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The transition of PIO & OCI to OIC (Overseas Indian Cardholder)

A lifelong visa for the Indian Diaspora

The Rajya Sabha on Tuesday, 13th August 2013 passed a bill seeking to remove a lacuna relating to OCI card holders.

The Citizenship (Amendment) Bill, 2011 was first introduced in the Rajya Sabha on December 8, 2011¹. For additional information like: *Text of the Bill, PRS Bill Summary, Standing Committee Report and PRS standing Committee Summery* please visit the link mentioned under footnote 1. The Citizenship (Amendment) Bill, 2013, as passed by the Rajya Sabha² you will find under the link mentioned under footnote 2.

The amendment is the result of different representations and proposal submitted by the Diaspora community to the GOI. During this process, where possible, the Indian Diaspora in the Netherlands interacted with the Dutch government to obtain clarification of the OCI in relation to the Dutch nationality. Several times they interacted with the Minister, the Secretary and Joint-Secretary of MOIA on different Diaspora related issues.

My first communication to the Dutch Ministry of Justice (IND) requesting some clarification of the OCI in relation to the Dutch nationality was in July 2005. Since then I am personally involved with this issue. I have tried to put the history of transition of PIO & OCI to OIC on paper. Enclosed pls find a copy of the document. This document focuses on the activities initiated in the Netherlands. Finally on 13th August 2013 during the Monsoon session of the Parliament, the Rajya Sabha passes the bill facilitating registration of overseas Indian cardholders³.

As I am not fully aware of initiatives taken by the Indian Diaspora in other countries, this article should not be considered a comprehensive representation of such. This is for information only and would give you an idea of the amount of correspondence and time spent for a public cause.

We extend our thanks to Minister Vayler Ravi and his staff for perusing this issue for so long and bringing it to a fruitful end.

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¹ <http://www.prsindia.org/billtrack/citizenship-amendment-bill-2011-2091>

² <http://164.100.24.219/BillsTexts/RSBillTexts/PassedRajyaSabha/citznship-Ep.pdf>

³ <http://timesofindia.indiatimes.com/india/Rajya-Sabha-passes-bill-facilitating-registration-of-Overseas-Indian-Cardholders/articleshow/21815665.cms>

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PIO Card Scheme

The Government of India launched on 30th March, 1999 the PIO (Person of Indian Origin)⁴ Card Scheme which allows visa free travel and gives several benefits to the card holder in terms of education, investment etc. Under this scheme Persons of Indian Origin up to the fourth generation (great grandparents) settled throughout the world, except for citizens from Afghanistan, Bangladesh, Bhutan, China, Nepal, Pakistan and Sri Lanka would be eligible. The card is valid for 20 years from the date of issue subject to the validity of the foreign passport and the onetime fee of US\$ 1,000/- . The PIO Card is valid only when accompanied by a valid passport of the country of residence. The same has been further modified by Notification No. 26011/4/98-F.I of 19th August, 2002⁵. The fee for the new PIO card is Rs. 15,000/- and the PIO card is valid for 15 years.

High Level Committee on the Indian Diaspora

In view of the vital contribution that is being made by the Non Resident Indians (NRIs) and the PIOs to the countries where they are residents, they are well situated to play a progressively greater role in strengthening the ties between India and those countries. Besides they are also making a contribution to India's development not only through remittances but also in transfer of technology, by promoting Indian exports, supporting development activities through NGOs and charitable organizations. In view of this the Government of India has also an obligation to safeguard the welfare of Indians living abroad and to put in place rules and procedures conducive for facilitating their links with India. For this purpose, the Ministry of External Affairs, Government of India decided on 18th August, 2000 to appoint a High Level Committee on the Indian Diaspora with a view to examining all important aspects of enhancing the relationship between the Indian Diaspora and India.

Report of the High Level Committee on the Indian Diaspora

The Report of the High Level Committee on the Indian Diaspora dated 19th December, 2001 made among others the following recommendations⁶:

- That dual citizenship should be permitted within the rubric of Citizenship Act 1955
- That Section 9, 10 and 12 of the Citizenship Act, 1955 should be suitably amended.

Granting dual citizenship - Overseas Citizenship of India (OCI) Scheme

During the first Pravasi Bharatiya Divas, the Government of India had proposed granting dual citizenship on reciprocal basis to Indians in the United States, the United Kingdom, Australia, Canada, Finland, Ireland, the Netherlands and Italy. The decision was later

⁴ <http://cgijeddah.tripod.com/consular/pio.html>

⁵ <http://www.indianembassyrabat.com/consular/pioscheme.htm>

⁶ <http://indiandiaspora.nic.in/diasporapdf/chapter36.pdf> [Chapter 36 | Dual Citizenship | Page 531]

accepted by the Union Cabinet and a Bill to this effect was introduced on May 8, 2003 in the Rajya Sabha. Eight more countries [Israel, Greece, Switzerland, Cyprus, France, Sweden, Portugal and New Zealand] were later added to this list⁷.

In response to persistent demands for "dual citizenship" from Foundation for Critical Choices for India [FCCI]⁸, the Diaspora in North America and other developed countries, and keeping in view the Government's deep commitment towards fulfilling the aspirations and expectations of Overseas Indians, the Overseas Citizenship of India (OCI) Scheme was introduced by amending the Citizenship Act, 1955 in August 2005. The OCI Scheme was launched during the Pravasi Bharatiya Divas Convention 2006 at Hyderabad. The Scheme provides for registration as Overseas Citizen of India (OCI) of all Persons of Indian Origin (PIOs) who were citizens of India on 26th January, 1950 or thereafter or were eligible to become citizens of India on 26th January, 1950 except those who are or had been citizens of Pakistan, Bangladesh or such other countries as the Central Government may, by notification in the Official Gazette, specify⁹.

The Constitution of India did not provide for dual nationality and left it to subsequent government to decide on it. Based on the recommendation of the High Level Committee on Indian Diaspora, the Government of India decided to grant Overseas Citizenship of India (OCI), commonly known as 'Dual Citizenship'¹⁰.

Despite the fact that the Constitution of India neither allowed nor disallowed dual citizenship, the scheme is termed as Overseas Citizenship of India (OCI). Both in international law and practice of nations there was no parallel to this scheme. Hence, initially this created much confusion and unnecessary hardship to the OCI card holders.

The major difference between the PIO card scheme and the OCI scheme is that OCI is a lifelong visa; a visa sticker is pasted to the foreign passport and in case of renewal of the foreign passport one has either to apply for a new OCI visa sticker to be pasted to the new foreign passport or make sure that the page in the expired foreign passport with the visa sticker is not cancelled by the passport issuing authorities. While travelling to India it is required to carry along with the new passport the OCI card and also the expired foreign passport with the OCI visa. Initially this was not mentioned in any government notification. As for a PIO card holder no visa is required, but due to lack of government guidelines many OCI card holders assumed that they can also travel to India with only the OCI card. It was not only the public who was not aware of the procedure but some of the diplomatic representatives as well as several foreign governments did not have a clear picture of the status of OCI Card.

⁷ http://articles.timesofindia.indiatimes.com/2003-11-03/india/27201686_1_dual-citizenship-j-c-sharma-netherlands-and-italy#

⁸ Foundation for Critical Choices for India: A Quarter Century of Service to India, 2008, ISBN978-90-9023362-8
- *Petition to Chairperson Committee of Petitions, Rajya Sabha, 3rd March 1983, page 165* | *Petition to PM of India Shri Narashimha Rao, 24th November 1991, page 171* | *Petition to PM Shri Atal Behari Vajpayee, 19th May, 1999*

⁹ <http://moia.gov.in/services.aspx?id1=35&id=m3&idp=35&mainid=23>

¹⁰ http://www.indianembassy.org/consular/OCI_Jan92006/OCI.html

Overseas Citizenship of India in Relation to Dutch Nationality

Many members of the Indian Diaspora in the Netherlands often approached me for advice on this matter. Therefore, since the introduction of the OCI, I wanted to have some clarification of the OCI in relation to the Dutch nationality. In this regard I had correspondence from time to time with the Dutch Ministry of Justice as well as the Dutch Ministry of Foreign Affairs¹¹ |¹².

On 23rd August, 2006, I received an e-mail from the Dutch Ministry of Justice informing me of the present Dutch policy towards Overseas Indian Citizenship in relation to Dutch nationality. Information received from the Ministry of Justice mentioned that under the present circumstances, acquiring the Overseas Citizenship of India is not considered a “nationality” issue. As such application or voluntary acquisition of OCI does not fall under the legislative provision which implies a voluntary acquisition of another nationality leading to loss of the Dutch nationality¹³.

Based on this information several persons of Indian origin applied for the OCI card which is in fact an upgraded PIO card and got their OCI cards. According to information received by a few of them, if an OCI card holder with Dutch passport visits India he/she is treated as an Indian national and no longer gets consular support from his/her government. As further clarification on this point was not available locally, I contacted the Dutch Consulate General in Mumbai on 29-12-2006. On 4th January 2007 I received a reply from the Head of the Dutch Consular Department, The Royal Embassy of the Netherlands, Delhi confirming that people of Indian origin who are Dutch nationals and have OCI card while visiting/staying in India, will get full consular support in India if and when they require such assistance¹⁴.

To get information about the validity of the OCI card pasted to an expired Dutch passport I had to correspond with the Ministry of Overseas Indian Affairs [MOIA] directly. MOIA was very helpful and provided the necessary information.

Actual initial experience of Indian Diaspora with the OCI card

Most members of the Indian Diaspora had to learn the reality of using the OCI card the hard way. It appeared that PIO card holders do not require a separate visa to enter India. In contrast to the PIO card, the OCI card which is now a cornerstone of the Indian Government's policy towards the Diaspora, in itself has no value. The immigration authorities of India were not always clear about the government policy on this issue. While introducing the OCI card scheme the government did not clarify that the OCI card is meant only to be used while in India, whereas for entry into India all OCI Card holders should be in possession of the passport on which the life-long visa has been pasted. Very few of the general public know the difference between *Citizenship* which is a legal status in a political institution such as a city or a state and *Nationality*, on the other hand, means formal

¹¹ http://www.indiawijzer.nl/indian_diaspora/ioc/brief_aan_ind_08_07_05.pdf

¹² http://www.indiawijzer.nl/indian_diaspora/ioc/brief_van_ind_15_12_05.pdf

¹³ http://indiawijzer.nl/indian_diaspora/ioc/dual_citizenship_status.htm

¹⁴ http://www.indiawijzer.nl/indian_diaspora/ioc/assistance_dutch_embassy_in_india_consulaire_bijstand.pdf

membership in or identification with a particular nation with political rights. Some countries use citizenship and nationality interchangeably, meaning one and the same thing.

As initially it was not clear that without the OCI visa pasted on the foreign passport, entry to India was not possible, several persons were sent back after arrival in India. A few of the cases which caught my attention are:

1. 20th December, 2006: Mumbai Airport immigration officials deported seven-year-old Viraj Shriwardhankar and his three-and-a-half-year-old brother Vrishabh two hours after they landed in India¹⁵.
2. A 12-year-old denied temporary landing permit in Kolkata¹⁶
3. Septuagenarian Pandit, a professor emeritus of Ann Arbor, Michigan, USA¹⁷ met the same fate.

As there is no direct mention of the requirement carrying the OCI card together with an OCI visa pasted on an expired foreign passport, many members of the Diaspora travelled to India carrying only the OCI card and a foreign passport. They were denied entry to India.

Representation and interaction with MOIA

Several times I interacted with the Minister, the Secretary and Joint-Secretary of MOIA on different Diaspora related issues. I took the initiative and raised this issue with MOIA on different occasions. Some of the members of the Indian Diaspora from the USA also contacted MOIA in this connection¹⁸. One of the resolutions passed by the GOPIO convention January 6, 2010 urged the Government of India to initiate a process that will authorize OCI cards to be used as valid visas¹⁹.

The transition - combining OCI and PIO card into one card:

Indeed the minister and his ministry have been working to resolve this issue for some time. It was with great pleasure that I listened to the announcement of Prime Minister Manmohan Singh in PBD 2011 in New Delhi about the merging of the Overseas Citizen of India (OCI) and the Persons of Indian Origin (PIO) cards into a single facility to simplify visa-free entry and participation of Indian Diaspora in business and other activities²⁰. On August 19, 2011 the PM also discussed this issue in a cabinet meeting²¹.

On 30th December, 2011, the Parliamentary Standing Committee on Home Affairs invited written memoranda from the public/stakeholders, on the Citizenship (Amendment) Bill,

¹⁵ <http://www.rediff.com/news/2006/dec/20george.htm>

¹⁶ <http://www.rediff.com/news/2007/sep/11george.htm>

¹⁷ http://www.indiawijzer.nl/indian_diaspora/ioc/experience_dr_sujit_pandit_usa_1.pdf

¹⁸ http://www.gopio.net/news_121209.htm#LETTER.BLOCK22

¹⁹ <http://gopio-atlanta.com/wp-content/uploads/2012/06/GOPIO-Resolutions-2010-New-Delhi-0101101.pdf>

²⁰ http://www.thestatesman.net/index.php?option=com_content&view=article&id=355064&catid=36

²¹ <http://www.hindustantimes.com/India-news/NewDelhi/India-to-merge-PIO-OCI-scheme/Article1-739407.aspx>

2011²². The Committee presented the One hundred and fifty ninth Report on the Citizenship (amendment) bill, 2011 to the Rajya Sabha on 28th March, 2012²³.

The Citizenship (Amendment) bill, 2011 was included under point 9 in the Agenda for passing²⁴ of bills in the Winter Session of 2012 Parliament. But due to the disruption of legislative work by the opposition parties the Parliament was not fully functional and the bill did not come up for discussion. The Lok Sabha worked for 53% of the scheduled hours and the Rajya Sabha for 58%. The bill 'was again included as one of the "*Bills for Consideration and Passing*"²⁵ in the Budget Session of Parliament which started on 21st February, 2013. It met with the same fate. Parliament convened for the Budget Session for 32 days and adjourned sine die two days ahead of schedule. Lok Sabha worked for 49% of the available hours and Rajya Sabha for 52%²⁶. Finally on 13th August 2013 during the Monsoon session of the Parliament the Rajya Sabha passes the bill facilitating registration of overseas Indian cardholders²⁷.

Representation and interaction with MOIA on behalf of Dutch Diaspora

Since the announcement of OCI card scheme I was communicating with the Dutch officials and other interested parties and later I have been pursuing these issues with the senior officials and the Minister of MOIA himself. Some of the issues raised were:

1. In March 2008 I contacted MOIA and apprised them of the lack of clear information on this causing problem for the Diaspora. For the Dutch OCI cardholders I have posted the relevant formation at www.indiawijzer.nl²⁸.
2. In March 2008, I discussed this issue with the Chairman of GOPIO International, USA. He informed me about the problems of children of Indian citizens born outside India who cannot apply for the OCI card, if they are under 18 years old. There are several such issues which need to be clarified.
3. In May 2008, in The Hague, I raised this issue in my meeting with the Secretary of MOIA. He informed that the ministry was aware of the problems with the OCI card and was trying to resolve this issue.
4. During his visit to the Netherlands I once again raised this issue and interacted with the Minister on 4th and 5th June, 2008 in Leiden and The Hague, followed by a mail on some other points and extra information.
5. On 7th June, 2008 I again sent a mail to Minister Vayalar Ravi on this. In his reply of 17th June, 2008 the Minister mentioned the following:
"While entry of OCI card holders could be considered, exclusively on the basis of their Booklets/Cards, our attention has also been drawn to regulations of the International Civil

²² https://groups.google.com/forum/#!msg/in-ap/6IYYDxw67oE/nZY1Pd_r3dcI

²³ <http://www.prsindia.org/uploads/media/Citizenship/SCR%20Citizenship%20Amendment%20Bill%202012.pdf>

²⁴ <http://mpa.nic.in/Prew12.pdf>

²⁵ <http://www.pib.nic.in/newsite/ererelease.aspx?relid=92317> [Group III, no. 26]

²⁶ <http://www.prsindia.org/parliamenttrack/parliament-updates/plan-vs-performance-budget-session-2013-feb-21-to-may-8-2747/>

²⁷ <http://timesofindia.indiatimes.com/india/Rajya-Sabha-passes-bill-facilitating-registration-of-Overseas-Indian-Cardholders/articleshow/21815665.cms>

²⁸ http://www.indiawijzer.nl/indian_diaspora/ioc/validity_oic_expired_dutch_passport.pdf

Aviation Organisation (ICAO), which recognize only the national passport and visa as valid international travel documents. Nevertheless, we will strive to find a via-media”²⁹

6. In the context of OCI visa/card I requested on 20th August, 2009, the Ministry's response to the following situation:

In case of a PIO card, no visa sticker is attached to the foreign passport. On the basis of the PIO card, one can travel to India without any problem. It seems ICAO accepts the PIO card as a valid international travel document. Moreover if one wants to sail from India the ICAO rules do not apply. Is it not then possible to apply the same set of rules also to the OCI visa/card?

As an alternative to holding a passport, EU citizens can use a valid national identity card as a travel document to exercise the right of free movement in the EEA (*EU, Iceland, Liechtenstein, and Norway*) and *Switzerland*, without a visa. Additionally, EU nationals can enter a number of other non-EU countries and EU member's territories in Europe, which are not part of the EU, with their national ID cards.

7. During the European PBD, on 19th September, 2009 in short interaction with the Secretary of MOIA in The Hague, I once again put forward the above suggestion.
8. In October 2009 during the India Calling 2009 Conference in Brussels, I reiterated my suggestion on this issue to the Joint Secretary of MOIA.
9. The issue was also raised during the PBD 2009 and European PBD, The Hague 2011.

Issues proposed for amendment in the Citizenship Amendment bill 2011:

As a result of different representations from the Diaspora community, the Government of India studied the proposals. The end result is the presentation of the Citizenship (Amendment) Bill, 2011 to the parliament which included different issues raised by the community. Some of the issues proposed in the amendments (Clause 4)²³ | ³⁰ are:

- (i) To enable acquisition of OCI registration by minors, both parents of whom are Indian citizens or one parent is an Indian citizen by amending section 7A;
- (ii) To merge the PIO Card Scheme with OCI Scheme by amending section 7A.
- (iii) To re-designate the nomenclature of "Overseas Citizen of India" as "Overseas Indian Cardholder" by amending Section 7A to 7D;
- (iv) To cancel the registration of a person who has obtained overseas Indian card on the basis of marriage to an Indian Citizen, on dissolution of his/her marriage;
- (v) If a person renounces his overseas Indian card, then his minor child shall also cease to be an overseas Indian cardholder.

Cost of the OIC

Current fee for PIO is Rs. 15,000/- or equivalent in local foreign currency (Rs. 7,500/- for minors), fee for OCI registration is US \$ 275/- or equivalent in local currency.

After amendment, there will be a uniform fee of US \$ 275/- or equivalent in local currency for all applicants seeking Overseas Indian Card.

Note: This article focuses on the activities initiated in the Netherlands. As I am not fully aware of initiatives taken by the Indian Diaspora in other countries, this article should not be considered a comprehensive representation of such.

²⁹ http://www.indiawijzer.nl/indian_diaspora/aow_in_india/reply_minister_ravi_moia.pdf

³⁰ <http://www.youtube.com/watch?v=3NbH8w4LnRQ> - A YouTube clip - Citizenship (Amendment) Bill, 2011.