European University Institute

ROBERT SCHUMAN CENTRE FOR ADVANCED STUDIES

GLOBALCIT

COMPARATIVE REPORT 2017/04

DECEMBER 2017

COMPARATIVE REPORT: CITIZENSHIP IN ASIA

AUTHORED BY

OLIVIER VONK

Global Citizenship Observatory (GLOBALCIT)
Robert Schuman Centre for Advanced Studies
in collaboration with
Edinburgh University Law School

Comparative Report: Citizenship in Asia
RSCAS/GLOBALCIT-Comp. 2017/4
December 2017

Printed in Italy
European University Institute
Badia Fiesolana
I – 50014 San Domenico di Fiesole (FI)

www.eui.eu/RSCAS/Publications/
cadmus.eui.eu

Robert Schuman Centre for Advanced Studies

The Robert Schuman Centre for Advanced Studies (RSCAS), created in 1992 and directed by Professor Brigid Laffan, aims to develop inter-disciplinary and comparative research on the major issues facing the process of European integration, European societies and Europe's place in 21st century global politics.

The Centre is home to a large post-doctoral programme and hosts major research programmes, projects and data sets, in addition to a range of working groups and ad hoc initiatives. The research agenda is organised around a set of core themes and is continuously evolving, reflecting the changing agenda of European integration, the expanding membership of the European Union, developments in Europe's neighbourhood and the wider world.

Details of the research of the Centre can be found on: http://www.eui.eu/RSCAS/Research/

Research publications take the form of Working Papers, Policy Papers, and e-books. All of these are also available on the Schuman Centre's website: http://www.eui.eu/RSCAS/Publications/

GLOBALCIT

GLOBALCIT is the successor of EUDO CITIZENSHIP, which has been the key reference for the study of citizenship and the franchise between 2009 and 2017. With the geographic expansion of the Observatory's scope the new name reflects our worldwide coverage.

GLOBALCIT provides the most comprehensive source of information on the acquisition and loss of citizenship in Europe for policy makers, NGOs and academic researchers. Its website hosts a number of databases on domestic and international legal norms, naturalisation statistics, citizenship and electoral rights indicators, a comprehensive bibliography and glossary, a forum with scholarly debates on current citizenship trends, media news on matters of citizenship policy and various other resources for research and policy-making.

Research for the 2016/2017 GLOBALCIT Reports has been supported by the European University Institute's Global Governance Programme, the EUI Research Council, and the British Academy Research Project CITMODES (co-directed by the EUI and the University of Edinburgh).

The financial support from these projects is gratefully acknowledged.

While our new website is under construction, for more information see: http://eudo-citizenship.eu

Comparative Report
Citizenship in Asia

Olivier Vonk[1]

1. Introduction

This report analyses the contemporary citizenship laws of 22 countries in Asia, namely Afghanistan, Bangladesh, Cambodia, China, East Timor (Timor-Leste), India, Indonesia, Japan, Laos, Malaysia, Mongolia, Myanmar, Nepal, North Korea, Pakistan, Philippines, Singapore, South Korea, Sri Lanka, Taiwan, Thailand and Vietnam.[2] With the exception of Laos, Mongolia, North Korea and Thailand, the grounds for acquisition and loss of citizenship have been analysed in collaboration with a team of GLOBALCIT country experts.[3] It was decided to exclude Bhutan, Brunei and Maldives, as no country experts have yet been identified and because all three have a particularly small population compared to the other states under examination.[4]

The analysis relies not only on the country experts' input regarding the modes of acquisition and loss of citizenship, but also on their respective country reports which will be referred to here as Aguilar 2017 (Philippines), Arraiza and Vonk 2017 (Myanmar), Ashesh and Thiruvengadam 2017 (India), Athayi 2017 (Afghanistan), Ganeshathasan and Welikala 2017 (Sri Lanka), Harijanti 2017 (Indonesia), Hoque 2016 (Bangladesh), Jerónimo 2017 (East Timor), Kondo 2016 (Japan), Lee 2017 (South Korea), Low 2016 (China/Taiwan),[5] Low 2017 (Malaysia/Singapore), Nazir 2016 (Pakistan), Nguyen 2017 (Vietnam), Shrestha 2017 (Nepal) and Sperfeldt 2017 (Cambodia).[6]

The first part of the report provides a background to the region by highlighting some pertinent issues surrounding citizenship law and by discussing the subject in relation to the

---

[1] Marie Curie COFUND Fellow, University of Liège.
[2] The terms North and South Korea will be used instead of the Democratic People's Republic of Korea (DPRK) and the Republic of Korea (ROK), respectively.
[3] http://eudo-citizenship.eu/about/people/country-experts. See also the forthcoming GLOBALCIT Databases on Grounds for Acquisition and Loss of Citizenship, where many more details are provided compared to the overview tables in this report.
[4] The countries in Central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) will be covered in a separate GLOBALCIT comparative analysis by Medet Tiulegenov. Although countries such as Afghanistan and Mongolia are part of Central Asia according to some definitions, the major citizenship issues of the 'Stans' derive from the break-up of the Soviet Union and are therefore of a very different nature compared to the countries covered in this report.
[5] While the country report on China/Taiwan touches on Hong Kong, a British colony until 1997, more information on its nationality status can be found in White 1987, 1988, 1989. Similarly, the former Portuguese possession of Macau, returned to China in 1999, is discussed in the reports on China/Taiwan and East Timor. Other Portuguese possessions in Asia included Damão, Diu, Dadrá, Goa and Nagar Avelí. Together these territories formed Portuguese India and were referred to in Portuguese as 'Antigo Estado da India'.
[6] Available at http://eudo-citizenship.eu/country-profiles. Full references are provided in the bibliography.

process of (de)colonisation. The second part presents a comparative overview of the main provisions of the citizenship laws of the selected countries. The analysis is structured along three major dimensions: acquisition of citizenship at birth, acquisition of citizenship after birth,[7] and loss of citizenship. The third part discusses dual citizenship and statelessness as well as the discrepancies between law and practice.

The Asian region is very vast and many of the sovereign states created in Asia after WWII were conspicuously multi-ethnic, multi-religious, and multi-lingual (Suryadintata 2015). The following quote may serve to set the scene:

> In the 1930s, large empires – British, Dutch, French, American, and Japanese – controlled Asia. By 1950, Asia was divided into nation-states. Between 1945 and 1949, India, Pakistan, Burma [now Myanmar], Sri Lanka, Indonesia, and the Philippines became independent. The Communist revolution in China created two states – the People's Republic of China and a de facto nationalist state in Taiwan – as did the partition of Korea into North and South Korea: both divisions last to this day. The breakup of empires and the drawing of new borders produced countless refugees […] It also produced a patchwork of minority populations within each new set of borders. Each new state faced the historical legacy of the mass immigration of an earlier era […], with the presence of large populations of what imperial administrators had once called 'foreign Asians': primarily people of Indian and Chinese origin (Amrith 2011: 117).

Despite these historical events during the twentieth century, Asia is a continent that has notoriously been neglected in comparative nationality studies.[8] Indeed, research on nationality law has traditionally suffered from what may be called an 'Atlantic' (Vink and Bauböck 2013: 640) or 'Global North' (Sadiq 2017: 165) bias,[9] which is partly related to the fact that data on nationality laws of countries outside Europe and the Western world remain relatively scarce, although there has been a notable improvement in this respect by recent scholarship on the Americas and Africa.[10] This lack of interest is to some extent understandable in that Asian countries have significantly lower accession rates to international treaties dealing with nationality law compared to other regions, and that no important citizenship-related judgments and decisions have been handed down by regional courts. By contrast, important judgments have been delivered by the European Court of Human Rights and the Court of Justice of the European Union;[11] the Inter-American Court of Human Rights;[12] and the African Committee of Experts on the Rights and Welfare of the Child.[13]

[7] For the sake of convenience, acquisition iure soli after birth is discussed in the section on ius soli (section 3.1.2).
[8] Monographs on the subject date back at least 27 years. See the publications by Hecker 1965, 1975 and 1978 and Ko Swan Sik 1990.
[9] The lack of attention for Asia is also acknowledged by authors from the region itself. For example, it has been noted by Choe that since existing studies of citizenship mainly focus on European cases, his study of China and South Korea 'will help expand scholarship on citizenship by evaluating both the achievements and the limitations of the [East Asian] area' (Choe 2006: 84).
[10] See Vonk 2014, Manby 2015 as well as the different continent profiles at http://eudo-citizenship.eu/country-profiles.
[11] ECHR, *Genovese v. Malta*, 11 October 2011; Case C-135/08, *Rottmann* [2010], 2 March 2010.
[12] Inter-American Court of Human Rights, *Case of the Girls Yean and Bosico v. Dominican Republic*, 8 September 2005.
[13] African Committee of Experts on the Rights and Welfare of the Child (ACERWC). Decision on the communication submitted by the Institute for Human Rights and Development in Africa and the Open Society

2. Citizenship law in Asia: general aspects and the effects of (de)colonisation

With the exception of Thailand,[14] all countries under discussion have a history of being colonised or of colonising other countries themselves. The majority of them only became independent around the middle of the twentieth century and we can still witness the citizenship consequences of this relatively recent independence today. For example,

> The British colonial legacy is also visible in the current citizenship context in Malaysia. There are cases of Malaysian British Overseas Citizens (BOC) rendered stateless after failing to secure British nationality, having given up their Malaysian citizenship. As Malaysia strictly enforces a single nationality principle, any citizens exercising their right as a BOC and obtaining a British passport will lose their Malaysian citizenship (Low 2017: 2 and 30-31).

Decolonisation not only had important consequences for the field of nationality law, but also for that of migration:

> Until the middle of the twentieth century, the common distinction between internal and international migration meant little in the Asian context. Most migration took place within and across the boundaries of empires. In the twentieth century, internal migration within empires turned abruptly into international migration, as new states were formed and new borders drawn (Amrith 2011: 3).

The main European colonising powers were Britain, France, Portugal, the Netherlands and the United States. To start with French rule in Asia, Cambodia was a French protectorate between 1863-1953 and colonisation had a lasting impact in that Cambodia would henceforth adhere to the civil law system introduced by the French (Sperfeldt 2017: 2). In Vietnam, a French colony from the end of the nineteenth century until 1954,

> [g]enerally speaking, French laws, including the French Civil Code [were applied], following practices of the French courts in Cochinchine with local modifications. Most laws dealing with matters of citizenship were therefore concerned with naturalisation to French citizenship. As Vietnam held the status of a colony under French rule – unlike those living in French Protectorates such as Laos and Cambodia – Vietnamese colonial inhabitants were treated as 'subjects' and generally enjoyed more rights and privileges, including access to French citizenship (Nguyen 2017: 4-5).

Indonesia declared itself independent from the Netherlands in 1945, after having been dominated by this European power for almost 350 years. East Timor had been a Portuguese colony for several centuries until it was, in turn, invaded by Indonesia in 1975. The military occupation of East Timor lasted from 1975 until 1999 – during which time Indonesian citizenship law was applied (Harijanti 2017: 2) – and the country became an independent state in 2002. While the East Timor report notes that 'the issue of whether the inhabitants of East Timor were Indonesian and/or Portuguese became highly topical in the early 1990s' and addresses its legal intricacies in detail (Jerónimo 2017: 12), the Indonesian report pays less

Justice Initiative (on behalf of children of Nubian descent in Kenya) against the government of Kenya, 22 March 2011. See extensively on these cases De Groot and Vonk 2016 and, more concisely, Vonk 2016.

[14] Schulte-Nordholt 2016: 190. This report does not touch on Papua New Guinea, previously a German colony and later part of Australia before acquiring independence in 1975. See Thwaites 2017: 11-13.

attention to the citizenship allocation treaty concluded in 1949 between Indonesia and the Netherlands, but instead focuses on Indonesian citizenship law after independence.[15]

India had technically been a colony only from 1858-1947, although Ashesh and Thiruvengadam (4) point out that one could argue that the period of colonial rule in India extended to nearly two full centuries. Pakistan, also formerly part of British India, seceded from India in 1947 and at that time still included what is currently Bangladesh (Nazir 2016: 10). The latter gained independence from Pakistan in 1971 (Hoque 2016: 1). These processes led to a massive displacement of people across borders on the Indian subcontinent. Burma, too, had been fully colonised by the British by 1885 and the laws enacted for British India were also applicable in what today constitutes Myanmar (Arraiza and Vonk 2017: 3).

Sri Lanka was a British colony from 1796 until 1948. As Ganeshathasan and Welikala (1-3) show, its citizenship legislation 'has been predominantly shaped by the issue of citizenship for the Up Country Tamil Community'. Of great importance is the struggle for Sri Lankan citizenship by this stateless group originating from parts of South India and recruited to work in the plantation sector during the British colonial period.

While the Up Country Tamils take centre stage in the Sri Lankan report, other reports pay attention to the citizenship status of ethnic groups based in their respective countries, e.g. the Urdu-speaking minority/Non-Bengali Biharis in Bangladesh (Hoque 2016: 21-24); the ethnic-Vietnamese in Cambodia (Sperfeldt 2017: 17); and the Rohingya, an ethnic religious-linguistic minority based primarily in Rakhine state in Myanmar, but who have spread over the entire South East Asian region as refugees. While the citizenship status of the Up Country Tamils and the Urdu-speaking minority has greatly improved,[16] that of the Royingya has not.[17]

Malaysia and Singapore had been British colonies until 1957 and briefly merged in 1963. Singapore subsequently seceded from Malaysia in 1965 (Low 2017: 14). The very complex geographical and institutional structure of Malaysia and Singapore both before and after independence is explained in the Malaysian-Singapore report and summarised in a table at the end. The equally complex citizenship status of the population of Malaysia and Singapore when British nationality law still applied is also laid down in a separate table (Low 2017: 33-35).

The Philippines had been a Spanish colony before it was acquired, along with Puerto Rico and Guam, by the United States and its inhabitants thereby became US nationals (Aguilar 2017: 4-6; Spiro 2015: 3).[18] As will be seen below in section 3.1.2., it was the Filipino elite's prejudice against the ethnic Chinese which resulted in ius sanguinis taking over the role from ius soli as the basic principle for acquiring Philippine citizenship.

Aguilar also refers to the US 1882 Chinese Exclusion Law, which was extended to the Philippines in 1898. Indeed, many reports pay attention to the role of Chinese migrants in their respective countries, e.g. by discussing the 1955 Indonesian-Sino dual nationality treaty

[15] For a more detailed discussion of the allocation treaty, see Vonk 2012: 212-215, and in particular De Haas-Engel 1993.
[16] 'An outstanding development in the citizenship law of Bangladesh is the unambiguous judicial recognition of the citizenship-eligibility of the [Urdu-speaking minority] in Bangladesh' (Hoque 2016: 28) and 'The issue of statelessness among the Up Country Tamil community, created by the citizenship regime set up immediately after independence, has now been resolved legislatively' (Ganeshathasan and Welikala 2017: 16).
[17] For recent updates on the position of the Rohingya, see numerous publications by the Institute on Statelessness and Inclusion at http://www.institutesi.org.
[18] For the relationship between Spain and the Philippines, in particular in light of dual citizenship, see Vonk 2012: 281-324.

(Harijanti 2017: 7-9; Low 2016: 5-7) and discriminatory practices against individuals of Chinese descent (Aguilar 2017: 9; Jerónimo 2017: 2) It has also been argued that enacting a Chinese nationality law in the early twentieth century had become increasingly urgent for the Chinese government owing to the Dutch government's rejection of the Chinese request to establish consulates in the Dutch East Indies because China lacked nationality legislation under which it could lay down a claim to diplomatic protection of its citizens (Ko Swan Sik 1957: 122).[19]

It is against this backdrop and in light of China's weak position as explained below that China's last dynasty enacted the first Chinese nationality act in 1909 (the 'Qing Nationality Law'):

> In the nineteenth century, as the Qing dynasty became the sick man of East Asia, China lost much of its territory – the southern tributaries of Nepal and Burma to Great Britain; Indochina to France; Taiwan and the tributaries of Korea and Sakhalin to Japan; and Mongolia, Amuria, and Ussuria to Russia. In the twentieth century came the bloody Japanese takeovers of the Shandong Peninsula and Manchuria in the heart of China. This was all in addition to the humiliations forced on the Chinese by the extraterritoriality agreements of the nineteenth and early twentieth centuries, whereby Western nations wrested control of parts of Chinese cities – the so-called Treaty Ports (Kaplan 2014: 21).

New Chinese nationality laws were enacted in 1912 and 1929, the latter law remaining in force until 1949. The People's Republic of China would not have a nationality law during the 'silent period' from 1949 until 1980, when the citizenship law currently in force was enacted. Particularly noteworthy in the Chinese context is the difference between rural and urban residents based on the household registration system (*hukou*). The segmented and differentiated allocations of citizens' rights have allegedly resulted in rural migrants living in cities as second-class citizens (Low 2016: 15).

Two issues attracting attention in Taiwan are the high proportion of naturalised females and the large proportion of marriage migrants. Foreign brides have accounted for 88%-95% of total naturalisation between 2010 and 2015. As noted in the country report,

> The large share of marriage migrants in the total number of naturalisations can be explained for two reasons. First, the naturalisation numbers reflect the Taiwanese immigration trend of the feminisation of marriage migration. Second, labour migrants are excluded from the privilege of naturalisation. This is deeply embedded in the concept of 'population quality' in Taiwan's migration and citizenship policy. Under the government's categorisation of migrants, unskilled migrant workers are considered a lower-quality population. They are openly excluded from applying for permanent residence status or naturalisation (Low 2016: 24).

In contrast to the countries discussed thus far, Japan is a former colonising power in Asia which acquired Taiwan in 1895 after the Sino-Japanese War and the southern part of Sakhalin[20] in 1905 after the Russo-Japanese War (Kondo 2016: 3). Moreover, Japan's colonial ambitions were partly grounded in a 'scientific' racist discourse. In this respect,

[19] The same argument was to be repeated later in a chapter on Indonesia in a monograph on nationality law in Asia: 'The first modern Chinese law on nationality of 1909 was enacted by way of response to the Dutch argument that China had no legitimate claim to [jurisdiction over Chinese immigrants in the Dutch East Indies and their descendants] as it had not even a nationality law to which to refer' (Ko Swan Sik 1990: 164).

[20] Note that Sakhalin is also referred to in the Korean country report in connection with the forcible transfer of Koreans to the island by Japan. They were subsequently treated as stateless by the Soviet authorities after WWII. See Lee 2017: 24-25.

Imperial Japan was similar to both Europe and the Americas, where policies based on alleged biological differences also featured prominently at the time.[21]

As a result, Japan has had to deal with the citizenship position of its former colonial subjects:

> Despite assertions that immigration is a new phenomenon in Japan, Japanese politicians and pundits have been debating the problem of immigrant incorporation since at least the Meiji period … when Japan's first [1899] citizenship law was instituted. Moreover, as was the case with former European colonial powers, Japanese state officials formulated citizenship criteria in the context of decolonization and reconstruction in the postwar period. Consequently, debates on nationality and citizenship policies were concerned not only with redefining Japanese national identity as a democratic nation-state but also with the legal position of Japan's former colonial subjects (Chung 2010: 19).

This quote draws our attention to the position of former colonial subjects and their descendants under Japanese law. A particular feature of the Japanese case is that 'large numbers of imperial subjects from neighboring territories migrated to the Japanese metropole up until the end of World War II' (Chung 2010: 62). The unsuccessful mass repatriation of this undesirable population after the end of the war, which was partly due to the outbreak of the Korean War in 1950,[22] would ultimately lead to Japan unilaterally stripping its former colonial subjects of their Japanese nationality – a case of arbitrary deprivation of nationality based on grounds of ethnic origin, according to the country report (Kondo 2016: 11-12; see also Lee 2017: 10-11). The Korean report addresses in detail the citizenship-related problems surrounding the division of North and South Korea, in particular given that both countries consider themselves the legitimate sovereigns of the entire Korean peninsula. Thus,

> Korea's division into the Republic of Korea (South Korea [or] ROK) and the Democratic People's Republic of Korea (North Korea [or] DPRK) gives rise to the question of how to treat the citizens of the DPRK, given only the very abstract constitutional rule that the ROK has sovereignty over the whole of the Korean peninsula and adjacent islands (Lee 2017: 2).

Close to nothing is known about citizenship law in North Korea – a brutal dictatorship engaging in some of the worst human rights violations the world has known (Kirby and Gopalan 2015: 232) – and the GLOBALCIT analysis of North Korean law is based on the translation of a citizenship act containing only 15 Articles. The few publications on North Korean citizenship law mainly deal with the subject from the perspective of North Korean asylum seekers (Wolman 2012).

The reports on Afghanistan and Nepal both point to the lack of available data on matters relating to citizenship. Moreover, both countries face difficulties that do not exist, or exist to a much lesser extent, in the other Asian countries studied in this report. While 'Afghanistan does not have a well-structured system of registration of births among its population' (Athayi 2017: 9), in Nepal a significant part of the population lacks citizenship certificates, leading to the following day-to-day problems:

> Without citizenship certificates, people are unable to enjoy fundamental rights in Nepal. Possession of these certificates is required for civil documentation and

[21] See for example the influential racist and anti-semitic ideas of Georges Mauco in the French context in Vonk 2012: 176, 182. On ideologies like eugenics that favoured selectivity in the field of citizenship and migration in the Americas, see FitzGerald and Cook-Martín 2014.

[22] While the great majority of former colonial subjects from China and Taiwan would leave Japan, the Korean population had less incentives to leave because of the war.

> financial services. Moreover, they are required to access land and house titles, credit and bank accounts, and to be able to exercise basic civil and political rights (Shrestha 2017: 17).

The problems of birth registration and lack of citizenship certificates and/or identity documents also feature prominently in Cambodia (Sperfeldt 2017: 15-16) and Myanmar (Vonk 2017).[23]

In discussions of Asian migration, it has been noted that 'many of the laws and techniques to control migration originated in the United States, Australia, Canada, and South Africa, and many of these measures arose from the desire to exclude Asian migrants' (Amrith 2011: 13). Asian migrants were indeed frequently considered undesirable aliens and were for a long time subject to numerical limits on immigration (or barred from immigration altogether),[24] and suffered discriminatory treatment with regard to access to nationality in their country of residence. The following brief remarks on the position of Asians wishing to migrate to or naturalise in western countries during the twentieth century may therefore be in order.

Both Australia and the United States for a long time had policies that discouraged or banned Asians from naturalising. As for Australia,

> In contrast with the 1903 [Naturalisation] Act, the 1920 [Naturalisation] Act did not expressly deny persons the ability to apply for naturalisation on grounds of race. In its place it conferred 'absolute discretion' on the Governor-General to give or withhold a naturalisation certificate without providing a reason, giving the government scope to apply any policy on naturalisation of non-Europeans it thought fit. Only 45 persons characterized by the government as being of an Asian nationality were naturalised between 1904 and 1953 (Thwaites 2017: 6).

Changes to this established policy took place in 1957 and 1966 and would result in Australia formally abolishing this discriminatory treatment from 1972 onwards (ibid: 11).

The situation was not much different in the United States. While the question of ius soli was settled with the Supreme Court's decision in *Wong Kim Ark* (1898),[25] racial discrimination was to prevail in both immigration and citizenship law until the mid-twentieth century. It was not until 1952 that racial naturalisation bars were removed, and not until 1965 that the national origins system was abolished in US immigration law (Motomura 2006: 171).[26]

It has recently been argued that Latin America played a key role in removing racial discrimination from citizenship and migration law:

---

[23] See also the work of the Norwegian Refugee Council with regard to facilitating the issuing of identity cards since 2012 through mobile One Stop Service (OSS) centers in South East Myanmar: https://www.nrc.no/news/2016/july/providing-legal-aid-to-vulnerable-communities/.

[24] 'After [the U.S.] Congress legislated Chinese exclusion in 1882, Japanese and other Asians immigrated to replace Chinese labor but became new targets of exclusion. A diplomatic agreement between the United States and Japan in 1908 curbed Japanese immigration and the Immigration Act of 1917 excluded Asian Indians and all other native inhabitants of a "barred Asiatic zone" that ran from Afghanistan to the Pacific' (Ngai 2004: 18).

[25] *United States v. Wong Kim Ark*, 169 U.S. 649 (1898).

[26] Note however that, confusingly, some local American courts would naturalise Asians (e.g. Chinese or Indians) anyway. From 1906 onwards this practice would trigger a counter-reaction from the Naturalization Bureau in that it began, with the support of the Supreme Court, to actively denaturalise Asians – and in some cases render them stateless. See Weil 2013: 76-82.

Also observe that the US naturalisation law of 1870 had not explicitly excluded persons of Chinese descent from naturalisation. Since this would only be done by means of the 1882 Chinese Exclusion Act, several Chinese were successful in applying for naturalisation in the US. See Salyer 2005: 57.

> A widespread narrative attributes the demise of ethnic discrimination in immigration laws to the vertical scale of politics within each Anglophone settler state. An extended analysis of the horizontal plane shows that this narrative is partial and inaccurate. Motivated by a search for respect after centuries of racial stigmatization, Asian and African leaders allied with the 'Latin American bloc' to challenge the dominance of the great powers of the West and to pressure for anti-racist principles that would ultimately change immigration policies throughout the Western Hemisphere and the Anglophone settler societies (FitzGerald and Cook-Martín 2014: 80).[27]

Still, one should not lose out of sight the fact that during certain periods intra-Asian migration was numerically much more important: 'Whereas 40 per cent of Chinese emigrants in the 1850s travelled beyond Asia, between the 1880s and 1930, 96 per cent of Chinese emigrants remained *within* Asia' (emphasis in orginal; Amrith 2011: 38).

3. Comparative Analysis of citizenship laws

3.1. Acquisition of citizenship by birth

Although international treaties aim to harmonise the rules concerning the acquisition of nationality, there remains a huge variety of grounds for acquisition by operation of law. The most frequent ways of acquisition of nationality by birth are acquisition iure sanguinis (by birth as a child of a national) and acquisition iure soli (by birth on the territory of a state).

Originally, all states which provided for an acquisition of nationality iure sanguinis almost exclusively applied ius sanguinis a patre (by the paternal line); only in exceptional circumstances was ius sanguinis a matre (by the maternal line) relevant (e.g. in the case of a child born out of wedlock and not recognised by a man). In practice, however, most children had the same nationality as the father and mother, because women lost their own nationality at the moment of marriage and at that moment acquired the nationality of their husband. During the twentieth century this 'unitary' system was gradually replaced by the 'dualist' system which allowed women to possess their own independent nationality. The Asian countries were no exception and several of the country reports refer to the year gender equality was introduced: Bangladesh (2008), China (1980), India (1992), Japan (1985), Nepal (2006), Pakistan (2000), South Korea (1998), Sri Lanka (2003) and Taiwan (2000 but with retroactive effect to 1980).

Rather uniquely, however, some countries such as Indonesia and Japan do not accept dual citizenship arising from mixed marriages. In Japan, the obligation to choose between the foreign and Japanese citizenships applies irrespective of whether the foreign nationality was acquired iure sanguinis or iure soli, although the policy does not seem to be strictly enforced (Kondo 2016: 6). The situation in Indonesia is as follows:

[27] 'Governments and non-state actors from geopolitically weaker countries like Brazil, Chile, Mexico, Peru and Panama played a leadership role in delegitimizing racism and eventually pressuring stronger countries like the United States and Canada to change their immigration policies. These developments run counter to the received wisdom that the international turn away from racial discrimination in public policies was led by liberal democratic exemplars of the hemisphere in response to domestic politics and happened after World War II in reaction to Nazi atrocities and scientific racism' (FitzGerald and Cook-Martín 2014: 47).

> Children born from an international marriage have dual citizenship. They have to opt for one of the nationalities when they reach the age of 18 years and before the age of 21 years at the latest. Unfortunately, the 2006 [Citizenship] Law does not regulate in detail their status if they fail to do so. Rather, the consequence of this failure is found in Government Regulation No. 2 of 2007, which says that 'in the case of children […] who do not choose any of their citizenships, the legislative provisions on foreigners shall apply' (Harijanti 2017: 13).

Thus, the concerned children will lose their Indonesian nationality if they are affected by this condition (ibid: 13).

Nowadays, most countries apply a combination of ius sanguinis and ius soli principles. Classical ius soli countries provide, in the case of birth abroad of a child of a national, for an acquisition iure sanguinis, but often limit the transmission of nationality in this way to the first or second generation. In cases where countries have decided to apply additional conditions to transmission iure soli, they have given more weight to acquisition iure sanguinis by adding provisions for automatic acquisition by descent for those children born inside the country of a parent who is a national.

On the other hand, classical ius sanguinis countries have in the recent past introduced some elements of ius soli in order to reduce cases of statelessness or to stimulate the integration of the descendants of foreign families residing permanently on their territory.

3.1.1. Ius sanguinis

It is apparent from a glance at tables 1 and 2 that the primary mode of acquiring citizenship by birth in the Asian countries is by ius sanguinis. In this sense, the Asian states follow the European rather than the American practice (Vonk 2014; Dumbrava 2017). Particularly noteworthy in the Asian context is the position of children born outside the country; additional conditions are required for children to acquire their parents' citizenship and widespread resistance exists to these children becoming dual citizens. In this respect, the Asian practice is clearly more restrictive than that in Europe. Gender-discriminatory rules still exist in Nepal (irrespective of whether the child is born in Nepal or abroad, see Mulmi and Shneiderman 2017) and Malaysia (in case the child is born abroad).

Table 1 – Rules of ius sanguinis

	Child born in the country		**Child born outside the country**	
	General rule	*Special cases*	*General rule*	*Special cases*
Afghanistan	Automatic	-	Automatic	Main rule: both parents need to be citizens
Bangladesh	Automatic	-	Automatic / Registration	Depending on whether parent is a citizen by descent or other than descent
Cambodia	Automatic	Birth needs to be in wedlock	Automatic	Birth needs to be in wedlock

China	Automatic	-	Automatic	NO if parent is settled abroad and child can acquire another citizenship
East Timor	Automatic	-	Declaration	-
India	Automatic	-	Automatic / Registration	Depending on whether parent is a citizen by descent or other than descent
Indonesia	Automatic	Birth needs to be in wedlock	Automatic	Birth needs to be in wedlock and restriction on dual citizenship
Japan	Automatic	-	Automatic	Restriction on dual citizenship
Laos	Automatic	-	Automatic	Main rule: both parents need to be citizens
Malaysia	Automatic	-	Automatic / Registration	Depending on whether the father or mother is a citizen
Mongolia	Automatic	-	Automatic	Main rule: both parents need to be citizens
Myanmar	Automatic	One parent must be a citizen and other parent a citizen, associate citizen or 'naturalised' citizen	Automatic	One parent must be a citizen and other parent a citizen, associate citizen or 'naturalised' citizen
Nepal	Declaration / Naturalisation	Children born to Nepalese mother and non-citizen father may apply for naturalisation	Declaration / Naturalisation	Children born to Nepalese mother and non-citizen father may apply for naturalisation
North Korea	Automatic	-	Automatic	Restriction on dual citizenship
Pakistan	Automatic	-	Automatic / Registration	Depending on whether parent is a citizen by descent or other than descent
Philippines	Automatic	-	Automatic	-
Singapore	Automatic	-	Registration	Restriction on dual citizenship; parent who

				is a citizen by descent needs to have had prior residence in Singapore
South Korea	Automatic	-	Automatic	-
Sri Lanka	Automatic	-	Registration (entitlement or discretionary)	Depending on whether child is registered within one year after birth
Taiwan	Automatic	-	Automatic	-
Thailand	Automatic	-	Automatic	-
Vietnam	Automatic	Main rule: both parents need to be citizens	Automatic	Main rule: both parents need to be citizens

3.1.2. Ius soli

Table 2 describes the situation of foreigners born in the country. The GLOBALCIT Observatory makes a distinction between acquisition at birth – either for the first or second generation born in the country – and between acquisition after birth.

A clear global trend is the abolition of automatic ius soli or its replacement by more conditional forms of ius soli (in Africa in particular in the Commonwealth states, Manby 2015: 2). The Americas remain the notable exception, with 30 out of 35 countries providing for automatic and unconditional ius soli (Vonk 2014). A shift from ius soli to ius sanguinis has been witnessed in Asia in the course of the twentieth century. Thus, according to the Indian report,

> The framers of India's constitution adopted a modernist, secular notion of citizenship by seeking to incorporate a broadly ius soli conception of citizenship in the Constitution. Over time, this has been modified to incorporate various elements of a ius sanguinis model of citizenship, with the insertion of notions of descent, common religious identity and common 'national' values into the discourse of citizenship (Ashesh and Thiruvengadam 2017: 20).

A similar trend can be witnessed in other Asian countries: 'Since the Bangladeshi citizenship of the parent(s) of a child born in Bangladesh is a primary reason for his or her becoming a citizen by birth, it can be safely argued that […] the Bangladesh citizenship principle has de facto shifted from ius soli to ius sanguinis' (Hoque 2016: 13).

As for Indonesia, 'In 1946, the Indonesian government promulgated the first Indonesian citizenship law, known as Law No. 3 of 1946 concerning Citizenship and Resident of Indonesia which emphasised the use of ius soli […] This principal basis was then changed to ius sanguinis by Law No. 62 of 1958' (Harijanti 2017: 2).

The situation in Malaysia is slightly more complex:

> *[B]irthright citizenship* [introduced after independence] was replaced with double ius soli under a new constitutional arrangement called the Federation of Malaya, which came into force on 1 February 1948. Based on the concept of *double ius soli*, second generation migrants obtained federal citizenship automatically if both of their parents

> were born and had resided in the Federation for a continuous period of at least fifteen years […] The next development in Malayan citizenship provisions was in September 1952. In a constitutional amendment in 1952, the double ius soli principle was replaced with *delayed ius soli*. Under the principle of delayed ius soli, local-born children became subjects of a Malay ruler if one of their parents was born in the Federation of Malaya […] (emphasis added; Low 2017: 5-6).

Ius sanguinis would come to prevail over ius soli, however, starting from 1962: 'According to the Constitution (Amendment) Act 1962, birth in the Federation entitled one to Federal citizenship if one of the parents was either a citizen or a permanent resident in the Federation. Ius soli was no longer applied without condition and it was conditioned by elements of ius sanguinis' (Low 2017: 16).

The Philippines had applied ius soli under the short-lived Malolos Constitution (1899-1901) and during the period under US colonial rule, but favoured ius sanguinis after independence – the watershed occurring in 1947 when the Supreme Court abandoned ius soli once and for all (Aguilar 2017: 11). The Philippines now provides for a slightly facilitated naturalisation procedure for persons born on the territory (ibid: 12). The rationale for favouring ius sanguinis over ius soli is worth quoting at length:

> One major reason for the adoption of ius sanguinis in the 1935 Constitution and in postwar jurisprudence was the Filipino elite's prejudice against the ethnic Chinese, generations of whom had migrated from southern China to the Philippines over the course of several centuries. In the postcolonial period, Chinese who were born on Philippine territory, as well as those who migrated to the country, could acquire Philippine citizenship only through a costly judicial procedure of naturalisation. Chinese who could not afford the costs of naturalisation carried Taiwanese passports […] For several decades Chinese leaders campaigned for acceptance and inclusion in the Philippine body politic. Proposals for modified forms of ius soli were made but never prospered. In 1975, however, Ferdinand Marcos utilised the historical conjuncture to grant mass naturalisation to ethnic Chinese and other resident aliens, mostly South Asians, as part of establishing diplomatic relations with the People's Republic of China […] Administrative naturalisation is now an established procedure, serving as the means by which aliens and a handful of stateless persons born on Philippine territory gain citizenship (Aguilar 2017: 1-2).

Table 2 – Rules of ius soli

	Birth in country (2nd generation)		**Birth in country (3rd generation)**		**Birth in country (acquisition after birth)**	
	General rule	*Special cases*	*General rule*	*Special cases*	*General rule*	*Special cases*
Afghanistan	N/A	-	N/A	-	Declaration	After the age of 18
Bangladesh	-	NO in practice (although law provides for automatic ius soli)	N/A	-	N/A	-
Cambodia	N/A	-	Automatic	Both parents were born in Cambodia and are legally resident	Naturalisation	After 3 years' residence; other conditions apply
China	N/A	-	N/A	-	N/A	-
East Timor	N/A	-	Automatic	-	Declaration	After the age of 17
India	N/A	-	N/A	-	-	-
Indonesia	N/A	-	N/A	-	N/A	-
Japan	N/A	-	Naturalisation	Waiver of certain requirements	Naturalisation	After 3 years' residence; other conditions apply
Laos	N/A	-	N/A	-	N/A	-

Malaysia	Automatic	Parent is permanently resident foreigner	N/A	-	N/A	-
Mongolia	N/A	-	N/A	-	N/A	-
Myanmar	N/A	-	N/A	-	N/A	-
Nepal	N/A	-	N/A	-	N/A	-
North Korea	N/A	-	N/A	-	N/A	-
Pakistan	?	-	N/A	-	N/A	-
Philippines	N/A	-	N/A	-	Naturalisation	After the age of 18 and based on continuous residence since birth; other conditions apply
Singapore	N/A	-	N/A	-	N/A	-
South Korea	N/A	-	Naturalisation	Waiver of certain requirements	N/A	-
Sri Lanka	N/A	-	N/A	-	N/A	-
Taiwan	Automatic	-	Naturalisation	Waiver of certain requirements	Naturalisation	After 3 years' residence; other conditions apply
Thailand	Automatic	Unless parent is temporarily resident or entered illegally	N/A	-	N/A	-
Vietnam	N/A	-	N/A	-	N/A	-

3.1.3. Special rules of acquisition of citizenship at birth

Not all Asian countries grant automatic access to citizenship to children who are found or abandoned on their territory, although it may be assumed that most countries will nonetheless presume such children to be citizens (e.g. Hoque 2016: 17). Those that do grant citizenship sometimes maintain limitations with regard to the age of the child, in particular by providing that only newborn children are eligible. The question whether foundlings with no known parentage became natural-born citizens became a key issue in the Philippines in the context of the 2016 national elections (Aguilar 2017: 19-21).

The best solution to the problem of statelessness is evidently to secure for everyone the acquisition of a nationality at birth. For this reason several international instruments impose explicit obligations upon states to grant citizenship to children born on their territory who would otherwise be stateless. The most important international instrument in this respect is the 1961 Convention on the Reduction of Statelessness, yet none of the Asian states under discussion is a party to this convention.[28] Some countries consider the convention to be incompatible with their citizenship law (Kondo 2016: 10).

A number of country reports explicitly point to the legislative gap in respect of foundlings and stateless children (Hoque 2016: 17-18).

Table 3 – Special rules of acquisition of citizenship at birth

	Stateless at birth	**Foundlings**
Afghanistan	Automatic	-
Bangladesh	-	-
Cambodia	-	Automatic
China	Automatic	-
East Timor	Automatic	Automatic
India	-	-
Indonesia	Automatic	Automatic (only newborns)
Japan	Automatic / Naturalisation (depending on citizenship of parents)	Automatic
Laos	Declaration (if parents are permanent residents)	Automatic
Malaysia	Automatic	-
Mongolia	Registration (if parents are permanent residents)	Automatic
Myanmar	-	-
Nepal	-	Automatic
North Korea	Automatic	Automatic
Pakistan	-	-

[28] This is not the place to discuss other instruments dealing with statelessness, such as the 1989 Convention on the Rights of the Child. See Vonk, Vink and De Groot 2013: 38-42.

Philippines	-	-
Singapore	Registration	Automatic (only newborns)
South Korea	Automatic	Automatic
Sri Lanka	-	Automatic (only newborns)
Taiwan	Automatic	Automatic
Thailand	-	-
Vietnam	Automatic (if parents are permanent residents)	Automatic (only newborns)

3.2. Acquisition of citizenship after birth

3.2.1. Ordinary naturalisation and special naturalisation for spouses of citizens

One of the characteristics of non-Western countries in the field of citizenship law is the modest role of ordinary naturalisation as a means to acquire nationality.[29] In Bangladesh, for example only 418 persons naturalised in the period 1988-2016, of whom 416 on the basis of a family relationship (Hoque 2016: 15). The naturalisation rate in Japan, at 0.4 percent of the foreign population in 2013, is extremely low among OECD (Organisation for Economic Co-operation and Development) countries, which Kondo mainly attributes to Japan's rejection of dual citizenship (Kondo 2016: 1, 7). In Malaysia, the road to naturalisation is fraught with obstacles:

> The greatest barriers to naturalisation include the lack of clear guidelines, a lack of transparency, no reason given for rejection, no time limits set for the evaluation of applications, and no rules on appeal procedures. Citizenship by registration and naturalisation is highly discretionary. Immigrant spouses are subject to the discretionary naturalisation regime, even when fulfilling the application criteria. There were 32,927 citizenship applications filed by both locals and foreigners between 1997 and 2009. The application process does not have a clear timeframe, which resulted in many applicants waiting for a response for two decades. According to the Home Minister, the approval of a citizenship application is very subjective. The main reasons behind citizenship applications being rejected include patriotism, state security and financial considerations. Between 2000 and 2009, 4,029 foreigners applied for citizenship; 1,806 applications were approved. In the same timeframe, 3,640 applications for citizenship involved children and 1,066 applications were approved. The Home Ministry reiterated that Malaysian citizenship is a privilege and not a right (Low 2017: 18-19).

The South Korean case is a good illustration of the interaction between different modes of acquisition, namely automatic acquisition, facilitated naturalisation for spouses, and re-acquisition of citizenship by former citizens. While the frequency of naturalisation in the 1990s was very low in Korea, this was because

> the foreign spouses of Korean men did not need naturalisation until early 1998 because they automatically acquired citizenship upon marriage. In that period, ethnic return migration from the former communist countries was restricted. Return migrants from China had greater recourse to reinstatement of nationality than naturalisation because the first-generation Korean Chinese were treated as having once held ROK citizenship. Since 2001, naturalisation cases have increasingly outnumbered cases of reinstatement of nationality (Lee 2017: 27).

In practice, this meant that naturalisation numbers which did not exceed a hundred per year until the mid-1990s have increased to over 10,000 per year in the last decade. As for North Korea, the provision dealing with naturalisation only stipulates that the applicant is a foreigner. The provision is therefore hard to interpret, but will in any case have little effect given the low demand for North Korean citizenship.

In respect of Pakistan, Sadiq has pointed at the discrepancy between the country's narrow Islamic national identity, while on paper displaying a citizenship policy that seems open and based on inclusive principles. 'This discrepancy is one of appearance only', Sadiq

[29] While this has somewhat changed since the late 1990s, 'fewer than 10 foreigners were naturalized every year in Korea from 1948 to 1985'. Choe 2006: 102, 105.

notes. 'In Pakistan, there is a disconnection between formal citizenship laws and the reality of citizenship practice, in which the discriminatory treatment of women and ethnic minorities is rampant' (Sadiq 2009: 4). Indeed, the policy effectively separates Muslims from non-Muslims and 'while formal gender restrictions in citizenship laws were liberalized by 2000, other judicial practices and norms continue to devalue female citizenship in Pakistan' (ibid: 13). The country's 'Islam-based exclusionary conception of Pakistani nationality' means that 'Islamic principles increasingly defined every aspect of life in Pakistan, therefore discouraging any non-Muslim claimants to Pakistani citizenship' (ibid: 13, 17). The result is that 'gaining access to … Pakistani citizenship through naturalization is a rare occurrence' (ibid: 16).

According to Ganeshathasan and Welikala (14, 16), 'Sri Lanka does not encourage naturalisation of foreign citizens' and 'naturalisation of foreign nationals is allowed in only very limited situations where such persons have a link to Sri Lanka either through their parents or spouse or in situations where such persons have made a significant contribution to the country'.

In conclusion, naturalisation patterns in Asia clearly resemble more closely those in Latin America[30] and Africa[31] than those in Europe.

[30] Acosta 2016: 7-8. Various GLOBALCIT country reports (e.g. Nicaragua and Peru) observe that naturalisation rates in Latin America are very low.

[31] According to Manby (198), 'It is indicative of the difficulty of naturalisation that there are almost no published statistics about the numbers naturalised in most African countries. Those statistics that are available reveal that the numbers of naturalised persons vary hugely across countries, but are generally low'.

Table 4 – Rules of ordinary naturalisation

	Residence *(years)*	**Renunciation of other citizenship**	**Language**	**Knowledge about the country**	**Good character**	**Self-sufficiency**	**Clean criminal record**	**Oath of allegiance**
Afghanistan	5	-	-	-	-	-	Yes	-
Bangladesh	5	Yes	-	-	Yes	-	-	Yes
Cambodia	7	-	Yes	Yes	Yes	-	Yes	-
China	-	Yes	-	-	-	-	Yes	Yes (in the sense of respect for Constitution)
East Timor	10	-	Yes	Yes	-	Yes	-	-
India	12	Yes	Yes	-	Yes	-	-	Yes
Indonesia	5	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Japan	5	Yes	-	-	Yes	Yes	-	Yes (in the sense of respect for Constitution)
Laos	10	Yes	Yes	Yes	-	Yes	Yes	Yes (in the sense of respect for Constitution)
Malaysia	11	-	Yes	-	Yes	-	-	Yes
Mongolia	5	Yes	Yes	Yes	Yes	Yes	Yes	-
Myanmar	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Nepal	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

North Korea	-	-	-	-	-	-	-	-
Pakistan	5	Yes	Yes	-	Yes	Yes	-	Yes
Philippines	10	-	Yes	Yes	Yes	Yes	Yes (in the sense of irreproachable conduct)	Yes (in the sense of respect for Philippine customs)
Singapore	11	Yes	Yes	-	Yes	-	-	Yes
South Korea	5	Yes	Yes	Yes	Yes	Yes	-	-
Sri Lanka	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Taiwan	5	Yes	Yes	Yes	Yes	Yes	Yes	-
Thailand	5	-	Yes	-	Yes	Yes		
Vietnam	5	Yes	Yes	-	-	Yes	-	Yes (in the sense of respect for Constitution and customs)

Table 5 – Special naturalisation - spouses of citizens

**female spouse of male citizen only **male spouse of female citizen only*

	Procedure	Residence (Years)	Renunciation of other citizenship	Language	Other conditions
Afghanistan	Discretionary	-	-	-	Yes
Bangladesh	Discretionary	2	Yes	-	Yes
Cambodia	Discretionary	3	-	-	-
China	N/A	-	-	-	-
East Timor	Entitlement	2	-	Yes	Yes
India	Discretionary	7	-	-	Yes
Indonesia	Declaration	5	Yes	-	-
Japan	Discretionary	3	Yes	-	Yes
Laos	N/A	-	-	-	-
Malaysia	Discretionary*	2	-	-	Yes
Mongolia	N/A	-	-	-	-
Myanmar	N/A	-	-	-	-
Nepal	Entitlement*	-	Yes	-	-
North Korea	N/A	-	-	-	-
Pakistan	Entitlement*	-	-	-	Yes
Philippines	Discretionary**	5	-	Yes	Yes
Singapore	Discretionary*	2	Yes	-	Yes
South Korea	Discretionary	2	-	Yes	Yes
Sri Lanka	Discretionary	1	Yes	-	Yes
Taiwan	Discretionary	3	Yes	Yes	Yes
Thailand	Discretionary*	-	-	-	-
	Discretionary**	-	-	-	Yes
Vietnam	Discretionary	-	Yes	-	Yes

As for special naturalisation based on special achievements or contributions to the country (table 6), it is sometimes unclear if any of the ordinary naturalisation conditions apply. If this is not explicitly stipulated in the law, the analysis reads 'no other conditions'.

Most noteworthy is that this provision in Nepal seems to replace ordinary naturalisation, which does not exist in the country. Thus, Nepalese citizenship can be acquired under this ground for acquisition either as a form of honorary citizenship, with no other requirements that have to be met, or as a result of 15 years of residence in combination

with special merits in fields such as science or art. In the latter case, conditions have to be met which in other countries are standard requirements for naturalisation, such as language skills and the renunciation of citizenship of another country.

Table 6 – Special naturalisation - persons with special achievements or contributions

	Grounds	Main facilitations
Afghanistan	N/A	-
Bangladesh	N/A	-
Cambodia	Special merits or achievements	No other conditions
China	N/A	-
East Timor	High and relevant services	No other conditions
India	N/A	-
Indonesia	Has enhanced the status of Indonesia or grant of citizenship is in country's interest	All naturalisation conditions except renunciation of other citizenship are waived
Japan	Special meritorious services	No residence requirement
Laos	N/A	-
Malaysia	N/A	-
Mongolia	Has done an honour for the country or profession or experience is in the interest of Mongolia	Conditions relating to residence, means for self-support and knowledge of language and customs can be waived
Myanmar	N/A	-
Nepal	Special merits	-
North Korea	N/A	-
Pakistan	N/A	-
Philippines	N/A	-
Singapore	N/A	-
South Korea	Contributed greatly to South Korea or has special abilities in e.g. science or culture	Conditions relating to residence, age, renunciation requirement and means of living can be waived
Sri Lanka	Contributed to social and cultural life	All conditions can be waived, but person must have intent to ordinarily reside in the country
Taiwan	Special contribution	All conditions can be waived
Thailand	N/A	-
Vietnam	Meritorious contribution to national construction and defence	Conditions relating to residence, language and means of living can be waived

3.3. Loss of citizenship

There is an enormous variety of grounds for loss of nationality, either *ex lege* on the initiative of the state or on the initiative of the individual involved. The 1961 Convention on the Reduction of Statelessness forbids some grounds for loss of nationality if this would cause statelessness for the person involved, but the convention also provides for several exceptions to this rule. Articles 7 and 8 of the European Convention on Nationality go further and give an exhaustive list of acceptable grounds for loss of nationality, some of which are addressed below (De Groot and Vonk 2016: 64 and, for an analysis from the perspective of statelessness, Vonk, Vink and De Groot 2013).

3.3.1 Voluntary loss of citizenship

In some countries renunciation of citizenship is explicitly withheld in times of war (Malaysia, Myanmar, Pakistan, Philippines, Singapore, and Sri Lanka). Several countries still have compulsory military service, such as Singapore (Low 2017: 26) and South Korea (Lee 2017: 35), and make release from citizenship dependent on fulfilment of this obligation.

Mongolia and Vietnam have a protection mechanism by providing for (facilitated) reacquisition of citizenship when the acquisition of another citizenship does not materialise. Taiwan, by contrast, allows for the possibility to revoke the renunciation in case no other citizenship is acquired. Nepal and North Korea have no provision on voluntary renunciation, while Thailand only allows renunciation for certain categories of citizens, for example those who can acquire the citizenship of a foreign spouse.

Table 7 – Voluntary loss of citizenship – conditions

**** Renunciation is not possible***

Country	**Possession of another citizenship**	**Residence abroad**	**No ongoing charges or convictions**	**Completed military (or alternative) service**	**No other obligations towards the state/ others**
Afghanistan	-	-	Yes	-	Yes
Bangladesh	-	-	-	-	-
Cambodia	Yes	-	-	-	-
China	-	Yes	-	Yes	-
East Timor	Yes	-	-	-	-
India	-	-	-	-	-
Indonesia	Yes	Yes	-	-	-
Japan	Yes	-	-	-	-
Laos	-	-	Yes	-	Yes
Malaysia	Yes	-	-	-	-
Mongolia	Yes	-	Yes	-	Yes
Myanmar	-	-	-	-	-

Nepal*	-	-	-	-	-
North Korea*	-	-	-	-	-
Pakistan	Yes	-	-	-	-
Philippines	-	-	-	-	-
Singapore	Yes	-	-	Yes	-
South Korea	Yes	Yes	-	Yes	-
Sri Lanka	-	-	-	-	-
Taiwan	-	-	Yes	Yes	Yes
Thailand*	-	-	-	-	-
Vietnam	Yes	-	Yes	Yes	Yes

3.3.2. Involuntary loss of citizenship

Residence abroad

Residence abroad constitutes a ground for loss in around half of the countries under discussion, with only Malaysia stipulating that it only applies to naturalised citizens. This is in clear contrast to Africa, for example, where most countries that provide for this ground for loss exclusively apply it to citizens by naturalisation or registration (Manby 2015: 175-176).

Voluntary acquisition of other citizenship

Since most countries in Asia reject dual citizenship, the voluntary acquisition of another citizenship leads to loss of one's original citizenship in a majority of countries. Bangladesh and Pakistan provide that citizens who acquire a foreign citizenship may relinquish their original citizenship voluntarily. When citizenship is not relinquished voluntarily, it lapses automatically. Loss of citizenship upon acquiring another citizenship is still the main rule in South Korea, but the law provides for many exceptions (including when the person acquires the same citizenship as the spouse through marriage). In Sri Lanka this loss provision only applies to citizens by descent or registration.

Service in foreign army/other services

The laws of nine out of twenty-one countries provide for the loss of citizenship in case of service in a foreign army or by rendering other services to a foreign country - usually in the form of taking public office abroad without the consent of his/her country of nationality.

Disloyalty or treason

The table shows that this ground for loss can be found in around half of the countries. On a general note, it is observed that – like in Europe (Vonk, Vink, De Groot 2013: 81) – most national provisions are drafted in rather general terms, and the country reports do not discuss the practical interpretation of these often vaguely worded norms. In contrast to Europe,

however, no Asian country has recently amended its law to include terrorist activities under the umbrella of disloyalty or treason.

The concept of loyalty goes particularly far in Malaysia: 'Loyalty is the cornerstone of Malaysian citizenship, which means that renouncing Malaysian citizenship demonstrated an act of disloyalty to the country. There is no constitutional provision for former Malaysian citizens to recover their citizenship. The stipulated timeframe is longer than the ordinary naturalisation requirement of ten years provided under the constitution' (Low 2017: 30).

Other offences

It is noteworthy that in most countries this ground for loss only applies to naturalised citizens. Thailand applies the provision to both naturalised citizens and citizens who were born in Thailand to a parent who was a foreigner.

Fraud in acquisition

There is widespread acceptance among the international instruments dealing with nationality law that fraud is a legitimate ground for loss of citizenship, even if this would render a person stateless (Vonk, Vink and De Groot 2013: 84). Even if countries do not explicitly provide for such a ground in their citizenship law, it may be assumed that citizenship may still be withdrawn based on principles of general administrative law. Laos and Vietnam are examples of good practice by providing that citizenship can only be lost within a period of 10 years after acquiring citizenship.

Table 8 – Involuntary loss of citizenship - grounds of loss

**naturalised citizens only*

	Residence abroad	**Voluntary acquisition of other citizenship**	**Service in foreign army/ other services**	**Disloyalty or treason**	**Other offences**	**Fraud in acquisition**
Afghanistan	No	No	Yes	Yes	No	No
Bangladesh	Yes	Yes	No	Yes*	Yes*	Yes
Cambodia	No	No	No	No	No	No
China	No	Yes	No	No	No	No
East Timor	No	No	Yes	Yes*	No	Yes
India	Yes*	Yes	Yes*	Yes*	Yes*	Yes
Indonesia	Yes	Yes	Yes	Yes	Yes	Yes
Japan	No	Yes	Yes	No	No	No
Laos	Yes	Yes	No	Yes*	No	Yes
Malaysia	Yes*	Yes	Yes*	Yes	Yes*	Yes
Mongolia	No	Yes	No	No	No	Yes
Myanmar	Yes	Yes	Yes*	Yes	Yes*	Yes

Nepal	No	Yes	No	No	No	Yes
North Korea	No	No	No	No	No	No
Pakistan	Yes	Yes	No	Yes*	Yes*	Yes
Philippines	Yes	Yes*	Yes	Yes	No	Yes
Singapore	Yes	Yes	Yes*	Yes	Yes*	Yes
South Korea	No	Yes	No	Yes*	No	Yes
Sri Lanka	No	Yes	No	No	No	No
Taiwan	No	No	No	No	No	No
Thailand	Yes	Yes	No	Yes	Yes	Yes
Vietnam	No	No	No	Yes	No	Yes

4. Bookends of the citizenship spectrum: multiple nationality and statelessness

While the GLOBALCIT typology on modes of acquisition covers facilitated naturalisation for refugees and stateless persons, there was no point in describing the situation in Asia in a separate table. Not a single country offers facilitated naturalisation to refugees and only three countries have provisions for stateless persons, although their practical impact seems minimal. Afghanistan provides for discretionary naturalisation of stateless persons upon fulfilling all the ordinary naturalisation requirements or upon marrying a citizen. China also grants discretionary naturalisation to stateless persons upon fulfilling all the ordinary naturalisation requirements. Only Vietnam offers naturalisation by entitlement to stateless persons who lack identification papers, have been settled in Vietnam for 20 years and respect the Constitution and laws of Vietnam.

The lack of provisions dealing with facilitated naturalisation for refugees and stateless persons in Asia is not surprising given the particularly bad record in ratifying a number of relevant international treaties:

- 1951 Convention relating to the Status of Refugees (145 parties): Afghanistan, Cambodia, China, East Timor, Japan, Philippines and South Korea;
- 1954 Convention relating to the Status of Stateless Persons (89 parties): Philippines and South Korea;
- 1961 Convention on the Reduction of Statelessness (68 parties): no Asian states.

'Although the ROK is a state party to the 1954 Convention on the Status of Stateless Persons', the Korean report notes, 'few legislative efforts have been made to bring the convention rules and standards into law and practice. Neither does the government seriously consider accession to the [1961] Convention on the Reduction of Statelessness' (Lee 2017: 41).

The case of Bangladesh shows that any protection offered to refugees is done on an ad hoc basis, not on the basis of an international obligation:

> Bangladesh has not acceded to the 1951 Refugee Convention, and does not have any legislative provisions that allow those who are often called 'illegal' (irregular) or 'undocumented' immigrants to seek asylum or the permanent residency status on humanitarian grounds. As the government often claims, it accepted 'Myanmar refugees' not out of any obligation, but rather acting under its prerogative and on a humanitarian ground. As such, the Rohingya refugees or the self-settled Rohingyas do not currently have a chance to get 'earned citizenship' by virtue of the government's amnesty or regularisation. Nor do their children born in Bangladeshi camps have a right to be naturalised on the basis of residence/domicile in Bangladesh for a certain period (Hoque 2016: 12).

The Philippines, by contrast, has been applauded for recently issuing a circular entitled 'Establishing the Refugee and Stateless Status Determination Procedure'.[32] Its practical effect in securing Philippine nationality for those who have been recognised as stateless remains to be seen, however (Aguilar 2017: 21-22). Along similar lines, Vietnam has been discussed positively for providing protection against statelessness, at least on paper:

> Based on the letter of the law, Vietnam's legislation appears to have stronger protections against statelessness, including clearer and more detailed provisions on the application and decision-making processes, than some of its neighbouring countries, such as Cambodia, where the domestic citizenship law offers no protection or prevention against statelessness, and leaves open a wide scope of discretion for government decision-makers, creating a higher risk of inconsistent application of its citizenship law provisions for ethnic minority groups residing in Cambodia, such as the ethnic Vietnamese, or other unpopular minority groups (Nguyen 2017: 4, 9).

To end statelessness within 10 years, a goal set by UNHCR under its Global Action Plan 2014-2024,[33] the Southeast Asian region should be a clear priority.[34] Not only because an estimated 40 per cent of the world's stateless population is located there, but also –in Oakeshott's view – in light of

> the situation of the community that self-identifies as Rohingya in Myanmar and the emphasis that the international community has placed over decades on the need to improve respect for their human rights and resolve their nationality status. The importance of finding solutions for this situation was highlighted by the regional and global focus on the 'maritime crisis' in the Andaman Sea and the Bay of Bengal in May and June 2015, including the recognition by States in Southeast Asia of the need to address the root causes of the displacement (Oakeshott 2016: 347).

While progress is being made to remedy statelessness in Southeast Asia (ibid: 373), no countries in the region have acceded to the 1954 or 1961 Conventions – with the exception of the Philippines which ratified the 1954 Convention. This has an effect on the large Rohingya diapora living throughout Southeast Asia, considering that an estimated 1.33 million

[32] The lack of statelessness determination procedures among states that have ratified the 1954 and 1961 Conventions is one of the main obstacles to giving practical effect to fulfilling their obligations under international law. See http://www.statelessness.eu/resources/ens-good-practice-guide-statelessness-determination-and-protection-status-stateless.

[33] http://www.unhcr.org/ibelong/global-action-plan-2014-2024/.

[34] To be understood here as the ASEAN Member States, namely Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. See also https://www.statelessnessnetworkasiapacific.org.

Rohingya live in Myanmar while another 1.5 million live outside Myanmar.[35] The situation in Myanmar is complex and controversial. As pointed out in the country report,

> [w]hile the [current] 1982 law sought to create a temporary class of less empowered citizens, not necessarily stateless persons, an uneven application of the law has had statelessness as a consequence. Hence, arguably a rule of law abiding application of the law would have significantly reduced the number of persons with an unclear citizenship status. For example, often persons holding National Registration Cards (*de facto* proof of citizenship) but not belonging to [one of the 135] recognised [ethnic] groups were not given access to full citizenship even though they were arguably entitled to it. Moreover, the Muslim communities in Rakhine generally refused to participate in a process which denied their right to identify themselves as they wished and named them as 'Bengali' (in practice, foreigners) in line with the official narrative originated during [General] Ne Win's regime [1962-1988] (Arraiza and Vonk 2017: 13).

The accession of the Southeast Asian states to, in particular, the 1961 Convention would gradually eradicate statelessness in the region, given the protection offered in Articles 1-4 to children who would be otherwise stateless (Vonk et al. 2016).

Turning to dual citizenship, it is hard to draw clear conclusions with regard to Asian policies. It follows from the reports that only few countries wholeheartedly accept dual citizenship, such as Cambodia (Sperfeldt 2017: 14) and East Timor (Jerónimo 2017: 35), and that a great majority are still against, including China (Low 2016: 11), India (Ashesh and Thiruvengadam 2017: 15-16; but note that India has introduced the concept of 'overseas citizenship'[36] in recent years), Indonesia (Harijanti 2017: 2), Japan (Kondo 2016: 13), Malaysia and Singapore (Low 2017: 7, 27), South Korea (Lee 2017: 31-32), and Vietnam (Nguyen 2017: 17).

Some of these countries are formally against, but provide for exceptions (Lee 2017: 8, 31-32, 38-40); permit dual citizenship under limited circumstances (Hoque 2016: 19); do not strictly enforce their anti-dual citizenship policies in respect of children born from mixed marriages (Kondo 2016: 6); or differentiate between birthright citizens and naturalised citizens (Taiwan allows dual citizenship for the former but not for the latter, see Low 2016: 2, 20).

The Philippines is ambiguous. While Aguilar notes that 'in 2003 the Philippines joined the ranks of states worldwide that grant dual citizenship', this is immediately nuanced by explaining that 'this privilege is restricted to natural-born citizens who undergo naturalisation in another country. The law entitles them to retain or reacquire Philippine citizenship through an administrative process that includes the taking of a nonexclusive oath of allegiance to the Philippines. They then reacquire their natural-born status' (Aguilar 2017: 2).

[35] Zawacki 2013: 20; Van Waas 2017: 50; Van Waas 2015: 29. For the situation of the Rohingya in Bangladesh, see Hoque 2016: 11-12.

[36] Ashesh and Thiruvengadam (19) call 'overseas citizenship' an 'active pursuit of policies aimed at the eventual goal of dual citizenship for people of Indian origin (or the Indian diaspora). Though aimed at the overall diaspora, these policies seem aimed at benefiting groups located in particular regions of the world, including North America and the United Kingdom, which are more affluent and better placed to aid political parties and policies of foreign investment'.

5. Discrepancies between law and practice

In studying the Asian nationality laws, one often finds contradictions. This is also acknowledged in the country reports. Thus, the legal instruments in Bangladesh have been said to be mutually conflictive (Hoque 2016: 4); the citizenship law and Constitution of Sri Lanka had been inconsistent for decades until this was remedied by a 2003 amendment (Ganeshathasan and Welikala 2017: 13); and East Timor has a normative framework which 'is not always consistent' and the ordinary legislation is 'full of terminological and regulatory inconsistencies and is often at odds with the constitutional norm' (Jerónimo 2017: 20, 41).

The above should be read in conjunction with the discrepancy that exists in many Asian countries between law and practice – a situation that Asia shares with Africa. The following description of the situation in Cambodia may serve as an illustration:

> [One] need[s] to look beyond the relatively well-developed legal framework in Cambodia and consider the often-different reality of implementation and practice. Laws on citizenship and other relevant regulations have rarely been implemented as written. Thus, the [country report's] account of the current citizenship regime is complicated by a lack of certainty over the degree of respect for, and enforcement of relevant laws and policies. Many laws and regulations are not easily available in public. The same is true for written judgments or citizenship-related statistics. Against this background, it is important to note that this report is limited to the available information, and it does not purport to be comprehensive or portray in an accurate manner the current practical operation of Cambodia's citizenship regime (Sperfeldt 2017: 11).

6. Conclusion

Asia is most likely the continent where nationality is most jealously guarded, which can be explained by the fact that a majority of countries only gained independence from colonial rule in the twentieth century or subsequently seceded from a territory that was created after such independence (e.g. Bangladesh and Pakistan in relation to India, and Singapore in relation to Malaysia). Continent-wide initiatives such as the 2014 Brazil Declaration, in which 'UNHCR and representatives of 28 countries and three territories in Latin American and the Caribbean adopted a road map to […] end statelessness by 2024',[37] or the 'Resolution on the Right to Nationality'[38] adopted by the African Commission on Human and Peoples' Rights in 2013 are conspicuously absent in the region.[39] Asian countries also have particularly low accession rates to international treaties dealing with nationality, such as the

[37] http://www.unhcr.org/brazil-declaration.html and http://www.fmreview.org/latinamerica-caribbean/mondelli.html.
[38] http://www.achpr.org/sessions/53rd/resolutions/234/.
[39] An exception is the ASEAN Declaration on Human Rights, which provides in Article 18 that 'Every person has the right to a nationality *as prescribed by law*. No person shall be arbitrarily deprived of such nationality nor denied the right to change that nationality' (emphasis added). The reference to national legislation makes this a rather weak provision. See http://www.asean.org/storage/images/ASEAN_RTK_2014/6_AHRD_Booklet.pdf.

1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.[40]

While relatively few legal standards for protection against statelessness exist, the Asian countries are also hesitant to accept dual nationality. Only a handful of countries embrace the phenomenon, whereas a majority does not but allows multiple nationality under limited circumstances or choses not to stringently enforce its anti-dual nationality policies.

The primary mode of acquiring citizenship by birth in Asia is by ius sanguinis, with most countries imposing more stringent requirements if the child is born abroad. In line with international developments, gender equality has been introduced from the 1980s onwards. Asia has also followed the global trend of either abolishing automatic ius soli or replacing it by more conditional forms of ius soli. Particularly noteworthy when compared to Europe, but not to Africa or the Americas, is the modest role of ordinary naturalisation as a means to acquire nationality. Indeed, naturalisation rates are very low and individuals that do naturalise usually have a family connection to a national.

While this report has drawn not only on an analysis of the legal provisions pertaining to nationality law but also on their interpretation and implementation as explained in numerous country reports, we may conclude this overview by subscribing to Acosta's plea for more 'global' research so as to 'nuance generalisations that have usually been extrapolated from the analysis of only a handful of cases in Europe and North America' and to gain a better insight into worldwide patterns and trends.[41] More research is particularly needed on the grounds for loss of citizenship in Asia. While comparative projects such as ILEC have done much to map the grounds for loss of citizenship and their implementation in Europe,[42] similar studies in Asia would surely contribute to contextualising and measuring the impact of the isolated cases discussed in the country reports.

[40] UNHCR provides an overview in the following colour map: http://www.refworld.org/docid/54576a754.html.
[41] Acosta 2016: 19.
[42] For information on ILEC (Involuntary Loss of European Citizenship), see http://www.ilecproject.eu.

References

GLOBALCIT Asian country reports

Aguilar, Filomeno. "Report on Citizenship Law: Philippines". RSCAS/GLOBALCIT 2017/1, http://cadmus.eui.eu//handle/1814/45147.

Arraiza, José María and Olivier Vonk, "Report on Citizenship Law: Myanmar". RSCAS/GLOBALCIT 2017/14, http://cadmus.eui.eu//handle/1814/48284.

Ashesh, Ashna, and Arun K. Thiruvengadam. "Report on Citizenship Law: India". RSCAS/GLOBALCIT 2017/12, http://cadmus.eui.eu//handle/1814/47124.

Ganeshathasan, Luwie, and Asanga Welikala. "Report on Citizenship Law: Sri Lanka". RSCAS/GLOBALCIT 2017/10, http://cadmus.eui.eu//handle/1814/46448.

Harijanti, Susi Dwi. "Report on Citizenship Law: Indonesia". RSCAS/GLOBALCIT 2017/4, http://cadmus.eui.eu/handle/1814/45372.

Hoque, Ridwanul. "Report on Citizenship Law: Bangladesh". RSCAS/GLOBALCIT 2016/14, http://cadmus.eui.eu//handle/1814/44545.

Jerónimo, Patrícia. "Report on Citizenship Law: East-Timor (Timor-Leste)". RSCAS/GLOBALCIT 2017/7, http://cadmus.eui.eu/handle/1814/45931.

Kondo, Atsushi. "Report on Citizenship Law: Japan". RSCAS/GLOBALCIT 2016/11, http://cadmus.eui.eu//handle/1814/43625.

Lee, Chulwoo. "Report on Citizenship Law: the Republic of Korea". RSCAS/GLOBALCIT 2017/6, http://cadmus.eui.eu/handle/1814/45374.

Low, Choo Chin. "Report on Citizenship Law: China and Taiwan". RSCAS/GLOBALCIT 2016/10, http://cadmus.eui.eu//handle/1814/43624.

———. "Report on Citizenship Law: Malaysia and Singapore". RSCAS/GLOBALCIT 2017/13, http://cadmus.eui.eu/handle/1814/45371.

Nazir, Faryal. "Report on Citizenship Law: Pakistan". RSCAS/GLOBALCIT 2016/13, http://cadmus.eui.eu//handle/1814/44544.

Nguyen, Lyma. "Report on Citizenship Law: Vietnam". RSCAS/GLOBALCIT 2017/,13, http://cadmus.eui.eu//handle/1814/47966.

Shestha, Sabin. "Report on Citizenship Law: Nepal". RSCAS/GLOBALCIT 2017/8, http://cadmus.eui.eu/handle/1814/45932.

Sperfeldt, Christoph. "Report on Citizenship Law: Cambodia". RSCAS/GLOBALCIT 2017/2, http://cadmus.eui.eu//handle/1814/45084.

Other references

Acosta, Diego. "Regional report on citizenship: the South American and Mexican cases". RSCAS/GLOBALCIT 2016/1, http://cadmus.eui.eu//handle/1814/43325.

Amrith, Sunil S. *Migration and Diaspora in Modern Asia*. New York: Cambridge University Press, 2011.

Choe, Hyun. "National Identity and Citizenship in the People's Republic of China and the Republic of Korea". *Journal of Historical Sociology* 19, no. 1 (2006), 84-118.

Chung, Erin Aeran. *Immigration and Citizenship in Japan*. Cambridge: Cambridge University Press, 2010.

Davidson, Alastair, and Kathleen Weekley (eds). *Globalization and Citizenship in the Asia-Pacific*. Palgrave Macmillan: London, 1999.

de Groot, Gerard-René, and Olivier Vonk. *International Standards on Nationality Law: Texts, Cases and Materials*. Oisterwijk: Wolf Legal Publishers, 2016.

de Haas-Engel, Renata Henriette. *Het Indonesisch Nationaliteitsrecht*. Dissertatie Universiteit Maastricht. Deventer: Kluwer, 1993.

Dumbrava, Costica. "Comparative report : citizenship in Central and Eastern Europe". RSCAS/GLOBALCIT 2017/12, http://cadmus.eui.eu//handle/1814/46112.

FitzGerald, David, and David Cook-Martín. *Culling the Masses. The Democratic Origins of Racist Immigration Policy in the Americas*. Cambridge, Massachussets: Harvard University Press, 2014.

Hecker, Hellmuth. *Das Staatsangehörigkeitsrecht von Indien, Pakistan, Nepal*. Frankfurt am Main: Alfred Metzner Verlag, 1965.

———. *Das Staatsangehörigkeitsrecht von Bangladesh, Burma, Sri Lanka (Ceylon), Thailand und der Malediven*. Frankfurt am Main: Alfred Metzner Verlag, 1975.

———. *Das Staatsangehörigkeitsrecht von Brunei, Indonesien, Malaysia, Singapur und der Philippinen*. Frankfurt am Main: Alfred Metzner Verlag, 1978.

Kaplan, Robert D. *Asia's Cauldron. The South China Sea and the End of a Stable Pacific*. New York: Random House, 2014.

Kirby, Michael, and Sandeep Gopalan. "'Recalcitrant' States and International Law: The Role of the UN Commission of Inquiry on Human Rights Violations in the Democratic People's Republic of North Korea". *University of Pennsylvania Journal of Constitutional Law* 37, no. 1 (2015), 229-294.

Ko Swan Sik. *De meervoudige nationaliteit*. Leiden: Sijthoff, 1957.

———, ed. *Nationality and international law in Asian perspective*. Dordrecht/Boston: Martinus Nijhoff Publishers, 1990.

Manby, Bronwen. *Citizenship and statelessness in Africa: the law and politics of belonging*. PhD diss. Maastricht University. Oisterwijk: Wolf Legal Publishing, 2015. http://pub.maastrichtuniversity.nl/f91d9081-73da-4125-9a7a-887ceb4acca7.

Motomura, Hiroshi. *Americans in Waiting. The Lost Story of Immigration and Citizenship in the United States*. New York: Oxford University Press, 2006.

Mulmi, Subin and Sara Shneiderman. "Citizenship, Gender and Statelessness in Nepal: before and after the 2015 Constitution", In *Understanding Statelessness*, edited by T. Bloom and K. Tonkiss, 135-152. London: Routledge, 2017 http://shneiderman-commons.sites.olt.ubc.ca/files/2017/07/Understanding-Statelessness.pdf.

Ngai, Mae M. *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton: Princeton University Press, 2004.

Oakeshott, Nick. "Solutions to statelessness in Southeast Asia", in *Solving Statelessness*, eds. Laura van Waas and Melanie Khanna, 345-374. Oisterwijk: Wolf Legal Publishers, 2016.

Sadiq, Kamil. *Paper citizens: How illegal immigrants acquire citizenship in developing countries*. New York: Oxford University Press, 2009.

———. "Limits of Legal Citizenship: Narratives from South and Southeast Asia". In *Citizenship in Question: Evidentiary Birthright and Statelessness*, edited by Benjamin N. Lawrance and Jacqueline Stevens, 164-178. Durham, NC: Duke University Press, 2017.

Salyer, Lucy E. "*Wong Kim Ark*: The Contest over Birthright Citizenship". In *Immigration Stories*, edited by Peter H. Schuck and David A. Martin, 51-85. New York: Foundation Press, 2005.

Schulte Nordholt, Henk. *Een geschiedenis van Zuidoost-Azië*. Amsterdam: AUP, 2016.

Shipper, Apichai W. "Politics of Citizenship and Transnational Gendered Migration in East and Southeast Asia". Pacific Affairs 83(1) 2010, http://dornsife.usc.edu/assets/sites/731/docs/Politics_of_Citizenship.pdf

Spiro. Peter J. *Report on Citizenship Law: United States of America*, RSCAS/EUDO-CIT 2015/13 http://cadmus.eui.eu/bitstream/handle/1814/36498/EUDO_CIT_CR_2015_13_USA.pdf?sequence=1.

Suryadinata, Leo. *The making of Southeast Asian nations. State, ethnicity, indigenism and citizenship*. Singapore: World Scientific Publishing, 2015.

Tomson, E. *Das Staatsangehörigkeitsrecht der ostasiatischen Staaten : China, Japan, Korea, Mongolei*. Frankfurt am Main: Metzner Verlag, 1971.

Thwaites, Rainer. "Report on Citizenship Law: Australia". RSCAS/GLOBALICIT 2017/10, http://cadmus.eui.eu//handle/1814/46449.

United States Commission on International Religious Freedom. *Suspended in Time. The Ongoing Persecution of Rohingya Muslims in Burma*, December 2016, http://www.uscirf.gov/reports-briefs/special-reports/suspended-in-time-the-ongoing-persecution-rohingya-muslims-in-burma.

van Waas, Laura. 'The World's Stateless', (2017), http://www.institutesi.org/worldsstateless17.pdf.

———. *The Nexus between Statelessness and Human Trafficking in Thailand*, (2015), http://www.institutesi.org/Stateless-Trafficking_Thailand.pdf.

Vink, Maarten P., and Rainer Bauböck. "Citizenship configurations: Analysing the multiple purposes of citizenship regimes in Europe". *Comparative European Politics* 11 (2013), 621-648.

Vonk, Olivier. *Dual Nationality in the European Union. A Study on Changing Norms in Public and Private International Law and in the Municipal Laws of Four EU Member States*. Leiden/Boston: Martinus Nijhoff Publishers, 2012.

———. *Nationality Law in the Western Hemisphere: A Study on Grounds for Acquisition and Loss of Citizenship in the Americas and the Caribbean*. Leiden/Boston: Martinus Nijhoff Publishers, 2014.

———. "International Standards on Nationality Law and the Development of Global Citizenship Studies". In *Grootboek. Opstellen aangeboden aan Prof. mr. Gerard-René de Groot ter gelegenheid van zijn afscheid als hoogleraar rechtsvergelijking en internationaal privaatrecht aan de Universiteit Maastricht*, edited by Olivier Vonk, Susan Rutten, Jan Smits, Sjef Van Erp, Ton Hartlief and Kid Schwarz, 421-431. Deventer: Kluwer, 2016.

———. "Study on the Citizenship Legal Framework in Myanmar and Potential Reforms". Norwegian Refugee Council report (internally published), 2017.

Vonk, Olivier, Costica Dumbrava, Maarten Vink, and Gerard-René de Groot. ""Benchmarking" legal protection against statelessness". In *Solving Statelessness*, edited by Laura van Waas and Melanie Khanna, 163-190. Oisterwijk: Wolf Legal Publishers, 2016.

Vonk, Olivier, Maarten Vink, and Gerard-René de Groot. "Protection against statelessness: trends and regulations in Europe". In EUDO Citizenship Comparative Report, 2013, http://eudo-citizenship.eu/images/docs/eudocit_vink_degroot_statelessness_final.pdf.

Weil, Patrick. *The Sovereign Citizen. Denaturalization and the Origins of the American Republic*. Philadelphia: University of Pennsylvania Press, 2013.

White, Robin M. "Hong Kong: Nationality, Immigration and the Agreement with China". *International and Comparative Law Quarterly* 36 (1987), 483-503.

———. "Nationality Aspects of the Hong Kong Settlement". *Case Western Reserve Journal of International Law* 20 (1988), 225-251.

———. "Hong Kong, Nationality and the British Empire: Historical Doubts and Confusions on the Status of the Inhabitants". *Hong Kong Law Journal* 19 (1989), 10-42.

Wolman, Andrew. "North Korean Asylum Seekers and Dual Nationality". *International Journal of Refugee Law* 24, no. 4 (2012), 793-814.

Zawacki, Benjamin. 'Defining Myanmar's "Rohingya Problem"', (2013), http://digitalcommons.wcl.american.edu/hrbrief/vol20/iss3/2/.

Additional references for Thailand (not covered in this report)

Flaim, Amanda. "Problems of Evidence, Evidence of Problems: Expanding Citizenship and Reproducing Statelessness among Highlanders in Northern Thailand". In *Citizenship in Question: Evidentiary Birthright and Statelessness*, edited by Benjamin N. Lawrance and Jacqueline Stevens, 147-164. Durham, NC: Duke University Press, 2017.

Kanchanachittra Saisoonthorn, Phunthip. "Development of Concepts on Nationality and the Efforts to Reduce Statelessness in Thailand". *Refugee Survey Quarterly* 25, no. 3 (2006), 55-69.

Park, Joy K., John E. Tanagho, and Mary E. Weicher Gaudette. "A Global Crisis Writ Large: The Effects of Being 'Stateless in Thailand' on Hill-Tribe Children". *San Diego International Law Journal* 10 (2009), 495-554.

Van Waas, Laura, Connie Rijken, Martin Gramatikov, and Deirdre Brennan. *The Nexus between Statelessness and Human Trafficking in Thailand*. Nijmegen: Wolf Legal Publishers, 2015.

COMPARATIVE
REPORT
2017/04