The Constitution of India

Part II: Citizenship

Articles 5 to 11

The exact words of each Article, a simple explainer, and examples.

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Article 7	Rights of citizenship of certain migrants to Pakistan
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Article 5

Citizenship at the commencement of the Constitution

1. The Exact Words (Verbatim Text)

5. Citizenship at the commencement of the Constitution.

At the commencement of this Constitution, every person who has his domicile in the territory of India and—

(a) who was born in the territory of India; or

(b) either of whose parents was born in the territory of India; or

(c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement,

shall be a citizen of India.

Amendment note: *The official text carries no amendment footnote against Article 5. Under Article 394, Article 5 came into force at once (26 November 1949), together with Articles 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393. The "commencement of this Constitution" to which the Article refers is 26 January 1950, the day on which the remaining provisions came into force.*

2. Simple Explainer

Article 5 begins Part II of the Constitution, which is all about citizenship. A **citizen** is a full member of the country with the rights and duties that come with it. Article 5 answers one question: **who was a citizen of India on the very first day the Constitution started, 26 January 1950?** (The word the Constitution uses for that start is *commencement*.)

The rule

A person became a citizen on that day if two things were true:

- **First**, India was the person's **domicile**. Domicile means the place you treat as your permanent home, where you plan to stay.
- **Second**, the person met at least one of these three conditions: (a) they were born in India, or (b) one of their parents was born in India, or (c) they had lived in India for at least five years just before the Constitution began.

An example

Illustration. Meera was born in a village in India and her family had lived there all their lives. India is her domicile and she was born here, so she became a citizen on 26 January 1950. She did not need to fill in any form or get any certificate. It happened automatically.

Only a one-time rule

Article 5 only looks at that one day in 1950. It does not say who becomes a citizen today. That is decided by Parliament's laws, mainly the Citizenship Act, 1955, under Article 11.

Look out for Articles 6 and 7

The Partition of India in 1947 created special situations: people moving from the area that became Pakistan to India, and people moving the other way. Articles 6 and 7 deal with them, and they override Article 5 where they apply.

Words to know

- **Citizen:** a full member of a country.
- **Domicile:** the place you treat as your permanent home.
- **Commencement:** the start of the Constitution (here, 26 January 1950).

Examples: Article 5 in action

Example 1 — Born in India

Illustration. A woman was born in a village in India and lived there all her life. On 26 January 1950 she was domiciled in India and had been born in India, so she was a citizen under Article 5(a).

Example 2 — Parent born in India

Illustration. A man was born abroad, but his father was born in India and the family had settled in India. If India was his domicile on 26 January 1950, he was a citizen under Article 5(b).

Example 3 — Five years' residence

Illustration. A person who had come from abroad, and neither of whose parents was born in India, had lived in India since 1944 and made India a permanent home. If India was the domicile, he was a citizen under Article 5(c).

Example 4 — A trader of Mailsi: Central Bank of India v. Ram Narain (1954)

Ram Narain carried on business in Mailsi, in a district that became part of Pakistan in 1947. The bank prosecuted him in India for acts alleged to have been done in Pakistan in November 1947. The Supreme Court held that he could not be tried in India for them, because at that time he was not domiciled in India. Domicile needs actually living in a place and intending to stay.

Example 5 — One domicile for the whole of India: Pradeep Jain (1984)

In a case about admission to medical colleges, the Supreme Court said that under the Constitution there is only one domicile, the domicile of India, and not a separate domicile for each State.

Article 6

Rights of citizenship of certain persons who have migrated to India from Pakistan

1. The Exact Words (Verbatim Text)

6. Rights of citizenship of certain persons who have migrated to India from Pakistan.

Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if—

(a) he or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

(b)(i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

(ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government:

Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

Amendment note: *The official text carries no amendment footnote against Article 6. Like Articles 5, 6, 7, 8 and 9, it came into force at once under Article 394 (26 November 1949); the status it deals with is tested as at the "commencement of this Constitution" (26 January 1950).*

2. Simple Explainer

Article 5 gave the general rule for who became a citizen on 26 January 1950. Article 6 is a special rule for one group of people: those who came to India from the area that is now Pakistan around the Partition of India in 1947. The words "Notwithstanding anything in article 5" simply mean "even if Article 5 says something different, this rule wins."

Who is covered?

The person must have come from what is now Pakistan, and they, or one of their parents or grandparents, must have been born in undivided India (India as defined in the Government of India Act, 1935, before Partition).

Two groups, two rules

- **Came before 19 July 1948:** they became citizens automatically, as long as they had been living in India since they arrived.
- **Came on or after 19 July 1948:** citizenship was not automatic. They had to apply before the Constitution started and be registered as citizens by a government officer, and they had to have lived in India for at least six months before applying.

Why 19 July 1948?

That is the date India brought in a permit system for coming into India from Pakistan. Before it, people were moving in huge numbers in the chaos after Partition. After it, movement was more controlled, so the law asked for a formal registration.

An example

Illustration. Rahim's father was born in Lahore (then in British India). In 1947 Rahim, a boy then, left Pakistan and came to India. He has lived in India ever since. Because he came before 19 July 1948, he became a citizen automatically. If he had come in 1949, he would have needed to apply before 26 January 1950 and be registered.

A trio of articles

- **Article 5:** the general rule.
- **Article 6:** people who came into India from Pakistan.
- **Article 7:** people who went out of India to Pakistan.

Words to know

- **Partition:** the division of British India in 1947 into India and Pakistan.
- **Migrate:** to move from one place to another, here between India and the area now in Pakistan.
- **Registered:** officially recorded as a citizen.

Examples: Article 6 in action

Example 1 — An early migrant (before 19 July 1948)

Illustration. A man whose grandfather was born in undivided India left what is now Pakistan in 1947 and has lived in India continuously since. Under Article 6(b)(i) he was deemed a citizen at the commencement of the Constitution; he needed no registration.

Example 2 — A later migrant (on or after 19 July 1948)

Illustration. A woman with the same ancestry migrated in March 1949. She had lived in India for more than six months when she applied and was registered by the appointed officer in 1949. Under Article 6(b)(ii) she was deemed a citizen at the commencement. Had she not applied before 26 January 1950, she would not have qualified under Article 6.

Example 3 — The permit system (real)

In Kulathil Mammu (1966), Justice Hidayatullah wrote that 19 July 1948 was when a permit system was introduced. That is the same date that divides the two groups in Article 6.

Article 7

Rights of citizenship of certain migrants to Pakistan

1. The Exact Words (Verbatim Text)

> **7. Rights of citizenship of certain migrants to Pakistan.**
>
> Notwithstanding anything in articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India:
>
> Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of article 6 be deemed to have migrated to the territory of India after the nineteenth day of July, 1948.

> ***Amendment note:*** *The official text carries no amendment footnote against Article 7. Like Articles 5, 6, 7, 8 and 9, it came into force at once under Article 394 (26 November 1949); the status it deals with is tested as at the "commencement of this Constitution" (26 January 1950).*

2. Simple Explainer

Article 7 is the **mirror image of Article 6**. Article 6 was about people who came *into* India from the area that became Pakistan. Article 7 is about people who went the other way: *from* India to Pakistan.

The rule

If a person moved from India to the area that is now Pakistan after 1 March 1947, that person is **not** treated as an Indian citizen. This applies even if they would otherwise have qualified under Article 5 or Article 6. The opening words, "Notwithstanding anything in articles 5 and 6," mean that Article 7 wins over both. (The Article says "after" 1 March 1947, so a move on 1 March itself is not covered.)

Why 1 March 1947?

This date is earlier than Independence (15 August 1947). The Supreme Court has noted that people had already begun to move in large numbers from about March 1947, before the country was formally divided.

The way back: the proviso

There is one exception, written in the proviso (the extra condition). If a person went to Pakistan but later came back to India with a **permit for resettlement or permanent return**, Article 7 does not block them. But they are treated as if they had come to India after 19 July 1948. That means they must go through the registration route in Article 6, and they do not get automatic citizenship.

An example

Illustration. Imagine a family that moved from India to the area now in Pakistan in 1948. Under Article 7 they were not Indian citizens. If one of them later returned on a government resettlement permit, the proviso lets them be treated as people who came to India after 19 July 1948, which means the registration route in Article 6, not automatic citizenship.

Words to know

- **Deemed:** treated by law as being so.
- **Proviso:** an extra condition or exception added to a rule.
- **Permit for resettlement:** official permission to return and settle permanently.

Examples: Article 7 in action

Example 1 — A woman in Karachi: State of Bihar v. Kumar Amar Singh (1955)
A woman went to Karachi in July 1948. She said she went only for medical treatment. The Supreme Court did not accept that, and held that she had migrated to Pakistan after 1 March 1947, so Article 7 applied to her.

Example 2 — A boy of twelve: Kulathil Mammu (1966)
Aboobacker was born in Kozhikode in 1936. Around 1948, aged about twelve, he went to Karachi and stayed until 1954, when he obtained a Pakistani passport. On appeal, the Supreme Court said “migrated” means moving voluntarily from one place to another, with no need to plan to stay forever. A short visit for a specific purpose does not count. He had migrated, so he was not a citizen.

Example 3 — A short visit
Illustration. A man from Delhi travelled to Lahore in April 1947 for a fortnight to attend a wedding and came home. A short, purpose-limited visit of this kind is not “migration” in the sense given by the Supreme Court in Kulathil Mammu, so Article 7 would not apply.

Example 4 — A return on a permit
Illustration. A person who went to Pakistan in 1948 returns in 1949 with a permit for permanent return. The proviso takes him out of Article 7 and he is treated for Article 6(b) as having migrated to India after 19 July 1948.

Article 8

Rights of citizenship of certain persons of Indian origin residing outside India

1. The Exact Words (Verbatim Text)

8. Rights of citizenship of certain persons of Indian origin residing outside India.

Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

Amendment note: *The official text carries no amendment footnote against Article 8. Like Articles 5, 6, 7, 8 and 9, it came into force at once under Article 394 (26 November 1949); the status it deals with is tested as at the "commencement of this Constitution" (26 January 1950). As to drafting history, constitutionofindia.net records that the article was not in the original February 1948 Draft; the Chairman of the Drafting Committee proposed its insertion (as Draft Article 5B), and the Constituent Assembly debated it on 10, 11 and 12 August 1949.*

2. Simple Explainer

Articles 5, 6 and 7 are about people who were in India or moving in or out of it. Article 8 is about **people of Indian origin who were living in other countries**. Many of their families had left India long ago, for example to work or settle in places like Africa, the Caribbean or Southeast Asia during British rule. This is often called the Indian **diaspora**.

The two conditions

Both conditions had to be met:

- **An Indian connection:** the person, or one of their parents or grandparents, was born in undivided India (as defined in the Government of India Act, 1935). The person also had to be *ordinarily resident* abroad, which means living there as their normal home.
- **Registration:** the person had to apply to a diplomatic or consular representative (an official of the Indian government, at an Indian embassy or consulate) in the country where they lived and be registered as a citizen. It was never automatic.

Not a lifetime ticket

Because Article 8 allowed registration even after 1950, someone might think that anyone in the world with an Indian grandparent can claim to be a citizen forever. The Supreme Court said no. Article 8 was meant only for people already living abroad on the day the Constitution began. It does not give a permanent right to anyone born later.

An example

Illustration. Arjun's grandfather was born in a village in undivided India and later settled in another country. Arjun was born in that other country decades after the Constitution began. The Supreme Court has made it clear that Article 8 cannot be used by someone in Arjun's position to claim citizenship under the Constitution. He would have to look to the ordinary citizenship law.

Words to know

- **Diaspora:** people who live outside the country their family came from.
- **Diplomatic or consular representative:** an official of the Indian government posted in a foreign country.
- **Ordinarily resident:** living in a place as your normal home.

Examples: Article 8 in action

Example 1 — A person abroad in 1950

Illustration. A man was born in Madras, then in British India, and was living in Singapore at the commencement of the Constitution. He applied to the Indian diplomatic or consular representative in Singapore and was registered. Under Article 8 he is deemed to be a citizen of India.

Example 2 — A grandchild born in Singapore: Pranav Srinivasan (2024)

Pranav Srinivasan was born in Singapore on 1 March 1999. His paternal grandparents were born in India before independence. His parents had adopted Singapore citizenship on 19 December 1998, before his birth. He claimed citizenship under Article 8 and, separately, under section 8(2) of the Citizenship Act, 1955. The Supreme Court rejected both claims.

Example 3 — A later-born descendant

Illustration. A woman born in 2000 in a country outside India has a grandparent who was born in what is now Pakistan. Article 8 does not apply to her, since it covers persons ordinarily residing abroad at the commencement of the Constitution. Her claim would have to be made under the Citizenship Act, 1955.

Article 9

Persons voluntarily acquiring citizenship of a foreign State not to be citizens

1. The Exact Words (Verbatim Text)

9. Persons voluntarily acquiring citizenship of a foreign State not to be citizens.

No person shall be a citizen of India by virtue of article 5, or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State.

Amendment note: *The official text carries no amendment footnote against Article 9. Like Articles 5, 6, 7, 8 and 9, it came into force at once under Article 394 (26 November 1949); the status it deals with is tested as at the "commencement of this Constitution" (26 January 1950). As to drafting history, constitutionofindia.net records that the provision was first debated as a proviso to Draft Article 5, that the Drafting Committee then made it a separate article so that the bar would be a general one, and that it was debated on 10, 11 and 12 August 1949.*

2. Simple Explainer

Article 9 says that a person who had **voluntarily become a citizen of another country** (before the Constitution began) cannot claim to be an Indian citizen under Article 5, 6 or 8. It is where the Constitution first shows its dislike of **dual citizenship** (being a citizen of two countries at once). The rule that applies today to Indians who take foreign citizenship comes from a law, the Citizenship Act, 1955 (section 9).

What exactly does Article 9 say?

A person who would have become an Indian citizen under Article 5, 6 or 8 loses that claim if they have voluntarily taken up the citizenship of a foreign country.

The key word: "voluntarily"

The Constitution cares about choice. Some countries give citizenship automatically to anyone born on their soil. A child who gets that citizenship without choosing it has not acquired it voluntarily. Article 9 applies only when a person **chooses** to become a citizen of another country, for example by applying for it.

What is the rule today?

Under section 9 of the Citizenship Act, 1955, an Indian citizen who voluntarily acquires the citizenship of another country stops being an Indian citizen. If there is a dispute about whether, when or how the foreign citizenship was acquired, the Central Government decides it.

Illustration. Suppose an Indian citizen applies for and accepts the citizenship of another country. Under section 9, that person stops being an Indian citizen from that moment.

What about OCI?

The "Overseas Citizen of India" (OCI) card is not citizenship. It is a special status created by an ordinary law for people of Indian origin who live abroad. It does not give a vote, or some other rights of a citizen, like standing for Parliament.

Why does Article 9 not mention Article 7?

Article 7 already says that people who moved to Pakistan are not citizens, so there was probably nothing more to add.

Words to know

- **Dual citizenship:** being a citizen of two countries at the same time.
- **Voluntarily:** by your own free choice.
- **Acquire:** to get or obtain.

Examples: Article 9 in action

Example 1 — Foreign citizenship before 1950

Illustration. A man was born and lived in India, but in 1948 he applied for and received the citizenship of another country. On 26 January 1950, although he would otherwise be a citizen under Article 5, Article 9 says he is not a citizen of India by virtue of Article 5.

Example 2 — Foreign citizenship after 1950

Illustration. An Indian citizen moves abroad in 1985 and is naturalised in another country. Article 9 does not govern this case, since it deals with the position at the commencement of the Constitution. Section 9(1) of the Citizenship Act, 1955 applies, and the person ceases to be an Indian citizen.

Example 3 — Pakistani passports (real cases)

In Izhar Ahmad Khan (1962), three petitioners who claimed to be Indian citizens had obtained Pakistani passports. The Central Government held that they had voluntarily acquired Pakistani citizenship, relying on a rule treating a foreign passport as conclusive proof of taking that citizenship. By 3 judges to 2, the Supreme Court upheld section 9(2) and that rule.

Example 4 — Parents who took Singapore citizenship (real case)

In Pranav Srinivasan (2024), the Supreme Court noted that, because of section 9(1), parents who voluntarily acquired Singapore citizenship on 19 December 1998 ceased to be Indian citizens on that date, which affected their son's claim (see Article 8).

Article 10

Continuance of the rights of citizenship

1. The Exact Words (Verbatim Text)

> **10. Continuance of the rights of citizenship.**
>
> Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

> ***Amendment note:*** *The official text carries no amendment footnote against Article 10; it stands as enacted. In the Constituent Assembly it was Draft Article 5C and was not part of the 1948 Draft Constitution. It was proposed by the Chairman of the Drafting Committee and debated on 10–12 August 1949. A member moved on 12 August 1949 to delete it, on the ground that Draft Article 6 (now Article 11) was sufficient; Article 10 was retained as a separate provision. (The member is not named in the source cited.)*

2. Simple Explainer

Articles 5 to 9 explained who became a citizen on 26 January 1950 and who did not. Article 10 asks the next question: **once you are a citizen, do you stay one?** The answer is yes. Your citizenship continues, unless Parliament makes a law that says otherwise.

A bridge between two ideas

Article 10 works like a bridge. On one side it gives the first citizens certainty, because nobody has to prove their citizenship again and again. On the other side it keeps Parliament's power to make laws about citizenship, which is set out in Article 11.

What is the catch?

The words "subject to the provisions of any law that may be made by Parliament" mean that your citizenship continues unless a valid law says otherwise. It is not frozen forever. "Subject to" means that the rule is limited by something else, here a law of Parliament.

Why was it needed?

When the Constitution began, there was no complete law on citizenship. Article 10 made sure that the first citizens stayed citizens in the meantime. In that sense it was an **interim safeguard**, meant for the time being. Later Parliament passed the Citizenship Act, 1955, which now decides almost every question about citizenship.

"Every person"

Articles 5 to 9 deal with people who were born in India, had parents born in India, or came to India. So "every person" here means human beings, and companies do not come into the picture.

Words to know

- **Continue:** to carry on without a break.
- **Subject to:** depending on, or limited by.
- **Interim:** for the time being, until something permanent is in place.

Examples: Article 10 in action

Example 1 — A citizen from 1950 stays a citizen

Illustration. Asha was born in India and lived here when the Constitution began, so she became a citizen. Years later nobody can say her citizenship has run out. It carries on under Article 10, unless a law of Parliament says otherwise.

Example 2 — A law can change the position

The Citizenship Act, 1955 says (in section 9) that a citizen of India who voluntarily becomes a citizen of another country stops being an Indian citizen. This is the kind of law Article 10 means when it says citizenship continues “subject to” Parliament’s laws.

Example 3 — Sending away a person who is a citizen

In the Ebrahim Vazir Mavat case (1954), some people who said they were Indian citizens were ordered to leave India under a 1949 law. The Supreme Court held the removal section void so far as it took away the rights of citizens. Where citizenship was in dispute, that was sent back to be decided. A citizen cannot be expelled like a foreigner.

Article 11

Parliament to regulate the right of citizenship by law

1. The Exact Words (Verbatim Text)

> **11. Parliament to regulate the right of citizenship by law.**
>
> Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

> ***Amendment note:*** *The official text carries no amendment footnote against Article 11; it stands as enacted. In the Constituent Assembly it was Draft Article 6 (in the 1948 Draft Constitution) and was debated and adopted on 10–12 August 1949.*

2. Simple Explainer

Article 11 is the last article of Part II (Citizenship). Its message is short: **Parliament has the power to make laws about citizenship.** Nothing in Articles 5 to 10 reduces or limits that power. The Article's own word for this is that they do not *derogate* from it.

A closed chapter and an open chapter

- **Articles 5 to 10** are like a closed chapter. They fix who was a citizen on one date, 26 January 1950.
- **Article 11** is the open chapter. It lets Parliament make laws about everything that comes after: how a person acquires citizenship, how it can end, and "all other matters relating to citizenship".

Which law is used today?

Parliament used this power to pass the **Citizenship Act, 1955**, which has been amended several times. It decides questions such as citizenship by birth, by descent, by registration and by naturalisation (the way a foreigner becomes a citizen), and how a person can give up citizenship.

"Citizenship, naturalisation and aliens" is also in the **Union List** in the Seventh Schedule. This means only Parliament, and not a State Legislature, can make laws on it.

Is the power unlimited?

No. Article 11 only says that Parliament has the *competence*, which means the authority, to make citizenship laws. Any law it makes must still respect the rest of the Constitution, including the Fundamental Rights such as equality in Article 14. If a citizenship law breaks a Fundamental Right, a court can examine it.

Words to know

- **Derogate:** to reduce, weaken or take away from.
- **Naturalisation:** the process by which a foreigner can become a citizen.
- **Union List:** the list of subjects on which only Parliament can make laws.
- **Competence:** the legal authority to make a law on a subject.

Examples: Article 11 in action

Example 1 — A child born after 1950

Illustration. A child is born in India in 2010. Whether the child is a citizen is decided by the Citizenship Act, 1955, not by Part II of the Constitution. Part II only looked at who was a citizen on one day in 1950. Article 11 is why Parliament may make such a law.

Example 2 — Assam

In 1985, after the Assam Accord, Parliament added section 6A to the Citizenship Act. It gave citizenship to some people who had come to Assam, using dates different from the usual rules. In 2024 the Supreme Court said the section is valid.

Example 3 — A State cannot make a citizenship law

Illustration. Suppose a State Legislature passed a law saying who is a citizen of India. The law would not be valid, because only Parliament can make laws on citizenship.

Example 4 — A citizenship law must still be fair

Illustration. Suppose Parliament made a citizenship law that treated people in the same situation differently for no good reason. Parliament had the power to make a citizenship law, but a court could still ask whether the law breaks Article 14 (equality).

Source

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