



# **Part II : Citizenship:**

**(Articles 5-11)**

---

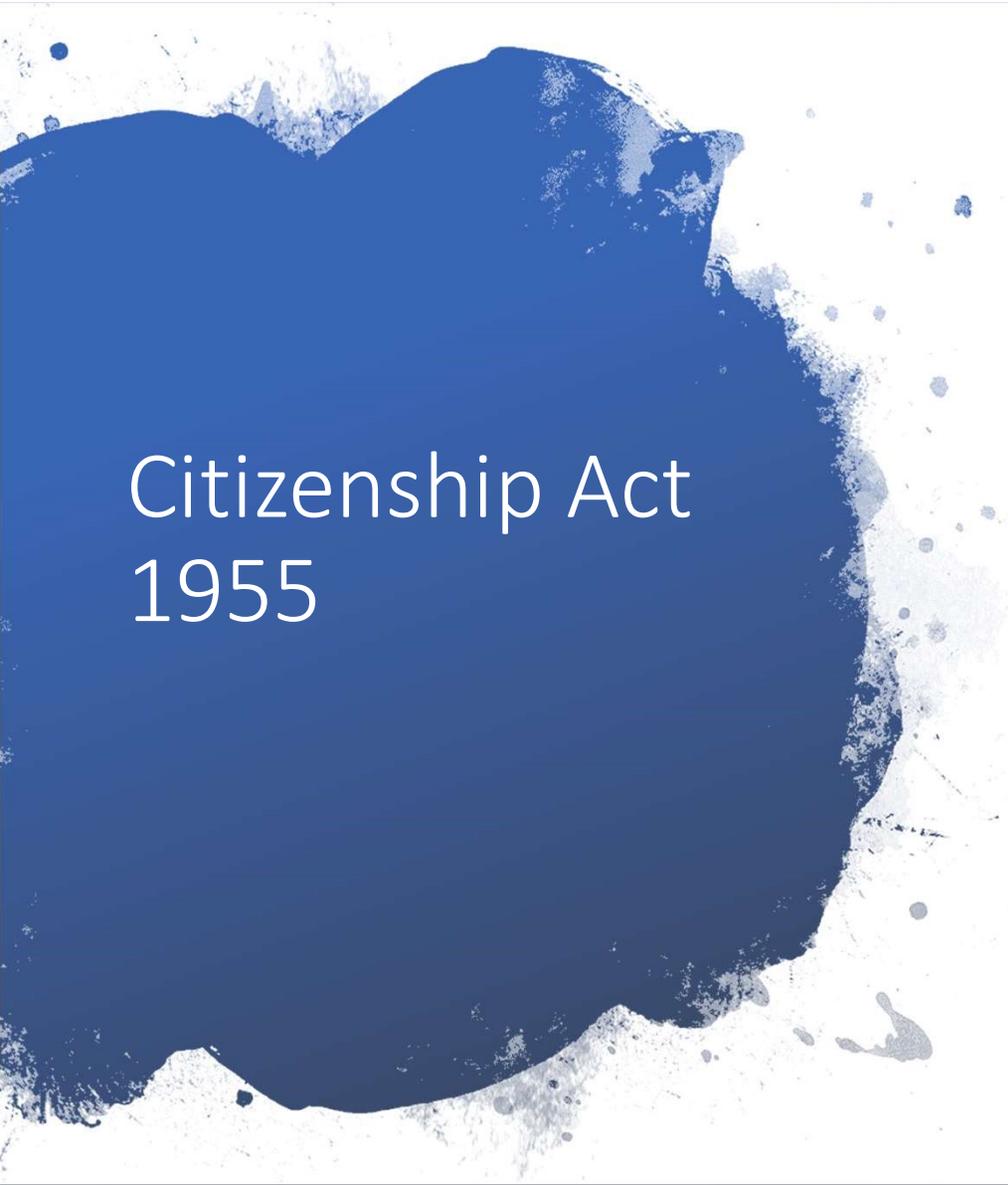
# Citizenship

- Citizenship defines the relationship between the individual and the State
- Indian citizenship is governed by the-
- Part II of the Constitution (Article 5 to 11)
- Citizenship Act 1955



## Part II of the Constitution (Article 5 to 11)

- Deals with the conditions of citizenship at the time of the commencement of the Constitution



# Citizenship Act 1955

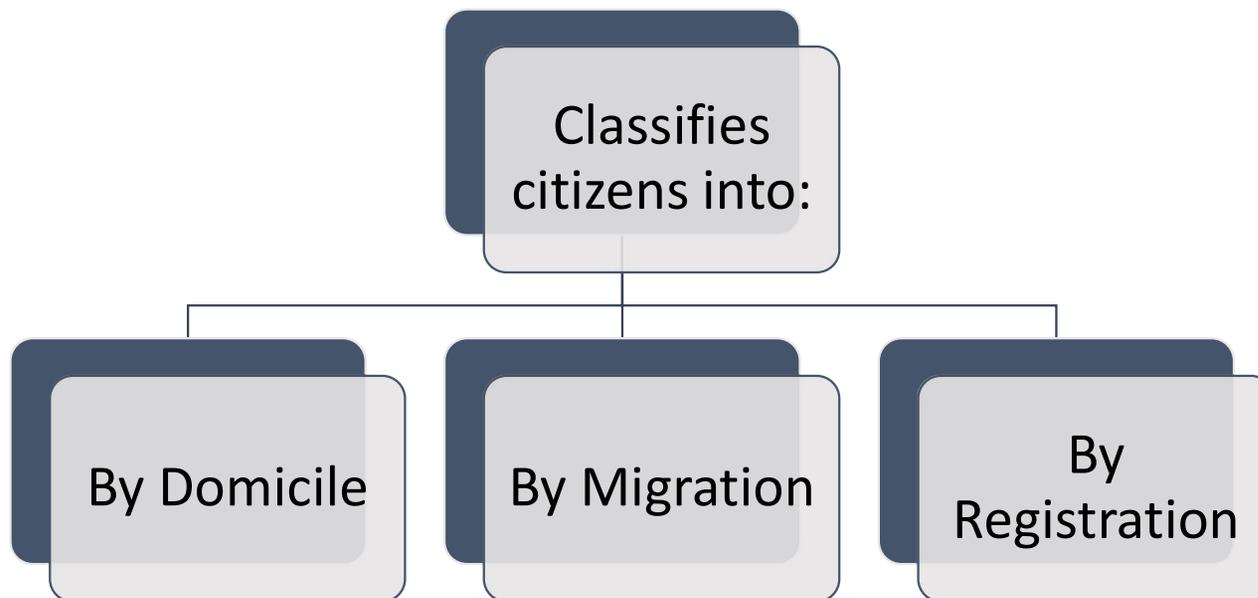
- Deals with the conditions of citizenship after the commencement of the Constitution.

## Persons who were deemed to be citizens: Art. 5-11

- Article 5: Citizenship by domicile
- Article 6: Citizenship of migrants to India from Pakistan
- Article 7: Citizenship of migrants of Pakistan
- Article 8: Citizenship of persons of Indian origin residing outside India

# Articles 5 to 11

---



## ARTICLE 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.



# Domicile:

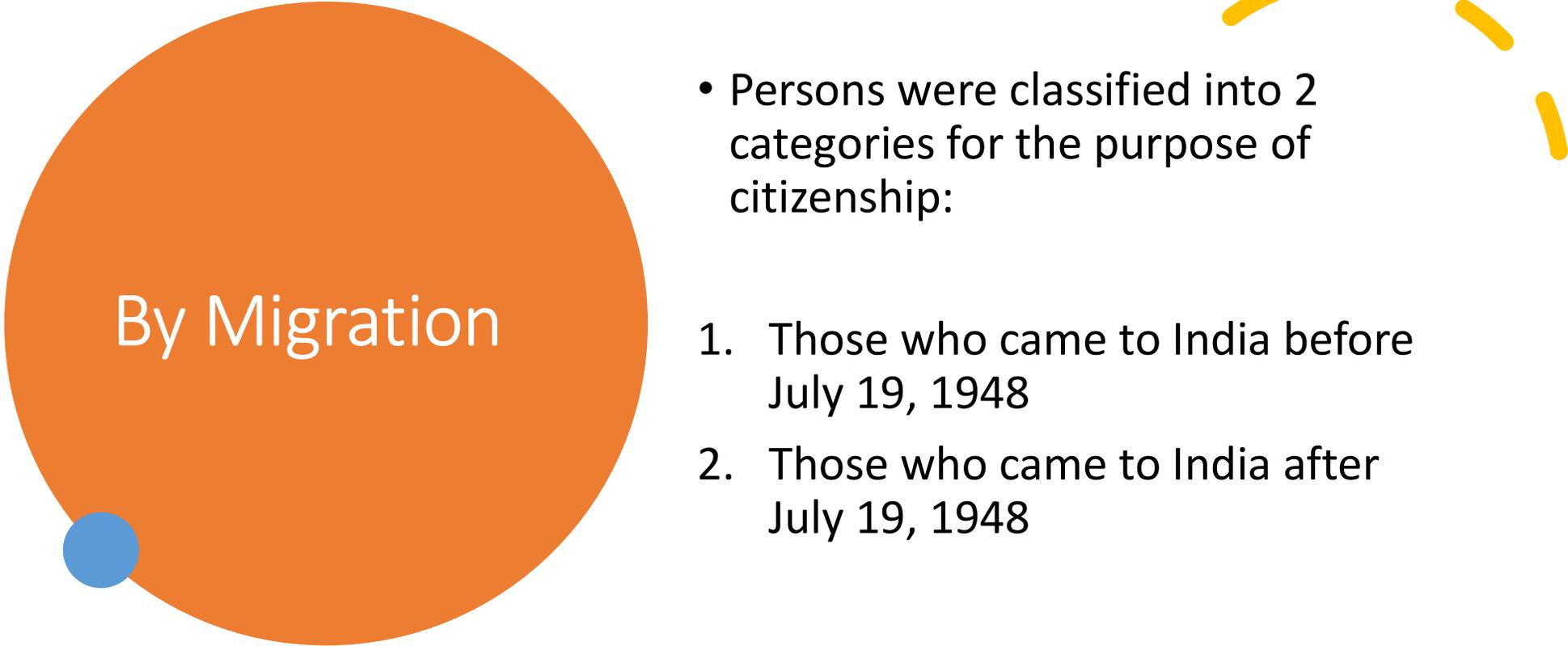
- Permanent home
- A person's domicile is the country which is considered by law to be his permanent residence.
- 2 ingredients:
- Residence
- Intention to make it his/her home

## Case Laws

- **Sankaran v Laxmi AIR 1974 SC 1764**
- **Lois De Raedt v U.O.I AIR 1991 SC**
- **Pradeep Jain v U.O.I AIR 1984 SC**

## ARTICLE 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.



## By Migration

- Persons were classified into 2 categories for the purpose of citizenship:
  1. Those who came to India before July 19, 1948
  2. Those who came to India after July 19, 1948

## ARTICLE 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.



# Migration:

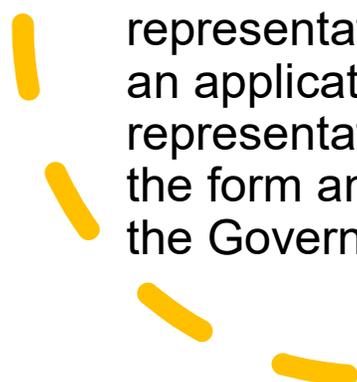
- Kulathil v State of Kerala AIR 1967
- State of Bihar v Kumar Amar Singh AIR 1955





## BY REGISTRATION

- **ARTICLE 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 grandparents 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.

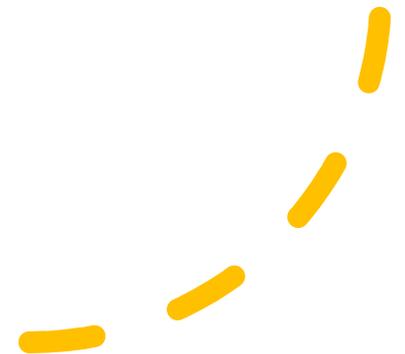


**ARTICLE 9:  
PERSONS  
VOLUNTARILY  
ACQUIRING  
CITIZENSHIP OF  
A FOREIGN  
STATE NOT TO  
BE CITIZENS**

- 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.**

## ARTICLE 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.





**ARTICLE 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.

# Acquisition of Indian Citizenship as per Citizenship Act 1955:

- **Indian Citizenship can be acquired under the following ways :**

(1) Citizenship by birth: This provision has different clauses for different periods

(2) Citizenship by descent

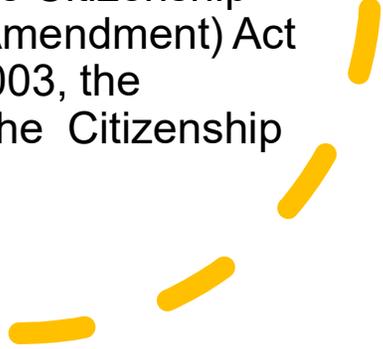
(3) Citizenship by registration

(4) Citizenship by naturalization

(5) Citizenship by incorporation of territory.

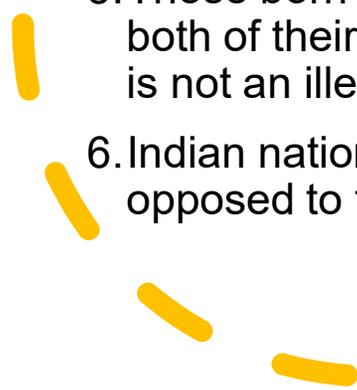


## Powerpoints:

1. The conferment of a person, as a citizen of India, is governed by Articles 5 to 11 (Part II) of the Indian Constitution.
  2. Apart from the above Articles of the Indian Constitution, citizenship is also deeply connected with the **Citizenship Act**, which is passed by the Indian Parliament in 1955.
  3. **Citizenship Act 1955** speaks about the **citizenship of India after the commencement of the Constitution**. It is an act to provide for the acquisition and termination of Indian citizenship.
  4. The legislation related to this matter is the **Citizenship Act 1955**, which has been amended by the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, the Citizenship (Amendment) Act, 2005, and the Citizenship (Amendment) Act 2019.
- 



- 1. Termination of Indian Citizenship as per Citizenship Act 1955:** One can lose citizenship of India in three ways -- **Renunciation, Termination and Deprivation**
2. Persons domiciled in the territory of India as on 26 November 1949 automatically became Indian citizens by virtue of the operation of the relevant provisions of the Indian Constitution coming into force. (Citizenship at the commencement of the constitution of India.)
3. Any person born in India on or after 26 January 1950, but prior to the commencement of the 1986 Act on 1 July 1987, is a citizen of India by birth. [Citizenship by birth]
4. A person born in India on or after 1 July 1987 is a citizen of India if either parent was a citizen of India at the time of the birth. [Citizenship by birth]
5. Those born in India on or after 3 December 2004 are considered citizens of India only if both of their parents are citizens of India or if one parent is a citizen of India and the other is not an illegal migrant at the time of their birth. [Citizenship by birth].
6. Indian nationality law largely follows the **jus sanguinis (citizenship by right of blood)** as opposed to the **jus soli (citizenship by right of birth within the territory)**.



1. **No dual citizenship:** Article 9 of Indian Constitution says that a person who voluntarily acquires citizenship of any other country is no longer an Indian citizen. Also, according to The Passports Act, a person has to surrender his Indian passport if he acquire citizenship of another country, it is a punishable offense under the Act if he fails to surrender the passport.
2. **Persons of Indian Origin (PIO) Card:** A PIO card applicant has to be a person of Indian origin who is a citizen of any country, other than Pakistan, Bangladesh, Sri Lanka, Bhutan, Afghanistan, China and Nepal; or a person who has held an Indian passport at any time or is the spouse of an Indian citizen or a person of Indian origin;
3. **Overseas Citizen of India (OCI) card:** OCI Card is for foreign nationals who were eligible to become a citizen of India on 26.01.1950 or was a citizen of India on or after that date. Applications from citizens of Bangladesh and Pakistan are not allowed.

1. While PIO cardholders do not require a separate visa and can enter India with multiple entry facility for 15 years; the OCI card is multiple entries, multi-purpose lifelong visa for visiting India. OCI card-holders have parity with **non-resident Indians** in respect of economic, financial and educational matters except in acquiring agricultural land.
2. A PIO cardholder is required to register with local Police authorities for any stay exceeding 180 days in India on any single visit.
3. OCI is not dual citizenship. There are no voting rights for an OCI cardholder.