

These stellar notes by Dr. Sidharth Arora cut through the noise to deliver a clear, exam-ready narrative

COMPREHENSIVE NOTES ON CITIZENSHIP FOR UPSC CSE

1. Introduction and Constitutional Framework

Citizenship in India is a critical topic for the UPSC Polity syllabus, involving both constitutional provisions and subsequent parliamentary legislation. The Constitution of India deals with citizenship under Part II, through Articles 5 to 11.

It is important for aspirants to note that the Constitution did not provide a permanent or detailed law regarding citizenship. It only identified categories of persons who became citizens of India at its commencement on January 26, 1950. The power to legislate on any matter related to the acquisition and termination of citizenship after the commencement of the Constitution was specifically left to the Parliament under Article 11.

2. Constitutional Provisions: Articles 5 to 11

These articles address the status of individuals at the time the Constitution was enacted.

- **Article 5: Citizenship by Domicile**
 - This article granted citizenship to persons who had their domicile in India and fulfilled one of three conditions: (a) they were born in India; (b) either of their parents was born in India; or (c) they were ordinarily resident in India for at least five years immediately preceding the commencement of the Constitution.
 - **Insight:** Domicile is a legal concept referring to a person's permanent home, whereas residence is merely where a person lives temporarily. Domicile is vital for determining personal status laws, such as marriage and inheritance, as well as voting rights and tax obligations.
- **Article 6: Migrants from Pakistan**
 - This article provided citizenship for persons who migrated to India from Pakistan before July 19, 1948, provided they or their parents/grandparents were born in undivided India.

- Those migrating after this date had to be registered as citizens by an officer appointed by the Government, requiring at least six months of residence in India before the application.
- **Article 7: Rights of Migrants to Pakistan**
 - Persons who migrated to Pakistan from India after March 1, 1947, ceased to be Indian citizens.
 - However, an exception was made for those who returned to India under a permit for resettlement or permanent return; they were treated similarly to migrants arriving after July 19, 1948.
- **Article 8: Persons of Indian Origin Residing Abroad**
 - This covers individuals born (or whose parents/grandparents were born) in undivided India but who were residing outside India.
 - They could become citizens by registering with the diplomatic or consular representative of India in the country of their residence.
- **Article 9: No Dual Citizenship**
 - India follows the principle of single citizenship.
 - If a person voluntarily acquires the citizenship of any foreign state, they automatically lose their Indian citizenship.
- **Article 10: Continuance of Rights**
 - Every person deemed a citizen under Articles 5-8 continues to be a citizen, subject to any law made by Parliament.
- **Article 11: Parliamentary Authority**
 - This gives Parliament the absolute power to make any provision concerning the acquisition and termination of citizenship. This led to the enactment of the Citizenship Act, 1955.

3. The Citizenship Act, 1955

The Parliament has amended this Act several times (1986, 1992, 2003, 2005, 2015, and 2019) to adapt to changing demographic and political needs.

A. Acquisition of Citizenship

The Act provides five ways to acquire Indian citizenship:

1. By Birth (*Jus Soli*):

- Born after Jan 26, 1950, but before July 1, 1987: Citizen irrespective of parents' nationality.
- Born on/after July 1, 1987: At least one parent must be an Indian citizen.
- Born on/after Dec 3, 2004: Both parents must be citizens, or one parent is a citizen and the other is not an illegal migrant.

2. By Descent (*Jus Sanguine*):

- Born outside India after Jan 26, 1950, but before Dec 10, 1992: Father must be an Indian citizen.
- Born after Dec 10, 1992: Either parent must be a citizen.
- Born after Dec 3, 2004: Requires compulsory registration at an Indian consulate within one year.

3. By Registration:

- Applicable to Persons of Indian Origin (PIO) resident in India for seven years before applying.
- Spouses of Indian citizens resident in India for seven years.

4. By Naturalization:

- A foreigner can apply if they are of good character, know a language in the Eighth Schedule, and have resided in India for 12 months immediately preceding the application and for 11 years out of the preceding 14 years.

5. By Incorporation of Territory:

- If a foreign territory becomes part of India (e.g., Goa or Pondicherry), the Government specifies the persons of that territory who shall be citizens.

B. Loss of Citizenship

Citizenship can be lost in three ways:

1. **Renunciation:** A voluntary act where a person gives up their citizenship.
2. **Termination:** Automatic loss when a person voluntarily acquires foreign citizenship (linked to Article 9).

3. **Deprivation:** A compulsory termination by the Central Government on grounds of fraud, disloyalty to the Constitution, or communication with an enemy during war.
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4. Special Categories: NRI, PIO, and OCI

Non-Resident Indian (NRI)

- An Indian citizen holding an Indian passport but residing abroad for employment, business, or education.
- **Residential Status:** Classified under the Income Tax Act; generally, one is an NRI if they spend less than 182 days in India during a financial year.
- **Benefits:** Can maintain special bank accounts (NRE, NRO, FCNR), enjoy special reservation quotas in education, and possess voting rights (must be present in person).

Person of Indian Origin (PIO)

- A foreign citizen (except of Pakistan, Bangladesh, and other specified neighbors) who once held an Indian passport or whose ancestors were Indian.
- **Status:** As of January 9, 2015, the PIO card scheme was merged with the OCI scheme; all existing PIO cards are now deemed to be OCI cards.

Overseas Citizen of India (OCI)

- A foreign national who was eligible for Indian citizenship on Jan 26, 1950, or was a citizen thereafter.
- **Eligibility:** Must be a citizen of another country but of Indian origin; citizens of Pakistan or Bangladesh are strictly ineligible.
- **Benefits:**
 - Multiple-entry, multi-purpose lifelong visa.
 - Exemption from reporting to police authorities (FRRO/FRO) regardless of stay length.
 - Parity with NRIs in economic and educational fields, except the right to acquire agricultural or plantation property.
- **Limitations:** Cannot vote, hold constitutional offices, or buy agricultural land.

- **Pathway to Citizenship:** An OCI cardholder for five years, resident in India for 12 months before applying, is eligible for Indian citizenship.
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5. Current Developments: CAA 2019 and NRC

Citizenship Amendment Act (CAA), 2019

- **Objective:** To provide a pathway to Indian citizenship for persecuted religious minorities—Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians—from Afghanistan, Bangladesh, and Pakistan.
- **Cut-off Date:** Migrants must have entered India on or before December 31, 2014.
- **Relaxation:** It reduces the residency requirement for naturalization from 11 years to 5 years for these specific groups.
- **Reasonable Classification:** The government defends the exclusion of other groups based on the "reasonable classification" allowed under Article 14 (Equality Before Law) to protect persecuted groups as a specific class.
- **Fact:** The CAA does not affect the rights of any existing Indian citizens.

National Register of Citizens (NRC)

- The NRC is a separate process from the CAA; it is a citizen register intended to record the names of every Indian citizen regardless of religion.
 - While the CAA is a nationwide law already in force, the specific rules for a nationwide NRC are yet to be decided.
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6. The Assam Case: Section 6A and the Assam Accord

The citizenship issue in Assam has a unique historical trajectory due to the 1971 Bangladesh Liberation War.

- **Assam Movement:** A six-year agitation (1979–1985) led by the All Assam Students' Union (AASU) demanded the deportation of illegal migrants who threatened local culture and political rights.
- **Assam Accord (1985):** A Memorandum of Settlement signed by the Rajiv Gandhi government.

- **Section 6A of the Citizenship Act:** Inserted in 1985 to fulfill the Accord. It established three categories for migrants in Assam:
 1. **Before Jan 1, 1966:** Deemed Indian citizens.
 2. **Jan 1, 1966 – March 25, 1971:** Could seek citizenship but were disenfranchised for ten years.
 3. **On/After March 25, 1971:** Classified as illegal migrants, subject to detection and deportation.
- **Judicial View:** Recently, the Supreme Court upheld the validity of Section 6A, citing it as a measure that embodies the "spirit of fraternity".

Summary Table for Quick Revision

Feature	NRI	OCI
Citizenship	Indian Citizen	Foreign Citizen
Passport	Indian Passport	Foreign Passport
Voting Rights	Yes (In person)	No
Property Rights	All properties	Non-agricultural/plantation only
Visa Requirement	None	Lifelong Visa-free entry
Residency Requirement	Resides abroad	Resides abroad/India

Aspirant Tip: Focus on the exceptions (who cannot get OCI, what OCI holders cannot do) and the cut-off dates (July 19, 1948; March 25, 1971; Dec 31, 2014) as these are frequently tested in Prelims.

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