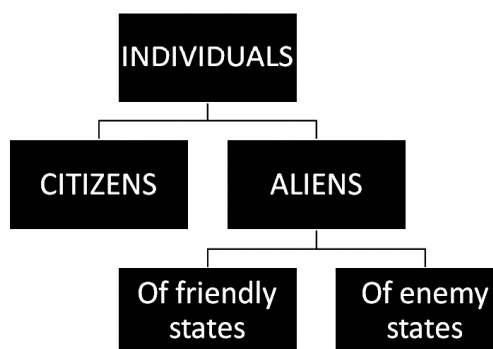


CITIZENSHIP

Part II of the Constitution deals with the laws relating to Citizenship of India at the commencement of the Constitution i.e., on 26th January, 1950. These provisions were enacted keeping in view the partition of the country in 1947 and the consequent problems, for example, migration of people. As regards the citizenship of India subsequent to the commencement of the Constitution, the provisions are contained in the Citizenship Act, 1955 enacted by the Parliament under Article 11.

WHO IS A CITIZEN?



A nation consists of individuals who can be characterized as citizens and aliens. A Citizen is an individual who enjoys full membership of a political community. It means that he enjoys all the political and legal rights. Therefore citizenship simply means the membership the membership of the political community or the State. Citizenship is a legal status determined by the specific rights and duties.

Provisions of citizenship under the Indian Constitution

The Indian Constitution does not have any elaborate provisions regarding citizenship, but it lays down certain basic principles relating to it.

- ❑ It provides for single citizenship. (Article 9: Persons voluntarily acquiring citizenship of a foreign State not to be citizens)

- ❑ It prohibits dual nationality, and
- ❑ It merely describes that who on 26th Jan, 1950 i.e. on the date of commencement of the Constitution are the citizen of India.

According to **Article 5**, at the commencement of this Constitution, every person who has his domicile in the territory of India and

- ❑ Who was born in the territory of India; or
- ❑ Either of whose parents was born in the territory of India; or
- ❑ 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.

According to **Article 6**, 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:

- ❑ He or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and
- ❑ 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, or
- ❑ 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 therefore to such officer before the commencement of this Constitution in the form and manner prescribed by that Government: Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.



Article 11 empowers the Parliament to make a law with respect to the acquisition or termination of citizenship after the commencement of the Constitution.

In the exercise of this power the Parliament enacted the **Citizenship Act, 1955** which was amended in 1986 and 1992. This act incorporates the modes of acquisition and loss of Indian citizenship.

MODES OF ACQUIRING INDIAN CITIZENSHIP

By Birth

If a person is born on the soil of India & at the time of his or her birth, one or both the parents were Indian citizens he will be an Indian citizen by birth. It is also known as the principle of *jus soli* meaning law of soil.

By Descent

A person born outside the territory of India & at the time of his or her birth his/her one or both the parents are Indian citizens, he or she can be an Indian citizen by descent. This principle is also known as *Jus Sanguine* meaning law of blood.

By Registration

The following categories of people can acquire Indian citizenship by registration:

- ☐ Citizen of commonwealth countries.
- ☐ Women married to Indian citizen
- ☐ Minor children of Indian parents.
- ☐ People of Indian origin.

These categories of people have to fulfill the residential qualification of living in India for 5 consecutive years immediately before making the application for registration.

By Naturalization

All those who do not fall under the above three categories can apply for Indian citizenship by Naturalization. However, they will have to fulfill the residential qualification of living in India for 10 consecutive years prior to submitting the application.

By incorporation of a territory.

If any new territory is incorporated, the government of India shall specify the persons of the territory who shall be the citizens of India.

LOSS OF INDIAN CITIZENSHIP

By Renunciation

When an Indian citizen on acquiring the citizenship of another country voluntarily surrenders his or her Indian citizenship, it can be termed as Renunciation.

By Termination

When an Indian citizen acquires the citizenship of another country but does not voluntarily surrenders the citizenship of India, his citizenship can be terminated.

By Deprivation

A citizen of India may be deprived of his Indian citizenship by an order of the Central Government if the Government is satisfied that:

1. The Registration or certificate of Naturalization was obtained by means of fraud representation or concealment of any material fact.
2. He or she during a war in which India may be engaged unlawfully carried on trade or communicated with the enemy; or
3. Within five years of his registration or Naturalization he has been sentenced to imprisonment for not less than two years; or
4. He has been ordinarily residing out of India continuously for seven years and during that period he has neither been at any time a student of an educational institution nor in the service of government of India or of any international. Organisation of which India is a member, nor registered annually in the prescribed manner at an Indian consulate his intention to retain his Indian citizenship.

Process of Deprivation: A written notice is to be given and the case may be referred to a committee of inquiry which will consist of three members. The chairman may have held any judicial office in the territory of India for not less than 10 yrs.

RIGHTS EXCLUSIVELY ENJOYED BY THE CITIZENS

The following rights are exclusively enjoyed by the citizens of India:



- ❑ **Article 15:** Right against discrimination.
- ❑ **Article 16:** Equality of opportunity in public employment.
- ❑ **Article 19(1):** Six democratic freedoms:
 - i. Right to freedom of speech and expression.
 - ii. Right to association
 - iii. Right to assemble
 - iv. Right to move freely throughout the territory of India
 - v. Right to reside and settle down in any part of the country
 - vi. Right to an occupation, trade or profession.
- v Articles 29 and 30:- Cultural and Educational rights
- v Article 326:- Right to vote.
- v Right to hold Constitutional offices such as that of the President, the Vice President, Judges of the Supreme Court and High Courts, Comptroller and Auditor- General, members of the Election Commission.

DUAL CITIZENSHIP FOR THE PERSONS OF INDIAN ORIGIN/OVERSEAS CITIZENSHIP OF INDIA

Overseas Citizenship of India can be considered dual citizenship of India to some extent. This privilege is given to those people who at any point of time were citizen of India or who fulfill all the conditions for being so. The citizenship (Amendment) Act, 2003 provides for dual citizenship to the people of Indian origin (PIO) residing in 16 countries. These countries are: Australia, Canada, Finland, France, Greece, Ireland, Israel, Italy, Netherlands, New-Zeland, Portugal, Cyprus, Sweden, Switzerland, UK and

USA. Any person who has been at any time a citizen of Pakistan, Bangladesh or any other country that the Central Government may notify in future is not entitled to dual citizenship. Obtaining dual citizenship costs \$275.

A person who possess OCI card is entitled to certain rights and privileges such as:

- ❑ He does not have to register himself in the Foreign Registration Officer each time he visit the country for less than 180 days.
- ❑ Does not require visa to visit India
- ❑ Can buy and sell property in India except for agricultural and plantation land.
- ❑ Can do business in India
- ❑ Can open bank accounts
- ❑ Can give loans to Indian citizens

Though person with OCI card has many privileges but he is not treated at par with Indian citizen

- ❑ He does not have the right to vote
- ❑ Does not have any right to stand for elections of Lok Sabha, Rajya Sabha, and Constitutional posts such as post of President, Vice President, and Judge of Supreme Court/ High Court etc.
- ❑ Cannot visit restricted areas without permission
- ❑ Cannot take research work in India without the permission of Central Government.

The Citizenship (Amendment) Act, 2005 amended the Citizenship (Amendment) Act, 2003. The new act provides for dual citizenship to the people of Indian origin (PIO) residing across the globe.

Note: Any person who has been at any time a citizen of Pakistan, Bangladesh or any other country that the Central Government may notify in future is not eligible to apply for dual citizenship.

