

Citizenship in Indian Constitution

[UPSC Notes]

What is Citizenship in Indian Constitution?

Typically, Indian Citizenship implies the correlation between an individual and the nation. It is also known as the idea of exclusion because it does not count on non-citizens.

- Like most modern countries, India has two categories of people: Citizens and Foreigners. Citizens can be residents of any Indian state and owe a commitment to the state & the nation along with all the civil, fundamental, and political rights the Constitution gives. But on the other hand, the Non-citizens or Foreigners are not given any constitutional, civil, or political rights or benefits of the Indian states and nation.
- In India, Citizenship is granted on two grounds; 'jus soli' and 'jus sanguines'. The 'jus soli' grants Indian Citizenship based on the birthplace, and the 'jus sanguines' grants citizenship based on blood ties.
- Indian leaders have always favored the free-thinking concept of 'jus soli' since 1928 (the era of the Motilal Nehru Committee).
- Moreover, the Constituent Assembly did not favor the racial concept of 'jus sanguines' because it was against Indian culture and philosophy.

Provisions for Citizenship in the Indian Constitution

The Constitution of India has specific provisions for Citizenship in India, explaining all the concepts and laws.

- Indian Constitution's Part II having articles 5 – 11, administers and manages Citizenship in India.
- Also, the Constitution's 1955 Citizenship Act is a legislature or law that deals with Citizenship.
- This Citizenship Act of 1955 was amended around six times. The years when it was revised are 1986, 1992, 2003, 2005, 2015, and 2019. The last known amendment was in 2019.
- After the reform in 1987, the ground of Indian Citizenship was based on the concept of 'jus sanguines', completely replacing the 'jus soli' concept from 1928.
- The Parliament of India has restricted influence on Citizenship, as mentioned under the Union List of the Indian Constitution.

- The Indian Constitution doesn't describe any term like 'citizen'; instead, it describes the details of numerous categories of people entitled to Indian Citizenship in Part II or Articles 5 to 11.
- These citizenship articles were imposed on the nation with the adoption of the Constitution on 26 November 1949, unlike the other stipulations which came into existence on 26 January 1950.

Indian Citizenship Act of 1955

The Parliament of India passed an across-the-board law in 1955 for managing citizens succeeding the commands conferred in it by Constitution's Article 11. There are three primary provisions, including attainment of Citizenship, termination of Citizenship, and additional provisions.

Additionally, Indian Citizenship can be gained by the following listed means.

- Birth in Indian territory
- Descent
- Registration
- Naturalization
- With the existence of the Constitution
- In case the government of India incorporates any province or state.

People instinctively are considered citizens of India if they were residing in India before or up until 26 November with the advantage of Citizenship at the adoption of the Constitution.

Also, individuals born in India during the period 26 January 1950 to 1 July 1987 are considered Indian citizens.

People born between 1 July 1987, and 3 December 2003, are considered Indian citizens only if either of their parents was an Indian citizen at birth.

People born in India after 3 December 2004 are also considered Indian citizens if:

- Both the parents have Indian Citizenship.
- At least one parent holds Indian Citizenship, and the foreign parent must only be a legal migrant at birth.

Children of foreign ambassadorial employees and rival foreigners are not eligible for Indian Citizenship.

Articles for Citizenship in the Indian Constitution

As already mentioned, the Indian Constitution has some explicit provisions and laws for Citizenship in India.

Article 5 of Indian Constitution:

This article explains Citizenship at the time of the implication of the Constitution on 26 January 1950.

This article confers the Citizenship of people having Indian domicile at that time.

It discusses people born in the Indian province, either of their parents was born in India, and people who typically became Indian residents for five or more years instantaneously before the implementation of the Constitution.

Article 6 of the Indian Constitution:

This article discusses the Indian Citizenship of people who drifted or traveled from Pakistan.

It states that people who migrated from Pakistan at the time of implication of the Constitution would be considered citizens of India but with the following conditions:

- According to 1935's Government of India Act, any individual migrant shall be a citizen of the nation if any parent and grandparent were born in India.
- Any migrated individual would be an ordinarily resident if moved before 19 July 1948.
- And if people migrated after 19 July 1948, they would be registered as Indian citizens only after at least six months after their application to become Indian Citizens.

Article 7 of the Indian Constitution:

This article discusses the citizenship rights of several migrants to Pakistan after 1 March 1947. In addition, it discusses the rights of people who migrated to Pakistan but eventually returned to India and were considered Indian citizens.

Additionally, the legislature was comparatively sympathetic to people who returned from Pakistan than those who were confused about their return or those who went to Pakistan but haven't decided to return soon.

Article 8 of Indian Constitution:

- This article discusses the citizenship rights of people having Indian origin who are living outside the country for reasons such as education, job, marriage, or anything else.

- Under the Indian Diplomatic Mission, people of Indian origin living in foreign countries can register themselves as citizens of India only if either of their parents or grandparents were born in India.

Article 9 of the Indian Constitution:

- This article states that any Indian citizen who willingly attains Citizenship in any foreign country will no longer be a citizen of India.
- The individuals need to surrender their passports, and if they fail to do so, they will be booked under a punishable offense.

Article 10 of the Indian Constitution:

This article discusses the perpetuation of citizenship rights.

People who are considered citizens of India with respect to any act or provision of the Constitution's PART II would endure being the Indian citizen and would be exposed to any law of the Parliament of India.

Article 11 of Indian Constitution:

- This article discusses the role of the Indian Parliament in the regulation of citizenship rights of Citizenship by law.
- Under this article, Parliament has the permission to make any stipulation concerning the attainment and termination of Indian Citizenship and any other issues related to Citizenship.

Citizenship in India: Constitutional Acts and Amendments

The 1955 citizenship act only stipulates achieving and determining Indian Citizenship.

- However, with the amendments in this act, the Parliament of India has restricted the principles or grounds of birth-related facts for evaluating citizenships.
- The 1986 amendment of the citizenship act is less inclusive for section 3, which gives Citizenship based on the 'jus soli' concept. It also stated that individuals born in any Indian state or territory during the period of 26 January 1950 to 1 July 1987, are considered Indian citizens.
- The 2003 amendment of the citizenship act has narrowed the terms for Indian Citizenship to be more rigid, considering the intrusion from Bangladesh.
- Furthermore, the Foreigners Act puts an extreme liability on the individuals to ascertain that they are not foreigners.
- These amendments state that no illegal migrant can claim Indian Citizenship through registration or naturalization, even if that migrant has been living in India for seven years or more.
- In addition to the previous amendments, the citizenship amendment act of 2019 recommends allowing people to form Hindu, Jain, Sikh, Christian, Parsi, and Buddhist communities to reside in India if they have moved in before 31

December 2014. This amendment condition also includes people from Bangladesh, Pakistan, and Afghanistan.

- This amendment also decreases the citizenship requirement to 5 years which was 11 years previously.
- These migrants were also spared from the Foreigners Act and Passport Act because of the two notifications.

Dissolution Of Citizenship In India

An Individuals' Indian Citizenship can be dissolved in three possible conditions:

Termination:

As per Constitution's Article 9, every Indian citizen who willingly attains Citizenship in any other nation will no longer be a citizen of India. Therefore, their Citizenship will be terminated, and they need to surrender their passports.

Renunciation:

- Any non-residential age 18 or above can put a statement for surrendering their Indian Citizenship. Once this declaration is mentioned in the federation, they can cease being an Indian citizen.
- However, if this ceasing statement is raised during a war associated with India, the federation will not pass the statement.
- Additionally, if the male individuals surrender their Citizenship, their off-springs will also lose the right to be Indian citizens. But the off-springs can get back their Citizenship within a year of age.

Deprivation:

- The government or federation has the absolute right to deprive Citizenship of the people who acquired it through naturalization, registration, or under Article 5 Clause (c).
- The deprivation can also be based on conditions like attaining Citizenship through conspiracy, disloyalty to the Constitution, illegally transporting with enemies, and more.

Exceptional case in Indian Citizenship

After 1971, Assam observed an extensive illegal migration from previously known as East Pakistan or present Bangladesh.

- Because of this illegal migration, the Assam movement was launched for six years, from 1979 to 1985, to expel these illegal migrants.
- This movement was led by AASU, a students' union demanding to renew the NRC and expel all illegal migrants who entered India after 1951.

- This movement further led to the 1985's remarkable Assam Accord, which the Rajiv Gandhi Government and chiefs of the movement signed.
- The Assam Accord has set a deadline of 25 March 1971 for expelling illegal migrants.
- A new section (6A) was proposed in the 1995 Citizenship Act to force this new deadline date because, according to Articles 5 and 6, this date was 19 July 1949.

