

# **Citizenship**

## **under Indian Constitution (Articles 5 to 11)**

Modes of acquisition and termination of citizenship under the Citizenship Act 1955

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# What is Citizenship

- Citizenship is the **status of a person** recognized under the law as being a **member of a state**.
- A person may have **multiple citizenships** and a person who does not have citizenship of any state is said to be stateless
- A citizen is a **participatory member of a political community**.
- Citizenship is gained by meeting the **legal requirements** of a national, state, or local government.
- A nation grants **certain rights and privileges** to its citizens. In return, citizens are expected **to obey** their country's laws and defend it against its enemies.

- Citizenship is a **legal status** in a political institution such as a city or a state.
- The **relationship between a citizen and the institution** that confers this status is formal,
- and in contemporary liberal-democratic models includes both **a set of rights** that the citizen possesses by virtue of this relationship, and **a set of obligations or duties** that they owe to that institution and their fellow citizens in return.

# Aliens

- Citizens of one country who live in a foreign country are known as **aliens**.
- Their rights and duties are determined by **political treaties** and by laws of the country
- Legal aliens are entitled to **protection under the law** and to use of the courts.
- They may also **own property, carry on business, and attend public schools**.
- But aliens **cannot vote or hold government office**.  
In some states they are not allowed to practice certain professions until they become citizens.

# Nationality vs Citizenship

- Nationality can be applied to the country where an individual was **born**. Citizenship stands for **legal status**, which means that an individual has been registered with the government in some country.
- An individual is a national of a particular country by **birth**. Nationality is got through inheritance from his parents or it be called a natural phenomenon. On the other hand an individual becomes a citizen of a country only when **he is accepted into that country's political framework** through legal terms.

- E.g--, an individual born in India, will be having Indian Nationality. But he may have an American citizenship once he has registered with that country.
- No one will be able to change his nationality but one can have different citizenship. An Indian can have an American or Canadian citizenship but he **cannot change his nationality**.
- Nationality can be described as a term that refers to belonging to **a group having same culture, traditions history, language and other general similarities**.
- On the other hand, **citizenship may not refer to people of the same group**. E.g, an Indian may be having US citizenship but he will not be belonging to same group as that of American nationals.

# Fundamental rights for Citizens

- A citizen enjoys full civil and political rights with certain advantages conferred by the Constitution. Aliens do not enjoy these advantages.
- 1. **Article 15** --- Right not to be discriminated
- 2. **Article 16** --- Right to Equality of opportunity in Public Employment
- 3. **Article 19** --- Right to Six Golden Freedoms
- 4. **Article 29 and 30** --- Cultural & Educational Right
- 5. **certain offices** to be occupied by citizens only President, Vice President, Judges of High Court and Supreme Court, Attorney General, Governor
- 6. **Right to Vote** for Loksabha and Vidhan Sabha Elections, Membership of Loksabha and Vidhan Sabha

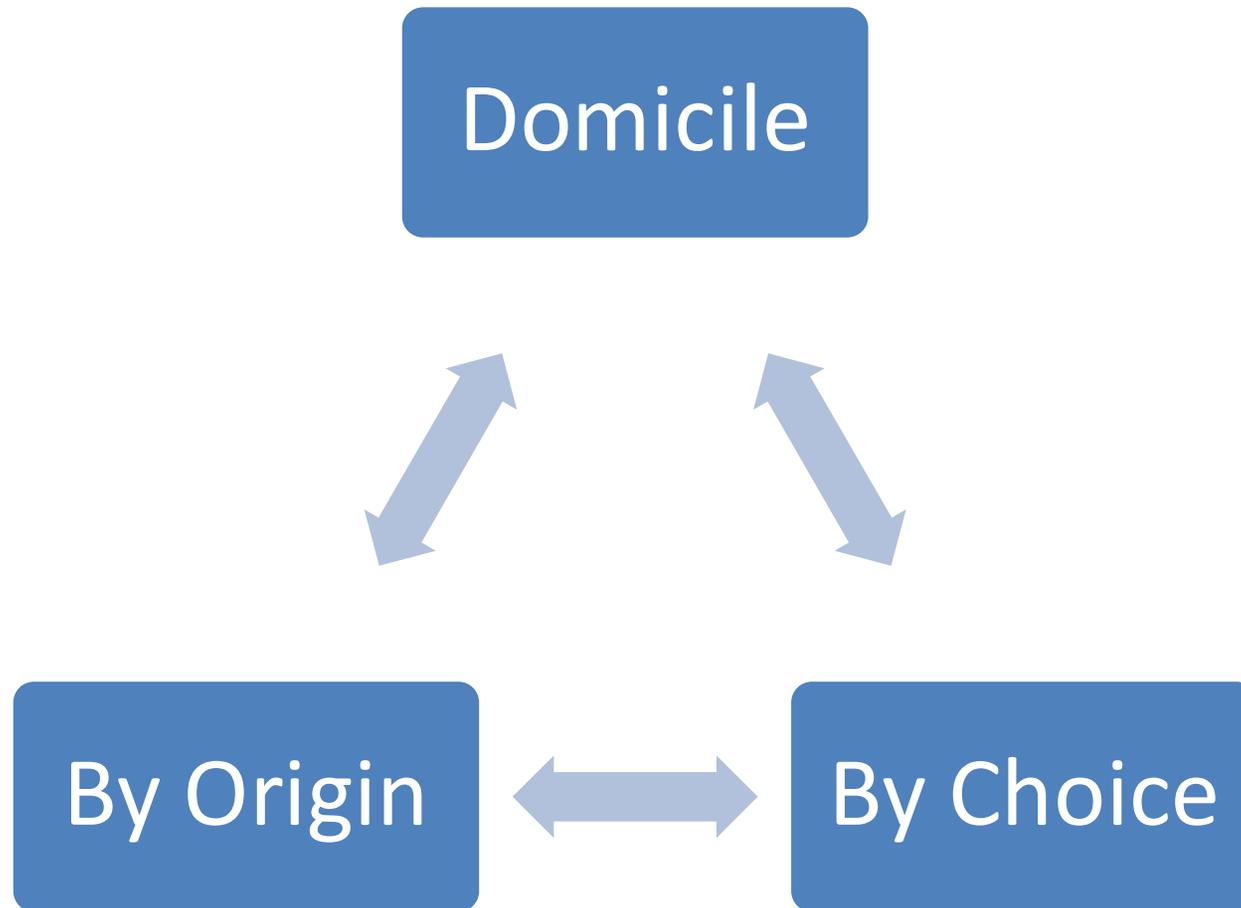
# Constitutional Provisions

- It does not lay down permanent provisions it simply describes the classes of persons who would be deemed to be the citizens of India at the commencement of the Constitution and leaves entire power to parliament to regulate the Law
- The following persons under Articles 5 to 8 shall become citizens at the commencement-----
  - 1. Citizenship by Domicile (Art. 5)
  - 2. Citizenship of Emigrants from Pakistan (Art. 6)
  - 3. Citizenship of migrants to Pakistan (Art. 7)
  - 4. Citizenship of Indians abroad (Art. 8)

# 1. Citizenship by Domicile (Art. 5)

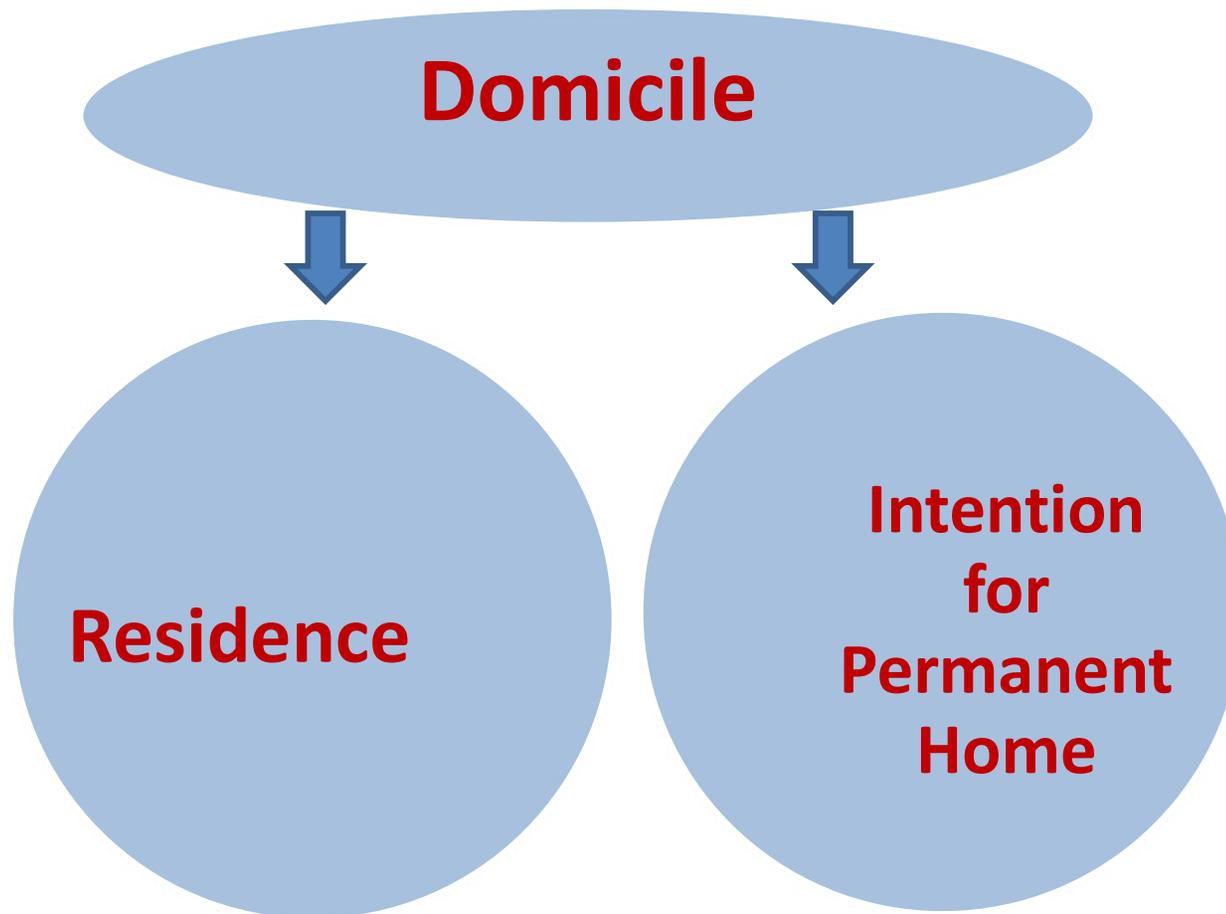
- Two conditions
- 1. he must, at the commencement of the Constitution have his domicile in territory of India
- 2. must fulfill any one conditions laid down
  - a. he was born in India
  - b. either of his parents was born in India
  - c. must have resident for not less than five years before commencement of the Constn

# Two main Classes of Domicile



**Domicile by origin attaches by birth and domicile by choice is acquired by the residence in territory subject to rules**

# Two elements for Domicile



# Citizenship of Emigrants from Pakistan Art. 6

- Person migrated from Pakistan were classified into two categories-- **who came to India before 19/07/1948**
  - » **who came to India on or after 19/07/1948**
    - They shall be deemed to be citizen if----
    - 1. He or either of his parents or grandparents were born in India and
    - 2. In case migrated before 1948 he has been ordinarily residing in India since the date of migration
    - 3. If migrated after 1948 he has been registered as citizen of India by an officer appointed by the Govt. and has been residing in India for at least six months before the date of application for registration

# Citizenship of migrants to Pakistan (Art. 7)

- Under Article 7 a citizen by domicile or by migration stops to be a citizen if he has migrated to the Pakistan after 1<sup>st</sup> March 1947
- ---- but if he has return to India on the basis of permit for resettlement in India and register himself as immigrant from Pakistan towards the consular was allowed to get citizenship

# Citizenship of Indians abroad (Art. 8)

- any person who or either of whose parents or any of whose grandparents was born in India
- 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

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

- Article 9. No person shall be a citizen of India by virtue of article 5, 6 or 8, if he has **voluntarily acquired the citizenship of any foreign State.**
- 10. Every person who is citizen of India under any of the foregoing provisions shall, *subject to the provisions of any law that may be made by Parliament,* continue to be such citizen
- 11. 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.

# Modes of acquisition of Citizenship

- Indian citizenship can be acquired by **birth, descent, registration, naturalization and incorporation of Territory.**
- The conditions and procedure for acquisition of Indian citizenship as per the provision of the Citizenship Act, 1955 are given below:

# (1) By Birth (Section 3)

- **A person born in India on or after 26th January 1950 but before 1st July, 1987 is citizen of India by birth irrespective of the nationality of his parents.**
- **A person born in India on or after 1st July, 1987 but before 3rd December, 2003 is considered citizen of India by birth if either of his parents is a citizen of India at the time of his birth.**
- **A person born in India on or after 3rd December, 2003 is considered citizen of India by birth if -----**
- **both the parents are citizens of India or**
- **one of the parents is a citizen of India and the other is not an illegal migrant at the time of his birth.**

- **An illegal migrant?** as defined in section 2(1)(b) of the Act is
- A foreigner who entered India.
  - (i) without a valid passport or other prescribed travel documents : or
  - (ii) with a valid passport or other prescribed travel documents but remains in India beyond the permitted period of time.

## (2) By Descent (Section 4)

- A person born outside India on or after 26th January 1950 but **before 10th December 1992** is a citizen of India by descent,
- ----if his father was a citizen of India by birth at the time of his birth.
- In case the **father was a citizen of India by descent only**, that person shall not be a citizen of India,
- unless **his birth is registered at an Indian Consulate within one year from the date of birth** or with the permission of the Central Government, after the expiry of the said period.

- A person born outside India on or after 10th December 1992 but **before 3rd December, 2003**, is considered as a citizen of India
- -----if either of his parents was a citizen of India by birth at the time of his birth.
- In case either of the parents was a citizen of India by descent, that person shall not be a citizen of India,
- **unless his birth is registered at an Indian Consulate within one year from the date of birth** or with the permission of the Central Government, after the expiry of the said period. (b) either of his parents is at the time of birth in the service under Government of India

- A person born outside India on or after **3rd December, 2003** shall not be a citizen of India,
- ----- **unless the parents declare** that the minor does not hold passport of another country and his birth is registered at an Indian consulate within one year of the date of birth or
- ----- with the permission of the Central Government, after the expiry of the said period.
- **Procedure**
- Application for registration of the birth of a minor child to an Indian consulate under Section 4(1) shall be made in Form-I and shall be accompanied by an undertaking in writing from the parents of such minor child that he does not hold the passport of another country.

# Citizenship by Registration. –

- Subject to the provisions of this section and such conditions and restrictions as may be prescribed, the prescribed authority may, on application made in this behalf, **register as a citizen of India any person who is not already such citizen by virtue of the Constitution or by virtue of any of the other provisions of this Act** and belongs to any of the following categories-
  - (a) **Persons of Indian origin** who are ordinarily **resident in India for seven years** immediately before making an application for registration;
  - (b) **Persons of Indian origin** who are ordinarily resident in any country or place outside **undivided India**;

- (c) **Persons who is married to Indian citizen** and is ordinarily resident in India for **seven years** immediately before making an application for registration;
- (d) **Minor children of persons** who are citizens of India; and
- (e) **Persons of full age and capacity** whose parents are registered as citizens of India **under clause a** or under section 6(1) ---
- (f) A person of full age and capacity whose either of his **parents was earlier citizen of Independent India** and has been residing in India for **one year immediately** before making an application for registration
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- (g) A person of full age and capacity who has been registered as **an overseas citizen of India for five years** and who has been residing in India for two years before making an application for registration

# Citizenship by Naturalisation

- Where an application is made in the prescribed manner **by any person** of full age and capacity **not being an illegal migrant**, -----the Central Government may, if satisfied that the applicant is qualified for naturalisation under the provisions of the Third Schedule, grant to him a certificate of naturalisation. The qualifications are---
- (a) who is **not citizens of a country where Indian citizens are prevented** from becoming citizen by naturalisation
- (b) if he has **renounced the citizenship of another country**
- (c) he has either **resided in India** or been in the **service of a Government in India for twelve months** before the date of making the application or
- During 7 years prior to these 12 months he has resided or has been in the Govt. service for not less than 4 years;

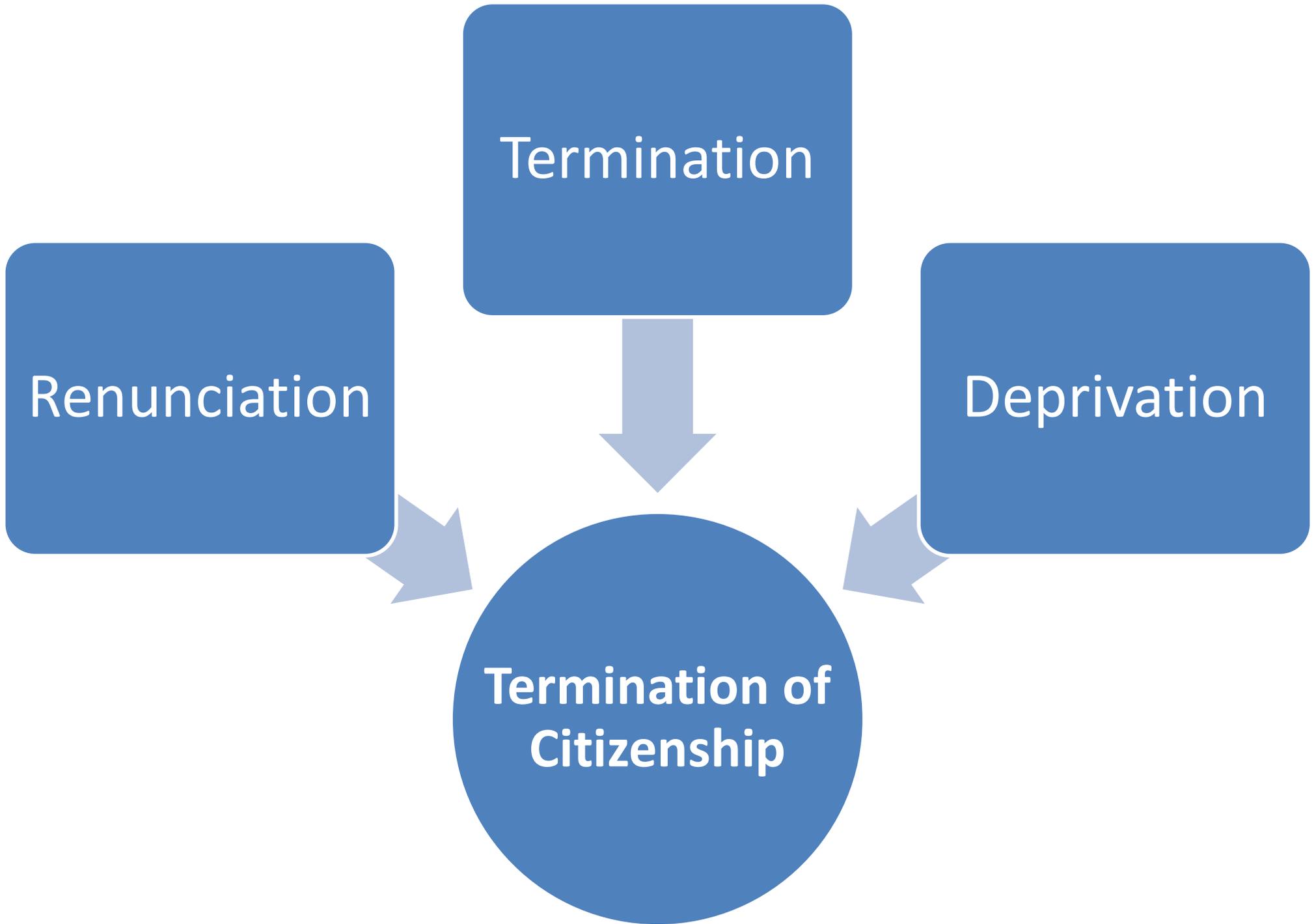
- (e) That he is of good character;
- (f) That he has an adequate knowledge of a language specified in the Eighth Schedule to the Constitution; and
- (g) That in the event of a certificate of naturalisation being granted to him, he intends to reside in India, or to enter into or continue in, service under a Government in India or under an international Organisation of which India is a member or under a society, company or body of persons established in India;
- taking the **oath of allegiance**
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- Provided that the Central Government may, if in the special circumstances of any particular case it thinks fit. –
- (i) Allow a continuous period of twelve months ending not more than six months before the date of application to be reckoned, for the purposes of clause (c) above, as if it had immediately prescribed that date;
- (ii) Allow periods of residence or service earlier than 3[thirteen years] before the date of the application to be reckoned in computing the aggregate mentioned in clause (d) above,
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- 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.

# Citizenship by incorporation of territory Section 7

-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.



Termination

Renunciation

Deprivation

Termination of  
Citizenship

## 8. Renunciation of citizenship

- (1) If any citizen of India of full age and capacity, who is also a citizen or national of another country, makes in the prescribed manner a **declaration renouncing his Indian Citizenship**, the declaration shall be registered upon such registration, that person shall cease to be a citizen of India
- Provided that if any such declaration is made **during any war**, registration shall be withheld until the Central Government otherwise directs.
  - (2) Where a person ceases to be a citizen of India under subsection (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 that he wishes to **resume Indian citizenship** and shall thereupon again become a citizen of India.

## 9. Termination of citizenship-

- (1) Any citizen of India who by naturalisation, registration or otherwise voluntarily acquires, the citizenship of another country shall, upon such acquisition cease to be a citizen of India:
- during any war if voluntarily acquires the citizenship of alien enemy country, will be withheld by Central Government

# Deprivation

The Central government under section 10 deprives any 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 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 the war in which India may be engaged, **unlawfully traded or communicated with an enemy** or associated with, any business as to assist any enemy in that war; or
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- 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 of India or of an International organization of which India is a member, nor registered annually in the prescribed manner at an Indian consulate his intention to retain his citizenship of India.
- f. The Central Government shall not deprive a person of citizenship unless it is satisfied that it is not conducive to the public good that person should continue to be a citizen of India.