

# Passport is not Proof of Citizenship - Understanding India's Legal Position

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## Passport is not Proof of Citizenship Latest News

- On Passport Seva Divas (June 24), the Ministry of External Affairs (MEA) clarified that an Indian passport is **primarily a travel document** and not conclusive proof of citizenship.
- The statement sparked public debate because passports are widely regarded as the most authoritative identity documents.
- However, the clarification reflects the long-established legal distinction between **citizenship as a legal status** and documents that merely provide evidence of that status.

## Citizenship

- **A legal status, not a document:**
  - **Articles 5-11** (Part II) of the Constitution and the Citizenship **Act, 1955** govern acquisition and determination of Indian citizenship.

- Citizenship is based on birth, descent, registration, naturalisation or incorporation of territory, not on possession of any particular document.
- No law identifies a single universal document as definitive proof of Indian citizenship.
- Government-issued documents only serve as **evidence supporting** the legal claim of citizenship.
- **MHA's Parliamentary clarification (2020):**
  - In response to a Parliament question, the Ministry of Home Affairs (MHA) clarified that Aadhaar, Passport, Voter ID, PAN Card and Birth Certificate are not legally designated as proof of citizenship.
  - Instead, citizenship is determined strictly according to the Citizenship **Act, 1955** and related rules.

## Why a Passport is Strong Evidence but Not Conclusive Proof

- **Legal position:**
  - A passport is issued only after the government is satisfied that the applicant is an Indian citizen.
  - However, it does not create citizenship and cannot conclusively establish citizenship if challenged before a court.
- **Section 20 of the Passports Act:**
  - It empowers the Central Government to issue a passport or travel document even to a **non-citizen** in exceptional cases where public interest so requires.
  - This provision has been used for stateless persons, certain Tibetan refugees, and Sri Lankan Tamil refugees requiring international travel.
- Thus, the law itself recognises that a passport is fundamentally a **travel document**, not an exclusive citizenship certificate.

## International Practice and Judicial Interpretation

- Many democracies follow the same principle:
  - The **United Kingdom** and **United States** issue passports only after citizenship has been established.
  - However, they also maintain formal citizenship certificates and stronger civil registration systems, making citizenship verification more straightforward.
- **SC observations:**
  - During hearings on **Bihar's** Special Intensive Revision (**SIR**) of electoral rolls, the Supreme Court of India observed that passports and birth certificates possess **stronger evidentiary value**.
  - Nevertheless, the Court stopped short of declaring them conclusive proof of citizenship.
- **Judicial precedents:**
  - **Sarbananda Sonowal v. Union of India (2005):** The SC held that the burden of proving citizenship rests on the individual claiming it.
  - **State of Andhra Pradesh v. Abdul Khader (1962):** The Court treated a passport as relevant evidence but ultimately examined constitutional criteria such as birth, domicile and migration history before determining citizenship.
  - **Bombay High Court (2013):** The Court held that documentary possession alone was insufficient without establishing parental citizenship.

# India's Structural Gap

- **No universal citizenship document:** A key issue highlighted by the controversy is that India has no universal citizenship certificate.
- **Current position:**
  - Citizens by registration or naturalisation receive formal citizenship certificates under Sections 5 and 6 of the Citizenship Act.
  - Citizens by birth, who constitute the overwhelming majority, receive no equivalent document.
  - As a result, citizenship is generally established through a combination of birth certificates, electoral rolls, school records, land records, passports, etc., rather than a single definitive credential.
- **Historical reasons:**
  - India's civil registration system **developed unevenly** after Independence.
  - Universal birth registration became widespread only in recent decades.
  - Consequently, many older citizens rely on multiple documents accumulated over time instead of a dedicated citizenship certificate.

## NRC - Attempt to Create a Citizenship Register

- **Legal framework:** The Citizenship Rules, **2003**, introduced during the Vajpayee government, envisaged:
  - A National Register of Indian Citizens (NRIC).
  - National, State and Local Citizenship Registers.
  - Issuance of citizenship identity cards.
- **Aadhaar vs Citizenship debate:**
  - During the UPA government, the Home Ministry argued that Aadhaar should not be treated as proof of citizenship, since it verifies identity and residence rather than citizenship.
  - The proposed NRC was intended to fill this gap by creating an official citizenship record.
- **Assam NRC experience (2015-2019):**
  - Applicants had to establish links with legacy records predating 24 March 1971.
  - Nearly 19 lakh applicants were excluded due to missing or inconsistent documents, spelling discrepancies, and difficulties in proving family lineage.
  - The nationwide NRC proposal subsequently became politically contentious, especially after the **Citizenship (Amendment) Act (CAA)** debate.

## Conclusion

- The MEA's clarification reiterates a long-settled legal principle. However, the controversy also exposes a deeper **institutional challenge** - India possesses a comprehensive citizenship law but lacks a universal document.
- Experts emphasise the need for better **integration** of identity and citizenship databases while safeguarding constitutional rights.
- Such reforms would reduce dependence on fragmented documentary evidence and minimise disputes over citizenship.

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