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India's Tryst with Dual Citizenship: A Two Step Back One Step Forward Approach?

KARAMJIT PAL SINGH¹ AND GURDEEP SINGH²

ABSTRACT

The debate on citizenship has raised far reaching issues both domestically as well as in the international humanitarian context. The debate on citizenship has been a precarious one specially in our country. One might say that it is the most undervalued right, but it is the most pertinent right of a human being given the rise of nation state model in our polity. Apart from equality of individuals in society, it is largely based on the normative understanding on who is an appropriate member of the society. While it is imperative for the legislators to organise their approach and understand the debate on citizenship, it should not be at the detriment of an individual. There is a blur line when we define who is a foreign national, citizen or a stateless subject. Citizenship is a tale of belonging of an individual, to the constitution, the state and the nation, in India to the concept of the Indian-ness and the affinity to one's motherland. Statelessness as various scholars have argued before is the anathema to the rights of an individual, which equates a person having no legal identity and potentially to their detriment no rights under law. While a debate on citizenship brings out passions out of everyone, the present discussion would be an academic one, with its main focus on the concept of 'dual citizenship under the present legal framework'. Dual Nationality is something that has been incorporated by legislators, accepted as a concept and acted upon quite evidently in the 21st century with the rise of globalization and the possible rise of transnationalism. This rise is can be attributed to both internal and external factors, it can be seen by deconstructing the segmentary traditional concept of nation state and a growing integration of economic, cultural, political and social ties across the geographical boundaries. More than 100 countries have in the last 20 years introduced this concept of dual citizenship, with a significant rise in the European and African continent. The present discussion would be subdivided into two parts, Part I would focus on the rise of the movement for dual citizenship throughout the globe. It would also focus on the arguments for and against the concept of dual citizenship. Part II would focus on the present Indian regime and the necessary implications thereto on a large population of migrants, NRI's and OCI card holders. This part would also discuss the recent amendments and a need for a robust understanding of the concept. The author

¹ Author is a student at Rajiv Gandhi National University of Law, Punjab, India.

² Author is a student at Rajiv Gandhi National University of Law, Punjab, India.

would critically examine the recent amendments that would potentially have a detriment towards free speech and dissent, which has been a general course for quite some time now. Lastly, to conclude the author would also stress on the Forward-backward approach towards the present issue, the lack of political will and a lackadaisical approach by the lawmakers to deal with the issue of dual Nationality and Indian diaspora in general.

Keywords: OCI, Card holder, Dual Citizenship.

I. CITIZENSHIP AND BELONGING: INTRODUCING THE CONCEPT

Throughout civilizations we've seen a concept citizenship that has subjugated individuals including minorities, Dalits, women, African Americans, and had equated them to slaves or chattels. This is the reality of the civilization that was prevalent in the Greek society of Plato till the American independence, wherein it was declared that all men (not women or slaves) are created equal. Similarly, Germany under the pretext of superior nationhood caused all deplorable atrocities. According to the author beliefs citizenship sometimes interchangeably used as nationality or nationhood has been a concept that has been a hegemonic belief and rather than celebrating diversity, has used as a tool to spread hate, exploit and certain groups of people, mostly being minorities. But who knows who'd be next?

Citizenship³ or nationality is a human right. The Universal Declaration of Human Rights proclaimed by the United Nations in 1948 contained clause 15 which emphasises that, "Everyone has a right to nationality". In order to understand the existing scenario, where we can see the increased number of countries allowing dual citizenship, firstly we have to look at the previously existing scholarly debates and the present regime under law. There are two kinds of reasons we can see for the emerging trend and expansion this concept of dual citizenship, internal and external reasons. The debate of citizen's rights and duties has relevance in both internal and external reasons for the expansion of dual citizenship. Citizenship stands for an active and passive mode; active for the duties of citizens toward the country and passive for rights for which they are entitled to. There are major reasons against allowing the dual citizenship which rests on the problem of fulfilling the duties as a citizen in different countries, for example military service, taxation requirements and political participation. The significance of the dual citizenship is that it provides an opening for the discussions regarding future of the

³ V.S. Deshpande, DUAL CITIZENSHIP FOR NON-RESIDENT INDIANS, Journal of the Indian Law Institute, Vol. 34, No. 2 (APRIL-JUNE 1992), pp. 247-253.

Accessed Through: <https://www.jstor.org/stable/43951426>.

See Also: Deepak Saxena, Dual Citizenship, Economic and Political Weekly, Vol. 38, No. 49 (Dec. 6-12, 2003), p. 5216. Accessed Through: <https://www.jstor.org/stable/4414379>.

Global village that we are presently part of.

The globalisation played an important role in improving the technologies allowing the individuals to live across various countries simultaneously and normalized transnational living. Another kind of problem faced by the concept of dual citizenship is a lack of development of a unified set of rules for the Nationality. There is development of strong comparison with the problem of the “statelessness” and some say that the dual citizenship is anti-thesis to statelessness. The problems like 9/11 led to increased security awareness and showed the importance of the “securitisation of the inside”. The increase of dual citizenship can give rise to increased free movement of the illegal migrants, free global movements.

II. REASON FOR GROWTH OF DUAL CITIZENSHIP

After the World War II, there was seen a massive trend of large scale and circular migration flow. The migration of people from relatively poor countries to the countries where they can easily find work and live a better life without having to spend it in misery of being living in backward third world country. Another reason where birth rights to citizenship can be given based on *jus soli*, *jus sanguinis*, or combination of the two. *Jus soli* is basically giving citizenship the people who are born in the territory. *Jus sanguinis* describes a citizenship tradition based on descent/blood relations. Dual citizenship occurs by naturalization without the renunciation of the previous citizenships. The birth in the country with *jus soli* legislation by the parents who are from countries with *jus sanguinis* legislations. Also, peace among the nations and reduction in the warfare. The military joint exercise and increasing number of human rights treaties and convention among the powerful nation. The expansion of the international human rights regime.

III. WHAT DOES THE LAW PRESCRIBE: CONSTITUTIONAL ISSUE ON DUALITY OF CITIZENSHIP?

Generally, it is uncommon for the constitution of a country to define citizenship, the legislature is tasked with the process of defining the concept of citizenship, but with an abrupt emergency caused in the backdrop of partition, the constituent assembly was faced with this precarious challenge to incorporate who would be citizens of independent India.⁴ The concept of

⁴ Refer to the speech by our Ex-Prime Minister, one of the great leaders Atal Bihari Vajpayee and his message to the Indian Diaspora across the world dated 9th January 2003.

Accessed Through: <https://archivepmo.nic.in/abv/speech-details.php?nodeid=9002>.

See also: Nasima H. Khan, PM Atal Bihari Vajpayee declares issue of dual citizenship for NRIs resolved, India Today, January 21, 2002. Accessed Through: <https://www.indiatoday.in/magazine/indiascope/story/20020121-pm-atal-bihari-vajpayee-declares-issue-of-dual-citizenship-for-nris-resolved-796112-2002-01-21>.

citizenship therefore was defined under part II of the constitution, but the provisions of section 5-10 lapsed and only relevant provision for future was Article 11 which gave absolute, exclusive and unbridled powers to the legislators to deal with matters of citizenship. But the constitution being the 'Grundnorm' cannot be superseded, by the non-obstinance clause under Article 11 and it is material to expound the intent of the constituent assembly. Hence although the parliament later enacted a specific legislation in 1955, part II still remains important in terms of defining the concept of a citizen after all these years.

The concept of Indian citizenship is largely based on Indian origin and descent, the affinity towards the motherland, the legal term for the same being domicile⁵ and a concept of Indianness. We should keep in mind the ideals and the values that were cherished by the freedom fighters in the Independence movement.⁶ Domicile in India is an essential requirement for acquiring citizenship. The concept of domicile can be categorized as a domicile of 'origin' and a domicile of 'choice'. Although a birth place is always permanent and cannot be taken away with, the process of naturalization has been recognized throughout globe for the grant of citizenship. Hence a conjoint reading of Article 5 and 6 make it amply clear that all individuals on the basis of descent should be presumed to be Indian citizens and the registration thereto would only be a mere formality, but the same has an exception under Article 9. This article starts with a non-obstinance clause with regard to Art. 5 and according to Article 9, a person making a positive volition and giving up the Indian citizenship for a foreign state would not be a citizen. Also, this article prescribes central government and not the courts intervention to make an inquiry as to every question of citizenship, the only enquiry being the acquisition of a foreign citizenship. But, foreign citizenship is not a disqualification and it can be cured by registration clubbed with a volition to reside in India for 5 years. Hence, citizenship by registration is not only a statutory right but a constitutional right under article 5(1)(b) even to a person not residing in India, and the same can be agitated in the court of law, even after an express bar under article 9(2).

IV. WHY DUAL CITIZENSHIP IS NORMAL/ ACCEPTED

“There is no provision of Dual Citizenship in India. If any Indian Citizen opt Citizenship of

⁵ Domicile traditionally means permanent home, clubbed with an **intention to remain there for an indefinite period (animus menendi)**, and is not the same as to the fact of one's residence.

Burgain and Fletcher, *The Students Conflict of Laws*, 3rd Edn. 1937, See Also, Mohd Reza Debstani v. State of Bombay, AIR 1966 SC 1436: (1966) 3 SCR 441. See Also, Ali Ahmad v. K. Pati, AIR 1965 Pat 371.

⁶ **Referring to the Constituent assembly debate** we should bear in mind that the concept of religion was never accepted by the constituent assembly and the people who had that idea imbedded in their demands created a separate state in Pakistan. India is based on the idea of oneness and diversity something that has been prevalent throughout ages and incorporated in various teachings and scriptures.

any other country, than he/she shall cease to be a Citizen of India.”

It is worldwide phenomena and literally followed by half the countries. Even it is written in their legislations. It seen that European and American countries are more open to accept this trend, but Asian countries are hesitant to allow this. Despite this more and more countries allowing their citizens to be dual citizen.⁷ The countries in order to accommodate the citizens abroad, and some countries have changed their legislation in order to accommodate the migrants. The countries are more open to this concept of dual citizenship in order to harmonise and facilitate integration. The other reasons could be the political participation among these nations. Citizenship is constantly changing concepts and poses implications for the legislation in the matter of the tax, property rights and voting rights. With greater level of migration among these nations, it has become the central issue for the government to address.

V. THE BENEFITS OF DUAL CITIZENSHIP

1. Dual Nationality could advance overall participation of citizenry

There is scarce number of documentations for the work permits or no work permit will help in socioeconomic integration. The mobility within the EU without visa is perfect example. This not only helps the citizens to find work easily but also find the perfect environment he/she would like to work in.

2. Dual citizenship can enhance and embrace transnational participation

The freedom to travel across borders, providing greater opportunity in the labour market and access to the educational institutions are advantageous. This supports innovation and helps in sharing different skills inter-state.

3. Dual citizenship enhances esteem and self-respect

Many migrants have attachments in two or more places nation-state borders, therefore having plural identifications and loyalties. This helps in beautification of the image of the nation in the international hemisphere.

VI. PROBLEMS POSED BY DUAL CITIZENSHIP

1. Dual voting is an issue that critics sight

⁷ Thomas Faist and Jürgen Gerdes, Dual Citizenship in the Age of Mobility, Transatlantic Council on Migration, Migration Policy Institute, Bielefeld University, 2008.

Accessed Through: <https://www.migrationpolicy.org/sites/default/files/publications/faist-final%5B1%5D.pdf>.

See Also: Agnese Lace, Dual Citizenship as a Tool for Diversity Management in The Era of Transnationalism KOÇ University, Integrim Online Papers No 5, 2015, Accessed Through: <https://www.integrim.eu/wp-content/uploads/2014/02/LACE-dual-citizenship-as-a-tool.pdf>.

The benefits of having more people participating in the state where they reside was later seen as outweighing the problem of double voting. The outsiders having the control over the politics of the nation which creates distress in general public.

2. Lack of integration

The integration should be proved and tested. The growing fear of Islamic fundamentalism and terrorism in nation. This has also led to illiberal traditional of arrange or forced marriages and honour killings.

3. Lack of loyalty towards nation

The permanent citizens not ready to renounce their citizenship of origin, concerns the government. There are number of immigrants who are permanently residing in the country who are not willing to give up their citizenship of origin. Even they are not going back to country and living as an immigrant their whole life.

4. The devaluation of the natural citizenship and deteriorating concept of nation

The national citizenship will lose its value, this fear remains connected with the dual citizenship. People tend to shift to country which suites them better and hence results in downgrading the image of their home country.

VII. FUTURE IMPLICATIONS OF THE DUAL CITIZENSHIP

First of all, the arguments against the dual citizenship are weak. The fear of dual voting is misplaced because if the migrants were to vote, they will be voting in the different nation-state. Secondly, we have seen that the spread of the dual citizenship has not led to any kind of tension and conflicts among the nation. The difficulty of different laws and regulations, duties, taxation, military service and inheritance can be solved by joint effort and bilateral treaties. Thirdly, if there is doubt about the loyalty, it's better to have them as citizen than noncitizens. The dual citizenship has led to increase in the number of the naturalization and encourages overall social and political integration. It increases democratic legitimacy because it embraces both the immigrant population and general population. It is more financially better way to harmonise rather than spending more money in the process of interstate integration. The concept of the dual citizenship will only grow because the immigrants and their next generation strive to become full members of liberal democratic countries.

VIII. OCI CARDHOLDERS AND THEIR RIGHTS: A LIMITED CONCEPT OF CITIZENSHIP AND A CONCEPT OF PERSISTENCE TRADITIONAL CITIZENSHIP

India is one of the most populous country around the globe and Indians have travelled across the world, and around 30% of Indians are the CEO's in Fortune 500 companies.⁸ According to a report by United Nations the Indian diaspora is amongst the largest in the world with 18 million people living in places outside India.⁹ According to the Ministry of External Affairs (MEA) more than 30 million people are under the category of NRI's and OCI's.¹⁰ An OCI Cardholder:

“is a person who is of Indian origin and citizen of a specified country, or was a citizen of India immediately before becoming a citizen of another country (mentioned in specified list), and is registered as an oci by the Central government. Prima facie then, as was also being claimed by politicians across the board while debates on the oci were taking place, the oci embodies the conjuncture of globality and transnationality of citizenship.”

An OCI can be equated to a lifelong visa and the individuals are exempt from registering with Foreigners Registration Office (FRRO). This Scheme was first launched by way of an amending Act in 2002 in the Citizenship Act, 1955 because of a large hue and cry specially amongst the Indian diaspora for dual citizenship living in developed countries like UK and USA.¹¹ Initially the concept of Person of Indian Origin (PIO) was introduced which was later merged with the category of OCI's by way of Citizenship Amendment Act, 2015.

The dialogue on dual citizenship began with the speech by our Ex-Prime Minister and one of

8 Nivedita Roy, **15 Indian CEOs of International Companies and Their Net worth**, Viral Indian Diary, January 18, 2021.

Accessed Through: <https://www.viralindiandiary.com/indian-ceos-international-companies-networth/>.

9 Indians outshine throughout the world specially in first world countries like US and UK. The reason being, the cream does not stay in India as merit has no reservation in India as a government policy. The Economic Times, **at 18 million, India has the world's largest diaspora population**, 15th Jan 2021. Accessed Through: https://economictimes.indiatimes.com/nri/migrate/at-18-million-india-has-the-worlds-largest-diaspora-population/articleshow/80290768.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cpps. See Also: The Print, **Indian diaspora largest in the world, 18 million living outside India in 2020, says UN**, 16 January, 2021. Accessed Through: <https://theprint.in/india/indian-diaspora-largest-in-the-world-18-million-living-outside-india-in-2020-says-un/586624/>. “According to a UN report, the largest numbers of migrants from India are living in UAE (3.5 million), US (2.7 million) and Saudi Arabia (2.5 million).”

¹⁰ Ministry of External Affairs, Accessed Through: https://mea.gov.in/images/attach/NRIs-and-PIOs_1.pdf.

¹¹ “Because of a systematic exclusion of large no of ethnic Indians from other poorer countries, African National Congress Leader Fatima Meer criticized it this move to amount as a ‘Dollar and pound Citizenship’.”

See Also: PARTHA S GHOSH, **The Citizenship Discourse in India**, Economic and Political Weekly, MARCH 12-18, 2011, Vol. 46, No. 11 (MARCH 12- 18, 2011), pp. 28-30.

Accessed Through: <https://www.jstor.org/stable/41151966>.

the great leaders Atal Bihari Vajpayee and his message to the Indian Diaspora across the world dated 9th January 2003 that was based on the recommendation of a High-Level Committee¹², headed by Dr Laxmi Mall Singhvi. It which he had vehemently stated:

*“my government has decided to accept the High-level Committee’s recommendation to permit dual citizenship for People of Indian Origin living in certain countries. We are now working on the administrative regulations and procedures governing dual citizenship. We will introduce the necessary legislation during the Budget Session of Parliament.”*¹³

In the speech he referred to the father of our nation and his struggles against the apartheid faced by various Indians in South Africa and the civilizational heritage that India, we the people have inherited. Post this speech serious allegations had been made at various instances in the parliament about this move, compromising the security, sovereignty and integrity of India.¹⁴ But our worthy Prime minister acknowledged and appreciated not only the riches and experience the diaspora bring but how they had been instrumental to change India’s perception in a positive direction globally, they had been of utmost help in times of need in our country.¹⁵

But in the recent past the ruling government has totally changed its stance to an upside down equating OCI cardholders as foreign nationals but its latest notification dated 4th march 2021. It couldn’t have been the legislative intent behind introducing the concept of dual citizenship, gathered by the speech by our Ex- Prime Minister. Further, since the amendment act of 2003 there has been a ‘Legitimate expectation’ created by the amendment act of 2003 and whether it can be abridged by this recent notification, is an issue which needs clarification, but the intent of the notification could be to Nullify two recent judgments by the High Courts of Delhi and Karnataka which could be considered liberally construing the concept of citizenship. To Sum although parliament is given unhinged power under the constitution regarding citizenship, the

12 Page 26-30 of the 107th Report on the Citizen (Amendment) Bill 2003, Presented in The Rajya Sabha on 12th Dec, 2003). Accessed Through: http://164.100.47.5/rs/book2/reports/home_aff/107threport.htm. See Also: Executive summary of the report, Accessed Through: <https://www.mea.gov.in/images/pdf/1-executive-summary.pdf>.

¹³ Accessed Through: <https://archivepmo.nic.in/abv/speech-details.php?nodeid=9002>.

¹⁴ According to this article, “during an extensive parliamentary debate on amending OCI legislation in 2005, 16 out of 34 speakers made 55 references to national security.”

Daniel Naujoks, The securitization of dual citizenship. National security concerns and the making of the Overseas Citizenship of India, Columbia University, *Diaspora Studies* 8(1):18-36, January 2015. Accessed Through: https://www.researchgate.net/publication/280746283_The_securitization_of_dual_citizenship_National_security_concerns_and_the_making_of_the_Overseas_Citizenship_of_India.

¹⁵ Accessed Through: <https://archivepmo.nic.in/abv/speech-details.php?nodeid=9002>.

“Whenever India has faced a challenge to its security or to its territorial integrity, you have tirelessly championed its cause. When there was an effort to isolate India after our nuclear tests of 1998, you came forward to stand by India. Your enthusiastic response to our Resurgent India Bonds in 1998 helped us raise over 4 billion dollars, when we needed it most. Many of you have been generously helping the schools, colleges, IITs and universities, as their grateful alumni.”

same could be challenged firstly because the procedure applied should be just, fair and reasonable¹⁶ and secondly it is a trite law that a sub delegation cannot supersede a parliamentary legislation. Hence it can be argued that the said guidelines possibly contravene the amendments of 2003 and the legislative intent thereto.

According to the Delhi HC¹⁷ rights under Articles 14 and 19 prima facie extend to the OCI cardholder. In a laymen's term an OCI can enter India multiple times for an indefinite period and post 5 years their stay the individual would be eligible to apply as an Indian citizen, but from a constitutional perspective they aren't equated to a traditional citizen. Earlier they were subject to police reporting at frequent intervals and potential harassment which has been done away as it acted in a detriment of the individuals. In terms of rights, the OCI's have almost all rights of a citizen except political rights of voting and also the right to work under a government instrumentality or to buy farm lands.¹⁸

One of the disqualifications prescribed under law for an OCI cardholder, something that has been in the current news is if an individual or his lineage has ties and is a citizen of either Pakistan or Bangladesh post-independence.¹⁹

IX. THE NEED FOR LEGISLATIVE REFORM: A DUAL CITIZENSHIP CRITIQUE OF THE PRESENT INDIAN LEGAL REGIME

By way of the notification the government has clarified their stand on dual citizenship and stated in the explanation that OCI cardholders are foreign nationals holding foreign passport and not a citizen of India.²⁰ This is a step backward towards a more traditional understanding of nationality and it could lead to a certain sense of alienation and a message that won't be well received by the Indian diaspora throughout world. The OCI cardholders would have to take a mandatory special permit or permission from central government or FRRO for:

1. Parity in tariff of air fares in domestic sectors.
2. Purchase of immovable property other than agricultural land.
3. Taking up research or Journalistic activities.

16 Justice K.S. Puttaswamy VS. Union of India, (2017) 10 SCC 1.

17 Dr Christo Thomas Philip vs Union of India & Ors, W.P.(C) 1775/2018 & CM Nos. 27041/2018. See Also: OCI card holders appear to enjoy rights like any Indian: Delhi high court, Hindustan Times, Press Trust of India, 12th Aug 2018. Accessed Through: <https://www.hindustantimes.com/india-news/oci-card-holders-appear-to-enjoy-rights-like-any-indian-delhi-high-court/story-dr31wW9knifDFMbrJwDfGP.html>.

18 Section 7-B of the Citizenship Act, 1955.

19 Proviso to clause (d) Section 7A of the Citizenship Act, 1955.

20 Ministry of Home Affairs (MHA), Notification (F. No. 26011/ CC/05/2018-OCI), 4th March 2021. Accessed Through: <https://egazette.nic.in/WriteReadData/2021/225647.pdf>.

4. Missionary or Tabligh activities.²¹
5. Internship in any foreign diplomatic missions or foreign government organization.

Apart from the above changes OCI's will have parity with the NRI's in the matter of appearing in exams like NEET, JEE and would only be eligible against any Non-Resident Indian seat. What this change has done is that the children of OCI's won't be eligible to compete in the general category that would exclusively be reserved for Indian citizens only, according to the latest notification.²² What this notification did was to nullify the effect of the judgement passed by the division bench of Karnataka HC in the case of *Pranav Bajpe v State of Karnataka*²³, it was observed by the Hon'ble HC that:

"Before parting, we would like to remind ourselves of the ancient Indian thought, namely "Vasudhaiva Kutumbakam", which means "the world is a family". Therefore, the minor children of Indian citizens born overseas must have the same status, rights and duties as Indian citizens, who are minors."

Hence the High Court expanded the limited scope of citizenship and it was observed by the court that for the purpose of admissions to professional educational institutions in courses like MBBS/BDS/ BTECH etc, the OCI cardholders should be treated as Indian Citizens for this limited purpose and not as NRI's. The court quite rightly to uphold the interests of individuals in the educational process which has become really competitive in the last 20 years quite rightly expanded the limited scope of rights which OCI's and their children would have. But it was a development that was short-lived and overturned by the recent amendment. Hence there were equal opportunity implications clubbed with some financial implications are present too as generally students studying as an NRI have to pay double the fees as compared to a normal individual.

X. OCI CARD HOLDER: FOREIGN NATIONALS OR NRI'S, IMPERFECT CITIZENS?

The Hague Convention of 1930 that "It is for each State to determine under its own laws who are its nationals", dual or multiple nationality is bound to arise.

²¹ Right under Article 25 not only extends to Citizens but 'all persons'. This issue Could be raised before the Hon'ble Supreme Court. Similarly, right under article 32 is available even to non-citizens.

²² Live Law, Special Permit Required for Missionary, Tabligh & Journalistic Activities: Home Ministry Issues Notification Specifying Rights of OCI Cardholders, 5th May 2021.

Accessed Through: <https://www.livelaw.in/amp/news-updates/oci-cardholders-tabligui--multiple-entry-life-long-visa-170742>.

²³ *Pranav Bajpe v. State of Karnataka*, Writ Petition No. 27761/2019. (DB)

See Also: Live Law, OCI Cardholders to Be Treated as Indian Citizens For Admission To Professional Courses: Karnataka High Court, 15th Dec 2020.

Accessed Through: <https://www.livelaw.in/news-updates/oci-cardholders-indian-citizens-professional-courses-karnataka-high-court-167242?infinitemscroll=1>.

The Overseas citizenship of India is a form of lifelong visa to travel in India but having all rights and freedoms, but in which voting and political right are not included and available only to people of Indian origin. The constitution does not allow the dual citizenship for citizens of India, and laws are made in such a manner that a person cannot have passport of another country if already a citizen of India. Although not citizens in a traditional sense, OCI card is closest thing to dual citizenship the India legislations provides. OCI card is available only to those countries in which dual citizenship is available. It's a lifelong visa to work and live in India. OCI card holder like NRI can buy land and open bank accounts but cannot invest in farm lands. They can even adopt children and are eligible to work in any field. But the recent calcification by the ministry has labelled them as foreign nationals.

An NRI²⁴ (Non-Resident Indian) is a person who is resident of India but work/lives in another country. An NRI holds Indian passport and granted every right available to an Indian citizen.

(A) Difference

- i. NRIs have voting rights available to them like voting rights in Lok Sabha, Rajya Sabha and Legislative Assembly/Council. But the OCI does not have any voting rights.
- ii. NRIs can hold any public office like a permanent citizen but OCI card holders cannot hold any public offices.
- iii. NRIs can purchase/sale agricultural land in India but OCI card holders cannot.
- iv. An NRI can conduct any kind of research work without any prior permission but an OCI card holder has to take prior permission from FRRO.

XI. CONCLUSION

Traditionally India does not follow the concept of dual nationality, but a changing trend was observed since the early 2000's towards a more liberal and a transnational understanding towards the issue of nationality. But, the recent guidelines have been a step backward²⁵ categorizing the OCI Cardholders to foreign nationals. The vague changes in law as the critics have argued have been implemented majorly to curb free speech specially in terms of media.

²⁴ Section 6 of the Income-tax Act, defines NRI as the person not qualifying the dual criteria of:

1. "Stay in India for a period of 182 days or more during the previous year; or
2. Stay in India for a period of 60 days or more during the previous year and 365 days or more during 4 years immediately preceding that year."

²⁵ Prashant Reddy, with new OCI notification, India has ended its experiment with dual citizenship, Scroll.in, 6th Mar 2021. Accessed Through: <https://scroll.in/global/988721/with-new-oci-notification-india-has-ended-its-experiment-with-dual-citizenship>.

See Also: T.K. RAJALAKSHMI, New rules for Overseas Citizens of India targeting certain communities and categories of employment, Frontline the Hindu, 9th April 2021. Accessed Through: <https://frontline.thehindu.com/the-nation/new-rules-for-overseas-citizens-of-india-targeting-certain-communities-and-categories-of-employment/article34116931.ece>.

With restricting knowledge and research the executive not only is trying to curb dissent but any speech that could be to the detriment of a liberal democracy and free speech, a trend that isn't something novel given the present political mood. Independent journalist for instance the wire has been targeted for quite a while now. Dissent is a Sine Qua Non for any Vibrant democracy and we should bear in mind that if we don't respect democracy it won't respect us and would wither away eventually. While we embrace the Indian diaspora for all the intellectual riches and growth they bring to our nations, these changes in rules could lead to alienating them from their native land. While we boast about Kamala Harris and Akshay Kumar at the same time we curb basic freedoms if they don't bow down to the government's view, somewhat similar to the case of Aatish Taseer, Siddharth Varadarajan and label well respected media houses with bias, unethical reporting and targeting the integrity of the country. There is a sense of false understanding to equate the state or nation with the present ruling government. Politically that is an erroneous interpretation of what nationhood is. Who controls the past controls the future. Who controls the present control the past. It is not new or alien for a government to control the narrative but given the predicament our democracy faces, it could do more harm than benefit, for instance the hate campaign recently propagated in Bengal led to severe human rights violations.

India has faced with a deteriorating press freedom with its rank at 142 out of 180 countries in the 2021 Press Freedom Index. Our arch rival Pakistan has a similar conundrum ranked at 145. Our country has been highly criticized in terms of a limited freedom of thought.²⁶ This pick and choose approach towards journalist not only compromise the trust of Indian diaspora but also could be a mark of deteriorating democratic values in our country one of them being liberty of thought. Indeed, a self-introspection is required by the people in power.

With a cautionary observation, the author would conclude that a sense of surveillance of knowledge and information is creeping in our society as the famous author George Orwell states in his Book 1984: **“Big Brother is Watching You.”**

²⁶ Reporters without Borders, Data of Press Freedom Index. Accessed Through: https://rsf.org/en/ranking_table.