

Memo

To: Dr. John Bruce
From: Caleb Stevens
CC: Dr. Jeanette Carter
Date: 2/6/12
Re: Legal Basis for Prohibition of Dual Citizenship in Liberia

I. Aliens and Nationality Law (1973)

The Liberian Constitution states, “No citizen . . . shall be deprived of citizenship or nationality except as provided by law.”¹ The law that deprives Liberians of citizenship when they have acquired the citizenship of another country is the Aliens and Nationality Law. It states that five acts cause the loss of citizenship: (1) becoming a naturalized citizen of a foreign state or if one’s parent becomes a naturalized citizen of a foreign state and the child does not establish permanent residence in Liberia by the time they turn 23 years old, (2) formally declaring allegiance to a foreign state, (3) volunteering for service in the armed forces of a foreign state, (4) voting in a foreign state election, and (5) formally renouncing “Liberian nationality” before a Liberian diplomatic or consular officer in a foreign state.

There is currently before the Senate a draft bill that would remove all the above acts as depriving one of Liberian citizenship except formal renunciation before a Liberian court and a Liberian diplomatic or consular officer in a foreign state.² It clearly states, “[T]he Republic of Liberia shall . . . recognize “Dual Citizenship” in which a citizen of Liberia at birth may become a citizen of another state without losing his/her Liberian citizenship.”³

II. The Constitutional Issue

In June 2010 a complaint filed with the Liberian Supreme Court challenged the constitutionality of Sections 22.1 and 22.2 of the Alien and Nationality Law on the grounds that it automatically

¹ Liberian Constitution, art. 28 (1986).

² Draft Bill on Loss of Citizenship.

³ *Id.*

deprives Liberians of their citizenship without due process.⁴ The complaint argues that failure to include a provision for a judicial hearing prior to termination of Liberian citizenship violates Article 20(a) of the Liberian Constitution which states, “No person shall be deprived of life, liberty . . . privilege or any other right except as the outcome of a hearing judgment . . . in accordance with due process of law.”⁵

The Constitution does not expressly forbid dual citizenship in all cases. However, it does prevent Liberian citizenship by birth if a person does not “upon reaching maturity renounce any other citizenship acquired by virtue of one parent being a citizen of another country.”⁶ The proposed Senate Bill would allow dual citizenship at birth as a result of “naturalization of a parent or parents in another state.”⁷ This provision contradicts the constitutional prohibition against maintaining the foreign citizenship of a parent and thus would require the two to be reconciled. One way to do this is to permit a child born to a Liberian parent who has also acquired the citizenship of a foreign state to become a naturalized Liberian citizen. That is, because the focus of the constitutional prohibition is citizenship by birth the law could circumvent the bar, and also the need for a constitutional amendment, by allowing for a naturalization process.

III. Appendices

Appendix A: Alien and Nationality Law (1973)

Section 22.1 Acts causing loss of citizenship

From and after the effective date of this title, a person who is a citizen of Liberia whether by birth or naturalization, shall lose citizenship by—

(a) Obtaining naturalization in a foreign state upon his own application, upon the application of a duly authorized agent, or through the naturalization of a parent having legal custody of such person; provided that citizenship shall not be lost by any person under this section as the result of the naturalization of a parent or parents while such person under the age of 21 years, unless such person shall fail to enter Liberia to establish a permanent residence prior to his twenty-third birthday; or

(b) Taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof; or

⁴ Alvin Teage Jalloh, *On Dual Citizenship: An Open Letter to the ULAA President Anthony Kesselly*, *Liberian Journal*, Mar. 31, 2011, at <http://www.theliberianjournal.com/index.php?st=news&sbst=details&rid=1930>.

⁵ *Id.*

⁶ Liberian Constitution, art. 28.

⁷ Draft Bill on Loss of Citizenship, Sec. 22.1(a).

- (c) Exercising a free choice to enter or serve in the armed forces of a foreign state, unless, prior to such entry or service, such entry or service is specifically authorized by the President;
- (d) Voting in a political election in a foreign state or voting in an election or plebiscite to determine the sovereignty of a foreign state over foreign territory; or
- (e) Making a formal renunciation of Liberian nationality before a diplomatic or consular officer of Liberia in a foreign state in such form may be prescribed by the Secretary of State.

Appendix B: Senate Bill Allowing Dual Citizenship

22.1 Acts causing Loss of Citizenship

- (a) From and after the effective date of this title, no person who is a citizen of Liberia at birth shall lose his/her citizenship for reasons of marriage to a citizen of a foreign state; naturalization in a foreign state or naturalization of a parent or parents in another state; entering or serving in the armed forces for a foreign state or voting in a political election in a foreign state;
- (b) From and after the effective date of this title, Liberian Citizenship by Birth is hereby restored to all persons who were citizens by birth and who lost citizenship as a result of the conditions laid out in the previous Aliens and Nationality Law;
- (c) A person who is a citizen of Liberia at birth but who makes a free choice of a formal renunciation of Liberian nationality before a court in Liberia or before a diplomatic or consular officer of Liberia in a foreign state, in such manner as may be prescribed by the **Minister of Foreign Affairs** of Liberia, and not growing out of circumstances over which he or she has no control or is not in control of, shall lose his/her citizenship;
- (d) By the passage of this Act, the Republic of Liberia shall, within the limits prescribed herein and under the conditions stated hereinbefore, RECOGNIZE “**Dual Citizenship**” in which a citizen of Liberia at birth may become a citizen of another state without losing **HIS/HER** Liberian citizenship; and
- (e) This Law shall apply only to persons who are Liberian Citizens at Birth.

Appendix C: Liberian Constitution

Article 27

(a) All persons who, on the coming into force of this Constitution were lawfully citizens of Liberia shall continue to be Liberian citizens.

(b) In order to preserve, foster and maintain the positive Liberian culture, values and character, only persons who are Negroes or of Negro descent shall qualify by birth or by naturalization to be citizens of Liberia.

(c) The Legislature shall, adhering to the above standard, prescribe such other qualification criteria for the procedures by which naturalization may be obtained.

Article 28

Any person, at least one of whose parents was a citizen at the time of the Person's birth, shall be a citizen of Liberia; provided that any such person shall upon reaching maturity renounce any other citizenship acquired by virtue of one parent being a citizen of another country. No citizen of the Republic shall be deprived of citizenship or nationality except as provided by law; and no person shall be denied the right to change citizenship or nationality.