

Citizenship Provisions in Bangladesh

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What is the issue?

- The newly passed [Citizenship Amendment Act](#) in India provides for religious minorities of 3 neighboring countries (Afghanistan, Bangladesh, Pakistan) to get Indian citizenship.
- In this context, here is an overview on the constitutional and legal provisions for citizenship and the idea of freedom of religion in Bangladesh.

How does the Bangladesh Constitution define the country?

- The Bangladesh Constitution was adopted by the Constituent Assembly on December 4, 1972.
- It establishes the independent sovereign People's Republic of Bangladesh.
- The original preamble mentioned 'Nationalism, Democracy, Socialism and Secularism' as fundamental principles.
- Unlike India's Constitution, the Bangladesh Constitution's commitment to socialism is explicitly mentioned.
- The preamble says the fundamental aim of the state is to realise through democratic process socialist society free from exploitation.
- It would be a society in which rule of law, fundamental human rights and freedoms, equality and justice, political, economic and social will be secured to all citizens.
- The expression "rule of law" is not used in the Indian Constitution.

Is there a state religion?

- In 1977, the military dictator Ziaur Rahman removed the term "secular" from the Constitution.
- In 1988, President Hussain Muhammad Ershad got Article 2A inserted.
- It says the state religion of the republic is Islam but other religions may be practised in peace and harmony.
- The amendment was struck down by the Bangladesh High Court in 2005 and the Supreme Court in 2010.
- The SC said that in spite of Islam being the state religion, the Constitution remains secular.

- It observed that the preamble and the relevant provision of the Constitution as existed on August 15, 1975 would be revived.
- These were particularly in respect of the principles of secularism, nationalism and socialism.
- On June 30, 2011, the Constitution was amended and the term “secular” reinserted.
- The amendment also removed the expression “absolute faith and trust in Allah” from the preamble.
- However, it retained, above the preamble, the expression “in the name of Allah, the beneficent, the merciful” that had been added in 1997.
- To accommodate other religions, it also mentions “in the name of our Creator, the merciful”.

How does the idea of a state religion coexist with that of secularism?

- While Islam is the state religion, other religions have been given “equal status” and “equal rights” by the Constitution.
- Their followers have also been given an equal right to freely practise their religions.
- Article 8(1) of the Bangladesh Constitution mentions secularism along with nationalism, democracy and socialism as fundamental principles of state policy.
- Article 12 was revived by the 15th Amendment.
- In a way, this, unlike the Indian Constitution, explains the essential ingredients of secularism and how it will be achieved.
- It says the principles of secularism shall be realised by elimination of -
 - i. communalism in all forms
 - ii. granting of political status in favour of any religion
 - iii. abuse of religion for political purposes
 - iv. any discrimination against, or persecution of, persons practising a particular religion
- Unlike Pakistan’s Constitution, there is no Muslim qualification required for the office of President or other constitutional offices.
- With these progressive provisions, the charge of religious persecution made by India has no base.

How is freedom of religion defined?

- Article 41 of the Bangladesh Constitution says every citizen has the right to profess, practice or propagate any religion.
- The provision is “subject to public order and morality”.
- In India, Article 25 guarantees religious freedom in a narrower sense.
- Here, in addition to “public order and morality”, it is also subject to “health”

and “other fundamental rights”.

- Also, the state can restrict freedom of religion in respect of any economic, financial, political or other secular activity associated with religious practices.
- It can also do so in the name of social reforms.
- But in another sense, India’s religious freedom is broader as it is not confined to just citizens.
- Like India’s Article 26, Bangladesh’s Article 41(b) gives every religious community or denomination the right to establish, maintain and manage its religious institutions.
- Like India’s Article 28, Article 41(c) in Bangladesh lays down that no person attending any educational institution shall be required to receive religious instruction of a religion other than one’s own.
- No person shall be required to take part in or to attend any religious ceremony or worship, if that relates to a religion other than one’s own.
- India does not permit any religious instruction in any institution that is maintained out of state funds or is recognised by the government.
- In contrast, Bangladesh permits religious instruction but only of one’s own religion.
- Article 28(1) is a replica of India’s Article 15.
- It prohibits the state from discriminating against any citizen on grounds only of religion, race, caste, sex or place of birth.
- This includes admission to any educational institution.
- India’s Article 15 does not mention educational institutions and gives right of access only in respect of places maintained wholly or partly out of state funds.
- It also covers places dedicated to the use of the general public.
- The Bangladesh Constitution prohibits all discrimination based on religion.
- Clearly, this weakens the argument of religious persecution there, which is a basis for India’s Citizenship Amendment Act.

What are the laws on citizenship?

- Article 6 of the Constitution says citizenship in Bangladesh shall be regulated by law and people shall be known as “Bengalees as a nation”.
- In December 1972, a Presidential Order, Bangladesh Citizenship (Temporary Provisions), conferred citizenship.
- It covers from March 26, 1971 on anyone who, or whose father or grandfather, was born in the territories then comprising Bangladesh.
- It also applies to a permanent resident on March 25, 1971 and continued to be a resident of Bangladesh.
- Any person who, for studies or employment, was in territories within a

country at war or engaged in military operation (Pakistan), and was being prevented from returning to Bangladesh, would also be a citizen.

- The Bangladesh government, like Pakistan, may grant citizenship to a person who is citizen of Europe, North America or Australia or any other state.
- But, knowledge of Bangla would be necessary.
- Foreign women married to Bangla men can also get citizenship after 2 years' residence.
- Irrespective of place of birth, if one's parents are Bangladeshi, citizenship would be given.
- In 2017, it was provided that anyone who invests \$150,000 can get citizenship.

Does Bangladesh grant citizens to non-Bangla-speaking residents?

- Many Urdu-speaking people who had supported Pakistan in the war became stateless with the creation of Bangladesh.
- This is because the law did not give citizenship to those who sided with the enemy country.
- There were some 10 lakh such people in 1972.
- Under an agreement among India, Bangladesh and Pakistan, close to 1,780,000 were repatriated to Pakistan, followed by about 1 lakh more subsequently.
- But, 2.5 lakh remained within the country.
- In 2008, the Supreme Court reaffirmed the citizenship of all Urdu-speaking citizens too.

Source: Indian Express

