CITIZENSHIP, EQUALITY AND NATURALIZATION
IN A COMPARATIVE PERSPECTIVE

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ABSTRACT

In this paper I explore a topic that so far has been largely neglected in the literature on citizenship and/or naturalization: the rights of the new citizens after naturalization. It is argued that in many cases, naturalized citizens are subjected to institutionalized discrimination in regards of their most basic political, civic and sometimes social rights. This goes directly against the foundational block of the notion of citizenship per se – namely, the equality among citizens of the same polity. To test that, a comparative study of four cases (USA, Canada, Germany Mexico) is made.

INTRODUCTION

Citizenship studies has always been a very rich area for debates, leading to an impressive academic production. What is more, in recent decades this has been expanded further, due to changes in the international contexts (such as the end of the Cold War) as well as the ideological shift from a State-centered vision in politics, to community-based one, including but not limited to the literature in multiculturalism and the rights of minorities ((see e.g. Kymlicka, 1996, 2001; Taylor, 1992) as well as of individuals per se (Benhabib, 2004).

And yet, it is interesting to see how little agreement there is among scholars, regarding the definition and scope of both the concepts ‘citizen’ and ‘citizenship’. In fact, even when we reduce these to its minimum expression, and so consider citizenship as a ‘status of equal
membership within a polity’ (Bauböck & Guiraudon, 2009, p. 439), it is clear that such notion has important consequences: it not only implies both a radical differentiation between those belonging to the polity (and those who do not) but also a specific claim about the basic equality of all those that do belong to the community. What is more, other questions will inevitably arise, e.g. how such status of citizenship is acquired, kept, or lost; or in what specific sense are the citizens ‘equal’; and certainly, of which polity are we talking about.

It is not my aim to engage in such a broad discussion of this sort. Instead, I will focus on a specific topic that, so far, has been overlooked in most of the contemporary debates on citizenship: namely, the legal and factual differentiation of citizens according to the mode they gained citizenship – either by birth, or by naturalization. In other words: *Do different modes of citizenship acquisition create differentiations in terms of the rights and duties for the persons involved?* And, if that is the case, *¿how can this relates to the basic equality of members of the polity - which, at least in theory, is the basis of citizenship itself?*

Preliminary research has found that the allocation of different rights to citizens by birth [hereafter CbB] and citizens by naturalization [CbN] is quite common, and also sanctioned in national laws. However, the specific areas in which both types of citizens are entitled to different rights, varies greatly according to specific country.¹ In this sense, in many countries there is a system of ‘hierarchies of citizenship’, which is enshrined in laws and institutions, even when this seems to go directly against the principle of basic, legal equality of all members of the polity.

My hypothesis is that the presence or absence of a legally-sanctioned discrimination of naturalized citizens vis-à-vis citizens by birth, is due to (1) the persistence of nationalist considerations regarding the ethno-cultural composition of the nation, and/or about its relations with neighbouring nations; (2) the influence of ius soli and ius sanguinis traditions, as each is related to different visions of the polity: as one based in common descent and national lineage, or as one based in territorial considerations; and (3) the existence, or not, of supranational institutions that ‘shield’ citizens from unequal or discriminatory treatment.

¹ See for instance (Hoyo, 2015a, 2016a, 2016b), where I study the cases of Mexico and Honduras.
To prove that, in the following pages I will make first a brief) introduction to the contemporary debates about citizenship, focusing on how they treat or analyse equality among citizens as a basic value or a pre-condition for citizenship, followed by a short commentary about naturalization as a study subject. Then, I will offer a brief comparative study of four cases: the United States, Canada, Germany, and Mexico. For each I will analyse if the differentiation between CbB and CbN goes beyond the purely conceptual or procedural (e.g. regarding the requisites for acquisition in each type) and instead set different rights for each group according to the mode of acquisition – therefore creating a type of institutionalized discrimination against a particular group. For that, I will focus in three areas:

1) *Access to political rights:* Are certain rights reserved for CbB only, particularly regarding the access to certain public and representative posts?

2) *Citizenship provisions:* are there special provisions regarding loss of citizenship for the person, according to its status as either a CbB or a Cbn, or specific provisions limiting the transmission of citizenship to children of a CbN vis-à-vis a CbB?

3) *Substantive rights:* Are there any other differences in the rights of CbN vs. CbB in key areas, e.g. in residence, labour, or property rights?

Once such analysis is made, I will introduce some factors that might explain any differentiation between (theoretically equal) citizens. These factors include the influence of ius soli and ius sanguinis traditions; the existence of overarching legal/institutional safeguards to equality; and nationalist considerations.

The present paper is part of an ongoing research which is still in its initial stages. Therefore, here I present preliminary data and analysis. The main sources for my studies are the online databases of the European Union Democracy Observatory on Citizenship (EUDO-Citizenship) on National Citizenship Laws, as well as those on both Acquisition and Loss of Citizenship ([http://eudo-citizenship.eu/databases](http://eudo-citizenship.eu/databases)), complemented with the corresponding

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2 My research in fact includes also the United Kingdom and Argentina, but further analysis is needed in these two cases.
Country Profiles and Country Reports (http://eudo-citizenship.eu/country-profiles) as well as specific literature for each of the countries studied.

CITIZENSHIP AND EQUALITY: RELEVANT ASPECTS

Most of the current literature regarding citizenship and equality deals with the access (or lack thereof) of specific groups to substantive social, civic, and other rights they are entitled as citizens. In this vein, these analyses escape the narrow idea of citizenship as just a status or a set of political rights. One of such cases is the feminist literature on citizenship, showing how gender prefigures the actual rights and duties that a given person will have access to (see e.g. (see e.g. Lister, 2003).

Further studies focus in specific social aspects of citizenship, or correlate these with specific areas such as urban studies, environmental issues, multicultural, or supranational citizenship (see for instance van der Heijden, 2014). Even the more advanced projects of citizenship, such as the European one, have been criticized in terms of their legal/formalistic approach, which is still not enough to ensure the actual equality of rights among European citizens (not to speak of non-citizen residents, such as migrants) unless it is coupled with substantive rights like those based in residence more than nationality or belonging to a given ethno-cultural group (e.g. Bauböck, 1994, 2003; Delanty, 1997).

In this vein, to measure equality in terms of access to substantive rights can lead to complex panoramas. For instance, Derek Heater finds at least seven ways of understanding equality in a citizenship context (Heater, 1999, p. 82) as well as five groups of citizens, organized according to their relative capability of enjoying and exercising the social and civic rights theoretically associated to citizenship:

i. full and active citizens, who enjoy the complete set of rights and fulfil the duties associated with citizenship;

ii. full but passive citizens, who enjoy rights but are rather apathetic in performing duties;

iii. second-class citizens, who are nominally citizens but are discriminated in the practice;
iv. ‘underclass’, who are also citizens but that are so marginalized from society, that ‘citizenship’ and becomes just an empty word in their case;

v. residents or ‘denizens’, who are not legally citizens but enjoy an array of rights associated with such a status; and

vi. a cross-cutting category: women, who face discrimination regardless of their belonging to any of the former five categories (Heater, 1999, pp. 87-88).

Of course, such literature, focused on rights beyond the simple legal status and implications of citizenship, is very valuable in itself. However, it should be clear that the emphasis in social and other related rights, does not preclude the fact that even in the most basic sense of citizenship: as membership in a polity on equal terms (at least before the law) vis-à-vis other members, there are still profound differences with important consequences for the lives of (arguable equal) citizens.

As a matter of fact, even those authors that focus in political inequality as such, tend to assume that citizens enjoy basic equality before the law, regarding their political and civic rights, and that it is external variables like particular characteristics of political systems; the effects of socio-economic activities; or historical processes among others, the ones that should be blamed for causing political inequality among citizens (see Dahl, 2006; Przeworski, 1991; Sabato, 2012 among others).

And yet, this is not always the case. To argue that, I will rely in the framework proposed by Joppke (2007) where three core aspects of citizenship are differentiated:

a) *Citizenship as status*, denoting the formal membership in a given state, as well as the rules for the access to such membership;

b) *Citizenship as rights*, regarding ‘the formal capacities and immunities’ connected with the status mentioned in (a); and

c) *Citizenship as identity*, that is, ‘the behavioural aspects of individuals acting and conceiving of themselves as members of a collectivity […] or the normative conceptions of such behaviour imputed by the state’ (Joppke, 2007, pp. 38-39).
It is frequent that, in the public sphere, these dimensions are used quite interchangeably, particularly in the cases (a) and (b) – that is, the formal membership in a polity and the legal and political consequences of such membership are treated as one. In turn, citizenship as identity might be considered as a quasi-natural consequence of the membership in a given nation-state yet, at the same time, it can also be considered as a condition for it, as the extensive literature on nationalism has made it evident.

Of course, the specific combination of the three aspects above as pointed by Joppke (2007), will vary according to the specific polity we are studying. Yet, independently of the specific aspect or combination we are studying, it is also clear that the egalitarian basis of citizenship shapes all of them. That is: equality between citizens is not just a ‘right’, or a consequence of citizenship. All the contrary: the notion of equality is, as put by Kochenov, ‘one of the necessary conditions that summons citizenship into being’ so we cannot speak of citizenship, if the essential equality of the members of the polity, at least in terms of the law, is not ensured by the law itself (Kochenov, 2010, pp. 5-7).

Of course, some exceptions might be made at the rule of ‘presumption of equality’, as long as this is due to *clear, specific reasons* for introducing provisions that will create unequal treatment of a particular group of citizens, and all members of the polity have freely agreed that such treatment is *justified* in terms of “universal, discursively applicable, commonly shared reasons” (Gosepath, 2014, p. 127).

In this vein, every given particular discrimination against a particular sector of the citizens of a polity must be explained in terms of how it actually mirrors values, ideas or opinions of it. However, it should be proved that (i) the unequal treatment towards a specific group is the exception and not the rule in the public life of the polity; and (ii) that the citizens who are directly affected by such unequal treatment had voice in the decisions affecting them.

In the absence of such grounds, any unequal treatment between citizens (especially if sanctioned in institutions in laws) will be illegitimate and create different groups of citizens, according to the rights allotted to each. In other words, this will create a hierarchical system of ‘citizenship categories’ in which only some citizens are granted full rights not only in the practice, *but in the law itself.*
In principle, it is not clear how the specific form of citizenship acquisition, e.g. by birth or by naturalization, is relevant for the stratification of a polity according to 'citizenship categories', where the rights of one group – the naturalized citizens – are limited by law, so only citizens by birth are entitled to all rights and duties of a citizen. In fact, we must recall that the legitimacy of the main systems of citizenship by birth has been called into question, for instance by analysing ius soli not as a source of rights, but as a form of 'property' that is given only because of the accident of being born in a given place and not somewhere else (e.g. Shachar, 2007). In turn, the normative basis and practical implications of the ius sanguinis system is still a matter of lengthy debates (see Dumbrava & Bauböck, 2015 for a recent example).

In turn, literature about naturalization has been more specific, but in many cases lined to that regarding immigration, to the point that they become close to indistinguishable in some cases. In many cases, it is true that the act of immigrating is the necessary and logical previous step to naturalization; and yet, the two terms are not synonymous. If we want to analyse naturalization in more detail, we need to analytically decouple it from immigration.

On the one hand, immigration does not necessarily lead to naturalization: migrants choosing to stay in the host country in a long-term basis, might only be interested in gaining status as permanent residents; or they may face social, political or institutional obstacles to full integration in the host country, which discourage them from naturalization; or the migrants might face undesirable consequences in their country of origin, if they opt for naturalization in a third country. On the other hand, some legislations also allow for naturalization without immigration (e.g. when ‘buying’ the citizenship of some states, or in some cases of marriages abroad) or offer naturalization right after arrival, for instance in the cases of children born abroad to a citizen, or for foreign spouses of citizens.

Furthermore, when studying naturalization per se, most of the literature deals with the path to it: the processes, actors, requisites, incentives, barriers… involved in the naturalization in a given country (e.g. Huddleston, 2013; Yang, 1994), or even in specific parts of such path, like naturalization tests or ceremonies (Kunnan, 2009). In turn, a growing literature focus in naturalization as a field of political action by States, for instance, when used as a tool in nation-building processes by facilitating citizenship to co-ethnics living
abroad; or as a tool for foreign policy, for instance when a given State introduce toleration of
dual citizenship for its own citizens, in order to encourage them to naturalize in a third,
bordering country; by doing so, the state hopes to gain influence in the the social and political
life of the host state, by means of co-ethnics abroad (see e.g. Delano, 2009; Dumbrava, 2014;
2015, pp. 6-8; Jones-Correa, 2001; Kovács, 2007).

However, studies focusing on what happens to new citizens after their naturalization
are not as abundant. In most cases, they are also subsumed in the general literature about
long-term migration or diaspora studies; and when post-naturalization is studied per se, the
focus is mostly regarding the social and political effects on the host state (e.g. Street, 2015).
In contrast, the political and legal situation of those new citizens – that is, after their
naturalization – is far less studied.

I interpret this lack of studies as based in the assumption, by many authors on
citizenship studies, that ‘once the status of citizenship is established, you are in’ (Kochenov,
2010, p. 13). In other words, it is assumed that the new (e.g. naturalized) citizens will be
legally equal to any other, and so entitled to the same basic rights and duties as any other
citizen. Of course, naturalized citizens can still face important socio-economic disadvantages
or plain discrimination, as well as barriers to their political advancement. However, it is
assumed that such barriers are caused by structural problems and/or considerations regarding
the foreign/immigrant background of these persons, and not in their new citizenship status
per se.

This is a mistake. Preliminary analysis and evidence show that in several countries of
the world, naturalized citizens are subjected to barriers and limitations, explicitly stated in
laws, that limit the rights that they should have as (theoretically equal) citizens. These
limitations are specifically based in the form of citizenship acquisition – namely, by
naturalization. In other words: naturalized citizens are institutionally discriminated on the
grounds of being precisely that, and not citizens by birth.

Some of the restrictions explicitly set against naturalized citizens (and in many cases,
to dual nationals as well)³ fall in the category of political rights, particularly rights to hold

³ My own research deals with both groups but, for the sake of simplicity, in this paper I am focusing
in the second case.
public / governmental posts. However, other restrictions are at least as important, if not more. These are regarding the rules for attribution, loss, and transmission of citizenship by a citizen by naturalization. That is: in some cases, naturalized citizens face special restrictions regarding their capacity to pass their citizenship to family members, while the same is not applied to citizens by birth. Furthermore, in some countries naturalized citizens are barred from obtaining dual citizenship, while citizens by birth are not only allowed, but even encouraged to do so. In the most extreme cases, naturalized citizens are subjected to special provisions that might lead to the loss of their newly acquired citizenship, in fact facing the risk of statelessness – while citizens by birth are legally shielded from it.

Finally, there are more extreme cases, where the differentiation between naturalized citizens and citizens by birth also reach other areas, including labour rights: beside public posts and functions ‘reserved’ for citizens by birth, some countries also set apart specific posts within the private realm for them only – as we will see soon. What is more, some countries also set limitations to residence and property rights of naturalized persons. For instance, naturalized citizens of Honduras are not entitled to land tenure in any island or rural areas in a 40-km strip along the borders of the country. Even more: residence rights for foreign spouses of an Honduran, apply only if such person is a Honduran citizen by birth. Naturalized Hondurans are dispossessed of such residence rights for their families (Hoyo, 2016b, pp. 12 - 16; see also Suazo, 2011, p. 363).

Therefore, the assumption of the basic legal equality among citizens after naturalization is in need of a comprehensive study, comparing the status of naturalized citizens vis-à-vis citizens by birth in diverse countries, and advancing some factors that might explain the discrepancies between the rights of one and the another. This is what the following pages are devoted to. As stated above, I will divide the cases of differentiation between naturalized citizens and citizens by birth in three main areas: political rights, citizenship provisions, and other laws; and that are closely linked to the differentiation made by Joppke (2007) between citizenship as a status, as rights, and as identity. Of course, the focus on these three areas does not preclude further differentiations to be found.
**UNITED STATES**

Certainly, the American case is one of the most comprehensively studied in the literature on naturalization – if not the most. This covers from the historical trends of naturalization (Schneider, 2001) to the specific of naturalization tests and ceremonies (Aptekar, 2012; Kunnan, 2009). Generally speaking, USA has been considered as an example of a country with low barriers to naturalization; and yet, this clearly was not applicable to all groups. Specific ethnocultural groups such as Chinese, Africans, and others have faced strong barriers to naturalization until quite recent times, or where openly barred from it (see e.g. Spiro, 2015, pp. 5-6). However, currently there are no formal restrictions of this type.

*Political rights*

The United States is one of the countries where we can find less evidence of any institutional discrimination between naturalized citizens and citizens by birth, except for a well-known case: that the President must be a ‘natural citizen’. In this sense, the US follows similar provisions in other countries, such as Bulgaria and Portugal (Dumbrava, 2015, p. 8).

However, the same provision is not applicable to any other political post. Therefore a number of naturalized citizens have been appointed or elected to high-level positions such as the federal Cabinet, including highly sensitive posts such as Secretary of State (e.g. Henry Kissinger, Madeleine Albright) and Director of the CIA (John M. Deutch). Naturalized citizens have also been elected as governors (Arnold Schwarzenegger is just one case) while further examples can be found in the legislative, judiciary and executive branches of both federal, state, and local governments. In this sense, the exception for the president might confirm the rule, and its persistence might be related to considerations of international and national security.

*Citizenship provisions*

At first sight, there is no discrimination between CbB and CbN in terms of transmission of citizenship, as the same provisions apply to both: their children will automatically receive American citizenship by virtue of ius soli, or by ius sanguinis if abroad. In turn, American citizenship can only be lost by voluntary renunciation, or under very specific cases of
withdrawal – which in the practice, are not enforced anymore (EUDO-Citizenship, 2013a, 2013b; Spiro, 2015).

The only differentiation comes regarding nullification/withdrawal of naturalization. This apply to three specific cases. The first is when the person acquired naturalization by means of fraud (e.g. falsifying documents or declarations). In such cases, the citizenship is nullified – which coincides with the international practice. The second, and more particular one is when within 5 years after naturalization, the person becomes member of an organization of such a nature, that would have precluded the person to become a citizen in the first place: for instance, a criminal or terrorist group. This is more debatable, as it implies a ‘test period’ for naturalized citizens, that citizens by birth are evidently not subjected to.

However, the third case is the most relevant: The children or spouse of a naturalized citizen, whose citizenship is nullified due to any of the causes mentioned above, will also lose their respective citizenship by naturalization (EUDO-Citizenship, 2013b, pp. L11,L12). This is a rather debatable provision, as it extends punishment beyond the criminal, to the members of its family. In this sense, it is not the person, but his/her family that are in a clear situation of inequality vis-à-vis other citizens, as they can lose citizenship even if they were not indicted themselves. Also, this clearly does not happen with family members of convicted American citizens by birth.

Other laws

To my knowledge, we cannot speak of CbB vs. CbN discrimination in other cases, including substantive rights such as social, labour, or property. In this way, the United States is a case fair close to the principle of ‘equality among citizens’, independently of how citizenship was acquired – with the sole, but important exception of families of persons subjected to process or guilty of fraud, as described above. All this, of course, is only in the laws and not necessarily in the practice; and regarding the specific topics we are analysing here, not regarding equality in general.4

4 Of course, there are many, very deep differences among American citizens in terms of access to equal opportunities, representation, or even in treatment by authorities – as evidenced by the many recent cases of police abuse towards African Americans and other minorities, and the subsequent
Naturalization policies in Canada have been shaped not only by the laws of the British Empire, but also by different waves of migration to the country and the experience of the World Wars, which provoked different and sometimes contradictory policies e.g. in terms of exclusion of some groups from immigration and/or naturalization, with the incorporation of others at the same time. Different citizenship/nationality laws were passed during the 20th century: 1921, 1947, 1977 and 1985 – the latter still in force albeit with multiple amendments (Winter, 2015).

**Political rights**

In principle, the political rights of naturalized citizens are the same as those of citizens by birth. It seems to me that a naturalized that holds some post of political importance, will be a far less controversial topic in Canada than in other countries, including USA. For instance, both the current Minister of Defence, Harjit Sajjan, as well as the Minister of Infrastructure and Communities, Amarjeet Sohi, are naturalized citizens of Indian (Sikh) origin.

Such equal treatment is replicated in other instances and not only regarding naturalized citizens, but also dual nationals. Currently, the Minister of Foreign Affairs holds dual Canadian-French citizenship, as well as the former leader of the opposition and current leader of the New Democratic Party of Canada, Tom Mulcair, among others. In 2006, of forty-one foreign-born MPs, ten were dual citizens (Wilson, 2006). What is more, the former Prime Minister John Turner was also a dual British-Canadian citizen.

**Citizenship provisions**

There is no clear differentiation between rights and restrictions for CbB and CbN in terms of acquisition, loss, or transmission of citizenship. For instance, the so-called ‘First Generation Limitation Clause’, which states that ius sanguinis applies only to a single generation abroad, also specifies that this applies indistinctively of the specific status of the parents (Winter, 2015, p. 14).

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social reactions incarnated in the Black Lives Matter movement. However, all these cases are referred to a different kind of inequality and discrimination, which I am not analysing here.
A more disposition in the 1985 Citizenship Act, as reformed in 2014-2015 by the *Strengthening Canadian Citizenship Act* (SCCA), demanded the applicant for Canadian citizenship by naturalization to state its ‘intension to reside’ in Canada (Government of Canada, 1985, 5.1.c.1.i). This created widespread public opposition, as it was considered that such provision seriously restricted the rights of movement and travelling abroad of new naturalized Canadian citizens, and them only. However, it is important to note that the same Act specifies that such ‘intension to reside’ is regarding only to the period between application, and oath of citizenship (Government of Canada, 1985, 5.1.1).

In turn, a controversial disposition within SCCA allowed for the revocation of citizenship to Canadians holding dual citizenship, in the case of their participation in terrorism, high treason or a comparable criminal offence, either within Canada or overseas. In principle, this can be applied to both CbB or CbN – even if the latter case seems to be more plausible, as they are the most probable group to hold dual citizenship – so it was heavily criticized as creating citizens of second, third, or even fourth category (Winter, 2015, p. 28). Nevertheless, in principle this provision applies to all citizens that have a dual citizenship, regardless the mode they obtained the Canadian one.

Finally, Canada also allows for withdrawal/nullification of naturalization, when the person obtained it through illegitimate means such as fraud or ‘false representation’ – for instance, using private migration intermediaries to cover for legal residence requirements. Yet in contrast to the US case, this is not made extensive to family members of a person losing naturalization in this way.

*Other laws.* As in the American case, so far I have not detected any substantive difference between CbB and CbN in terms of their access to residence, labour, or property rights. In this sense, the Canadian case is on the most-equal side of the spectrum of differentiation between naturalized citizens vs. citizens by birth, surpassing USA as Canada does not have any ‘natural citizen’ provision for Prime Minister, and also does not extent the withdrawal/nullification of naturalization of a felon, to its family members.
Germany

Traditionally, Germany was considered as the perfect example of citizenship based in lineage / ius sanguinis (see e.g. Brubaker, 1992). In terms of naturalization, it favoured the incorporation of German co-ethnics abroad, particularly after the Second World War and later, after the fall of the Socialist bloc. However, at the same time it set important barriers to the naturalization of persons of different background, including those legal residents in Germany and their descendants who, in some cases such as the Gastarbeiter workers, by the decade of the 1990’s were already in the second or third generation born in Germany, and where well integrated into German society.

It was only until the mid-90’s that some reforms were made to incorporate German-born communities of foreign origin (mostly but not exclusively Turkish) and such reforms continued until the introduction of a conditional form of the ius soli principle in 2000 (Hailbronner, 2012). Further reforms have extended the scope of citizenship by birth, and also specified the requisites for naturalization including, for instance, language and culture tests and proofs of residence -even if the government has not been very active in promoting naturalization programs (Farahat, 2013, p. 3). As a whole, German citizenship is still predominantly based in ius sanguinis.

In turn, dual citizenship continues to be a debated topic, especially when it entails a non-EU country. Yet in under the current regulations, many Germans are able to hold dual citizenship; as a matter of fact, more than half of all naturalizations during 2010 implied the acceptance of the dual citizenship of the applicant (Hailbronner, 2012, p. 22).

Political rights

In spite of its historically restrictive approach to naturalization, Germany accepts as a principle the basic equality of citizens, as “anyone who holds German citizenship is entitled to the same rights and duties in Germany, regardless of the legal manner in which they acquired their citizenship” (Saxon State Chancellery, 2012). This is reflected, for instance, in the important numbers of parliamentarians who are naturalized citizens. In many cases, they are of Turkish origin, like the co-chairman of the Alliance ‘90/The Greens party, Cem Özdemir (naturalized in 1983) who has a long career in both the Bundestag and the European
Parliament, representing Germany. However, naturalized Germans from other ethnic origins also hold political posts, such as the Senegalese-born Karamba Diaby – elected in 2013 to the Bundestag, representing Halle (Saale), among others (see Wagstyl, 2014). In theory, there are no limitations for a naturalized citizen to become Chancellor or President.

*Citizenship provisions*

Even if the German citizenship law is quite complex, and in spite of the still strong emphasis put on ius sanguinis and citizenship by birth, we can find only specific areas of imbalances between CbB and CbN in Germany, regarding citizenship transmission and loss. Certainly, there is a provision regarding withdrawal of citizenship in case of fraud or similar offences, but unlike the American case, this is limited by a 5 years’ period. Interestingly, also the children of a person found guilty will lose citizenship, if they are less than 5 years old.

In contrast, we can also find an instance of a partial imbalance against German citizens by birth. Currently, the candidate for naturalization need to renounce to its original citizenship, except when this is legally impossible (e.g. when the original citizenship is non-relinquishable) or if it implies ‘unreasonable’ demands or costs for the person. Therefore, a good share of naturalized citizens of Germany are dual nationals. However, the German citizen by birth cannot become dual citizenship except by application and in very specific situations, e.g. for naturalization in other EU country. In this sense, naturalized citizens of Germany are in relative advantage in the access to a dual citizenship.

*Other laws*

At this point of the research, I have found no evidence of discrimination against German CbN vs. CbB, in any substantive right.
MEXICO

In contrast to the other cases, naturalization in Mexico, as well as immigration to the country has been very low, to the point that experts estimate that in no moment of the history of the country the total foreign-born population was more than 1% of the total (Gleizer Salzman, 2011; Yankelevich, 2015). Even if naturalizations have experienced a relative surge since the year 2000, in fact naturalization is still very marginal as just 60,149 naturalizations were granted between that year and 2014 (Hoyo, 2016a, pp. 102-103). Such limited number of naturalized Mexicans is in stark contrast with the large array of restrictions set for them in Mexican laws.

Political rights

Among the four cases, Mexico stands out due to its radical differentiation between rights of CbB and CbN, which are not only mentioned in the specific nationality law, but even in the Constitution itself (México, 1917 arts. 32, 95, 102 among others). To sum it up, every single political post of importance, from the President of the Republic to most posts in the local administrations, as well as almost all posts in the legislative and judiciary branches (federal or local) are reserved for ‘Mexicans by birth that have not opted for a second nationality’ – that is, excluding not only foreigners and naturalized Mexicans, but also citizens by birth that hold a second nationality, as Mexico accepted dual citizenship in 1998.

It is also important to note that the restriction towards naturalized Mexicans also reaches other areas, such as diplomacy, all posts in armed forces, and even some key posts in public universities and research centres (see below).

Citizenship provisions

Until 1997, Mexican citizenship was exclusive: naturalization in a third country would lead to the automatic loss of the Mexican citizenship. However, that year a constitutional reform declared Mexican citizenship by birth as ‘permanent’ – that is, subjected neither to withdrawal nor renunciation – so Mexicans by birth can now be dual nationals. However, this was not extended to Mexicans by naturalization. Therefore, a profound inequality arose
between citizen: while the CbB of Mexico enjoy all privileges and rights linked to citizenship, CbN are, on the one side, the only Mexicans that cannot opt for a third nationality and, on the other side, the only ones that can experience nullification or withdrawal of citizenship.

Other laws

Mexico is also the only one case among the four mentioned, that set stark restrictions to CbN in areas different to political rights and citizenship. For instance, naturalized Mexicans are barred of holding posts in Mexican merchant ships, as well as in commercial planes, together with several posts in airports or ports. A final area of discrimination are the public academic institutions, as in many of them CbN are explicitly excluded from many directive posts (rector, council member, directors of faculties etc.) which once again are reserved for ‘Mexicans by birth that have not opted for a second nationality’. In this vein, from the four cases, Mexico is the one that more clearly present a policy of systematic legal discrimination against its own naturalized citizens (Carbonell, 2006; González Martín, 1999; Hoyo, 2015a, 2015b; 2016a, p. 109).

Preliminary analysis

We can now evaluate some of the variables we advanced to explain the inequalities found in diverse countries, regarding the rights of naturalized citizens vs. citizen by birth.

Influence of ius sanguinis vs. ius soli: It can be argued that ius sanguinis, when used as the only or main ground for citizenship acquisition, prefigures a closed community, which is built around a given set of ideas about ‘us’ as a fixed ethno-cultural community (e.g. a nation) while rejecting, or being suspicious of any other community. In such sense, naturalization would not erase such sense of closed community, and naturalized citizens could be subjected to a close inspection, or even faced restrictions in their rights after naturalization. In turn, it could be argued that systems based in ius soli would be somehow more liberal ones in terms of acquisition by birth; but at the same time, as the right to citizenship is based in territorial criteria, it could also mistrust everything that comes from abroad – including migrants or co-ethnics
However, from the four cases studied, the one that is still heavily influenced by ius sanguinis (Germany) is precisely one of the two that less barriers set to the political, social, etc. rights of the naturalized citizens. In contrast, other countries such as Mexico, that incorporate a strong ius soli supplemented with ius sanguinis for those born abroad, is one of the most restrictive cases in terms of the rights of CbN. So the results are still inconclusive.

However, one possible explanation is the existence, for the German case, of a relevant supranational institutions and laws such as the European Convention of Nationality, which explicitly forbids discrimination between CbB and by naturalization (Council of Europe, 1997 art. 5(2)). In this sense, Germany is subjected to a supranational legal instrument, that reduces its capacity of independent manoeuvre.

Finally, Mexico seems to be the case that confirm the subsistence, at least in some countries, of a strong identification of ‘citizenship’ with ‘natinoality’, and the use of citizenship policies to introduce stark differentiations between Mexican citizens according to the mode their acquired citizenship – or, indirectly, according to their degree of ‘foreignness’. This is direct related to the prevalence of a Nationalist doctrine, e.g. keeping the core ideas of Revolutionary Nationalism regarding the protection of the Mexican mestizo nation in ethno-cultural terms, as well as the need of protection of the country as a whole from external powers – particularly USA. IN the other three cases,

As a conclusion, it seems to me that the presence of such a strong nationalist doctrine, or not, is the main variable to explain the extension of an institutionalized discrimination towards naturalized citizens: even if they are citizens, they are still no true nationals, so they need to be checked and balanced. In turn, legal traditions (e.g. ius soli or ius sanguinis for ‘reproduction’ of the nation) have a rather imprecise influence on the rights of naturalized citizens, while the existence of supranational institutions and laws is definitively a negative variable, which works as a deterrent of inequality. Further research, especially regarding Argentina and other Latin American countries, will help me to confirm or not this hypothesis.


Constitución Política de los Estados Unidos Mexicanos [updated 07 jul 2014] (1917).


