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REPORT ON CITIZENSHIP LAW: MEXICO

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Report on Citizenship Law

Mexico

Henio Hoyo

1. Introduction

The principles guiding acquisition and loss of citizenship in Mexico have been quite diverse since the independence of the country from Spain in 1821. In fact, the issue was not addressed in a constitutional text until 1836, when male-transmitted ius sanguinis was adopted. However, there were very frequent changes in citizenship provisions, including fluctuations in the use of ius soli and ius sanguinis. It was only after the Mexican revolution of 1910, the introduction of a new Constitution in 1917, and the promulgation of a Nationality and Naturalisation Act[1] [hereafter NNA] in 1934, that a stable citizenship regime was adopted in the country.

The 1917 Constitution and its secondary laws were heavily influenced by ideological considerations, in particular those promoting a defensive nationalist stance which emphasised national integration and the rejection of any kind of foreign intervention. This had a direct impact on the provisions regarding citizenship/nationality, to which the Constitution dedicates three chapters (arts. 30-38). Together with some amendments introduced in 1934 to these articles, and the promulgation of NNA, this set a citizenship regime based upon five main principles:

1. Legal differentiation between 'Mexican nationality' and 'Mexican citizenship';
2. Use of both ius soli and ius sanguinis principles for citizenship acquisition;
3. Exclusive citizenship (abrogated in the late 1990s);
4. Legal differentiation between Mexican citizens by birth, and Mexicans by naturalisation;
5. Preferential naturalisation for persons with similar ethno-cultural backgrounds.

This regime would prevail for almost the entire 20th century, with some adjustments. It consequently shaped not only those laws and policies regarding citizenship and naturalisation, but also related ones like those on migration, population, and civic/political rights.

Only in 1998 was a major change introduced to this regime. In that year, a constitutional reform and the promulgation of a new citizenship law, re-defined Mexican citizenship by birth (but not by naturalisation) as a 'permanent' one, therefore enabling Mexicans by birth to take another citizenship without losing the Mexican one. Such reform also allowed the recovery of citizenship by those who had previously renounced it, for instance to naturalise in a third country.

[1] Ley de Nacionalidad y Naturalización (1934) [Nationality and Naturalisation Act]. *Diario Oficial de la Federación* 82(17): 237-242.

A note about 'nationality' and 'citizenship' in Mexico

In Mexico, the distinction between 'nationality' and 'citizenship' is important, and explicitly differentiated in the Constitution. *Nacionalidad* (literal translation: nationality) always refers to membership in the Mexican nation-state, thus corresponding to the term 'citizenship' as used in international law: a legal relationship between the individual and an internationally recognised sovereign political entity.

In turn, *ciudadanía* (literal translation: citizenship) refers only to the individual's entitlement to political rights. This is strictly reserved to Mexican nationals, but only after they reach legal age (18 years) and provided that they have 'an honest way of living' (art. 34).[2] Also, since 1998 *nacionalidad* cannot be forfeited (at least for citizens by birth) but *ciudadanía* can in certain cases – for instance, if the person performs official services or functions for a foreign government without the explicit permission of the Mexican one; or, if she/he helps a foreign government against Mexico in an international legal dispute, among other cases set in art. 37-B of the Constitution.

Therefore it is possible for a person to be a Mexican 'national' but not a Mexican 'citizen'. In spite of this conceptual difference, in this report the term 'citizenship' is used in its internationally accepted definition of a legal relationship between the individual and a political entity.[3] When it is convenient to distinguish between these two different meanings, the original terms in Spanish are used.

2. Historical background

After its independence in 1821, the principles regulating citizenship acquisition and loss in Mexico were adopted only gradually, and certainly not in a systematic way, but rather, were dictated by the political necessities of the moment (see Pani 2012). That is the cause, for instance, of several decrees being published after 1821 regarding general procedures for admission, or expulsion, of foreigners. Then, a norm dealing explicitly with naturalisation was published in 1823 (Rabadán in Cisneros Chávez & Moraga Valle 2012: 22-27; Instituto Nacional de Migración 2002; Siqueiros 1965: 622)

However, What is more, it was only until 1836 that a clear difference between 'Mexicans' and 'Foreigners' was set in a constitutional text, together with the general conditions and modes of acquisition and loss of Mexican citizenship. This text, known as the 'Seven Constitutional Laws', introduced male-transmitted ius sanguinis as the main principle for acquisition, with ius soli applicable if the person was born in Mexico from a foreign father, and this was subject to confirmation after reaching legal age (Cisneros Chávez & Moraga Valle 2012; Instituto Nacional de Migración 2002).[4]

[2] In practice, this provision does not set any barrier to acquisition of political rights, but only allows for their suspension while a person is subjected to a judicial process due to a criminal offense.

[3] Therefore it corresponds to the Mexican notion of *nacionalidad.*

[4] It is important to note that in the official narrative, the *Apatzingán* Constitution of 1814 is considered the first of the country, despite the fact that it was issued seven years before the effective attainment of independence. The 1814 Constitution mentioned differences between 'citizens', 'Mexicans' or 'natives', vis-à-vis 'foreigners' or 'persons in transit', but did not define these terms precisely. In turn, the 'Provisional Political Regulations of the Mexican Empire' (1823) specified that all *inhabitants* of the Empire, 'without distinction or origin', would be recognised as Mexicans as long as they supported independence, and the same would be applied to foreigners that set their residence in Mexico and pledged loyalty to the Emperor and the law. However, these Provisions were in force only for some weeks. The first formal Constitution issued in an effectively independent Mexico was published in 1824, but did not specify who was a Mexican citizen and who a foreigner (Secretaría de Gobernación 2012).

However, the political instability of 19th century Mexico led to several changes in citizenship laws. The 'ius sanguinis + supplementing ius soli' formula was reversed in 1843, when a new Constitution set unrestricted ius soli as the main principle for acquisition, with ius sanguinis applicable to those born abroad from a Mexican father, and this was formalized in a Nationality Law in 1854. However, that year a general uprising led to a change of government, so in 1856 a provisional constitutional statute was enacted, which kept universal ius soli but also introduced ius sanguinis rights for both mother and father. However, just one year later this was changed again, for a system completely based in ius sanguinis. The brief Second Mexican Empire (1864-1867) of Maximilian of Habsburg kept equal ius sanguinis rights for both mother and father, and also reintroduced ius soli for those born in Mexico from foreign parents, subjected to confirmation after reaching legal age. However, after the defeat of the Empire by the Republican forces, 'pure' ius sanguinis was restored, and enacted in a specific law in 1886 (González Marín 1999: 22-31; Secretaría de Gobernación 2012).

A stable, long-term citizenship regime would only be reached after the Mexican revolution of 1910 and the subsequent promulgation of a new Constitution in 1917. Because of its revolutionary origins, the new Constitution presented a combination of the ideological, political and social backgrounds of the many groups that supported it. Therefore, alongside quite progressive provisions (at least for the time) in social, property and labour issues, it also presented a strongly nationalist spirit, evidenced by provisions aiming to protect and promote the 'true national identity' of the Mexican population, and in the unambiguously defensive stance against any kind of foreign intervention in the country, in territorial, social and political senses.[5]

The latter had a direct impact on the rights and duties of both Mexicans and foreigners. For instance, art. 27, one of the most representative and oft quoted of the Constitution, explicitly prohibits any foreigner from owning land in a strip of 100km from international borders, and within 50 km of coastlines. The same article states that, for the rest of the country, foreigners who acquire land properties must refrain from seeking any type of protection regarding it from their own governments; otherwise, the property will be automatically confiscated. Further constitutional provisions state that, for instance, Mexicans must be preferred over foreigners for all kinds of governmental occupations.[6]

Such a 'defensive nationalist' stance also shaped provisions in the areas of migration and citizenship, particularly those regarding the definition, attributes, and modes of acquisition and loss of citizenship. For instance, the original text of art. 30 of the Constitution set a restrictive regime based on ius- sanguinis. This was never implemented as such,[7] and it was promptly amended in 1934 to introduce a combination of both universal ius soli, and ius sanguinis for those born abroad. Other amendments, however, not only maintained the defensive nationalist ethos of the 1917 Constitution, but strengthened it, to the point of creating more differentiations not only between foreigners and Mexicans, but also between Mexican *citizens* themselves.

[5] It must be acknowledged that such defensive stance against foreign intervention predates both the 1910 Revolution and the 1917 Constitution. In fact, it is clearly reflected in many of the previous Constitutions and laws, including in those provisions regulating citizenship. This defensive character has its roots on the experience during diverse periods of the 19th Century, of armed interventions by foreign powers, the United States and France in particular.

[6] In fact, the 1931 Federal Law on Labour, which is still in force, states that foreigners can account for no more than ten per cent of the employees in any *private* firm in Mexico (art. 7, Federal Law on Labour, 1970). The same article states that this provision does not apply to directors and administrators yet, in contrast, all highly specialised professionals and technicians must be Mexican; in case of unavailability of these, then the firm can hire up to ten per cent of foreigners in a temporary basis. The introduction of this provision, in 1931, led to a large surge of naturalisation requests by foreigners already living in Mexico (Gleizer Salzman 2015)

[7] It must be noted that between 1917 and 1934, and due to the lack of a new law on the matter, the previous 1886 law remained in force.

For instance, art. 32 specified a list of functions and posts exclusively reserved to Mexicans by birth – that is, which both foreigners and naturalized Mexicans cannot legally take. It comprised not only all posts and functions in armed and security forces, but also all the personnel aboard Mexican *merchant* ships, regardless their role, as well as a number of land-based services. Similar provisions apply to both military and commercial aviation. The same constitutional article allowed for a number of similar restrictions to be set in secondary laws.

It is remarkable that the 1998 constitutional reforms, which allowed multiple citizenship, did not correct such unequal treatment but in fact, extended it further, as a number of the posts already prohibited to foreigners and/or naturalised Mexicans were then set as being reserved for 'Mexicans by birth that have not taken any other nationality' ('*Mexicanos por nacimiento que no hayan optado por otra nacionalidad'*) – therefore barring double nationals as well. Perhaps even more remarkable is the fact that, in Mexico, the stark differentiation between 'categories' of citizens has not faced the criticism that might be expected.

Citizenship acquisition

Since the constitutional reform and the NNA of 1934, universal ius soli has been the main principle for citizenship acquisition in Mexico, complemented with ius sanguinis for those born abroad. In cases of a potential conflict of nationality, e.g. a person born in Mexico from parents of a foreign country that applied ius sanguinis; or for a person born from Mexican parents in a third country that applied ius soli, then the standard procedure of requiring the person to choose one citizenship after reaching adulthood was applied.[8]

Even if ius soli is generally a straightforward principle, it is interesting to note that Mexico uses a broader version of it. The 1934 constitutional reform introduced a further paragraph to art. 30, which extends Mexican citizenship by birth to those born on ships and planes bearing a Mexican flag. This is part of a Mexican tradition of considering both ships and planes as 'extensions of the national territory' for some legal matters (González Martín 2000: 877-878), in contrast to other countries that also apply ius soli, but that do not consider it applicable in these particular cases (e.g. USA).

Unlike the provisions regarding acquisition by ius soli, which remained quite stable after 1934, those regarding ius sanguinis and naturalisation experienced some changes during the 20th century. In many cases, change followed international trends. For instance, the original provisions established that a father's lineage would be prevalent for acquisition based in ius sanguinis. This changed in 1969 as a decree reformed art. 30 of the Constitution to introduce equal ius sanguinis for both genders. The reform was enacted in NNA two years later.

Naturalisation also experienced changes, mostly in two areas: gender equality and the preferential treatment of certain foreigners. The 1934 legislation established automatic naturalisation of any foreign woman who married a Mexican man, but not the opposite case. This was changed in 1974 to introduce equal naturalisation rights through marriage for both genders. There is little doubt that the UN Conference for International Women's Year, which Mexico was set to host in 1975, was a strong incentive for the government to introduce these changes.

[8] This took the form of a 'certificate of Mexican nationality by birth', which was given by the Secretariat of Foreign Affairs to the applicant after becoming of age. Since the 1998 reform allowing double nationality, this certificate is only issued in specific cases, for persons that could potentially have double citizenship, but that want to take a post or function legally reserved to Mexicans-by-birth with no other nationality.

Historically, Mexico has offered preferential treatment—mostly in the form of reduced residency requirements--to foreigners with similar ethno-cultural grounds, but the definition of who has a similar ethno-cultural background has changed over time. For instance, in 1934 both art. 30 of the Constitution and the NAA offered preferential naturalisation rights for *indolatinos* ('indo-Latin persons'). This term was rather imprecise, as it could refer to all persons coming from the countries of Latin America, or in a more restrictive way, to the persons from these countries that additionally had specific ethno-cultural backgrounds: 'Latins', *mestizos,* or indigenous persons.[9] After some debate, the decision was for the latter because in the opinion of the Secretariat of Foreign Affairs [*Secretaría de Relaciones Exteriores*], preferential treatment should be applied only to those who belonged 'to the same race' as the Mexicans.[10]

There is ample evidence of openly racialist approaches to both naturalisation and immigration in Mexico during, at least, the first decades after the Revolution. These were based on a discourse of defence of a specific Mexican national community of mostly *mestizo* character, thus foreign communities with cultural, ethnic, or 'biological' features that were deemed as 'not favourable' for such *mestizo* Mexican nations, were limited or straightforwardly excluded from naturalisation processes or immigration policies. The list included Arabs, Africans, most Asians, Jews, and most Eastern Europeans. All this took form in a migration quota system that privileged specific nationalities, as well as in confidential directives sent to diplomatic and consular offices.[11]

The racial approach to migration and naturalisation was replaced in the 1940s with one based (at least in the discourse) on ethno-cultural similarities only. For instance, the mention of *indolatinos* was gradually changed for 'Latin Americans', and Spain itself was included in the list of countries entitled to preferential naturalisation. However, other limitations were introduced, such a 1949 reform to NNA requiring applicants for privileged naturalisation to prove that not only themselves, but their parents as well, were natives of Spain or Latin America – therefore excluding second-generation immigrants, as well as naturalised citizens of such countries, from this scheme.

While the historical evolution of laws regarding naturalisation in Mexico is quite clear, it is much more difficult to determine the actual volume of naturalisations in Mexico. This is because there is a remarkable lack of official data, statistics and archives regarding immigration and naturalisation in the country. In many cases, this information simply does not exist, or is incomplete; and what can be accessed, tends to come from diverse sources so it is not fully comparable. In spite of this, some researchers have used the available data to make estimations. They all agree that foreign-born populations have always been a very small proportion of the total inhabitants of Mexico: between 0.5 and 1 per cent (Cobo Quintero & Rodríguez Chávez 2012; Gleizer Salzman 2015: 116-117; Rodríguez Chávez, Salazar Cruz & Martínez Caballero 2012; Rodríguez Chávez 2010: 103-114; Yankelevich 2015).[12]

[9] In most cases, mestizo ('mixed') is used in Latin America to refer to those populations having both indigenous and Spaniard ancestry. In some cases, further non-Spaniard populations are also counted in the *mestizo* category, but this varies greatly according to the specific countries.

[10] See Gleizer Salzman (2015); also Yankelevich (2011) Therefore, a person of foreign origin (African, Asian, even European) who later became a naturalised citizen of a Latin American country, would not be considered automatically as *indolatino,* or even his or her descendants.

[11] The lists of restricted/forbidden nationalities contained in confidential memorandums in fact included almost every nationality except those from Western Europe, the Americas, and in some cases Japan. Some of these communities were also subject to prosecution within Mexico with more or less support or lenience by the authorities. The literature documenting these and related topics is still limited, but has experienced a growth in recent years. See for instance (Gleizer Salzman 2011); Gleizer Salzman (2015); Gómez Izquierdo (1992); González Navarro (1994); Pérez Vejo (2009); Saade Granados (2009); Salazar Anaya (2006); Yankelevich (2004); (2011: 29-50; 2015)

[12] Also, it must be noted that for obvious reasons, the official figures do not include irregular migration and a good share of that achieved via 'facilitation' – in other words, by corrupt means. However, some testimonies and external

In the particular case of naturalisations, two recent researches clearly confirm this idea. On the one hand, Gleizer Salzman (2015: 118) finds that only 25,166 naturalizations were granted during the period 1900 – 1949, while 13,859 requests were either rejected or left uncompleted by the applicant. In turn, Yankelevich (2015) estimates that only 36,519 naturalizations were granted in Mexico during the whole period between 1828 and 1999. This means that in 170 years, the country had an average of just 213 naturalisations per year. What is more, 75 per cent of all naturalisations (ca. 27,000) were granted between 1920 and1953, so making the average of the rest even lower (Yankelevich 2015: 1633-1635). Most persons naturalised in Mexico between 1828 and 1953 came from just two countries: Spain (40.39 per cent) and Guatemala (15.7 per cent). Other countries included Germany (5.16), China (4.62), Poland (4.52), Lebanon (3.57), and Russia (3.05). Of course, during such a long period, there were large variations in national origin and other nationalities were also present in certain periods, such as Americans, French and Italians (Yankelevich 2015: 1638).

Recent and contemporary records and detailed data about naturalisations in Mexico do exist, but in most cases remain classified under the law.[13] What is more, Mexican censuses do not include questions about citizenship/nationality as such, but only about place of birth; time residing in the current household; and previous residence –whether national or international. Therefore, in the census data it is very difficult to differentiate between three groups of foreign-born inhabitants:

(a) foreigners in the country, whether long-term residents or temporary migrants;
(b) Mexicans born abroad, who are citizens by birth by virtue of ius sanguinis but reside in Mexico; and
(c) naturalised Mexicans.

The most recent census found that in 2010, Mexico had 112,336,538 inhabitants, from which 961,121 were foreign-born (see INEGI 2014). Taking into account the migratory and demographic characteristics of the country, it is evident that group (b) above (Mexicans by birth born abroad) must be by far the largest, and that group (a) would come in second place.[14] As a consequence, group (c) (naturalized Mexicans) must be in any case very reduced.

The only precise, available data on this topic for Mexico, is regarding the aggregated number of naturalisations granted since 2000. Although limited, it shows a very interesting trend:

sources, such as informs made by foreign diplomats, make it clear that corruption was generalized not only in the points of entry of foreigners, but also in several consulates, and in many other areas of the federal and local governments of Mexico, to the point that any procedure or visa 'could be obtained in any moment, by paying the right price' (Gleizer Salzman 2011: 211, quoting a letter from the US Department of Justice)

[13] Most of such information is reserved for 70 years, according to Mexican laws.

[14] Different research, based on sources from the National Migration Institute, found that in 2009 there were 262,672 documented foreigners in Mexico, including both temporary residents (51 per cent) and permanent ones (49 per cent). See Rodríguez Chávez & Cobo (2012: 25); also Cobo Quintero & Ángel Cruz (2012); Cobo Quintero & Rodríguez Chávez (2012). Importantly, this figure does not include undocumented migrants.

Table 1 – Naturalisations in Mexico, 2000-2013

2000	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**TOTAL**
3,944	3,090	4,737	4,317	6,429	5,610	4,175	
2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	
5,470	4,471	3,642	2,150	2,602	3,590	3,581	**57,808**
Source: (Secretaría de Relaciones Exteriores 2015a, 2015b)							

Fewer than 60,000 naturalisations in 14 years might still be regarded as a very a low figure for a country of more than one hundred million inhabitants. Even so, this still indicates an impressive increase in relative terms, as since the year 2000 more naturalisations have been granted in Mexico than in the whole previous history of the country.

Loss and recovery

At least between 1934 and 1998, Mexico had quite strict provisions regarding the loss of citizenship. These included not only naturalisation in a foreign country, but also the acceptance or use of foreign nobility titles 'implying submission to a foreign country'. In addition, naturalised Mexicans would also lose their citizenship if they spent five continuous years in their country of origin, or if she/he 'pretends to be a foreigner' in any public/governmental procedure. These provisions, and others, evidenced not only an exclusive view of citizenship (that was the standard for most of the period), but also a very particular concern about political interference by foreign powers. The latter, once more, was directly related to the defensive nationalist ethos of the post-revolutionary 1917 Constitution.

Some attempts were made to ease such provisions, in particular concerning the growth of Mexican communities abroad.[15] For instance, changes were made to NNA in 1940 to allow Mexicans to retain their citizenship by birth, even after naturalisation in a third country, but only if such naturalisation was 'not a completely voluntary act': for instance, if it was enforced by the laws of the third country; or in the case of it being 'absolutely necessary' for getting a job in said country (Mexico 1940). Nevertheless, according to some accounts, this provision was discouraged by the same Mexican authorities and never actually implemented (see Hubbard Urrea 2010: 112-115).[16]

[15] Massive migrations of Mexicans to US are hardly a new phenomenon. In fact, five migration phases can be identified: the first during 1900-1920, induced by large infrastructure works in southern USA (e.g. railways) as well as the Mexican revolution and the outbreak of the First World War, with its corresponding demand for workers in an environment of restriction to European immigrations; the second, of massive deportations during the Great Depression; the third in 1942-1964, fueled by the entry of USA in the Second World War and, this time, under a formal a bilateral agreement known as the 'bracero act' of 1942; the fourth from 1965 to 1986, of mostly undocumented workers due to migratory restrictions in US; and the fifth, beginning in 1987, of an increasingly clandestine character. See Durand & Massey (2003); Durand, Massey & Zenteno (2001); Delano (2011); González Navarro (1994)

[16] In 1949, a further decree extended recovery of citizenship to the children of such citizens. See Decreto que reforma y adiciona diversos artículos de la Ley de Nacionalidad y Naturalización [Decree that Reforms and Adds to Diverse Articles of the Nationality and Naturalization Act]. *Diario Oficial de la Federación,* 177(53): 5-7.

In turn, the recovery of Mexican citizenship by naturalisation was explicitly forbidden in the original version of the same art. 27. This was changed in 1940 (at least formally) so recovery was possible if the person had lost his or her citizenship due to residing for five years continuously abroad in a 'non voluntary' form.[17]

Changes in the 1990s

During the last decades of the century, it became increasingly clear that a new citizenship law was needed in order to account for the social, political and migratory changes experienced in Mexico during almost six decades. A first attempt was made in 1993, when a new Nationality Act[18] [hereafter NA93] replaced the 59-year old NNA.

The new NA93 followed closely the five traditional principles of the Mexican citizenship regime (as above), and also retained many provisions of the former NNA, particularly those regarding citizenship acquisition by birth and the loss of it. The main changes were, in fact, around naturalisation requisites and procedures. For instance, NA93 introduced the need for the candidate to prove 'integration to [the] national culture' of Mexico; and also specified that tourism or studies in Mexico would not count for residence requirements. What is more, NA93 removed expedited naturalisation for foreigners marrying a Mexican, meaning a candidate would have to comply with the standard 5-year requirement. In contrast, it added Portugal to the list of countries whose nationals were entitled to expedited naturalisation. Thus NA93 did not liberalise, but actually strengthened a protectionist and ethno-culturally based approach to naturalisation. However, it had limited impact (if any) as it was not enacted in third-level regulations, and abrogated just five years later.

In 1997, a reform to art. 30 of the Constitution was passed, after extended political and parliamentary debates that included some participation of Mexican social organisations based both in the country and abroad. The new text stated that Mexican citizenship by birth (but not that by naturalisation) was now considered as 'permanent', thus 'no Mexican by birth could be deprived of it'. The corresponding new Nationality Act of 1998[19] [hereafter NA98] enacted these changes, therefore enabling Mexicans by birth to claim double, or even multiple, citizenship.

The debates that led to such changes were connected with larger political developments following the 1970s. For instance, a series of economic crises, as well as other factors, including natural disasters,[20] led to a stark diminution of popular support for the Mexican political regime which, since 1929, had been dominated by the Institutional Revolutionary Party (PRI).[21] This shift in popular support allowed the rise of organised opposition groups, at both the local and national levels (as well as overseas), who pressed for better relations and more accountability by the Mexican government towards the large communities of Mexican ancestry and/or Mexican citizenship that lived abroad, particularly in the United States (Calderón Chelius & Martínez Saldaña 2002; Lafleur 2013).

[17] Decreto que reforma la Ley de Nacionalidad y Naturalización [Decree that Reforms the Nationality and Naturalization Act] *Diario Oficial de la Federación,* 118(19) 2-3.
[18] Ley de Nacionalidad 1993 [Nationality Act ,1993] *Diario Oficial de la Federación* 477(15): 9-12.
[19] Ley de Nacionalidad 1998 [Nationality Act, 1998] *Diario Oficial de la Federación* 532(16):2-6.
[20] In 1985, a strong earthquake hit Mexico City and many other areas, and led to sharp criticism of the government due to its perceived ineffectiveness in coping with the emergency.
[21] This organisation was formed in 1929 as the National Revolutionary Party. Its name was changed in 1938 to the Party of the Mexican Revolution. The current name was adopted in 1946.

In turn, organisations of Mexicans abroad had been very vocal in their demands for official recognition, protection, and co-responsibility towards them on behalf of the Mexican government. Firstly, Mexican workers in the US were facing, since at least the mid-eighties, a series of increasingly restrictive and even harassing measures by both federal and local governments in the United States. From the intensification of detention operations, to the denial of social and educational services for undocumented workers, these measures created calls for better consular protection and support from the Mexican government.[22] Many communities abroad claimed that the reason they had to leave Mexico was due to the lack of opportunities at home, and this they blamed on the Mexican government. In this vein, the political opposition in Mexico, and the Party of the Democratic Revolution (PRD) in particular, found support among these communities (Calderón Chelius & Martínez Saldaña 2002; Lafleur 2013).

Finally, the Mexican governments of the last part of the 20th century – and particularly the administration of Pres. Carlos Salinas de Gortari (1988-1994) – had strong incentives to create better bonds with the Mexican communities in the USA, as it was considered that their support would be key for the advancement of the negotiations towards a North American Free Trade Agreement (NAFTA) and, in general terms, of the interests of Mexico in USA (Cano & Délano 2007; Delano 2011; Lafleur 2013).

After the entry into force of NAFTA in 1994, the topic of the extension of citizenship to Mexicans abroad gained momentum in the public and political life of Mexico, not only within the parties in the Mexican federal congress, and among the migrant communities themselves, but also in certain areas of the Mexican government itself, particularly diplomatic and consular circles (see e.g. Cámara de Diputados 1995; Hubbard Urrea 2010).

Finally, the topic of a 'new relation' with Mexican co-ethnics abroad, including the goal of constitutional reform allowing Mexicans to retain their citizenship even after naturalisation in a third country, was officially adopted by the administration of Pres. Ernesto Zedillo (1994-2000). In order to reach this goal, a task group – mostly officers of the Secretariat of Foreign Affairs – was created with the task of drafting the corresponding constitutional and legal reforms. These were discussed with other governmental agencies, in Congress, and in a series of public colloquiums with specialists and interested parties (Cámara de Diputados 1995, 1997; Secretaría de Relaciones Exteriores 1999). The debates during these years focused on three main areas: (i) the protection of Mexicans abroad, and how double citizenship would be beneficial for this purpose; (ii) the possible impact on Mexican politics of allowing double citizenship; and (iii) more general considerations about the consequences of such change for Mexico as a nation-state.[23]

[22] In November 1994, California approved by referendum Proposition 187, that barred undocumented migrants from the state education system; required schools to verify the legal status, not only of their students, but of their parents; and required state medical services to do the same verification. Further, all service providers were now obligated to report suspected illegal aliens, among other provisions. The Proposition became a state law, but in December it was subjected to an injunction, and in 1997 it was declared unconstitutional by a federal judge. Proposition 187, however, was followed by other state laws of similar character during subsequent years.

[23] For different aspects of these three areas of debate, including dissenting voices, see (Cámara de Diputados 1995, 1997; Hubbard Urrea 2010; INAP 1998).

On top of pressure by national and transnational actors, there were genuine concerns within Mexico about the situation of Mexican communities abroad. In most cases, the question was not if a change in the citizenship laws of Mexico could offer some kind of protection to those abroad, but what *kind* of change was needed. In this vein, even if the term 'double citizenship' (*doble nacionalidad*) was pervasive in public and political debates, it was officially substituted for the more complex formula of 'no-loss of Mexican citizenship' (*no-pérdida de la nacionalidad Mexicana*), a change which was made due to tactical considerations. It was agreed in the task group that by allowing double citizenship as such, Mexico would still need to reach formal agreements with third countries in order to make the change operational. In the opinion of those involved, there was little chance of this happening, at least regarding the United States. What is more, granting double nationality would not impede third countries from demanding renunciation of any other citizenship as a pre-requisite for naturalisation – therefore defeating the goal of the reform. In this sense, any citizenship reform in Mexico had to be both mandatory and secure from third country decisions (see Hubbard Urrea 2010, 121-131; Secretaría de Relaciones Exteriores 1999).Therefore, instead of endorsing or allowing double citizenship per se, the solution devised was to make Mexican citizenship explicitly permanent (*irrevocable*) In this way, any effort by a third state to force a person to relinquish it was rendered null and void, even if this implied a trade-off with the individual right to freely renounce and change citizenships.

The internal political repercussions of a change in the Mexican citizenship regime were a source of genuine political confrontation. The PRI had serious concerns regarding this change, as it was felt that it would probably lead to an increase in demands for revising the political rights (or lack thereof) of Mexican communities abroad. In particular, it was feared that the support demonstrated by such communities for opposition parties, could become determinant for the results of the increasingly competitive elections in Mexico. In turn, opposition parties (PRD in particular) supported the extension of political rights to those abroad. In order to overcome the political deadlock, it was agreed that this first reform would be limited to *nacionalidad* only, and not to *ciudadanía*: that is, it would not include political rights as such (Calderón Chelius & Martínez Saldaña 2002; Cámara de Diputados 1995; Secretaría de Relaciones Exteriores 1999, 27-32).

The larger repercussions of the reform for Mexico engendered heated debates at the national level. In most cases, the opponents of granting double citizenship (or, more correctly, of giving a permanent character to the Mexican one) warned against the risks for the political independence of the country, as the reform would permit 'foreigners', or at least those persons with a 'foreign influence', to participate in the political life of the country. This, they claimed, was a form of allowing direct foreign intervention in the internal affairs of Mexico. Furthermore, there were warnings about the reform helping foreigners to circumvent other restrictions, like those regarding land ownership (see 'historical background' above). In many cases, openly nationalistic considerations and arguments could be heard among the critics, for instance when arguing that allowing double citizenship was nothing but a 'devaluation' of the Mexican citizenship, and a danger for the culture and national identity of the country vis-à-vis that of the United States. [24] The fact that the vast majority of persons who potentially benefited by the reform were living in the United States, and had social and family links with Mexico, only exacerbated such views.

[24] Arguments like these were not uncommon in the public consultations and fora (see for instance Arellano in Cámara de Diputados 1995, 33-57; Callero, in Cámara de Diputados 1997, 595-603). Although, during the approval of the Constitutional reform, only one representative took the floor to talk against it, it was in such terms as well (Secretaría de Relaciones Exteriores 1999, 162-165).

In the end, the debates reached a general agreement among the different political groups represented in Congress, so the Decree amending arts. 30, 32 and 37 of the Constitution, which made Mexican citizenship by birth 'permanent' and non-forfeitable, as well as NA98, were approved with almost no opposition. Both entered into force in March 1998.[25] However, it is important to note that the corresponding third-level Nationality Act Regulations[26] [hereafter NAReg] were issued in 2009 only.

Besides these provisions, the reform also allowed for the recovery of Mexican citizenship for those who had lost it before (for instance, when naturalising in a foreign country) and originally set a 5-year period for application for such recovery. However, in 2004 the time limitation was lifted, as the number of re-acquisition requests (around 67,000) was far lower than expected (Lafleur 2013, 163-164). Therefore, re-acquisition can now be done at any point.

It is impossible to underestimate the importance of these reforms. They allowed better protection of Mexican co-ethnics abroad and their descendants, including protection against statelessness. They also extended Mexican citizenship to communities that, despite having strong links with the country, were regarded as semi-foreigners, or even as formal aliens after their naturalisation in another country. They also opened the door to further developments – like the extension in 2005 of voting rights to Mexicans abroad, first in 2006 for presidential elections, and later for the elections of some Governors and the Mayor of Mexico City.[27]

In spite of such clear benefits, four points of the 1998 reform, which set key limitations for the newly granted citizenship rights, must be critically examined. First, as noted above, since the beginning of the debates, the public and political discourse was framed in terms of 'double nationality', which later changed to the granting of a permanent character to the Mexican citizenship – but only that by birth. This approach was taken because the explicit goal of the reform was to protect and strengthen the links with the Mexican communities abroad, *but not to make it easier to obtain the Mexican citizenship as such*. In other words, the aim was not a general liberalisation, especially not regarding double nationality for current naturalised citizens and future applicants for it. As a diplomat directly involved in the process recalled with remarkable frankness, such a possibility had sparked great worries about 'an invasion of Central Americans' (Hubbard Urrea 2010, 130-131).

Secondly, a specific provision was set, both in the reformed art. 30 of the Constitution and in NA98, which specified that those born abroad to Mexican citizens would be considered Mexicans by birth, but only if at least one of the parents was a 'Mexican citizen by birth born on Mexican soil', or a naturalised citizen. *In this way, ius sanguinis was limited to the first generation born abroad.* This provision was justified by reference to the need to avoid 'the creation of foreign-born generations with no real links to the country' (Secretaría de Relaciones Exteriores 1999: 33-34). However, not only does this evidence some preconceptions about the nature and transmission of national/cultural identities, but it also seems to go against the original goal of strengthening links with Mexican communities abroad, as these quite probably cannot be constrained to one or two generations only.

[25] The reform to the Constitutional articles 32 and 37 was approved 405-1; that of art. 30 was approved 404-2, while NL98 was approved unanimously (México, Cámara de Diputados, 2015; Secretaría de Relaciones Exteriores 1999).
[26] Reglamento de la Ley de Nacionalidad, 2009 [Nationality Act Regulations]. *Diario Oficial de la Federación* 669(13):4-12.
[27] In this sense, the fears expressed in this regard by some political circles in the nineties, particularly within PRI, were not completely unfounded. However, for both 2006 and 2012 federal elections, such extension of voting rights to Mexicans abroad had very limited impact in terms of participation (Calderón Chelius & Martínez Saldaña 2002; Durand & Schiavon 2014; Lafleur & Calderón Chelius 2011)

Thirdly, the specification that citizenship by birth was now permanent (and only that one) added *a further dimension of inequality between citizenship by birth and by naturalisation in Mexico*. It set no limitations on the number of additional citizenships that Mexicans by birth could acquire (which was the goal of the reform, after all) but, in contrast, left naturalised Mexicans still under the exclusive citizenship rule. Therefore, since 1998 the latter are the only Mexicans who can only hold one citizenship and the only ones who can be deprived of it. This difference created a further dimension of inequality between the two groups.

Finally, and somewhat paradoxically, the preoccupation regarding the potential political activities of those Mexicans who choose to take advantage of the new law by opting for a second citizenship, did not disappear at all. In this sense, the reform was truly meant to be about 'nacionalidad', and not about 'ciudadanía' in that there was a perceived need to *set barriers to the political activities of dual nationals*.

As stated above, a number of posts and functions in Mexico are reserved to Mexican citizens (and in many cases, only to those that are citizens by birth), specified both in the Constitution and in a number of second- and third-level laws. In this regard, an important topic for discussion within the group in charge of drafting the bill was if these posts should be opened or not to those Mexicans who hold another citizenship. The task group in charge of drafting the reform bills thus decided to create a list of the most important laws that included such provisions. It then consulted diverse governmental institutions about whether they considered that the posts within their organisations, which were already reserved to Mexican citizens only, should now be opened to dual nationals. This would allow the task group to present the reform as a 'package' of selected legal reforms, which had already been consulted upon with the concerned parts, instead of taking a number of laws one by one for discussion and approval in the Congress (Secretaría de Relaciones Exteriores 1999).

After these consultations, many institutions from the education and research sectors, as well as the Human Rights Commission, some branches of the judiciary, and most of the institutions related to economic, banking and production activities, suggested that these posts should be opened to dual citizens. However, most agencies dealing with substantive areas of the executive branch, particularly those involved in security (from police and crime prevention forces, to the office of the Attorney General, to all armed forces), as well as the diplomatic service, some institutions of social security, communications and transport, electoral organisation and others opted for closing their posts to dual nationals, *including* some that until then had also been open to naturalised citizens.

The final decree followed, in almost every single case, these recommendations (Secretaría de Relaciones Exteriores 1999, 67-78, 278-286).[28] For all those cases that were not explicitly included in the 'package' of reforms, a provision was introduced in art. 32 of the Constitution, to specify that all posts and functions reserved by law to Mexican citizens by birth should not be understood as only for those 'that do not acquire a further citizenship'. Finally, art. 16 of NA98 also mandates the immediate dismissal of any governmental officer who acquires a second citizenship while occupying any of these posts or functions.

[28] It is interesting that the only change registered was that of Head of the National Human Rights Commission, which had proposed to be opened to dual nationals.

In this way, a number of positions became closed to dual citizens, in spite of them being Mexican citizens by birth. This was a paradoxical effect of the reforms: they extended valuable rights to those Mexicans living abroad but, at the same time, seriously restricted the rights of any Mexican citizen by birth who tries to take advantage of the same reforms while residing in Mexico itself. This situation is particularly significant for those Mexicans with foreign ancestry.[29]

3. Current citizenship regime

The transformations described above led to the current regime: it is still based on a clear, legally defined differentiation between '*nacionalidad*' and '*ciudadanía*' and on the use of both ius soli and ius sanguinis. However, the latter is now limited to the first generation born abroad. The exclusive character of Mexican citizenship has been abandoned, but in such a way that not only deepens the historical differentiation between citizenship by birth vs. by naturalisation, but also adds a third group (dual citizens) with further restrictions, therefore creating a system of 'categories' of citizenship with specific privileges and restrictions attached to each one.

Nowadays, Mexico has a quite liberal policy regarding acquisition of citizenship by birth. Any person born in Mexican territory is automatically a citizen by birth, regardless of his or her migratory/citizenship status or the nationality of his or her parents; and the provision under which births aboard Mexican ships or airplanes are classed as births on Mexican soil remains valid. Furthermore, NA98 specifies that any abandoned children found within Mexican territory, must be assumed to be both Mexican by birth and to have 'a Mexican father and a Mexican mother', unless proven otherwise (art. 7), therefore assuring citizenship on both principles.

This is particularly relevant given the large groups of undocumented migrants, mostly but not exclusively those coming from Central America, who cross Mexican territory in order to try to reach the USA.[30] This transit migration (called '*transmigrantes*') includes families, single mothers with small children, and unaccompanied minors. In particular, the number of underage migrants has increased substantially in recent years: from 4,043 who came into the custody of the Mexican authorities in 2010, to 23,096 in 2015, of whom 35.6 per cent were girls, and nearly 40 per cent were aged less than 12 years (Secretaría de Gobernación 2015a). In this sense, the provision mentioned grants, at least de jure, social rights to underage *transmigrantes*. It is also important to note that in 2012, Mexico adopted a Migration Law together with other instruments, aiming both to regulate the entry and rights of migrants, and to provide basic protection of those in transit, including undocumented migrants (see in this regard Calderón Chelius 2012).

Regarding ius sanguinis, as described above, the current provisions restrict its application to the first generation born abroad. However, as long as the migration from Mexico to third countries continues, it is likely that the number of Mexican citizens by birth born abroad (many of them automatically dual citizens) will only keep increasing.

[29] It is important to note that both NA98 (arts. 16-18) and NAReg (arts. 11-12) incorporate the provision of a 'Certificate of Mexican Citizenship by Birth', which will be issued for a person 'considered as a national by a third country', if she/he wants to take one of the restricted posts/functions. The requisites for this Certificate include a signed declaration renouncing any other citizenship.

[30] For instance, Ernesto Rodríguez et. al estimate that 236,000 undocumented Central American migrants entered Mexico in 2000. These numbers reached a peak of 433,000 in 2005, before dropping off to around 140,000 in 2010. See Rodríguez, Berumen & Ramos (2011); Schiavon & Díaz Prieto (2011)

In contrast to the generally liberal provisions regarding citizenship by birth in Mexico, which in addition are set in the Constitution itself so that they are not easy to change,[31] those regulations about naturalisation are firstly, more restrictive *per se* and secondly, more easily subject to changes and interpretations. The Constitution cites in fact only one ground for naturalisation, marriage to a Mexican citizen, and this is linked to ordinary residence in Mexico (art. 30). All other grounds for naturalisation are delegated to secondary laws, with the Secretariat of Foreign Affairs as the main institution responsible.

The most important requirements that the current NA98 sets for all naturalisation applicants are proof of knowledge of Spanish language, Mexican history and 'integration to Mexican culture'. These are measured by a test applied by the same Secretariat of Foreign Affairs, plus proof of five years residence in the country. Some exceptions can be made to both requirements, particularly to the latter (see 'facilitated naturalisation' below). Temporal absences do not count against residence, as long as they do not exceed 6 months in the 2 years preceding the naturalisation request (arts. 19-20, NA98; art. 15, NAReg).

Regarding particular grounds for naturalisation, and despite the lack of precise data, it is clear that marriage is the most common. This is both a well-regulated and quite attractive option for naturalisation, since the residence period is shortened to two years only.[32] Citizenship by naturalisation may be kept in the case of divorce, but it can be retracted if the marriage was annulled due to the applicant's fault, or if it was acquired through illicit means. In the case of a marriage formed by two foreigners, if one of them becomes a naturalised Mexican, then the second is entitled to the same as long as she/he complies with the standard requirements (arts. 20 and 22, NA98). Adoption and guardianship are a further, also well-regulated, cause for naturalisation. Residence requirements for adopted children are reduced to one year only; furthermore, if the adoptive parent/guardian of a minor did not ask for naturalisation, the adoptee may still claim it after reaching legal age (art 20-III, NA98).

Individual naturalisation, in contrast, is subjected to the standard residence requirement of five years, unless the applicant qualifies for some of the national/ethno-cultural preferences. As noted before, this applies to those coming from a Latin American country, Spain or Portugal (but with the observation regarding seemingly excluded countries – see 'inequities and imbalances' below). A further instance of ethno-cultural preferences is the reduction of residence requirements, from five to two years for those persons with direct Mexican ancestry.

Finally, other grounds for expedited naturalisation include having children who are Mexicans by birth (2 years) or in special cases, as in the case of persons who have made 'special contributions' to the Mexican nation. In the latter case, residence requirements may be exceptionally condoned.

[31] In Mexico, a constitutional amendment requires both the approval of two thirds of the Federal Congress, and that of at least half plus one of the 31 state local congresses.

[32] The condition is that both persons live together in the same household during these two years. Also, this requirement is waived if the Mexican citizen was performing official duties abroad.

The most recent measure on facilitated naturalisation was introduced in 2012, as an addition to art. 20 of NA98. This provides that those persons who are direct, second-degree descendants from a Mexican by birth, but who are not Mexicans themselves, will not need to demonstrate residence to get Mexican citizenship *by naturalisation*, if (i) the person has no other citizenship; or (ii) the country in which she/he was born does not recognize her/his citizenship-by-birth rights for any given reason.[33] However, such citizenship will only be *by naturalisation* and it is contingent on all other requirements, including language/culture tests. The latter is important for certain sectors, as will be shown (see 'inequities and imbalances' below).

This provision is aimed at groups with Mexican ancestry who could be at risk of statelessness, as they cannot benefit from citizenship by birth due to the first-generation limit set to ius sanguinis abroad. However, in these specific cases, it is also required that the applicant prove, by means of 'an official statement signed by the corresponding authority', that (i) the country in which she/he was born does not consider her/him as a citizen; and (ii) that the same applies for 'any other country that could regard such person as its own citizen' (art. 17-I, NAReg). Thus a large degree of discretionary power is given to officers when deciding which countries might, or might not, be relevant for this provision.

On the positive side, the new NAReg also reduced naturalisation requirements for some groups, in order to address practical difficulties individuals could face during the process, or to take into account individual circumstances. For instance, refugees, minors, and persons older than 60, do not need to prove knowledge of Mexican history and culture, but only of the (spoken) Spanish language. In addition, subject to the discretion of the Secretariat of Foreign Affairs and the Secretariat of the Interior, refugees may be exempted from presenting a birth certificate (arts. 15 and 16-IV, NAReg).

[33] Decreto por el que se adiciona un segundo párrafo al inciso a) de la fracción I del artículo 20 de la Ley de Nacionalidad [Decree adding a second paragraph to art. 20, frac. I, section a of the Nationality Act]. *Diario Oficial de la Federación* 703(16):2.

Loss and Renunciation

The 1998 changes that made Mexican citizenship by birth 'permanent' had a number of legal, political and administrative consequences, particularly for those who would become dual citizens. For instance, both NA98 and a number of other regulations are explicit in demanding that no Mexican dual citizen can use his or her second citizenship in order to avoid the jurisdiction of Mexican laws, policies, or governmental decisions, or to pretend that she or he 'is not a Mexican anymore'. That is, dual citizens are to be considered as Mexican citizens for all public purposes, from entering/exiting the country (which has to be done with a Mexican passport), continuing with all administrative and governmental procedures within Mexico, and even reaching activities in the private sector, such as the creation of registered societies and companies. In this vein, the characterisation of Mexican citizenship by birth as 'permanent', subject to neither withdrawal nor renunciation, is indeed accurate.

A very different situation applies to naturalised Mexicans. An individual certainly can renounce her/his Mexican citizenship, but she/he may also (and more importantly) be deprived of it, if she/he falls under one of several prohibitions, including:

(a) the acquisition of a further citizenship, after Mexican citizenship has been granted;
(b) the naturalised person 'acting as a foreigner' for any public or governmental purpose;
(c) she/he uses a foreign passport, or accepts any title that 'implies obedience to a foreign government';
(d) she/he resides abroad during five continuous years (Constitution, art. 37).

Beyond the obvious problems of losing citizenship, including in this case the risk of statelessness, there are other serious consequences of such provisions for any naturalised Mexican. For instance, after being notified of an administrative process in this regard, an individual is legally bound to declare the properties that she or he owns within in Mexico. This is because, if the loss of citizenship eventually occured, then the person could fall within one of the provisions regulating activities and rights for foreigners in Mexico, in particular, the prohibition on owning property along borders and coasts. This would mean that the former Mexican must transfer such property to someone else, or face requisition (art 23, NAReg). It would also mean that such a person is now subject to the laws limiting the employment of foreigners, etc. It is important to note that there is a large degree of discretionary power in such processes, not only on the part of the Secretariat of Foreign Affairs, but also of other agencies such as the Secretariat of the Interior (art. 22, NAReg).

Inequalities and imbalances of the current citizenship regime

Gender imbalance is not an apparent problem regarding Mexican citizenship, due to: (i) the predominance of universal ius soli over ius sanguinis, which in itself provides a gender-blind approach to acquisition; (ii) the adoption in 1969-1975 of diverse reforms regarding gender equality in acquisition, transmission, and loss of citizenship; and (iii) the 1998 reforms that allowed Mexican women to retain citizenship by birth, even in cases of marriage in countries where divorce, or other situations, could lead to the loss of the new citizenship. In turn, current regulations and policies on naturalisation do not present evident signs of gender bias. However, it is difficult to prove how this is reflected in practice, due to the lack of precise information.[34]

[34] Rodríguez Chávez (2010, 118-121) shows an equilibrium in the foreign-born populations of Mexico (50.5 per cent male, 49.5 per cent female) but, as described before, this includes foreigners as such, Mexicans by birth born abroad, and naturalised citizens. Thus, the specific situation of the latter group is difficult to determine. However, Yankelevich

There is no legal or official discrimination along ethnic/national/cultural lines for naturalisation processes today – even if it can be argued that facilitated naturalisation schemes always imply discrimination against other applicants. Yet, some situations can be detected where regulations about citizenship, and naturalization in particular, are not in line with other Mexican legislative provisions; or they include provisions that in the end, create discrimination against specific groups. An example of the first case is the contradiction found in the Nationality Law regarding naturalisation requirements, vis-à-vis the provisions set in the General Law of Linguistic Rights of Indigenous Peoples (2003). The latter recognised the indigenous languages of Mexico as *national* ones 'equally valid to Spanish' for all public matters, particularly governmental uses.[35] In this sense, the requirement of knowledge of Spanish for naturalisation might be discriminating against the other sixty-eight national languages of Mexico.[36] In fact, there are important communities of Mexican migrants of indigenous origin who reside in the United States. In many cases, such communities speak an indigenous language, while having a very limited knowledge of Spanish – or none at all (Fox & Rivera-Salgado 2004; González Gutiérrez 1995, 84-88; Velasco Ortiz 2010). In other cases they are bilingual, but speak their own tongue and English only. Due to the limits set for acquisition of Mexican citizenship by birth abroad, the third-generation of such communities can only acquire Mexican citizenship by means of naturalisation – which means they will be subjected to tests in Spanish, and not in their own languages, despite these officially being also 'national' ones in Mexico.[37]

An example of the second case is linked to the preferential policies towards persons from 'a Latin American country or one of the Iberian Peninsula'. Within such preferential naturalisation there may be instances of 'negative' discrimination towards persons of specific backgrounds. In this regard, it is important to clarify that a long-standing, official differentiation is set in Mexico between four groups of countries located south of the United States:

1. *Hispanoamérica,* which refers to those countries that once were colonies of the Spanish crown, and where Spanish/Castilian is an official or dominant language;
2. *Iberoamérica,* which alludes to the former colonies of a country located on the Iberian peninsula (that is, Spain and Portugal), therefore adding Brazil to the list;
3. *Latinoamérica,* which comprises all the American countries where a Latin language (Spanish, Portuguese, or French) is either official or spoken by the majority of the population – therefore adding Haiti; and
4. *The Caribbean,* which does not necessarily point to a fixed geographical zone, but is mostly used for the countries south of the United States where a non-Latin language (English, Dutch) is official or dominant.[38]

(2015: 1668-1671) finds that, from 1900 to 1953, only seven per cent of all naturalisations were granted to women, and that more than half of these were for single women – a fact that seems to contradict the idea of marriage as a main cause for naturalisation in Mexico.

[35] Art. 7, Ley General de Derechos Lingüísticos de los Pueblos Indígenas [General Law of Linguistic Rights of Indigenous Peoples]. *Diario Oficial de la Federación* 594(9): 2-6.

[36] The National Institute of Indigenous Languages, the public organisation in charge of the matter, recognized in January 2008 the existence of 68 indigenous languages, which then were automatically considered as national ones (INALI 2008).

[37] This could be extended to all naturalisation processes, and also have implications, for instance regarding the naturalisation of Central Americans of indigenous origin.

[38] Therefore this fourth category includes not only several island nations of the Caribbean, but also others such as Suriname and Guyana. The phrase 'Latin America and the Caribbean' is commonly used to refer to all countries south of US; and for all countries of the continent (including North America), the plural term 'the Americas' is preferred.

Mexico has always regarded Haiti as a Latin American country, and this is evidenced in multiple legal, official and diplomatic documents, both past and present.[39] In spite of this tradition, Haiti is currently not included in the list of countries for preferential naturalisation purposes. No reason has been found for this discrepancy, which is even more noticeable given the fact that the list does include Belize: a country with common borders with Mexico and an important Spanish-speaking population, but that traditionally has been considered as part of the English-speaking Americas.[40]

Finally, one of the most relevant inequities in the Mexican citizenship regime has to do with the *legal and practical differentiation between 'categories' of Mexicans with regard to their citizenship and its associated rights*. Several of these differentiations have been mentioned in this report. However, it is important to underline the fact that, in contrast to other inequalities that might arouse from bureaucratic procedures, or lack of coherence between particular laws, the different legal and practical treatment given to different Mexicans (by birth; by naturalisation; and dual nationals) was set in the laws *on purpose*. This configures a hierarchy of citizenship in Mexico, as follows:

1. Mexicans by birth with no other nationality, who are fully entitled to all rights and duties associated to citizenship, now including protection against forfeiture;
2. Mexicans by birth with another citizenship, with important restrictions in the political and governmental areas, and some others in specific civil matters; and
3. Mexicans by naturalisation, who not only also face the same restrictions, but currently are (i) the only ones that can lose their Mexican citizenship, and
(ii) the only ones who are prohibited from holding a further citizenship.

It can be argued that such legally-sanctioned discrimination goes against the fundamental equality principle upon which the concept of citizenship is based. In any case, it has led to a number of Mexicans being second, or even third-class citizens for some purposes (see for instance Ancona Sánchez in INAP 1998; González Martín 2000).

We may also question whether such differentiation between 'categories of citizenship' works as a deterrent for those who would otherwise seek naturalisation in Mexico, e.g. long-term foreign residents. Such individuals would face both political and labour restrictions even after naturalisation; she or he would have to renounce her or his previous citizenship; and, in case of loss of Mexican citizenship, she or he could face loss of the properties she/he had acquired in the country –most relevant for those immigrant communities settled along the southern border of the country.

[39] Otherwise, the category 'Latinoamérica' would be synonymous with 'Iberoamérica'

[40] As the text of the document states, 'For naturalisation procedures, the countries considered as Latin American [are:] Argentina, Bolivia, Brazil, Belize, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panamá, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela as well as Spain and Portugal from the Iberian Peninsula' (Instituto Nacional de Acceso a la Información & Secretaría de Relaciones Exteriores 2015). The full document is available in Spanish with the number 0000500184414, at the online database of public information requests https://www.infomex.org.mx/gobiernofederal/moduloPublico/moduloPublico.action. Some specialists have suggested to me that the exclusion of Haiti from the privileged naturalisation list could be a consequence of the 2010 earthquake, in order to prevent massive naturalisation requests. However, if that were the case, then many other Latin Americans would have to receive the same treatment in cases of natural disasters – which does not seem to be the case.

4. Current political debates and reform plans

Despite the peculiarities of the Mexican regime of acquisition and loss of citizenship, the debates on the matter are limited. It is true that some discussions exist in Mexico about the scope and specificities of the concept of '*ciudadanía*' (that is, to political rights only), e.g. about the extension of absentee voting to federal legislative elections, and/or for governors in those states that have not accepted this voting scheme yet. However, discussion about citizenship as *nacionalidad* is mostly absent from the public arena.

In the same vein, parliamentarian debates on citizenship have also remained quite limited, at least since 1998. The online database and website of *Impacto Legislativo*, a civil society organisation tracking legislative activities, and of the official Legislative Information System (Impacto Legislativo 2015; Secretaría de Gobernación 2015b) lists a number of bills proposing changes to migration, citizenship and/or naturalization laws. However, many proposed changes of a minor or rather technical character. What is more, several if not the majority of such bills have been rejected without discussion, mostly due to parliamentarian commissions not examining them after a certain period, and only a handful are still pending.

Four of these bills can be taken as examples of the parliamentary discussions about the features and problems of the current citizenship regime of Mexico, and its possible future trends:

1. In April 11th, 2008, a group of four representatives of the Party of the Democratic Revolution presented a bill amending both art. 30 of the Constitution and NA98, in order to grant automatic naturalisation to foreigners who are parents of Mexican citizens by birth. This was in order to protect undocumented immigrants in Mexico from deportation and from abuse on the part of local and national authorities and to encourage them to register their children in Mexico without the fear of being denounced to migration authorities. The status of the bill is unclear.[41]

2. In July 30, 2010, a bill was presented in the Lower House by Deputy Oscar Saúl Castillo Andrade (National Action Party) proposing a reduction in residence requirements for naturalisation from five to four years for standard naturalisation and from two to a single year in the case of marriage with a Mexican, or for specific ethno-cultural groups. The bill proposed the replacement of the term 'Latin American' with *Iberoamericano* – which as mentioned would automatically exclude Haiti. In spite of this, the text of the bill denied any racial connotation in such a change. Furthermore, the bill proposed the inclusion of Ireland as a privileged nation, arguably on historical grounds.[42] The bill was never discussed and finally it was struck down. However, it presents an interesting case of historical and ethno-cultural considerations still shaping ideas about citizenship in Mexico.[43]

[41] Velázquez López et al. (2008). The Legislative Information System (Secretaría de Gobernación, 2015b) lists the bill as pending for discussion. However Impacto Legislativo (2015) lists it as struck off. The latter is the most probable case.

[42] Castillo Andrade (2011) During the Mexican-American war of 1846-1848, a group of soldiers in the invading US army, who were mostly but not exclusively of Irish origin, switched sides and joined the Mexican army, creating the St Patrick's Battalion (*Batallón de San Patricio*). They are considered national heroes in Mexico.

[43] Another explanation can be extrapolated from further bills presented by the same congressman, which evidence a strongly Catholic orientation. This could also explain both the inclusion of Ireland, and the change in terms (from *Latinoamericano* to *Iberoamericano*) as an attempt to emphasise links with Catholic countries of Europe.

3. In September 10, 2013, a bill was presented in the Lower Chamber by Carlos Octavio Castellanos (Green Ecologist Party of Mexico) to address in part the unequal treatment of Mexicans by birth vs. Mexicans by naturalisation. In particular, the bill aimed to eliminate the existing requirement for an applicant to make a formal renunciation of his or her current citizenship (set in arts. 17 and 19, NA98), therefore allowing the naturalised Mexican to retain her/his previous citizenship. However, this bill does not address more general inequalities in the same area, for instance that such a person, even if he or she becomes a naturalized Mexican and keeps her/his original citizenship, would still be prohibited from acquiring a further one, while Mexicans by birth have no such limitation. The bill has not been discussed or voted upon as of April 2015.[44]
4. On 17 February 2015, a bill was presented in the Higher Chamber by Rep. Alejandro Tello Cristerna (PRI, representing the state of Zacatecas) to restrict the discretionary power of the Secretariat of Foreign Affairs in granting naturalisation. This because, in its current form, NA98 allows the Secretariat to deny naturalization just on grounds of 'not considering it as convenient' (Art. 25, NA98). The bill is pending for discussion.[45]

Conversely, court cases on issues of 'citizenship' are numerous in Mexico, but the vast majority refers to *ciudadanía* (e.g. political rights) and not to *nacionalidad* as such. Most cases related to the latter are appeals, or pleas of habeas corpus (*amparo*) against resolutions of the Secretariat of Foreign Affairs regarding naturalisation requests. Other actions have been directed against the closure of posts to 'Mexicans by birth with no other nationality', on grounds of the unconstitutional character of such differentiation. However, in many cases the challenge has not been directed towards the law as such, but regarding specific posts only.

More relevant is a 2013 process against the limitation to one generation only for acquisition of citizenship by birth abroad. The complaint was made on grounds of inequality: that is, children from Mexican citizens by birth depend on the place of birth of their parents for acquisition purposes (which must be in Mexican territory) but those of naturalised Mexicans do not (Suprema Corte de Justicia de la Nación 2013). The Court agreed and resolved to grant citizenship by birth to the plaintiff. However, in Mexico five consecutive resolutions with similar outcomes are required in order to create a binding precedent.

Finally, it is important to note that the topic of citizenship rights (linked to *nacionalidad*) is also not on the agenda of most civil society organisations in Mexico, at least for the moment. In this sense, what is particularly noticeable is the absence of any large, organised reaction to the unequal treatment of Mexican citizens by naturalisation, not only regarding their inability to opt for a second nationality, but also as regards the restrictions they face in their political rights and even the discrimination by local or federal authorities.[46] However, we must also acknowledge that both public debates and activism in Mexico, including the actions of civil society organisations, are heavily focused on topics with both high visibility and undeniable importance, such as the rise in activities and power of criminal organisations; corruption and lack of transparency; and violations of basic human rights, among others.

[44] Castellanos Mijares (2013)
[45] Tello Cristerna (2015).
[46] Two of the most visible organisations in this regard are the Committee for the Defense of Naturalized Citizens and Afro-Mexicans (*Comité Ciudadano de Defensa Naturalizados y Afromexicanos, or CCDNAM*) and the organization Sin Fronteras IAP. However, the CCDNAM is a very small organisation, so its activities have been limited so far to Mexico City and to media and information, with occasional seminars and small demonstrations against social discrimination and authority abuse (CCDNAM 2011). Sin Fronteras IAP also has information and campaign activities in this regard, and gives legal assistance (Sin Fronteras IAP 2013). Additionally, there are some academic associations and research groups that study this topic, but in many cases it is linked to (and therefore overshadowed by) the much larger and visible area of migration studies.

Conclusion

Mexico established its current citizenship regime in 1934, following the ideological and political guidelines set by the 1917 Constitution, including a strong, 'defensive nationalist' emphasis in both promotion of internal cohesion, and defense against foreign intervention. This was the base of a citizenship regime based upon five principles: legal differentiation between 'Mexican nationality' and 'Mexican citizenship'; use of both ius soli and ius sanguinis for acquisition; exclusive citizenship; legal differentiation between Mexicans by birth and by naturalisation; and preferential naturalisation for those perceived as having a similar ethno-cultural background as Mexicans.

This regime did not vary much during the rest of the 20th century, with the key exception of gender equality, mostly introduced during the 1960s. It was only in 1998 that a far-reaching change was made to the Mexican citizenship regime, by specifying that citizenship by birth would now be permanent (therefore allowing dual citizenship). In this sense, the principle of exclusive citizenship was abolished – but for citizens by birth only.

Meanwhile, the other four traditional principles have remained quite stable, even if some changes were made to their particular provisions. Some of these changes were of a liberalising nature, like the progressive extension of preferential naturalisation schemes – even if naturalisation, as a whole, has had a very limited role in the history of Mexico. Other changes imposed further restrictions, for instance, when in 1998 citizenship acquisition by ius sanguinis was limited to the first generation born abroad.

Therefore, the current citizenship regime in Mexico is a combination of some remarkably liberal provisions, like universal ius soli, with some deeply-ingrained conceptions including a general mistrust towards any foreign influence in the political matters of the country. This is reflected, for instance, in a system of 'categories of citizenship', where only those Mexicans who are 'pure' citizens by birth (e.g. who do not have any other citizenship) are entitled to all rights, while naturalised Mexicans, as well as dual nationals, face special restrictions. This inequality is also reproduced in further, and far more substantive inequalities; for instance, the fact that since 1998, naturalised citizens are the only Mexicans who can be deprived of their citizenship, and also, the only ones prohibited from holding dual citizenship.

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