CITIZENSHIP AND INTEGRATION POLICIES IN PORTUGAL

An Overview of Recent Immigration to Portugal

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ABSTRACT

This paper provides a short overview of the policies for the promotion of citizenship and integration of non-European Union (non-EU) foreigners in Portugal.[1] It describes the evolution of foreign citizenship and integration policy after the mid-1990s, when Portugal clearly became a country of immigration. It closes with a short summary of recent policy and program developments, highlighting positive achievements on the formal side and social integration responses, but also calling attention to the persisting disadvantages that are faced by immigrant groups which act as hindrances to social cohesion.

Immigrant citizenship: From nation-state boundaries to residence-based and post-national rights

The emergence and development of modern nation states in the 18th and 19th centuries have led to a normalization of the forms of control, duties and rights of citizens. Within this process, national governments have progressively come to play a central role in formally defining citizenship[2] and ensuring respect for the set of rights and duties associated with it (Garcia 1999). From this period onwards, the distinction between the "us" (the citizen with full rights) and the "other" (the non-citizen) began to correspond with that between members of the national community and members of other (foreigner) national communities. With the expansion of the nation-state system throughout the world, each citizen has become a national citizen,[3] which is distinct from being a member of a specific – and eventually territorialized – ethnic community (e.g. the Basques, the Welsh, the Laps, the Rom). In fact, the development of nation-states has not only created the modern notion of "foreigners" or *external ethnic minorities*, but is also responsible for the "formal" creation of *internal ethnic minorities*.

The aforementioned association between attribution of citizenship[4] and belonging to a nation-state has established a clear distinction between nationals (citizens) and foreigners. These foreigners, sometimes called "denizens" in specialized literature, were supposed to benefit from a limited set of rights (Hammar 1990, Aleinikoff and Klusmeyer 2002). The traditional way of overcoming rights constraints experienced by immigrants was naturalization, which could be particularly seen in traditional immigration countries of North and South America, and Australia and New Zealand (Baubock et al. 2006).

In Western Europe, the largest immigration wave took place in the 1950s and 1960s and comprised labour migrants, formally known as guest workers, who were not considered citizens during their supposedly short stay (Castles 1986). However, due to family reunification, many of these foreigners have become long-term migrants and, in many cases, never returned definitively to their home countries. In addition, other factors such as long-term immigrants maintaining their country-of-origin nationality, the intensification of transnational practices and the affirmation of the discourse on human rights as a basic universal principle for formal and *de facto* attribution of citizenship have justified changes in the way rights are attributed to foreigners. These were progressively expanded, blurring the lines between (national) citizens and foreigners – and also in the general conditions of access to citizenship (Soysal 1996, Baubock et al. 2006).

These developments have contributed to weakening the strong and absolute link between nation-state belonging and citizenship – that is, between (national) identity and citizenship (rights). The practical result has been that "residence" as a criteria for the attribution of citizenship rights was given more importance, which led to the progressive expansion of the rights of foreign residents in almost all EU member states, namely in the social (education, health, unemployment benefits, retirement, access to public housing) and civic fields (creation of associations, civic representation), equalling or almost equalling those of national citizens (Baubock et al. 2006).

Citizenship and immigration in the Portuguese democratic regime

From the mid-1970s onwards, shifts in immigration policies have brought to the fore the close relationship between citizenship and immigrant integration in Portuguese society. In tracing Portuguese

state responses to immigration, the criteria for admission, citizenship acquisition and the allocation of rights are reflected in integration policies. In broad terms, integration approaches have evolved from a *laissez-faire* policy in the 1980s to reluctant assimilationist policies in the early 1990s and to a more pluralist approach from the late 1990s to the present. Underlying these changes is a progressive allocation of citizenship rights to immigrants and, more recently, the adoption of an inclusive new citizenship regime.

After 1974, the loss of the empire and the massive influx of people from the ex-colonies had a major impact on Portuguese society and on its "national model of citizenship." The introduction of a more restrictive citizenship law (*Law 37/81*), largely privileging *jus sanguinis* over *jus soli*, attempted to respond to the new national reality. As a result, this new law, while restricting citizenship access to immigrants (including individuals from the former Portuguese colonies in Africa), on the one hand, facilitated the reacquisition or acquisition of nationality by Portuguese emigrants and their descendants living abroad, on the other. This law effectively strengthened the new notion of Portugal – a large nation that extended itself far beyond the Portuguese state borders. Also, the introduction of regulations that allowed for dual citizenship favoured Portuguese emigrants who had acquired a different nationality and who had to forego Portuguese citizenship. This greater sensitivity towards Portuguese emigrant communities underlined a conception of the nation as an imagined community of descent which transcended territorial boundaries and in which emigrants played a major role.

As regards the new immigration phenomena, the adoption of a *laissez-faire* immigration policy, from the mid-1970s until the end of the 1980s, had major implications for the life chances of newcomers. This policy led to the depoliticization of immigration and ethnicity in Portugal (Machado 1993). However, the lack of integration measures and the absence of a debate on immigration issues marginalized migrant populations and neutralized immigrants' claims and interests.

From the late 1980s to the mid-1990s, immigration issues garnered unprecedented interest in the Portuguese political agenda. Several international and national factors prompted a new approach to immigration. At the international level, Portugal, as a full-fledged member of the European Union,[5] was pressured to address immigrants integration and to control and regulate flows. At the national level, the consolidation and increasing politicization of immigrant communities as well as the emergence and mobilization of non-governmental associations contributed to making immigration a key issue in the Portuguese political agenda.

During this period, state responses to immigration were rather ambiguous and mixed, combining an overall assimilationist approach with differential exclusion measures while, at the same time, introducing special provisions to ensure the integration of migrant communities. In 1992, the introduction of tighter immigration and asylum legislation made it especially hard for those arriving from non-EU member states. For the first time, Portugal was officially defined as a "country of immigration." Yet the new legislation did not include an immigration policy as such. Instead, a set of regulations was introduced to regulate the inflow and permanence of foreigners, in accordance with the policy principles of *Fortress Europe*.

In Western Europe, the largest immigration wave took place in the 1950s and 1960s and comprised labour migrants, formally known as guest workers, who were not considered citizens during their supposedly short stay. However, due to family reunification, many of these foreigners have become long-term migrants and, in many cases, never returned definitively to their home countries.

The restrictive and exclusionary approach was further extended to issues of citizenship. In 1994, *Bill 25/94* introduced some changes to the 1981 nationality law that further limited foreigners' rights to citizenship. For instance, residence requisites for naturalization were extended from six to ten years in the case of non-Portuguese speaking foreigners from non-EU member states and the acquisition of nationality through marriage ceased to be automatic. However, special provisions were made for Brazilians and citizens of former Portuguese colonies, which provided easier access to the acquisition of Portuguese nationality.

In terms of integration measures, the legalization of thousands of irregular foreigners residing in the country (processes of 1992/1993 and 1996) and the implementation of several national education, employment and housing programs signaled a greater commitment to enhancing the living conditions of immigrant populations residing in Portugal. Also at the local level, new institutional channels were created to address the needs and interests of immigrants. Still, the official rhetoric on immigration was very much tied to issues of national security and of "integration," which emphasized the idea that immigrants were expected to adapt and to reshape their ways of life to the Portuguese social and cultural reality.

From the late 1990s onwards there was a clear shift away from the assimilationist approach and towards a more pluralist model. From the mid-1990s onwards, new institutional channels for migrants' social and political participation were created, as they were of special importance to the High Commissioner for Immigration and Ethnic Minorities (ACIME), which later became the High Commission for Immigration and Intercultural

Dialogue (ACIDI). This body's mission was to promote and coordinate immigrant integration policy in Portugal, but only became effective in the early 2000s, when ACIME´s means and competencies were extended. At the same time, relevant complementary bodies, both at the central administration level – the Consultative Council for Immigration Issues, the Commission for Equality and Racial Discrimination – and at the local level – the Consultative Immigration bodies of the municipalities of Lisbon and Amadora, for instance – were established, thereby contributing to the new institutional framework for immigrant integration. These institutional channels have provided the main political framework for policy formulation and institutionalized the political participation of immigrant communities.

Although immigration policies tended to be more reactive than proactive during the 1990s, a wide array of civil, social, cultural and political measures were adopted to improve the welfare of migrant communities. These included, among others, the possibility of working for small businesses (ten employees or less), an extension of the family members who can benefit from family reunification, access to social housing, formal recognition of immigrant associations and the right to vote in local elections, although the latter is subject to a reciprocity clause. The attribution of these rights was mainly granted on universal residence criteria, but PALOP (Portuguese Speaking African Countries) and Brazilian citizens now benefited from these advantageous measures.

If the evolution in the 1990s contributed to closing the gap between nationals and non-nationals, especially concerning *de jure* citizenship, the first years of the 21st century have seen a significant expansion in the services and conditions that facilitate the integration process of foreigners living in Portugal. A good example is the two "one-stop shops"[6] established by ACIME in Lisbon and Oporto, which concentrate various services that foreigners frequently use (Foreigners and Borders Service, Social Security, the Employment Institute and others), with the purpose of providing integrated answers and solutions to their administrative and bureaucratic needs. In addition to these one-stop shops, a national network of small local centres has been established in order to provide information and guidance to immigrants.

More recently, the approval of a new citizenship law (*Organic Law 2/2006*) has significantly changed the criteria for the attribution of nationality, reinforcing *jus soli* while making naturalization and the acquisition of nationality easy for immigrants' offspring. The new legislation rests on a clear shift to an active and inclusive approach to national membership and is perceived as an effective means to "fight social exclusion."[7] This active and open naturalization policy was followed by the implementation of the *Plan for the Integration of Immigrants*.[8] Despite the absence of explicit references to the political participation of immigrants, the Plan stresses the exercise of citizenship as one of the most important pillars of immigration policy. Full participation of immigrants in the policy-making process and the strengthening of the immigrant association movement and of civil society as social partners in the formulation of integration policies are major policy objectives. Furthermore, a commitment to "interculturality" is perceived as a fundamental instrument for "social cohesion" in a society that "recognizes cultural and social specificities of different communities, stressing the interactive and relational dimension amongst them."[9] Despite the strong emphasis that is placed on an intercultural approach, this does not imply a "multicultural citizenship" in which provisions are made for the allocation of special and formal rights to immigrant communities. The underlying principle in this political project seems to rest on a reconfiguration of social interaction which opens up the possibility for the negotiation of cultural and social meanings. What is at stake is not so much a politics of national identity *vis-à-vis* particularistic identities, but rather the creation of a space of inclusion, capable of embodying multiple identifications that are plural and hybrid, as well as the political empowerment of immigrant populations as a guarantee of social justice and equality.

Citizenship and integration in Portugal: achievements and constraints

During the last ten to 15 years, the formal citizenship rights attributed to foreign citizens living in Portugal have undergone a very positive evolution, consolidating the real principle of equal rights between nationals and foreigners. The analysis that supports the results of the Migrant Integration Policy Index for EU countries, Norway, Switzerland and Canada (MIPEX)[10] seems to confirm this positive trajectory (Niessen et al. 2007). Portugal ranks second among the 28 countries analyzed and its legal framework is considered clearly favourable to integration in the areas of labour market access, family reunification and anti-discrimination, a picture that is in accordance with the gains mentioned in the previous section. The situation is slightly less favourable in terms of political participation (due to the restrictions associated with the reciprocity demand for voting in local elections), access to nationality and long-term residence, although in the latter domain the new immigration law[11] has eliminated some differences between PALOP citizens and other foreigners, making the conditions for permanent residence easier for the latter.[12]

This evolution is in line with the affirmation of the principle of equality of rights between nationals and foreigners that developed in EU in the late 1990s and early 2000s. Nationality-based rights attribution is no longer the only crucial condition; residence place-based rights, independent of nationality, are becoming the norm, especially as concerns local issues and socio-economic questions.

Naturally, formal citizenship is not equivalent to substantive citizenship and the effective benefit of rights requires societal changes that occur slowly. Evidence of discrimination in the job[13] and housing markets is visible in Portuguese society and public services responses to immigrants' demands display several limitations, despite improvements in recent years. These responses are often unclear and slow, especially in the case of administrative procedures associated with acts such as marriage or the issuing of a driver's licence, and the associated costs are also frequently higher, especially when they involve recognized translations (Rosário and Santos 2008). In addition, cases of labour market exploitation associated with irregular

migration reveal the vulnerability and "very limited citizenship rights" of a portion of the foreigners living in Portugal, despite the five "extraordinary" regularization campaigns developed between 1992-1993 and 2004[14] and the possibility of "case-by-case" regularization, which is guaranteed by *Law 23/2007*.

All in all, if integration is a dynamic process based on equal opportunities, rights and duties for all citizens living in the same society, independent of nationality, the decisions taken by Portuguese governments during the last 10-15 years have clearly contributed to the formal achievement of this goal and also to the promotion of positive changes in the social and administrative responses in this area. However, because integration also requires that *de facto* disadvantages of non-EU foreign groups be overcome (in terms of access to employment, salaries, electoral participation, school options, etc.), and that its members be recognized as equal partners of the collective, the effective implementation of the principle continues to demand systematic initiatives. Fighting institutional prejudice and increasing the opportunities of the children of immigrants, especially in the framework of an intercultural strategy designed to promote positive interaction between all members of the society, are just two examples of the contemporary challenges faced by Portuguese integration policy.

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Notes

[1] Within the EU framework, free circulation of people is associated with a process of equality of rights between the citizens of all member states, subject to specific regulations. In addition, EU foreigners settled in Portugal display living standards that are frequently higher than the average Portuguese citizen. Due to this, the article does not focus on EU "co-citizens" and discusses citizenship and integration issues of the non-EU foreigners living in Portugal.

[2] The idea of *social contract*, theorized by Hobbes and Locke, is inherent to this process. Rousseau, who assumes that all *men* are born free and equal, develops the idea of *social contract*, assuming that the state is the result of a contract established by all members of society. According to this contract, every citizen places his individual natural rights under the umbrella of the general will that may be understood as the set of rights and duties that correspond to the most relevant interests of the community of free individuals. The role of the state in the *social contract* is to "represent the people" and to ensure equality in face of the law and that the set of basic rights is fully respected.

[3] By national citizen we mean the formal membership of a nation-state. However, frequently, a distinction between citizenship and nationality is established. Citizenship refers to the formal membership of a nation-state whereas nationality is associated to the belonging to a certain nation, that is a group of people that shares common cultural values (language, practices, eventually a religion), the same place of origin and reference and that recognizes itself and it is recognized as belonging to that same national group. The politically organized nation, with its territory and its institutions, corresponds to the nation-state.

[4] In 1949, T. H. Marshall established the three basic dimensions of contemporary citizenship rights: civil (equality towards the law), political (participation in public institutions and public power) and social rights (access to health, education, housing and other basic social issues). We may say that full access to the three sets of rights defines full citizenship. However, this access must be both formal (established by law and recognized by public institutions) and substantive, that is, effectively "used" and recognized in daily life by all members of society.

[5] Portugal joined the European Union in 1986.

[6] These "one-stop shops" are designated as *National Centres for the Support of Immigrants*.

[7] High Comissariat for Immigration and the Intercultural Dialogue, *News Report*, published on March, 3, 2006.

[8] Resolution of Ministry Council nº 63 – A/2007.

[9] Resolution of Ministry Council nº 63 – A/2007, Diário da República 1ª série – Nº 85 – 3 de Maio de 2007.

[10] The MIPEX aims to measure policies that promote the integration of migrants and is based on the principles of equal opportunities in the socio-economic sphere and equal civic rights and responsibilities between nationals and foreigners residing in the same country (Niessen et al. 2007: 4).

[11] Law n.23/2007, July 4, on the *Juridical Regime of Entry, Stay, Leaving and Expulsion of Foreigners from the National Territory*. This law was approved after the MIPEX 2006-07 was elaborated.

[12] For instance, the new law reduced the length of continuous residence in Portugal required to apply for a long-term residence card from ten to five years, thereby matching the situation of PALOP and non-PALOP nationals.

[13] As an example, immigrant wage earners employed in semi-skilled and low-skilled labour market segments receive salaries that are approximately 7% below the global national average (Rosário and Santos 2008).

[14] Estimates for 2004 indicated that the number of irregular migrants is between 93,000 and 120,000. It is likely that the present number is less than 90,000 due to the limited growth cycle of the Portuguese economy after 2002 and also due to the results of the Regularization Processes of 2003 (for Brazilians only) and 2004 (the so-called "post office process," aimed at irregular foreign workers who have paid taxes and contributed to social security for at least three months).