

CRITIQUE & COMMENTARY

CITIZENSHIP ON PAUSE? THE AMBIGUITIES SURROUNDING TERMINATION OF CITIZENSHIP IN INDIA

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I INTRODUCTION

In the past year, several writ petitions around the question of citizenship involving the children of former Indian citizens and refugees in India have come up before the appellate courts of India. These legal developments are taking place amidst ongoing efforts to revise voter rolls in Bihar, construct citizenship registers in Assam, and create a fluctuating hierarchy of identity documents across the country that have had a disproportionate impact on the most vulnerable sections of society: migrant workers, religious minorities and refugees among others.¹ These developments, many of which have been previously covered in the pages of the *Statelessness and Citizenship Review*, highlight the seemingly impossible choices that face those applying for, resuming or exercising Indian citizenship. They also show that Indian citizenship — understood as a source of formal legal status but also as a conduit for rights, a means of shaping one’s social and cultural identities and as a moral claim about belonging — remains unsettled with consequences for families across multiple generations. The petitions to be discussed highlight legal questions of increasing importance to descendants of former Indian citizens, but also of more general importance given the changes towards increasingly restrictive citizenship, visa and residence regimes globally. Crucially, under what circumstances does Indian citizenship automatically cease? In what cases does

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¹ Nayanika Mathur and Tarangini Sriraman, ‘In today’s India, some will not be Indians no matter how many documents they possess’, *Scroll.in* (online, 20 August 2025) <<https://scroll.in/article/1085685/in-todays-india-some-will-not-be-indians-no-matter-how-many-documents-they-possess>>, archived at <perma.cc/F89B-PVCL>. See also Mohsin Alam Bhat, Arushi Garg and Shardul Gopurjkar, *Unmaking Citizens: The Architecture of Rights Violations and Exclusion in India’s Citizenship Trials* (Report, National Law School of India University and Queen Mary University of London, July 2025).

citizenship ‘pause’ and ‘resume’? What are the implications of citizenship that is paused?

The legal regime relating to citizenship in India is governed by the provisions of the 1950 *Constitution of India* (*‘Constitution’*),² the 1955 *Citizenship Act* (*‘Citizenship Act’*)³ and rules made under the latter by the Central Government of India.⁴ Specific dates, years and durations (eg, 1950,⁵ 1987,⁶ 2024,⁷ five years,⁸ seven years,⁹ and so on) govern acquisition, retention, resumption, and termination of citizenship. Articles 5, 6, 7 and 8 came into force prior to the rest of the *Constitution* to address the displacements occasioned by the 1947 Partition into India and Pakistan, noting that everyone who was ordinarily resident in the territory of India was an Indian citizen at the time of the commencement of the *Constitution*.¹⁰ Under the aegis of art 11 of the *Constitution*, the Parliament enacted the *Citizenship Act* which created provisions for citizenship by naturalisation, registration and incorporation of territory.¹¹ Dual citizenship was not permitted.¹²

The continuing ambiguities of India’s citizenship regime relate to intersections between the *Citizenship Act* itself, and adjacent regimes relating to the issuance of a passport. The *Citizenship Act* lays out provisions for the acquisition of citizenship which, like much citizenship and immigration legislation all over the world, feature time limits. Naturalisation could be initiated after a period of five years of continuous residence,¹³ registration as an Indian citizen born abroad was possible for up to one year after birth, and so on. Termination of citizenship is also subject to term limits. Under s 8, a child’s Indian citizenship is automatically terminated when a parent who is an Indian citizen renounces their citizenship. However, the child’s citizenship can be resumed within one year of turning eighteen.¹⁴ Although the systemic disadvantages faced by those trying to acquire, retain and recognise their Indian citizenship have been studied, the petitions discussed in the following sections illustrate how provisions relating to automatic cessation of citizenship can create systemic disadvantages, and even de facto statelessness in cases where families have moved across international borders from or into India.

II LEGAL TEMPORALITIES AND CITIZENSHIP

The first point of contention that arises in these petitions is whether a particular sequence of events can affect whether one’s citizenship is automatically

² *Constitution of India* 1950 (*‘Constitution’*).

³ *The Citizenship Act* 1955 [India] (*‘Citizenship Act’*).

⁴ A list of relevant rules can be viewed on the *India Code* website: <<https://www.indiacode.nic.in/handle/123456789/1522>>, <perma.cc/EPU6-J6G8>.

⁵ See, eg, *Citizenship Act* (n 3) ss 3(1)(a), 4(1)(a), 9(1).

⁶ See *ibid* ss 3(1)(a)–(b).

⁷ See *ibid* ss 3(1)(b)–(c).

⁸ See *ibid* ss 5(1)(g), 7D(d), 10(2)(d), sch 3 (d).

⁹ See *ibid* ss 5(1)(a), 5(1)(c), 10(2)(e).

¹⁰ *Constitution* (n 2) arts 5–8; Gautam Bhatia, ‘Citizenship and the Constitution’, in Romila Thapar, N Ram, Gautam Bhatia and Gautam Patel (eds) *On Citizenship* (Aleph Book Company 2021) 72, 73.

¹¹ *Constitution* (n 2) art 11; *Citizenship Act* (n 3) ss 5, 6, 7.

¹² *Citizenship Act* (n 3) s 9.

¹³ *ibid* s 6(1), sch 3.

¹⁴ *ibid* s 8(2).

terminated or not. In *Chrisella Naidu v The Ministry of External Affairs and Others* ('*Chrisella Naidu*'),¹⁵ filed at the High Court of Bombay in Goa ('Bombay High Court') in 2024 against the High Commission of India in the United Kingdom ('UK'), the citizenship status of a 16-year-old child was at stake. The child's parents were Indian citizens at the time of their marriage which took place in Goa, but the marriage was subsequently dissolved. Because she was born in Goa before 1961,¹⁶ the mother of the child was able to apply for her birth to be registered in Portugal, and thereafter acquired Portuguese citizenship and a Portuguese passport, as well as an Overseas Citizen of India ('OCI') card. Later, the mother and child travelled to the UK as the former was seeking employment, and the latter entered on an Indian passport. The child was issued a residence card as the mother held Portuguese or European Union citizenship. Subsequently, the mother received a limited-term residence, and the child indefinite leave to remain or permanent residence. When the child applied as an Indian national to the Indian High Commission in London for the renewal of her passport, her application was rejected on the grounds that the mother, who held sole custody, was a foreign national. The family found themselves in a double-bind, complicated by pandemic-related travel restrictions. The mother's limited term residence permission in the UK was set to expire, after which she would have to leave, while the child, who did have indefinite residence permission for the UK, could not leave without her Indian passport. The final ruling relied not only on the provisions of the *Citizenship Act* and the 2003 *Citizenship (Amendment) Act*,¹⁷ but also on the history of Goa's incorporation into India and the conditions under which Goans received Indian citizenship.¹⁸ Examining each of these circumstances, the Bombay High Court ruled that the child could not be left stateless because her only parent chose to voluntarily acquire a foreign citizenship, and directed the High Commission to issue her a renewed Indian passport.¹⁹ The Bombay High Court's ruling recognised that without a passport, the child would be de facto stateless.²⁰

A second point of contention is about how provisions concerning 'illegal immigrants' relate to the automatic termination of citizenship. Ironically, these petitions involved those with refugee status in India, including the children of Tibetan and Sri Lankan refugees in India. In relation to the latter, cases repeatedly come up before the High Court of Judicature at Madras ('Madras High Court'), where petitioners have had to approach the courts to secure residence and travel documents. In the recent case of *S Ramya v Union of India* in 2025,²¹ the

¹⁵ WP No 135/2024 (High Court of Bombay at Goa) ('*Chrisella Naidu*').

¹⁶ Under the *Goa, Daman and Diu (Citizenship) Order, 1962* (29 March 1962) Gazette of India pt II s 3(i) ('*Goa, Daman and Diu (Citizenship) Order, 1962*'), issued pursuant to s 7 of the *Citizenship Act* (n 3), those persons who were born in Goa, or whose parents or grandparents were born in Goa before 20 December 1961 were granted Indian citizenship. They could also opt to retain a non-Indian nationality, and all children could choose Indian citizenship upon turning 18.

¹⁷ *Chrisella Naidu* (n 15) [14]–[15]; *Citizenship (Amendment) Act 2003* [India].

¹⁸ *Chrisella Naidu* (n 15) [12], citing *Lourdes Jennifer Lobo v Regional Passport Officer and Others* WP No 818/2023 (High Court of Bombay at Goa); *ibid* [13], citing *Goa, Daman and Diu (Citizenship) Order, 1962* (n 16). On the history of Goa and its incorporation into India, see also Lydia Walker, 'Extraterritorial Self-determination: East African Decolonisation and the Indian Annexation of Goa' in Bérénice Guyot-Réchar and Elisabeth Leake (eds) *South Asia Unbound: New International Histories of the Subcontinent* (Amsterdam University Press 2023) 83.

¹⁹ *Chrisella Naidu* (n 15) [27]–[28].

²⁰ *ibid*.

²¹ WMP No 6191/ 2025 (High Court of Judicature at Madras) ('*S Ramya*').

Citizenship Act amendments relating to ‘illegal immigration’ had an unintended impact on the petitioner’s life. The petitioner’s father and mother were refugees from Sri Lanka who arrived in India in 1984, shortly after the civil war broke out on the island. The petitioner was born in India and was issued an Indian passport, voter identity card and other documents, and eventually married an Indian citizen and had a son who was also a citizen. When the petitioner’s parents applied to renew their refugee status, authorities realised that the petitioner had been treated as a citizen of India despite neither of her parents being citizens and she was born after the cutoff date of 1 July 1987 specified in s 3 of the *Citizenship Act*.²² The authorities refused to entertain her application and labelled her an ‘illegal migrant’ per the provisions of the *Citizenship Act*.²³ They directed her to return as an Indian visa holder from Sri Lanka, following which she could apply for Indian citizenship. The Madras High Court, however, ruled that she did not fit the definition of an ‘illegal migrant’ because neither of the two conditions in s 2(b) of the *Citizenship Act* — entering without valid documents or overstaying a visa — was applicable to her case.²⁴ Given the ‘unique facts and circumstances’ of her case, the Madras High Court directed the issuance of her Indian passport without requiring her leaving and re-entering India.²⁵ Like the child in *Chrisella Naidu*, there was no guarantee that the petitioner in this case could get hold of a Sri Lankan passport. Here, the petitioner was labelled an ‘illegal migrant’ and placed at the risk of statelessness.

In *Union of India v Pranav Srinivasan* (*‘Pranav Srinivasan’*),²⁶ the Supreme Court of India (‘Supreme Court’) attempted to clarify issues around the resumption of citizenship, another instance where there was an unsettled relationship between citizenship and time. The case was brought on appeal from the Madras High Court, where the petitioner sought to resume their citizenship based on presumed Indian nationality. The petitioner was born in Singapore to parents who were Indian nationals, but who had acquired Singaporean citizenship before they were born. The mother was pregnant when she acquired Singaporean citizenship and her Indian citizenship ceased by operation of law. After the petitioner turned 18, he wanted to claim Indian citizenship. The Madras High Court ruled in his favour stating that an unborn child was entitled to resume citizenship under s 8(2) of the *Citizenship Act*.²⁷

On appeal, the Supreme Court reversed this decision, making a distinction between those Indian nationals who renounce their Indian citizenship and others where they cease to be Indian citizens by operation of law. According to the Supreme Court, in the case where people renounce their citizenship under s 8 of the *Citizenship Act*, there remained a possibility of resuming citizenship; whereas in the case where they cease to be Indian citizens by operation of law under s 9 of the *Citizenship Act*, no resumption is possible.²⁸ Since the petitioner’s parents had ceased to be Indian citizens by operation of law, the petitioner himself was not an Indian citizen, or could not apply to resume citizenship.²⁹ Nor did the lawyers have

²² *ibid* [4]; *Citizenship Act* (n 3) s 3(1)(b).

²³ *S Ramya* (n 21) [8].

²⁴ *ibid* [9].

²⁵ *ibid* [10](iii).

²⁶ 2024 INSC 792 (Supreme Court of India).

²⁷ *ibid* [9].

²⁸ *ibid* [19]–[20].

²⁹ *ibid*.

much success with the argument that the petitioner was a citizen by descent since the grandparents were born in ‘undivided India’.³⁰ The Supreme Court noted that the interpretation of the phrase ‘undivided India’ within this provision must consider the constitutional provisions on citizenship that reference the Partition, and indicated that it could not be used to refer to grandparents who had been born in pre-Independence India.³¹ In the end, the petitioner was unsuccessful in resuming Indian citizenship and encouraged to apply for Indian citizenship by naturalisation.³²

Although the Supreme Court claimed in *Pranav Srinivasan* that the language of the *Citizenship Act* is straightforward, these cases show that the provisions continue to be ambiguous because of how are interpreted in relation to administrative actions, such as the issuance of a passport. The interpretation of the *Citizenship Act*’s provisions fails to recognise the realities of thousands of people on the move within the country and across international borders today. Other recent examples include a child of Indian citizens in Mozambique being denied an Indian passport because the passport issuing authority did not appropriately interpret citizenship by descent.³³ In yet another ongoing case, children who surrendered their Pakistani passports have been unable to get Indian citizenship because they cannot obtain renunciation certificates, which are not a substantive requirement under the *Citizenship Act*,³⁴ leaving them stateless in India. In these interactions, people are faced with often impossible or costly choices with profound consequences for the wellbeing of families. While conflicts of law often apply in the case of nationality adjudication, the latter’s interaction with administrative actions results in citizenship paused for an unborn child, a child waiting to turn 18, during a global pandemic, or during the pendency of a lengthy litigation.

III MIGRATION HISTORIES AND TERMINATION OF CITIZENSHIP

The migration histories and family circumstances in the petitions previously discussed involving children awaiting recognition of their citizenship are neither unique nor isolated instances. Most renunciations of citizenship, including many of the 206,378 people who returned their Indian passports in 2024,³⁵ seem to occur after acquiring a foreign nationality by operation of law. If we take the ruling in *Pranav Srinivasan* to its logical extent, no real alternative exists for children who became naturalised citizens of another country unless they be stripped of their naturalised citizenship. They would in effect be rendered stateless. The legal

³⁰ *ibid* [18].

³¹ *ibid* [15]–[16], discussing *Constitution* (n 2) art 8.

³² *ibid* [25].

³³ ‘Rajkot woman born in Africa denied passport’, *Times of India* (online, 13 September 2025) <<https://timesofindia.indiatimes.com/city/ahmedabad/hc-intervenes-after-rajkot-woman-denied-passport-over-foreign-birth/articleshow/123856648.cms>>, archived at perma.cc/P6EP-62DS>.

³⁴ George Poikayil, ‘India Demands Certificate Pak Won’t Give, Kerala Mom Struggles for Daughters’ Citizenship and Grandson’s Fragile Life’, *On Manorama* (online, 16 September 2025) <<https://onmanorama.com/news/kerala/2025/09/16/indian-citizenship-demand-certificate-pakistan-wont-give.html>>, archived at <perma.cc/2FJY-HHU7>.

³⁵ ‘Question No 220 Renouncement of Indian Citizenship by Citizens: Rajya Sabha, Starred Question No 220, Answered on 20.03.2025’, *Ministry of External Affairs* (India) (Media Center Post, 20 March 2025) <<https://www.mea.gov.in/rajya-sabha.htm?dtl/39224/question+no+220+renouncement+of+indian+citizenship+by+citizens>>, archived at <<https://perma.cc/9YUN-FLU7>>.

questions surrounding the automatic cessation of Indian citizenship under s 9 of the *Citizenship Act* are the subject of a constitutional challenge in the Supreme Court at the time of writing,³⁶ with petitioners arguing that the automatic revocation of Indian citizenship violates due process considerations and hinders mobility between places of birth and places of work.³⁷ This is similar to the circumstances of families in the two earlier petitions: the single mother in *Chrisella Naidu* who moved from Goa to Portugal to the UK, or the parents in *Pranav Srinivasan* who lived in Singapore and whose grandparents lived in India.

Time lags, transitional provisions, delays, and temporal limits feature prominently in the history of Indian citizenship. While there were interim provisions in the 1950 *Constitution* to address questions of citizenship, particularly to deal with those individuals and families affected by the 1947 Partition of the subcontinent, the *Citizenship Act* did not come into force until 1955. For those affected by the Partition, it began a period of intense scrutiny of paperwork — passports, permits and the like — alongside forced displacement, deprivation of property, and insufficient support from refugee resettlement schemes.³⁸ Beginning in the early 2000s, amendments to the *Citizenship Act* began to take shape in light of the Assam Accord, which created a political settlement between Assam’s political and student leaders and the central Indian government regarding illegal immigration from Bangladesh following its independence from Pakistan.³⁹ Those who had entered India between 1965 and 1971 were to be treated with suspicion.⁴⁰ Finally, the recent amendments to the *Citizenship Act* in 2019 reflect an attempt by the present political dispensation in India to offer a smoother path — a ‘fast track’⁴¹ — towards citizenship for non-Muslim minorities from Pakistan, Bangladesh, and Afghanistan.⁴²

However, perhaps less well-known is a history of how time lags between the constitutional provisions regarding citizenship in 1950 and the *Citizenship Act* in 1955 affected not just those in direct proximity to the events of South Asia’s many partitions, but its effects were not merely restricted to the immediate aftermath of these events. Many who left India and lived and worked outside the country prior to Independence were caught up in this period of uncertainty, not knowing which citizenship they ought to opt for, what the registration procedures were, and what the consequences would be if they had to eventually make their way back to India and claim Indian citizenship. Many of these legal ambiguities involved the families of former migrants from India to Southeast Asia, the subject of my book in which I demonstrated how citizenship regimes emerged from the legal disputes

³⁶ *Tarunabh Khaitan v Union of India*, WP(C) No 1074/2023 (Supreme Court of India). See also Saahas Arora, ‘Automatic Termination of Citizenship Under Indian Law: How India’s Legal Structure Makes Citizens Stranger to Their Own Motherland’ (2025) 55(2) *Social Change* 276.

³⁷ Arora (n 36) 282.

³⁸ See, eg, Vazira Fazila-Yacoobali Zamindar, *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories* (Columbia University Press 2007); Haimanti Roy, *Partitioned Lives: Migrants, Refugees, Citizens in India and Pakistan, 1947–1965* (Oxford University Press 2012).

³⁹ Antara Datta, ‘Bordering Assam through Affective Closure: 1971 and the Road to The Citizenship Amendment Act of 2019’ (2022) 53(2) *Asian Affairs* 298.

⁴⁰ *ibid* 308.

⁴¹ Anupama Roy, *Citizenship Regimes, Law, and Belonging: The CAA and the NRC* (Oxford University Press 2022) 231.

⁴² *Citizenship (Amendment) Act 2019* (India); Manav Kapur, ‘India’s *Citizenship (Amendment) Act*: A Throwback to Debates around the “Long Partition”’ (2021) 3(1) *Statelessness & Citizenship Review* 208, 208.

over cross-border taxation, immigration, and detention between the 1940s and 1960s.⁴³ In Burma or Myanmar, a gradual tightening of requirements for entry and exit, residence and trade meant that people were caught between trying to juggle the financial burden of maintaining legal status, growing resentment against and narrowing of opportunities for migrant workers, and a seemingly impossible choice between staying on with family in Burma or returning to a land long left behind in India.⁴⁴ For descendants of indentured or contracted labourers in Burma, Ceylon and the former Straits Settlements who were from caste-oppressed communities labelled as ‘unskilled’ workers, there was no easy path to citizenship in their adopted homes or places of work.⁴⁵ Nor was there a clear path to citizenship in India, their fates often left to the shifting fortunes of trade union leaders or progressive lawyers.⁴⁶ The lack of clarity on these processes — cut off dates, term limits, the proper sequence of events required to qualify as ‘Indian’ — likely contributed to the involuntary cessation of citizenship in many cases and a rising risk of statelessness.

In the decades that followed, those former Indian nationals who were subject to denationalisation in Kenya and Uganda following its independence could not reclaim Indian citizenship and became refugees in the UK and North America.⁴⁷ Meanwhile, migrations and displacements within South Asia also created refugees in India: Sri Lankan Tamils seeking refuge following the outbreak of civil war, Tibetan refugees resettled in India as they fled the People’s Republic of China regime; and most recently, Rohingya refugees in India fleeing Myanmar.⁴⁸ For refugees residing in the country, periodic visits to local authorities for registrations and renewals of permits, certificates, and permissions became reminders of their liminal legal status in the country, with Indian citizenship always just out of reach.

IV CONCLUSION

Like these historical examples from the 1940s through the 1960s, and the petitions and examples above, temporal limits in Indian citizenship legislation are not only about waiting to become a citizen, but it is often also de facto statelessness created because of the delayed recognition of citizenship, as well as administrative delays and conflicting legal provisions. The rulings in these writ petitions remind us that citizenship that is paused or revoked is an anomaly; it can only be withdrawn and resumed if events follow a particular sequence and if done within a particular time. Much is left to the discretion of administrative authorities, and only those with sufficient means are able to challenge any adverse rulings in the courts. Most people will then continue to navigate — and be forced to navigate — a spectrum

⁴³ Kalyani Ramnath, *Boats in a Storm: Law, Migration, and Decolonisation in South and Southeast Asia, 1942–1962* (Stanford University Press 2023).

⁴⁴ See, eg, *ibid* ch 2.

⁴⁵ On patterns of migration across the Bay of Bengal, see Sunil Amrith, *Crossing the Bay of Bengal: The Furies of Nature and the Fortunes of Migrants* (Harvard University Press 2013). On the Indian passport and its intersections with caste, class and gender, see Kalathmika Natarajan, ‘The privilege of the Indian passport (1947–1967): Caste, class, and the afterlives of indenture in Indian diplomacy’ (2003) 57(2) *Modern Asian Studies* 321.

⁴⁶ See Ramnath (n 43) 1–25.

⁴⁷ Ria Kapoor, ‘Re-Uniting Split Families: The 1972 Ugandan Asian Refugees and the Internationalisation of an Imperial Diaspora’ in Berenice Guyot-Réchar and Elisabeth Leake (eds) *South Asia Unbound: New International Histories of the Subcontinent* (Amsterdam University Press 2023) 145, 146.

⁴⁸ See Ria Kapoor, *Making Refugees in India* (Oxford University Press 2022) 3.

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of legal statuses as their families move between places for work or study, whether in search of better opportunities or as a means of escape, measuring out their lives in units of time spent in a jurisdiction. As popular migration destinations for Indian workers and students, such as the UK, Europe and the United States of America, begin to double down on restrictive visa, residence and citizenship requirements, family structures and circumstances like in the petitions discussed will become increasingly common if Indian governments also choose to simultaneously create more restrictive citizenship and visa regimes, and ultimately force the courts to resort to ad hoc solutions specific to the facts of the cases that come before them. As courts and governments continue to explore solutions and address constitutional challenges, any counterproposal must rest on a compassionate understanding of the slippages between legal temporalities and the lived realities of people crossing borders and navigating multiple legal regimes of citizenship.