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REPORT ON CITIZENSHIP LAW: COSTA RICA

Paola Alvarado Quesada

December 2015

Translation of report RSCAS/EUDO-CIT-CR 2015/7



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European University Institute, Florence
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Citizenship Law

Costa Rica¹

Paola Alvarado Quesada

1. Introduction

Compared to other countries in Central America, Costa Rica stands because of its social, economic, and political stability. As a result, the regulation of nationality, including conditions under which it can be granted, as well as the rights and duties associated with the status of nationality, have remained remarkably stable since their conception. Changes to nationality law in Costa Rica have largely resulted from domestic adaptation to external pressures and circumstances. Examples of this dynamic include changes in migratory flows experienced by the country and recognition of the rights of peoples at the country's borders.

For many years, Costa Rica has been recognised as a destination country for Central American migrants. This is mostly due to the civil wars that consumed this region and that were followed by poverty. Many Nicaraguans, whose homeland is located at Costa Rica's northern border, were thus forced to emigrate. Moreover, Costa Rica has borne a growing wave of so-called transients, many of whom request permanent residence in the country on grounds of personal circumstances. An illustration of such circumstances is the growing phenomenon of human trafficking into Costa Rica. Additionally, Costa Rican emigration has increased in recent years with the United States (US) being the principal destination.

It should be said at the outset that, whilst the terms 'citizenship' and 'nationality' are used interchangeably, they are in fact distinct concepts. Nationality is the link that a person has with a country: 'the legal and political link which unites a person to a particular state' (Schönberger, 2009:49). Citizenship is the set of political rights that a person can exercise in a particular state (Schönberger, 2009:49). In other words, an individual can be a national of a country but not necessarily a citizen.

Against this backdrop, it is central to reflect on the ways in which Costa Rica has adapted to new circumstances, including a migratory movement that decanted into a variety of persons of different backgrounds inhabiting the country's territory. At the same time, it is important to explore the effects of emigration of those who, for different reasons, had to leave the country but never lost their links with it.

¹ The 'Report on Citizenship Law in Costa Rica' was originally published in Spanish and subsequently translated. The original report 'Informe sobre la ciudadanía: Costa Rica', first published in May 2015, may be consulted online at : http://cadmus.eui.eu/bitstream/handle/1814/35739/2015_07_CostaRica_CR_Es.pdf?sequence=1

To that end, this document will proceed to undertake a brief contextualisation of the legislative evolution that Costa Rica has experienced through its political constitutions with respect to the subject of nationality. Then, it will determine the diverse circumstances that offer Costa Rican nationality and how this nationality might coexist with other nationalities, as well as how this nationality might be lost and which persons may regard themselves as citizens. Finally, it will conclude whether there exists in current legislation reference to such issues. The Costa Rican constitution will be used as the base text, in combination with the ‘Options and Naturalisation Act.’ These will provide the legislative bases that limit the actions of both the individual and the state in this subject.

2. Historical Overview

On 15 September 1821 Costa Rica declared independence from the Spanish Empire, along with other provinces that belonged to the Captaincy General of Guatemala.² During this period, a provisional constitution named the ‘Interim Fundamental Social Pact of the Province of Costa Rica’ was adopted. The 1821 Constitution was popularly known as the ‘Pact of Concord’, and it is considered to be the first constitution of the country. It established the concept of a citizen for the first time. In its third chapter, the ‘Pact of Concord’ stipulated that the term ‘citizen’ refers to free men born in the country’s territory; and to those born in neighbouring countries, who had resided in Costa Rica for a minimum of five years and who had also sworn independence from the Spanish government.

This particular rule has two important aspects. Firstly, it is guided by the principles established in the Constitution of Cádiz. We see the influence of this Spanish constitution in the provisions for the suspension or loss of civil rights (Abarca, Alcocer, Blanco, Chavarría, Garita & Martínez; 2011). Secondly, the ‘Pact of Concord’ reaffirms the original bonds that existed with other Central American countries by enshrining the principle that individuals from neighbouring countries can become citizens even if they have not been born in the territory of Costa Rica.

This last point, emphasising the bonds between Central Americans, is particularly relevant not only because Costa Rica was ruled by the Captaincy General of Guatemala, but also because it belonged to the Federal Republic of Central America after independence (between 1824 and 1838). As such, a political relationship between Costa Rica and the rest of Central America was maintained. It was latently mirrored in the possibility that other Central Americans may choose Costa Rican nationality.

Following the Pact of Concord, the Constitution of 1844 was proclaimed, indicating a clearer distinction between natives (*‘naturales’*), those who could be naturalised, and the terms by which one could be considered a citizen. Natives were defined as those born in the state or the children of those wishing to live within its borders. The term also included those who arrived during the declaration of independence and those who had already obtained a naturalisation card. The option of naturalisation was available to citizens of the states that made up the Republic of Central America, those married in Costa Rica, those who exercised a profession considered as ‘useful’, as well as to those who possessed a certain amount of economic capital. Simultaneously, the possibility to naturalise was extended to foreign nationals who had five years of residence, or three in the case of those living with their

² As part of the territorial organisation that took place in [America] under Spanish rule, Costa Rica was a province of the Captaincy General of Guatemala, which combined the territory that now exists between the State of Chiapas in Mexico and the province of Chiriqui in Panama.

families.

In contrast to the Pact of Concord, the Constitution of 1844 asserted a series of conditions for the acquisition of citizenship regarding age, gender, office, and economic situation. Specifically, applicants had to be native or naturalised with twenty years of residence or eighteen if they were married or were a teacher of science. In both cases, applicants had to own property or be economically self-sufficient.

Following the Constitution of 1844, Costa Rica adopted further constitutions in 1847, 1848, 1859, 1869, 1871, and 1917. However, none of these involved significant changes to the substance of the rules regarding nationality, naturalisation, and citizenship. The most visible differences consisted of changes to the terms of residence (*vecindad*) to obtain nationality.

With the promulgation of the Constitution of 1949, which is still in force today, more resolute changes were undertaken in the guidelines regarding Costa Rican nationality. For example, the stipulations establishing the minimum term for residence in neighbouring countries were continued and extended to Latin Americans and Spaniards, whereas other foreigners wishing to obtain Costa Rican nationality require longer periods of residency. At the same time, applicants for naturalisation must be of good character, undergo an examination on the history of the country, understand the Spanish language, respect the constitutional order etc.

The most significant feature of the Constitution of 1949 regards citizenship, that is to say, the political franchise. In the Constitution, every Costa Rican is considered a citizen if they are eighteen years old, thereby extending political rights to women for the first time and eliminating any economic prerequisite or professional requirement to obtain citizenship. Simultaneously, the majority of these rights were bestowed on naturalised persons of the minimum age. However, there remain certain roles in public office that naturalised Costa Ricans cannot exercise.

The Civil Code was influenced by other, particularly European, legal texts. Their provisions were taken into account in the Costa Rican code. The commissioner in charge of drafting the code between the 1882 and 1885 used as a reference ‘the French Civil Code of 1804 (the name of which was modified in 1807 by the Napoleonic Code), the Spanish Civil Code of 1851 and the Chilean Civil Code of 1857’ (Arias 2012: 36).

It is noticeable that, throughout the evolution of the constitution, there has existed a possibility to opt for Costa Rican nationality alongside the majority of political rights, albeit contingent on an increasing range of naturalisation requirements. Furthermore, such political constitutions as the Civil Code have been influenced by the rules of other systems, especially those developed by European nations.

2.1 Origins of the Options and Naturalisations Act of 1950

Since the proclamation of the Constitution of 1949, only one law has remained in force regarding the governance of naturalisation. Today this is known as the Options and Naturalisations Act, although it was originally called the Immigration and Naturalisation Act.

This point reflects the stability of legal developments that has characterised Costa Rica since 1950. However, this does not mean that the law has not undergone transformations over the years. There have been a series of decrees and laws that have reflected the country’s

circumstances during the last 65 years. These laws particularly mirrored changes in migration patterns and the influence of international law that focuses on the protection of human rights. Even so, these broader processes and norms have not resulted in profound changes to the content of the existing legal framework.

The predecessors of the Options and Naturalisations Act date from the nineteenth century when different governments issued a number of laws and decrees to regulate this area. As we have seen, beginning in the nineteenth century, when a large influx of immigrants arrived in Costa Rica as workers, the country established mechanisms to control the entry of these foreigners by creating selective criteria drawing on examples from European legislation.

An instance of these laws was the Bases and Settlement Act of 1862, which stands out as the first regulation that the country enacted in this field. The law prohibited the colonisation of peoples of African and Chinese origin. Furthermore, depending on the situation, authorisation was granted to limit their entry into the country (Senior 2007:149).

Between 1896 and 1897, two particularly important decrees were promulgated to regulate the awarding of passports and to establish a restriction on the entry of people of Chinese origin. Together, these decrees granted the power to the Costa Rican executive to bar entry to anyone considered a danger to the country. This situation, which persisted between 1902 and 1906, was then intensified to extend the prohibition of entry to Arabs, Turks, Syrians, Armenians, and Gypsies (Senior, 2007:150-151).

The aspects described above point to a protectionist attitude by the Costa Rican state. This protectionism intensified during the 1940s, particularly within the context of the Second World War, when large group of Europeans migrated to Central America. Given this situation, a series of measures were adopted to regulate the status of foreigners. Notably, the government of Calderón Guardia issued the proclamation of a new Regulation for Foreigners in 1941. This regulation forced aliens to register with the Department of Foreigners with the aim of creating a register of foreigners and providing residency cards. At this time, Chinese, Arabs, and even those of black descent, who, out of fear, were considered as a plague in Costa Rica, continued to be prohibited from entry (Senior 2007: 153-158). Moreover:

The government's effort to control, restrict and assess the foreign population through successive political administrations is obvious. In order to ensure 'the common good' of a national population that increasingly demands social peace in relation to labour competition – an area in which the citizens' interests were affected by 'scant and weak' regulation in relation to immigration. As such, the repeated modifications, additions and legal restructuring were introduced (Senior, 2007: 159).

The final outcome of such governmental efforts was the adoption of the 1950 Options and Naturalisations Act. Similar to the Regulation of Foreigners and the Migration and Immigration Act, the 1950 Options and Naturalisations Act was adapted to the various conventions and international treaties that Costa Rica had ratified to ensure adequate protection of human rights.

An example of an international law provision regarding nationality that applies in Costa Rica is article 15 of the Universal Declaration of Human Rights of 1948. This article stipulates everyone has the right to nationality, of which they cannot be arbitrarily deprived nor prevented from the right to change it. The American Declaration of Rights and Duties of Man of 1948 establishes the same rights in Article 19 (Palma, 2009:43).

Furthermore, article 20 of the American Convention of Human Rights, or the San José Pact of 1969, states that every person has the right to nationality. Such a nationality is to be

obtained from the state in which the person was born, if the person is not entitled to any other nationality; the right to nationality also stipulates that persons should not be prevented from the right to change their nationality (Palma, 2009: 44).]

Other noteworthy examples of human rights instruments that affected nationality in Costa Rica include the 1933 Convention on the Nationality of Women (applicable since 1954), the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (both applicable since 1977). Currently, prior to naturalisation in Costa Rica under statutory requirements, the condition and status of statelessness need to be evidenced in line with the Migration and Immigration Act.

2.2 Migration to and from Costa Rica

Costa Rica is a recipient country for migrants. According to the census carried out by the National Institute of Statistics and Census in 2011, Costa Rica has hosted around 385,899 international immigrants. Migration into Costa Rica dates back to the nineteenth century, when Europeans decided to come to the country came to capitalize upon the Costa Rican growing coffee industry. Furthermore, the development of railroads in the 1860s attracted immigrants of Chinese, Italian, and Jamaican origin (Gatica: 118-119).

This scenario of labour migration remains unchanged as Costa Rica continues to be a work destination for individuals from other countries. According to the 2011 population census, foreigners constitute an important part of the country's labour force. Their share in the total employed population is 12 per cent (Guerrero, García, Montero & Muñoz, 2012:43).

The 2011 population census also provides information on sectors in which the Costa Rican and foreign-born population habitually work. 19 per cent of the Costa Rican-born population are mostly employed in the commercial sector, closely followed by agriculture. However, 18 per cent of foreigners work in agriculture, the cattle industry, forestry, and fishing; followed by 16.5 per cent in the commercial sector; and 11 per cent in manufacturing and construction. These percentages reveal a stark contrast between Costa Ricans and foreigners in the structure of employment. From this data, it is possible to establish that immigrants have found more work opportunities in agriculture, construction, housing, domestic service, and the food industry (Guerrero et al, 2012:44).

In the middle of the nineteenth century Costa Rica experienced economic development largely due to the boom in the export of coffee, that occurred several years ahead of that in other Central American countries. However, only at the end of the century and during the first decades of the twentieth century had the agro-export model primarily based on the export of coffee achieved a foothold both in Costa Rica and other Central American countries. Such developments were a response to increased demand from developed countries for agricultural products. Their outcome in Central America resulted in inequalities and asymmetric development. The concentration of land and enrichment of a bourgeoisie resulted in inequality combined with political conflict leading to continuous instability, coups, and civil wars (Morales 2007: 26).

Costa Rica's economic development went through a harsh decline during and after the financial crash of 1930. Similar processes throughout Latin American countries facilitated the rise of authoritarian political systems under military dictators. However, owing to the country's idiosyncrasies and its ability to secure social peace through institutional channels, Costa Rica avoided dictatorship.

The economic crisis of the 1980s had further repercussions on Costa Rica's

neighbourhood, most of which became consumed by armed conflict. The subsequent 'mainstreaming' of Central American countries in the process of globalisation from 1990 onwards, deepened fragmentation and exclusion, while increasing migratory flows among the Central American countries. (Morales 2007: 30-33).

Unlike its neighbours, Costa Rica was seen as an ideal destination for migrants from other Central American countries, because it avoided the armed conflicts of the 1980s. Moreover, compared to other Central American countries, it made progress towards a consolidated democracy. Migratory patterns are reflected in the 2011 census, which reported that more than 40 per cent of immigrants entered the country after 2000 (Guerrero et al 2012: 27). Similarly, Costa Rica offers health care and primary education to those born in foreign countries even if they are illegal immigrants, although this does not extend to political rights.

One case that clearly exemplifies this migratory pattern is the influx of immigrants from Nicaragua. According to the 2011 Census, a total of 287,766 Nicaraguans live in Costa Rica and the majority of these entered the country after 2000, making Nicaraguans the most numerous foreign- born population in Costa Rica. The post-2000 migration of Nicaraguans to Costa Rica is largely due to the economic crisis in Nicaragua in the post-conflict period.

Exploring the earlier waves of migration of Nicaraguans to Costa Rica, in his *Migratory Study of Costa Rica*, Gustavo Gatica points to three critical junctures. The first corresponds to the struggles against the Somoza regime, which held power in Nicaragua from 1934 until 1979. The dictatorship led to the displacement of those dissatisfied with the regime, including academics and professionals. Secondly, when the regime of Augusto Sandino came to power in Nicaragua in the 1980s, former combatants, businessmen, and opposition figures also moved to Costa Rica. Finally, during the 1990s people from rural areas decided to emigrate to Costa Rica for economic reasons, a trend further intensified by Hurricane Mitch in 1998, causing extensive damage to Nicaragua. 'This led to a strong migratory movement towards Costa Rica that forced the government of Rodríguez Echeverría to establish a migratory amnesty in 1999' (Gatica 2015:121).

Conversely, a total of 2.85 per cent of Costa Ricans emigrated from the country. Between 2006 and 2008, there was a significant increase in the number of emigrants, the majority of whom left for the United States. The 2010 United States Census indicated an 84.3 per cent increase in Costa Rican immigrants, from 68,588 Costa Ricans to a total of 126,418 in 2010, demonstrating that Costa Rica is not only a receptacle of immigration but also a country of origin to a growing community of citizens abroad (Guerrero et al 2012: 27-35).

The Economic Division of the Costa Rican Central Bank also undertook investigations to determine the numbers of Costa Rican emigrants for 2010. The data show that in 2010 alone the figure was 250,000 or 5 per cent of the total population of Costa Rica (Guerrero et al 2012: 35). Furthermore, the data provided by the Central Bank establishes that at least 75 per cent of Costa Ricans immigrated to the United States, the remainder, by and large, opted for Canada and various European countries. Furthermore, the 55 per cent majority of the Costa Rican emigrants are men aged between 31 to 40 years old. Finally, the Economic Division of the Central Bank concluded that the main reason to emigrate was employment (Guerrero et al 2012: 36).

The data shows that Costa Rican emigrants constitute a dispersed diaspora that fails to convincingly argue for their rights. However, it should be pointed out that rights that are exercised passively have been recognised in recent years. An example is the Electoral Code of 2009, which enabled Costa Ricans living abroad to vote. Likewise, by having the right to vote and choose the President and Vice- President, Costa Ricans living abroad have become part of

the political life of the country. As a result, the President of the Republic visited a community of Costa Ricans abroad with the purpose of celebrating independence for the first time in 2014.

To conclude, this contextualisation confirms that public policy on naturalisation in Costa Rica has been affected by the demographic changes generated by migratory flows, particularly from other Central American nations, rather than by pressure from one section of the population in the context of national stability. Meanwhile, although emigrants are not a high percentage of the Costa Rican population, emigration has increased in recent years and Costa Rica has had to adapt to these circumstances.

3. Naturalisation and the citizenship regime

This section explores the key provisions on nationality, naturalisation, and citizenship in the 1949 Constitution and the 1950 Options and Naturalisations Act. It also draws on relevant provisions of the Migration and Immigration Act, so as to better explore the influence of migratory flows on Costa Rican legislation.

On grounds of the constitutional article 13, article 1 of the 1950 Options and Naturalisations Act establishes that the following are Costa Ricans by birth:

- The child of a Costa Rican father or mother born in the territory of the Republic;
- The child of a Costa Rican father or mother by birth, who was born abroad and is on the Civil Register by the will of a Costa Rican parent while a minor, or by his or her own will until the age of 25;
- The child of foreign parents born in Costa Rica who is registered as Costa Rican by the will of either of the parents while a minor, or by his or her own will until the age of 25;
- The child of unknown parents found in Costa Rica.

Importantly, whilst registration is automatic, someone must be responsible for the registration of the person.

Article 2 of the 1950 Options and Naturalisations Act and Article 14 of the Constitution define the scope of naturalisation as applicable to:

- Those that have acquired nationality by virtue of previous laws;
- Nationals of other countries of Central America, Spaniards, and other Latin Americans by birth who have been domiciled in the country for a minimum of five years and who meet all other requirements stipulated by law;
- Naturalised nationals of Central Americans, Spaniards, and Latin Americans and other foreigners who have resided officially in the country for a minimum of seven years and meet all other requisites stipulated by law;
- Any foreign woman who, marrying a Costa Rican loses her other nationality;
- Foreign persons who, on marrying Costa Ricans, lose their nationality or who express their desire to acquire Costa Rican nationality after two years of marriage to Costa Ricans and residence in Costa Rica in the same duration;
- Those who hold the honorary nationality bestowed by the Legislative Assembly.

Article 11 of the 1950 Options and Naturalisations Act establishes the requirements

for naturalisation:

- To be adult and to indicate nationality;
- To be of good conduct and have been domiciled in Costa Rica under the terms established in Article 14 of the Constitution for each group of nationalities;
- To have a profession or occupation and income, property, or other source of income sufficient to meet the applicant's needs and, if applicable, those of their family;
- Not to have been sentenced for felony or repeated intentional crimes during residency in the country, or not to have been sentenced for repeated violations;
- To know how to speak, write, and read the Spanish language and, furthermore, to possess knowledge of the history of Costa Rica and its values.

According to the data supplied by the Directorate General of Migration and Immigration, from 2010 onwards the incidence of the granting of Costa Rican nationality has been constant when compared to the period between 2007 and 2010. In 2011, when 42,699 foreigners were naturalised under the last constitution, 52 per cent were Nicaraguans. Colombians and El Salvadorians accounted to 8 per cent each of the total of naturalised Costa Ricans in 2011.. Although it is clear that Nicaraguans have most frequently applied for Costa Rican nationality, this percentage has slightly decreased since 2010, when Nicaraguans accounted for 2 per cent more of the total number of naturalisations in Costa Rica. On the other hand, the percentage of Colombians increased from 7 per cent in 2010 to 8 per cent in 2011(Guerrero et al: 2012: 32).

Likewise, according to data from the Office of Options and Naturalisations of the Supreme Electoral Tribunal of Costa Rica, a total of 3,050 naturalisation cards were granted in 2013. In 2014 this number decreased to 1,409. Numbers shown in Table 1 represent naturalisation cards granted to individuals originating from other Central American countries and Spain.

Table 1: Numbers of naturalisation cards awarded by the Office of Options and Naturalisation during the years 2013-2014 for persons originating from Central America and Spain.

Country	2013	2014
El Salvador	93	56
Guatemala	38	14
Honduras	38	17
Nicaragua	1455	718
Spain	18	4

SOURCE: Author's own table using data from the Office of Options and Naturalisations for the period 2011-2014.

The data shows the most naturalisation cards during this period were granted to Nicaraguans, despite the decrease in 2014. The second Central American country with the most naturalisations in Costa Rica is El Salvador, and the third one is Honduras. Interestingly,

even though Spanish nationals are included in the list of countries to whom the Constitution of 1949 offers the shortest residency requirements for naturalisation in Costa Rica, only a few used this possibility.

The original Article 3 of the 1950 Options and Naturalisations Act established that Costa Rican nationality could be lost

- by adoption of another nationality;
- when the naturalised Costa Rican is voluntarily absent from the territory for more than six consecutive years, except in the case that a continued connection to the country can be shown.

In its earliest days, Costa Rica did not tolerate dual nationality and articles 4, 5, 6, and 7 of the 1950 Options and Naturalisations Act sets out these guidelines clearly. However, Law N° 7514 of 1995 amended article 16 of the Costa Rican Constitution. This fundamentally changed the source of the regulatory framework by decreeing that Costa Rican nationality was inalienable, thereby permitting Costa Ricans to possess dual nationality.

In addition to the regulation of citizenship in the 1949 Constitution and the 1950 Options and Naturalisations Act, the 1989 Migration and Immigration Act is also essential for understanding nationality in Costa Rica. This legal act established the subject of migration in the public sphere.

Article 1 of the Migration and Immigration Act stipulates that the purpose of the Act is to regulate the entry, residence, and departure of foreign persons in Costa Rica, based on the provisions of the Constitution and the treaties and international conventions ratified and applicable in the country, with particular emphasis upon human rights. It is also indicated that the state should seek economic and social growth for the country in order to avoid the emigration of Costa Ricans.

Due to its focus on human rights, article 3 of the Act seeks the integration of migrants into Costa Rican society, as follows:

This Act controls the regulation of migrants and promotes the integration of said migrants into society, based on the principles of human life, cultural diversity of the people, solidarity, gender equality, and the human rights guaranteed under the Constitution, international treaties and conventions duly signed, ratified and applicable in the country.

Hence this law guarantees the same rights to foreigners those possessed by Costa Ricans and offers individual and social guarantees, except in the circumstances established in the Constitution. The fundamental rights of foreigners are to be interpreted under the instruments of human rights applicable in the country.

3.1. Acquiring and losing Costa Rican nationality

The Constitution of Costa Rica establishes different ways of acquiring nationality. The grounds for acquisition are based on the principles of *ius sanguinis*, *ius soli*, and *ius domicili*.

Firstly, Costa Rican nationality can be obtained through descent, or *ius sanguinis*, as stipulated in article 13, sections 1 and 2 of the Constitution (Schönberger 2009: 49). Secondly, nationality can be obtained by *ius soli*, which bestows the nationality on the individual at birth in relation to the territory in which the child was born. This principle is enshrined in article 13 sections 1, 3, and 4 of the Constitution (Schönberger 2009: 49).

Another aspect established by the Constitution is *ius domicili*, implying mandatory residence in Costa Rica for a specific amount of time as a condition to obtain citizenship. This is set out in article 14 sections 2, 3, and 5. Additionally, nationality may be obtained by way of marriage to a Costa Rican.

In the process of acquisition of nationality, gender equality was first decided by a Costa Rican court³ and thereafter codified by way of Law 7879 of 27 May 1999. No distinction can be made on grounds of gender under the law. That is, when the law refers to ‘man’ or ‘woman’, the reference will be understood as ‘person’.

Costa Rican laws do not regulate the loss of nationality for citizens by birth. However, the judgment 005474-1999 of the Constitutional Court has ruled on the loss of nationality for naturalised Costa Ricans. Under the assumption that the naturalised person also possesses another nationality, he or she can *renounce nationality at the Costa Rican Civil Registry, which will cancel Costa Rican nationality if the applicable requirements are met and unsubscribe the person from the electoral register*. This last case refers to persons who have been granted Costa Rican nationality by naturalisation and wish to renounce it. However, Costa Rican nationality by birth cannot be renounced.⁴

In addition, it is worth mentioning that Costa Rica facilitates naturalisation for individuals from countries that once belonged to the Federal Republic of Central America. Costa Rica, like Honduras, requires a shorter residency period for such individuals (León & Pérez 2012: 15). This privilege was extended to Spaniards and Latin Americans in Costa Rica.

The Electoral Register Section of the Supreme Electoral Tribunal provides data on the total number of naturalised citizens with the right to vote. The latter is one of the most important citizens’ rights. In 2014, the total number of enfranchised naturalised citizens (as listed in the electoral register) was 49,963, of whom 22,833 were men and 27,130 were women. The five countries with the most persons naturalised and registered in Costa Rica in 2014 are presented in Table 2 below.

Table 2: The five counties with the largest number of naturalised citizens appearing on the Costa Rican electoral register in 2014.

Country	Number of naturalised citizens appearing on the electoral register
Nicaragua	25,046
Colombia	5,788
El Salvador	3,476
Cuba	2,252
China	1,885

SOURCE: Author’s own table using data from the TSE Electoral Register setting out the total number of naturalised citizens appearing on the electoral register in 2014 according to country of origin.

³ Court IV in decision 3435-92.

⁴ See decision 005474-1999.

The table indicates that Nicaraguans are the group with the most enfranchised naturalised citizens of Costa Rica. They are followed by people originating from Colombia and El Salvador. All of these naturalised Costa Ricans enjoyed the possibility of participating in the presidential, vice-presidential, and congressional elections in 2014 in Costa Rica. On becoming citizens they have become able exercise one of the most important rights that attached to the status of citizenship.

3.2 Rules established for specific groups

In Costa Rica, there are no specific rules for ethnic groups or minorities when applying for nationality or citizenship. However, three aspects are worthy of consideration.

Firstly, there is the declaration of nationality of the indigenous Guaymies by the Constitutional Court.⁵ In 1990, an appeal was filed using the *Recurso de Amparo* (a remedy for the protection of constitutional rights) on behalf of a group representing the Ngobe (Guaymí). The tribe argued that their constitutional rights had been violated through a law of the Republic because they were considered foreigners, that is, they were not granted Costa Rican nationality because they did not comply with the registration requirements and were therefore considered to be naturalised foreigners. However, based on Convention 107 of the International Labour Organisation, the Constitutional Court ruled in favour of the indigenous group and considered indigenous peoples to represent different circumstances compared to others (Chacón 2001: 62-63).

Secondly, it is possible to pass on Costa Rican nationality under Article 17 of the Constitution of 1949, which permits the transmission of nationality to minors.

Lastly, as we have seen, there is formally no distinction between Costa Ricans by birth or by naturalisation. However, there are certain limitations for Costa Ricans by naturalisation. For example, article 94 of the Constitution states that: *'naturalised Costa Rican citizens cannot vote up until the expiry of twelve months since the receipt of their naturalisation'*. Similarly, there are certain elected positions to which naturalised Costa Ricans cannot aspire, and limits are established on the residency period after becoming naturalised. For example, in the case of the President and Vice-President of the Republic, one of the requirements is to be Costa Rican by birth. To become representative in the legislature, one must be a Costa Rican citizen by birth or a naturalised citizen who has been resident in the country for ten years after naturalisation.

3.3. Institutional Arrangements

Over the years, Costa Rica has given the executive and legislature the power to grant Costa Rican nationality on exceptional grounds, currently known as 'honorary nationality'. The Constitution of 1917 gives authority to the executive to grant citizenship to foreigners who comply with what is established in article 40 Section 5:

Foreigners who provide or have provided important services to the State, or who are persons of great talent or great scientific or artistic talent, or bring with them interesting inventions or founded great institutions of benefit to the country, shall be able to obtain from the Executive Costa Rican citizenship

⁵ Decision no. 1786-93.

when they have resided in Costa Rica for one year.

The same power has been granted to the legislative article 14, Section 6 of the Constitution of 1949 and the Regulation of the Legislative Assembly in articles 195 and 200.

Honorary titles that the Legislative Assembly can bestow according to regulation include Honorary citizen; Distinguished in science, the arts or literature; or National hero.

4. Reforms and Political Debates

As of 2015, there has been no debate in the Legislative Assembly related to nationality, naturalisation, and citizenship.

It is noteworthy that in May 2014 Luis Guillermo Solís assumed the presidency of the Republic. Nationality and citizenship were not prominent in his electoral campaign. However, the subject of migratory flows represents an important subject for the new administration. An example of this is the President's announcement that he would extend the visas of Nicaraguans, which would benefit those seeking to stay in the country.

With regard to migration, the media plays an important role in the shaping of Costa Rican perceptions of the issue. According to a poll carried out by the Department of Migration and Foreign Affairs, the majority of those surveyed responded that the television and the press impacted their views the most. A disturbing fact is that the majority of the respondents indicated that they received negative information about immigrant population through the media. Subjects in which the immigrants in Costa Rica are portrayed negatively include violence, discrimination, and taking local jobs (Guerrero et al 2012: 84).

There is no organised movement that promotes or demands recognition with respect to the citizenship regime and naturalisation. There are no initiatives affecting the legal provisions and the practices of the political rights of immigrants. However, two associations acting in this regard can be identified. Firstly, the *Asociación Nicas y Ticos somos hermanos* (Costa Ricans and Nicaraguans – we are brothers) has the objective of promoting solidarity between Costa Ricans and Nicaraguans and the search for mutual recognition on the part of both countries. Furthermore, the group has the aim of raising awareness of migratory flows from Nicaragua to Costa Rica, ensuring that laws are made in a fair and reasonable way. Secondly, *Asociación de Residentes de Costa Rica* (Association of Residents of Costa Rica) has assisted foreign persons seeking to reside in the country over the past twenty years. It is a member of the *Casa Canadá Group*.

5. Conclusion

This report reviewed the legal changes in the realm of nationality and citizenship in Costa Rica since the Declaration of Independence in 1821. It highlighted the influence of international law and inflows of migrants coming principally from Central America on legislative developments.

As regards the acquisition of nationality, there have few substantive changes to laws. The key developments regards in the residency periods for foreigners required in order apply

for naturalisation; and the permission of dual nationality. A further significant development in the regulation of Costa Rican citizenship has been the extension thereof to all persons above the age of eighteen with 1949 Constitution. This constitutional change allowed women to enjoy citizenship rights for the first time.

At first, the regulation of migratory flows was restrictive, to the point of refusing entry to individuals of certain races. In the 1940s this policy was made even stricter owing to the flow of migrants from Europe following the Second World War. In the late 1990s, the government declared a migrant amnesty for a large group of immigrants coming from Nicaragua fleeing from devastation caused by hurricane Mitch. Hence whilst Costa Rican law does not prohibit the entry of other populations, it retains its restrictive character with regard to migrant flows.

Equally, Costa Rica has experienced an increase of emigration in recent years. That is, migration to and from Costa Rica is bi-directional. As a result, the current Migration and Immigration Act focuses on human rights and insists that migration is an issue of public interest. It has now been established that foreigners enjoy the same individual and social guarantees that Costa Ricans do, with the exception of limitations established by law.

In summary, the two factors that have most influenced the drafting of nationality legislation have been the migratory flows that Costa Rica has experienced and the ratification of international treaties and agreements that seek to guarantee the protection of human rights.

The recognition of other political rights of migrants (generally at a municipal level) is still a pending issue. This would enable an active in places of residence and locations that are still developing economically and socially. Other countries have also considered such legislative changes.

Whilst the report does not directly address this theme, Costa Rica faces a challenge to construct its nationality in the sense of a national identity. Over the years, the objective has been to create a homogeneous nationality without including the various cultures of those inhabiting the country. Indigenous peoples and the population of the Caribbean have seen their customs, languages, and ways of life threatened by such a conception of nationality:

The new Republican States born of the colonial order embarked upon the modernist project and gave shape to their concept of nationality by turning to the combination of practical and symbolic arguments in which the principle object was to reach, through the identification of these two entities, a sole and homogeneous national identity (Bello & Rangel 2000: 12).

In conclusion, Costa Rica faces the challenges of constructing a nationality on a regulatory level but also on the level of national identity that takes into account the culture, languages, and ways of life of all of its inhabitants.

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