

Legal Status of Naturalized Immigrant in the State (A comparative study)

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Abstract :- There are several routes for becoming a citizen, and the focus in this section is on the general naturalization rules. Spouses and partners can commonly acquire citizenship more quickly and easily than several other types of immigrants. The acquisition of citizenship for refugees is also easier in several states, and several states outline preferential treatment of persons on the basis of origin. When a person acquires the nationality of the country, this entitles him to many rights and sets out many duties. If the migrant fulfills the conditions set by the laws of the host State, he / she becomes a citizen.

Key words : *Naturalized, Immigrant, a citizen, a nation-state, membership, the legal, reasonable, obligations, non-citizen, education, economic.*

I. INTRODUCTION

Nationality rests alongside territory at the heart of the definition of a nation-state. If territory determines the geographical limits of state sovereignty, nationality determines its population. Beyond these limits one will find foreign land, foreign sovereignty and foreigners. Large-scale, permanent, immigration created a pressure in favor of provisions that guarantee permanent residence to long-term immigrants and open the way for their right to accede to citizenship. Citizenship is both a formal status denoting rights (political rights, in particular) and a more general concept for understanding social membership. Some immigrants become naturalized citizens; immigration has also transformed the meaning of citizenship.

II. GRANTING ACQUIRED CITIZENSHIP

marital status, as marriage to a citizen of another country can lead to the acquisition of the spouse's citizenship ; past, present or future residence in the country's past, future or intended borders (including colonial borders). The mixture of these features determines the conditions under which nationality is granted in any country in the world. It also determines techniques through which citizenship is either attributed or acquired. Both these features and the techniques constitute the particular legislation of one country, its national "configuration". Nationality law is not only a matter of public policy : it also legally constituted on the boundary between public and private law. For the former, determination of nationality is a element of a sovereign state, an inherent part of its power to decide how citizenship is attributed or acquired. As for private law, nationality determines the way national law regulates one's life in such diverse matters as property rights, travel rights, equality of gender within marriage, right to inheritance etc. Nationality law also stands on the boundary between domestic and international law. Since the attribution of nationality is inherently part of a state's sovereignty, legal conflicts are likely to emerge as soon as citizens from one country develop a relationship with either the territory of another country or one of its citizens. Sometimes, these relations lead to an intermingling of laws as seen in the growing recognition of dual citizenship, and sometimes they lead to the disappearance of one's legal link to a state, statelessness. Consider the complexity of nationality law. Each state's law is simultaneously based on juridical traditions, nation-state building, international influence and the role played by migration (emigration & immigration) or the presence of minorities. Divergence between the nationality laws of different countries has been sometime presented as reflecting varying essential or dominant conceptions of the nation , which they are not. (Brubaker, Rogers. 1992).

III. NATIONALITY ACQUIRED IN IRAQI LAW

1. Granting citizenship by marriage

The Iraqi Nationality Law provided in Article 7 that the Minister may accept the naturalization of a non-Iraqi who is married to an Iraqi woman, if there are certain conditions, provided that the period of residence is not less than five years with the stay of the marital union.

- 1- Adult.
- 2- legitimately entered Iraq.
- 3- He has legally resided in Iraq.

- 4- Have good conduct.
- 5- Be free of transitional diseases.
- 6- The duration of stay in Iraq shall not be less than five years, with the marital relationship remaining.

- Article 11 of the law also gave non-Iraqi women married to an Iraqi the right to acquire Iraqi nationality under the following conditions:

- 1- Submit an application to the Minister of the Interior.
- 2- Five years of residence in Iraq.
- 3- The continuation of the marital union until the application is submitted, and the divorced woman and her deceased husband are exempted from it if they have a child. (Aldawoody. Ghaleb Ali. 2010:92-93)
2. **Granting citizenship by birth in the State and residence therein**

The Iraqi legislator's position on the new law No. 26 of 2006 in article 5 explicitly states that "the Minister may consider an Iraqi born in Iraq and has reached the age of majority of a non-Iraqi father who was also a regular resident at the time of the birth of his child Iraqi nationality). (Aldawoody. Ghaleb Ali. 2010:63)

3. **Grant citizenship to the resident**

The legislator, in Article 6, authorizes the Minister to accept naturalization of non-Iraqi except for the Palestinian ... when the conditions stipulated by the law are fulfilled:

First, be of majority age.

Second: Iraq has entered Iraq lawfully and residing there when submitting the application for naturalization for a period of ten consecutive years preceding the submission of the application.

Third: Good behavior, reputation and not sentenced to a felony or misdemeanor.

Fourthly, it must have a clear means of living and be based on a legitimate source so as not to become a burden on society.

Fifth: To be safe from a transitional disease ... because it is not in the interest to bring it into the country.

Sixthly, he should not be among the Palestinians. (Aldawoody. Ghaleb Ali. 2010:73).

IV. GIVING CITIZENSHIP TO THE BLOOD

Were a population and territory to exactly match, attributing citizenship on the basis of *jus sanguinis* or *jus soli* would not make any difference. It would concern the same people and would have the same juridical effects. In eighteenth-century Europe, *jus soli* was the dominant criterion of nationality law in the two most powerful kingdoms : France and United Kingdom. It was the transfer of a feudal tradition to the a state level : human beings were linked to the lord who held the land where they were born. The French Revolution broke from this feudal tradition. Because *jus soli* connoted feudal allegiance, it was decided, against Napoléon Bonaparte's wish, that the new Civil Code of 1804 would grant French nationality at birth only to a child born to a French father, either in France or abroad. It was not ethnically motivated; it only meant that family links transmitted by the pater familias had become more important than subjecthood. This marked the reintroduction of Roman Law into modern nationality law. This French innovation, through codification and imitation, progressively became the law of continental Europe. The following countries adopted *jus sanguinis* in their civil code : Austria (1811), Belgium (1831), Spain (1837), Prussia (1842), Italy (1865), Russia (1864), Netherlands (1888), Norway (1892) and Sweden (1894). (Weiss, André, 1907).

V. CONDITIONS FOR GRANTING CITIZENSHIP

1. residence

In some countries access to formal citizenship (via "naturalization") is relatively easy, requiring little more than a sufficient period of legal residence, some language competence and a declaration of loyalty (as well as a typically hefty application fee). Canada, an "immigration country" to an even greater degree than the US, actively encourages naturalization among immigrants and consequently experiences a higher rate of naturalization than in the US where a *laissez-faire* approach prevails. (Bloemraad, Irene, 2006). Other European states facilitate naturalization by giving a right to opt for citizenship. The Swedish Citizenship Act gives this option to children born to persons being permanent residents for five years (three years in cases of statelessness). Similar rules are found in several European countries, such as Belgium and the Netherlands. These rules were liberalized in the 1970s and 1980s, but there are several examples of restricting this access to citizenship over the last decade; for example, in Denmark, the option was made dependent on a lack of criminal record in 2000 and abolished altogether (except for other Nordic citizens) in 2003. There are also some states in Europe where acquisition of citizenship by option has not been available, such as Austria (Pieter Bevelander, 2014 :20). Most states in Africa include behavior and character requirements among the criteria for

being granted citizenship; lack of criminal record as well as good conduct and morals are common formulations in legislation. Several states require persons to show sufficient income or other means of subsistence. Health requirements are also very common. Several states require prospective citizens to show they are assimilated or integrated into society, they have attachments to it, or that the new country is at the “centre of his/her principal interests,” as it is expressed in Cameroon’s legislation. Among states that include criteria of assimilation and attachment are Algeria, Angola, Benin, Burundi, Cameroon, Ghana, Madagascar, Mali, Nigeria, and Togo (Pieter Bevelander, 2014 :16). Every country in our sample allows for the acquisition of citizenship by residence-based naturalisation. There is significant variation across our sample, however, in the length and type of residence that is required for naturalisation and the presence and degree of additional conditions for naturalisation. The number of required years of residence stated in citizenship laws is no good indicator for the inclusiveness of residence-based naturalisation. We have therefore calculated an effective residence requirement that takes into account allowed interruptions and permanent residence status requirements. The weighted effective residence required in our sample ranges from 3 to 20 years. Belgium has the shortest residency requirement of any country in our sample: three years of legal residence without continuity or permanent status conditions. At the other end of the scale is Moldova, where an individual must reside in the country habitually, uninterruptedly and with a permanent residence permit for 10 years prior to the application for naturalisation. Generally, residence requirements are slightly less demanding in EU-15 compared to the EU-12 countries (Rainer Bauböck, Iseult Honohan, Thomas Huddleston, Derek Hutcheson, 2010 :9).

2. Learn the language

Today, knowledge of language is required in several European countries, as is knowledge of society. Whereas Belgium, Ireland, Italy, and Sweden do not require knowledge of language, many other states do, testing it through interviews and/or written tests. Some states require a language certificate to be provided when applying for citizenship. Denmark, France, Germany, the Netherlands, and the UK also require knowledge of society. In Denmark and the Netherlands, tests of language and knowledge have recently been made more restrictive; tests are now formalized where as they were previously done through interviews with civil servants (Pieter Bevelander, 2014 :13).

VI. RIGHTS GRANTED TO NATURALIZED MIGRANTS

Naturalization confers rights and benefits and, in the minds of many, is supposed to symbolize the achievement of a new national identity (as against a merely instrumental desire to gain the rights and benefits). States sometimes pass laws that have unintended consequences in this regard, as when the USA in 1996 reformed its welfare laws to exclude permanent residents who had not become citizens – resulting in an increase in naturalization applications (some of which no doubt did not reflect genuine adoption of a new loyalty). On the other hand, naturalization can lead to new loyalties, rather than merely reflecting a completed process. (Schuck, Peter, 1998).

1. local voting rights for immigrants

In many countries non-citizen residents can vote in local elections but are not obliged to do so. This raises the issue of fairness in the distribution of demands for political participation in countries with compulsory voting: citizens have the legal duty to vote in local elections but immigrants have a choice. Citizens have reasonable grounds for complaint here: why should they be obliged to vote, whereas others, who equally spend their lives ‘here’, only have the option? To make the acquisition of citizenship obligations voluntary for migrants would be to discriminate unfairly towards them. (Helder De Schutter Lea Ypi, 2015 :14).

1. Fostering entrepreneurship

Legal status and citizenship facilitate non-citizen-immigrant entrepreneurship by providing access to licenses, permits, insurance, and credit to start businesses and create jobs. Despite the legal obstacles to entrepreneurship that non-citizens currently face, the U.S. economy benefits significantly from immigrant innovators. Immigrants—both legal and unauthorized—are more likely to own a business and start a new business than are non-immigrants. Immigration reform that untethers the creative potential of immigrant entrepreneurs therefore promotes economic growth, higher incomes, and more job opportunities (Robert Lynch and Patrick Oakford, 2013 :6).

1. One cannot force immigrants to take citizenship against their will

Change of nationality has become a human right and human rights, and some laws have taken the right of

absolute change, including the Bahraini law, and it has been taken restrictively. Nationality, therefore, is no longer the bond of a person but can even renounce the nationality of a State and seek the nationality of another State (Aldawood. Ghaleb Ali. 2010:38). since this would compromise their autonomy in the host society (Helder De Schutter Lea Ypi, 2015 :12).

VII. BENEFITS OF NATURALIZATION OF IMMIGRANTS

1. Labor mobility and increasing returns

Legalization, investment in education and training, and access to better jobs leads to greater returns on the labor skills and education of undocumented immigrants. The undocumented also experience increasing returns from the improved labor-market mobility that follows legalization. Prior to legalization, unauthorized immigrants are subject to deportation if they are apprehended and, therefore—regardless of their skills—they tend to pursue employment in low-paying occupations, such as farming, child care, and cleaning services, where their legal status is less likely to be discovered. Thus, unauthorized workers do not receive the same market returns on their skills that comparable but legal workers receive. Prior to legalization, a high school diploma does not result in a statistically significant wage premium over those without this education. After legalization, however, “having a high school diploma or education beyond high school” results in an 11 percent wage premium. In other words, the returns on the labor skills of the legalized improve in part because workers move to sectors where their skills and education are both valued and relevant to the work being conducted. Hence, legalization and citizenship improve the efficiency of the labor market by ensuring that people are working in fields where their skill sets and training are being used to the fullest extent. (Robert Lynch and Patrick Oakford, 2013 :6)

2. Investment in education and training

Legal status and a road map to citizenship both provide a guarantee of long-term membership in American society and cause noncitizen immigrants to invest in their English language skills and in other forms of education and training that raise their productivity. Research shows that legal status and a road map to citizenship both create the opportunity and incentive for workers to invest in their labor-market skills at a greater rate than they otherwise would: Nearly 45 percent of the wage increase experienced by newly legalized immigrants is due to upgrades in their human capital.¹¹ Similarly, a Department of Labor study of newly legalized immigrants found that they had significantly improved their English language skills and educational attainment within five years of gaining legal status and a road map to citizenship (Robert Lynch and Patrick Oakford, 2013 :5)

3. What Is the Economic Value of Naturalization?

In US Given that citizenship both signals the integrational already achieved and opens up opportunities for further integration, it is perhaps no surprise that naturalized immigrants fare better in the labor market than noncitizens. On the one hand, naturalized immigrants have characteristics associated with economic success, such as higher levels of education and English language ability, and longer tenure in the US labor market — characteristics that are in part responsible for their ability to obtain citizenship. On the other hand, naturalization can bring direct benefits such as access to a wider range of jobs and the ability to signal social and cultural integration to prospective employers. Naturalized citizens earn between 50 and 70 percent more than noncitizens. They have higher employment rates and are half as likely to live below the poverty line as noncitizens. Naturalized citizens also appear to have weathered the effects of the economic crisis more successfully. Noncitizens' median income fell by 19 percent from 2006-10, compared to declines of percent for the US born and just 5 percent for naturalized citizens.⁴³ As a result, the earnings gap between naturalized and noncitizen immigrants increased from 46 percent to 67 percent over the same period. (Madeleine Sumption and Sarah Flamm, 2012 :11).

VIII. CONCLUSION

citizenship should be mandatory for all resident immigrants. If we take seriously the literature on political obligation concerning the burdens of citizenship and the need for fellow-citizens to share such burdens on a fair basis of political cooperation, the same burden-sharing, we argue, ought to apply to immigrants. Since citizens have no option but to accept and share the burdens of citizenship, immigrants should be part of the same scheme of cooperation and share those very same burdens equally. The positive economic impacts on the nation and on undocumented immigrants of granting them legal status and a road map to citizenship are likely to be very large. The nation as a whole would benefit from a sizable increase in GDP and income and a modest increase in jobs. The earnings of unauthorized immigrants would rise significantly, and the taxes they would pay would increase dramatically.

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