

1. US - Birth Tourism

Prelims Level: Citizenship

Mains Level: GS-II Effect of policies and politics of developed and developing countries on India's Interests, Indian Diaspora.

Context:

- The US Department of State has unveiled new rules aimed at restricting "birth tourism," in which women travel to the United States to give birth so their children can have U.S. citizenship.

What are the Widely Used Principles for the Grant of Citizenship?

- '**jus soli**' confers citizenship on the basis of place of birth
- '**jus sanguinis**' gives recognition to the blood ties

What is Birth Tourism?

- Birth tourism refers to the practice of traveling to another country for the purpose of giving birth in that country.
- The main reason for birth tourism is to obtain citizenship for the child in a country with birth right citizenship (jus soli).
- Such a child is sometimes called an "**anchor baby**" if their citizenship is intended to help their parents obtain permanent residency in the country.
- Other reasons for birth tourism include access to public schooling, healthcare, sponsorship for the parents in the future.

What is the New Rule?

- Under the rule, pregnant women applying for US visitor visas may need to prove they have a specific reason for travel other than giving birth on US soil.
- The new rule applies to visitors seeking B visas, which are issued to non-immigrants.
- It also tightens rules on those wishing to enter the US for medical treatment.
- It allows consular officials to deny a visa to any individual whose "primary purpose" in obtaining such documentation is to give birth there.
- Visa applicants must now prove they have "the means and intent" to pay for their medical expenses and convince a consular officer that they have arranged for a doctor willing to provide their Treatment.
- The Birth Tourism Industry is also said to have rife with criminal activity, including International Criminal Schemes.

How Many Children are born under 'Birth Tourism' in US?

- There are no records of how many babies are born to US visitors each year, but various groups have issued estimates.
- The Centre for Immigration Studies, a group that advocates for stricter immigration laws, estimates that about 33,000 children were born to women on temporary tourist visas between the second half of 2016 and the first half of 2017.
- And the number is said to be in rising trend with each year.

Who all would be affected by the New Rule?

- The new rule is meant to bar wealthy families from countries like Russia and China from coming to the US to give birth.
- Couples seeking to circumvent China's one-child and now two-child policy have been said to be travelling to the US to have babies.
- The visa ban will also affect pregnant women at the US-Mexico border, who were usually allowed to cross the border without issue.

Where does India stand in Recognizing birth-right Citizenship?

- From the time of the **Motilal Nehru Committee** (1928), the Indian leadership was in favour of the enlightened concept of jus soli.
- The racial idea of **jus sanguinis** was also rejected by the **Constituent Assembly** as it was against the Indian ethos.
- **1986 Citizenship Act amendment:** Unlike the constitutional provision and the original Citizenship Act that gave citizenship on the principle of jus soli to everyone born in India, the 1986 amendment to Citizenship Act was Less Inclusive.
 - ✓ The amendment has added the condition that those who were born in India on or after January 26, 1950 but before July 1, 1987, shall be Indian citizen.
 - ✓ Those born after July 1, 1987 and before December 4, 2003, in addition to one's own birth in India, can get citizenship only if either of his parents was an Indian citizen at the time of birth.
- **2003 Citizenship Act Amendment:** The amendment made the above condition more stringent, keeping in view infiltration from Bangladesh.
 - ✓ Now the law requires that for those born on or after December 4, 2004, in addition to the fact of their own birth, both parents should be Indian citizens, or one parent must be Indian citizen and other should not be an illegal migrant.

- With these restrictive amendments, India has almost moved towards the narrow principle of jus sanguinis or blood relationship.
- This lays down that an illegal migrant cannot claim citizenship by naturalisation or registration even if he has been a resident of India for seven years.
- **Citizenship (Amendment) Act 2019:** The amendment proposes to permit members of six communities — Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Pakistan, Bangladesh and Afghanistan — to continue to live in India if they entered India before December 14, 2014.
 - ✓ With the new rule, US joins countries like the UK, Germany, France, New Zealand, and Australia in introducing laws to curb "birth tourism." However, ending unconditional birth-right citizenship in the US is complicated because it is guaranteed by the US Constitution, to grant citizenship to freed slaves.

