'acquired territory', till 1962 when it was made a union territory |
| Nagaland | 1963 | In 1963, the State of Nagaland was formed by taking the Naga Hills and Tuensang area out of the state of Assam. |
| Manipur, Tripura, and Meghalaya | 1972 | two union territories of Manipur and Tripura and the sub-state of Meghalaya got statehood and the two union territories of Mizoram and Arunachal Pradesh (originally known as North-East Frontier Agency- NEFA) came into being. |
| Sikkim | 1975 | Before 1947 Sikkim was ruled by Chogyal, and since 1947 became protectorate of India. In 1974 people of Sikkim expressed to join India and Sikkim was given <i>associate state</i> status. Later after a referendum in 1975 Sikkim was integrated as a full state and become 22 nd state of India. |
| Mizoram, Arunachal, and Goa | 1987 | In 1987, three new States of Mizoram, Arunachal Pradesh and Goa came into being as the 23rd, 24th and 25th |

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| Chhattisgarh, Uttarakhand, and Jharkhand | 2000 | By dividing Madhya Pradesh, Uttar Pradesh and Bihar respectively. |
| Telangana | 2014 | In 2014, the new state of Telangana came into existence as the 29th state of the Indian Union. It was carved out of the territories of Andhra Pradesh. |
| Jammu Kashmir and Ladakh | | In 2019, this special status was abolished by a presidential order. Further, the Jammu and Kashmir Reorganisation Act, 2019, bifurcated the erstwhile State of Jammu and Kashmir into two separate union territories, namely, the union territory of Jammu & Kashmir and the union territory of Ladakh. The union territory of Jammu and Kashmir comprises all the districts of the erstwhile State of Jammu and Kashmir except the Kargil and Leh districts which have gone to the union territory of Ladakh. |

Thus, the number of states and union territories increased from 14 and 6 in 1956 to 28 and 9 in 2019, respectively.

Citizenship



Constitutional Provisions:

- Article 5-11 talks about citizenship. (For those people who were living in India at the time of commencement of the Constitution)
- Those who were domiciled in India.
- Those migrated to India from Pakistan.
- Those who went to Pakistan but later returned.
- PIO residing outside India.
- Single Citizenship (Article 9)

Further, Article 11 gives the authority to parliament to enact on citizenship and hence it has enacted Citizenship Act 1995.



CITIZENS BY DOMICILE (Under Article 5)

Under Art. 5, every person having domicile in India at the commencement of the Constitution, and fulfilling any of the following conditions, is a citizen of India, viz,

- (a) he was born in India.
- (b) either of whose parents was born in India.
- (c) who has been ordinarily resident in India for not less than five years immediately preceding the commencement of the Constitution.

The above conditions (a), (b) and (c) are not cumulative but alternative and, therefore, any one of them needs to be fulfilled by a person having domicile in India to be an Indian citizen.

The term 'domicile' is not defined in the Constitution. Domicile is a complex legal concept.

The basic idea of 'domicile' is permanent home. A person's domicile is the country which is considered by law to be his permanent home. Residence in the country, and the intention to make it his home are necessary to constitute a domicile. The residence in a place by itself is not sufficient to constitute it his domicile. It must be accompanied by the intention to make it his permanent home.

To claim citizenship under Article 5, Mere residence is not enough, intention of staying here permanently. The burden to prove such an intention lay on the petitioner. A minor takes the domicile of his father. A married woman takes the domicile of her husband.

India has one citizenship only and no separate State citizenship, however there was division of views on questions whether India has one domicile or not.

In a case of 1955, the majority of the Supreme Court expressed the view that it was theoretically possible to have a separate State domicile, because domicile has reference to the system of law by which a person is governed. Under the Indian Constitution, the power to legislate on succession, marriage and minority has been conferred on both the Union and the State Legislatures and so it is quite conceivable that until the Centre intervenes and enacts a uniform code for the whole of India, each State may have its own laws on these subjects, and, thus, there could be different domiciles for different States.

However, by 1984, the Supreme Court has repudiated the notion of State domicile. The Court has asserted that there is only one domicile, namely domicile in India. Art. 5 recognizes only one domicile, namely, "domicile in the territory of India".

Citizenship by Migration: (Under Article 6)

The Independence of India was accompanied by a large-scale migration of people from Pakistan. As these people belonged to the territory which ceased to be a part of India after the Independence, they could not be regarded as Indian citizens under Art. 5 and, therefore, special provisions had to be made for them in the Constitution.

Under Art. 6, an immigrant from Pakistan became a citizen of India if he, or either of his parents, or any of his grandparents, was born in India (as it was prior to the Independence), and, in addition, fulfilled either of the following two conditions:

- (1) in case he migrated to India before July 19, he had been ordinarily resident in India since the date of his migration; or
- (2) in case he migrated on or after July 19, 1948, he had been registered as a citizen of India.

A person could be so registered only if he had been resident in India for at least six months preceding the date of his application for registration.

The migration envisaged in Art. 6 only means coming to India from outside and it must have taken place before, and not after, the commencement of the Constitution.

For those who migrated to Pakistan but later returned back: (Article 7)

- Under Art. 7, a citizen of India by domicile (Art. 5), or by migration (Art. 6), ceases to be citizen if he has migrated to Pakistan after March 1, 1947. If, however, after migration to Pakistan, he has returned to India under a permit of resettlement, or permanent return, he can register himself as a citizen of India.
- Persons migrating to Pakistan after March 1, 1947 shall cease to be Indian citizen. The question of citizenship of persons migrating to Pakistan after January 26, 1950, has to be decided under the provisions of the Indian Citizenship Act. E.g. *A woman born and domiciled in India, going to Pakistan after March 1, 1947, would lose her Indian citizenship under Art. 7, even though her husband remained in India.*

THE CITIZENSHIP ACT, 1955

The provisions given under article 5 to 11 of the Constitution regarding citizenship are not exhaustive but fragmentary and skeletal. These provisions are confined mainly to defining who are citizens of India at the commencement of the Constitution but do not deal with the problem of acquisition of citizenship subsequent to that date. Nor is there any provision in the Constitution to deal with such matters as termination of citizenship (other than Arts. 7 and 9), or other matters concerning citizenship. Art. 11 expressly empowers Parliament

to make a law to provide for such matters and, accordingly, Parliament has enacted the Citizenship Act, 1955, to provide for the acquisition and determination of Indian citizenship.

"Citizenship, naturalisation and aliens" are entries under Union List of Schedule VII hence, Parliament has exclusive power to legislate with respect to "citizenship".

The Act provides for acquisition of Indian citizenship after the commencement of the Constitution, makes necessary provisions for termination and deprivation of citizenship in certain circumstances and seeks to recognize formally the concept of Commonwealth citizenship. The Act does not apply to a company, association or body of individuals whether incorporated or not.

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 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 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.
- December 3, 2004 onwards, a person born outside India shall not be a citizen of India by descent, unless his birth is registered at an Indian consulate within one year of the date of birth or with the permission of the Central Government, after the expiry of the said period.

Citizenship by Registration:

Section 5 deals with citizenship by registration. The following categories of persons, if not already citizens of India, can be registered as Indian citizens, after taking an oath of allegiance:

- (a) persons of Indian origin ordinarily resident in India and residing there for six months immediately preceding the application for registration.
- (b) persons of Indian origin who are ordinarily resident outside undivided India.
- (c) women married to the Indian citizens.
- (d) minor children of Indian citizens.
- (e) persons of full age and capacity who are citizens of a Commonwealth country.

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 the August 15, 1947

Category (a), mentioned above, covers migrants from Pakistan who could not become Indian citizens under the provisions of the Constitution.

CITIZENSHIP BY NATURALIZATION

Section 6 deals with citizenship by naturalization. A person of full age and capacity who is a citizen of a non-Commonwealth country may become a citizen by naturalization, if the Central Government is satisfied that he fulfils the conditions laid down in the Act. These conditions are:

- (1) he is not a subject or citizen of a country where Indian citizens are prevented from becoming citizens by naturalization.
- (2) he renounces his citizenship of the other country.
- (3) he has resided and/or been in government service for 12 months immediately preceding the date of application.
- (4) during 7 years prior to these 12 months, he has resided and/or been in government service for not less than four years.
- (5) he is of good character.
- (6) he has an adequate knowledge of a language recognized by the Constitution.
- (7) after naturalization he intends to reside in India, or enter service with government international organization, or a society or company in India.

By Incorporation of Territory:

On any territory becoming a part of India, the Central Government may notify the persons who shall be citizens of India by reason of their connection with that territory, *(if statement says automatically, that would be a wrong statement- it would need ratification by parliament).*

COMMONWEALTH CITIZEN: A citizen of a Commonwealth country has the status of a Commonwealth citizen in India. The Central Government may, by an order notified in the official gazette, make provisions, on a basis of reciprocity, for the conferment of all or any of the rights of an Indian citizen of a Commonwealth country.

Overseas Citizen of India:

In September 2000, the Government of India (Ministry of External Affairs) had set-up a High-Level Committee on the Indian Diaspora under the Chairmanship of L.M. Singhvi. The mandate of the Committee was to make a comprehensive study of the global Indian Diaspora and to recommend measures for a constructive relationship with them. The committee submitted its report in January 2002. It recommended the amendment of the Citizenship Act (1955) to provide for grant of dual citizenship to the Persons of Indian Origin (PIOs) belonging to certain specified countries.

Provision was made for acquisition of overseas citizen ship of India by persons of Indian origin of 16 specified countries other than Pakistan and Bangladesh. The Act was further amended in 2005 to (i) expand the scope of grant of overseas citizenship of India to persons of Indian origin of all countries except Pakistan and Bangladesh.

Again, the Citizenship (Amendment) Act, 2015, has modified the provisions pertaining to the OCI in the Principal Act. It has introduced a new scheme called "Overseas Citizen of India Cardholder" by merging the PIO card scheme and the OCI card scheme. The Citizenship (Amendment) Act, 2015, replaced the nomenclature of "Overseas Citizen of

India" with that of "Overseas Citizen of India Cardholder" and made the following provisions in the Principal Act:

The Central Government may, on an application made in this behalf, register as an overseas citizen of India cardholder-

fa) any person of full age and capacity, -

(i) who is a citizen of another country, but was a citizen of India time of, or at any time after the commencement of the Constitution

(ii) who is a citizen of another country, but was eligible to become citizen of India at the time of the commencement of the Constitution or

(iii) who is a citizen of another country, but belonged to a territory became part of India after the 15th August, 1947; or

(iv) who is a child ora grandchild ora greatgrandchild of such or

(b) a person, who is a minor child of a person mentioned in clause (a); or

(c) a person, who is a minor child, and whose both parents are citizens of India or one of the parents is a citizen of India; or

(d) spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India Cardholder and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application.

No person, who or either of whose parents or grandparents or great grandparents is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, specify, shall be eligible for registration as an Overseas Citizen of India Cardholder.

What OCI is not entitled for:

- He shall not be entitled to the right to equality of opportunity in matters of public employment.
- He shall not be eligible for election as President, Vice-President, a Judge of the Supreme Court or High Court.
- He shall not be entitled for registration as a voter.
- He shall not be eligible for being a member of the House of the People or of the Council of States or state legislatures.
- He shall not be eligible for appointment to public services and posts in connection with affairs of the Union or of any State except for appointment in such services and posts as the Central Government may specify.

Benefits:

- Multiple entry lifelong visa for visiting India for any purpose (However OCI Ca rdholders will require a special permission to undertake research work in India for which they may submit the application to the Indian Mission/ Post/ FRRO concerned).
- Exemption from registration with Foreigners Regional Registration Officer (FRRO) or Foreigners Registration Officer (FRO) for any length of stay in India.
- Parity with Non- Resident Indians (NRIs) in respect of all facilities available to them in economic, financial, and educational fields except in matters relating to the acquisition of agricultural or plantation properties.
- Registered Overseas Citizen of India Cardholder shall be treated at par with Non-Resident Indians in the matter of intercountry adoption of Indian children.

- Registered Overseas Citizen of India Cardholder shall be treated at par with resident Indian nationals in the matter of tariffs in air fares in domestic sectors in India.
- Registered Overseas Citizen of India Cardholder shall be charged the same entry fee as domestic Indian visitors to visit national parks and wildlife sanctuaries in India.
- Parity with Non-Resident Indians (NRI) in respect of:-
 - entry fees to be charged for visiting the national monuments, historical sites and museums in India.
 - pursuing the following professions in India, in pursuance of the provisions contained in the relevant Acts, namely: -
 - doctors, dentists, nurses and pharmacists.
 - advocates.
 - architects; and
 - chartered accountants.
 - to appear for the All-India Pre- Medical Test

As per the Citizenship Act, 1955, a person registered as an OCI cardholder for 5 years and who is ordinarily resident in India for twelve months before making an application registration is eligible for grant of Indian citizenship.

Assam Accord

The Citizenship (Amendment) Act, 1985, added the following special provisions as to citizenship of persons covered by the Assam Accord (which related to the foreigners' issue):

- (a) All persons of Indian origin who came to Assam before the January 1, 1966 from Bangladesh and who have been ordinarily residents in Assam since the date of their entry into Assam shall be deemed to be citizens of India as from the January 1, 1966.
- (b) Every person of Indian origin who came to Assam on or after the January 1, 1966 but before the March 25, 1971 from Bangladesh and who has been ordinarily resident in Assam since the date of his entry into Assam and who has been detected to be a foreigner shall register himself.

Such a registered person shall be deemed to be a citizen of India for all purposes as from the date of expiry of a period of ten years from the date of detection as a foreigner. But, in the intervening period of ten years, he shall have the same rights and obligations as a citizen of India, excepting the right to vote.

Loss of Citizenship

The Citizenship Act (1955) prescribes three ways of losing citizenship whether acquired under the Act or prior to it under the Constitution, viz, renunciation, termination, and deprivation:

- By Renunciation: Any citizen of India of full age and capacity can make a declaration renouncing his Indian citizenship. Upon the registration of that declaration, that person ceases to be a citizen of India. However, if such a declaration is made during a war in which India is engaged, its registration shall be withheld by the Central Government.

Further, when a person renounces his Indian citizenship, every minor child of that person also loses Indian citizenship. However, when such a child attains the age of eighteen, he may resume Indian citizenship.

By Termination: When an Indian citizen voluntarily (consciously, knowingly and without duress, undue influence, or compulsion) acquires the citizenship of another country, his Indian citizenship automatically terminates. This provision, however, does not apply during a war in which India is engaged.

- **By Deprivation:** It is a compulsory termination of Indian citizenship by the Central government, if:
 - o the citizen has obtained the citizenship by fraud;
 - o the citizen has shown disloyalty to the Constitution of India;
 - o the citizen has unlawfully traded or communicated with the enemy during a war;
 - o the citizen has, within five years after registration or naturalization, been imprisoned in any country for two years; and
 - o the citizen has been ordinarily resident out of India for seven years continuously.

rule regarding state reorganization:

- 1) bill contempating state reorganisation 1) bill contampation state reorganisation to introduce in parliament only with prior recomdation of presidadant
- 2) presidant has to refer the bill for the concerns state legislation presidance is not bould by the views of state legislators the bill can pass by the Parlement simple majority and ordering legislative process.
- 3) article 4 provides any changes in the schedule 1 in the virtue of the act shall not be conceder as amendment under artical 368 this means parlement can redraw the polical map of india unilaterally