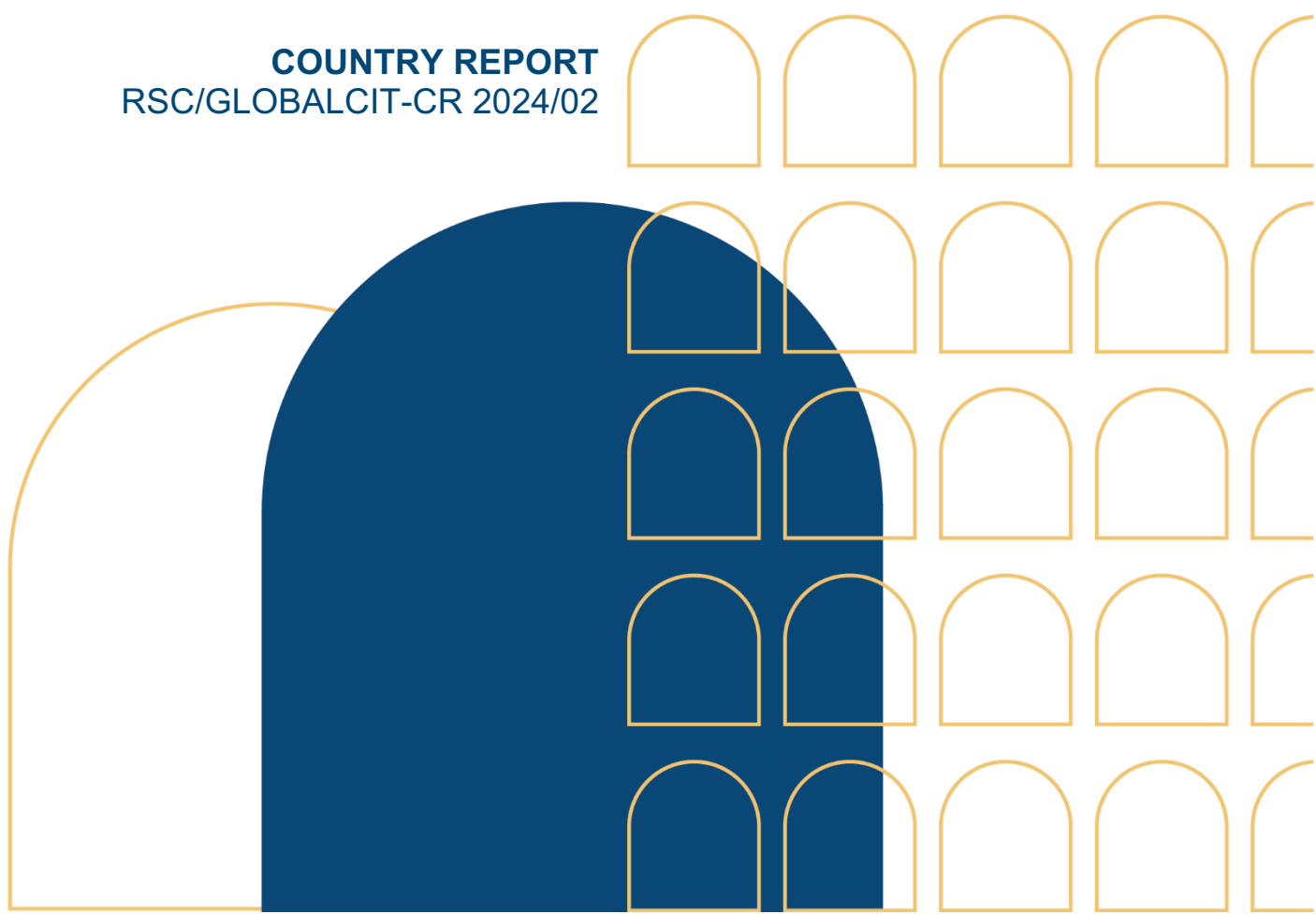


Report on Citizenship Law: Ghana

Julia Schweers

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

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1. Introduction

Ghana's citizenship laws were first defined with independence from British colonial rule in 1957. Its early citizenship laws established the so-called 'Lancaster House' model, which other African states later also used to determine membership at independence, such as Nigeria or Sierra Leone (Khan 2021; Manby 2018, 61, 324-325; Manby and Momoh 2020). Commonalities included similar formulations of citizenship acquisition at birth for those born before and after independence – namely unconditional *jus soli* for those born after independence and double *jus soli* for those born before independence; and descent-based citizenship through the father for those born outside the country. Ghana also set the pattern for differentiation between two forms of citizenship acquisition after birth: through registration and through naturalisation. Registration was an easier and more straightforward form of citizenship acquisition, primarily reserved for citizenship acquisition upon marriage, while naturalisation was at the discretion of the government and needed the approval of a minister.

Since then, Ghana's citizenship regime has undergone many changes. There are particularly two periods that are marked by frequent amendments to citizenship law. First, in the 1960s and 1970s, when the country's citizenship laws were politicised and used as a tool of anti-immigration politics, denationalising sections of the Ghanaian population on the basis of their or their ancestors' migratory background. This was not exclusively but particularly targeted at persons of Middle Eastern descent. Second, over the course of the 1990s, with the transition into democracy, the country rewrote its citizenship laws into the ones that are in force today, basing automatic citizenship now entirely on descent and deleting some – but not all – gender inequalities the old laws enshrined. As many other countries with large diasporas, Ghana also introduced dual citizenship over the course of the 1990s.

This report provides an overview of the Ghanaian history of citizenship law since independence and sets out the country's current citizenship regime, which consists of the 1992 Constitution, its 1996 dual citizenship amendment, the 2000 Citizenship Act, as well as the 1992 Refugee Act. It outlines Ghana's most important current political debate on citizenship, namely, whether dual citizens should be allowed to hold important public offices. So far, the laws have answered that question with a clear 'no'. However, a procedural issue pertaining to this question has recently been brought before the Ghanaian Supreme Court, which has sparked a wider debate. The report concludes with an outlook on future issues that might arise from Ghana's current citizenship laws and practice, particularly the handling of protracted refugee status and refugees' de facto lack of access to naturalisation in Ghana.

¹ Julia Schweers is a postdoctoral researcher at the University of Oxford's Refugee Studies Centre. This report draws on her doctoral thesis 'Citizenship Abroad, Capital at Home: How Global Inequalities Affect the Value of Dual Citizenship' (2023) which discusses return migration with dual citizenship, taking Ghana as a case study.

² Acknowledgements: I am grateful to Bronwen Manby for her thorough and careful review of this report.

2. Historical Background

With regards to citizenship, the situation in Ghana on the eve of independence in 1957 can be summarised as follows: the southern half of the country were British colonies ('Gold Coast', and 'Ashanti'); the northern half was a British protectorate ('Northern Territories'); while the east of Ghana had been a German protectorate prior to World War I which was then divided between the UK and France and thus became the mandated territory (and later UN trust territory) of 'British Togoland'. The Governor of the Crown Colony of the Gold Coast administered all four territories. These divisions had repercussions for the citizenship status of the population. Persons from the Gold Coast and Ashanti colonies were 'citizens of the UK and colonies' while the population of the protectorate and UN trust territory (treated as a protectorate in British law) were 'British protected persons', which was of lesser status. Because the protectorates were – on paper – semi-autonomous and internally self-governing, British protected persons were not granted the same civic and social rights as citizens of the UK and colonies. Among other things, they were denied access to the courts to challenge state action and had less access to colonial educational institutions (Aboagye 2021; Manby 2018, 43-47).

This situation was further complicated by immigration. From the end of the 19th century onwards, merchants from what is today Syria and Lebanon emigrated to West Africa. The majority arrived with the collapse of the Ottoman Empire after World War I and the creation of the French protectorate of Greater Lebanon. The fact that West Africa was largely ruled by France facilitated entry from the Middle East into the region, and onward migration to the British Gold Coast (Malki 2018, 464-467). In principle, foreigners had the right to naturalise as 'citizens of the UK and colonies' in any colony and the UK (Manby 2018, 46). In practice, however, Middle Eastern immigrants faced difficulties with the administration of the Gold Coast, which tended to see them as French-protected persons and as 'temporarily resident, occupationally specialised and racially distinct foreigners who as a rule did not merit the conferral of British nationality' (Malki 2018, 461). Ghana also received immigration from other regions, particularly from other parts of West Africa. They, however, 'tended to be categorised as 'natives' or as 'native strangers' [while] the phenotypically conspicuous and culturally distinct Lebanese [...] were automatically assumed to be aliens' (Malki 2018, 461). With independence, though decades after Middle Eastern immigration, the citizenship status of Lebanese immigrants was, therefore, particularly vulnerable.

2.1 Citizenship Regime at Independence in 1957

In 1957, Ghana was the first African country to become independent from British colonial rule and its 1957 Nationality and Citizenship Act was the very first law that Ghana passed. Although its name suggests a distinction between Ghanaian nationality and Ghanaian citizenship, the Act made clear that both terms should be used interchangeably; most often the text speaks of 'citizen' and 'citizenship'. The act granted Ghanaian citizenship at the date of independence to 'citizens of the United Kingdom and Colonies' and 'British protected persons' if they were born on Ghanaian territory before the commencement of the act and if at least one parent or grandparent had also been born on the territory of the Ghanaian state; or, if they were born outside Ghanaian territory if at least one parent was born on Ghanaian territory. Other West African Commonwealth countries later used very similar provisions at their independence (Manby 2018).

For those born *after* the commencement of the Nationality and Citizenship Act, the act combined jus sanguinis and jus soli provisions. If born in Ghana, a person was deemed a

citizen by birth, except in two cases: a) neither of their parents were Ghanaian citizens and the father was a diplomat or b) the father was deemed an 'enemy alien' and the birthplace deemed under occupation of the enemy (Nationality and Citizenship Act, No.1 of 1957, section 7). That means citizenship was attributed automatically at birth to almost all children born in the country (*jus soli*) after independence, including to children of two foreign parents, with very limited exceptions. The act further provided that a person was deemed a *citizen by descent* if born outside Ghana and either the mother was a citizen by birth or the father a citizen by birth or naturalisation.

A further gendered provision existed for the acquisition of citizenship by registration upon marriage, which was reserved for women who married a citizen of Ghana. Ghanaian women who married non-Ghanaian men were thus not allowed to pass their citizenship onto their spouse. Naturalisation was, however, possible upon application for citizens of Commonwealth countries³, if they were 'of full age and capacity' and of 'good character' and had resided in Ghana for a period of five years (Nationality and Citizenship Act, No.1 of 1957, section 11). Naturalisation for other foreigners was possible after six years' residence and a longer list of conditions, including knowledge of an indigenous Ghanaian language, an oath of allegiance to Ghana and the renunciation of any other citizenship (Nationality and Citizenship Act, No.1 of 1957, section 14 and schedule 2).

Like many other African countries after Ghana, the newly independent Ghana decided to prohibit dual citizenship (Manby 2018, 109). A closer look at its denationalisation law suggests that the main concern at the heart of the prohibition of dual citizenship was not Ghanaian emigrants who obtained a second citizenship abroad but naturalised immigrants in Ghana. Denationalisation provisions differed between the two groups. For Ghanaian emigrants who naturalised abroad, the 1957 Nationality and Citizenship Act left a number of loopholes that allowed for exceptional cases in which dual citizenship could be tolerated. It formulated the deprivation of citizenship for citizens of birth/descent as follows:

'The Minister [the minister responsible for citizenship, most likely Home Affairs] may by order deprive any person of his Ghana citizenship if the Minister is satisfied that that person has at any time while a citizen of Ghana and of full age and capacity acquired the nationality or citizenship of a foreign country by any voluntary and formal act other than marriage and that it is not conducive to the public good that he should continue to be a citizen of Ghana.' (Nationality and Citizenship Act, No.1 of 1957, section 16(1)).

This provision was relatively tolerant of dual citizenship compared to the laws of most other African states at independence. Most importantly, Ghanaian citizenship was not lost automatically upon acquiring another citizenship but required a decision of the minister. Moreover, for Ghanaians by birth or descent, the decision to revoke citizenship was not at the Minister's complete discretion, but required a determination that it would be contrary to the public good if someone would retain their citizenship, and citizenship acquired through marriage was explicitly excluded from this possibility. On the other hand, dual citizenship was not permitted for citizens who became Ghanaian after birth through naturalisation: a declaration of willingness to renounce the other citizenship was required before naturalisation would be granted (although without a clear requirement to provide proof that another citizenship had actually been renounced; Nationality and Citizenship Act, No.1 of 1957, sections 11(4) and 14).

³ These included 'the United Kingdom and Colonies, Canada, Australia, New Zealand, the Union of South Africa, India, Pakistan, Southern Rhodesia and Ceylon' (Ghana Nationality and Citizenship Act 1957, 9(3)). For reciprocally facilitated provisions for naturalisation in Commonwealth countries, see Manby (2018, 62).

Generally, the act made denationalisation of naturalised citizens easy by including vague and undefined reasons for which denationalisation was permissible, such as being 'disloyal or disaffected' toward the government or 'trad[ing] or communicat[ing] with an enemy' in times of war. Other, more clearly defined, reasons for denationalisation of naturalised citizens included having 'within five years after becoming naturalised been sentenced in any country to imprisonment for a term of not less than twelve months', having acquired Ghanaian citizenship 'by means of fraud', and residing outside Ghana for seven years without annually re-registration with the Ghanaian consulate (Nationality and Citizenship Act, No.1 of 1957, section 17(1) – 17(4)). The Act gave the minister discretion to refrain from denaturalisation of naturalised citizens if he considered this conducive to the public good for the person concerned to remain a Ghanaian citizen. The default decision for the minister was, thus, denaturalisation – in contrast to citizens by birth and descent, who remained citizens by default unless the minister decided that this was not conducive to the public good (Nationality and Citizenship Act, No.1 of 1957, section 17(5)).

2.2. The Turbulent Years: Frequent Amendments to the Law between 1967 and 1979

This first definition of Ghanaian citizenship did not last very long. Only four years after its formulation, the 1957 Nationality and Citizenship Act was replaced by the Nationality Act of 1961. The main change introduced by this Act was the removal of the British monarchy from the oath of allegiance after Ghana removed the monarch as head of state and became a Republic – while remaining within the Commonwealth (the collective organisation of the UK and its former territories). The act, however, also deleted any mention of former citizens of the UK and the colonies and British-protected persons and their right to Ghanaian citizenship. This can be interpreted as an attempt to denationalise people of immigrant descent who formerly were British-protected persons or citizens of the UK and colonies as those among them who had not yet formally documented their new Ghanaian citizenship lost their right to citizenship.

A few years later, in February 1966, Ghana's first president, Kwame Nkrumah, was ousted in a coup d'état. In the following years, between 1966 and 1981, the country went through a period of political instability and saw a number of alternating short-lived governments of military and civil character. During this period, Ghanaian citizenship law was subject to frequent amendments: in 1967, twice in 1969, in 1971, 1972, 1978, and twice in 1979.⁴ The issue at the heart of these amendments was the citizenship of naturalised immigrants and their children.

2.1.1 Citizenship Law under the National Liberation Council (1966 – 1969)

Only three months after gaining power, the National Liberation Council (NLC) enacted a new citizenship law via decree in April 1967. The 1967 Nationality Decree relaxed provisions for those born in Ghana before independence, for a short period between 1967 and 1969. Those who were citizens of the UK and colonies or British-protected persons before independence no longer needed to have a parent or grandparent who had also already been born on the territory. Unconditional citizenship based on birth on the territory (*jus soli*) now applied to them.

⁴ Nationality Decree, No.161 of 1967; Ghana Nationality (Amendment) Decree, No.333 of 1969; Constitution of the Republic of Ghana 1969; Ghana Nationality Act, No.361 of 1971; Ghana Nationality (Amendment) Decree 1972; Ghana Nationality (Amendment) Decree 1978, Ghana Nationality (Amendment) Decree, No.42 of 1979, Constitution of the Republic of Ghana 1979.

Rules for those born after independence remained as they were: *jus soli* for those born in Ghana and *jus sanguinis* for those born outside of Ghana (Nationality and Citizenship Act, No. 1 of 1957, section 1-2).¹ As Malki (2018) argues, through these laws, the NLC sought to form alliances with Ghana's immigrant community, particularly mercantile descendants of Middle Eastern immigrants who had settled along the West African coast at the end of the 19th century and beginning of the 20th century.

From 1968 onwards, however, the NLC changed its immigration politics, introducing a number of anti-immigration policies that prohibited 'aliens' from running businesses and curtailed their housing rights (Pinkney 1972). Crucially, in February 1969, the NLC re-harshened citizenship provisions with another decree which retroactively reintroduced a descent clause for citizenship by birth. 'A person born in Ghana is a citizen of Ghana by birth if [...] having been born in Ghana after the 6th day of March 1957 one at least of his parents at the time of his birth was a citizen of Ghana' (Ghana Nationality Amendment Decree, No.333 of 1969, section 1(b)). The NLC thereby not only made it again more difficult for second-generation immigrants to acquire citizenship in Ghana (see also for the case of Middle Eastern immigrants' struggles for citizenship in Ghana Akyeampong (2006); Malki (2018) and Manby (2018)). It also based citizenship solely on descent. The same year, elections were held to transition power back to a democratically elected, civilian government. The reformulation of who would count as a citizen by birth was thus clearly meant to exclude those not deemed indigenous from participating in the election.

2.1.2 Citizenship Law under the Government of Prime Minister Kofi Busia (1969 – 1972)

After immigration issues dominated the 1969 election campaign, the newly elected government of Prime Minister Busia stepped up anti-immigration policies. The 1969 Constitution again removed the clause granting citizenship to persons who had previously held the status of citizen of the UK and colonies or British-protected person, though not retrospectively. It also provided that women who had acquired Ghanaian citizenship through marriage would automatically lose their citizenship on divorce – while immigrant men, as in previous and later legislation, did not even have the option to acquire citizenship through marriage (Constitution of 1969, section 8). These changes in citizenship laws were accompanied by increasingly nationalist rhetoric, blaming immigrants for rising unemployment and crime rates. The rhetoric was followed by action when the government passed the Aliens Compliance Order in November 1969, which forced 'non-indigenous people' to obtain residence permits within two weeks or leave the country (Kobo 2010, 78). Given the absurd notice period of merely two weeks, many people were unable to acquire the necessary documentation to legally stay in Ghana. Actual figures of how many people were forced to leave the country due to the Aliens Compliance Order, however, do not exist. Shortly after the Aliens Compliance Order, the Ghana Business Promotion Act of 1970 nationalised businesses previously owned by non-Ghanaians.

In 1971, the Busia government again amended Ghana's citizenship laws by passing the Nationality Act to repeal the NLC's citizenship decrees. This 1971 Nationality Act introduced two main changes which further curtailed access to citizenship for immigrants and their descendants. On the one hand, it introduced new requirements for naturalisation, such as 'making a substantial contribution to the well-being and progress of Ghanaian life' and being 'assimilated into the Ghanaian way of life' (Nationality Act, No.361 of 1971, section 7(1)). On the other hand, it introduced different rules for people born before independence, between independence and the 1969 constitution, and after the entry into force of the 1969 constitution. The most restrictive provision concerned those born in the nine years between independence and the 1969 constitution. For them, the 1971 Nationality Act added a generation to the

descent clause for citizenship at birth (regardless of whether born inside or outside of Ghana) so that they would need at least one parent *as well as* a grandparent or great-grandparent who had already been born in Ghana to be granted citizenship. (Nationality Act, No.361 of 1971, section 1(2)). By then, descendants of Middle Eastern immigrants had been living in Ghana for nearly a century, but the act made it nearly impossible for them to acquire Ghanaian citizenship.

2.1.3. Citizenship Law under the National Redemption Council (1972 – 1975)

In January 1972, the Busia government was overthrown by Colonel Ignatius Acheampong who led the country with his National Redemption Council (NRC) for about three years. Again, Ghana's citizenship laws were quickly amended, within less than a year after taking power. The 1972 Nationality (Amendment) Decree is a particularly peculiar document. It reiterated that anybody who does not qualify for citizenship under the predecessor government's 1971 Nationality Act should be denationalised. It thus upheld the laws for citizenship by birth and descent formulated by its predecessor, the Busia government. Crucially, however, it added a provision that protected a *very small and particular* group of people from denationalisation:

'For the avoidance of hardship [...] the Commissioner may with the approval of the Executive Council grant a certificate of naturalisation to a person of full age and capacity who [...]

- (a) was born in Ghana before the 6th day of March 1957; and
- (b) was divested of his citizenship of Ghana by the provisions of the Ghana Nationality (Amendment) Decree 1969 (N.L.C.D 333); and
- (c) between the 25th day of July, 1967 and the 15th day of February, 1969 formally renounced any foreign nationality held by him in accordance with the law of that foreign country.' (Ghana Nationality (Amendment) Decree of 1972, sections 2(1a) – 2(1c)

It is impossible to gauge how many persons fulfilled these very specific criteria for regaining their Ghanaian citizenship, but the provision seems to have been directed at one particular family of Middle Eastern descent, the Shalabi brothers. The Shalabis had a transportation business in Accra. Born to Lebanese parents pre-independence, they had the right to register for Ghanaian citizenship at independence and applied for it in 1967. Two years later, however, the 1969 Ghana Nationality (Amendment) Decree denationalised them. In 1971, the Shalabi family filed a lawsuit with the Ghanaian High Court and won the case (*Shalabi vs Attorney General* 1971). It thus seems that, with this decree, the NRC tried to forge alliances with Middle Eastern businessmen who had been persecuted and denationalised by previous political leaders.

Beyond this addition to the laws for citizenship at birth and descent, the 1972 decree amended the requirements for citizenship by naturalisation, making it more difficult to naturalise in Ghana. The residence period to qualify for naturalisation was prolonged to ten years and the total list of requirements for naturalisation was extended to nine criteria (Ghana Nationality (Amendment) Decree of 1972, sections 2(2a) – 2(2i)). These mainly combined integration requirements – such as speaking an indigenous language or being 'assimilated to the Ghanaian way of life' – and economic requirements such as having made or being able to make a 'substantial contribution to the economy of Ghana' (without clarifying what would count as 'substantial'). The moral requirement of 'being of good character' was further complicated because now the character of an applicant had to be 'attested in writing by two Ghanaians of high social standing'. Again, there are no numbers of how many people attempted to acquire Ghanaian citizenship, but it seems fair to say that the long list of requirements for the application was drafted to deter people from applying in the beginning.

2.1.4 Citizenship Law under the Supreme Military Council (1975 – 1979) and the Armed Forces Revolutionary Council (Jun 1979 – Sep 1979)

After nearly two decades of gradually more hostile immigration politics enshrined in citizenship law, the denationalisation of persons with an immigration background reached its peak from 1978 to 1979. Over the course of these two years, two consecutive military councils simply listed the names of people who, by decree, were to lose their Ghanaian citizenship. The Supreme Military Council (SMC), in 1978 denationalised two citizens, who, judging from their names, had Middle Eastern family backgrounds. The reasons given for denationalising Mohamed Fouad Fattal and Mahmoud Fattal were: 'serious trade malpractices', 'activities constituting economic sabotage and subversion of the economy of Ghana contrary to the public interest'. (Ghana Nationality (Amendment) Decree of 1978). Since Ghana did not allow for dual citizenship at that time, the SMC thereby rendered the two men stateless. In 1979, the Armed Forces Military Council (AFMC) repeated the denationalisation process, this time listing a total of 44 people to denationalise via decree. Again, judging by the names, the people targeted were mainly descendants of Middle Eastern immigrants. This time also, the military council did not even bother to give a reason for the mass denationalisation but simply declared it to be in the public interest (Ghana Nationality (Amendment) Decree of 1979).

Ghana was far from the only African country which gradually developed more and more hostile citizenship regulations in the 1960s and 1970s. Confronted with having to form a nation-state within arbitrarily drawn colonial borders, African leaders in other countries also opted for anti-immigration politics that denationalised and disowned 'non-indigenous' minorities. Sierra Leone, for instance, marginalised Middle Eastern immigrants and their descendants in a similar way to Ghana, with citizenship laws that required so-called 'negro African descent' and restricted non-citizens' rights to own property (Manby 2018, 164-181). In East Africa, people of South Asian descent had a similar – and in Uganda, a much worse – fate. Similar to the Middle Eastern immigration to West Africa, people from the Indian sub-continent had migrated to Kenya and Uganda during colonial times. Their descendants' right to citizenship was contested and restricted in both countries. Most egregiously, Idi Amin expelled the entire 'Asian' population of Uganda in 1972 (see the case of immigrants' struggle for citizenship in Sierra Leone and Uganda Manby (2009; 2018, 193-199)).

2.3 The 1979 Constitution and the Abatement of Citizenship Politicisation

In Ghana, the politicisation of citizenship subsided in the 1980s. In 1979, the Armed Forces Revolutionary Council gave the country a new Constitution before handing over power to a short-lived civilian government, which was toppled just three years later, in 1981. This 1979 Constitution took back some of the harshest citizenship provisions enacted during the previous decade. Most importantly, the descent-based provisions for those born in Ghana after the entry into force of the 1979 constitution were relaxed to require that at least one parent or grandparent was a Ghanaian citizen; while the rule remained that at least one parent must be a Ghanaian citizen for those born outside Ghana (Constitution of 1979, section 13).

Moreover, the 1979 Constitution, for the first time, allowed Ghanaian women to confer their citizenship on their spouses, although the provisions for conferring citizenship onto a male spouse still differed from those for female spouses. For women, the 1979 Constitution simply stated that they could apply to be registered as citizens of Ghana if they were married to a Ghanaian citizen and they lost their citizenship upon divorce. Men, however, had to prove that they were in a monogamous relationship and lived in Ghana for a continuous period of at least

five years before being able to apply for Ghanaian citizenship (Constitution of 1979, section 15(5)). No other options for acquiring Ghanaian citizenship after a period of residence are detailed in the constitution.

Between the 1979 Constitution and Ghana's transition to democracy in 1992, when today's Constitution was written, no further amendments to Ghana's citizenship law were passed. This was also a period of economic instability and massive emigration (Abdulai and Crawford 2010; Nugent 1995) during which Ghana no longer attracted immigration the way it did in the early years after independence (Schans et al. 2018). It was during this period of large-scale outmigration that the politicisation of citizenship law abated.

3. The Current Citizenship Regime

Ghana's current citizenship regime evolved in the 1990s along with the country's democratisation. It rests on the 1992 Constitution and its 1996 amendment, the 1992 Refugee Act, as well as the 2000 Citizenship Act, which harmonised citizenship law with the Constitution. While it liberalised a number of previous provisions (the 1996 constitutional amendment introduced the right to dual citizenship, and some gendered language was replaced with more neutral language), there is continuity with previous legislation.

3.1. Acquisition of Citizenship

3.1.1 Acquisition of Citizenship at Birth

The 1992 Constitution states in section 6(2) that, 'a person born in or outside Ghana after the coming into force of this Constitution, shall become a citizenship of Ghana at the date of his birth if either of his parents or grandparents is or was a citizen of Ghana.' With such a formulation, the 1992 constitution moved away from differentiating between citizens born inside and outside of Ghana, a distinction that most previous Ghanaian citizenship laws had upheld. Following the 1969 constitution, the 1992 constitution bases automatic acquisition of citizenship only on descent, but provides that descent can be based on grandparents as well as parents whether a child is born in or outside of Ghana – whereas the 1979 constitution had restricted rights from grandparents to those born in the country. It thus leaves the door open for second-generation diasporans to retain their Ghanaian citizenship, even if their parents forfeited theirs.

The 1992 constitution provides for existing citizens to retain citizenship (section 6(1)). For people born before the coming into force of the 1992 constitution, the acquisition of citizenship at birth depends on the year of birth and the citizenship regime in place at that time. The 2000 Citizenship Act details which rules are applied according to year of birth. The act does not follow all the frequent changes to citizenship law between 1957 and 1979, but it differentiates between four groups of people and the respective provisions applicable to them. Persons born before independence (6 March 1957) are citizens by birth if they are born in Ghana and at least one parent or grandparent was born in Ghana or if they were born outside Ghana and at least one parent was born in Ghana. Persons born on or after 6 March 1957 but before 22 August 1969 are citizens by birth if they are either born in Ghana and at least one grandparent was born in Ghana or if they were born outside Ghana and at least one parent and at least one grandparent or great-grandparent was born in Ghana. Furthermore, children born in this period to parents who had acquired Ghanaian citizenship other than by birth would be citizens by birth if they were born in Ghana and at least one parent had naturalised or if

they were born outside Ghana and both parents had naturalised. Persons born on or after 22 August 1969 but before the 1979 constitution are citizens by birth according to the 1969 constitution, namely, if either of the parents was a citizen of Ghana at the time of birth, no matter if that birth was in or outside Ghana. And lastly, persons born on or after the day of commencement of the 1979 constitution (24 September 1979) but before the commencement of the 1992 constitution (7 January 1993) are citizens by birth if 'either of [the] parents or one grandparent was or is a citizen of Ghana' (Citizenship Act, No.591 of 2000, section 7).

3.1.2 Acquisition of Citizenship after Birth

When it comes to citizenship acquisition after birth, the Ghanaian constitution's focus is on citizenship acquisition through marriage. In fact, the section on 'persons entitled to be registered as citizens' (Constitution of 1992, section 7(1)-7(6)) only discusses marriage. Ghana's current citizenship regime put an end to some of the gender inequalities that had been in place in the country's previous citizenship law. Nevertheless, there remains one mode of citizenship acquisition which differentiates based on gender, namely, citizenship acquisition through marriage. Acquisition of Ghanaian citizenship is possible both for men and women married to a Ghanaian citizen⁵. There are, however, gendered differences in requirements for registering for spousal citizenship, the right to Ghanaian citizenship after divorce, and the right to citizenship for a child depending on whether the registered spouse is a woman or a man. Overall, these provisions make it easier for a woman than for a man to acquire Ghanaian citizenship through marriage.

Men married to Ghanaian women can acquire citizenship on easier terms than other foreigners but on more difficult terms than women married to Ghanaian men. Men need to permanently reside in Ghana to be able to file for Ghanaian citizenship based on marriage with a Ghanaian woman: 'In the case of a man seeking registration, clause (1) of this article applies only if the applicant permanently resides in Ghana' (1992 (1996) Constitution, 7(6)). The constitution does not define what period of time in Ghana would amount to permanent residence⁶ and article 7(4) adds a further vague provision for men to acquire Ghanaian citizenship through marriage, namely having entered the marriage 'in good faith'. It also gives the authorities administering marriage a lot of discretionary powers:

'Where upon an application by a man, for registration under clause (1) of this article, it appears to the authority responsible for the registration that a marriage has been entered into primarily with a view to obtaining the registration, the authority may request the applicant to satisfy him that the marriage was entered into in good-faith; and the authority may only effect the registration upon being so satisfied.' (1992 (1996) Constitution, 7(4))

The Constitution does not mention any requirements for women to fulfil in order to become Ghanaian citizens upon marrying a Ghanaian. By implication, this suggests that women who marry a Ghanaian citizen need to fulfil no additional requirements to acquire Ghanaian citizenship. In the case of a divorce, men seem to also have a more difficult time retaining their Ghanaian citizenship than women in the same position. When a marriage is annulled, a woman who had registered as a citizen remains a Ghanaian citizen: 'Where the marriage of a woman is annulled after she has been registered as a citizen of Ghana [...] she

⁵ Same-sex marriages do not exist under Ghanaian law. Queer sex is criminalised; a recent anti-LGBTQ+ legislation, passed in February 2024, further harshened prison sentences for queer relationships.

⁶ The 2000 Immigration Act details that spouses, no matter which gender, can apply for permanent residence after two years of living in Ghana, unlike other immigrants who can only do so after seven years (Immigration Act, No.573 of 2000, section 15 – 16).

shall, unless she renounces that citizenship, continue to be a citizen of Ghana.’ (1992 (1996) Constitution, 7(3)). The Constitution does not elaborate on the consequences of a divorce for a man who acquired Ghanaian citizenship through marriage. Similarly, a child of a woman who acquired citizenship through marriage automatically remains a Ghanaian citizen when the parents’ marriage is dissolved. (1992 (1996) Constitution, 7(4)). Again, there are no provisions in the Constitution for the case of a registered man’s child should the man and his Ghanaian spouse divorce.

Interestingly, the 2000 Citizenship Act removed some of the gender inequalities in the Constitution, thereby contradicting it without being able to override it. In case of a divorce, the 2000 Citizenship Act states that the registered spouse remains a Ghanaian citizen, no matter what gender, and so does also any child born to parents who later divorce. Moreover, whether or not a marriage is entered in good faith shall, according to the Citizenship Act, be established regardless of the gender of the spouse. Confusingly, in the 2000 Citizenship Act, the residence requirements for registration as a Ghanaian citizen upon marriage only apply to men (Citizenship Act, No.591 of 2000, section 10(2) – 10(6)). There does not seem to be any case law that addresses the mismatch between the Constitution and the Citizenship Act.

Beyond this focus on citizenship acquisition through marriage, there are three more ways of acquiring citizenship after birth detailed across the Constitution’s chapter on citizenship. First, foundlings of not more than seven years of age should be retrospectively presumed to be citizens of Ghana by birth (Constitution of 1992, section 7(3)). Secondly, an adopted child of no more than sixteen years of age should become a Ghanaian citizen upon adoption, no matter the citizenship of the child’s biological parents (Constitution of 1992, section 7(4)). Both provisions are generous in comparison with other African countries (Manby 2018, 131–132).’ Interestingly, the 1992 Constitution does not consider any route to Ghanaian citizenship through residence. Although the Ghanaian parliament did in its deliberations on the 1996 Constitution Amendment Bill discuss this oversight of immigrants’ right to naturalise (Republic of Ghana, Parliamentary Debates, 29 Oct 1996), the 1996 Amendment in the end did not add any provisions for acquiring citizenship based on residence in the country, leaving naturalisation to legislation as in other Commonwealth countries. The 2000 Citizenship Act fills this gap and states that:

‘A citizen of age and capacity of any approved country may upon an application, and with the approval of the President, be registered as a citizen of Ghana if he satisfies the Minister that – (a) he is of good character; (b) he is ordinarily resident in Ghana; (c) he has been so resident throughout the period of five years or such shorter period as the Minister may in the special circumstances of any particular case accept, immediately before the application and (d) he can speak and understand an indigenous language of Ghana. [...] A person shall not be registered as a citizen unless he has taken the oath of allegiance.’ (Citizenship Act, No.591 of 2000, section 10(1a)-10(1d), 10(8))

Residence requirements for naturalisation further detail that the five years of residence do not need to be consecutive but can be aggregated over a period of seven years, as long as the applicant has been residing in Ghana for a period of twelve months immediately preceding the date of the application (Citizenship Act, No.591 of 2000, section 14(1a)) - 14(1b)). Closely following previous legislation, the 2000 Citizenship Act still lists a number of vague requirements for acquiring Ghanaian citizenship that make it easy to deny a person’s application for naturalisation. The 2000 Citizenship Act states an even longer list of nine requirements. Some of them solely give more detail to the constitution’s requirements, such as 14(1c), which details that ‘good character’ should be ‘attested to in writing by two Ghanaians being notaries public, lawyers, or senior public officers’. Other requirements for naturalisation,

listed in the Citizenship Act 2000, add further vague qualifications for which it is unclear how they can be met. The most controversial among them are being ‘assimilated into the Ghanaian way of life’ (Citizenship Act, No.591 of 2000, section 14(1g)) and being ‘capable of making a substantial contribution to the progress or advancement in any area of national activity’ (Citizenship Act, No.591 of 2000, section 14(1f)). Neither of the two are defined in the act or its regulations.

In addition, the minister can ‘in such special circumstances as he thinks fit and with the approval of the President’ (Citizenship Act, No.591 of 2000, section 14(2)) significantly alter the residence requirements for naturalisation. ‘The Minister can, (a) allow a gap of up to six months between the residence and the application for citizenship, (b) count residence in a different country as if it was residence in Ghana, and (c) allow for residence that predated the seven-year period before the application to count towards an applicant’s aggregated years of residence (Citizenship Act, No.591 of 2000, section 14(2a) – 14(2b)). Beyond these ways in which the minister can ease the residence requirements, the minister can also ‘modify, vary or waive any one of the qualifications for naturalisation’, except the requirement to speak an indigenous Ghanaian language (Citizenship Act, No.591 of 2000, section 14(3)).

When it comes to naturalisation numbers, we know very little. Akyeampong (2006) believes that between 1993 and 2006, no naturalisations happened. Over the last years, there have been a few Ghanaian news articles which reported about naturalisation numbers (Andoh 2016; GhanaWeb 2016; Gyamfi Asiedu 2019; African Diaspora Group 2022). Their aggregated figures would amount to 324 naturalisations between 2016 and 2022 (with no figures for 2017, 2018, 2020, and 2021). Unfortunately, neither the Ghanaian Immigration Service (Ministry of Interior) nor the Ghanaian Statistical Service provide publicly available statistics on naturalisation numbers. We, therefore, do not have robust information about how many immigrants actually manage to acquire Ghanaian citizenship through the residence route.

3.1.3 Barriers: No Access to Naturalisation for Protracted Refugees

The decision not to enshrine any rights to naturalisation for long-term residents in the constitution might have been taken to leave greater flexibility to change the rules through legislation. It might also have been linked to Ghana’s immigration history at the time of the writing of the 1992 Constitution and 1996 Amendment. From 1990 onwards, Ghana had been a major recipient of Liberian refugees fleeing a civil war of unclear length.⁷ The 1992 Refugee Law, passed by the last military council before democratisation (the Provisional National Defence Council, PNCD) mentions that refugees may, under certain circumstances, have access to naturalisation. It remains, however, very vague:

‘Subject to the relevant laws and regulations relating to naturalization, the [Refugee] Board may assist a refugee who has satisfied the conditions applicable to the acquisition of Ghanaian nationality to acquire Ghanaian nationality.’
(Refugee Law, No.305D of 1992, section 14)

Despite this vagueness, this provision is a positive addition to the 2000 Citizenship Act. Under the 2000 Citizenship Act, refugees should have the right to apply for Ghanaian citizenship after five years based on their residence in Ghana – neither the Act itself nor its 2001 regulations mention in any way that refugees would be excluded from the 5-year residence requirement for naturalisation. A number of African states have much more

⁷ Their numbers peaked in in 2003 at about 42,000 people (Omata 2017, 19, 28-29).

restrictive laws for refugees' naturalisation. For instance, Ugandan law makes it impossible for refugees to legally acquire Ugandan citizenship although many of them live in Uganda in second and even third generation (Refugee Law Project 2019).

Whether such assistance by the Refugee Board (Ghana's agency in charge of management of refugee-related activities), as outlined in the Ghanaian Refugee Law, is regularly taking place is unclear and even doubtful. De facto, as in other African countries as well (see for the West African context: Manby 2015; 2021, 514), refugees' prospects of naturalising in Ghana are low – such as in the case of the former Liberian refugees. In 2012, UNHCR decided to end Liberian refugee status by invoking the cessation clause of the 1951 Refugee Convention. As a consequence, the status of Liberians switched from refugees to immigrants and the Ghanaian state had to find a way to deal with its Liberian population. Despite the fact that Liberian refugees had lived in Ghana for over 20 years, the remaining 10,400 Liberians in Ghana (UNHCR 2023, 4) were not offered Ghanaian citizenship but only a two-year work and residence permit (Omata 2017, 158). Their decades of living relatively self-reliant in the country were not taken into account. The short-term residence permits of two years that they were then eligible for (if they did not decide to be returned by UNHCR) did not offer them a route to naturalisation either because it remained under the five-year benchmark for naturalisation enshrined in the 2000 Citizenship Act.

3.2 Loss and Deprivation of Citizenship

There is no provision in the constitution or the legislation for automatic loss of citizenship since Ghana's introduction of dual citizenship in 1996 (see also on dual citizenship 3.3). With this reform, provisions on the loss of citizenship upon acquiring another citizenship were deleted. Revocation of citizenship, however, is possible, though difficult. Only Ghanaians who acquired their citizenship in other ways than by birth or adoption (interestingly, descent is not mentioned) can be denationalised – already a significant limitation on the deprivation power. The permitted reasons for denationalisation are one, concerns about national security and, two, fraudulent acquisition (Citizenship Act, No.591 of 2000, section 18). Most importantly, denationalisation requires the Attorney General to make an application to the High Court for deprivation of citizenship. In the Ghanaian political system, the Attorney General is, at the same time, the Minister for Justice and is considered part of the executive branch. This provision, which is included both in the 1992 Constitution and the 2000 Citizenship Act, thus underlines important checks and balances. It makes it difficult for the executive branch to denationalise citizens as it hands the executive no other power than to go to court.

In addition, the constitution provides that parliament may enact legislation on the renunciation of citizenship (Constitution 1992 (1996), section 9(5)). The 2000 Citizenship Act does exactly this. It provides that, first, renunciation of Ghanaian citizenship through a declaration is possible, however, only for dual citizens (providing a protection against statelessness). Second, it provides that those who renounced their Ghanaian citizenship because their country of second citizenship forced them to do so in order to acquire its citizenship upon marriage, would automatically regain their Ghanaian citizenship upon divorce (Citizenship Act, No. 591 of 2000, section 17).

3.3 Dual Citizenship: A Diasporan Push for Recognition

In 1996, the constitution was amended – less than four years after it came into force. The main reason for the 1996 Amendment Act was an outcry from the Ghanaian diaspora over the

continued lack of dual citizenship. During a parliamentary debate on the 2000 Citizenship Act (which was then passed to harmonise citizenship law with the Constitution), a member of parliament reminded his colleagues of exactly this diasporan push for dual citizenship:

‘Hon. Members will recall that, immediately after the inception of the Fourth Republic, Government was inundated with numerous petitions and calls especially by Ghanaians resident outside Ghana for a review of the law on nationality to accommodate the issue of dual citizenship. In fact it was taken seriously as a national call by Government, and Government particularly took into consideration the fact that our brothers and sisters resident outside Ghana do contribute seriously to the development of this country. Accordingly, government responded positively.’ (Republic of Ghana, Parliamentary Debates, 17 Nov 1999, Col. 1410)

Ghana’s citizenship provisions do not today hinder naturalised Ghanaians from retaining their first citizenship. The parliamentary debates leading to the 1996 constitutional amendment and 2000 Citizenship Act, nevertheless, reveal a sense of unease towards immigrant dual citizenship, unlike diasporan dual citizenship. Members of parliament expressed high levels of sympathy for Ghanaians who had been forced by their living conditions to leave Ghana and acquire citizenship abroad for strategic reasons. Simultaneously, they raised concerns about the purportedly solely strategic reasons for immigrants who tried to acquire Ghanaian citizenship: ‘[...] most of the people who apply for naturalisation in Ghana apply for naturalisation only for purposes of convenience. And even though they live in Ghana, their lifestyle, their attitudes, their relationship with Ghanaians are relationships founded on the basis of their being foreigners.’ (Republic of Ghana, Parliamentary Debates, 17 Nov 1999, Col. 1489).

The lawmaker’s focus on diasporan dual citizenship and their concern over immigrant naturalisation also reflects in the wording of Ghana’s dual citizenship law. Both the amended 1992 constitution and the 2000 citizenship act state, ‘A citizen of Ghana may hold the citizenship of any other country in addition to his citizenship of Ghana.’ (Constitution 1992 (1996), section 8(1); Citizenship Act, No.591 of 2000, section 16(1)). This wording does not reject an immigrant’s right to acquire Ghanaian citizenship as second citizenship and the provision for renunciation of other citizenship on naturalisation has also been deleted. Still, it seems from the wording that the second, additional citizenship that the lawmakers had in mind is the non-Ghanaian one. Two further provisions in the respective sections on dual citizenship underline that the introduction of dual citizenship was primarily addressed at diasporans. These provisions offer a route to reacquire Ghanaian citizenship for Ghanaians who had lost or renounced their Ghanaian citizenship because of either Ghana’s previous ban on dual citizenship (Citizenship Act, No.591 of 2000, section 16(5)) or because of the marriage law of their spouses’ country (Constitution 1992 (1996), section 8(3)).

Dual citizens do not have full political rights in Ghana. The constitution lists seven public offices to which dual citizens are not allowed to be appointed, a list that was further expanded by the 2000 Citizenship Act in provision 16(2a) to 16(2m). The ban on dual citizenship for public offices has, in recent times, led to political debates and case law (see below section 4. *Current Political Debates and Reform Plans: Extending the Political Rights of Dual Citizens*).

3.4. Special Provisions for Access to Ghanaian Citizenship by the African Diaspora

There is one group that has recently been granted preferential immigration status and access to Ghanaian citizenship, namely African Americans. In 2019, the Akufo-Addo government launched the 'Year of Return, Ghana 2019' initiative. The year-long initiative commemorated 400 years since enslaved Africans first reached North America and tried to foster tourism and business relations between Ghana and the US (Government of Ghana 2019; see for immigration status of African Americans: Ghanaian Ministry of Interior 2023). The initiative has been criticised for its focus on the US and lack of interest in other, less affluent, countries to which victims of the transatlantic slave trade had also been brought, such as Brazil or Haiti. The critique is that the initiative had been primarily driven by economic goals and not by a wish to engage with the history of slavery (Yeboah 2019).

As part of the commemoration programme, the Ghanaian government had also planned to naturalise 200 African Americans (Azar 2019). There seems to have been an increase in naturalisation numbers in Ghana during and after the Year of Return; with one diaspora organisation reporting the naturalisation of 126 diasporans in 2022 (Tetteh 2020; African Diaspora Group 2022). It is, however, not clear to what extent these numbers stem from recent Ghanaian emigrants who felt compelled to (re-)acquire their Ghanaian citizenship and to what extent they stem from descendants of victims of slavery. At least two high-profile cases of naturalisation after birth through special legislative treatment occurred in February 2023 and May 2024. In 2023, two of three living survivors of the Tulsa Race Massacre⁸ were given Ghanaian citizenship in an opulent ceremony at the Ghanaian embassy in Washington (Brown 2023) and in 2024, the Ghanaian President conferred Ghanaian citizenship upon Stevie Wonder (The Presidency of the Republic of Ghana 2024).

4. Current Political Debates and Reform Plans: Extending the Political Rights of Dual Citizens

An ongoing debate concerns the political rights of dual citizenship. Particularly, it concerns the question of whether members of parliament should be allowed to have dual citizenship. Currently, the constitution holds that dual citizens are barred from a range of public offices, including members of parliament. Both political parties, the New Patriotic Party (NPP) (which has held the Ghanaian presidency since 2017) and the National Democratic Congress (NDC), seem to be generally open to amending the constitution and extending dual citizens' political right to run for public office. With the general elections of December 2024, the question of MPs' right to dual citizenship, however, simultaneously became a campaign issue and a means to discredit oppositional candidates.

4.1 Dual Citizenship and Public Offices Case Law

The ban on dual citizenship for public officials has been enshrined in the Ghanaian constitution since dual citizenship was introduced in Ghana in 1996. In recent times, the ban has attracted broader public interest, not least due to two legal debates.

⁸ The 1921 Tulsa Race Massacre is one of the worst incidents of racist mass murder in the US. Over the course of two days, a white mob destroyed the entire black neighbourhood of Tulsa, Oklahoma, killed hundreds of its residents and left thousands homeless.

One legal debate concerns the exact point at which dual citizens would have to renounce their second citizenship before being allowed to run for public office. This debate arose when it transpired that the 2020 elected Member of Parliament, James Gyakye Quayson of the oppositional National Democratic Congress (NDC), held dual Ghanaian-Canadian citizenship when he submitted his documents for candidacy to the Electoral Commission of Ghana to run for office in the 2020 general elections. Quayson held that he had already applied for a renunciation of his Canadian second citizenship in 2019. In October 2020, he submitted his documents for nomination to run for the office of MP. In November 2020, he received his confirmation of renunciation of Canadian citizenship and only in December 2020, he said in his defence, he started his election campaign. While Quayson argued that he did not violate the constitution because he only started running for office after he had received his renunciation documents, the Ghanaian High Court ruled in 2021 that Quayson's election was 'null and void and of no legal effect' (*Nimfah vs Quayson & 2 Ors*, GHASC 31, 17 May 2023, 2). In 2023, the Ghanaian Supreme Court upheld the High Court's ruling. It reasoned that the point at which candidates can no longer hold dual citizenship is the point at which candidates file their documents for nomination to the Ghanaian Electoral Commission (*Nimfah vs Quayson & 2 Ors*, GHASC 31, 17 May 2023). Although Quayson had applied to renounce his Canadian citizenship, he had not yet received official confirmation of the renunciation and thus still held dual citizenship when taking the decision to stand for office. With this decision, the Supreme Court also underlined a previous ruling from 2012, which held that imposing exclusions from offices on dual citizens is constitutional (*Asare vs Attorney General*, GHASC 31, 22 May 2012).

The other legal debate concerns the exact offices from which dual citizens can lawfully be excluded. A ruling by the Supreme Court from 24 April 2024 declared the exclusion from certain public offices as unconstitutional; for two main procedural reasons. Firstly, the 1996 amendment to the Constitution states a list of public offices which dual citizens cannot hold, to which the 2000 Citizenship Act added six further offices. This addition, the court ruled, amounted to an amendment of the Constitution without an actual Constitution amendment act and was, therefore, null and void. Secondly, the addition of these offices did not follow parliamentary procedure as they were added towards the end of the parliamentary debate phase in a way that did not give MPs the appropriate time for consideration (*Osei-Bonsu vs Attorney General*, 24 Apr 2024). Both rulings, *Nimfah vs Quayson* and *Osei-Bonsu vs Attorney General* indicate that the question of whether dual citizens can hold important public offices has recently received increased public interest.

4.2 Dual Citizenship and Public Offices: The 2021 Citizenship (Amendment) Bill

Recent political developments indicate a possibility of new citizenship legislation. While *Nimfah vs Quayson* was ongoing, a Member of Parliament of the ruling NPP, Kennedy Osei Nyarko, proposed a private member's bill to amend the citizenship act so that MPs could hold dual citizenship (Asare 2022; GhanaWeb 2023, 2021; Modern Ghana 2021). His Citizenship (Amendment) Bill proposed: 'to remove restrictions imposed on dual citizens from holding certain public offices specified in subsection (2) of section 16 of [the Citizenship Act]' (Republic of Ghana, Parliamentary Debates Official Report, 28 Oct 2021, Col. 26). So far, the bill has been read once. The first reading did not reveal any arguments for or against the bill but simply stated that it had been presented by Osei Narko and referred to the Committee on Constitution, Legal and Parliamentary Affairs.

The bill is in line with the ruling NPP's policy on dual citizenship. Back in 2020, the NPP released its Diaspora Engagement Policy, aimed at forging closer ties with Ghanaians in the Diaspora by offering them more citizenship rights (among other things). A key issue that the

Diaspora Engagement Policy aims to reform is a clause from the 2000 Citizenship Act which forbids dual citizens from holding certain political offices:

‘Furthermore, there are other Ghanaians in the diaspora who, by virtue of their dual citizenship or nationality, are ineligible for appointment into certain political offices, including ministerial appointments in spite of the diverse contributions they make to the country’s development. In order to sustain the contributions of these categories of people, there is the need to adopt measures to ensure their political participation and rights through their effective integration into the political economy of the country.’ (Government of Ghana 2020: 16)

Although Osei Narko, the author of the Citizenship (Amendment) Bill, is a member of the current ruling party, NPP, and although his bill is in line with his party’s stances on dual citizenship, it seems nevertheless unlikely that the bill will make it to a second reading during the current legislative period. After all, Osei Narko did not succeed in uniting his party behind the bill and presented it as an individual member, without the backing of his parliamentary fraction. This lack of support from his own party may have been a result of the untimely moment that Osei Narko chose from a party perspective. While the NPP made clear in its Diaspora Engagement Policy that it aims for reforms to allow MPs to hold dual citizenship, the NPP did not seem willing to push for such a bill while Quayson, an opposition candidate, was accused of breaching the ban on dual citizenship.

4.3 The 2024 Presidential Elections: Campaigns for Dual Citizenship and Controversies Around Voter Registration

The Supreme Court’s ruling in the *Nimfah v Quayson* case in 2023 did not change Quayson’s position, as his election had been confirmed in a by-election held in 2021 (after his citizenship status had become public and after he had officially renounced his Canadian citizenship). However, the Supreme Court’s ruling coincided with the election campaign period for the general elections to be held in December 2024. Two days after the Supreme Court’s ruling, the presidential candidate of the oppositional NDC, John Mahama, visited Quayson’s constituency. During his visit, he announced that, if elected, he would remove those restrictions that prevent dual citizens from running for public office. In his speech, he declared the Supreme Court’s ruling an ‘injustice and an affront to Ghana’s democracy’ and proposed that amending the laws on dual citizenship had the potential to reverse the ‘brain drain’ as more diasporans would feel compelled to return to Ghana:

‘A country’s human resource is its best resource, and we happen to have about three million of our citizens abroad, they have acquired experience, they have acquired different talents. And why should we have a law that says that if you going to be an MP in Ghana, you must give up your dual citizenship’ (as cited by: GraphicOnline (2023) see also: Darfah Frimpong (2023)).

Just one month later, the current vice president, Mahamudu Bawumia, a member of the ruling NPP, was accused of secretly holding dual Ghanaian-British citizenship, an allegation he has so far refuted as a baseless accusation (Zurek 2023).

It seems that both parties are, in principle, willing to reform the citizenship bill so that public officials can have dual citizenship but deem it advantageous to use the clause as it is now to disqualify political opponents during election campaigns. In principle, extending the political rights of dual citizens has bipartisan support. The next legislative period will show whether both parties will be willing to work together on this issue. Irrespective of how the

general election will unfold and whether Ghana's constitution and citizenship act will be amended to allow dual citizens to hold public offices, the developments since 1996 make clear that Ghana has, since the introduction of dual citizenship, been on a political course that leads to further liberalisation rather than to restricting dual citizen's rights.

Dual citizenship is not the only citizenship-related issue that has marked the election campaign. Voter registration, as already in the previous 2020 election, has again been a divisive issue. In the run-up to the 2020 general elections, the Electoral Commission of Ghana decided to no longer accept birth certificates and voter identification cards as proof of voter registration. Still accepted proofs of citizenship in the new voter registration in 2020 were passports, identity cards, and, for those who do not have either of the two, guarantors (a process by which citizens who possess identity documentation vouch for the citizenship of an undocumented citizen). The oppositional NDC took legal action against this procedure before the Ghanaian Supreme Court but lost their case (*NDC vs Attorney General* 2021). For the upcoming elections in 2024, the Electoral Commission has now pushed the issue even further by proposing that identity cards alone should be the sole acceptable documents for voter registration, however, so far without success (Agyeman 2024; GhanaWeb 2024).

Besides the undemocratic character of such exclusion of identity documents from voter registration, the issue has laid bare a major issue: the country's high levels of undocumentedness. Many Ghanaians still do not possess an ID, let alone a passport, particularly those from poor and rural backgrounds (Akapule 2020). It is still a reality in Ghana that children born into poverty often are not registered at birth because their parents lack access to administration and documentation. Such undocumented persons can end up living a life of statelessness without ever having left Ghana. According to the United Nations Children's Fund (UNICEF), on average only 63% of children born in Ghana received a birth certificate in 2013, and the figures are even worse for those born in rural Ghana (UNICEF 2013, 41; see also: Atuguba, Tuokuu, and Gbang 2020). Because of this reality, Ghana's Citizenship Act provides that where there is doubt as to the citizenship by birth of a person, the Minister of Home Affairs may 'certify that the person is a citizen of Ghana' (Citizenship Act, No.591 of 2000, section 14(3)). The usage of this provision is, however, 'effectively unknown in practice' (Manby 2018, 126-127). Moreover, some minorities reported difficulties when trying to access IDs. This is particularly true for Ghanaians who identify as ethnically Fulani. Since Fulani traditionally live(d) nomadically across the Sahel region, they are still often perceived as strangers. Many Fulani have complained about being wrongfully denied their citizenship by local administrators (GhanaWeb 2023; StarrFM 2020).

5. Conclusions

Ghana has long left behind its past of using citizenship law as a means to denationalise parts of its 'immigrant' population. Dorman, Hammett, and Nugent (2007) famously called the early period after the independences in Africa a period of 'making nations [and] creating strangers' – and this phrase chimes well with what happened in Ghana in the 1960s and 1970s. With borders arbitrarily drawn by the colonialists, Ghana's early governments were thrown into leading a country that lumped together dozens of different languages and, at its borders, divided communities into different state memberships. In such a situation the question of *who we are and who belongs* forced itself onto the Ghanaian society. Sadly, it is in this situation as well that, with political instability and economic decline, purported strangers were scapegoated for the country's malaises. Rhetoric was followed by legislation that denationalised, expropriated and deported people of other (West) African and Middle Eastern descent. The politicisation of citizenship law, however, abated at the end of 1979. After nearly two decades

of frequent amendments to laws on citizenship, the 1979 Constitution eased citizenship provisions and was not amended again until the 1990s when Ghana gave itself a new, democratic order.⁹

Since the mid-1990s, Ghana's citizenship regime has been on a path of liberalisation – unlike its direct neighbour, Côte d'Ivoire. In the 1990s, Côte d'Ivoire introduced the 'ivoirité' principle to its citizenship legislation. Questioning the 'true', indigenous Ivorian citizenship of people from the North of the country, it denationalised large parts of the population – including presidential candidate Alassane Ouattara (Babo 2017; Cheeseman, Bertrand, and Husaini 2019). The ivoirité legislation constituted a significant factor in the lead-up to the outbreak of the Ivorian civil war in 2002. Manby suggests that Ghana's legislative history provides an explanation as to why Ghana did not face a comparable crisis: 'it seems plausible to suggest that at least part of the contrast with Côte d'Ivoire is explained by [...] not just changes in political rhetoric, but changes in law. Ghana's very early abandonment of *jus soli* citizenship as politically unacceptable forced the discussion on what rules on belonging would, in fact, obtain consensus support' (Manby 2018). In other words, because Ghana did have the legislative history of the 1960 and 1970s, it did not have an identity crisis such as the Ivorian one in the 1990s and 2000s. This argument is corroborated by the Ghanaian parliamentary discussions of the 1990s which led to the dual citizenship reforms of 1996 and 2000. A central narrative in favour of liberalising Ghanaian citizenship used the Ghanaian illiberal history of denationalisation as well as the developments in Côte d'Ivoire as negative examples to urge for a different, more open approach to citizenship (Schweers 2024).

Dual citizenship would not have been introduced in 1996 had it not been for the protest of the large Ghanaian diaspora who, once Ghana transitioned to democracy, claimed their right to Ghanaian citizenship without having to renounce their belonging in other countries. Since then, the Ghanaian notion of 'diaspora' has been widened to also include African Americans. The narrative behind this widening of the notion of diaspora is that Ghana offers African American descendants of the victims of slavery the right to belong in a country that was one of the main regions from which slaves were taken. The focus of the 'Year of Return' campaign on the US, as opposed to much poorer countries such as Brazil, Haiti, or Jamaica, however, indicates that economic calculations were a driving force behind this policy (Yeboah 2019).

When lawmakers amended the constitution and passed the 2000 Citizenship Act to introduce dual citizenship, one of the hopes they harboured was that dual citizenship would encourage return migration (Schweers 2024) – which it seems to have. Today, return migrants with dual citizenship are calling for an end to the current ban on dual citizens in political offices and demand their full political rights in Ghana. While there is political manoeuvring around that issue, parties, in principle, approve of such a further relaxation of the dual citizenship provisions. It is, therefore, likely that Ghana will see an amendment of its citizenship laws so that dual citizens can run for offices they are so far excluded from.

Despite these changes, there is still a great deal of continuity in the current provisions of Ghana's citizenship laws, dating from between 1957 and 1979. Ghanaian women still have a harder time conferring their citizenship onto their spouses than Ghanaian men. At independence, most African citizenship regimes discriminated based on gender, but since the 1990s, 24 African states introduced reforms to remove gender discrimination from their citizenship laws (Manby 2016, 63). So did Ghana, though it did not completely remove all

⁹ For Ghana, the 1980s were a period of stark rise in emigration; in 1983-85, moreover, Nigeria expelled 1.9 Million Ghanaian migrants (Adepoju 2010; Beauchemin 2018). Both facts might have contributed to a situation in which immigration into Ghana lost its relevance vis-à-vis issues around Ghanaian emigration.

gender-based discrimination and retained some differences in the treatment of spouses who register to acquire Ghanaian citizenship through marriage. Another relict from the past is Ghana's provision that applicants filing for naturalisation still require proof of their 'good character'. This provision is not only incredibly vague but also astonishingly long-lived;¹⁰ it dates back to the colonial administration and its provisions for the status of 'Citizen of the United Kingdom and Colonies' (Malki 2018). Naturalisation also still requires proficiency in an indigenous language, although lawmakers agreed that the country does not have the means to test and enforce this provision (Republic of Ghana, Parliamentary Debates, 17 Nov 1999). In practice, moreover, ethnic minorities and disadvantaged people still face hurdles with accessing citizenship documentation.

With regard to reform, another important issue that remains is the general difficulty of access to naturalisation, particularly in the case of protracted refugees. Although the country does not de jure exclude refugees from applying for Ghanaian citizenship, de facto, the largest group of refugees that the country has hosted, Liberians, was denied citizenship in Ghana. For over 20 years, Liberian refugees lived in a settlement on the outskirts of Accra. When UNHCR passed the Cessation Clause for their refugee status in 2012, these two decades in Ghana were not counted towards their years of residence in the country. Instead, Liberians were given the option of either returning to Liberia (a country that the younger generation among them had never seen in their lives) or being issued a two-year work and residence permit – a period too short to be able to apply for citizenship. Situations like the Liberian case, where a whole new generation grows up as refugees but has no option of becoming citizens of the only country they have lived in, risk leading to statelessness. This issue will be particularly salient for the nearly 12,000 Burkinabe refugees and asylum seekers who have been entering Ghana for the last ten years, particularly since the 2022 coup d'état in Burkina Faso. If the crises in the Sahel region do not abate soon – and nothing points to the direction that they will – the Burkinabe population in Ghana risks a future of citizenship insecurity.

¹⁰ Ghana is by far not alone in this regard. The UK and many other Commonwealth countries, for instance, still also retain such a provision.

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