# 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**

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