Naturalisation in African states: its past and potential future

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FINAL DRAFT: January 2021

As accepted for publication in Citizenship Studies

Abstract

The existing literature on the grant of citizenship by naturalisation largely focuses on the experience of Europe and the immigrant-founded states of the Americas and Australasia. This article considers the African experience. It sets out the comparative law on naturalisation, and the limited information that exists on the implementation of these rules in practice, noting that formal naturalisation is rare in all countries in the continent. The article argues that amendments to the rules on naturalisation are mainly performative, rather than aiming at any broader public policy outcome. Although there have been some important initiatives by some states to reach out to particular groups excluded from citizenship, these are rare. Yet public attitudes to acquisition of citizenship by foreigners is more open than the practice. Historically, integration of foreigners into the citizen body has happened largely through local processes of certification of identity. New efforts to strengthen identification systems in Africa may well make these processes more closed, and also make the difficulty of formal naturalisation more visible.

Key words: naturalisation, nationality, citizenship, comparative law, Africa, discrimination, identification

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Word count (including bibliography; excluding abstract and appendices): 9016

Introduction

A very large literature deals with the challenges of nation-building in the post-colonial African state, and the 'crisis of nationality and sovereignty' that is the result of hyper-diverse states managed by institutions and within borders with little historical legitimacy (Chabal 1993, chap. 7 The Crisis of Nationality and Sovereignty). Yet the content of African nationality laws has historically received little attention from scholars. While this is changing in relation to the rules on attribution of citizenship at birth or dual citizenship (Herbst 1999; 2001; Dorman, Hammett, and Nugent 2007; Kobo 2010; Bøås and Dunn 2013; Hunter 2016; Manby 2018a; Whitaker 2011; Bob-Milliar and Bob-Milliar 2014; Pailey 2021), perhaps the most striking gap in the literature on Africa – compared with the writing on Europe and North America – is the absence of any discussion of the role of naturalisation in either 'nation-building' and cultural integration, or enabling citizenship in the broader sense of voting and participation in governance at local or national levels. It is this gap that this article begins to fill.

The lack of discussion is for good reason: although every African nationality law provides for the possibility of residence-based acquisition of nationality, formal naturalisation under these rules is very rare. We therefore lack the data to discuss the drivers of policy, or the constraints on the

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decisions of immigrants to naturalise, in the way that has been done among European countries (Vink, Prokic-Breuer, and Dronkers 2013; Huddleston and Falcke 2020). But this lack of accessibility poses its own questions. Since migration is as much a reality in Africa as in other regions, why is naturalisation so rare? Are the difficulties of access accidental or deliberate? In the absence of access to formal naturalisation, how are newcomers integrated? Can past trends be maintained?

Liav Orgad proposes three functions of naturalisation, related to goals that states are seeking to achieve: as a contract between the state and the new citizen, who agrees to abide by the rules; as a political test, in which applicants prove their worth; and as a means of nation-building, to promote social solidarity and a sense of common identity (Orgad 2017). Different conceptions of citizenship (as participation and active membership) and nationhood (as kinship, integration and culture), or of the worth of an applicant to society, may influence the assessment of the legitimacy of conditions imposed for naturalising (Orgad 2017; Bauböck 1994, chap. 4; 1998).

This article argues that in African states the role of residence-based naturalisation by the normal routes provided in law is primarily performative. The legal rules adopted at independence created a framework which made ordinary naturalisation very difficult to access, and naturalisation was therefore always a matter for elites. Adjustments to these rules have not reflected different concepts of citizenship, but have rather been a form of signalling that the non-African minorities privileged during colonial rule will not be allowed to continue to dominate the political economy.

Those most impacted by these restrictive conditions are, however, very long-term migrants and their descendants from other African states without documentation of existing citizenship and legal residence, or the money to pay the fees imposed. There have been exceptional efforts in some states to grant nationality to these groups; but these efforts, too, are rare. Integration of migrants and their children is rather conducted through the hybrid state and non-state institutions at local level that are gatekeepers for the daily decision-making processes to issue or refuse identity documents to those who need them.

Such processes of de facto 'naturalisation' are, however, becoming more difficult, as identification systems are being digitised, centralised, and increasingly made biometric in format. At the same time, the requirement to produce identity documents to access services is becoming ever more pervasive. The lack of an accessible route to formal naturalisation will thus become more obvious, as clearly identified non-citizens become more numerous as a group. The policy response to this challenge will shape the politics of the states concerned.

The article follows the following structure. The first section summarises the provisions relating to naturalisation in African laws and the information that is available about acquisition of nationality by naturalisation. Two appendices provide tables with more detail. Subsequent sections consider what this information reveals about the purposes of naturalisation in Africa, and the reasons why residence-based naturalisation is so difficult to access; the exceptional initiatives that have been undertaken by some states to naturalise some groups of long-term migrants or refugees; the role of identification systems in nationality administration; and what we know about popular attitudes to access to citizenship by immigrants. The conclusion returns to these questions, arguing that formal naturalisation in African states is effectively irrelevant, except for its 'performative' power. If the processes for acquiring citizenship are to be understood, it is rather the regulation of identification that we must consider.

Ordinary naturalisation: legal provisions and comparative practice

The earliest nationality law in Africa was adopted by the Sultan of Zanzibar in 1911; in 1926, Egypt enacted a law based on the provisions of Treaty of Sèvres governing the break-up of the Ottoman Empire; the Ethiopian empire followed in 1930; and South Africa and Southern Rhodesia (now Zimbabwe) had free-standing laws within the British empire from 1949; a handful of others followed in the 1950s. The great majority of African states, however, did not gain an independent nationality

law until the 1960s and 70s. The newest foundational laws are those for Eritrea and South Sudan, adopted in 1992 and 2011 as they also became independent states.

The analysis that follows is based on the relevant provisions of the constitutions and laws of all 54 African states.[2] The current provisions have been updated from my study of citizenship laws in Africa for the Open Society Foundations and the GLOBALCIT database (Manby 2016; GLOBALCIT 2017).

Of the states that gained independence in the 60s and 70s, only Benin still retains its original unamended law from 1965; all others have been amended at least once and many multiple times. When it comes to residence-based naturalisation, however, the rules have remained relatively static, by contrast to the trends noted for European laws (Bauböck et al. 2006). Nonetheless, there have been changes, mostly to the length of residence required before a person can qualify to naturalise (almost always to extend this period); in many places to permit dual nationality for those naturalising; in a few countries to require greater evidence of assimilation; less often to adjust other conditions (Manby 2018a, chap. 5.4).

However, the starting point for the acquisition of citizenship in Africa has to be the rules applied at independence on who became, or could become, a citizen of the new state. For those states that have provided rights based on birth in the territory after independence (whether for the first or second generation born in the country), these rules have lost their significance, and access to naturalisation is also less important; but where descent-based laws are in operation, in law or in administrative practice, the rules on succession of states remain the dominant determinant of the citizen body. In these countries, lack of access to naturalisation creates significant challenges.

This section summarises first the transitional provisions, followed by the trends in law leading up to current rules in force, and their application in practice.

Transition to independence: the rules on state succession

In the former British territories, detailed rules providing for allocation of nationality on succession of states were included in the independence constitutions and thus constrained by negotiation with the British government. In the other colonial territories, nationality was left to the new governments. For the British territories, the general rule was that a person born in the country with one parent (in West Africa, one grand-parent) also born there acquired citizenship automatically at independence; a simple jus soli rule initially attributed citizenship to those born in the territory after independence (as it did in Britain at the time). For most of the former French territories a similar rule – two generations born in the country – was adopted to govern the transition, and then remained in place for those born after independence. The former Belgian territories adopted descent-based laws, as in Belgium; in Rwanda and Burundi there were also provisions for legal presumption of nationality at the transition. The former Portuguese territories adopted laws that provided quite open access to nationality based on birth in the territory; temporary provisions allowed others to register as citizens during a transitional period after independence (Manby 2018a, chap. 4).

While the rules on state succession varied, the contentious provisions were always those relating to the status of 'settler' populations, amidst the demand to Africanise economies and restore the dignity of the colonised. Since those of European descent could freely return to the metropolitan territory, those who were most impacted by these suspicions were those who had arrived on the coat-tails of empire. Most visibly, these were the populations of South Asian descent in East Africa, and the 'Lebanese' of West Africa. Transitional provisions allowing their access to citizenship were

[2] There are 55 members of the African Union, but the Sahrawi Arab Democratic Republic is not a member state of the United Nations, and does not have a detailed nationality law. These laws are mostly available on the website citizenshiprightsafrica.org and on UNHCR's Refworld database; for the earlier texts, see also (Fransman, Berry, and Harvey 2011, catalogue entries for African states; Decottignies and de Biéville 1963; Zatzepine 1963).

often not honoured in practice; and in many states the law on acquisition of citizenship for those born after independence was amended to remove or reduce or remove automatic rights based on birth in the territory, excluding the children of those not recognised during the transitional period. Also caught up by these provisions, however, were migrants from other African states, including those forcibly imported as labour for European-owned mines and farms. Their contested status, and that of their descendants, has been at the root of crises in Congo, Côte d'Ivoire, Zimbabwe, and elsewhere.

In some countries where the liberation war had been most bitter, including Algeria, as well as Angola, Cape Verde, Guinea-Bissau, and Mozambique, there were specific provisions to recognise contributions to the liberation struggle through the facilitated grant of nationality, while denying nationality to those who had committed crimes against the people (for Algeria see Bendeddouche 1974; for the former Portuguese territories, see Manby 2019). When white minority rule was finally ended in southern Africa, similar special procedures were designed to right wrongs by former governments. In 1991 Namibia offered citizenship to those who would have been Namibian citizens if they or their ancestors had not fled the German genocide of the Herero from 1904 to 1907, an offer renewed in 2015 (Manby 2020). The new South African government that took power in 1994 restored citizenship to those who had been denationalised and made citizens of the former 'homelands', nominally independent ethnic states carved out of South African territory; in recognition of the role of the apartheid regime in driving long-distance labour migration and stoking conflict in the region, it also granted a series of amnesties offering permanent residence (and thus potential citizenship, plus automatic acquisition by children born in South Africa) to several categories of migrants and refugees (Crush and Williams 1999).

Post-independence acquisition of nationality by ordinary naturalisation

The conditions for ongoing residence-based naturalisation in African states were initially largely copied from the template provided by the laws in force in the former colonial power. The length of residence required, and other conditions such as good health and a clean criminal record, intention to reside in the country, or renunciation of another citizenship, were thus all fairly standardised at the outset across legal regimes, and many remain in place. Similarly, the rules for acquisition based on marriage largely followed patterns set in France, Belgium, Portugal or the UK – all of which discriminated on the basis of gender at the time.

The conditions for naturalisation based on residence in the country have gradually been made more challenging in law. As of the end of 2020, the majority of countries required legal residence of between five and ten years, shifting from five years as the most common period at the date of independence. The amendments made since independence also show a (weak) trend to establish stronger conditions in relation to cultural assimilation and language proficiency (see appendix 1 for current provisions). However, while a few of the language requirements provide for a written examination, no African state has adopted the concept of a general citizenship test. Most states permit waiver of rules on the grounds of the provision of 'exceptional services' to the state.

The only way in which naturalisation may be said to have become easier is in relation to permission to retain an existing citizenship. Nonetheless, increased tolerance of dual citizenship applies especially to citizens from birth, and 16 states still require an applicant for naturalisation to renounce an original citizenship, at least in some circumstances.

The most common ground for providing preferential access to citizenship as an adult is marriage, and Africa has seen the same trend towards gender equality as the rest of the world. However, there has been more resistance to gender equality in acquisition by spouses than in transmission to children; and as gender equality began to spread more widely so too did the difficulty of acquiring citizenship based on marriage. Instead of a simple process of option for the wife of a citizen, residence requirements and other conditions were imposed (Manby 2018a, chap. 5.2).

A number of African states also provide for facilitated naturalisation for those with an ethno-cultural connection to the country. Egypt still retains the preferences established by the Treaty of Sèvres for those of Arab ethnicity and Muslim religion. In line with race-based provisions for acquisition of citizenship at birth adopted immediately after independence, and in recognition of their history of foundation by freed slaves, Sierra Leone establishes facilitated access to naturalisation for those of 'Negro-African descent'; while Liberia has since its foundation forbidden 'non-Negroes' from becoming citizens at all. Similar preferences were in force for those 'of African race' in Malawi from 1966 until 1992. Ghana has created a right of return and indefinite stay for people of 'African descent', and accordingly facilitated access to naturalisation. Ethno-cultural preference is shown also in provisions in the laws of Sierra Leone and Uganda placing restrictions on transmission of naturalised citizenship to the next generation, even if born in the country, thus requiring each generation to naturalise anew.

No African state has general provisions on facilitated naturalisation for refugees; though Zambia's 2017 Refugee Act provides for naturalisation to be facilitated 'as far as possible' for those who have ceased to be refugees (because the 'ceased circumstances' clause of the UN Refugee Convention has been invoked). Some countries even make naturalisation for refugees more difficult: in Uganda, the ordinary naturalisation procedure (known in Uganda as registration) requires residence of 10 years and satisfaction of other conditions; but persons born in Uganda of refugee parents or those who did not themselves 'legally and voluntarily' immigrate to Uganda can only apply under the procedure known as naturalisation that requires 20 years residence (Walker 2011; Alenyo 2014; Manby 2018b).

Ordinary naturalisation: comparative practice

There is no systematic publication of statistics for the numbers naturalised in African states. In the common law countries, the law does not require publication of the information; in the civil law states the names of those naturalised must generally be published in the official gazette, but statistics are not collated, and not all official gazettes are regularly published or online. Information gleaned from different sources reveals that the numbers of naturalised persons are generally low – a maximum of few hundred annually even in Nigeria, a country of 200 million residents (see appendix 2). Naturalisation based on marriage is generally facilitated in law, but the numbers available do not indicate that acquisitions based on marriage are necessarily more numerous. There is no suggestion that the situation would be much different in countries for which there are no data available; anecdotal evidence confirms that naturalisation is rare everywhere. There is also no systematic difference between different types of state: whether more or less ethnically diverse, hosting larger or smaller refugee populations, authoritarian or more democratic. Even where naturalisation is facilitated on the basis of race, the numbers are low: Sierra Leone naturalised 22 African Americans in January 2021, on the basis of an ancestral connection to Sierra Leone, and apparently with no residence requirement; Ghana is reported to have naturalised around 200 African Americans in 2016 and 2019. The only outlier used to be South Africa, where policy has changed (see below).

Although the processes for naturalisation may appear relatively straightforward on paper, the European templates on which they were initially based are framed as if all those who would need to acquire nationality by this means live and work in the formal sector, with all significant life events, legal residence, and an existing nationality officially documented. This is clearly a fantasy world. Even if published fees are relatively low, the costs of naturalisation are still high, given the multiple documents, many of them from another country, that need to be assembled to submit an application. But some fees are among the highest in the world: in Tanzania, for example, the naturalisation procedure involves multiple stages of interviews and approvals at different layers of government, and a total official cost of US$5,000, including an initial non-refundable application fee of US$1,500. Fees of several hundred dollars are common; and passports will in most cases also cost a few hundred dollars each. In some countries, there are reduced fees for certain categories of applicant: in Tanzania itself, a reduced fee of US$870 is applicable for those would have qualified to register for citizenship under the transitional provisions of the 1961 constitution, and their

descendants born in Tanzania. In Uganda, the regular fee for registration is US$1,000, but there is a reduced fee of approximately US$30 in case of marriage or 'people who have lived all their lives in Uganda and consider themselves as Ugandans except for the citizenship papers'; even so, less than 1,000 people acquire citizenship each year – and no refugee is known to be among them (Manby 2018b). In Zambia, the new constitution and citizenship act adopted in 2016 eased access to naturalisation on paper, but new regulations reproduced previous requirements (Manby 2020).

Naturalisation decisions are left almost entirely to the discretion of the executive. There is no hint of the developments reported elsewhere to see naturalisation as a right rather than a privilege (Orgad 2017; Joppke 2010, 45–47), nor to recognise the power imbalances inherent to the naturalisation process (Bauböck 1994, chap. 4). Although the civil law codes may stipulate that an initial rejection on the grounds that the conditions are not fulfilled should be reasoned, in almost all countries the final decision is made by the president or a minister, effectively on any arbitrary grounds, and is subject to no appeal. Zambia's new Citizenship Act adopted in 2016 provides for a Citizenship Board to make this decision – but the board is appointed by the president. The outlier in procedures is Liberia, where naturalisation – only for those who are 'Negro or of Negro descent' – is finalised by the Circuit Court of the county in which the person lives. One result of this general discretion is widespread popular disquiet at corruption in the process of naturalisation, seen as becoming a personal gift of the president. In reaction to such perceived corruption, the new government of Sudan that took office in 2019 is reported to have cancelled 13,000 naturalisations issued by the previous regime over 30 years, including recent Syrian refugees (but it was also not clear what due process was applied to this reverse decision).[3]

In South Africa, the one country where decisions had been made at an administrative level, and ten or twenty thousand had been naturalised each year, official policy tightened from around 2010, in response to greatly increased immigration from the rest of the African continent and a xenophobic national mood. In 2017, a new policy document proposed that access to naturalisation should be 'exceptional', requiring an 'executive decision of the minister … contrary to the current administrative decision making process', in order to achieve 'strategic goals or to build the nation'. Under the new policy 'the number of years spent in the country will not carry much weight when compared with the value-add and security factors associated with the applicant' (South Africa Department of Home Affairs 2017, 43). Numbers naturalising have dropped to hundreds each year, in line with the rest of the continent (Manby 2020).

There has been high-level recognition in some countries of the problems created by lack of access to naturalisation. In Nigeria, for example, a committee on 'citizenship, immigration and related matters', within a National Conference of more than a thousand delegates convened by President Goodluck Jonathan in 2014, noted the 'overwhelming need to liberalise the path to naturalised citizenship'. This recommendation was included within the 1,000-page final report of the conference, together with others focused on discrimination faced by internal migrants ('The National Conference: Final Draft Conference Report' 2014, chap. 5.2.2). In Uganda, the minister of internal affairs reported to parliament in 2014 that a mass enrolment exercise for a new national identity card had revealed the need for facilitated naturalisation of members of some ethnic groups resident in the territory for generations who did not feature in the list of ethnic communities provided in a schedule to the constitution (Uganda Minister of Internal Affairs 2014).

The purposes of naturalisation in Africa

What can we deduce from these legal provisions and their implementation in practice about the role that ordinary residence-based naturalisation plays in African states?

[3] 'Sudan strips citizenship and passports of 13,000 naturalized foreigners', *Sudan Tribune*, 3 March 2020; 'Sudan withdraws citizenship from 3,548 foreigners', *Middle East Monitor*, 11 December 2020.

It is hard to assess standard African naturalisation provisions against the frameworks proposed by Liav Orgad set out in the introduction. The frameworks are superficially the same: those naturalising typically have to take an oath of allegiance (contract), show that they have a contribution to make to the country whose citizenship they are acquiring (test), and demonstrate linguistic skills or cultural integration (nation-building). But naturalisation is so rarely granted that the rules and their various adjustments appear mainly to fulfil a fourth function, as performative. This was especially clear at independence in those countries that provided facilitated naturalisation to those who had assisted in the liberation struggle, but also visible in trends to make naturalisation more difficult to access. Amendments to the law seem to have been designed rather to signal that the government – or parliament or the party in power – is policing the boundaries of the nation, not permitting just anyone to come in. An economically powerful class of residents of European, South Asian, Lebanese – or, increasingly, Chinese – origin is kept at least symbolically in check by restrictions on access to citizenship. In some cases, the signal is about other Africans: in Mauritania, 2010 amendments to the law removed Bambara (spoken mainly in Mali) as well as French from the list of languages that could qualify an applicant to naturalise. The positive steps have been in respect of the African diaspora in the Americas, rather than those with origins in neighbouring states.

The (relatively rare) amendments to make naturalisation more difficult, and in some cases to restrict transmission of naturalised citizenship to the next generation, can thus be seen as paired with (more common) amendments to adjust rights to citizenship based on birth in the territory or to introduce explicit racial, ethnic or religious conditions to qualify as a citizen. The approach in both cases starts from the nature of the post-colonial state, the consequent anxiety about identity and belonging within often hyper-diverse societies, and the lack of consensus and clarity on the legitimate boundaries to the 'demos' on which a putative democracy is founded (Bauböck 2017).

It is in this light also that we can see restrictions on access to public office for naturalised citizens in place in many African states. These restrictions apply especially to the presidency (and vice presidency), but in some countries expand to a wider list of public offices to which naturalised citizens may not have access. These incapacities are partly derived from colonial models,[4] but specific restrictions on access to the presidency and high public office for any naturalised citizen (or dual national) have often been introduced based on concerns about the doubtful loyalties of those with connections elsewhere, including both migrants to the country and 'native born' of mixed parentage or who have naturalised outside the continent.

Although high fees for naturalisation in some states clearly aim to extract a rent from those wishing to acquire citizenship (as well as making access more difficult), African states have not for the most part entered into the outright sale of citizenship. Many states place a general condition for anyone naturalising to show an investment of some kind in the country, or an ability to contribute in some general way. But the concept of 'citizenship by investment' has been adopted only by Seychelles and Egypt (though similar schemes have been discussed in Kenya and Namibia). Comoros took the concept to a whole new level with its 2008 law on 'economic citizenship', under which it sold passports to the governments of the United Arab Emirates and Kuwait to impose on more than 40,000 stateless residents of their territories (Abrahamian 2015).

The one purpose that ordinary naturalisation is thus not directed at fulfilling is the creation of paths to integration for the generality of non-citizen residents. Requirements for paperwork, discretionary processes, and fees place naturalisation out of reach.

[4] Both France and Belgium had time-limited restrictions on rights for naturalised citizens at the date their colonies obtained independence, and the list of African states with this formulation largely reflects this heritage.

Exceptional naturalisations: recognising factual integration

The combination of lack of access to ordinary naturalisation, purely descent-based nationality laws (in around half of African states), lack of documentation of existing nationality and low rates of birth registration (highly variable, but less than 50 percent of under-fives across the continent), leaves a very large number of people who are of undetermined nationality.

These are the people most in need of access to residence-based naturalisation; yet they are the most excluded of all. Aside from the challenges already noted, ordinary naturalisation procedures almost always require submission of documents proving the person's 'original' nationality. This is a requirement inherited from the days when it was expected that the person would have to renounce that nationality, but often still in place even where dual nationality is now allowed.

There has been some movement towards naturalisation as a means to integrate and grant citizenship to at least some of those affected. Running counter to the closed nature of ordinary naturalisations are a handful of exceptional naturalisation initiatives undertaken in recent years, mostly facilitated by UNHCR.

By far the most ambitious of these efforts – and the most studied – has been in Tanzania (International Refugee Rights Initiative 2008; 2013; Milner 2014; Kuch 2017; Miletzki 2019). President Julius Nyerere's commitment to pan-Africanism shaped an open attitude to refugees, migrants and citizenship from the time of independence. This openness was never uncomplicated and was significantly curtailed in law and policy over time (Miller 2011; Aminzade 2015); but it continued to have influence on official attitudes. In 1980, the naturalisation of 36,000 refugees from Rwanda and Burundi was approved, with a waiver of normal application procedures and fees (Gasarasi 1990). A new initiative was launched in 2007 for the naturalisation of Burundian refugees resident in the country since 1972 and their descendants. After many delays, more than 150,000 naturalisation certificates were eventually distributed.

There have been some other, more modest, initiatives to naturalise smaller groups of long-term former refugees, when the 'ceased circumstances' clause of the UN Refugee Convention has been invoked. Several hundred Sierra Leonean former refugees have been granted Liberian citizenship; 7,000 long-term refugees from Casamance in Senegal naturalised in Guinea-Bissau; and nearly 2,000 children of Mauritanian refugees were granted nationality in Mali (UN General Assembly 2019, paras 83–84). There has been no scholarly research into these processes.

In Kenya and Côte d'Ivoire, exceptional naturalisation initiatives have rather focused on long-term migrants and their descendants, to the exclusion of refugees.

In Kenya, where citizenship administration has long been highly discriminatory (Manby 2018a, chap. 7.3), the 2010 constitution opened space for some previously excluded groups to demand inclusion. A new law provided for special temporary procedures to allow people resident in Kenya since 1963, and their descendants, to register as citizens. Though hard to access, a group of 1,500 people of Mozambican descent, originally workers on sisal plantations brought to Kenya in the 1950s, were eventually registered as Kenyan in 2016-17 (Manby 2018b); followed by a few thousand descendants of Zimbabwean missionaries, mainly of Shona ethnicity, who had arrived in Kenya in the early 1960s; Rwandan-origin tea plantation workers and other communities made similar demands.

In Côte d'Ivoire, a radical tightening of nationality administration was a principal cause of the conflict that broke out in 2000; successive peace agreements included requirements to resolve these issues. Following 2010 elections, legislation was finally adopted in 2013 to provide access to special temporary procedures to allow for acquisition of nationality by some categories of people who would have had access to citizenship under the law in force before 1973. Several hundred thousand were thought to be eligible, yet, by the deadline at the end of 2015, less than 125,000 people had applied; of whom some 16,000 received a favourable decision and were issued certificates of nationality; one third were rejected as clearly unfounded, and 60 percent were still pending in 2020,

held back by the need for further legal measures to enable resolution of their cases in the absence of sufficient supporting documents (Adjami 2016; Diaha 2020).

Such efforts remain rare. Where they have been undertaken, they relate to categories of people who are already widely recognised as being substantially integrated into the local communities where they live, often belonging to the same cross-border ethnic groups. With the exception of the mass naturalisation in Tanzania, the numbers involved have been small, unlikely to disturb electoral politics or other entitlements. In Tanzania, the naturalisation initiative was first offered at a favourable political moment, domestically and regionally, but also faced significant opposition, especially to a proposed relocation of former refugees to other parts of the country (Milner 2014). In Kenya, there has been no suggestion of offering naturalisation to the hundreds of thousands of long-term camp-based refugees. The effort to resolve the undetermined citizenship of hundreds of thousands living in Côte d'Ivoire foundered on the very same procedural requirements, and political opposition to easing them, that had created the original problem.

In the case of Côte d'Ivoire, Kenya and Tanzania there is also an irony in the fact that most of those being naturalised by the special procedures were arguably already citizens under strict application of the law, victims of a tightening of access to citizenship based on birth in the territory. In Côte d'Ivoire, many of those who came to be denied nationality from the mid-1990s had been recognised as Ivorian under previous interpretations of the law. At independence Kenya and Tanzania both had the standard provisions of the former British territories for jus soli attribution of citizenship based on birth in the territory for those born after independence. Kenya repealed this provision in 1985, with (arguably unconstitutional) retroactive effect; it remains in place on paper in Tanzania, but the immigration department has long ceased applying the rule, instead interpreting the law to provide for descent-based acquisition at least since amendments adopted in 1995 (Manby 2018b).

The exceptional naturalisations recognise that there are groups of people who no longer have any plausible 'home' to return to. They respond also to the post-colonial context: the notorious arbitrariness of borders; the forced transplantation of populations by the colonial powers; the campaigns by excluded groups and others on their behalf; and the recognition of a shared pan-African history of oppression that gives other Africans (in some contexts) a greater claim to seek membership of the political community. At the same time, however, the need for naturalisation has been created in some states by a closing of access to citizenship through the removal of rights based on birth in the territory: acquisition of citizenship has become a privilege and not a right.

Identification and registration as naturalisation (or denationalisation)

The lack of access to naturalisation (or to citizenship based on birth in the territory), has been somewhat disguised until recently by the weakness of registration and identification systems in many African states. This historical lack of documentation has produced a great deal of ambiguity about both legal nationality and social belonging. Civil registration during the colonial era was largely restricted to those of European, Asian or Middle Eastern origin; the 'native' populations were rather registered and controlled through variations on 'pass laws' applied most coercively in the territories with the largest European settler populations. National identity cards were established after independence in all the civil law countries, and in some but not all Commonwealth states; but even where they were nominally required, enrolment often remained very incomplete (World Bank 2019). In countries with low rates of documentation, immigrant populations have often been able to dissolve into the population by the simple route of change or choice of name (for a historical discussion in Uganda, see Doyle 2012). Civil registration has expanded, but birth registration coverage remains low in many countries, especially amongst the poorest and least educated families (UNICEF 2013).

In this environment, legal pluralism has been the rule. A person's status is decided by hybrid processes, in which government officials rely on customary or other local authorities to determine a person's status. A person could, moreover, hold different statuses in different contexts, without a

bright line distinguishing citizen from non-citizen. The laws and procedures governing access to land and other rights have thus been as much, or more, constitutive of the national body of citizens (or of local communities) as the law on nationality (for the role of the 'local state' see Mamdani 1996; for land, see Kuba and Lentz 2006; Boone 2014). Perhaps most importantly, as African states opened up to more competitive multiparty elections from the 1990s, voter registration came to be the way in which citizens were recognised for the most symbolic practical purpose. The role of party membership or voter registration cards as markers of membership and proof of identity has been noted for many years – especially, but not only, in those countries which have not historically had an identity card (Malkki 1995; Hultin 2008); as new technology has been introduced, this power has, if anything, increased (Cheeseman, Lynch, and Willis 2018; Piccolino 2014; 2015; 2016; Rader 2016).

Where many are undocumented, initial enrolment to a database will almost always depend on witness testimony at local level. In Nigeria and Ethiopia the role of local authorities in certifying citizenship is highly institutionalised, if without legal authority (Odinkalu 2015; Fourchard 2015; Ehrhardt 2017; Mang and Ehrhardt 2018; Fessha and Beken 2013; Fessha and Dessalegn 2020). The use of 'vetting committees' for the issue of national identity cards and passports is pervasive, whether longstanding, as in Kenya (Balaton-Chrimes 2014; Lochery 2012; Weitzberg 2017), or brand new, as in South Sudan (Markó 2015). It is also often local gatekeepers who verify eligibility to vote (Robert-Nicoud 2019). This discretion is exaggerated in states such as Liberia and Tanzania, where the constitution and the law have conflicting provisions on attribution of citizenship at birth, or the official interpretation of the law departs from what is written down (Manby 2018a, chaps 6, 10).

These systems may formally be administrative screening processes against a list of criteria established by law, but they also apply local views of a person's deservingness of membership of the local community, a delicate balancing act in which the legal and the 'traditional' reinforce and create each other. The rules and practices take different forms according to bureaucratic tradition and political context, and mostly unstudied.

Acquisition of papers recognising citizenship in this way without going through the formal processes is often described as corruption by central government officials, who emphasise the need to secure the population registers from fraud. Corruption in nationality administration is indeed widespread, and also blurs the boundaries of the law and dilutes the value of documents (see Whitehouse 2012 for a discussion of these issues among West African immigrants in Brazzaville). But in the context where birth registration and other foundational paperwork is missing, such processes also enable the recognition of practical integration, the local acknowledgement of a person as a member of society.

These blurred membership boundaries are becoming less sustainable. Identification systems are in the process of radical change across the continent and the division between citizen and non-citizen is being made both more visible and more binary. Identification is being demanded to access all sorts of services where it never was before. National identity cards are being introduced where they did not previously exist, or upgraded to biometric forms where they were already in place (Gelb and Diofasi Metz 2018). In countries like Uganda and Tanzania that have never previously had a national identity card, mass enrolment processes are revealing large numbers of applications that cannot be processed for lack of clarity on citizenship (Manby 2018b; Perrot and Owachi 2018). As these new systems are being introduced, the stakes of exclusion are thus rapidly becoming higher (Manby 2021).

Popular attitudes to naturalisation

Popular attitudes to acquisition of citizenship show a significantly more liberal attitude than official practice. Despite the tropes of 'tribalism' in Africa, and the realities of ethnically mobilised conflict, ordinary people seem to have a view of national citizenship that is generally more civic-territorial than ethno-nationalist.

According to data collected by Afrobarometer based on opinion polling in 29 African states, an average of 62 percent of Africans think a person should have the right to become a citizen based on a contribution through living and working in the country (Afrobarometer 2013). In no state was there a majority against; and only in Côte d'Ivoire were 50 percent opposed. Across the countries surveyed, we can see likely explanations for some variations: respondents in a country like Cape Verde that is almost exclusively migrant-sending is very open to naturalisation; those in countries with large numbers of historical migrants of controversial status, or recent inflows (Côte d'Ivoire or South Africa) are more hesitant. But patterns are not necessarily obvious: citizens of Botswana are significantly more open to the idea of naturalisation than those of Lesotho, although both states are more ethnically homogenous than most in Africa (the existing 'nation' is more intuitive) and neither have unmanageably large influxes of migrants or refugees. Kenya, Tanzania and Uganda all host hundreds of thousands of refugees, yet popular attitudes appear relatively open to their membership. The overall figures are intriguing, even surprising, but we lack the research to arrive at more systematic conclusions on the basis for these views; nor do they appear to map onto naturalisation policy in practice.

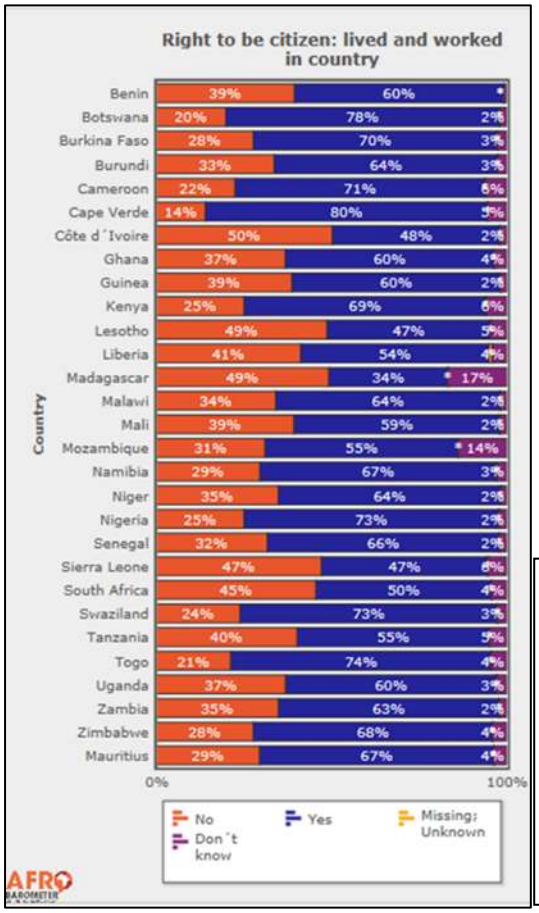

Figure 1. Attitudes to naturalisation in 29 African states

Source: Afrobarometer (2013). Answers to question "In your opinion, which of the following people have a right to be a citizen of [Country]? A person who came from another country, but who has lived and worked in [Country] for many years, and wishes to make [Country] his or her home?"

Afrobarometer's respondents were also supportive of acquisition of nationality based on marriage, though with a noticeable gender bias not present in questions about derivation of nationality from a parent: an average 67.5 percent supported the wife of a citizen husband having a right to nationality, but only an average 51 percent for the husband of a citizen wife (an average 86.6 percent support the equal right of men and women to transmit to their children). An average 59 percent also supported acquisition by a child born in the country of two non-citizen parents (the major outlier being Côte d'Ivoire, where 77 percent disagreed).

Conclusion

A discussion of naturalisation provisions in the laws of African states can seem very theological, given the low numbers generally involved. Ordinary residence-based naturalisation is essentially

irrelevant as a legal procedure for almost all those who could theoretically qualify. Although the initial rules share family likenesses based on the colonial heritage, it is -- unlike the rules for acquisition of citizenship at birth (Manby 2018a, chap. 10) -- not possible to create a categorisation of trends in naturalisation law and policy by colonial experience of expropriation and labour recruitment, contemporary migration flows, current regime type, or region. Exceptional naturalisation initiatives are also so rare that it is hard to establish any common characteristics, beyond the facilitative role of UNHCR.

Until recently, however, this irrelevance has itself been largely irrelevant. Lack of access to naturalisation has not become a pressing question for public policy or scholarship because of the continuing possibility of ambiguous status, and the displacement of controversies over the status and documentation of populations perceived to be of immigrant origin to other arenas, including voter registration.

'Naturalisation' – recognition of membership of the national community through the issue of official papers – has thus taken place at two levels: at the centralised level of the formal state, nationality law, and the discretion of the public authorities; and at the local level of legal pluralism and mixed governance of identification processes. The way in which these two systems have operated, whether in parallel or substantially integrated, varies greatly across geographies and over time. Both routes to integration deserve more detailed study at national level. There is no scholarly research on naturalisation policy and decision-making in any African state, or the decision-making of those naturalising -- apart from the case of exceptional naturalisation of refugees in Tanzania. There is an extensive literature on the broader questions of membership and belonging; but research is limited, though increasing, on the bureaucracy of identification. We currently lack sufficient national studies to consider the factors that that enable or obstruct acquisition of citizenship by these routes. It is only once this research is done that it will be possible to reach stronger conclusions about the determinants of naturalisation policy and the acquisition of citizenship by foreigners more generally.

With the rapid rolling out of more formal identification requirements, and the centralisation and securitisation of registers through biometric technology, it is likely that the impact of highly restrictive access to formal citizenship will become much more visible. The limitation of naturalisation to mere handfuls of people will also become less sustainable, especially where there are exclusively descent-based laws, as large numbers of residents find (perhaps for the first time) that the state does not consider them to be citizens. One solution proposed to liberalise naturalisation would be for it to be officially decentralised, somehow replicating the positive aspects of the existing hybrid identification systems, but regularising the process within a clearly established legal framework (Manby and Bauböck 2021). Although this proposal clearly carries its own risks, the Afrobarometer results suggest that the political space exists to widen access to formal documented citizenship, including through naturalisation. No such reforms are, however, currently in sight.

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Appendix 1: Summary of common provisions for naturalisation

Information from tables in Manby, 2016, updated by the author to date of finalisation of manuscript. There is some inevitable simplification of complex provisions.

Not included: attribution of nationality at birth or acquisition by an adopted child.

Provision	Subcategories	No. of states	List of states
Length of residence	Up to 5 years	18	Liberia (2), Benin (3), Ethiopia (4) Cameroon, Cape Verde, CAR, CdI, Egypt (if of Egyptian origin) Eswatini, Gabon, Guinea, Lesotho, Madagascar, Morocco, Rwanda, STP, Togo, Tunisia (5)
	Up to 10 years	31	Ghana, G Bissau, Mauritius (6) Algeria, DRC, Kenya, Malawi, Somalia (7) Tanzania, Sierra Leone (if negro-African descent) (8) Angola, BF, Burundi, Comoros, Congo Rep, Djibouti, Egypt, Liberia, Libya, Mali, Mauritania, Mozambique, Namibia, Niger, Senegal, S Africa, S Sudan, Sudan, Uganda (if legally and voluntarily resident), Zambia, Zimbabwe (10)
	Up to 15 years	6	Botswana (11) Chad, Gambia, Nigeria, Seychelles, Sierra Leone (15)
	Over 15 years	3	Eritrea (20), Eq Guinea (40), Uganda (20)
Language / assimilation	National language(s)	14	Botswana, DRC, Djibouti, Egypt, Eritrea, Ethiopia, Ghana, Kenya, Madagascar, Mauritania, Sierra Leone, Togo, Tunisia
	National language or English, French, Portuguese	11	Angola, Benin, Eswatini, Lesotho, Malawi, Mauritius, Mozambique, STP, Seychelles, South Africa, Tanzania
	General assimilation	18	Algeria, Angola, Benin, Burundi, Cameroon, Comoros, Congo Rep, DRC, Ghana, G Bissau, Kenya, Madagascar, Mali, Mauritius, Namibia, Nigeria, Rwanda, STP
	Other	1	Liberia (Must be 'negro or of negro descent')
Exclusive allegiance	Acquisition dependent on renouncing any other nationality	16	Cameroon, Congo Rep, DRC, Eq Guinea, Eritrea, Ethiopia, Gambia, Lesotho, Liberia, Malawi, Mauritius, STP, Somalia, Tanzania, Togo, Zimbabwe
	Renunciation required in some circumstances	3	Nigeria, S Africa, Uganda
Good character	General provision	45	Algeria, Benin, Botswana, BF, Burundi, Cameroon, Cape Verde, Chad, Comoros, Congo Rep, Côte d'Ivoire, DRC, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Gabon, Gambia, Gambia, Ghana, Guinea, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, S Africa, Sudan, Tanzania, Togo, Tunisia

	No criminal convictions	31	Algeria, Angola, Benin, BF, Burundi, Cameroon, Chad, Congo Rep, Djibouti, Egypt, Eritrea, Ethiopia, Gabon, Ghana, Guinea, G Bissau, Kenya, Madagascar, Mali, Mauritania, Morocco, Namibia, Niger, Rwanda, Senegal, Seychelles, S Sudan, Sudan, Togo, Tunisia, Zambia
	Not if disloyalty / crime against state / not in public interest	6	Angola, DRC, Eritrea, G Bissau, Rwanda, Zambia
Good health	Physical and/or mental	25	Algeria, Benin, BF, Cameroon, Chad, Comoros, Congo Rep, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Gabon, Guinea, Lesotho, Libya, Madagascar, Mali, Mauritania, Morocco, Senegal, S Sudan, Sudan, Togo, Tunisia, Zimbabwe
Financial conditions	Means of subsistence / not bankrupt	17	Algeria, Angola, Egypt, Eritrea, Eswatini, Ethiopia, Gambia, Kenya, Lesotho, Libya, Malawi, Morocco, Mozambique, Rwanda, STP, Sudan, Zambia
	Investments / contribution necessary	10	DRC, Eswatini, Gabon, Ghana, Kenya, Nigeria, Rwanda, Seychelles, Sierra Leone, Tanzania
	Investments give preferential access	2	CAR, Mauritius
	Citizenship-by-investment	3	Comoros, Egypt, Seychelles
Marriage	No additional rights	3	DRC, Djibouti, Liberia
	Shorter residence period (only); either spouse	6	Botswana, Djibouti (only if there are children), Malawi, Niger, Nigeria, Seychelles
	Some conditions for naturalisation waived (either spouse)	2	Algeria, Kenya
	On application* or by option (wife only)	14	Burundi, Cape Verde, Cameroon, Egypt, Eswatini, G Bissau, Libya, Madagascar, Mauritania, Morocco, Sierra Leone, Sudan, Tanzania, Tunisia
	On application* or by option (either spouse)	3	Chad, Ghana, STP
	On application* or by option (either spouse), after residence and/or marriage period	16	Angola, Eritrea, Ethiopia, Eq Guinea, Gambia, Lesotho, Mauritius, Mozambique, Namibia, Rwanda, Senegal, S Africa, S Sudan, Uganda, Zambia, Zimbabwe
	Automatic unless declines (wife only); govt can oppose	7	Benin, CAR, Comoros, Congo Rep, Guinea, Somalia, Togo
	Automatic unless declines (both spouses); govt can oppose	3	BF, Côte d'Ivoire, Mali
Other facilitated access	Race, ethnicity, religion	7	Egypt, Ghana, Liberia, Seychelles, Sierra Leone, Rwanda, Somalia
	Commonwealth	3	Lesotho, Malawi, Mauritius
	Descent from a citizen	5	Cape Verde, Gambia, Tanzania, Rwanda, Zambia

	Former citizen if renounced or lost for dual nationality (not if deprived)	41	Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, CAR, Chad, Comoros, Congo Rep, Cote d'Ivoire, DRC, Egypt, Eq Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, G Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Morocco, Mozambique, Namibia, Niger, Rwanda, STP, Sierra Leone, S Africa, Sudan, Togo, Uganda, Zambia, Zimbabwe
	Refugee	0	
	Stateless	2	Lesotho, Malawi: discretionary [Kenya: temporary provisions]
Delayed jus soli	Born in the country – automatic at majority	4	Benin, Burkina Faso, Congo Rep, Guinea
	Born in the country – on application	15	Benin, Cameroon, CAR, Comoros, DRC, Egypt (if father of Egyptian origin), Eq Guinea, Gabon, Guinea, Mali, Mozambique, Rwanda, South Africa, Togo, Zambia
Exceptional services	Conditions may be waived	36	Algeria, Angola, Benin, Botswana, BF, Burundi, Cameroon, Cape Verde, CAR, Chad, Comoros, Congo Rep, Côte d'Ivoire, Djibouti, Ethiopia, Gabon, Ghana, Guinea, G Bissau, Libya, Madagascar, Malawi, Mali, Mauritania, Mozambique, Namibia, Niger, Rwanda, Senegal, Seychelles, Somalia, S Sudan, Sudan, Togo, Tunisia, Zimbabwe
Restricted rights	Not eligible for presidency	36	Algeria, Angola, Botswana, Burundi, Cape Verde, Chad, Congo Rep, Côte d'Ivoire, DRC, Egypt, Eq Guinea, Eritrea, Gabon, Gambia, Ghana, G Bissau, Kenya, Liberia, Malawi, Mali, Mauritania, Mozambique, Namibia, Niger, Nigeria, Rwanda, STP, Sierra Leone, S Sudan, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe
	Not eligible for wider list of elected or appointed offices	2	Mozambique, Sierra Leone
	Eligible for wider list only after a period of time	22	Angola, Benin, BF, Burundi, Cameroon, CAR, Comoros, Congo Rep, Côte d'Ivoire, Egypt, Gabon, Guinea, Kenya, Libya, Madagascar, Mali, Mauritania, Morocco, Niger, Senegal, Togo, Tunisia
* the level of discretion implied within the term 'on application' can vary quite widely. See Manby 2016 for more detail.			

Appendix 2: Number of naturalisations

[insert excel spreadsheet]