



- The word citizen was made popular by the French Revolution in 1789. Later, this word was used in democratic governments.
- The idea of citizenship means that not only the government has some claims on the citizen, the citizen too has some claims on the government.
- A government is an association like many others in society. But it is an association of a special kind, an association that one simply cannot escape or be indifferent about.
- Democrats rightly feel that since the government control the people, it is good that people must have some kind of control over the government.
- The best govt is one in which the largest number of people participate in making decisions for the whole society
- The place of the church in society was fought through & resolved in most of the nations in the 18th & 19th centuries.
- The United States & Britain gave the workers suffrage in the 19th century.
- In countries like Sweden, which resisted until the first part of the 20th century, the struggle for citizenship became combined with socialism as a political movement, thereby producing a revolutionary socialism.
- The most widely accepted definition of citizenship is 'full & equal membership in a political community'.
- This definition was given by the English Sociologist T. H. Marshall in his work "Citizenship & Social Class" written in 1949.
- The philosophical roots of this definition can be traced to the Greek & Roman conceptions of man as a political being & citizenship as the capacity to govern & to be governed.
- The janapadas of ancient India had a unique system of participatory decision-making in popular assemblies of the people called sabhas & samitis which in some instances also elected the king
- It draw affinity with elements of Greek citizenship in that both are associated with autonomous, self-governing communities requiring active participation of citizens in the governance of the community
- The French Revolution & the 'Declaration of the Rights of Man & Citizens' that established the notion of the citizen as a 'free & autonomous individual' entitled to take part in making decisions that all are required to obey, combining thereby the classical notions of citizenship with individualism.
- With the development of capitalist market relations & the growing influence of liberalism in the nineteenth century, the notion of the citizens as

individuals with private & conflicting interests gradually gained primacy.

#### DIFFERENTIATED CITIZENSHIP

- The idea that the individual citizen can enjoy rights independent of the community, has been questioned.
- In most western societies ethnic, religious & racial communities asserted their rights & would thereby substantiate the formal equality of citizenship.
- There is a growing effort to redefine citizenship by giving due importance to cultural differences & strike a balance between the numerous cultural, religious, ethnic, linguistic identities while constructing a common political identity of the citizen
- A notion of 'differentiated citizenship' has therefore gained currency to accommodate the needs of specific cultural groups.

#### CITIZENSHIP IN INDIAN CONSTITUTION

- Part 11 of the Constitution (Articles 5 to 11)
- Under Articles 5 to 8 of the Constitution the following categories of persons became the citizens of India at the date of the commencement of Constitution:
  - a) Those domiciled & born in India;
  - b) Those domiciled, not born in India but either of whose parents was born in India;
  - c) Those domiciled, not born in India, but ordinarily resident in India for more than five years;
  - d) Those resident in India, who migrated to Pakistan after 1 March 1947 & returned later on resettlement permits;
  - e) Those resident in Pakistan, who migrated to India before 19 July 1948 or those who came afterwards but stayed on for more than 6 months and got registered;
  - f) Those whose parents & grandparents were born in India but were residing outside India.
- Through Article 11, the Constitution authorised the Parliament to make laws pertaining to acquisition & termination of citizenship subsequent to the commencement of the constitution
- The Citizenship Act of 1955 made elaborate provisions specifying how citizenship could be acquired by birth, descent, registration, naturalisation or through incorporation of territory.
- The Act was amended till 1986 to deal with large scale immigration from Bangladesh, Sri Lanka and some African countries.
- Unlike the United States of America, where citizens have dual citizenship, national citizenship and that of the federal unit (states), Indians do not have separate citizenship of the states.

- Multiple citizenship is permitted in Italy, an Indian citizen loses her/his citizenship if she acquires the citizenship of another country.

#### CITIZENSHIP ACT 1955

- Citizenship of India can be acquired in the following ways:
  - Citizenship at the commencement of the Constitution
  - by birth
  - by descent
  - by registration
  - by naturalization
  - incorporation of territory (by the Government of India)
- People who were domiciled in India as on 26th November 1949
- Persons who were born in India on or after 26th January 1950 but before 1st July 1987
- A person born after 1st July 1987 is an Indian citizen if either of the parents was a citizen of India.
- Persons born after 3rd December 2004 are Indian citizens if both parents are Indian citizens or if one parent is an Indian citizen and the other is not an illegal migrant
- A person born outside India on or after 26th January, 1950, but before the commencement of the Citizenship (Amendment) Act, 1992, shall be a citizen of India by descent if his father is a citizen of India at the time of his birth; or
- if either of his parents is a citizen of India at the time of his birth:
  - a) His/ Her birth is registered at an Indian Consulate within one year of its occurrence or the commencement of the Citizenship (Amendment) Act, 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 of India.

#### CITIZENSHIP BY REGISTRATION

- A person of Indian origin who has been a resident of India for 7 years before applying for registration.
- A person of Indian origin who is a resident of any country outside undivided India.
- A person who is married to an Indian citizen and is ordinarily resident for 7 years before applying for registration.
- Minor children of persons who are citizens of India.

#### BY NATURALISATION

- A person can acquire citizenship by naturalisation if he/she is ordinarily resident of India for 12 years (throughout 12 months preceding the date of application and 11 years in the aggregate) and fulfils all qualifications in the third schedule of the Citizenship Act.

#### COMMUNITY CITIZENSHIP

- The notion of citizenship prevalent in the 19th century was largely a system of rights & obligations

that defined the relationship between nation-states & their individual members.

- The defining parameters of this relationship was constituted by equality & freedom.
- Freedom read with equality would then imply a freedom to pursue individual aims & aspirations to the best of one's capacities in conditions where social differences have been negated or minimised.
- Part III of the constitution enumerating Fundamental Rights has two divisions
- Articles 14 to 24 appear to guarantee the rights of individual citizens the various rights of equality and freedom while Articles 25 to 30, seem to cater to the specific needs of religious-cultural communities.
- Scheme of guaranteed Fundamental Rights ascribes a status of citizens to the nationals.
- A closer reading of the Articles would, however, show that there is in fact no compartmentalisation
- Some seemingly individual-catering rights are interwoven with a commitment to community rights.
- Like article 15 & 16 guarantees commitment to community-ship, in other words, allowing for certain rights in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes.
- The rights of the various communities to preserve their cultural heritage was therefore recognised in the Constitution and the state was to assure non-discrimination.
- Thus, social & religious communities were given the right to be culturally different and the state was to assist them in preserving their difference.

#### DIRECTIVE PRINCIPLES OF STATE POLICY

- Article 38 directs the State to commit itself to 'promote the welfare of the people' by promoting a 'social order' in which 'social, economic & political justice shall inform all the institutions of the national life'.
- Article 46 instructs the States to 'promote with special care the educational & economic interests of the weaker sections in particular, of the scheduled Castes & Tribes' & 'protect them from social injustice and all forms of exploitation'.
- Directive Principles envisage an active role of the state in providing a range of socially ameliorative or welfare rights ranging from access to an adequate means of livelihood, equal pay for equal work, health & strength of workers, living wage for workers, provision of just & humane conditions of work, right to work, to education, to public assistance, to equal justice & free legal aid, to adequate nutrition and health etc.
- Article 44 of the Directive Principles enjoins the State to 'secure for all its citizens a uniform civil code throughout the territory of India'.
- This article needs special attention because it encapsulates the Constitution's 'simultaneous commitment' to individual & community rights.

## CITIZENSHIP AMENDMENT ACT 2016

- The 1946 & the 1920 Acts empower the central government to regulate the entry, exit & residence of foreigners within India.
- In 2015 & 2016, union govt issued two notifications exempting six groups of illegal migrants from provisions of the 1946 & the 1920 Acts.
- These groups are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, who arrived in India on or before December 31, 2014
- In 2016, a Bill was introduced to amend the Citizenship Act, 1955
- The Bill sought to make illegal migrants belonging to these six religions & three countries eligible for citizenship
- The 2019 Bill seeks to make illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, eligible for citizenship.
- The Bill further reduces the period of naturalisation for such group of persons from six years to five years.
- Bill adds that the provisions on citizenship for illegal migrants will not apply to the tribal areas of Assam, Meghalaya, Mizoram, or Tripura, as included in the Sixth Schedule to the Constitution.
- The Act provides that the central government may cancel registration of OCIs on five grounds including registration through fraud, showing disaffection to the Constitution, engaging with the enemy during war, necessity in the interest of sovereignty of India, security of state or public interest, or if within five years of registration the OCI has been sentenced to imprisonment for two years or more.
- The Constitution settled on the principle of jus soli or birth-based citizenship as being “enlightened, modern, civilized” as opposed to the “racial citizenship” implied by the rival descent-based principle of jus sanguinis

## PERSON OF INDIAN ORIGIN CARD

- A person would be eligible for the PIO card if he:
  - Is a person of Indian origin and is a citizen of any country except Pakistan, Sri Lanka, Nepal, Bangladesh, Bhutan, China or Afghanistan, or
  - Has held an Indian passport at any other time or is the spouse of a citizen of India or a person of Indian origin.
- PIO cardholders can enter India with the multiple entry feature for fifteen years. They do not need a separate visa.

## OVERSEAS INDIAN CITIZEN CARD

- Eligibility - foreign nationals who were eligible for Indian citizenship on 26th January 1950 or was an Indian citizen on or after that date.
- Citizens of Pakistan and Bangladesh are not eligible for OCI Card.

- Overseas Indian citizens, who haven't acquired any other citizenship, are eligible for registration. Overseas Indians can visit the web portal and register for voting rights.
- OCI gets multiple entry lifelong visa for visiting India.
- have equal rights as NRIs in terms of financial, educational, and economic matters.
- Cannot buy agricultural land in India

## GOLDEN VISA

- Citizenship by Investment or Economic Citizenship is a scheme by which a person becomes a naturalised citizen of another country by investing in that country.
- India, offer permanent residency status after a significant contribution to the economy & proof of residency
- Antigua, St. Kitts & Nevis, Dominica, Grenada only require a certain sum of money to provide same offers
- The concept of gaining citizenship without residing in a country began in St. Kitts and Nevis(Caribbean)
- A year after the island nation gained its freedom from the United Kingdom, in 1984, St. Kitts and Nevis began its Citizenship By Investment programme
- For \$150,000 (₹1.2 crore approximately), a family of four can buy citizenship. The St. Kitts passport affords its citizens visa-free travel to over 130 countries.
- In Antigua, it costs \$100,000 for a passport, and Dominica and Grenada require \$200,000.
- The U.S. has a EB-5 Investor visa programme which requires \$1 million, a legitimate business in the U.S., and a Green Card.
- The Caribbean nations & certain European countries like Malta and Cyprus, have either very little or no residency requirements.
- Many people in India who are either involved in some illegal business or criminals are using these type of investment ways to escape from India

## PRE-REQUISITES

- Residency & citizenship by investment programmes have steadily been gaining in popularity among Indians seeking a quick move overseas.
- While access to better business opportunities, healthcare and infrastructure, education & employment opportunities explain some of the increasing demand for these so-called “Golden Visas”
- Laws & policies varies nation to nation
- Common prerequisites are - the legality of the sources of incomes; a clean criminal record; financial stability, especially if other family members are financially reliant; ability to invest certain amount; working with reliable advisors
- Most countries do not allow children over 18 or 21 years as part of a family application.

- In US EB-5 Investor visa as an example: a single investment can include the primary applicant, a spouse & any children under 21.
- It takes time for the U.S. Citizenship & Immigration Services to process an application, a child may pass the age threshold
- If this happens, the child will need their own separate application and investment, which is currently set at \$500,000.
- Italy, is considered as a good option for higher education so citizenship is earned by investment routes
- Italy has some of the world's oldest & most prestigious universities and offers a residency by investment programme starting from just €250,000.

#### EMPLOYMENT WAYS

- The United States, for example, allows students to stay on through the Optional Practical Training (OPT) route & then usually the H-1B Visa after the OPT expires.
- These options are relatively inflexible & place a lot of power with the employer.
- Obtaining a Green Card through the EB-5 Visa offers the time to find a good job, negotiate with employers on pay & conditions, and switch jobs as they climb the career ladder.

#### INDIANS WITH GOLDEN VISA

- According to a recent report released by a UK-based anti-corruption charity, a total of 254 millionaires from India have used the so-called "golden visa" to settle down in the UK through a large investment into the country since the route opened in 2008
- "Spotlight on Corruption" said, that Indians ranked as the seventh nationality of super-rich to have availed of the Tier 1 (Investor) Visa, adding up to 254 between 2008 and 2020.
- China topped the list at 4,106, followed by Russia (2,526), Hong Kong (692), the United States (685), Pakistan (283) and Kazakhstan (278) ahead of India.
- The United Arab Emirates will extend its "golden" visa system — which grants 10-year residency, to certain professionals, specialised degree-holders

- European Union urged member states to crack down on schemes to grant "golden visas" to foreign investors, warning they bring corruption and money laundering in their wake.
- Berlin-based Transparency International & London-based Global Witness called EU citizenship and residency as "just like a luxury good" which "can be bought"
- According to the report entitled "European Getaway: Inside the Murky World of Golden Visas" By their very nature, golden visa schemes are an attractive prospect for the criminal and the corrupt

#### INDIAN 'GOLDEN VISA' SCHEME

- Permanent Residency Status (PRS) will be granted to a foreign investor making an investment of minimum of Rs. 10 crores to be brought within 18 months or Rs. 25 crores to be brought within 36 months under FDI route and resulting in employment for at least 20 resident Indians in every financial year.
- The permanent residency status will be granted for a period of 10 years initially with multiple entry facility, which can be renewed for another 10 years.
- The status will serve as a multiple entry visa without any stay stipulation and holders will be exempted from the registration requirements.
- This status holders will be allowed to purchase one residential property for dwelling purpose.
- The spouse/ dependents will be allowed to take up employment in private sector
- In recent years, a growing number of Indians have forsaken their citizenship in search of more prosperous economic opportunities that help afford them the lifestyle they desire for themselves and their families.
- According to government officials, over 100,000 Indians surrendered their citizenship in the first nine months of 2021, and more than 600,000 renounced their citizenship over the last five years.