

# CITIZENSHIP UNDER DOMESTIC LAW

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**ABSTRACT:-** This article considers contemporary predicaments of nationality rights against the background of reflection on Arendt's phrase 'the right to have rights'. Addressing the right to a nationality, the right not to be arbitrarily deprived of one's nationality, the right to change one's nationality and the right to naturalize, it argues that Arendt's concerns remain live ones for us and indicates what conception of the institution of citizenship and what conception of international order would serve to realize a right to have nationality rights.

**KEYWORDS:-** Citizenship and Domestic Law.

## INTRODUCTION:-

Word citizen originated from cetein <cite, see city sense citizen by use of French citoyen during the French revolution. Citizenship comes from the Latin word for city because in the earlier days of human governments people identified themselves as belonging to city is more than countries. In English law citizen a person is a citizen of a country they are legally accepted as belonging to that country. Citizen means and inhabitant of city or town. Someone who is a citizen of a particular country is legally accepted as belonging to that country. The citizens of a town or city are the people who live there. A member of a state or nation, especially are with a republican form of government, who owes allegiance to it by birth or naturalization and is entitled to full civil rights.

## Meaning of Citizenship:-

In Merriam-Webster dictionary definition of Citizenship "**Membership in a Community.**" Citizenship is more than merely living somewhere, if you have Citizenship you have a whole set of rights that non-citizen might not have usually you apply Citizenship in the country you are born in but if you are and immigrant from somewhere else you have to apply for it.

Citizenship- the status of a citizen version with rights and duties. Citizenship is the most privileged form of nationality. Citizenship is the relationship between an individual and state to which the individual owes allegiance and in turn is entitled to its protection. Citizenship implies the status of freedom with accompanying responsibilities. Citizenship has certain rights duties and responsibilities that are denied or only partially extended to aliens and other non-citizens residing in a country. In general full political rights

including the right to vote and hold public offices are predicted upon Citizenship.

The concept of Citizenship first arose in towns and city state of Ancient Greece. Where it's generally applied to property owners but not to women slaves are the poorer members of the community. A citizen in a Greek City state was entitled to vote and was liable to taxation and military services. The Romans first used Citizenship as to distinguish the residents half day city of Rome from those people territories Rome had conquered and incorporated. As the empire continued to grow, the Romans granted Citizenship to their throughout Italy proper and then to peoples in other Roman province until in AD 212 Citizenship was extended to all free inhabitants of the empire. Roman Citizenship conferred important legal privileges with the empire.

Citizenship concept has generally been identified as a western phenomenon. There is a general view that Citizenship in ancient time was a simpler relation than modern forms of Citizenship, although this view has come under scrutiny. The relation of Citizenship has not been a fixed or static relation, but constantly changed with in each society and that according to one view, Citizenship might "**really have worked**" only at select period during certain times. Citizenship States, under social contract theory, carries with it both rights and duties. In this sense Citizenship described as "a bundle of rights" primarily, political participation in the life of the community, the right to vote and the right to receive certain protection from the community as well as obligation."

Citizenship is a status in society it is an ideal state as well it generally describe a person with legal rights will in a given political order it almost always has an element of exclusion meaning that some people are not citizen and their thus distinction can sometimes be very important it or not important depending on a particular society. Citizenship is a concept is generally have to isolate intellectually and compare with related political motions it related to many other aspects of society such as the family military service individual freedom religion ideas of right and wrong. Ethnicity and pattern for how a person should we have in society when there are many different groups within a nation Citizenship maybe the only real bond which unites every body as equals without discrimination it is broad bond Lincoln a

person with the state and gives people a universal identity as a legal member of a specific Nation.

In India concept of Citizenship started from British Raj/Rule in 1858. The Government of India Act, 1858 established the British Raj/Rule and formally brought the majority of Indians under British imperial rule. Indians under the British Raj generally fell into two categories:-

1. Indian resident and born in British India came under the direct dominion of and bore allegiance to the British crown and held the status of British subject **from 1 January 1915, the British Nationality and status of Aliens Act, 1914** defined British subject as those born or naturalized in the British Sovereign dominions (including British India) along with their sponsors and children.
2. Indian resident and born in a privately state under the British Raj/Rule, or in any other British protectorate or protected state under the British government, held the status of British protected person British protected persons were considered "de jure" foreigners, but today I travel on British issued passports.
3. India was established and declared as the independent **Dominion of India**, effective from 15th August, 1947. All Indian resident, born in or naturalized British subjects by virtue of **section 18 (3) of The Indian Independence Act, 1947**. Indian resident in the princely states that all British subjects, who were resident in British protectorate retained the status of British protected persons.

**Provisions related to Citizenship at the commencement of the Constitution of India:-**The population of state is divided into two classes-

1. Citizens
2. Aliens

A citizen of a state is a person who enjoys full civil and political rights. Citizens are different from aliens who do not enjoy all these rights. Citizenship carries with it certain advantages conferred by the constitution. Aliens do not enjoy these advantages.

People living in the territory of India as on **26 November, 1949** automatically became Indian citizens through operation of the relevant provisions of the Indian constitution coming into force, and most of these constitutional provisions came into force on **26 January,**

**1950. The constitution of India** also made provision regarding Citizenship for migrants from the territories of Pakistan which had been part of India before partition.

The conferment of a person as a citizen of India is governed by the part II of the Constitution of India article 5 to 11. According to article 5 all the people that were resident in India at the commencement of the constitution were citizens of India as well as people born in India. **The president of India is termed the first citizen of India.**

The following persons under Articles 5 to 11 of the Constitution of India shall become citizens of India at the commencement of the constitution:-

**1. Article 5 -Citizenship by domicile-**According to article 5 a person is entitled to Citizenship by domicile if he fulfills the following two conditions:

1. He must, at the commencement of the constitution have his domicile in the territory of India.
2. Search person must fulfill any one of the three conditions laid down in that article namely:-
  - (i) he was born in India
  - (ii) Either of his parents was born in India,
  - (iii) he must have been ordinary resident in the territory of India for not less than 5 years immediately before the commencement of constitution.

**4. Article 6- Citizenship of migrants to India from Pakistan:-**

Person who have migrated from Pakistan to India have been classified into two categories for the purpose of Citizenship that is as-

- (i) those who came to India before July 19, 1948, and
- (ii) those came on or after July 19, 1948.

Article 6 provides that a person who has migrated to India from Pakistan shall be deemed to be a citizen of India at the commencement of the Constitution, that is on 26 January, 1950 if he or either of his parent or any of his grandparents were born in India as defined in the Government of India Act, 1935, and in addition to above condition which applies in both case fulfills one of the following two condition:-

- (i) in case he migrated to India before July 19, 1948 (the date on which the permit system for such migration was introduced) he has been ordinarily residing in India since the date of his migration, or
- (ii) In case he migrated on or after July 19, 1948 he has been registered as a citizen of India by the officer appointed by the government of India for the purpose.

Provided that no person shall be so registered unless he has been residing in India for at least six months immediately before the date of his application for registration, if the above conditions are satisfied, a person shall be deemed to be a citizen of India.

### **3. Article 7-Citizenship of migrants of Pakistan-**

A citizen by domicile, Article 6, cases to be a citizen if he has migrated to Pakistan after March 1, 1947. An exception is, however made in favor of a person who has returned to India on the basis of permit for resettlement in India, such a person is entitled to be to become a citizen of India if he fulfils other conditions necessary for immigrants from Pakistan after July 19, 1948, under article 6. He can registered himself as a citizen of India in the same manner as a person migrating from Pakistan after July 19, 1948.

### **4. Article 8- Citizenship of persons of India origin residing outside India-**

Article 8, provides that any person or either of whose parents or any of those grandparents was born in India as defined in the Government of India Act, 1935 and who is ordinary residing in any country outside India, shall be deemed to be a citizen of India as if he has been registered as a citizen of India by the diplomatic or consular representatives of India in the country where he is for the time being residing on application made by him to such diplomatic or consular representative, whether before after 26th January, 1950 in the form and manner prescribed by the Government of India Dominion of India or Government of India. Article, 8 confers Citizenship of India nationals residing abroad on their complying with its provisions.

**5. Article 9-** Person voluntarily acquires the Citizenship of any foreign state he shall not be a citizen- Article, 9 provides that if a person voluntarily acquires the Citizenship of any foreign state he shall not be able to claim Citizenship of India under Article 5, 6 and 8. It deals only with voluntary acquisition of Citizenship of a foreign state before the constitution came into force.

### **6. Article 10- Right to continue a Citizenship-**

Article, 10 provides that every person is or is deemed to be a citizen of India under any of the foraging provisions shall continue to be a citizen of India subject, however, to the provisions of any law that may be made by Parliament.

**7. Article 11-**Parliament has right power how to make law for Citizenship-no provisions to reduce the power of parliament. Parliaments have power to make any law

provisions for acquisition and termination of a Citizenship after the commencement of the constitution.

### **Citizenship by territorial acquisition:-**

On 20 December, 1961 after military action, India acquired the territories of Goa, Daman and Diu and Dadar and Nagar Haveli which were under the territories of Portugal. The French territories of Pondicherry, Karakul, Mahe and Yaman were acquired under treaty of cession with France in 1954, (ratified by the French National Assembly in 1962) previously, the French territory of Chandernagore had voted in a referendum to join the Indian Union in 1949. Sikkim was also merged with India and became a constituent state with effect from 16 May, 1975; some of the enclave in the Eastern part of India was also required under border agreements with Pakistan and Bangladesh..

In order to expressly provide the Citizenship for people in territories as mentioned above, the central government issued the Goa, Daman and Diu (Citizenship) order, 1962, Dadra and Nagar Haveli (Citizenship) order, 1962, and Citizenship (Pondicherry) order, 1962, in exercise of its power under section 7 of the Citizenship Act and for Sikkim, the president extended the Citizenship Act, and the relevant rules under article 371-F(n) of Indian Constitution. In case of acquired enclaves that did not necessitate legislative action, yes that was only a border demarcation agreement.

### **Citizenship under the Citizenship Act 1955-**

Parliament, in exercise of the power given to it under Article 11, of the Constitution of India, has passed **The Citizenship Act, 1955** making provisions for acquisition and termination of Citizenship after the commencement of the constitution. The act provides for the acquisition of Indian Citizenship after the commencement of the Constitution in five ways that is as birth, decent, registration, naturalization and incorporation of territory. **Provisions related to acquisition of Citizenship under the Citizenship Act, 1955:-** Provisions related to acquisition of Citizenship under the Citizenship Act, 1955 from section 3 to 7, that is as follows:-

### **ACQUISITION OF CITIZENSHIP:-**

**Section 3. Citizenship by birth.— (1) Except as provided in sub-section (2), every person born in India—**

- (a) On or after the 26th day of January, 1950, but before the 1st day of July, 1987;
- (b) On or after the 1st day of July, 1987, but before the commencement of the Citizenship (Amendment) Act,

2003 (6 of 2004) and either of whose parents is a citizen of India at the time of his birth;

(c) On or after the commencement of the Citizenship (Amendment) Act, 2003 (6 of 2004), where—

(i) Both of his parents are citizens of India; or

(ii) One of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth, shall be a citizen of India by birth.

(2) A person shall not be a citizen of India by virtue of this section if at the time of his birth—

(a) either his father or mother possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and he or she, as the case may be, is not a citizen of India; or

(b) His father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy.

4. Citizenship by descent.—2[(1) A person born outside India shall be a citizen of India by descent,—

(a) On or after the 26th day of January, 1950, but before the 10th day of December, 1992, if his father is a citizen of India at the time of his birth; or

(b) on or after the 10th day of December, 1992, if either of his parents is a citizen of India at the time of his birth: Provided that if the father of a person referred to in clause (a) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section unless—

(a) his birth is registered at an Indian consulate within one year of its occurrence or the commencement of this Act, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

(b) His father is, at the time of his birth, in service under a Government in India: Provided further that if either of the parents of a person referred to in clause

(b) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section, unless—

(a) his birth is registered at an Indian consulate within one year of its occurrence or on or after the 10th day of December, 1992, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

(b) either of his parents is, at the time of his birth, in service under a Government in India: Provided also that on or after the commencement of the Citizenship (Amendment) Act, 2003(6 of 2004), a person shall not be a citizen of India by virtue of this section, unless his birth is registered at an Indian consulate in such form and in such manner, as may be prescribed, —

(i) Within one year of its occurrence or the commencement of the Citizenship (Amendment) Act, 2003(6 of 2004), whichever is later; or

(ii) with the permission of the Central Government, after the expiry of the said period: Provided also that no such birth shall be registered unless the parents of such person declare, in such form and in such manner as may be prescribed, that the minor does not hold the passport of another country.

(1A) a minor who is a citizen of India by virtue of this section and is also a citizen of any other country shall cease to be a citizen of India if he does not renounce the citizenship or nationality of another country within six months of attaining full age.]

(2) If the Central Government so directs, a birth shall be deemed for the purposes of this section to have been registered with its permission, notwithstanding that its permission was not obtained before the registration.

(3) For the purposes of the proviso to sub-section

(1), 1[any person] born outside undivided India who was, or was deemed to be, a citizen of India at the commencement of the Constitution shall be deemed to be a citizen of India by descent only.

5. Citizenship by registration.—2[(1) Subject to the provisions of this section and such other conditions and restrictions as may be prescribed, the Central Government may, on an application made in this behalf, register as a citizen of India any person not being an illegal migrant who is not already such citizen by virtue of the Constitution or of any other provision of this Act if he belongs to any of the following categories, namely:—

(a) a person of Indian origin who is ordinarily resident in India for seven years before making an application for registration;

(b) a person of Indian origin who is ordinarily resident in any country or place outside undivided India;

(c) a person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration;

(d) Minor children of persons who are citizens of India;

(e) a person of full age and capacity whose parents are registered as citizens of India under clause

(a) of this sub-section or sub-section (1) of section 6;

(f) A person of full age and capacity who, or either of his parents, was earlier citizen of independent India, and 3[is ordinarily resident in India for twelve months] immediately before making an application for registration;

(g) A person of full age and capacity who has been registered as an 4[Overseas Citizen of India Cardholder] for five years, and who 5[is ordinarily resident in India for twelve months] before making an application for registration.

1. Subs. by Act 6 of 2004, s. 3, for section 3 (w.e.f. 3-12-2004).

2. Subs. by s. 4, ibid., for sub-section (1) (w.e.f. 3-12-2004).

**Explanation 1.**—For the purposes of clauses (a) and (c), an applicant shall be deemed to be ordinarily resident in India if—

(i) He has resided in India throughout the period of twelve months immediately before making an application for registration; and

(ii) He has resided in India during the eight years immediately preceding the said period of twelve months for a period of not less than six years.

**Explanation 2.**—For the purposes of this sub-section, 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 15th day of August, 1947.]

1[(1A) The Central Government, if it is satisfied that special circumstances exist, may after recording the circumstances in writing, relax the period of twelve months, specified in clauses (f) and (g) and clause (i) of Explanation 1 of sub-section (1), up to a maximum of thirty days which may be in different breaks.]

(2) No person being of full age shall be registered as a citizen of India under sub-section (1) until he has taken the oath of allegiance in the form specified in the Second Schedule.

(3) No person who has renounced, or has been deprived of, his Indian citizenship or whose Indian citizenship has terminated, under this Act shall be registered as a citizen of India under sub-section (1) except by order of the Central Government.

(4) The Central Government may, if satisfied that there are special circumstances justifying such registration, cause any minor to be registered as a citizen of India.

(5) A person registered under this section shall be a citizen of India by registration as from the date on which he is so registered; and a person registered under the provisions of clause

(b)(ii) of article 6 or article 8 of the Constitution shall be deemed to be a citizen of India by registration as from the commencement of the Constitution or the date on which he was so registered, whichever may be later.

2[(6) If the Central Government is satisfied that circumstances exist which render it necessary to grant exemption from the residential requirement under clause (c) of sub-section (1) to any person or a class of persons, it may, for reasons to be recorded in writing, grant such exemption.].

#### **6. Citizenship by naturalization.—**

(1) Where an application is made in the prescribed manner by any person of full age and capacity 3[not being an illegal migrant] for the grant of a certificate of naturalization to him, the Central Government may, if satisfied that the applicant is qualified for naturalization under the provisions of the Third Schedule, grant to him a certificate of naturalization: Provided that, if in the opinion of the Central Government, the applicant is a

person who has rendered distinguished service to the cause of science, philosophy, art, literature, world peace or human progress generally, it may waive all or any of the conditions specified in the Third Schedule.

(2) The person to whom a certificate of naturalization is granted under sub-section (1) shall, on taking the oath of allegiance in the form specified in the Second Schedule, be a citizen of India by naturalization as from the date on which that certificate is granted. 4[6A. Special provisions as to citizenship of persons covered by the Assam Accord.—(1) For the purposes of this section—

(a) “**Assam**” means the territories included in the State of Assam immediately before the commencement of the Citizenship (Amendment) Act, 1985 (65 of 1985);

(b) “**Detected to be a foreigner**” means detected to be a foreigner in accordance with the provisions of the Foreigners Act, 1946 (31 of 1946) and the Foreigners (Tribunals) Order, 1964 by a Tribunal constituted under the said Order;

(c) “**Specified territory**” means the territories included in Bangladesh immediately before the commencement of the Citizenship (Amendment) Act, 1985 (65 of 1985);

(d) a person shall be deemed to be Indian origin, if he, or either of his parents or any of his grandparents was born in undivided India;

(e) A person shall be deemed to have been detected to be a foreigner on the date on which a Tribunal constituted under the Foreigners (Tribunals) Order, 1964 submits its opinion to the effect that he is a foreigner to the officer or authority concerned.

(2) Subject to the provisions of sub-sections (6) and (7), all persons of Indian origin who came before the 1st day of January, 1966 to Assam from the specified territory (including such of those whose names were included in the electoral rolls used for the purposes of the General Election to the House of the People held in 1967) and who have been ordinarily resident in Assam since the dates of their entry into Assam shall be deemed to be citizens of India as from the 1st day of January, 1966.

(3) Subject to the provisions of sub-sections (6) and (7), every person of Indian origin who—

(a) Came to Assam on or after the 1st day of January, 1966 but before the 25th day of March, 1971 from the specified territory; and

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1. Subs. by Act 39 of 1992, s. 2, for “any male person”.

2. Subs. by Act 6 of 2004, s. 5, for sub-section (1) (w.e.f. 3-12-2004).

3. Subs. by Act 1 of 2015, s. 3, for “has been residing in India for one year” (w.e.f. 6-1-2015).

4. Subs. by s. 3, *ibid.*, for “Overseas Citizen of India” (w.e.f. 6-1-2015).

5. Subs. by s.3, *ibid.*, for “has been residing in India for one year” (w.e.f. 6-1-2015).

(b) has, since the date of his entry into Assam, been ordinarily resident in Assam; and (c) has been detected to be a foreigner; shall register himself in accordance with the rules made by the Central Government in this behalf under section 18 with such authority (hereafter in this sub-section referred to as the registering authority) as may be specified in such rules and if his name is included in any electoral roll for any Assembly or Parliamentary constituency in force on the date of such detection, his name shall be deleted there from.

Explanation.—In the case of every person seeking registration under this sub-section, the opinion of the Tribunal constituted under the Foreigners (Tribunals) Order, 1964 holding such person to be a foreigner, shall be deemed to be sufficient proof of the requirement under clause (c) of this subsection and if any question arises as to whether such person complies with any other requirement under this sub-section, the registering authority shall,—

- I. if such opinion contains a finding with respect to such other requirement, decide the question in conformity with such finding;
- II. if such opinion does not contain a finding with respect to such other requirement, refer the question to a Tribunal constituted under the said Order having jurisdiction in accordance with such rules as the Central Government may make in this behalf under section 18 and decide the question in conformity with the opinion received on such reference.

(4) A person registered under sub-section (3) shall have, as from the date on which he has been detected to be a foreigner and till the expiry of a period of ten years from that date, the same rights and obligations as a citizen of India (including the right to obtain a passport under the Passports Act, 1967 (15 of 1967) and the obligations connected therewith), but shall not be entitled to have his name included in any electoral roll for any Assembly or Parliamentary constituency at any time before the expiry of the said period of ten years.

(5) A person registered under sub-section (3) 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 on which he has been detected to be a foreigner.

**(6) Without prejudice to the provisions of section 8—**

(a) if any person referred to in sub-section (2) submits in the prescribed manner and form and to the prescribed authority within sixty days from the date of commencement of the Citizenship (Amendment) Act, 1985 (65 of 1985), a declaration that he does not wish to be a citizen of India, such person shall not be deemed to have become a citizen of India under that sub-section;

(b) if any person referred to in sub-section (3) submits in the prescribed manner and form and to the prescribed

authority within sixty days from the date of commencement of the Citizenship (Amendment) Act, 1985(65 of 1985), or from the date on which he has been detected to be a foreigner, whichever is later, a declaration that he does not wish to be governed by the provisions of that sub-section and sub-sections (4) and (5), it shall not be necessary for such person to register himself under sub-section (3).

**Explanation.—**

Where a person required to file a declaration under this sub-section does not have the capacity to enter into a contract, such declaration may be filed on his behalf by any person competent under the law for the time being in force to act on his behalf.

(7) Nothing in sub-sections (2) to (6) shall apply in relation to any person—

(a) Who, immediately before the commencement of the Citizenship (Amendment) Act, 1985 (65 of 1985), is a citizen of India;

(b) Who was expelled from India before the commencement of the Citizenship (Amendment) Act, 1985, under the Foreigners Act, 1946 (31 of 1946).

(8) Save as otherwise expressly provided in this section, the provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force.] 7. Citizenship by incorporation of territory.—If any territory becomes a part of India, the Central Government may, by order notified in the Official Gazette, specify the persons who shall be citizens of India by reason of their connection with that territory; and those persons shall be citizens of India as from the date to be specified in the order.

**OVERSEAS CITIZENSHIP 2[7A. Registration of Overseas Citizen of India Cardholder.—**

(1) The Central Government may, subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf, register as an Overseas Citizen of India Cardholder—

(a) any person of full age and capacity,—

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

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

1. Ins. by Act 1 of 2015, s. 3 (w.e.f. 6-1-2015).

2. Ins. by Act 6 of 2004, s. 5 (w.e.f. 3-12-2004).

3. Subs. by s. 6, *ibid.*, for “who is not a citizen of a country specified in the First Schedule” (w.e.f. 3-12-2004).

4. Ins. by Act 65 of 1985, s. 2 (w.e.f. 7-12-1985).

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

(iv) who is a child or a grandchild or a great grandchild of such a citizen; 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 registered under section 7A 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 under this section: Provided that for the eligibility for registration as an Overseas Citizen of India Cardholder, such spouse shall be subjected to prior security clearance by a competent authority in India: Provided further that 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, by notification in the Official Gazette, specify, shall be eligible for registration as an Overseas Citizen of India Cardholder under this sub-section.

(2) The Central Government may, by notification in the Official Gazette, specify the date from which the existing persons of Indian Origin Cardholders shall be deemed to be Overseas Citizens of India Cardholders  
Explanation.—For the purposes of this sub-section, “Persons of Indian Origin Cardholders” means the persons registered as such under notification number 26011/4/98 F.I., dated the 19th August, 2002, issued by the Central Government in this regard.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that special circumstances exist, after recording the circumstances in writing, register a person as an Overseas Citizen of India Cardholder. 7B. Conferment of rights on Overseas Citizen of India Cardholder.—

(1) Notwithstanding anything contained in any other law for the time being in force, an Overseas Citizen of India Cardholder shall be entitled to such rights, other than the rights specified under sub-section (2), as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) An Overseas Citizen of India Cardholder shall not be entitled to the rights conferred on a citizen of India—

(a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;

(b) under article 58 of the Constitution for election as President;

(c) under article 66 of the Constitution for election as Vice-President;

(d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;

(e) under article 217 of the Constitution for appointment as a Judge of the High Court; (f) under section 16 of the Representation of the People Act, 1950 (43 of 1950) in regard to registration as a voter;

(g) under sections 3 and 4 of the Representation of the People Act, 1951 (43 of 1951) with regard to the eligibility for being a member of the House of the People or of the Council of States, as the case may be;

(h) under sections 5, 5A and section 6 of the Representation of the People Act, 1951 (43 of 1951) with regard to the eligibility for being a member of the Legislative Assembly or the Legislative Council, as the case may be, of a State;

(i) 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, by special order in that behalf, specify.

(3) Every notification issued under sub-section (1) shall be laid before each House of Parliament. 7C. Renunciation of Overseas Citizen of India Card.—

(1) If any Overseas Citizen of India Cardholder of full age and capacity makes in prescribed manner a declaration renouncing the Card registering him as an Overseas Citizen of India Cardholder, the declaration shall be registered by the Central Government, and upon such registration, that person shall cease to be an Overseas Citizen of India Cardholder.

(2) Where a person ceases to be an Overseas Citizen of India Cardholder under sub-section (1), the spouse of foreign origin of that person, who has obtained Overseas Citizen of India Card under clause (d) of sub-section (1) of section 7A, and every minor child of that person registered as an Overseas Citizen of India Cardholder shall thereupon cease to be an Overseas Citizen of India Cardholder.

7D. Cancellation of registration as Overseas Citizen of India Cardholder.—The Central Government may, by order, cancel the registration granted under sub-section (1) of section 7A, if it is satisfied that—

(a) the registration as an Overseas Citizen of India Cardholder was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) the Overseas Citizen of India Cardholder has shown disaffection towards the Constitution, as by law established; or

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-1. Ins. by Act 6 of 2004, s. 7 (w.e.f. 3-12-2004).

2. Subs. by Act 1 of 2015, s. 4, for sections 7A, 7B, 7C and 7D (w.e.f. 6-1-2015).

(c) the Overseas Citizen of India Cardholder has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) the Overseas Citizen of India Cardholder has, within five years after registration under sub-section (1) of section 7A, been sentenced to imprisonment for a term of not less than two years; or

(e) it is necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public; or

(f) the marriage of an Overseas Citizen of India Cardholder, who has obtained such Card under clause (d) of sub-section (1) of section 7A,—

(i) has been dissolved by a competent court of law or otherwise; or

(ii) has not been dissolved but, during the subsistence of such marriage, he has solemnized marriage with any other person.

#### **TERMINATION OF CITIZENSHIP Section 8. Renunciation of citizenship.—**

(1) If any citizen of India of full age and capacity, 1\*\*\*, makes in the prescribed manner a declaration renouncing his Indian Citizenship, the declaration shall be registered by the prescribed authority; and, upon such registration, that person shall cease to be a citizen of India: Provided that if any such declaration is made during any war in which India may be engaged, registration thereof shall be withheld until the Central Government otherwise directs.

(2) Where 2[a person] ceases to be a citizen of India under sub-section (1), every minor child of that person shall thereupon cease to be a citizen of India: Provided that any such child may, within one year after attaining full age, make a declaration 3[in the prescribed form and manner] that he wishes to resume Indian citizenship and shall thereupon again become a citizen of India. 4\* \* \* \* 9.

#### **Termination of citizenship.—**

(1) Any citizen of India who by naturalization, registration otherwise voluntarily acquires, or has at any time between the 26th January, 1950 and the commencement of this Act, voluntarily acquired, the citizenship of another country shall, upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India: Provided that nothing in this sub-section shall apply to a citizen of India who, during any war in which India may be engaged, voluntarily acquires the citizenship of another country, until the Central Government otherwise directs.

(2) If any question arises as to whether, when or how any 5[citizen of India] has acquired the citizenship of another country, it shall be determined by such authority, in such manner, and having regard to such rules of evidence, as may be prescribed in this behalf.

#### **10. Deprivation of citizenship.—**

(1) A citizen of India who is such by naturalization or by virtue only of clause (c) of article 5 of the Constitution or by registration otherwise than under clause (b)(ii) of article 6 of the Constitution or clause (a) of sub-section (1) of section 5 of this Act, shall cease to be a citizen of India, if he is deprived of that citizenship by an order of the Central Government under this section.

(2) Subject to the provisions of this section, the Central Government may, by order, deprive any such citizen of Indian citizenship, if it is satisfied that—

(a) the registration or certificate of naturalization was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) that citizen has shown himself by act or speech to be disloyal or disaffected towards the Constitution of India as by law established; or

(c) that citizen has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) that citizen has, within five years after registration or naturalization, been sentenced in any country to imprisonment for a term of not less than two years; or

(e) that citizen has been ordinarily resident out of India for a continuous period of seven years, and during that period, has neither been at any time a student of any educational institution in a country outside India or in the service of a Government in India or of an international organization of which India is a member, not registered annually in the prescribed manner at an Indian consulate his intention to retain his citizenship of India.

(3) The Central Government shall not deprive a person of citizenship under this section unless it is satisfied that it is not conducive to the public good that person should continue to be a citizen of India.

1. The words “who is also a citizen or national of another country” omitted by Act 6 of 2004, s. 8 (w.e.f. 3-12-2004).

2. Subs. by Act 39 of 1992, s. 3, for “a male person” (w.e.f. 10-12-1987).

3. Ins. by Act 6 of 2004, s. 8 (w.e.f. 3-12-2014).

4. Omitted by s. 8, *ibid.* (w.e.f. 3-12-2004).

5. Subs. by s. 9, *ibid.*, for “person” (w.e.f. 3-12-2004).



(4) Before making an order under this section, the Central Government shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on which it is proposed to be made and, if the order is proposed to be made on any of the grounds specified in sub-section (2) other than clause (e) thereof, of his right, upon making application therefore in the prescribed manner, to have his case referred to a committee of inquiry under this section.

(5) If the order is proposed to be made against a person on any of the grounds specified in subsection (2) other than clause (e) thereof and that person so applies in the prescribed manner, the Central Government shall, and in any other case it may, refer the case to a Committee of Inquiry consisting of a chairman (being a person who has for at least ten years held a judicial office) and two other members appointed by the Central Government in this behalf.

(6) The Committee of Inquiry shall, on such reference, hold the inquiry in such manner as may be prescribed and submit its report to the Central Government; and the Central Government shall ordinarily be guided by such report in making an order under this section.

#### **Amendment of The Citizenship Act, 1955:-**

The Legislatives related to this matter is the Citizenship Act, 1955, which has been amended by the Citizenship (Amendment) Acts of 1986, 1992, 2003, 2005, 2015 and 2019. The 1986 amendment restricted Citizenship by birth to require that at least one parent had to be an Indian Citizen. The 1986 amendment, legislated after the Assam agitation and Assam Accords, restricted citizenship by British to children born of India Citizens. At least one parent had to be an Indian Citizen for the child to qualify for Citizenship; This was a serious restriction of the "jus Soli" principle adopted in the constitution and the original Citizenship Act, 1955. Insertion of new article 371G. -After article 371F of the Constitution, the following article shall be inserted, namely:-

"371G. Special provision with respect to the State of Mizoram.-Notwithstanding anything in this Constitution,-

- (a) No Act of Parliament in respect of-
- (i) Religious or social practices of the Mizos,
  - (ii) Mizo customary law and procedure,
  - (iii) Administration of civil and criminal justice involving decisions according to Mizo customary law
  - (iv) Ownership and transfer of land,

Shall apply to the State of Mizoram unless the Legislative Assembly of the State of Mizoram by a resolution so decides:

Provided that nothing in this clause shall apply to any Central Act in force in the Union territory of Mizoram

immediately before the commencement of THE CONSTITUTION (Fifty-third Amendment) Act, 1986; (b) The Legislative Assembly of the State of Mizoram shall consist of not less than forty members."

The 2003 amendment further restricted that aspect by requiring that a parent could not be an illegal immigrant. The 2003 amendment also mandated the Government of India to construct a National Register of Citizens. The 2019 Amendment provided an easier path to Citizenship for presented selected minorities from the neighboring Muslim-majority countries of Bangladesh, Pakistan and Afghanistan. These two measures have given rule to large scale protests in India in 2019.

The 2019 citizenship amendment act provides for a path to citizenship for religiously persecuted minorities, namely- Hindu, Sikh, Buddhist, Jain, Parsis and Christian from Afghanistan, Bangladesh and Pakistan, who faced persecution or fear of persecution in their countries and entered India on or before 31st December, 2014. It also relaxes requirement of residence in India for citizenship by

The 2019 citizenship Act comes into force on 11 December, provides for a way to citizenship for religion by presented minorities, namely Hindus, Buddhists, Sikhs, Jains, Paris and Christians from Afghanistan, Bangladesh and Pakistan, who faced "persecution or fear of persecution" India countries and entered India on or before 31st December, 2014. The act was passed by both the houses of Parliament by 11 December, 2019. It faced undesired criticism and protest on the grounds that it is discriminatory is omitting Muslims, and for violating the Assam Accord which promised in 1971 as the cutoff date for the illegal immigrants from Bangladesh.

#### **THE CITIZENSHIP (AMENDMENT) ACT, 2019** **NO. 47 OF 2019**

An Act further to amend the Citizenship Act, 1955. BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Citizenship (Amendment) Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 2, in sub-section (1), in clause (b), the following proviso shall be inserted, namely:—

"Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by

or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made there under, shall not be treated as illegal migrant for the purposes of this Act;".

5. After section 6A of the principal Act, the following section shall be inserted, namely:—

'6B. (1) The Central Government or an authority specified by it in this behalf may, subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf, grant a certificate of registration or certificate of naturalization to a person referred to in the proviso to clause (b) of sub-section (1) of section 2.

(2) Subject to fulfillment of the conditions specified in section 5 or the qualifications for naturalization under the provisions of the Third Schedule, a person granted the certificate of registration or certificate of naturalization under sub-section (1) shall be deemed to be a citizen of India from the date of his entry into India.

(3) On and from the date of commencement of the Citizenship (Amendment) Act, 2019, any proceeding pending against a person under this section in respect of illegal migration or citizenship shall stand abated on conferment of citizenship to him:

Provided that such person shall not be disqualified for making application for citizenship under this section on the ground that the proceeding is pending against him and the Central Government or authority specified by it in this behalf shall not reject his application on that ground if he is otherwise found qualified for grant of citizenship under this section:

Provided further that the person who makes the application for citizenship under this section shall not be deprived of his rights and privileges to which he was entitled on the date of receipt of his application on the ground of making such application.

(4) Nothing in this section shall apply to tribal area of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under "The Inner Line" notified under the Bengal Eastern Frontier Regulation, 1873.'

#### **4. In section 7D of the principal Act,—**

(i) after clause (d), the following clause shall be inserted, namely:—

"(da) the Overseas Citizen of India Cardholder has violated any of the provisions of this Act or provisions of any other law for time being in force as may be specified by the Central Government in the notification published in the Official Gazette; or";

(ii) after clause (f), the following proviso shall be inserted, namely:—

"Provided that no order under this section shall be passed unless the Overseas Citizen of India Cardholder has been given a reasonable opportunity of being heard."

5. In section 18 of the principal Act, in sub-section (2), after clause (ee), the following clause shall be inserted, namely:—

"(eei) the conditions, restrictions and manner for granting certificate of registration or certificate of naturalization under sub-section (1) of section 6B;".

6. In the Third Schedule to the principal Act, in clause (d), the following proviso shall be inserted, namely:—

Provided that for the person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community in Afghanistan, Bangladesh or Pakistan, the aggregate period of residence or service of Government in India as required under this clause shall be read as "not less than five years" in place of "not less than eleven years".'

#### **One citizenship in India:-**

It should be noted that Indian constitution Federal recognize one citizenship only that is the citizenship of India there is no separate States citizenship every citizen has the same rights privilege and immunities of citizenship no matter in what state he resides.

#### **Dual citizenship:-**

It is generally difficult to have dual citizenship of India and another country due to the provisions for loss of Indian nationality when an Indian national naturalizes in another country and the requirement to renounce once exiting citizenship when naturalizing in India.

There are still some ways in which a person may have dual citizenship of India and another country including-

1. Children of foreign payments are born in India also given dual citizenship during the period of their parent service in India.

2. A minor child of Indian origin may old dual citizenship of India and another country do acquiring a passport from the other country of citizenship would normally terminated the Indian citizenship.

#### **Visa requirements:-**

Visa required for Indian citizens are administrative in entry restriction by the authorities of other state placed on citizen of India as of 13 February, 2018. Indian citizen had Visa free are Visa on arrival access to 56 countries and territories ranking the Indian passport 81st in term to travel freedom according to the Henley visa restriction index.

#### **Right of citizen under the constitution of India:-**

Under the constitution of India the fundamental rights are mentioned in part second these fundamental rights are available only to citizens these are as:-

1. **Article 15**-the right not to be discriminated against any citizen on grounds of religion race caste sex or place of birth.

2. **Article 16**-the right to equality of opportunity in the matter of public employment.
3. **Article 19**-the right to sex freedom enumerated in this article that is freedom of speech and expression assembly association movement residence and profession.
4. **Article 29 and 30**-both these article provides cultural and educational freedom.
5. There is certain officer under the constitution which can be occupied by citizen only that is as

- (i)Article 58(1) (a) Office of the President
- (ii)Article 67(3) (a)-Vice President
- (iii)Article 124(3)-Judges of the Supreme Court
- (iv)Article 217(2)-Judges of the high Court
- (v)Article 76(1)-Attorney General
- (vi)Article 157- Governor of a State
- (vii)Article 165-Advocate General of a State

6. The right to vote for election to the house of the people and the legislative assemblies of state is available to the citizen only and only they can become members of the Union and the state legislature.

The Citizenship Act,1955, has been amended six time that is, the Citizenship (Amendment) Act of 1986, 1992, 2003, 2005, 2015, and 2019.

The Act, 1986 amendment restricted Citizenship by British to require that at least one parent had to be an Indian Citizen. The 2003 amendment further restricted that aspect by requiring that a parent could not be an illegal immigrant. The 2003 amendment also mandated the Government of India to construct a National Register of Citizens. The 2019 amendment provided an easier path to Citizenship for persecuted selected minorities from the neighboring Muslim-Majority Countries of Bangladesh, Pakistan and Afghanistan. These two measures have given rise to large scale protests in India in 2019.

Person who obtains Citizenship of the Country will be entitled to have rights like contesting elections, voting, rights and eligibility for Government Jobs and all other Government Schemes. Centre says these minority groups have come escaping persecution in Muslim-majority nations. However, the logic is not consistent the Act does not protect all religious minorities, nor does it apply to all neighbors. The Ahmedia Muslim sect and even shias face discrimination in Pakistan. Rohingya Muslim and Hindus face persecution in neighboring Sri Lanka, The government responds that Muslim can seek refuge in Islamic nations, but has not answered other question.

The legislation applies to those who were “Forced or competed to seek shelter in India due to persecution as the ground of religion. “It aims to protect such people from proceedings of illegal migration. The cutoff date for Citizenship is December 31, 2014 which means the applicant should have entered India on or before that date. Indian Citizenship, under present Law, is given either to those born in India or if they have reside in the country for a minimum of 11 years. The Act also incorporate a sub-section (d) to section 7, providing for cancellation of overseas Citizen of India (OCI) card-holder has violated any provision of the Citizenship Act or any other lan in force.

NRC in Assam is not a logistic, religions, cast and necessity based population country its limited but extremely important focus is to find out residency status in Assam through legally data like parents and grandparents name in list before March 24, 1971.

Protest have broken out across India a few of them violent against the citizenship amendment act 2019 the act to amend the definition of illegal immigrant for Hindu, Sikh, Parsi, Buddhist and Christian immigrants from Pakistan, Afghanistan and Bangladesh who have live in India without documentation they will be granted fast track Indian citizenship in 6 year so for 12 year of resident it has been the standard eligibility requirements for neutralization

At the first hearing on petition challenging the citizenship amendment act the supreme court declined to say the contentions love but ask centre to file its reply against the petition that say it violates the constitution the petitions se the bill act discriminate against Muslim and violence the right to equality e in the constitution there a primer.

#### **CONCLUSION: -**

So in conclusion it may be said that the law of Nationality plays an important role in the personal status of the individual under International law. As far as common law countries are concerned the law is same. There are certain criticisms with regard to law of Nationality; steps were taken to inform the law of Nationality to a great extent. However whatever may be the result, the concept “Law of Nationality” plays very important role under International Law.

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