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REPORT ON CITIZENSHIP LAW: PANAMA

Nicolás Rodríguez Serna

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Report on Citizenship Law

Panama

Nicolás Rodríguez Serna

1. Introduction

Panama has been an independent country for little more than a century. In this relatively short timeframe, however, it has developed a nationality regime that reflects both its former status as a Colombian territory and its own historical processes since its independence in 1903, which include waves of extra-continental immigration and the constitution of a special regime of United States control over the Panama Canal Zone. This report explores both the general forms of acquisition and loss of Panamanian nationality and the way they have been shaped by the country's unique history.

As a starting point it is necessary to establish that, like other countries in the region, including Colombia, the Dominican Republic, El Salvador, Guatemala and Peru, Panama makes a distinction between nationality (*nacionalidad*), the link between a state and individuals to whom it confers national rights (its widely understood meaning), and citizenship (*ciudadanía*), which is the condition required to exercise the political rights to elect, be elected and hold public office (1972 Constitution, Articles 7-9; see further Palma Umaña 2009: 77), a distinction that has been made since its first Constitution as an independent state in 1904 (Title II). Under this definition, Panamanian citizens are all adult Panamanian nationals who are entitled to exercise such rights, while Panamanian children and adults whose political rights have been suspended are nationals but not full-fledged citizens.

This distinction is also reflected by the fact that Panamanians by birth can lose their citizenship but not their nationality, while naturalised Panamanians can truly lose their nationality. In order to adequately reflect this particularity, this report will not use the terms 'nationality' and 'citizenship' interchangeably, but defer to Panama's legislation on the subject by focusing only on nationality and making the necessary distinctions where appropriate.

Within this framework, Panamanian law currently establishes the acquisition of nationality through three main mechanisms. Firstly, all individuals born in Panamanian territory automatically acquire Panamanian nationality (*ius soli*). Additionally, under particular circumstances, individuals born abroad can become Panamanian through naturalisation or by special constitutional disposition. Panamanian law is also particularly strict in prohibiting naturalised Panamanians from holding multiple nationalities, which means that foreigners undergoing naturalisation are forced to relinquish all other nationalities

in order to become Panamanian nationals, and renounce their Panamanian nationality if, once naturalised, they acquire another nationality. In contrast, Panamanians by birth are allowed to acquire other nationalities subject to the regulations of the third countries in question.

Due to these special characteristics, and owing to its very particular development as a nation, the nationality regime in Panama is a complex tapestry that requires an in-depth look into its many nuances and their effects in the lives of nationals and foreigners in the country.

2. Historical Background

Panama's regulations on nationality have evolved in response to domestic and foreign developments affecting the country. In this sense, these historical trends can be divided into four distinct components, which do not necessarily correspond to different chronological periods: (1) the pre-independence regime, (2) post-independence arrangements, (3) the special regime for the Panama Canal and its related enterprises during its US administration and (4) historical immigration policies.

2.1. Panama Before Independence

Panama was first established as a constituent part of the Spanish Viceroyalty of Peru in the sixteenth century, and later joined the Viceroyalty of New Granada (*Virreinato de la Nueva Granada*) in 1739. Its union with the Viceroyalty, which at its apogee included most of the territories spanning modern-day Colombia, Venezuela and Ecuador as well as other nearby areas, would prove decisive to the development of its legal system and national identity. After its independence from Spain in 1821, Panama joined the federal Republic of Gran Colombia, and despite constant changes in its composition and status, and several attempts to establish itself as an independent state (Lemaitre 2003), Panama remained a part of the different forms of the Colombian state until 1903. As such, Panama harmonised most of its laws with Colombia, including those on nationality, which was granted to all Colombian nationals residing in the federated state of Panama, as reflected among others in the 1868 [Arts. 1 and 9], 1870 [Arts. 1 and 9] and 1873 [Arts. 1 and 9] federated Panamanian Constitutions.

Throughout this period Panama's privileged geographical location made it a valuable part of the Colombian state. In fact, as far back as the sixteenth century Spain had realised its potential for commercial and strategic purposes when Vasco Núñez de Balboa proved in 1513 that its location made a short journey from the Atlantic to the Pacific oceans possible, thus encouraging coast-to coast land trade that helped to reduce the time needed to transport goods and people from one side of the Americas to the other. This, in turn, encouraged projects like the railway linking both coasts, undertaken between 1849 and 1854, which attracted over 7,000 labourers from Europe, Asia, the Caribbean as well as internal migrants from Cartagena¹ (Jaén Suárez 1978: 451).

After centuries of discussing different proposals, the first attempt to actually build a canal joining the two oceans was made between 1881 and 1894, with the project being known as the 'French Canal' due to the participation of French nationals and companies in these efforts. Local hardships and problems with the companies and individuals involved, meant that the French Canal was never completed, but many of the over 96,000 labourers brought in

¹ At that point Cartagena was also a city within the larger Colombian state, but after independence in 1903 Cartagena remained in Colombia.

from Cartagena, Cuba, Jamaica, Senegal, Venezuela and California (Jaén Suárez 1978: 451) remained in the country and started to evidence the need for the development of a more robust regime on nationality.

2.2. Panamanian Independence

Shortly afterwards, in 1902, the United States sought to reinvigorate efforts to build the canal by acquiring the private project and ensuring it was carried forward. The US government then negotiated its involvement with the Colombian government, and an agreement was reached in the form of the Hay-Herrán Treaty in 1903. The treaty was signed by both states and ratified by the US Congress, but the Colombian Congress ultimately rejected its ratification. In response, the US supported the establishment of an independent Panama, which was proclaimed on 4 November, by deploying warships to prevent Colombian troops from recapturing Panama and recognising it as an independent state two days later (LaFeber 1989 and Lowenfeld).

The newly formed Panamanian state and the United States quickly resumed negotiations for the construction of the canal, revising the Hay-Herrán treaty to ensure a more favourable position to the United States. The resulting text, formally dubbed the ‘Convention for the Construction of a Ship Canal’ of 1903, but better known as the ‘Hay-Bunau-Varilla Treaty’ or the ‘Isthmian Canal Convention’, established that Panama would grant the United States the ‘use, occupation and control’ in perpetuity of a ten mile-wide zone for the construction of the canal, along with ‘all the rights, power and authority within the zone (...) and auxiliary lands and waters mentioned and described’ in Article II so it could ‘possess and exercise if it were the sovereign (...) to the entire exclusion of the exercise of the Republic of Panama of any such sovereign rights, power or authority’ [Article III] as well as other related rights in nearby territories [Articles IV-VII]. The effects of this arrangement in Panama’s nationality regime will be explored further along in this chapter.

2.3. The 1904 Constitution

A few months afterwards, Panama adopted its first Constitution as an independent state on 13 February 1904. As the country was in the process of nation-building, the Constitution was particularly detailed in defining the acquisition and loss of nationality in Title II. At this point Panamanian nationality could be acquired in four circumstances and lost in four. Article 6 thus established as Panamanians:

1. Those born before or after its enactment in Panamanian territory, regardless of their parents’ nationality;
2. Children born abroad to at least one Panamanian parent if they took up residence in Panama and expressed their will to become nationals;
3. Foreigners with more than ten years of residence in the country who practiced a ‘science, art or industry’, owned real estate or had capital in the country and declared their intention to become Panamanian nationals. The ten-year period was reduced to six years if they were married and had their family in Panama, and three if they were married to Panamanian women, and
4. Colombians who participated in the independence movement and declared their intention to become Panamanians.

At the same time, Article 7 established the following reasons for the loss of Panamanian nationality:

1. Naturalisation followed by residence in another country;
2. Acceptance of employment or honours from another state without permission from the Panamanian President;
3. Non-acceptance of the independence movement, in the case of Panamanians by birth, and
4. Committing to the service of enemy states.

The 1904 Constitution did not include provisions on ‘prohibited immigration’, a policy that would later limit immigration based on racial or national origin and deprive immigrants already in Panama or their children of Panamanian nationality. However, a month after the adoption of the Constitution the National Assembly adopted Law No. 6 of 1904 and its regulations in Decree 35 of 1904, which formally established this policy and prohibited the immigration of Chinese, Syrian and Turkish individuals and established strict requirements for residence for those already in the country, ordering the expulsion of those who did not meet them.

These regulations were continued in one form or another through other constantly changing norms that further restricted the rights of these and other national groups and favoured the immigration of more ‘desirable’ nationalities or groups, particularly Europeans.² For instance, Law 13 of 1926 prohibited the immigration of Chinese, Japanese, Syrian, Turk, Indo-Oriental, Indo-Aryan, Davidian and black Antillean and Guyanese nationals whose mother tongue was not Spanish [Article 1]. These provisions were, however, modified later to respond to the country’s workforce needs.³ Likewise, Law 6 of 1928 further established restrictions for specific groups, most notably limiting the immigration of ‘Chinese, Syrian, Turk and black (*negros*)’ individuals whose first language was not Spanish to a maximum of ten each year per category [Article 12].

The Constitution’s dispositions on nationality were mirrored by the 1916 Civil Code, which established similar requirements in Numerals 1, 2, 3 and 4 of Article 39. The Civil Code remains in force in 2016, but the provisions contained in this Article were suspended in 2009, a development that will be analysed in section 3 of this document.

2.4. The 1941 Constitution

The racist policy of ‘prohibited immigration’, which had so far only been enshrined through legislative initiatives, was adopted at the constitutional level in the 1941 Constitution at the behest of nationalistic president Arnulfo Arias. In its text, the Constitution forbade the immigration of ‘the black race whose mother tongue is not Spanish, the yellow race and races from India, Asia Minor and Northern Africa’ [Article 23]. It also established a more complex regulation for the acquisition and loss of Panamanian nationality.

Acquisition was possible through three distinct pathways, namely upon birth [Articles 12 and 17], naturalisation [transitory Article 13 and Articles 14 and 15] and special provisions for foundlings [Article 18]. The regulations thus described acquisition in the following cases:

² See for instance Law 46 of 1934. For more information on the specific provisions contained in regulations limiting the rights of some foreign residents, see ‘La Inmigración Prohibida’.

³ See for instance law 15 of 1927 (27 January) and 16 of 1927 (31 January).

Upon birth and through previous naturalisation:

1. Those born under the country's jurisdiction, unless one of their parents was part of the prohibited immigration;
2. Those born under the country's jurisdiction, including if one of their parents was part of the prohibited immigration, if the other parent was Panamanian by birth;
3. Those born abroad to a Panamanian national by birth, as long as the other parent was not a part of the prohibited immigration;
4. Those born under Panamanian jurisdiction before 3 November 1903, and
5. Those who had acquired Panamanian nationality before this Constitution.

New naturalisations, depending on the President's decision based on the grounds of health, morality and public security, were available to several groups, and did not imply the loss of the nationality from the country of birth:

6. Those born to a parent from prohibited immigration who were residents in Panama as children and whose usual language was Spanish, through recognition by the President of special requests filed in the three months after the expedition of the Constitution;
7. Foreigners who had resided in Panama for more than five years or three if they were married with children born in Panama, and foreigners married to a Panamanian who had resided in the country for more than two years;
8. Foreigners domiciled in the country and working in the fields of agriculture, livestock and poultry farming and similar or derived industries who expressed their will to become Panamanians, and
9. Foreigners who participated in the independence movement in 1903.

Additionally, further special provisions were made in the case of children whose nationality could not be determined, who were to be registered under the nationality of their legal guardian [Article 18] and Panamanian women married to foreigners, who were to retain their nationality unless they expressly renounced it, in which case they could reacquire it upon request after the dissolution of their marriage [Article 19].

These provisions' retroactive effects (Quintero 1967: 85 in Arango Durling 1999: 34) caused the loss of nationality of individuals born in Panamanian territory but outside Panamanian jurisdiction, i.e., those born under US jurisdiction in the Canal Zone, and those born after independence to 'prohibited immigration' (Quintero 1967 in Arango Durling 1999: 36).

Loss of Panamanian nationality in future cases was enshrined in Article 20. Under its provisions, loss could occur either by express or tacit renunciation by the Panamanian nationality in four cases:

1. By express renunciation through a written letter to the President, or Tacitly, through
 2. Voluntary acquisition of a different nationality;
 3. Committing to serve an enemy state, and
 4. In the case of individuals who acquired their nationality in the circumstances foreseen in numeral 8 above, if the individual left the industry in the five years following naturalisation, unless they also found themselves under the circumstances foreseen in numeral 7, above.

These dispositions were in effect only for a short period as the Constitution was replaced barely five years later.

2.5. The 1946 Constitution

The Constitutional Assembly, tasked with preparing the text of the new Constitution, used its Explanatory Memorandum to expressly declare that the racial criteria contained in the 1941 Constitution had been ‘eradicated’ in the new proposed Constitution (Arango Durling 1999: 39), thus bringing an end to over forty years of the ‘prohibited immigration’ policy. Indeed, the principles underlying the country’s migration policy only briefly mentioned that it would be regulated through a law and respond to the country and the economy’s needs, including the protection of blue-collar workers [Article 72].

More importantly, the dispositions on nationality included in Title II did not include any reference to the race or national origin of immigrants. Article 8, largely mirroring earlier provisions, established that nationality could be acquired upon birth or through naturalisation.

Under these provisions, Panamanians by birth were [Article 9]:

1. Those born in Panamanian territory to at least one Panamanian parent;
2. Those born in the country to alien parents who, upon becoming adults, declared their will to be Panamanian nationals, renounced any claim to other nationalities and demonstrated they were integrated;
3. Those born in Panamanian territory ‘not subject to jurisdictional limitations’ (i.e., the Canal Zone) to unknown parents;
4. Those born abroad to a Panamanian parent if they took up residence in the country at least two years before exercising a right reserved to Panamanians by birth;
5. Those who acquired Panamanian nationality under the 1904 Constitution and its 1928 reform, and
6. Colombians who participated in the independence movement [Article 13].

The acquisition of Panamanian nationality through naturalisation was possible for [Article 10]:

1. Foreigners domiciled for more than five consecutive years in the country if, once over the age of twenty-one, they presented a declaration of their will to naturalise as Panamanians, renounced other nationalities and proved their knowledge of Spanish and Panamanian geography, history and political organisation;
2. Foreigners domiciled in the country for three consecutive years with children born in the country to a Panamanian national or who had a Panamanian spouse, provided that they fulfilled the requirements on the declaration and knowledge test set out in the previous numeral, and
3. Nationals from Spain or any ‘independent American nation’ who, in reciprocity, fulfilled the requirements foreseen for Panamanians to naturalise in those countries.

Beyond these dispositions, the 1946 Constitution also established several situations where Panamanian nationality would be lost:

1. Foreigners who had naturalised upon entry into force of the Constitution who, in the next five years, did not prove their Spanish skills and knowledge of Panamanian geography, history and political organisation, unless they
 - a. Had held public office or been candidates in elections before the entry into force of the Constitution, or
 - b. Were born in Spain or any other independent American state [Article 11];
2. Individuals who acquired another nationality;
3. Individuals serving a foreign government without authorisation, unless they were working in a project where both the foreign and the Panamanian governments had a joint interest, and
4. Individuals entering into service of an enemy state [Article 15].

In these cases, nationality could only be reacquired through an act of the National Assembly (Legislative).

These provisions were in effect until the adoption of the current Constitution in 1972.

2.6. The Panama Canal⁴

Besides these general provisions, special rules were in effect for some individuals with a US parent who (1) were born in the Canal Zone or (2) whose parents were working there or in its associated enterprises. These measures were adopted at the time of independence in the 1903 Panamanian-US Canal Convention, and had two important effects on both countries' immigration and nationality regimes.

Firstly, under Article XII of the Treaty Panama pledged to permit 'the immigration and free access to the lands and workshops of the Canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said Canal and its auxiliary works, with their respective families', thus placing them largely outside the scope of Panamanian immigration law, and resulting in the overseas immigration of labourers to the Zone. More importantly, however, by granting the United States 'sovereignty' over the Canal Zone, the Treaty allowed the extension of US jurisdiction over the area, including the application of its own immigration and nationality laws, and, as seen in the previous section and dependent on the Constitution in effect, forbade individuals born in these area from acquiring Panamanian nationality through *ius soli*.

On the side of immigration, US control of maritime entry points and immigration into the Canal Zone led to a high level of influence over Panama's immigration policy and the replication of US domestic practices, including the formal limitation of Chinese immigration. At the same time, a lack of US interest in enforcing immigration control in these areas led to a stark contrast between the law on the books and the actual facts on the ground, and as a result Chinese immigration through the Canal Zone continued largely uninterrupted (Siu 2005: 39-44).⁵ In effect, the pressure to ensure a large enough workforce to carry out the work needed in the Canal led to arrangements to facilitate the immigration of over 60,000 foreign workers, mainly from Italy, Spain, Martinique and Guadeloupe, who, over the years, came to represent

⁴ For an in-depth look at the diplomatic negotiations on the establishment of the Canal Zone, see US Congress, *Diplomatic History of the Panama Canal*.

⁵ The US domestic policy on Chinese and other so-called 'undesirable' immigrants evolved in time, but early examples of its limitation through regulatory acts, include the Page Act of 1875 and the Chinese Exclusion Act of 1882.

an enormous percentage of the population, as the country's inhabitants barely numbered 275,000 at that point (Susto and Jaén Suárez in Arango Durling 1999: 8).

These large waves of immigration often caused resistance from the Panamanian authorities. For instance, between 1904 and 1950 the constant influx of overseas workers was stemmed through repatriation of several groups of immigrants, especially Antilleans (Arango Durling 1999: 8). However, its most glaring manifestation occurred through the various legislative and constitutional initiatives establishing the policy of 'prohibited immigration', as described earlier in this section.

On the other hand, the clearest expression of US nationality laws in Panama was the adoption of the provision contained in 8 US Code § 1403 on 'Persons born in the Canal Zone or the Republic of Panama on or after February 26, 1904' in 1952. This provision established that anyone born in the Canal Zone on or after 26 February 1904 to one or two current or former US nationals would be a US national as well. One well-known example of an individual under this regime is John McCain, a US Senator and Republican presidential candidate in the 2008 elections, who was born in 1936 at the Coco Solo Naval Air Station in the Panama Canal Zone to two US nationals, acquiring US nationality at birth. The debate surrounding his eligibility to run for the US Presidency was addressed by the US Senate in 2008, when it adopted a nonbinding resolution stating that 'John Sidney McCain, III, is a "natural born Citizen" under Article II, Section 1, of the Constitution of the United States' (US Senate, S.Res.511, 110th Congress, 2007-2008).

This reform of the US Code also extended the geographical scope of US nationality outside the Canal Zone by establishing that individuals born on or after that date in any place in Panama to one or two current or former US nationals employed by the US government, the Panama Railroad Company or its successors would also be US nationals. As a result, the acquisition of US nationality through *ius sanguinis* was expanded to the entire Panamanian territory in some cases.

This regime was upheld until the adoption of the 1977 Panama Canal Treaty, which superseded prior instruments. As it entered into force on 1 October 1979, six months after the exchange of the instruments of ratification (as per Article 2), the Panama Canal Zone disappeared and was replaced with a co-administration between both countries. This date then marks the last day when US nationality could be acquired in Panama through provisions related to the Canal. The handover of the Canal itself and its administrative structure to the Panamanian government was completed on 31 December 1999.

2.7. Historical immigration policies

As mentioned in the previous section, the construction of the Canal had a profound effect on the country's immigration policy. However, provisions and trends related to the Canal were only one of several episodes where the need for labourers shaped Panama's attitude towards immigration.

For instance, the New York Railway Company organised the immigration of Chinese labourers in the mid-19th century, which was later followed by other organised and spontaneous waves of Chinese immigration to support the French and American canals as well as other projects around Panama (Siu 2005: 17-19). This presence, extending farther back than the country's independence, did not exempt the community from being targeted by the 'prohibited immigration policy'. The 1941 Constitution caused many Chinese-Panamanians and other immigrant groups to lose their nationality, as those born from 'prohibited immigration' after 1928 were no longer recognised as nationals. As such, the only

individuals with Chinese ancestry who were left with Panamanian nationality were those who were present in the country at the time of independence or those born in the country before 1928 (Siu 2005: 114-116).

In essence, immigration and naturalisation policies were used to express racist and discriminatory policies against certain groups through laws depriving individuals from Panamanian nationality or making it inaccessible for them (Lasso de Paulis 2007). Conversely, anti-US sentiment and racist policies were stoked by the Arias administration during WWII, which favoured the expansion of Axis interests in the country by ensuring swift provisional naturalisations for German and Italian nationals (LaFeber 1989: 74-75). This policy was abandoned after the 1946 Constitution, and replaced with a policy, still in effect today, that views immigration as an essential part of Panama's identity as a 'melting pot of races' (*crisol de razas*).

Overall, despite a very wide variety of the country's immigrant groups which include, among others, West Indian, Chinese, Korean, Japanese, Jewish and Arab people, estimating their representation in the national population is difficult due to the fact that census data after 1940 does not inquire into national origins (Siu 2005: 37), inquiring about ethnic origin only in the case of indigenous and afro-descendant people (INEGI 2011).

3. The current nationality regime

The current nationality regime in Panama is mostly found in Articles 8 through 16 of the 1972 Constitution, which establish regulations for the acquisition and loss of nationality as well as special dispositions on immigration. Overall, the current regime maintains earlier provisions on acquisition of Panamanian nationality through *ius soli*, *ius sanguinis*, adoption and naturalisation, and limits the loss of nationality to naturalised Panamanians, who can lose their nationality if they renounce it or in some cases due to particular allegiance to other states.

Following the practice set out in earlier constitutions, the 1972 text clearly establishes the difference between nationality and citizenship. A practical example of this difference was highlighted in 1998 by the Panamanian Embassy in Ottawa when, in responding to a query from the Canadian Immigration and Refugee Board, it highlighted that 'nationality is the proper status of a person born in Panama or a naturalised Panamanian while citizenship refers to the individual's rights and duties as a Panamanian citizen' (IRB 1 October 1998).

3.1. The main modes of acquisition and loss of nationality

Under the current regime set out by the 1972 Constitution, Panamanian nationality is acquired upon birth [Article 9], through naturalisation [Article 10] or by special constitutional disposition [Article 11, modified through Legislative Act 1 of 2004].

Acquisition of Panamanian nationality

Nationality is acquired upon birth by individuals

1. Born in Panamanian territory;
2. Born to a natural-born Panamanian parent, if the child establishes their domicile in Panama, or

3. Born to a naturalised Panamanian parent, if the child establishes their domicile in Panama and expresses their will to be Panamanian nationals within the year after they become an adult.

Naturalisation can be requested by:

1. Foreigners who have resided for five consecutive years in the country if, upon becoming adults,
 - a. Declare their will to naturalise;
 - b. Expressly renounce other nationalities;
 - c. Prove their Spanish skills as well as basic knowledge of Panamanian geography, history and political organisation;
2. Foreigners who have resided in the country for three consecutive years and who have
 - a. Children born to a Panamanian, or
 - b. A Panamanian spouse, in both cases if they fulfil the requirements set out in sections 1 a, b and c right above, and
3. Spanish or Latin American nationals who fulfil the requirements that are asked of Panamanians who wish to naturalise in their country of origin.

The Constitution's dispositions on most topics related to nationality are applied directly without the need for further legislative regulation, with some exceptions. For instance, in 2009 the Supreme Court studied a lawsuit challenging the constitutionality of Numerals 1, 2, 3 and 4 of Article 39 of the Country's Civil Code, which dates back to 1916, establishing the requirements for Panamanian nationality. As these provisions had been superseded due to the adoption of a new Constitution (several, in fact) and were thus in direct conflict with the text currently in effect, the Court declared them to be unconstitutional and reformed Article 39 to state only that 'natural persons are divided into nationals and foreigners, residents and transients (*transeúntes*)' (Corte Suprema de Justicia 2007).

Unlike acquisition of nationality at birth, which is regulated directly at the constitutional level, the procedural requirements for naturalisation [Article 12] are developed further through legislation. In the case of the current Constitution, they were first regulated through Law 7 of 14 March 1980, which, when in force, was highlighted internationally by the state as an essential part of the regulation on the right to a nationality (Panama Committee on the Rights of the Child Initial Report 1993).

Law 7 of 1980 was replaced by the Decreto Ley (Decree-Law) No. 3 of 22 February 2008, which creates the National Migration Service (*Servicio Nacional de Migración*), establishes the general outlines of the country's migration policy and also updates the requirements for naturalisation in Title XIII. Overall, Decree-Law No. 3 establishes a straightforward naturalisation regime, under which the process is carried out before the Ministry of Government and Justice and the final decision, which is discretionary, is taken by the President. The residency period required for the different types of naturalisation starts when the individual receives the status of permanent resident [Article 126].

The requirements to present a request for naturalisation [Article 120] are as follows:

1. Written request directed to the President including all data necessary for identification and notifications (first and last names, previous identity documents, sex, civil status, age, address, etc.);
2. Certificate of lack of a criminal record or outstanding arrest warrants in the last five years in countries where the individual resided during that period;
3. Criminal record certificate from the respective authorities in Panama;

4. Certified copy of identification documentation;
5. Certificate of marriage to a Panamanian national or of birth of a Panamanian child (in cases where nationality is acquired under these grounds);
6. Documentation proving financial solvency;
7. A personal interview;
8. Certificate demonstrating that there are no outstanding tax obligations in the country (*paz y salvo*);
9. Certified copy of the passport;
10. Health certificate indicating good health;
11. Certificate of migratory status from the National Migration Service;
12. Certificate of existence and applicability of the law on reciprocity, if applicable (in cases where nationality is acquired under Article 10(3) of the Constitution), and
13. Two photos.

After the petition is filed, the Ministry and the National Migration Service study it and, if the requirements are met, ask the Electoral Tribunal to carry out the tests to evaluate the applicant's Spanish and knowledge of Panama's history, geography and political organisation. Once this process is finalised, the file is sent to the Office of the President, who can then discretionarily decide whether or not to grant the naturalisation, which is certified through a naturalisation document (*carta de naturalización*) [Article 127].

In order to receive the document, the applicant needs to pay a fee [Article 127] and attend a naturalisation ceremony organized through the office of the Governor of the province where they applicant resides. In the ceremony [Articles 128-129] the applicant needs to take an oath of allegiance before receiving the document. In the oath, the applicant swears to:

1. Obey and defend the Panamanian Constitution and laws;
2. Renounce all civil and political links to other countries of nationality, and
3. Renounce all rights and privileges derived from said nationalities.

Once this has been completed, the naturalisation document is handed over to the applicant so they can register it in the Civil Registry kept by the Electoral Tribunal. Without this registration the document has no effects, and as such the holder is not a Panamanian national until this requirement is met.

Lastly, nationality through special constitutional disposition is granted to foreign-born children adopted by a Panamanian national before the age of seven, in which case they acquire Panamanian nationality when their adoption is recorded in the country's Civil Registry. The current disposition reflects a constitutional reform in 2004 (Legislative Act No. 1 of 2004), as before this reform the adoptee was required to establish their domicile in Panama and manifest their will to be a Panamanian national within a year after reaching adulthood.

Loss of Panamanian nationality

Regarding the loss of nationality, and mirroring previous constitutions, Article 13 of the 1972 text establishes that Panamanian nationals by birth cannot renounce their nationality, but if they do its only effect the suspension of their citizenship, i.e., their political rights. Naturalised Panamanians can renounce their nationality (a) expressly, through a written communication directed to the President, or (b) tacitly, by acquiring another nationality or entering into service of an enemy state.

The application of the differentiated meaning for the concepts of nationality and citizenship and their loss has been a source of confusion even for Panamanian public officials. For instance, when responding to a request from Canada's Immigration and Refugee Board, an official from the Consulate General of Panama in Toronto stated that (as paraphrased by the IRB) 'a Panamanian citizen who acquired citizenship at birth will not lose his or her Panamanian citizenship unless he or she voluntarily expressly renounces it or if the new country of citizenship does not recognize dual citizenship' (IRB 2003), when here the official was not referring to Panamanian citizenship, but rather to Panamanian nationality.

3.2. Specific rules and status for certain groups

One of the specific topics where the state's work on nationality has been examined at the international and judicial level is on the issues surrounding birth registration, especially that of children of particular communities living in border areas, as a lack of registration and documentation can lead to situations where Panamanians have no way to prove their nationality. Due to the challenges of conducting registration of people on the move and perhaps limited institutional presence in border areas, possible cases of lack of registration exist in the case of the indigenous Ngöbe people who are not registered in the shared border with Costa Rica (Southwick & Lynch 2009: 33), which has historically caused lack of recognition of their nationality (Martínez & Cordero 2009: 56-59 and Rueda Vargas 2014: 9).

In a similar fashion, while reporting to the Committee on the Elimination of Racial Discrimination (CERD) in 1996 the state noted that it was carrying out programmes to ensure that indigenous Guaymies communities in border areas could decide whether they wanted to settle in Panama or Costa Rica and that it was undertaking efforts to ensure that they had access to documentation (CERD 1993). In a later session before the CERD, the state affirmed that it was working to 'ensure that indigenous populations are given frontier zone status and recognised as having dual nationality' (CERD 1996). The advances made by the country were welcomed by the Committee in 2010, while noting that special efforts still had to be made to ensure registration in remote areas and of indigenous children and those born to refugee or migrant parents (CERD 2010).

Similarly, during the UN Human Right Committee's sessions for the preparation of its Third Periodic Report Panama also received recommendations from other states to increase efforts to ensure that all children were registered, particularly those from afro-descendant and indigenous communities and those in border areas. The state also informed the Committee that under reforms of the Civil Registry through Laws 31 of 2006 and 17 of 2007, it had increased efforts to register births in indigenous communities and ensure that medically assisted births that had not been registered by parents six months after birth were automatically registered by the authorities (HRC 2008). Lastly, the Committee on the Rights of the Child recommended in 2011 that the state continue to take measures to ensure greater access to registration and training in nationality law for officials to ensure registration for 'children born in remote areas', including children born to indigenous, refugee and migrant parents (CRC 2011).

These comments have led to positive developments in the area of birth registration. For instance, as a result of some of these comments the Electoral Tribunal, in charge of the Civil Registry, has worked with UNICEF and the Office of the UN High Commissioner for Human Rights (OHCHR) to increase registration of children born in indigenous communities in order to ensure effective access to their rights as Panamanian nationals (OHCHR 2016).

Likewise, the mobility of indigenous communities in border areas was also expressly recognised in Chapter V of Decree-Law No. 3 of 2008.

Also on the topic of birth registration, a crucial decision was made by the Panamanian Supreme Court in the decision on *habeas corpus* in the case of *Arnulfo Díaz Panezo v. Dirección Nacional de Migración y Naturalización* in 2001 (Corte Suprema de Justicia 2001). In this case, which analysed whether the detention of a reportedly Colombian irregular migrant was lawful, the Supreme Court noted that there was a baptismal certificate indicating that he had been born in Panamanian territory. As such, the Court concluded, even if the lack of proper registration at the time of birth can cause administrative difficulties, it cannot be an impediment to the recognition of Panamanian nationality acquired through *ius soli* in light of constitutional Article 9, regardless of the plaintiff's parents' nationality or migration status.

A closely related area is that of statelessness. Although the country approved the 1954 Convention relating to the Status of Stateless Persons through Law 28 of 30 March 2011 and the 1961 Convention on the Reduction of Statelessness through Law 29 of the same day, to date their implementation has not been fully regulated at the national level. The 2008 Migration Law (Chapter V) and its regulation through Executive Decree No. 320 of 2008 (Title V) consider stateless people 'foreigners under the protection of the Republic' or 'foreigners under the protection of the state' with a right to obtain a temporary residence permit, but these dispositions require further regulation in order to become operational.

While commenting on these developments before the UN Human Rights Council, the Office of the High Commissioner for Human Rights (OHCHR) noted that the UN Country Team had commended the Panamanian state for its accession to the two Conventions on statelessness, but also noted that a mechanism to determine stateless status had not yet been defined, thus recommending a speedy adoption of regulations that were under discussion. The OHCHR's comments also echoed previous recommendations by other bodies and UN agencies on the importance of birth registration of the vulnerable groups mentioned earlier in this section (HRC 2011). Beyond the provisions established in the previous sections, there are no other special institutional arrangements in Panama.

3.3. Statistics

Data from the latest census, which was carried out in 2010 (INEGI 2011), as well as other sources, provide a general outline of foreigners in Panama:

Table 1: 2010 census, foreign-born population, by region of origin⁶

Region	Number	Proportion
North America	15,700	11.20%
Central America	20,557	14.66%
Caribbean Islands	10,109	7.21%
South America	60,559	43.18%
Europe	9,789	6.98%
Asia	22,036	15.71%
Eurasia (Russia)	756	0.54%
Africa	460	0.33%
Oceania	270	0.19%
TOTAL	140,236	100.00%

⁶ Prepared by the author based on data from the 2010 census.

Further data collected by the World Bank in 2013 (World Bank 2016) estimated that a total of 158,400 immigrants were present in the country, which represented 4.2% of the country's population. It also noted that the ten top countries of origin were:

Table 2: 2013 World Bank data, foreign-born population, by country of origin⁷

Ranking	Country of origin
1 st	Colombia
2 nd	China
3 rd	United States
4 th	Nicaragua
5 th	Venezuela
6 th	Dominican Republic
7 th	Costa Rica
8 th	Mexico
9 th	India
10 th	Peru

Lastly, the National Migration Service has also published data on the admission of foreigners into Panamanian territory in the 2011-2014 period:

Table 3: 2011-2014 Servicio Nacional de Migración data, admission of foreigners, by country of origin⁸

Country	Number	Percentage
Colombia	274,182	16.45%
United States	268,172	16.09%
Venezuela	188,668	11.32%
Costa Rica	172,464	10.35%
Argentina	70,423	4.23%
Canada	58,807	3.53%
Mexico	55,297	3.32%
Brazil	55,169	3.31%
Other countries	523,310	31.40%
TOTAL	1'666,492	100%

At the time when this publication was prepared in the first half of 2016, Panamanian authorities did not publish data on the number of naturalisations in the country. Repeated attempts to obtain this data from the National Directorate for Migration and Naturalisation (*Dirección Nacional de Migración y Naturalización*) of the Ministry of Government and Justice, the Office of the President, the National Migration Service and especially the Electoral Tribunal were unsuccessful.

⁷ Prepared by the author based on data from the World Bank report.

⁸ Prepared by the author based on data from the Servicio Nacional de Migración.

4. Current political debates and reform plans

There are currently no political debates or initiatives changing the nationality regime in Panama. Over the last few years there have been debates and legislative initiatives to regulate immigration and migrants' rights in the country, such as Projects 062 of 2014 and 207 of 2015, but these proposals have not touched upon nationality or naturalisation directly.

5. Conclusions

Nationality law in Panama has been an interesting and constantly evolving area, closely mirroring historical and legal trends in each moment of the country's history, and being based, like other countries in the region, on the understanding that nationality and citizenship are distinct and non-interchangeable terms, thus requiring a hard look at provisions in order to understand the law's intent on acquisition, loss and suspension of nationality. Within this larger framework, Panamanian nationality law has historically regulated acquisition under a wide understanding of *ius soli*, a strictly regulated framework for *ius sanguinis* and very specific dispositions on naturalisation and nationality in special circumstances, such as those on foundlings and foreign children adopted abroad by Panamanian nationals.

The country's development of a nationality regime has long mirrored its history, including, in its first Constitution, the recognition of Panamanian nationality to Colombians who had taken part in the independence movement and the rejection of those who opposed it. Later, different constitutional and legal reforms were undertaken to respond to shifts in the nation's interests, including special arrangements for the Panama Canal, but also reflecting racist and xenophobic trends at different times until 1946, which not only made immigration and permanent residency more difficult – and thus reduced possibilities of naturalisation –, but also in some cases caused the retroactive loss of nationality. Currently, the 'melting pot of races' policy seeks the opposite effect: to defend and promote Panama's national identity as being inextricably linked to its status as a nation of immigrants.

In recent years, the 1972 Constitution has been a stable and relatively unchanged source for dispositions on nationality, with the notable exception of a modification of the requirements for a form of naturalisation in 2004, which made the regime more generous than it was before. Further reforms have only served to modify the procedure and requirements for naturalisation, but the conditions under which individuals are or can become Panamanian nationals have remained largely stable throughout the last forty-four years. In fact, despite concerns regarding immigration into the country in some political sectors, reforms to migration regulations have been limited to changing some requirements for immigrants, without directly affecting pathways to Panamanian nationality. The lack of public and detailed data on naturalisations, however, makes it difficult to understand the practical effect of current dispositions.

As such, most of the work currently being carried out is not related to reforming provisions on nationality itself, but rather on seeking to ensure access to documentation proving that the holder is a Panamanian national and thus entitled to the rights reserved for nationals, which continues to be an issue for indigenous populations and for those born in border areas, as well as efforts to ensure the effectiveness of these provisions for the protection of stateless people and those born to refugees. These particular topics are those where there are considerable efforts from the Panamanian government, and where new developments are likely in the short term.

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