

REFLECTIONS UPON THE HEIRLOOM OF
CITIZENSHIP OF INDIA BY MS. NIKITA SEHGAL
& MR. TUSHAR KUMAR*

Framework:

Prior to the independence in 1947, India was a part of the British realm. Between January 1949 to January 1950, Indians were subject to British rule by virtue of Indian Independence Act¹. Post independence era called for the issues of citizenship to be addressed with adequate legitimacy. The Constituent Assembly took more than two years to arrive at a final decision with respect to provisions dealing with the Citizenship of India. This was mainly due to some special problems created by the partition of India along with the presence of a large number of Indians abroad. Between the periods of 1947-1949, millions of people had crossed and re-crossed the frontiers that separate India from Pakistan, in order to make final choice of their nationality.² This was instantaneously headed by the enactment of various edicts.

Major Legislations Administering The Principles of Citizenship In India:

1. Constitution of India, 1950.
2. The Citizenship Act, 1955.

Constitution:

According to Black's Law Dictionary³, citizen means "a member of a free city or jural society, possessing all the rights and privileges which can be enjoyed by any person under its constitution and government, and subject to corresponding duties." "Citizen", in relation to a country, means a person who under the citizenship or nationality law for the time being in force in that country, is a citizen or national of the country. The provisions of Citizenship in India are enshrined in Part II of the Constitution of India, within Articles 5-11.

Article 5: Citizenship as on the date of commencement of our Constitution- It paved way for citizenship rights for every person who has his domicile in the territory of India and (a) who was born in the territory of India; or (b) either of whose parents was born in the territory of India; or (c) who has been ordinarily resident in the territory of India for not less than five years preceding the commencement.

* Third Year (Sixth Semester), Amity Law School, New Delhi (Affiliated to Guru Gobind Singh, Indraprastha)

¹ I.L. Act, § 18(3) (1947)

² Dr. M V Pylee, An Introduction to the Constitution of India, 5E- M V Pylee – Google Books, GOOGLE BOOKS, (Mar. 15, 2015, 1:00 PM), https://books.google.co.in/books?id=zps_kbj-9nsC&pg=PA91&dq=citizenship+under+constitution+of+india&hl=en&sa=X&ei=sOwHVeu9II-JuwSn9YHwAQ&ved=0CBwQ6AEwAA#v=onepage&q=citizenship%20under%20constitution%20of%20india&f=false

³ Black's Law Dictionary (2nd ed. 1910), Available Online.

Article 6 and Article 7 deal with two categories of persons. On one hand, Hindus and Sikhs who were born and domiciled in that part of India which became Pakistan and who migrated to India, had to be given the citizenship of new India. On the other hand, Muslims who left India to become citizens of Pakistan had to be excluded. These articles were incorporated by the framers of Constitution keeping in mind the mass migration that took place as an aftermath of partition. The emigrants from Pakistan were divided into (i) those people who emigrated from Pakistan when the permit system⁴ was introduced and (ii) those people who came after that date. (July 19, 1948).

Article 8 provides for the Rights of Citizenship of certain persons of Indian Origin residing outside India. i.e. Notwithstanding anything in Article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefore to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

Article 9 states that any person voluntarily acquiring citizenship of a foreign State shall not be a citizen of India after acquiring the foreign citizenship. Hence, no person shall be a citizen of India by virtue of Article 5, or be deemed to be a citizen of India by virtue of Article 6 or Article 8, if he has voluntarily acquired the citizenship of any foreign State. Article 10 ensures the continuance of the rights of citizenship subject to the provisions of any law that may be made by Parliament. Article 11 confers vast powers in the hands of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

Rule of Single Citizenship in India:

The Constitution of India has established a single⁵ and uniform citizenship for the whole of the country. It implies that all Indian citizens owe allegiance to the Union of India collectively. Any and every citizen, irrespective of his birth or residence, is entitled to enjoy civil and political rights throughout India in all states and union territories.⁶ The Constitution of India does not recognize State citizenship and as such there is no distinction between the citizens of two or more states.

In federal functionaries, for example, USA, each person is not only a citizen of USA but also of the particular state to which he belongs. Thus, he owes allegiance to both and enjoys dual sets of rights—one set conferred by the national government and another by the state government. India follows the system of single citizenship. Hence, the claim of fundamental

⁴ Pakistan (Control) Ordinance (XVI of 1948) & The Permit system rules, 1948. This Ordinance was replaced by the influx from Pakistan (Control) Act, 1949. The 1949 Ordinance was repealed by an Ordinance in 1952, and then the influx from Pakistan (Control) Repealing Act, 1952 repealed the 1952 Ordinance.

⁵ Citizenship of India, *Procedure For Applying Online For Indian Citizenship*, INDIANCITIZENSHIPONLINE, (Apr. 19, 2015, (9:50 AM)

http://indiancitizenshiponline.nic.in/Ic_GeneralInstruction_4_1.pdf

⁶ Pragati Ghosh, *Essay on Single Citizenship In India*, SHAREYOURESSAYS.COM, (Mar 15, 2015, 5:15 PM), <http://www.shareyouressays.com/93095/essay-on-single-citizenship-in-india>

as well as other legal prerogatives is common to all citizens. As a result, the citizens of India are clothed with universal rights and privileges. However, there is one exception to this rule in relation to Kashmir. No one but a permanent resident of Kashmir⁷ can acquire landed property in Kashmir. But it is a purely temporary provision which is expected to be abolished when Kashmir is fully integrated to the Union of India.

It is humbly submitted that neither the Constitution of India nor the Indian Citizenship Act, 1955 recognize dual citizenship. However, the Citizenship (Amendment) Act, 2003 and the procedural Citizenship (Second Amendment) Rules, 2004 provide for Overseas Citizenship of India (OCI) which grants special status to eligible foreign nationals of Indian origin (subject to certain restrictions). The OCI is often referred to as twin nationality but it does not actually confer nationality of India.

Overseas Citizenship of INDIA (OCI)

From December 2005, the Indian Government implemented the law regarding registration of eligible foreign nationals as Overseas Citizenship of India (OCIs). Eligible foreign nationals include, certain Persons of Indian Origin and individuals whose parents or grandparents migrated from India after 26th January, 1950 and their minor children. This is subject to the applicant being a citizen of a country which allows dual citizenship in some form or the other. This provision is extended to such citizens of all countries other than those who had ever been citizens of Pakistan and Bangladesh.

The following categories of individuals may apply for OCI registration:

- (a) Any person of full age and capacity –
 - i) Who is a citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the Constitution; or
 - ii) Who is citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or
 - iii) Who is a citizen of another country, but belonged to a territory that became a part of India after the 15th day of August, 1947; or
 - iv) Who is a child or a grand-child of such a citizen; or
- b) A person, who is a minor child of a person mentioned in clause (a)

Provided that no person, who is or had been a citizen a citizen of Pakistan, Bangladesh or such other country as the Central government, may by notification in the Official Gazette, specify shall be eligible for registration as an Overseas Citizen of India.

Registration as an OCI is a onetime process that grants all the benefits that are available to PIO Card holders with some additional benefits. These are inclusive of a lifelong multi-entry, multi-use visa to visit, reside or work in India and are not faced with travel restrictions within the country or employment visa requirements that apply to PIOs. An OCI is not required to register with a Foreigners Regional Registration Office (FRRO) for any length or duration of stay in India. An individual registered as an OCI for 5 years and who has lived in India for one year is eligible to gain “full” Indian Citizenship. To avail of “full” Indian citizenship, a foreign national will have to relinquish his foreign nationality.

Indian Non-Immigrant Visas

⁷ Constitution of India, Art. 370

The movement of the faction of foreign nationals in India is regulated by several statutes, rules and regulations, with specific restrictions on the activities they can undertake in India. Most foreign nationals require visas with the exception of certain persons of Indian origin and visitors from Nepal and Bhutan, who enjoy significant freedom of travel into India.

On commencement of The Constitution of India on 26 January 1950, and after determining the initial body of Indian citizens through the constitutional provisions, the framers of the Constitution left the ground for the Parliament. Hence The Indian Citizenship Act, 1955 came into effect.

Acquisition of Indian Citizenship (IC)

The right to Indian citizenship and the qualifying criteria are established under the Constitution of India and codified in the Indian Citizenship Act, 1955. The Constitution of India only recognizes Indian citizenship and prescribes the manner in which Indian citizenship can be acquired. It can be acquired by birth, descent, registration (subject to discretionary procedures), naturalization, or by incorporation of territory⁸. The conditions and procedure for acquisition of Indian citizenship as per the provision of the Act of 1955 are elucidated below:

(1) By Birth (Section 3)

A person born in India on or after 26th January 1950 but before 1st July, 1987 is citizen of India by birth irrespective of the nationality of his parents. A person born in India on or after 1st July, 1987 but before 3rd December, 2004 is considered citizen of India by birth if either of his parents is a citizen of India at the time of his birth. A person born in India on or after 3rd December, 2004 is considered citizen of India by birth if both the parents are citizens of India or one of the parents is a citizen of India and the other is not an illegal migrant at the time of his birth.

(2) By Descent (Section 4)

A person born outside India on or after 26th January 1950 but before 10th December 1992 is a citizen of India by descent, if his father was a citizen of India by birth at the time of his birth. In case the father was a citizen of India by descent only, that person shall not be a citizen of India, unless his birth is registered at an Indian Consulate within one year from the date of birth or with the permission of the Central Government, after the expiry of the stated period. A person born outside India on or after 10th December 1992 but before 3rd December, 2004, is considered as a citizen of India if either of his parents was a citizen of India by birth at the time of his birth. If either of the parents was a citizen of India by descent, that person shall not be a citizen of India, unless his birth is registered at an Indian Consulate within one year from the date of birth or with the permission of the Central Government, after the termination of the stated period.

A person born outside India on/after 3rd December, 2004 shall not be a citizen of India, unless the parents declare that the minor does not hold passport of another country and his birth is registered at an Indian consulate within one year of the date of

⁸ Foreigners Division, Ministry of Home Affairs, Government of India, *Indian Citizenship Ministry of Home Affairs*, INDIANCITIZENSHIPONLINE, (Mar. 17, 2015, 6:00 PM), <http://indiancitizenshiponline.nic.in/acquisition1.htm>

birth or with the permission of the Central Government, after the expiry of the stipulated period.

Procedure for acquiring Indian citizenship under the said proviso involves for sending an application for registration of the birth of a minor child to an Indian consulate under Section 4(1) and shall be accompanied by an undertaking in writing from the parents of such minor child stating that he does not hold the passport of any other country.

(3) By Registration (Section 5(1))

Indian Citizenship by registration can be acquired by: -

(i) Persons of Indian origin who are ordinarily resident in India for seven years before making application under section 5(1)(a) (throughout the period of twelve months immediately before making application and for six years in the aggregate in the eight years preceding the twelve months).

(ii) Persons of Indian origin who are ordinarily resident in any country or place outside undivided India under section 5(1)(b).

(iii) Persons who are married to a citizen of India and who are ordinarily resident in India for seven years (as mentioned at (a) above) before making application under section 5(1)(c).

(iv) Minor children whose both parents are Indian citizens under section 5(1)(d).

(v) Persons of full age whose both parents are registered as citizens of India under section 5(1)(a) or section 6(1) can acquire Indian citizenship under section 5(1)(e).

(vi) Persons of full age who or either of the parents were earlier citizen of Independent India and residing in India for one year immediately before making application under section 5(1)(f).

(vii) Persons of full age and capacity who has been registered as an Overseas Citizen Of India (OCI) for five years and residing in India for one year before making application under section 5(1)(g).

Note: A person shall be referred to as a Person of Indian origin if he, or either of his parents, was born in undivided India or in such other territory which became part of India after independence i.e. 15th August, 1947.

(4) By Registration (Section 5(4))

Any minor child can be registered as a citizen of India under Section 5(4), if the Central Government is satisfied that there are special circumstances justifying such registration. Procedure involves sending an application in relevant Form for grant of Indian citizenship by registration under section 5. It has to be submitted to the Collector/District Magistrate of the area where the applicant is resident. The application has to be accompanied by all the documents and fees payments as mentioned in the relevant Forms, along with a report within 60 days. Thereafter, the State Govt./UT Administration shall forward the application to the Ministry of Home Affairs (MHA), Government of India within 30 days. On examination of the application, the Ministry accept/reject the same. No correspondence can be made directly with the applicant. Each applicant whose case is found to be eligible after scrutiny of application is informed about the acceptance of his application through the State Government and he/she is then required to furnish a certificate of the

renunciation of foreign citizenship issued by the mission of the concerned country, proof of fee payment as per SCHEDULE IV of the Act, and personal particulars in Form-V. Henceforth, a Certificate of Indian citizenship shall be issued to the applicant through the State Government.

(5) By Naturalization (Section 6)

Citizenship of India by naturalization can be acquired by a foreigner (not illegal migrant) who is ordinarily resident in India for twelve years (throughout the period of twelve months immediately preceding the date of application and for eleven years in the aggregate in the fourteen years preceding the twelve months) subject to other qualifications as listed in Third Schedule of the Act.

An illegal migrant as defined in section 2(1)(b) of the Act is a foreigner who entered India: (i) without a valid passport or other prescribed travel documents; (ii) with a valid passport or other prescribed travel documents but remains in India beyond the permitted period of time.

Identity Determinants in India

There are various ways of determining Indian Nationality.⁹ They are:

1. NATIONAL POPULATION REGISTER (NPR) is issued by The Ministry of Home Affairs. This serves as a smart card. It is mandatory for all citizens to get enrolled under NPR. The NPR enrolment is also an effective way for utilization and implementation of benefits and services under government schemes. Additionally, it also bears an Aadhar Card number. A person who has already enrolled with Aadhar card issuing authority, i.e. UIDAI has to register under NPR.¹⁰
2. AADHAR Card is issued by Unique Identification Authority of India (UIDAI), under the Planning Commission. It strives to make Aadhar the National Identification Number. The card is mandatory for PDS, opening bank accounts, receiving pension etc.¹¹ Though Aadhar card is not a conclusive proof of identity in India, yet it is now a matter of compulsion for all Indian citizens to obtain one.
3. DRIVING LICENSE is issued by Regional Transport Offices (RTO's). Acts as a conclusive proof of one's identity in India. It also acts as a certifying card which authorizes the holder to drive motor vehicles on Indian roads.¹²
4. PAN CARD issued by Ministry of Finance (Compulsory). Equivalent to a National Identification Number. Main purpose, however, is to track Tax Payments, Loans/Sale/Purchase of Property¹³

⁹ Mail Today Reporter, *India's identity crisis: Between Aadhaar, passport, PAN and NPR, why are we still struggling to prove our identities?*, MAIL ONLINE INDIA, (Mar. 18, 2015, 4:00 PM), <http://www.dailymail.co.uk/indiahome/indianews/article-2297714/Indias-identity-crisis-Between-Aadhaar-passport-PAN-NPR-struggling-prove-identities.html>

¹⁰ Department of Information Technology- National Population Register, *National Population Register- Home*, DITNPR, (Mar. 17, 2015, 9:16 AM), <http://ditnpr.nic.in/>

¹¹ Unique Identification Authority of India, Government of India, *UIDAI- Official Website*, UIDAI, (Mar.17, 2015, 11:30 AM), <https://uidai.gov.in/>

¹² Govt. of NCT Delhi, *Transport*, DELHI.GOV.IN, (Mar. 17, 2015, 12:00 PM), http://www.delhi.gov.in/wps/wcm/connect/doi_transport/Transport/Home/Driving+Licence+Necessity+of+Driving+Licence

5. RATION CARD issued by State Governments to people above the Poverty Line, below the Poverty Line and Antyodaya families. Not only does it work as an efficient source of one's identity in India, but also helps one in the purchase of essential commodities from fair price shops.¹⁴
6. PASSPORT issued by Ministry of External Affairs. It works as proof of identity as well as residence. It also serves as an authorization for an Indian National to travel abroad.¹⁵
7. VOTERS' ID CARD issued by Election Commission is another major source of identity determinant in India. It makes one eligible to vote in Indian elections after attaining eighteen years of age.¹⁶

Non-Resident Indian (NRI)

For the purposes of the Income Tax Act, "residence in India" requires stay in India¹⁷ of at least 182 days in a calendar year or 365 days spread out over four consecutive years. Strictly speaking, the term non-resident refers only to the tax status of a person who has not resided in India for a specified period for the purposes of the Income Tax Act¹⁸. The rates of income tax are different for persons who are "resident in India" and for NRIs. According to the Act, any Indian citizen who does not meet the criteria as a "resident of India" is a non-resident of India and is treated as NRI for paying income tax.

Person of Indian Origin (PIO)

The Government of India issues a PIO Card to a PIO after verification of his or her origin or ancestry and this card entitles a PIO to enter India without a visa. PIO Cards are extremely beneficial in the sense that they exempt holders from many restrictions that apply to foreign nationals, such as visa and work permit requirements, along with certain other economic limitations. The authorities consider anyone of Indian origin up to four generations removed to be a PIO, with the exception of those who were ever nationals of Afghanistan, Bangladesh, Bhutan, Nepal, Pakistan, or Sri Lanka and Iran. The spouse of a PIO can also be issued a PIO card though the spouse might not be a PIO provided the latter category includes foreign spouses of Indian nationals, regardless of ethnic origin, so long as they were not born in, or were ever nationals of, the aforementioned prohibited countries.

¹³Government of India Ministry of Finance Department of Revenue Central Board Of Direct Taxes, https://www.tin-nsdl.com/download/pan/Notification96_2013.pdf, TIN-NSDL.COM, (Mar 17,2015, 1:00 PM), https://www.tin-nsdl.com/download/pan/Notification96_2013.pdf

¹⁴ Ration Card, *Online Information On Ration Card*, Ration Card, RATIONCARD.ORG (Apr. 15, 2015, (7:38 PM))
<http://www.rationcard.org/>

¹⁵ Proof of Address, *List of Acceptable Documents*, PASSPORTINDIA, (Apr. 15, 2015, 8:00 PM)
<http://www.passportindia.gov.in/AppOnlineProject/popuponline/AttachmentAdvisorSub?subDocID=7001&confirmDOB=>

¹⁶ Election Commission of India, *FAQs- Electoral Rolls*, ECI, (Apr. 5, 2015, 8:30 PM)
<http://eci.nic.in/m/Elecroll.html>

¹⁷ 43 I.T. § 6 (1961)

¹⁸ The Economic Times, *India's Identity Crisis: Difference Between UID and NPR*, ECONOMICTIMES.INDIATIMES.COM (Mar. 18, 2015, 8:00 PM), <http://economictimes.indiatimes.com/slideshows/economy/all-you-want-to-know-about-uid-npr/difference-between-uid-npr/slideshow/18832339.cms>

Indian Diaspora

The Indian Diaspora is a generic expression that is used to depict the status of people who migrated from territories that are currently within the territorial borders of India. It is inclusive of their descendants as well. The Diaspora¹⁹ is currently estimated to add up to over twenty million. Consisting of "NRIs" (Indian citizens not residing in India) and "PIOs" (Persons of Indian Origin who have acquired the citizenship of some other country), the Diaspora covers every plausible part of the world. It numbers more than a million each in eleven countries, while as many as twenty-two countries have concentrations of at least a hundred thousand ethnic Indians.

Indian Diaspora is a geographically diversified Diaspora, which is spread in as many as 110 countries. The characteristics of this diversified assemblage vary as well. It varies to such an extent that we even call some countries as 'old Diaspora' countries and 'new Diaspora' countries. Major countries that are placed in the old Indian Diaspora are Malaysia, Mauritius, Trinidad and Tobago, Fiji, Guyana, and Suriname. On the other hand, the prominent countries with the new Diaspora are all the developed countries like – USA, UK, Canada, Australia and New Zealand. A substantive number of Indians also live in the Gulf region. Most of the Gulf migration from India took place from the State of Kerala. The common thread between all the three groups of Indian emigrants is that they are industry migrants. The skilled and highly skilled labour went to the developed countries like the USA, UK, Canada, Australia, and New Zealand and formed a part of new Indian Diaspora. The lower skilled, semi-skilled and un-skilled labour went to the Gulf region. The old Diaspora is replaced in other countries because of the colonial policies of slave trade and indenture labour system.

Escalation of Indian Diaspora Policies:

The Diaspora is very special to India. Members have retained their emotional, cultural and spiritual links with the country of their origin. It is to nurture the ties for serving mutual benefits that the Government of India, established a High Level Committee under the chairmanship of Dr. L.M Singhvi, with the mandate to make an in-depth study of the problems and difficulties, the hopes and expectations of the overseas Indian communities. This strikes a joint chord in the hearts of populace of India. The Committee with the active cooperation of NRIs and PIOs has submitted the report on 8th January, 2002.

The High Level Committee in its recommendations suggested formation of an organization on the lines of Planning Commission to look after the affairs of Overseas Indians. It was further decided that a full- fledged Ministry of Overseas Indian Affairs headed by Shri Jagdish Tytler, Minister of State with Independent Charge to deal with affairs related to Overseas Indians.

Mandate of the Committee: In view of the vital contribution that is being made by NRIs and PIOs to the societies where they reside, they are well situated to play a progressively greater role in strengthening ties between India and those countries, besides also making a contribution to India's development. At the same time, the Government of India has an obligation to safeguard the welfare of Indians living abroad and to put in place rules and procedures conducive to facilitating their links with India. For this purpose, Government has

¹⁹ The Indian Diaspora, *The Indian Diaspora*, INDIANDIASPORA (Mar 18, 2015, 3:00 PM)
<http://indiandiaspora.nic.in/>

formulated the terms of reference for the work of the High Level Committee on the Indian Diaspora which is required to review, study and examine the status of PIOs and NRIs in the context of constitutional provisions, laws and rules applicable to them both in India and countries of their residence.

In recent years, the government of India, along with a number of state governments, has been making efforts to reach out to the Indian Diaspora. While India started a Ministry of Overseas Indian Affairs, state governments with a substantial Diaspora have also set up separate departments to look into some of the demands and concerns of Non Resident Indian's (NRIs). Indian cities benefited from remittances and FDI from a large number of their people present in the U.S., U.K., Canada, the Gulf region and Southeast Asia. Remittances in India reached \$70 billion in 2013 according to World Bank estimates, which accounts for over 4 percent of the country's GDP²⁰.

The Call for Reflection into India's Diaspora Policy:

Even though there has been positive change, a number of problems still persist. First, there is often a perception that the Indian government gives greater importance to the more affluent sections of the Diaspora, consisting of businessmen and white collar job officials. The second problem with India's Diaspora policy is that while NRIs are given attention, individuals who migrated from India generations ago (PIOs), are not given much attention. For instance, the PIOs in Myanmar have migrated from states such as Bihar, Tamil Nadu and Punjab. A number of these PIOs are stateless and are vehemently keen to connect with their roots. Third, the quandary still remains that whether Indian migrants from Nepal, Sri Lanka and other neighboring countries can be clubbed as Diaspora or not as they equally participate in the remittance process to India. Lastly, the ill-treatment and the harassment faced by the members of Indian Diaspora continue to be the most common grievance till date.²¹

India could move forward and initiate a strapping beginning by either considering granting these PIOs citizenship, or by granting any other right that makes them socially and politically involved with their home country. With such a pool of emigrants, India could tap its Diaspora for better relations with these countries across the globe.

Present Trend of Immigration in India

Even though India seems to be a booming economy, it is not free from its set of drawbacks that hinder optimum growth. Improvement in the education system, trading and infrastructure are seen as the most essential catalysts to India's growth. In the meantime a large portion of India's population remains uneducated and unskilled. For that reason it is important and pertinent to note that immigration in fields employing unskilled and industrial labor will not be readily permitted as these industries form an important source as the uneducated or under-educated sections of India depend on such jobs. On the other hand, the demand for visas from highly skilled, qualified professionals and entrepreneurs is on the rise as Indian consular posts

²⁰ Tridivesh Singh Maini and Sridhar Ramaswamy, *The Need for Introspection in India's Diaspora Policy*, THE DIPLOMAT, (Mar. 18, 2015, 3:30 PM), <http://thediplomat.com/2014/10/the-need-for-introspection-in-indias-diaspora-policy/>

²¹ The High Level Committee Report, *Consular and Other Issues*, INDIANDIASPORA, (Apr. 27, 2015, 9:15 PM) <http://indiandiaspora.nic.in/diasporapdf/chapter27.pdf>

in the U.S. have outsourced visa processing seemingly, in an attempt to effectively process the larger volumes of applications.

Turning to the lot already settled in India, there seems to be no restrictions on the duration of residence with a spouse who is on a long term employment visa. However, it is important to note that if an accompanying spouse wishes to be employed in India or conduct any other activities which would require a visa; he/she will need to obtain an independent visa.

Future of Immigration in India

Present immigration laws in India do not place any shackle of restrictions on the inflow of people with visas²². India, being one of the fastest growing economies in the world is well acknowledged for its hospitality and open-door policies. Even with a population of more than a billion, India welcomes migrants who are not only willing to invest their money in the markets but also welcomes highly qualified professionals.

Studies²³ show that in the last couple of years, however, the total number of overseas Indians has been shrinking, a trend that has been generally attributed to the global financial crisis, a devaluing rupee and changes to immigration laws in top host nations. New immigrants in the country, comprising for the most part those on temporary stays or people with long term business plans tend to congregate in well urbanized areas. In addition to that, the Indian immigration laws need to be modified to address the status of unlawful residents in the country, as there are a number of refugees and asylums seeking shelter in India even though Indian statutes consider all foreign nationals who enter India without visas as illegal migrants.

The pattern of immigration can be traced in the following phases. The 1990's primarily covered personnel establishing businesses for large multi-national corporations and PIOs. Subsequent trends indicated that large numbers of PIOs, after gaining citizenships in other countries, were deciding to work as high level professionals/businessmen in India. Recent trends indicate that the profile of those coming to India, especially since late 2004 includes young professionals. The last trend is expected to continue while the demand to qualify as PIO's and OCI's is likely to increase manifold. It is expected that India will be the most populous country by 2050, with a largely young and thus mobile population. Given India's expanding middle class and continuing poverty, international labor, highly skilled migration, and illegal migration are likely to grow.

²² Poorvi Chothani, *The Future of Indian Immigration*, LEGALSERVICEINDIA.Com, (Mar. 18, 2015, 9:45 PM)

<http://www.legalserviceindia.com/article/I238-Future-of-Indian-Immigration.html>

²³World Education News & Reviews, *Indian Study Abroad Trends: Past, Present and Future*, WENR.WES.ORG/ (Apr. 29, 2015, 7:06 PM)

<http://wenr.wes.org/2013/12/indian-study-abroad-trends-past-present-and-future/>