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# Why Document like Voter ID's, Passport, Birth Certificate are Proof of Citizenship but not Aadhar Card?

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ADITYA MINHAS<sup>1</sup>

## ABSTRACT

*The document discusses the distinction between documents like voter ID cards, passports, and birth certificates, which serve as proof of citizenship in India, and Aadhaar cards, which do not. It emphasizes that voter IDs and passports are issued under strict legal frameworks that verify citizenship, while Aadhaar cards are designed solely for identity verification and facilitating access to government services and subsidies. Aadhaar's issuance is based on proof of residence, not citizenship, making it accessible to non-citizens as well. The document highlights legal provisions, case studies, and examples to argue that misinterpreting Aadhaar as citizenship proof has caused administrative, legal, and social issues. The conclusion calls for clear communication and legislative measures to prevent Aadhaar's misuse and safeguard the integrity of citizenship verification processes.*

**Keywords:** *Citizenship, Aadhaar, Voter ID, Passport, Verification.*

## I. INTRODUCTION

**Recently**, the Calcutta High Court heard arguments about the validity of an Aadhaar number as evidence of citizenship or residency. Citing the Aadhaar (Enrolment and Update) Act, senior lawyer Laxmi Gupta argued on behalf of the Unique Identification Authority of India (UIDAI) that it does not.

Senior Lawyer Gupta argued that the main purpose of an Aadhaar card is to provide specific government subsidies for people who have been in India for at least 182 days. The Joint Forum filed the lawsuit against NRC in an effort to overturn regulation 28A of the Aadhaar Act, 2023, according to TOI reports.

Foreign nationals are explicitly addressed by this regulation. According to Gupta, if a foreign individual stays in the country after their visa expires, UIDAI has the power to revoke their Aadhaar card.

Union ministers' statements are contradictory and unclear. On this subject, the CMO has written

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a letter to the PMO, and a Bengali member of the Rajya Sabha has also brought up the issue with the Center. At first, the UIDAI claimed that there was a technical glitch, according to Forum.

The petition is not practical, according to the UIDAI's legal representative, because it concerns non-Indian citizens. She continued by saying that UIDAI may investigate people's documents in accordance with Regulation 29 after receiving information from passport authorities or other pertinent agencies.

Sen contended that regulation 28A ought to be overturned. "Regulation 28A turns into a terrible rule when combined with the subsequent regulation 29. This is NRC's back door. This is a manipulative use of authority," she said.

She moved on to say that an Aadhaar card deactivation had previously been delayed by a single bench of the High Court. The PIL was not maintainable, in response from Additional Solicitor General Ashoke Kumar Chakraborty, since it did not contest section 54 of the Aadhaar Act, which provides the basis for the regulations. Chakraborty questioned if a petitioner could contest the sovereignty of a nation.

A recent instance concerning a foreign national living in Ballygunge was mentioned by Chief Justice TS Sivagnanam. This person filed income tax reports, had an Aadhaar card, and bought 11 homes in West Bengal.

## **II. MEANING AND PURPOSE OF AADHAR CARD**

According to UIDAI , Aadhaar is a 12 digit individual identification number issued by the Unique Identification Authority of India on behalf of the Government of India. The number serves as a proof of identity and address, anywhere in India.

Aadhaar Card consist of various things :

As per Section 3 Of the Aadhaar (Enrollment and Update) regulation, 2016, Biometric data needed for enrollment. –

(1) All applicants (except from young children under five years old) must provide the following biometric data:

- Facial Image
- All Ten Fingerprints
- Scans Of Both Irises

As per Section 4 Of Aadhaar (Enrollment and Update) regulation, 2016, Demographic

Information –

(1) When an individual is undergoing enrollment and is older than five, the following demographic data will be gathered about them:

- Name
- Date Of Birth
- Gender
- Address

And More Like an Aadhaar card number And Enrollment ID.

**(A) Purpose of Aadhaar card:**

Every resident of India will receive a unique 12-digit identification number with the introduction of the Aadhaar card in 2009, which is overseen by the Unique Identification Authority of India (UIDAI). Establishing a single, universal identity for citizens is the main goal of Aadhaar, which makes use of biometric data (fingerprints and iris scans) and demographic data (name, date of birth, residence, etc.). The objective of this system is to improve the effectiveness and transparency of service delivery across a range of public and private sector initiatives.

The main purpose of Aadhaar is to make government services and subsidies easier to obtain. By connecting Aadhaar to public distribution systems, bank accounts, and social assistance programs, the government hopes to lower fraud, get rid of duplicate and fraudulent identities, and make sure that benefits get straight to the legitimate recipients. To minimize leakages and middlemen's involvement, Aadhaar-based Direct Benefit Transfer (DBT) guarantees that subsidies for cooking gas, pensions, and scholarships are delivered straight to the beneficiaries bank accounts

Furthermore, Aadhaar is essential for advancing financial inclusion. It acts as a Know Your Customer (KYC) document, making it easier to create bank accounts, get mobile SIM cards, and access different financial services. Using their Aadhaar number and biometric authentication, people can access financial services even in rural places thanks to the Aadhaar-enabled Payment System (AePS).

### **III. LEGAL FRAMEWORK OF CITIZENSHIP IN INDIA**

The legislation enforces the rights and obligations of citizens through the Citizenship Act. The Indian nationality legislation is another name for the Citizenship Act of 1955. This guarantees

that the people living in the country are Indian nationals. A person's citizenship status is determined by the Indian Constitution and the Indian Citizenship Act of 1955. The Indian Parliament passed this legislation, which went into effect on December 30, 1955.

The main law controlling citizenship in India is the Citizenship Act, 1955, which is highly relevant. Not only does it specify how citizenship can be obtained and determined through many channels, including birth, descent, registration, and naturalization, but it also describes the circumstances under which citizenship can be revoked or taken away. This legislative framework makes sure that citizenship is awarded and governed in an organized and uniform way, which is vital to preserving national security and integrity.

Additionally, the Act has played a significant role in tackling past and present citizenship issues, such as statelessness and integrating of diverse communities into the Indian nation. Changes made to the Act, such adding the OCI category, have strengthened relationships and allowed for greater interaction with the Indian diaspora around the world.

In addition to its legislative requirements, the Citizenship Act provides avenues for people to achieve citizenship and legal identification within India's democratic framework, demonstrating the nation's commitment to inclusive governance and human rights. It keeps changing in response to new problems and shifts in society, reiterating its position as the cornerstone of Indian citizenship laws and customs.

#### **Articles of Indian Constitution that pretains to citizenship:**

1. **Article 5** - Citizenship at the Commencement of the Constitution
2. Article 6 - Rights of Citizenship of Certain Persons Who Have Migrated to India from Pakistan
3. Article 7 - Rights of Citizenship of Certain Migrants to Pakistan
4. Article 8 - Rights of Citizenship of Certain Persons of Indian Origin Residing Outside India
5. Article 9 - Persons Voluntarily Acquiring Citizenship of a Foreign State Not to Be Citizens
6. Article 10 - Continuance of the Rights of Citizenship
7. Article 11 - Parliament to Regulate the Right of Citizenship by Law

#### **IV. VOTER ID AS A PROOF OF CITIZENSHIP**

Voter ID cards are issued by the Election Commission of India to eligible citizens for the

purpose of voting. To obtain a Voter ID, individuals must provide evidence of their citizenship, typically through birth certificates or other recognized documents. The Voter ID thus serves as a direct acknowledgment of an individual's status as a citizen of India. This is crucial as only citizens have the right to vote, making the Voter ID an unequivocal proof of citizenship<sup>2</sup>.

In India, voter ID cards are an important source of citizenship documentation. These cards, which are distributed by the Election Commission of India (ECI), are essential for using one's right to vote in municipal, state, and federal elections. Voter ID cards serve as evidence of citizenship for the following reasons.

The Representation of the People Acts, 1950 and 1951, which mandate that applicants produce proof of citizenship or residency, control the issue of voter ID cards. Providing records like birth certificates, diplomas from school, or other accepted evidence of citizenship falls within this category.

The Election Commission confirms the applicant's information, including age, residency, and citizenship status, before to issuing a voter ID card. Voter ID cards are only issued to eligible citizens thanks to this verification procedure.

Mumbai Court in one of their judgement said *“the election card can be said to be sufficient proof of citizenship, as while applying for the election card or voting card, a person has to file declaration with the authority in view of form 6 of Representation of People Act that he is a citizen of India and if the declaration is found false, he is liable for punishment.”*

## **V. PASSPORT AS A PROOF OF CITIZENSHIP**

Passports are internationally recognized documents issued by the government that establish the identity and nationality of the bearer. In India, obtaining a passport requires stringent verification of citizenship, including documents such as birth certificates, school records, or previous passports. The Indian Passport Act, 1967, governs the issuance of passports and mandates that only citizens of India can be issued a passport. Therefore, a passport is a strong proof of citizenship due to the rigorous process and legal framework under which it is issued.<sup>3</sup>

In India and around the world, a passport is regarded as one of the most reliable documents attesting to one's citizenship. This explains why a passport is regarded as evidence of citizenship:

The Ministry of External Affairs issues passports in India via its network of Passport Offices.

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<sup>2</sup> Election Commission of India. (n.d.). Voter ID Card. Available on [eci.gov.in](https://eci.gov.in), <https://eci.gov.in>

<sup>3</sup> Ministry of External Affairs, Government of India. (n.d.). Passport Seva. Available on [[passportindia.gov.in](https://www.passportindia.gov.in)] (<https://www.passportindia.gov.in>)

An applicant must present proof of citizenship, such as a voter ID card, birth certificate, or any other document proving Indian citizenship, in order to get a passport.

The passport application procedure entails a thorough examination of the applicant's identity, nationality, and background. This entails confirming domicile, date of birth, and other pertinent data to prove Indian citizenship.

Every country accepts a passport as evidence of identity and nationality. It facilitates foreign travel by confirming the bearer's citizenship status and serving as an official travel document issued by the Indian government.

The Passport Act of 1967 regulates the issuing and use of passports in India. The Act gives passports official legal status as evidence of citizenship, establishing its legitimacy and international recognition.

**(A) Birth Certificate as proof of citizenship:**

A birth certificate is a vital record that documents the birth of a person and typically includes details such as the place and date of birth and parentage. In India, birth certificates are issued by municipal authorities under the Registration of Births and Deaths Act, 1969. This document serves as primary proof of the place and date of birth, which are critical in establishing citizenship. Since citizenship by birth is a key criterion under the Citizenship Act, 1955, birth certificates are foundational documents for proving citizenship.<sup>4</sup>

## **VI. COMPARATIVE ANALYSIS BETWEEN VOTER ID, PASSPORT AND ANOTHER DOCUMENT V/S AADHAAR CARD**

**(A) Legal Recognition**

Because of their unique legal frameworks and strict verification procedures, voter ID cards, passports, and other traditional papers like birth certificates are legally recognized as proof of citizenship in India. Voter ID cards are essential for residents to exercise their right to vote in elections. They were provided under the Representation of the People Acts of 1950 and 1951. To guarantee that only qualified citizens receive them, they ask applicants to submit documentation of their citizenship or place of residence, such as birth certificates or school leave certificates.

**i. Representation of the People Act, 1950:**

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<sup>4</sup> Ministry of Home Affairs, Government of India. (1969). Registration of Births and Deaths Act, 1969. Available on [mha.gov.in] (<https://www.mha.gov.in>)

- a. **Section 16:** Disqualification for registration in an electoral roll.
  - b. **Section 19:** Conditions of registration, which includes citizenship status.
- ii. **Representation of the People Act, 1951:**
- a. **Section 62:** Right to vote. Only citizens can vote, hence a voter ID card implies proof of citizenship.
  - b. **Section 31:** Making false declarations regarding citizenship during the voter registration process is punishable.
- iii. **Article 326 of the Indian Constitution:** Provides for adult suffrage, meaning every citizen over the age of 18 has the right to vote, subject to certain disqualifications.

Passports, governed by the Passport Act, 1967, serve as proof of identity and citizenship for international travel. Sections 5, 6, and 10 of the Passport Act outline the application process, grounds for refusal, and revocation of passports, emphasizing the need for citizenship verification. Relevant constitutional articles include Article 9, which states that persons voluntarily acquiring foreign citizenship are not Indian citizens, and Article 11, which gives Parliament the authority to regulate citizenship.

i. **Passport Act, 1967:**

- a. **Section 5:** Application for passports and travel documents, requiring proof of citizenship.
- b. **Section 6:** Grounds for refusal of passports, which include non-citizenship.
- c. **Section 10:** Revocation of passports, which can occur if citizenship is revoked.

ii. **Constitutional Articles:**

- a. **Article 9 of the Indian Constitution:** Persons voluntarily acquiring citizenship of a foreign state not to be citizens.
- b. **Article 11 of the Indian Constitution:** Parliament to regulate the right of citizenship by law.

Birth certificates, governed by the Registration of Births and Deaths Act, 1969 (Sections 12 and 13), serve as primary proof of birth, providing evidence of age and place of birth. Articles 5 and 6 of the Indian Constitution outline citizenship provisions at the commencement of the Constitution and for persons migrating from Pakistan, respectively.

The Aadhaar card, on the other hand, is a unique identification number issued by the Unique Identification Authority of India (UIDAI). The primary purpose of Aadhaar is to provide a



means of identification and streamline the delivery of welfare benefits. Unlike Voter IDs, passports, and birth certificates, the issuance of Aadhaar does not require proof of citizenship. Instead, it requires proof of residence in India for a certain period. As a result, both citizens and residents, including non-citizens, can obtain an Aadhaar card.<sup>5</sup>

The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, explicitly states that Aadhaar is not proof of citizenship. The Supreme Court of India has also clarified that while Aadhaar is essential for accessing various services and benefits, it cannot be used as evidence of citizenship.<sup>6</sup> This is primarily because the criteria for obtaining an Aadhaar card do not include verification of citizenship but rather proof of residence, making it an inclusive identification mechanism for all residents of India.

- i. **Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016:**
  - a. **Section 3:** Aadhaar number, its usage, and the demographic and biometric information required.
  - b. **Section 9:** Aadhaar not to confer citizenship or domicile.
  - c. **Section 29:** Restrictions on sharing information, focusing on privacy and security.
- ii. **Article 21 of the Indian Constitution:** Right to privacy, upheld in the context of Aadhaar by the Supreme Court in the Puttaswamy judgment (2017).

The primary distinction between voter ID cards and passports is that the former are considered as concrete proof of citizenship status because of their issuing procedures and the specific legislative frameworks they are based on. Aadhaar, on the other hand, does not serve the same legal purpose regarding citizenship, while being widely used in the administrative and financial sectors. This distinction is important for maintaining legal and administrative clarity in India.

### **(B) Specific Purpose**

Under the Representation of the People Acts of 1950 and 1951, voter ID cards are issued by the Election Commission of India. The purpose of voter ID cards is to allow people to exercise their democratic right to vote in local, state, and federal elections. To ensure that only qualified voters cast ballots in elections, they act as official documentation of identification and citizenship.

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<sup>5</sup> Unique Identification Authority of India. (n.d.). Aadhaar Enrolment Process. Available on [uidai.gov.in] (<https://uidai.gov.in>)

<sup>6</sup> Supreme Court of India. (2018). Judgment on Aadhaar Act. Available on [supremecourtindia.nic.in] (<https://www.supremecourtindia.nic.in>)

Voter identity and eligibility cards are recognized by electoral rules and are essential to preserving the fairness and transparency of the electoral process.

The primary purpose of passports is to serve as travel documents, validating the identity and citizenship of the bearer and enabling international travel. Passports, which are widely accepted as evidence of Indian citizenship, are obtained by carefully examining the holder's residence, date of birth, and other pertinent data. Passports, which are governed by bilateral agreements and international standards, are essential tools for fostering international movement and certifying a person's citizenship.

In accordance with the Aadhaar Act of 2016, Aadhaar cards are distributed by the Unique Identification Authority of India (UIDAI). Their main purpose is to verify people's identities using biometric and demographic means. They do this by using fingerprint and iris scans to associate each person with a 12-digit Aadhaar number. By offering a trustworthy means of authentication, they expedite the process of gaining access to social assistance programs, subsidies, and government services. Aadhaar cards are recognized under the Aadhaar Act for identity verification purposes, with the goal of reducing duplication and ensuring efficient delivery of public services. However, they do not grant citizenship or residency rights.

## **VII. AUTHORITIES RESPONSIBLE FOR ISSUING THESE DOCUMENTS AND HOW THEY VERIFY CITIZENSHIP?**

Voter ID cards are issued by the Election Commission of India (ECI) in India and serve as proof of citizenship and voting eligibility. Application materials such as birth certificates and school leaver certificates are used to verify the applicant's age, address, and identity. Booth Level Officers (BLOs) then undertake field verification. Passports are issued by the Ministry of External Affairs (MEA) and are the official document that certifies an individual's identity and citizenship when traveling abroad. Documents such as voter ID cards and birth certificates must be submitted as part of the passport application procedure. Additionally, a police verification step is required to verify the applicant's citizenship status. On the other hand, identity verification is the purpose of Aadhaar cards, which are issued by the Unique Identification Authority of India (UIDAI). Enrollment needs identity and residence verification, such as voter ID cards and utility bills, as well as the collection of biometric and demographic data. Nevertheless, Aadhaar is not used to verify citizenship and does not grant citizenship. To confirm identification and citizenship, if relevant, each authority uses a different procedure, which reflects the different functions and legal ramifications of these documents.

- **Case Studies & Examples:**

- 1. People's Union for Civil Liberties vs. Union of India (2013)**

**Overview:** This lawsuit dealt with concerns about the use of Aadhaar and how it affects personal freedoms and privacy.

**Ruling:** According to the Supreme Court's interim rulings, using Aadhaar should be voluntary rather than required in order to receive benefits from government programs. Moreover, it made clear that Aadhaar is not evidence of citizenship.

**Significance:** By establishing the precedent for further rulings, this initial case strengthened the idea that Aadhaar is not the same as documentation attesting to citizenship.

- 2. Binoy Viswam vs. Union of India and Ors. (2017)**

**Overview:** In this case, the requirement to link Aadhaar with PAN (Permanent Account Number) cards in order to file income tax returns and conduct other financial activities was challenged.

**Ruling:** Citing the requirement to link Aadhaar with PAN as a deterrent against tax evasion and fraud, the Supreme Court rendered a decision in support of this requirement. The Court did, however, restate that Aadhaar does not establish citizenship; rather, it is primarily used for identity verification.

**Significance:** This ruling made it even clearer that, although Aadhaar is essential for some financial and administrative procedures, it does not take the place of other traditional identification documents such as passports and voter ID cards as proof of citizenship.

- 3. Lokniti Foundation vs. Union of India (2017)**

**Overview:** The government's need that mobile phone users link their SIM cards to their Aadhaar was an issue in this case.

**Ruling:** For security and identity verification reasons, the government's decision to link SIM cards to Aadhaar was approved by the Supreme Court. It did, however, emphasize once more that Aadhaar should not be mistaken for documentation of citizenship.

**Significance:** By preserving Aadhaar's non-citizenship status, the case demonstrated the utility of the system for improving security and identity verification.

- 4. Justice K.S. Puttaswamy (Retd.) and Anr. vs. Union of India and Ors. (2018)**

**Overview:** This landmark case, commonly referred to as the Aadhaar judgment, was a pivotal moment in Indian legal history. The Supreme Court's decision addressed the constitutionality

and scope of the Aadhaar project.

**Ruling:** The Supreme Court maintained Aadhaar's constitutional legitimacy while stressing that the system is not a means of proving one's citizenship. According to the Court, the purpose of Aadhaar is to expedite the distribution of welfare payments and subsidies and to verify identity. The ruling made it clear that having an Aadhaar number does not grant any further citizenship or residency privileges.

**Significance:** The decision strengthened the legal consensus that Aadhaar is not a citizenship document, but rather a tool for identity verification, setting it apart from voter ID cards and passports, which are tied to a person's citizenship status.

### **VIII. HOW THE MISINTERPRETATION OF AADHAAR AS PROOF OF CITIZENSHIP HAS CAUSED ISSUES**

Aadhaar's misuse as identification of citizenship in India has resulted in serious problems in a number of areas. Administrative errors have resulted in legitimate residents being rejected from government initiatives and non-citizens being admitted, according to beneficiary lists. Consistent policy execution has also been impacted by this uncertainty. Access to vital services such as pensions and subsidies has become challenging for individuals, particularly those without Aadhaar IDs, resulting in unwarranted suffering. Because they are unable to present Aadhaar as identification of citizenship, marginalized groups—such as immigrants and the homeless—experience prejudice and harassment. Legal conflicts resulting from this misconception have burdened the judiciary and delayed the administration of justice. Socially, it has fuelled conflicts and mistrust among communities, deepening socio-economic divides. Documentary issues have resulted from an over-reliance on Aadhaar, which has also diminished the significance of other documents that expressly certify citizenship. In addition, there has been a mismatch of policies, whereby programs meant for citizens have been improperly extended to non-citizens and vice versa. All things considered, this misconception has created difficulties in the areas of administration, law, society, and policy, requiring continuous legislative clarifications.

### **IX. CONCLUSION**

To sum up, the Aadhaar card is an indispensable instrument for identity verification and expediting the process of obtaining government services and subsidies; however, it is imperative to realize that it is not a proof of citizenship. The misapprehension of Aadhaar as proof of citizenship has resulted in serious administrative, legal, and social challenges, such as

incorrect inclusions and exclusions in beneficiary lists, legal disputes, and discrimination against marginalized groups. On the other hand, documents such as voter ID cards and passports, which go through rigorous verification procedures and are issued under specific legal frameworks, are acknowledged as definitive proof of citizenship. The differentiation between Aadhaar and these documents is vital to preserving legal clarity and guaranteeing that citizenship is maintained. Moving forward, clear communication and legislative clarity are needed to prevent the misuse of Aadhaar as proof of citizenship and to ensure the integrity of citizenship verification processes in India.

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