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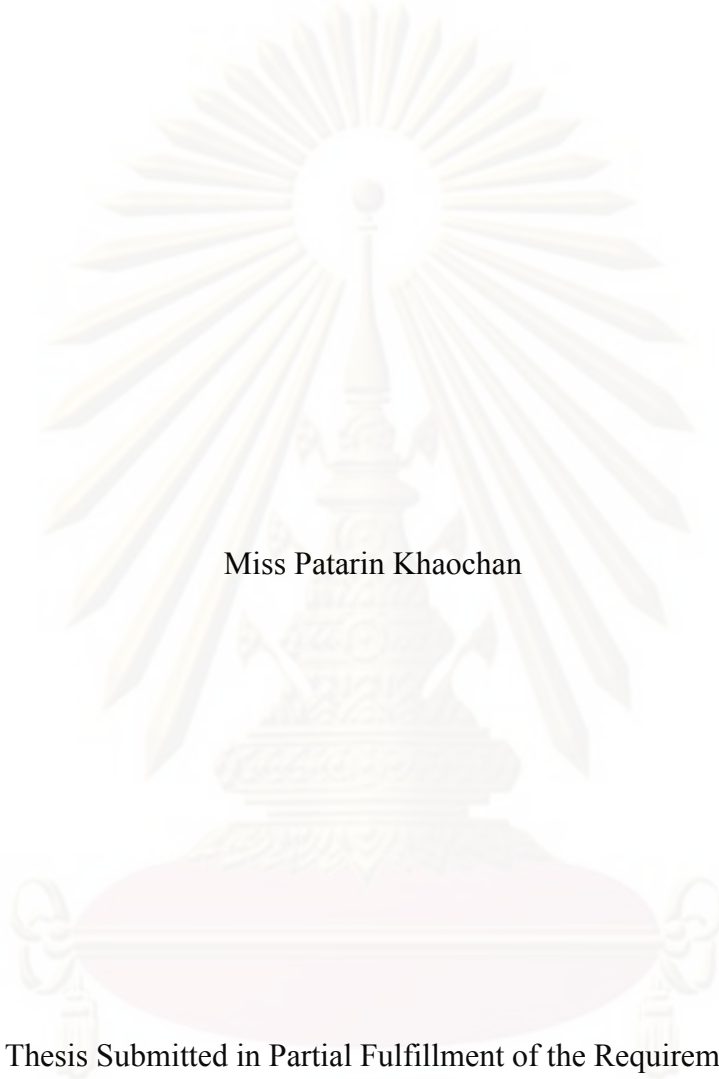
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THAI NATIONALS WITH DUAL NATIONALITY STATUS



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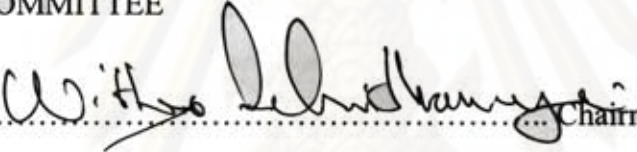
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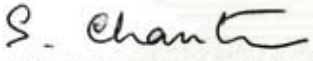
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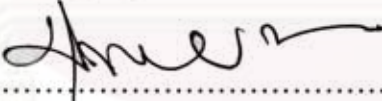
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ถึงแม้ว่าในอดีตการถือหลายสัญชาตินั้นไม่ได้รับการยอมรับอย่างแพร่หลายเท่าใดนัก แต่เนื่องจากสภาพแวดล้อมของโลกและทัศนคติที่เปลี่ยนไปในปัจจุบันส่งผลให้นโยบายและความคิดเห็นต่อการถือหลายสัญชาติของหลายประเทศนั้นได้มีการเปลี่ยนแปลงตามไปด้วย กระแสโลกาภิวัตน์ที่เพิ่มขึ้นช่วยส่งเสริมการย้ายถิ่นของคนทั้งในและนอกประเทศมากขึ้น ส่งผลให้เกิดแนวคิดในการถือสองสัญชาติหรือการถือสัญชาติของสองประเทศในขณะเดียวกันมากขึ้น การถือสองสัญชาตินั้นเป็นผลจากการที่ไม่มีบทบัญญัติในการให้สัญชาติของบุคคลไว้ในกฎหมายระหว่างประเทศเพียงกฎหมายเดียว แต่ละประเทศมีกฎหมายว่าด้วยสัญชาติของตนเองและการให้สัญชาติของแต่ละบุคคลในแต่ละประเทศนั้นย่อมขึ้นอยู่กับนโยบายภายในของประเทศนั้นๆ ทำให้การที่บุคคลมีสองสัญชาตินั้นอาจจะไม่ได้มาจากการเลือกของตัวเอง แต่มาจากกลไกการทำงานของกฎหมายของแต่ละประเทศที่มีความแตกต่างและความขัดแย้งกันในบางครั้ง

เนื่องจากการสมรสกับชาวต่างชาติและการย้ายถิ่นไปต่างประเทศของคนไทยที่มีจำนวนเพิ่มขึ้น ส่งผลให้มีการถือสองสัญชาติในกลุ่มคนไทยที่อาศัยอยู่ทั้งในประเทศไทยและต่างประเทศ ขึ้นตอนในการมีสองสัญชาตินั้นแตกต่างกันออกไปขึ้นอยู่กับกฎหมายว่าด้วยสัญชาติและนโยบายภายในของแต่ละประเทศ จากการศึกษาพบว่าตามหลักกฎหมายว่าด้วยสัญชาติของประเทศไทย การได้มาซึ่งสองสัญชาติของบุคคลที่มีสัญชาติไทยนั้นมีหลายวิธีด้วยกัน ทั้งการได้สองสัญชาติโดยการเกิดตามหลักดินแดน (*jus soli*) และตามหลักสายโลหิต (*jus sanguinis*) และภายหลังจากการเกิดจากการสมรสกับชาวต่างด้าวและการแปลงสัญชาติ ประเทศไทยมีการยอมรับแนวคิดของการถือสองสัญชาติในระดับหนึ่ง เนื่องจากไม่มีบทบัญญัติใดในรัฐธรรมนูญที่ระบุว่า การถือสองสัญชาติโดยการเกิดนั้นผิดกฎหมาย หรือมีระบอบทลงโทษชัดเจนต่อบุคคลที่ถือสถานะดังกล่าว แต่ในทางกลับกันบุคคลสัญชาติไทยผู้ถือสองสัญชาติโดยการแปลงสัญชาติเป็นชาติอื่นย่อมสูญเสียสัญชาติไทยตามกฎหมายว่าด้วยสัญชาติของประเทศไทยหากมีการประกาศโดยราชกิจจานุเบกษา

จากการศึกษาพบว่าสาเหตุหลักที่ทำให้การที่บุคคลมีการถือสองสัญชาตินั้นเพราะผลประโยชน์ทางเศรษฐกิจที่เขาจะได้รับจากการมีสองสัญชาติ ได้แก่ การคุ้มครองตามกฎหมายและข้อบังคับของประเทศที่ตนมีสัญชาติอยู่ การได้รับสิทธิและการเข้าถึงทรัพยากรที่คนชาติของบุคคลมีสิทธิที่จะได้รับ ซึ่งทำให้การถือสองสัญชาตินั้นเป็นคุณมากกว่าโทษต่อบุคคล ความคิดเห็นนี้แตกต่างกับความคิดเห็นของรัฐไทยต่อบุคคลที่มีสองสัญชาติ เนื่องจากทางรัฐไทยเห็นว่าบุคคลที่มีสองสัญชาติอาจนำประโยชน์ได้มาจากการมีสองสัญชาติไปใช้ในทางผิดและไม่เหมาะสม มุมมองเชิงลบเกิดขึ้นเนื่องจากจำนวนที่สูงขึ้นของผู้ที่เกี่ยวข้องกับการอาชญากรรมข้ามชาติ กลุ่มผู้ก่อการร้ายและขบวนการแบ่งแยกดินแดน ซึ่งเป็นภัยหลักต่อความมั่นคงของชาติ จากผลดังกล่าวทำให้เห็นว่า มีความจำเป็นเป็นอย่างยิ่งในการพัฒนาความร่วมมือระหว่างประเทศไทยและประเทศอื่นๆ เพื่อจัดการกับปัญหาจากการมีสองสัญชาติ และเพื่อเป็นการจัดการและตรวจสอบจำนวนของคนสองสัญชาติในประเทศไทยและต่างประเทศซึ่งจะมีผลต่อการพัฒนาของประเทศในอนาคต

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ลายมือชื่อนิสิต..... 

ลายมือชื่อ อ. ที่ปรึกษาวิทยานิพนธ์หลัก..... 

## 5187632520: MAJOR SOUTHEAST ASIAN STUDIES

KEYWORDS: Nationality/ Citizenship/ Dual Nationality/ Migration/ Globalization

PATARIN KHAOCHAN: THAI NATIONALS WITH DUAL NATIONALITY STATUS

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Despite the historical disapproval of multiple citizenships, policies and opinions of many countries on citizenship are shifting as the world environment and attitudes have changed considerably. The rise of globalization has encouraged a greater movement of people locally and internationally. As a consequence, the notion of dual nationality - the act of having citizenship in two countries at the same time- is emerging throughout the world. Dual nationality is a result from the fact that there is no uniform rule of international law relating to the acquisition of nationality. Each country has its own laws on the subject, and its nationality is conferred upon individuals on the basis of its own independent domestic policy. Individuals may have dual nationality not by choice but by automatic operation of these different and sometimes conflicting laws.

There are also a number of Thai nationals with dual status residing in both Thailand and overseas due to an increase in number of intermarriage and out-migration of Thai people. The study finds that, according to Thailand's nationality law, there are many ways for a Thai national to obtain dual nationality, both at birth – based on the *jus soli* principle and the *jus sanguinis* principle; and after birth – through marriage with an alien spouse and through naturalization. To a certain extent, Thailand does recognize the concept of dual nationality, as there are no provisions which state that the persons with dual nationality required at birth are illegal or would be punished for holding such status. However, a Thai national who holds dual status through naturalization will be considered as an alien, according to the law, they would lose Thai nationality if the Government Gazette has been published.

The study finds that one of the main reasons that drives an individual to acquire dual nationality is the economic benefits they could gain for having dual status, including being protected under the laws and regulations of the country of their nationality and being able to gain rights and access to the resources that a national of a particular country is entitled to. At the individual level, having dual nationality is seen to be more beneficial than problematic. This contrasts with the consideration of the Thai state towards dual nationals that may abuse the advantages gained from having dual nationality in a wrong way, particularly people who are involved with transnational crimes, terrorist groups, and separatist movement which are the main threat to the national security. From this perspective, there is still a need of cooperation between Thailand and other states to deal with dual nationality issue, in order to manage and monitor the number of persons with dual nationality in Thailand and abroad for future development of the country.

Field of Study: Southeast Asian Studies

Academic Year: 2009

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ศูนย์วิทยุทรัพยากร  
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# CHAPTER I

## INTRODUCTION

### 1.1 Background and Rationale: Dual Nationality in Thailand

Nationality is a term which describes the link between an individual and a nation. As the state gives its protection to the individual, the individual in turn gives his allegiance to the state (Hackworth, 1942 cited in McGarvey-Rosendahl, 1986: 305). Nationality and citizenship are closely related concepts, yet the terms are not synonymous. Citizenship means “the duties and rights that each member of a political society has towards the state of which he forms a part” (Heater, 2000a: 2). According to Hackworth, the term *citizen*, in its general acceptance, is applicable only to a person who is „endowed with full political and civil rights in the body politics of a state“. As for the term *national*, this includes a *citizen* as well as a person who, though not a citizen, „owes permanent allegiance to the state and is entitled to its protection“ (Hackworth, 1942 cited in McGarvey-Rosendahl, 1986: 305). Each state has the right inherent in its sovereignty to determine who shall be its nationals and who shall be excluded, in which these criteria are often set out in each state“s domestic laws on nationality.

The notion of nationality and citizenship was first introduced into Thailand during the reign of King Rama VI by the Western world. Thailand“s first nationality law, known as Nationality Act B.E. 2456 (1913 B.E.), was enacted during the reign of King Rama VI with respect to all people on Thai territory. During this period, everyone had the opportunity to obtain Thai nationality. The King saw the nationality law as a guideline in setting the criteria of who is eligible to acquire Thai nationality or citizenship (Thanida Boonwanno, 2007: 49). Civil Registration Act is another important law, which was first enacted in 1991, in determining the eligibility of any individual to apply for Thai citizenship (Fraser, 2009: online). There are fifteen categories of registration documents and identification cards comprised under civil registration, which are issued by the Department of Local Administration (Thanida Boonwanno, 2007: 59). Since the first enactment there have been some amendments to the law on nationality of Thailand. In 2008, both Nationality Act and Civil Registration Act were amended with an aim to modify some of the outdated and impractical provisions in both acts.

There are also a lot of problems related to the subject of nationality and citizenship in Thailand. These problems include the issue of statelessness, which can commonly be found in ethnic minorities mainly living along border provinces in Northern and Northeastern

Thailand, as well as the rising issue of dual or multiple nationalities. In the past many nations deny to recognize the notion of multiple nationalities, as they strictly follow the classical Greek concept of citizenship as „the mode of life: dual or multiple citizenship, and dual or multiple loyalties, formed no part of that notion“ (Clarke, 1994: 9). States prefer an exclusive relationship with their nationals, and dual nationals can present complicated diplomatic problems with other states. Because dual nationals could bring states into conflict, especially during wartime, when claims were asserted on their behalf and on the issue of national loyalty, dual nationality has long been considered undesirable and a source of discord in the international community. U.S. President Theodore Roosevelt called it a "self-evident absurdity" (Martin and Aleinikoff, 2002: 80: online). Terrorist threats have further raised sensitivities about national loyalty.

Despite the historical disapproval of multiple citizenships, policies and opinions are shifting as the world environment and attitudes have changed considerably. The rise of globalization has encouraged a greater movement of people. The notion of dual nationality - the act of having citizenship in two countries at the same time- is emerging throughout the world (Soysal, 1994). A revolution is occurring in citizenship law and policies. Many nations now accept and even promote dual status. There are several reasons which make both host and home nations change the view toward dual status. Many countries of origin have abandoned rules that make citizens who naturalize elsewhere to lose their former nationality as they wish to improve ties with these emigrants. This is in part because they send home remittances which will be beneficial for the country's economy. Some receiving countries, like Australia, have also changed their rules to encourage naturalization and now permit naturalizing citizens to retain their former nationalities (Martin and Aleinikoff, 2002: 80: online).

There are also a number of Thai nationals with dual status residing in both Thailand and overseas due to an increase in number of intermarriage and out-migration of Thai people. As many of them live and work overseas, remittance are being sent back to the family in Thailand, which creates a good flow of money within Thai economy. According to Thailand's nationality law, it does not state clearly whether Thailand confers dual nationality or not, but it does not state that Thailand denies such status either. Thus, it could be interpreted that dual nationality, to some extent, is recognized by the Thai state. However, as one's interpretation of the laws may differ, this often creates confusion among Thai officials and individuals on the recognition of dual status in Thailand.

Only in recent years that the Thai government has started to pay a special attention to an increase in number of people with dual nationality; particularly the population residing in three Southern border provinces - Pattani, Yala, and Narathiwat of Thailand. This is largely due to the belief that among the holders of dual nationality is the group of people behind the unrest in Southern Thailand. This view was first expressed by former Prime Minister Thaksin Shinawatra, in defending the criticism for his slow action in solving the problem of southern insurgency. He asserted that the Thai government is unable to solve the problem of insurgency, because the criminal are the holders of dual „Thai-Malaysian“ citizenship residing in Southern Thailand and Malaysia. Since they are able to cross the borders between the two countries easily, it is harder to catch them (Isra Institute, 2006: online). Thaksin had made an attempt to cooperate with the Malaysian government to conduct a civil registration survey in the area of three southern provinces and northern part of Malaysia, in order to find who the holders of dual nationality are. He claimed to solve the problem of dual nationality and the problem of insurgency, one of their citizenship should be stripped off (ibid.). This clearly shows the negative view towards persons with dual nationality living in southern Thailand, whereas the government does not seem to disapprove other dual nationals – who gain other citizenship through marriage with foreign spouses or white-collars who work overseas for a long period of time.

Phunthip Kanchanachittra Saisoonthorn (2007: online) has argued that the government cannot generalize that „all“ people who hold dual nationality in Southern Thailand are threat to nation security. In fact, a lot of these people are the victims of the violence. If the Thai government chooses to force a person with dual nationality (Thai-Malaysian Citizenship) living in Southern Thailand and Northern Malaysia to renounce one of their citizenship statuses; this should mean that other dual nationals (Thai-other citizenship) residing either in Thailand or elsewhere have to choose to hold only one status as well. Instead of denying the right of people to hold dual nationality, the state should accept them and find ways to manage them more systematically. Many dual nationals live overseas and may wish to return to Thailand at later stage in life. With dual status, they would have fewer problems to handle, such as travelling issue, investing in business, buying property, as they are also Thai national. Dual nationality, in this light, seems to be more beneficial rather than problematic to both individual and the state. Since the sources and data on this matter are scarce, confusion among state officials and individuals continues to exist. Due to this reason,

this pushes me to work on this topic so as to create a mutual understanding on the subject of dual nationality for every related party.

## 1.2 Objectives of the thesis

The main objective of this thesis is to examine the implementation of Thai laws on the subject of dual nationality:

1) To explore/study the conception and the development of Thai laws on nationality will be studied with an aim to examine the acceptance of dual nationality in Thailand according to these laws.

The laws include Thailand's Nationality Act (from *the Naturalization Act Ror Sor 130* to the *Nationality Act B.E. 2508 (1965 C.E.)*, as amended by *Acts (No.2 and No.3) B.E. 2535 (1992 C.E.)* and *Act (No.4) B.E. 2551 (2008 C.E.)*)

2) To examine the consequences of Thai nationals with dual nationality status. This part will be conducted on a case-study basis with the focus on the analysis of the process and obstacles of obtaining dual status, advantages and disadvantages of being dual nationals

3) To analyze the responses and the consideration of Thai state, especially the administration section, in dealing with the growing number of Thai with dual nationality status.

## 1.3 Hypothesis

- Dual status can be obtained through several ways, including marriage, making use of kinship relation, applying for naturalization and by obtaining such status at birth (i.e. children of intermarriage couples).
- A person identifies himself/herself as a national of a country or claims a nationality in order to gain lawful rights and access to resources, while the state pays more attention to security aspects particularly the aspects affected by migration of people and labour, transnational crime and terrorism.
- Ambiguity of Thai laws and regulations together with concern for security by Thai state makes it difficult to solve the problem of dual nationality in Thailand.



#### 1.4 Research Questions

- Does the development of Thailand's Nationality Act and Civil Registration Act reduce the problems related to nationality in Thailand? if so, how?
- Does the Thai state recognize or accept dual nationality in Thailand? if so, how?
- What are the obstacles during the process of applying for dual status?
- What are the consequences on the individuals from having dual nationality status and how do these people affect the state? I.e. what are the advantages and disadvantages from holding dual nationality?
- What are the responses and the views/considerations of Thai state towards this matter?

#### 1.5 Contribution of the Study

The findings from this study will offer a clearer understanding and knowledge on the topic of dual nationality in Thailand - the causes and the consequences on an individual and to the state. In addition, the study may provide preliminary findings for further studies in the issues related to nationality in Thailand.

## CHAPTER II

### CONCEPTS, THEORITICAL FRAMEWORK AND LITERATURE REVIEW

#### 2.1 Concepts and Theories of the Study

##### *2.1.1 Concepts on Legal Status of Persons – Nationality and Citizenship*

**Nationality** is the state of a person in relation to the nation in which he was born (Bouveir, 1856: online), According to Encyclopedia Americana, the meaning of nationality is defined into cultural term and legal term. In cultural definition, nationality refers to the culture, race, language and an ideology of individual or group of person; while, in legal definition, nationality refers to the relationship between an individual and her/his state (Encyclopedia Americana, Vol. 19: 787 cited in Thanida Boonwannao, 2007: 49). This definition reaffirms by the 1997 *European Convention on Nationality* of the Council of Europe, which refers the meaning of nationality as „the legal bond between a person and a State and does not indicate the person's ethnic origin“ Nationality can also be seen as an instrument creating a sense of homogeneity or cancelling “the otherness” with respect to groups of different nationality, which stems from the sense of nationalism.

**Citizenship** is a relationship between a sociological and a legal concept. It can be described as both a set of „practices“ (cultural, symbolic and economic) and „a bundle of rights and duties“ (civil, political and social) that defines an individual’s membership in polity (Isin and Wood, 1999: 4-6). Although, „nationality“ and „citizenship“ are two distinct concepts with different meaning, they are, in some occasions, used interchangeably or regarded as synonymous (Weis, 1979: 3-4). This is mainly for political purposes rather than because there is no difference between the two. In “*Nationality and statelessness in international law*” by Weis (1979), it shows how the scholars start to use these terms indiscriminately and frequent alternatively.

Weis distinguished the conception of nationality into two categories: the feudal concept and the republican concept. The feudal concept of nationality existing in Anglo-Saxon law regards nationality as a „territorially determined relationship between subject and Sovereign by which the subject is tied to his Sovereign (liege lord), the King in person, by the bond of allegiance“ (Weis, 1979: 4). In other word, one national is tied to one territory. This conception differs from the Roman ideas prevailing in the law of republican states, which derived their law from Roman law. According to republican mindset, nationality is „not determined by a territorial link but is a purely personal relationship.“ This concept of

nationality stresses that national can be acquired by descent, and implies a „membership of the State“, rather than a relationship to the Sovereign. This conceived as a personal association or corporation of member-individuals (Weis, 1979: 4).

However, in modern day, the term „subject“ is not commonly used in countries with a republican constitution and replaced by the term „citizen“ instead. This applies particularly to the United States of America (ibid: 5). This is when the term „nationality“ and „citizenship“ start to being used interchangeably. The most familiar instance of this is the use of the word „nationality“ to denote state citizenship in nationality law. Furthermore, with the rise of modern „nation-state“, a distinction between nation and state becomes unnecessary since this notion implies that the boundaries of the nation and the state geographically coincide. This means that all citizens are also nationals (White, 2006: 263-264).

Additionally, according to **Hansen and Weil** (2002: 295-298), although nationality and citizenship are concepts that belong to different contexts, they are connected as the internal and external dimensions of perceptions of personal statuses. Nationality implies a link to the state from the international point of view, while citizenship, constructed as a sociological concept reflecting the relationship between a person and public power, is the parallel internal expression attached to individuals“ self-determination. As they stated, nationality is a legal status in which „states have reinforced the mechanisms excluding foreigners from the enjoyment of its most characteristic benefit, the freedom of access and movement within the national territory.“ The limitation of this access preserves the rights of citizenship. From this view, nationality is seen as the „external dimension of citizenship“, functioning as privilege of an individual in one nation. This supports the statement of **Hackworth** (1942: 220), mentioned earlier – the term *national* includes a *citizen* as well as a person who, though not a citizen, „owes permanent allegiance to the state and is entitled to its protection.“ From this view, a *citizen* would automatically become a *national* of one country as stated by **Castles** (2005: 689). Putting it simply, a citizen will always be considered as a national of a particular state; however, this does not mean that every national is necessary a citizen. Those nationals who are not considered as citizens of that state would not be able to exercise all the rights that a „full membership“ is entitled to. In practice, the term „nationality“ is usually employed in international law as defined in the European Convention as it tends to stress the international aspect; while „citizenship“ is often found in the domestic constitutional law, which gives an idea of national and civic aspect. Nevertheless, the instances in which the differences between „nationality“ and „citizenship“ still exist are rare. Thus, these two terms

become acceptable to be used interchangeably in international sphere. It should be noted that in international laws, the word „nationality“ is used instead of „citizenship“. Thus, in this study, I used the term „dual nationality“ rather than „dual citizenship“.

**Bongkot Napaumporn** (2008) stated that the concepts of „nationality“ and „citizenship“ in the context of Thailand are rather different from the international aspect. The notion of „citizen“ used in Thailand covers all residents in the Kingdom of Thailand and technically registered into the civil registration system without considering whether or not they hold Thai nationality (Phunthip Kanchanachittra Saisoonthorn, 2006 cited in Bongkot Napaumporn<sup>2008</sup>). Civil registration is the system by which a government records the vital events of its citizens and residents. Those who are recorded in the civil registration are those serve in the military services and **civilians** (or private citizens, those who are not belong to the armed forces of the country). It is defined by the United Nations as “the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events pertaining to the population as provided through decree or regulation in accordance with the legal requirements of a country” (United Nations Statistics Division – Civil Registration System: online). The purpose of having civil registration system is to serve as a main source of vital statistics and to establish legal documents that are used to protect the civil rights of individuals. Under the civil registration system of Thailand, registered people are categorized into different types of residency – permanent or temporary. From this context, Thai citizens are: firstly, people who have permanent residence, which can be divided into two groups: those with Thai nationality and those without, and people who have temporary residence, which again can be divided into two groups: those who have legal immigration status (i.e. holding a Thai visa) and those who have illegal immigration status (such as those who enter Thailand illegally and those who hold minority cards issued by the Thai government).

### ***2.1.2 Nation-State Building and National Identity***

The term „**nation-state**“ differs from „nation“ and „state“. Max Weber defines the „**state**“ as „a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory“ (Weber, 1968: 387-398 cited in Rose, 1996: 6). The concept „**nation**“ refers to „a human group conscious of forming a community, sharing a common culture, attached to a clearly demarcated territory, having a common past and a common project for the future and claiming the right to rule itself (Guibernau, 1996: 47). People who share such characteristics are referred to as having a common **national identity**. It is the sharing of a common national identity, expressed in terms of culture, language,

religion, ways of life, common memories, shared past experiences and territory that makes people feel they belong to the same community and have a certain degree of solidarity towards their fellow-nationals. However, as **Bell** (2003: 64) explained, to have the strong sense of belonging or to recognize oneself as a member of a particular nation is a “perquisite for the formation of the inside/outside, self/other, us/them boundaries” that leads to nationalist sentiment and rhetoric.

A nation-state, being different from a nation and a state, has to be distinguished from the other two. The **nation-state** is a „modern political institution“, the notion that there have been neatly bounded societies – “where economic, political and cultural domains or levels map neatly onto to each other” (Walby, 2003: 530). First, it is a state that both claims and exercises the monopoly of the legitimate use of force within a demarcated territory. Second, it is a state that seeks to unite the people subjected to its rule by means of homogenization, creating a common culture, symbols, values, reviving traditions and myths of origin, and sometimes inventing them. In seeking to create a sense of belonging among its citizens, the nation-state demands their loyalty and fosters their national identity. The nation-state has exercised control of institutions and laws, the national media and the national education system. It has variously sought to nominate and promote a single official language, sometimes a single religion, and disseminated a specific version of the nation-state's history based on remembering, ignoring or forgetting certain key events, and recovering and inventing national symbols, ceremonies, rituals, heroes, sacred places and traditions (Shotter, 1993: 115-116). Such strategies have been consistently employed in order to create and sustain a homogeneous national identity among its citizens. However, in reality, it cannot be denied that there are people from various groups – natives, ethnic or religious minority groups, and immigrants – living in one nation. The state may decide who the members of the nations are and may not recognize some people from certain groups to be its members. In doing so, the state can protect the interests of the powerful, and to keep other groups in a subordinate position (Kellas, 1998: 46 cited in Thanida Boonwanno, 2007: 17). This explains the different treatments imposed on members from different groups in one country. **Anderson**’s highly regarded analysis, „Imagined Communities: Reflections on the Origin and Spread of Nationalism“, reflects this statement: “[i]f an individual is identified as the member of a particular nation, this may give access to power and wealth, or conversely, discrimination and deprivation (Anderson, 1991)”. Therefore, in practice, there are very few nation-states that have managed to successfully homogenize their people. Differences, in

terms of ethnicity, culture and religion, have prevailed in spite of the nation-state's historical strategies to instill a common identity among its diverse citizen. From this view, **Walby** (2003: 531) argues that the existence of nation-states as ideal social and political forms is rare even in the modern era. She further states that it is inappropriate to treat nation-states as the main type of society as there are diverse and significant polities in addition to states, including the European Union (EU) and some organized religions, as well as the emergence of multi-lateral and global forms of governance, due to the rise of globalization.

The creation of nation-state and globalization displaced million of people, temporarily or permanently, internally and internationally, from their homelands as they sought for a better opportunity in bigger cities or in more developed countries. Transnational movement begins to contest the notion of „national identity“. Many questions raised on the possibility these movements may contribute in the shift of national identity of an individual who move from one country to another. These questions include: *do migrants still maintain their former national identity after their integration into the society of their new „home“? Does transnational movement contribute to the shift of their national identity and their loyalty to their homeland? Is it possible for migrants to hold dual allegiance?* It is, perhaps, even harder to identify the true „identity“ of those from second and later generation migrants (children of migrants) and those who are multiracial (children of mixed parentage). However, as **Hall** argues that the identification process continues throughout the life of the individual and is not “stable, fixed, or unified...identities are fragmented and fractured, never singular but multiply constructed across different, often intersecting and antagonistic, discourses, practices and positions (Hall, 1996: 16 cited in Isin and Wood, 1999: 16)”, especially in the late modern period. He argues that “identities are about questions of using the resources of history, language and culture in the *process of becoming* rather than being: not “who we are” or “where we came from”, so much as *what we might become, how we have been represented and how that bears on how we might represent ourselves* [italic added]” (Hall, 1996: 16 cited in Isin and Wood, 1999: 16). Therefore, from this argument, there seems to be no fixed stable boundaries of identity as it constantly become contested by new identities and their fluidity. In this study, the question of national identity – the sense of belonging and allegiance – of a person who holds dual nationality will be examined, in order to explore consequences and possible changes to the mindsets of a person with such status.

### ***2.1.3 Cross-border Migration and Legal Implication***

International migration is not merely a simple action of an individual in which he/she decides to see for a better opportunity in life and quickly becomes adapted to the new country. Migration and settlement is a „long-drawn-out-process“, which will affect the rest of migrant’s life and shape the life of their later generations too (Castles and Miller, 1998: 19). This activity has a great effect on the whole society of both sending and receiving areas. In recent years, due to the rise of globalization, developments and expansions in global communication and transportation, as well as the development of an international migration industry have encouraged the flow of migrants (Stalker, 2000: 117). Through better communications, mass media and improvement in transportation, migrant workers are offered chances to learn about other places and good images of wealthier nations.

There are many reasons in explaining people mobility from one country to another. The major theoretical paradigms used to explain the causes of migration and its process come from various fields of study – economics, sociology, and politics. Those theories include neoclassical migration theory, new economics of migration theory, dual labor market theory, world system theory, social capital theory, and cumulative causation theory (Massey et al., 1998: 17-59). The **neo-classical theory** and the **social capital theory** are two main models in explaining the migration process of this study.

According to the **neoclassical theory**, the process of international migration is the result of differences in the supply and demand for labor in sending and receiving countries. The theory considers the population mobility as a decision of an individual decision based on rational comparison of the relative costs and benefits of remaining in the area of origin of moving to various alternative destinations. Those who migrate expect that they will be able to earn higher income than working at the place of origin. The neo-classical approach originated in the 19th century from geographical theory and is still popular among geographers as well as economists (Castles, 1995: 1-23). This theory argues that labor will migrate from the low wage countries to the high wage countries until the real wages are equalized, with the assumptions of the corporative static framework, homogenous labor, constant returns of scale, zero migration costs, and perfect competitive labor markets (Savitri Garnjana-Goonchorn, 1974: 12-44). This model is often referred as the “**push and pull**” model, since this theory argues that the migration flow is caused by push factors (poverty, lack of land, natural disasters, overpopulation, etc) in the sending countries, and the pull factors (economic opportunities) in the host countries. This explains the fact of unemployment, lack of employment opportunities, or low wages in the home countries are not only potential factors,

the pull of relative affluence and opportunities of jobs and higher wages in destination countries also account for the buildup of migration potential.

However, economic disparities are insufficient to explain international migration. At best they constitute a necessary but not a sufficient condition for emigration. There are a number of factors that motivate individuals to move out from their home country. The role of information and „cultural capital“ (knowledge of other countries, capabilities for organizing travel, finding work and adapting to a new environment) also initiates and sustains migratory mobility (Castles and Miller, 1998: 25-27). The informal social network is developed by the migrants themselves in order for them to cope with migration and settlement. These networks included personal relationships, kinship and household patterns, friendship and community ties in the origin and destination, and mutual help in economic and social matters. Such links provide vital resources for individuals and groups, and may be referred to as the *social capital theory*. This model argues that migration takes place because there are networks providing a valuable source of capital that acts to lower the costs and risks of international migration (ibid: 27).

The link between sending and receiving countries established by previous generations of migrants plays an important role in lubricating and perpetuating irregular movement of labor; as quoted in Boyd (1989), “Kinship and personal ties across space are created with the potential for inducing more migration and/or for creating dynamic processes of migration, emigration and remigration (Boyd, 1989: 638)”. Migration networks also provide the basis for processes of settlement and community formation in the immigration area. Social and economic infrastructure, such as places of worship, associations, shops, cafes, professionals like lawyers and doctors and other services, is developed by migrant groups. The link between immigrant community and the area of origin also persist over generations. Remittances may fall off and visits home may decline in frequency, but familial and cultural links remain (Castles and Miller, 1998: 26-27).

The constant flow of migration has a great effect on legal implication of the receiving countries. Castles and Miller argue that the migratory process works in a similar way in all countries with respect to chain migration and settlement, labour market segmentation, residential segregation and ethnic group formation. Racism and discrimination are also to be found in all countries, although their intensity varies. The main differences can be found in state policies on immigration, settlement, citizenship and cultural pluralism. These differences are linked to different historical experiences of nation-state formation (ibid: 212).



The formation of immigration policy of one country also largely depends on the level of openness and acceptance of the receiving state towards immigrants. In some countries naturalization and family reunion are allowed while this notion may be prohibited in some countries. Immigration policies have consequences for most other areas of policy towards immigrants, such as labour market rights, political participation and naturalization. Many migrants, although would prefer to keep their former citizenship of their country, often seek the economic, political, and social rights for their benefits from acquiring citizenship of their country of residence.

One of the most important effects of immigration policies is on the consciousness of migrant themselves. In countries where permanent immigration is accepted and the settlers are granted secure residence status and most civil rights, a long-term perspective is possible. In addition, labor-exporting countries may allow the emigrants to hold dual citizenship as a way of maintaining cultural and economic ties with migrant communities around the world who are a major source of remittances, investment, and even political representation, as argued by Glenn (2000: 1-20 cited in Dahlin and Hironaka, 2008). As nationality laws usually confer political, civil, and social rights to members of the country, xenophobic governments or interest groups may have restrictive rules for naturalization, in order to prevent immigrants from gaining those rights. In these countries immigrants who settle and form their own migrant communities will find themselves unable to plan a future part of the wider society, due to the lack of political, economic and social rights. The result is isolation, separatism and emphasis on difference (Castles and Miller, 1998: 213-216). From this respect, the discriminatory immigration policies cannot prevent the completion of the migratory process, but they can be the first step towards the marginalization of the future settlers.

#### ***2.1.4 Ethnic Majority and Minority Relation***

The term „ethnicity“ is related to determining the majority-minority relations because within the ethnic group, there is a hierarchical arrangement. “In this linear relationship, ethnic groups emerge in which one establishes itself as the dominant group, with maximum power and prestige. Other, subordinate, ethnic groups exert less power and receive less of the society’s rewards, corresponding to their place in the hierarchy, extending down to the lowest-ranking groups, which may wield little power and receive little in the way of rewards” (Kellas, 1998: 6 cited in Thanida Boonwanno, 2007: 37). How can different ethnic groups

define who the majority (dominant) and the minority (subordinate) groups are? According to the Encyclopedia of Sociology, a majority group is “a group comprising more than fifty percent of a social unit or population. Sometime, however, the term is used to refer to the largest of three or more discrete groups within one unit. When the distinctions between majority and minority groups are readily identifiable on the basis of physical characteristics, problems of racial and ethnic relations may arise, and the majority group may be tempted to take advantage of its position to secure a privileged status for its members” (Johnson, 1974: 163 cited in Thanida Boonwanno, 2007: 38).

**Marger** further argues that the dominant is the majority group – “the group at the top of the ethnic hierarchy, with maximal access to the society’s power resources, particularly political authority and control of the means of economic production” (Marger, 2005: 258). An ethnic stratification system creates the criteria identifying who is appropriate to be a dominant group. At the same time, the sense of the otherness follows. The opposite of the dominant group is the subordinate group who has less power or authority. A subordinate group, mostly, is a minority group whose physical and cultural traits exert less power and receive fewer of the society’s means than does the majority group (dominant group).

However, there is no necessary relation between numbers and a group’s status. The arithmetical definition does not always define the majority-minority status between different ethnic groups. For example, the eighty percent Black population in South Africa is defined to be a minority group even though they are the numerical majority. Thus, the status of majority and minority is rather a result of differences in societal power, not the quantity. At the same time the majorities are not always classified as the dominant group, as argued by Marger. “There are some members of the dominant ethnic group who occupy disproportionately such positions” (Marger, 2005: 258). For example, Thais form the majority ethnic group in Thailand. Nevertheless, this does not mean that all Thais are allowed to enjoy equal access to power resources. Not all of them are members of the dominant group. From this view, it can be argued that there are both dominant and subordinate groups within the majority group (Thanida Boonwanno, 2007: 38).

### ***2.1.5 The link between the concepts and theories to the core of the study***

In this section, the connection of the major concepts and theories examined above to the main subject of the study – dual nationality in Thailand – will be explained. The concepts and theories which are employed in this study are: the conception of nationality and

citizenship, nation-state building, national identity, cross-border migration and legal implication, and the relationship between ethnic majority and minority. *So what is the connection between these concepts and the issue of the development of Nationality Act and Civil Registration Act and the emergence of the issue of dual nationality in Thailand?*

Thailand has developed to become a modern **nation-state** during the reign of King Rama V, due to the threat by the Western colonial powers. For the process of nation building, King Rama V followed the fundamental concept of Western nation-state building. The first critical task for **nation-building** was to define the state geographically and gather all ethnic groups in the territory to be Thai. Number of reforms took place as a mean of **state-building**, resulting in the formation of various policies. These policies are a centralized national administrative system, a fiscal system, military organization and most importantly, a centralized educational system (Likhit Dhiravegin, 1985: 1-2 cited in Thanida Boonwanno, 2007: 18). It can be also said that first nationality law of Thailand, known as the Nationality Act B.E. 2456 (1913 C.E.) was a product from Western influence. King Rama VI saw that nationality law will act as an instrument to set criteria of who is eligible to acquire Thai nationality or citizenship.

Although, the study does not focus specifically in the area of dual nationals in southern part of Thailand, it is essential to examine the tension arose between the Buddhist State as the „majority and the „minority“ of Muslim population. It is this process of nation-state building, which deepened the tension between the Buddhist State and Malay Muslim who live in three Southern provinces of Thailand. In fact, the root of the conflict can be traced back all the way through Sukhothai period when Pattani, Yala and Narathiwat were part of the Malay Patani state (Phuwadol Songprasert, 2005: 94-96). This links to the concept of **ethnic majority and minority relations**: the Buddhist State as the majority, who has constantly tried to implant the „Thai-ness“ and „Buddhist value“ into the area through the mean of education. This is a way of the Thai government to create unity in Thailand. The minority of Muslims in southern provinces, however, has continued to reject the idea due to the ideological conflict and resist against the authority of Bangkok for a long period of time. However, the difference in culture and religion is not the only factor that creates the tension between the State and Muslim people; it is also constant abuses and discrimination conducted by officials against the local Muslim people in these three provinces (McCargo, 2008: 7-11). The theory of ethnic majority and minority relation helps in explaining the view of Thai Buddhist State towards the population from southern sub-region as „subordinate“ group

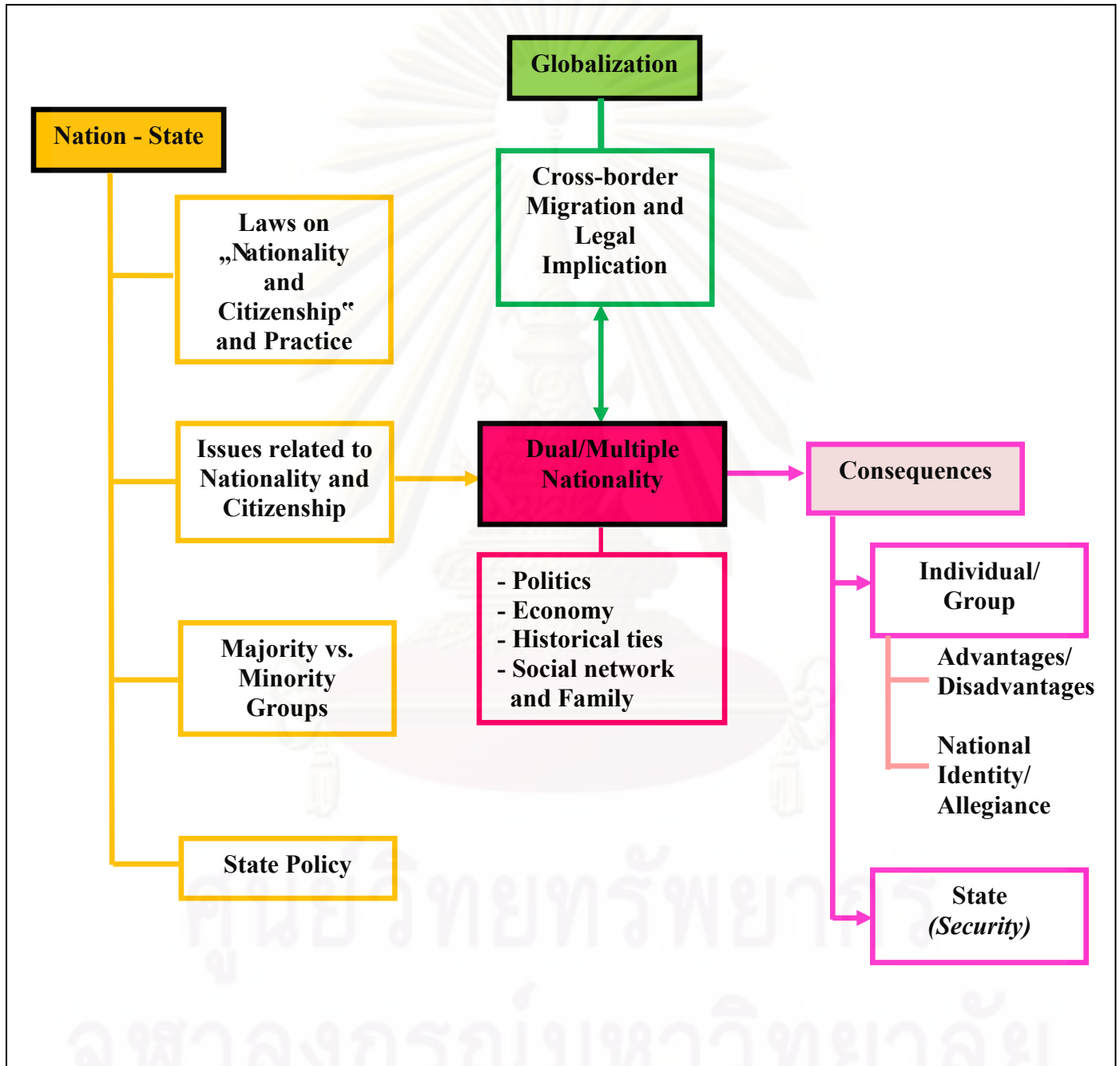
which it can exert its authority over. It also reflects the responses and consideration of Thai State towards persons who hold dual nationality in Thailand.

The free flow of people mobility and the increase in intermarriage is undeniable during the period of globalization. This situation largely links to the concept of **cross-border migration**, which is examined above. An increase in the number of mixed marriage between Thai and foreigners is evident. At the same time, both skilled and unskilled Thai workers tend to seek for a better job opportunity due to the „**push and pull**“ factors. Some may seek to naturalize in the country of residence in order to gain political, economic and social rights for their own advantage. Many of these emigrants prefer to come back to their homeland after having reached certain economic and social status. This helps in explaining the rise of Thai persons who have dual nationality. Apart from economic and social benefits that dual nationals may gain as a consequence of having such status, a possible shift in **national identity** will be discussed in the study.



On the whole, the examination of these theories and concepts will help in exploring and analyzing the main subject of the study. The following chart is the conceptual model of the study

**Conceptual Model**



## 2.2 Literature Review

### *2.2.1 Understanding and Redefining the Concept of Citizenship – The rise of dual nationality and the quest on national identity*

The notion of citizenship has been a key aspect of Western political thinking since the formation of classical Greek political culture. The word „citizen“, derived from *civitas*, is distinctively Latin in origin. However, the idea of citizenship, understood as active membership of and participation in a body politics, is generally regarded as emerging first in Greece at about 600-700 BC (Clarke, 1994: 4). Ideas which underline this early emergence of the concept of citizenship and which still persist, albeit in different ways, within the concept, are those of equality and freedom. The notion can be traced back to the earliest argument of citizenship introduced by the great Greek political philosopher, Aristotle, in which he defined the term citizen as a man „who enjoys the right of sharing in deliberative or judicial office for any period, fixed, unfixed.“ Citizens are „all who share in the civic life of ruling and being ruled in turn...each individual is interested not only in his own affairs but in the affairs of the state as well“(cited in Heater, 2004b: 4-5).

Another famous literature written on citizenship in the European tradition is T.H Marshall's "*Class, Citizenship and Social Development*" which continues its influence in other writings on the concept of citizenship till today (Marshall, 1965 cited in Boele van Hensbroek, 2007: 3). Marshall sketches the European history as the gradual expansion of citizenship rights, from civil, to political, and to social rights. As he states, civil rights are rights necessary for the exercise of individual freedom, such as free speech, property rights, right to justice; political rights are rights for the participation in the exercise of power; and social rights are rights to welfare, security and education. In Marshall's analysis citizenship is not just one aspect of modern societies, but it captures the core of what it means to be a member of a modern state. The concept of citizenship gained renewed popularity in the late eighteen century, where the polity in the world has been the nation-state (Boele van Hensbroek, 2007: 3).

Even in the modern context, the fundamental concept behind the meaning of citizenship remains. The meaning of citizenship and democracy has become explicitly intertwined. "For modern-liberal democratic states, citizenship has traditionally been the formal hallmark of full membership" as it has become a widely established institution throughout the world (Aleinikoff and Klusmeyer, 2002: 1). Every nation-state in the world today identifies individuals based on set criteria (birth, blood, nationality) and registers them

with identity papers such as passports and citizenship certificates. In some nation-states, citizenship is based on person's birth, which is known as "*jus soli*" citizenship. In other places, the status of citizen is based on the citizenship of one's parents, which is known as "*jus sanguinis*" citizenship. Some countries use both bases for ascribing citizenship (Patrick, 2000).

Each nation-state also has elaborate rules and regulations governing naturalization and the rights of immigrants who are not citizens (Isin and Wood, 1999: 4). However, the boundaries of citizenship in the sense of who is eligible and is not eligible to acquire its membership and the nature of the rights and obligation associated with that membership have always been contested. The simple idea of „equal-citizens-within-a-state“ cannot be maintained in view of the rise of multiple political arrangements at the supra- and trans-national levels, as well as in view of the call for ‘recognition’ of the various groupings at the sub-national level such as immigrants, minority nations, as well as various other groups. The new challenge of thinking citizenship is then to reconcile actual differences in a political community based upon equal rights.

Traditionally, citizens of one state were required “**perpetual allegiance**”, exclusive allegiance to their sovereign state, even if they had migrated and were naturalized elsewhere. This was reflected in the 1930 Hague Convention on Nationality which reads: “. . . every person should have a nationality and one nationality only” (Lauterpacht, 1976: 484). Moreover, the negotiating history of Article 4 of this Convention prevents the provision from being interpreted as extending to a case, such as the present one, where a dual national, by himself, brings before an international tribunal his own claim against one of the States whose nationality he possesses. From this perspective, it is obvious that the traditional concept of nation has not permitted memberships in multiple other nations. This sentiment of loyalty to the sovereign nation continued through the Cold War when dual nationality was seen as a possible threat to national security (Dahlin and Hironaka, 2008: 55).

Despite the historical disapproval of multiple citizenships, policy and opinion are shifting as the world environment and attitudes have changed considerably. Due to the rise of **globalization**, there is vastly greater **mobility of people**. Many people now study, work, and live in countries other than their own for extended periods of time. This has led to more marriages between persons of different nationalities, and more children born and raised in countries other than the homeland of their parents. Increasing in number of all kinds of migration affects the social transformation in both sending and receiving communities.

Technology makes it possible for migrants to maintain close links with their home countries and to carry out circulatory or repeated mobility. This, as a result, leads to the emergence of *transnational communities* (Castles, 2005: 689). As **global integration** increases, the implications for state boundaries and citizens' identity grow more significant. One could say that globalization contests the original idea of citizenship. The recognition of dual nationality reveals the extent to which cross-national immigration requires states to formally recognize a multiplicity of national identities through dual/multiple citizenship. As Soysal (1994) argues, a new model of citizenship – **dual citizenship** – the act of having citizenship in two countries at the same time- is emerging throughout the world. There is wider acknowledgement that dual citizens have not done much harm to the nation, and that the benefits of dual nationality extend beyond the individuals concerned (Soysal, 1994).

At its most basic level, dual citizenship involves the simultaneous holding of more than one citizenship or nationality. According to the 1997 European Convention on Nationality Article 2 (b) "multiple nationality" means the simultaneous possession of two or more nationalities by the same person". That means a person can have all, or many, of the rights and responsibilities that adhere to a citizen in each of the several countries in which he or she is a citizen regardless of length of time in or actual residence in a country, geographical proximity of the two countries, or the nature of their economic, cultural, or political ties (Investigations Service, 2001: 5). As a consequence, there is now a greater acceptance in the modern, internationalized world, that individuals may be citizens of more than one country and satisfactorily meet duties as citizens in relation to each. It is interesting to note that, the idea of dual nationality, in fact, can be traced back the ancient time as early as the Roman period. The Greek ideal of citizen was a mode of life, therefore, dual or multiple citizenship and dual or multiple loyalties were not recognized. By contrast, dual loyalty to the city of birth and to the empire, if not the city of Rome, was normal and expected by Romans (Clarke, 1994: 9).

Dual nationality and passports enable a freer and easier movement for an individual to travel between countries for business, employment, social and cultural purposes. As a result, in the last half of the 20th century, instances of dual nationality have been on the rise, with more and more states sanctioning it and recognizing its potential (Rahemtullah, 2006: 2). The discourse around dual nationality becomes a lens through which to understand the new global dynamics and the meaning of citizenship within it. The 1997 European Convention on Nationality is another important law which aims to create a greater unity among the members



of the Council of Europe as well as to promote international co-operation between the national authorities. It states that the EC agrees on the „desirability of finding appropriate solutions to consequences of multiple nationality and in particular as regards the rights and duties of multiple nationals“, especially on the fulfillment of military obligations<sup>\*</sup>. The Convention also shows the greater recognition of dual/multiple nationalities in Europe.

However, dual nationality is not particularly desirable in many countries because a dual citizen is sometimes placed in a situation in which their obligation to the country is in conflict with the laws of the other country. The majority of countries still do not recognize dual nationality. In other words, their governments do not recognize a person's prerogative to the rights, privileges, or immunities that may be the prerogatives of citizens of the other nation. This has largely to do with the issue of national identity and national loyalty. Dual nationality is considered to be a source of serious practical problems as regards, for example, military service, fiscal affairs, and the conflicting exercise of diplomatic protection (Leary and Tilikainen, 1998: 15). Moreover, the nationality laws of many states seek to reduce the number of cases of dual nationality by making „naturalization contingent upon the prior loss of the former nationality, or by providing for denationalization when another nationality is acquired (ibid).“

The international community is currently in need of a concept of dual nationality that encourages acceptance of dual nationals. Although there is no concrete statistical data regarding dual nationals readily available, the trend of dual nationals is increasing throughout the world. The concept of dual nationality needs to be updated to reflect the current realities. The increase in dual nationality has inevitably posed questions about the meaning of citizenship, and forced scholars to reconsider what citizenship means within states and between them. While, traditional notions of citizenship delineate national identity and membership in a single ethno-cultural or national community (Castles and Miller, 1998: 41-42), dual nationality represents a model of citizenship in which cultural identity derives legitimacy from prevailing logics of universal individual rights and membership in an international community (Soysal, 1994). From this perspective, dual nationality is a symbol of membership in an increasingly global society in which nations are embedded within

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Read: The 1997 European Convention on Nationality, Preamble.

Sections which directed to the issue of multiple nationality and the fulfillment of the military obligation are Section V and Section VII, available from: [http://untreaty.un.org/unts/144078\\_158780/17/8/8232.pdf](http://untreaty.un.org/unts/144078_158780/17/8/8232.pdf)

institutional environments characterized by international law, transnational politics, and international associations (Dahlin and Hironaka, 2008).

### ***2.2.2 Causes of Dual/Multiple Nationality Cases***

Each state has an executive right to designate who are its nationals. As stated in Article 3 of *the European Convention on Nationality 1997*, on the competence of the State, “[i]t is for each State to determine under its own law who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality.” Thus, nationality law for each state is designed differently in accordance with the State’s requisition and imperative. It is the differences of the principles of each nationality law which is the cause of dual/multiple nationality cases. The State cannot solely exist without its nationals – the members of the state – as they are the human resource and the main drive in serving the State and manage the benefits for the State as a whole. The nationals also need the state protection in order to fully exercise individual rights without interference from others and being accepted as an individual in the society. The sense of belonging and loyalty of the members are fostered through their feeling and attachment with the State (Lalana Nothransi, 2008: 7).

There are three main principles which direct most laws of nationality: ***jus sanguinis***, ***jus soli*** and **naturalization**. The oldest principle is *jus sanguinis* (“law of blood”) or „right of blood“, where an individual automatically acquires the nationality of one or both of his parents. *Jus sanguinis* originated in ancient times when bloodlines were considered to be the key to national identity. Nevertheless, it remains a viable concept which enables a parent and child to retain the same nationality (McGarvey-Rosendahl, 1986: 309). The second principle of nationality acquired at birth is *jus soli* (“law of place”) or „right of the soil“ or „right of the territory“, where an individual born within the territory of a state becomes its national whether or not his parents are citizens of the state (Weis, 1979: 4). The first two principles are the right to the nationality acquisition *at birth*. Nowadays, as to follow human rights principle, many states begin to adopt both principles as the application of their nationality law. The reasons behind this are to avoid the problem of stateless and to prevent the excessive growth in the number of foreign migrants in the country which may impact national security. One state may choose to use one of these two principles as the main principle, while the other for an exceptional case. For example, although Japan’s nationality law is based on the

principle of *jus sanguinis*, in the case of an infant being born on the Japanese soil whose parents are unknown, or are stateless, in order to prevent this infant from becoming stateless, this infant may have access to nationality based on the principle of *jus soli* (Lalana Nonthransi, 2008: 10-11).

The third principle of nationality is naturalization, which covers all situations where an individual acquires a new nationality *after birth*. Naturalization laws differ greatly, and states can confer nationality as a result of an individual residing within the state, swearing allegiance to the state, serving in the armed forces of the state, marrying a national of the state, or other situations (McGarvey-Rosendahl). Although the domestic laws of states differ greatly in conferring nationality, all require a tie between an individual and the state. Because a state becomes responsible for protecting its nationals, there is little incentive for a state to confer nationality arbitrarily or capriciously. An individual may gain a nationality after birth through other means such as through marriage, through former nationality reacquisition, and through adoption (Sompong Sucharitkul, 1962: 353-357).

Niboyet (1928: 73 cited in Sompong Sucharitkul, 1962: 351) divides states around the world into four types, based on nationality law and the principles of granting nationality/citizenship to its member:

1) States with nationality law based strictly on *jus sanguinis* principle and barely includes principle of *jus soli*. These states are Germany, Austria, Denmark, Hungary, Norway, Sweden and Russia.

2) States with nationality law in application of *jus soli* principle. These states are Argentina, Bolivia, Brazil, Chile, Columbia, Dominican Republic, Ecuador, Guatemala, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela.

3) States with nationality law based principally on *jus soli*, but with the adoption of *jus sanguinis* principle. These states are the United States of America and the United Kingdom of Great Britain.

4) States with nationality law based on both principles of *jus sanguinis* and *jus soli* equally. These states are France, Belgium, Spain, Greece, Italy, Poland, Rumania, Switzerland and Thailand.

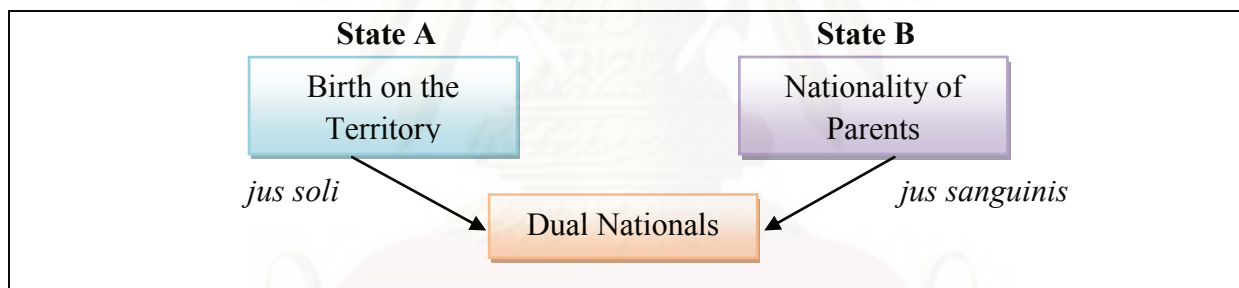
It is true that the internal law of many countries, such as Myanmar and Sri Lanka, deny dual nationality status. However, in international aspect, the case of dual nationality often occur, even if the internal law of the State where this person belong to may oppose such

status (Sompong Sucharitkul, 1962: 347-361). In practical terms, the source of dual nationality can be divided into five categories:

**1) The Acquisition of dual nationality at birth as a result of a simultaneous application of *jus soli* and *jus sanguinis* principles**

This is found in the case of a person, who was born on the territory of a given State with its internal law being in application of the *jus soli* principle, would automatically acquire the nationality of that State according to the law; however, one or both of the parents of this person are the nationals of *another* state, that has its internal law based on the principle of *jus sanguinis*. This means that this person would also possess the nationality through descent of his/her parents. As a result, this person would simultaneously gain dual nationality through the application of both principles.

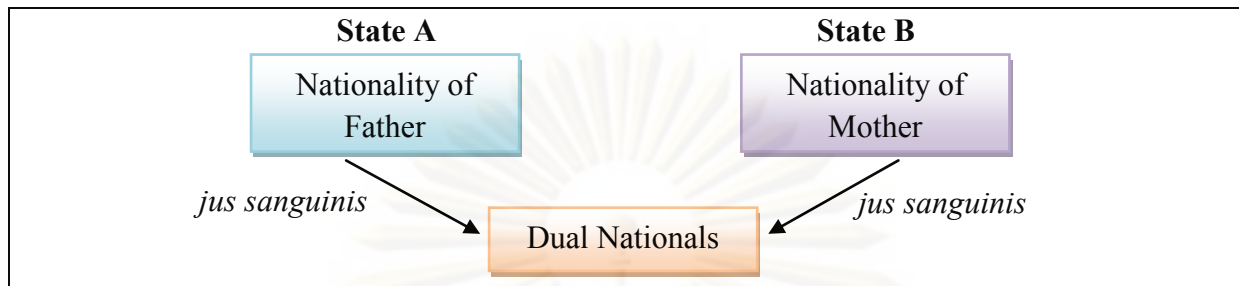
**Chart 1: The Acquisition of dual nationality at birth as a result of a simultaneous application of *jus soli* and *jus sanguinis* principles.**



**2) The Acquisition of dual nationality at birth as a result from having genuine links with nationals from more than one state based on the principle of *jus sanguinis***

This is found in the case of a child born of inter-marriage parentage. In the case of marriage of one national with a national of the other State, in which both State having adopted the *jus sanguinis* principle, a child born would automatically acquire the nationalities of both parents if each maintaining the nationality of origin.

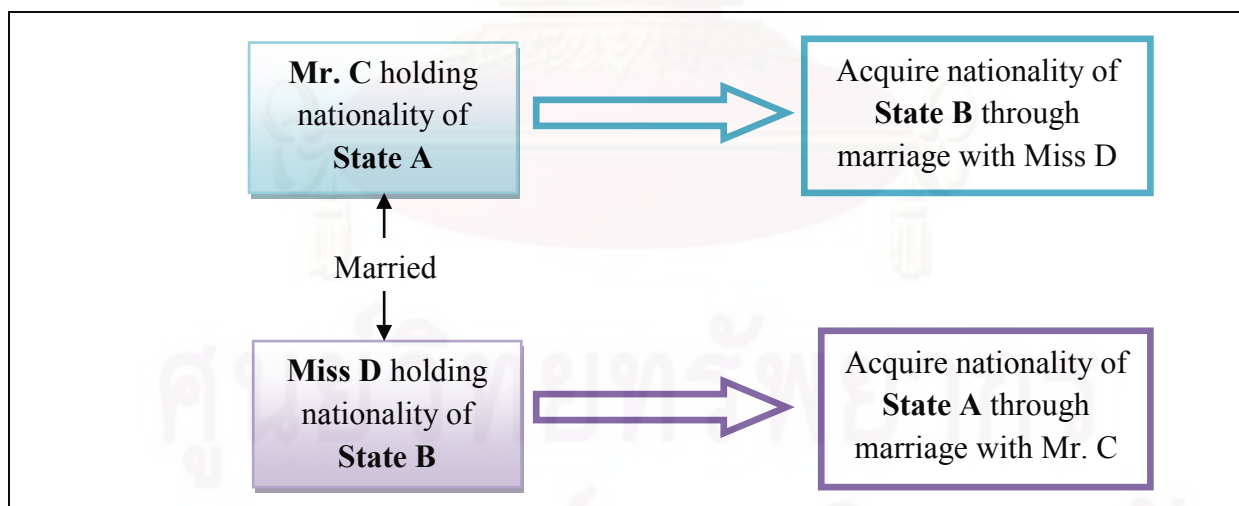
**Chart 2: The Acquisition of dual nationality at birth as a result from having genuine links with nationals from more than one state based on the principle of *jus sanguinis***



### 3) The Acquisition of dual nationality after birth through marriage with a national of another State

Dual nationality would occur if a national does not need to renounce the former nationality after having acquired a new nationality through marriage. The divorce or the change of the nationality of the spouse does not affect the new nationality gained through marriage (Lalana Nonthransi, 2008: 15).

**Chart 3: The Acquisition of dual nationality after birth through marriage with a national of another State**

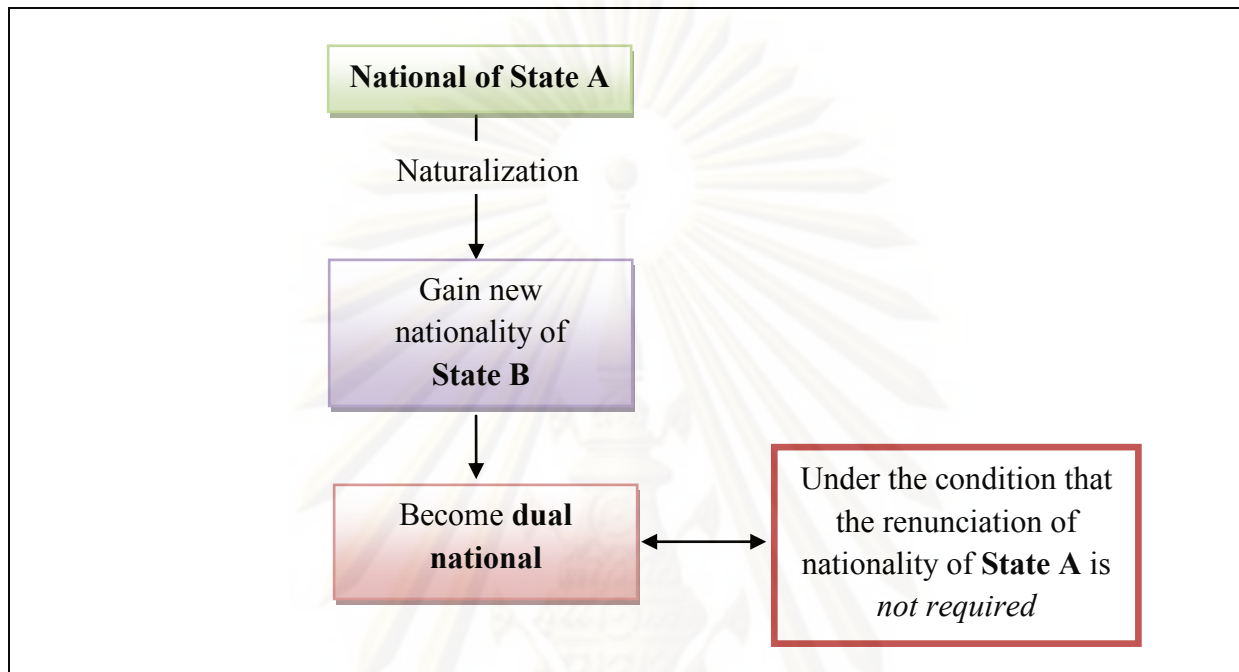


### 4) The Acquisition of dual nationality after birth through naturalization

Acquiring a new nationality through naturalization process is not an act which forced upon an individual who migrate to a new State. An individual may choose to naturalize to become the citizen of the country of residence at his/her own will. Therefore, if the

renunciation of the nationality of origin is not required, in accordance with the internal law of the former State, dual nationality may occur through naturalization.

**Chart 4: The Acquisition of dual nationality after birth through naturalization**



In the case of adoption, there are two types of international law which address this situation (Lalana Nonthransi, 2008: 17):

- Countries which are not allowed an adopted child to acquire the nationality of adoptive parent(s). For example, according to Article 345 of French Adoption Law, “an adopted child would not automatically acquire the nationality that of adoptive parent(s).<sup>\*</sup>”

This means that to gain the nationality of the adoptive parent(s), the child must apply for naturalization process

- Countries which are allowed an adopted child to acquire the nationality of adoptive parent(s). These countries are China, Japan, and Poland (if the child is under 18 years old). The adopted child is automatically granted the nationality of the adoptive parent(s) which means that the child may hold dual nationality if the renunciation of the former nationality of the child is not required.

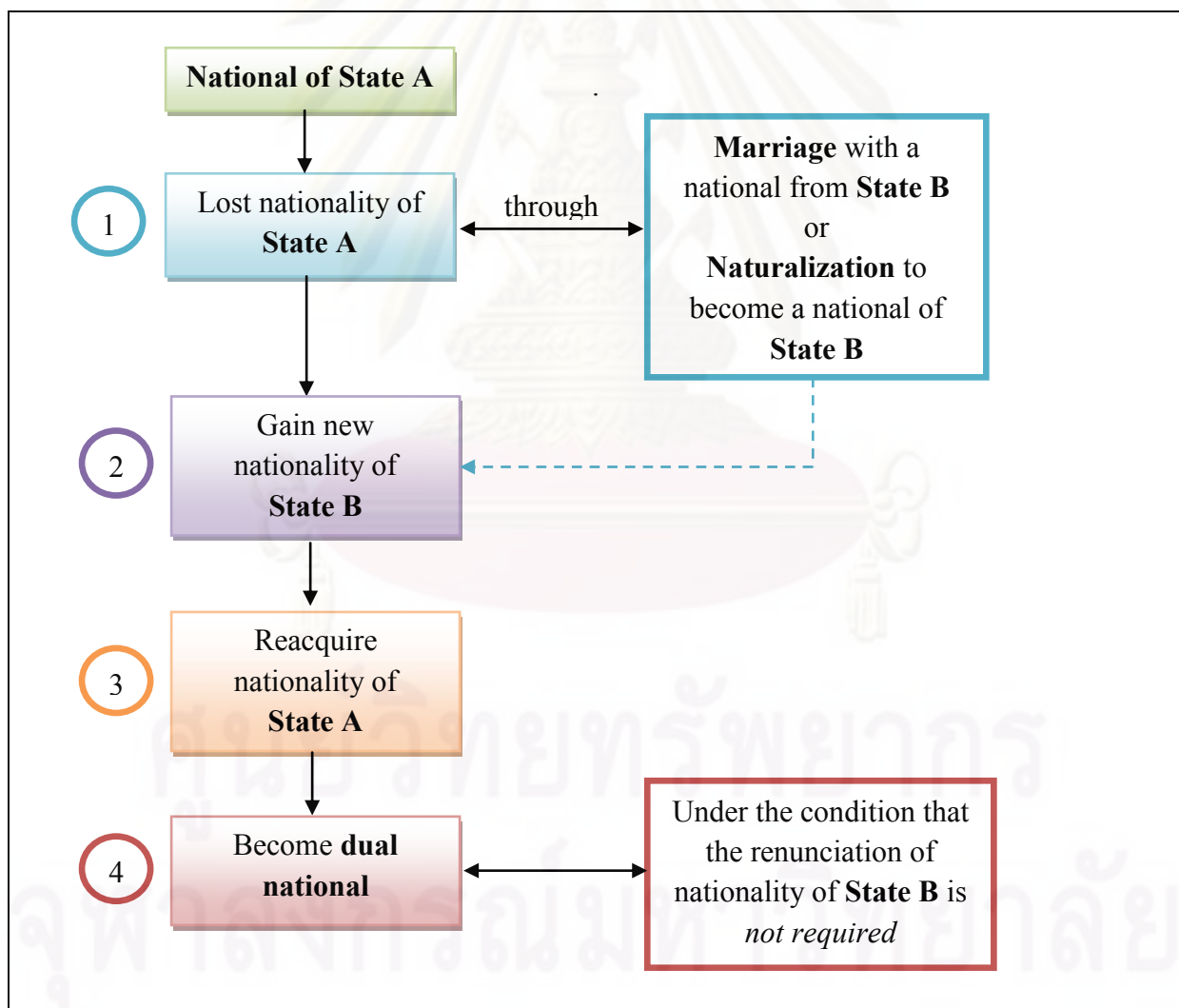
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See Mission de l’Adoption Internationale, „Overview of French Adoption Law” [Online] Available from: <http://www.adoptionpolicy.org/pdf/eu-france.pdf> [December 21, 2009]

### 5) The Acquisition of dual nationality after birth through the requisition of a former nationality

A person, who once lost the nationality of origin, either from having acquired a new nationality through marriage or through naturalization, is allowed to reacquire his/her former nationality may find him/herself become dual national. This happens if the reacquisition of the nationality of origin does not require the person to renounce current (new) nationality. As a result, he/she will become dual nationality holding both former nationality and new nationality (Lalana Nonthransi, 2008: 17-18).

*Chart 5: The Acquisition of dual nationality after birth through the requisition of a former nationality*



From this, it can be seen that there are many possibilities for a person to gain dual or even multiple nationalities according to the internal law of each nation. The source of dual

nationality has a direct connection with the cross-border migration of people from one state to another. As a person migrates into the new state, he/she will become under the rules of law of the State of residence. The genuine link between the State and the person is then created leading to the acquisition of new nationality, which in the end is the cause of dual nationality. In the case of Thailand, an increase in the number of emigration in Thailand is evident<sup>\*</sup>. Questions regarding the acquisition of dual nationality are often raised and posted in the websites of related government bodies such as Ministry of Foreign Affairs website.<sup>\*\*</sup> In order to see the cause of dual nationality in Thailand, a close examination of related internal law will be discussed and interpreted in more details in Chapter IV.

### ***2.2.3 Consequences of Having Dual Nationality to the Individual and to the State***

The benefits from having dual nationality can be summarized as follow: First, having acquired dual nationality, individuals will have the right to obtain passports from either country – the country in which they currently reside and their home country. State's recognition of dual nationality also secures simpler procedures for individuals revisiting former homelands for extended periods of time (Lalana Nothransi, 2008: 22).

Secondly, individuals who hold dual nationality are capable to pursue employment opportunities in either country of nationality, as well as improved rights to social benefits, to own land or property and to inherit assets from either country. Likewise, none of the restrictions regarding inheritance and employment, concerning foreigners, can be applied (Aztlan Communication Networks: online). As for political rights, this depends on the internal law for each country. For example, in the case of Mexico and the Philippines, the labour-exporting states which support dual nationality, Mexicans and Filipinos who hold dual nationality have the right to vote in the national election<sup>\*\*\*</sup>.

Lastly, allowing dual nationality will create favorable conditions for the integration of newcomers, where immigrants can become citizens of their receiving country and allow them to be meaningful participants in the democratic process (Rahemtullah<sup>2006</sup>). All in all, it can

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See the statistics of the outflow of Thai migrants, available at Thailand Overseas Employment Administration (TOEA) Website, Ministry of Labour: <http://www.overseas.doe.go.th/>

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See questions related to the acquisition of dual nationality, available at Ministry of Foreign Affairs Website: <http://www.mfa.go.th/web/showStatic.php?staticid=591&Qsearch>

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See Aztlan Communication Networks and Commission of Filipinos Overseas: [http://www.cfo.gov.ph/dual\\_citizenship.htm](http://www.cfo.gov.ph/dual_citizenship.htm)



be seen that the main benefit gained from having dual nationality is that the person can enjoy the rights and privilege in both countries of which they hold the citizenship.

However, holding dual nationality does not bring benefits alone, it also comes with the cost. The problems that may stem from having dual nationality on both the individual and the State are:

1) Problems related to diplomatic and consular protection to nationals on the question of which states should be entitled to provide the diplomatic protection to a dual national

2) Problems related to military service obligations which a multinational must fulfill in relation to each State whose nationality he possesses. The possession of dual nationality becomes in this way relevant for each State concerned in order to achieve the aim of avoiding multiple military services.

3) Problems related to international criminal cooperation among States. The extradition and prisoners transfer processes become complicated if the perpetrator holds dual or multiple nationalities.

4) Problems related to national security. A perpetrator may consider having dual nationality as an escape route from a State where the crime is conducted to another State where he/she also holds the nationality of. Such actions could lead to other problems such as transnational crimes, political conflicts, terrorism, and so on, all of which have become alarming issues in recent years.

Due to these problems, most of the states hold a negative view towards a person who hold dual nationality and have tried to adopt various policies to avoid such status. Many states have also employed and engaged in the mechanism of international laws to solve the problems related to dual nationality.

#### ***2.2.4 The Process of Acquiring Dual Nationality in Thailand, Its Consequences and the Responses of the State***

There are few literatures which discuss the causes and the processes of acquiring dual nationality of Thai Muslims who live in the southern part of Thailand. In „*Dual Ethnic Minorities and the Local Reworking of Citizenship at the Thailand-Malaysian*“, Horstmann (2002) stated that the way in which Thai-speaking Muslims from Southern Thailand acquire Malaysian citizenship can be done through various means: by registering the birth of their children just across the border, by marriage, by making use of kinship relations or by inventing them and by applying for naturalization (Horstmann, 2002:3: online). He also

observed that these people would carefully keep their identity card and would not renounce their citizenship rights after acquiring new ones.

According to the analysis of Jiraporn Ngamlertsuporn (Jiraporn Ngamlertsuporn et al., 2010: 3) on her report which focuses on the issue of dual nationals in the southern part of Thailand and the consequence of national security along Thai-Malay borders, there are three main causes of dual nationality in this area. The first cause is the nation-state building process and the formulation of nationality law which divides the people who live along the border areas between Thailand and Malaysia. Like many other modern nation-states, Thailand has rather arbitrary borders that reflect a variety of historical accidents. Many of these are the product of British and French colonial era in Southeast Asia. Prior to the late nineteenth century, Siam (former name of Thailand) claimed jurisdiction over large parts of mainland Southeast Asia, but this jurisdiction was expressed largely in terms of tribute and allegiance paid by local rulers to the King of Siam (Phuwadol Songprasert, 2005: 94-97). The jurisdiction also covered the Malay state of Patani, the center of Islamic school of thoughts in Southeast Asia at that time. Although, it paid tribute to Buddhist Siam, it was still largely self-governing (McCargo, 2008: 1). However, in 1909 this area was forcibly incorporated into Thai state. After being incorporated into Siam, the Malay state of Patani was divided into the current three Southern border provinces of Pattani, Yala, and Narathiwat. These provinces have an ambiguous status within Thailand. Although, they are officially part of Siam since 1909, the sub-region still roughly corresponds to the former Malay sultanate of Patani state (Funston, 2008: 6).

The creation of nation-state sets out the geographical boundaries between the two States, and the nationality law separate Muslim Malays in Thailand from their families and friends who live in Malaysia, as they are now Thai nationals and their families are Malaysian nationals. However, in terms of social and ethnic aspects, Malay Muslims in southern Thailand still maintain a close link with their family who are now living across the border on the Malaysian side. The demarcation lines do not stop them from communicating and visiting each other. The close bond, in terms of familial, language, religious and cultural links, between these people is the second source of dual nationality (Jiraporn Ngamlertsuporn et al., 2010: 3-4).

The last cause is the granting of Malaysian nationality to Malay Muslims who live in Thailand initiated by Malaysian political party, as a mean to gain more votes from Malay Muslims from Thailand and to counterbalance the increase in the number of ethnic Chinese

who live in Kelantan. This factor is the direct source of dual nationality among this population in Thailand. Malay Muslims from Thailand are allowed to register and issue a Malaysian national identification card, in which clearly would bring a lot of benefits for them. Apart from the close familial and cultural link, economic aspect is another incentive that drives most Malay Muslims from Thailand to apply for Malaysian citizenship (Jiraporn Ngamlertsuporn et al., 2010: 3-4).

As for the benefits for this group of people, an article, written by Isra Institute (isranews.org), mentions that it is common for Muslims from Thailand to acquire Malaysian citizenship because they may gain a lot benefits from being Malaysian citizen than being Thai citizen, including social welfare that protects Muslim population in Malaysia. The education system in Malaysia provides a full support for Muslim children; the access to education is not only free, the children can also easily apply for scholarship to study abroad. The salary and living condition in Malaysia is also a lot higher than where they are from (Isra Institute, 2006: 8: online). Initially, the three border provinces are already considered to be among the poorest areas in Thailand (Funston, 2008: 8). With the continuous occurrence of violence in the area in recent years, poverty has begun to exacerbate. This also pushes people to migrate elsewhere for the betterment of their living. They would normally remit the salary back to Thailand. According to Jiraporn Ngamlertsuporn, these Malay Muslims who hold dual nationality actually prefer spending their retirement life back in Thailand, as it is more convenient and more freedom in Thailand than Malaysia. As for the issue of the national identity concerned, surprisingly, these people view themselves as Thai rather than considering themselves as Malaysia (Jiraporn Ngamlertsuporn et al., 2010: 5). This situation is supported by Levitt's statement (1997: 513) which says that „naturalization no longer shifts signals a shift in allegiance and an end to sending country involvements.“

However, recently, the granting of Malaysian nationality to Malay Muslim population from Thailand is in decline as the Malaysian has adopted a stricter rule in issuing national identification card for foreigners. According to Jiraporn's interviews with officials from Department of Local Administration and National Security Council at the local level who work in the area, these Malay Muslims who hold dual nationality do not have any involvement in the unrest and violence that continues to occur in the southern provinces of Thailand. The view towards these groups of people as a threat to national security is more or less just an assumption or idea projected by the Central Government and the Policy Division. But in practice, the officials at local level do not view these dual nationals as a threat to

national security in any way (Jiraporn Ngamlertsuporn, 2010: 5-6). Nevertheless, the Thai government remains to seek for solution in order to manage and control the growth in number of dual nationals in this area, by setting up various mechanisms at both provincial and regional levels. Some of these mechanisms are setting up a stricter scheme for civil registration related works, publicizing the disadvantages and problems from having dual nationality, as well as other technical methods such as setting the passport numbers the same as the number of national identification card, etc. The Thai government has also sought for cooperation with the Malaysian government in solving the issue of dual nationality. However, Malaysia has not been very cooperative since it views that such issue is rather sensitive and may have an effect on the ground of national security, political interests and personal rights.



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## CHAPTER III

### RESEARCH METHODOLOGY

This chapter presents methods used for this study. The limitations and the lessons learnt from the methodology will also be discussed.

#### 3.1 Methodology of the Research

Qualitative approach will be employed in this study in order to examine the development of current Thailand's Nationality Act and Civil Registration, the process of gaining dual nationality for people in Thailand and the consequences and responses on the part of people who are affected by holding dual nationality status.

The procedure of research methodology consists of the following steps:

3.1.1. Documentary and literature reviews, including legal documents such as Thailand's Nationality Act, Civil Registration other related documents including various case studies on dual nationality occurred around the world and in Thailand;

3.1.2 Field research on primary data collection through in-depth interview with Thai persons who hold dual nationality and interview with key informants who are knowledgeable in the topic of nationality laws, civil registration system and the issue related to nationality in Thailand.

3.1.3 Data Analysis

#### 3.2 Data Collection

To provide context to the analyses and assessment in this study, both primary and secondary data were commonly collected and compiled for examining and analyzing. The potential sources are the following:

##### *3.2.1 Primary Data Collection*

The primary data was mainly collected through discussions and interviews with key informants who are law experts from famous institutes of Thailand, as well as, those who are working in the governmental sectors in Thailand. The two main departments were the National Security Council and the Bureau of Registration Administration (BORA), Ministry of Interior.

The discussion and consultation with the law experts was mainly focused on the interpretation of the laws referred in the study. The laws in this study include the internal laws of Thailand – Thailand’s Nationality Act, Thailand’s Civil Registration Act, and Thailand’s Conflict of Laws Act; the nationality laws of each country from the case studies – Germany’s Nationality Act, U.S. Citizenship criteria, France’s Nationality Law and the Netherlands’ Nationality Act; the review of the 1997 European Convention on Nationality. The main focus of the interviews with the government officials was on the responses, policies and consideration on dual nationality of the Thai government.

The field research on primary data collection took place from February - March 2010. It was collected through an in-depth interview with four-Thai nationals who hold dual nationality (Thai-German, Thai-American, Thai-French and Thai-Dutch). Two case studies reside in Thailand (cases of Thai-German and Thai-American person) and the other two reside overseas (cases of Thai-French who lives in France and Thai-Dutch who lives in the Netherlands). For the case studies that are living abroad, the interview was conducted through using Skype program.

The main discussion was on the process of acquiring dual nationality, obstacles during the process, and the consequences after the acquisition of dual nationality, such as benefits, problems, and the impact of their national identity – the self-reflection and the sense of belonging and loyalty to the country. Each case was selected to represent different causes of dual nationality under the principle of *jus soli* and *jus sanguinis*, naturalization and marriage, according to Thailand’s nationality law and the nationality laws of other countries based on the case studies.

### **3.2.2 Secondary Data Collection**

This study also relies on secondary data and information gained and collected mainly from different sources:

The large part was the review of existing internal laws both of Thailand and other countries which attached to the four cases, mentioned above. The 1997 European Convention on Nationality was also explored as a review of law which shows a greater recognition of dual/multiple nationalities in Europe and poses some responses in solving the problems regarding the court procedure and the question of military obligation of a person with dual nationality status.

Several articles and books concerning the issue of dual nationality around the world were studied to create a theoretical framework of the study, in order to outline the causes of dual nationality and its consequences to the state and the individual. The information was also gathered from libraries, internet websites, journals, newspapers, and books. I also attended seminars which focused on the subject of dual nationality and on the issues related to nationality and legal status of people residing in Thailand.

### **3.3 Limitation of the Research**

Since dual nationality is rather a sensitive issue in Thailand, especially in the case of dual nationals in the southern provinces, this led to the limited resources on the topic of dual nationality in Thailand, which became the main constraint in conducting this study. The following are the main limitations of this study:

#### ***3.4.1 Case studies***

Since the acceptance of dual nationality in Thailand is still unclear, it was hard to find a case study representing a dual national of Thai nationality and under-developed countries such as Burmese, Laotian or Cambodia or a case study representing a dual national from three southern provinces of Thailand. Thus the case studies selected in the study are persons who are with nationality of Thai and developed countries, which are German, American, French and Dutch. They represented a group of people from the middle-class status. Due to the limited amount of time only four cases were interviewed. There were some cases that were not willing to be interviewed at first, as they were scared that their Thai nationality might be revoked. Negotiation and explanation was delivered and agreement was made to keep their name anonymous, as it may affect their legal status in Thailand in the future. Later, by building the trust with the respondents, I was able to have an in-depth interview with them and hold a very open and fruitful discussion. Every case was interested in finding whether or not dual nationality is allowed in Thailand.

#### ***3.4.2 Timing***

The research was conducted in February and March 2010, which is during the occurrence of political upheaval in Thailand, some of the key informants, especially those who were working in the governmental sectors were very busy with their schedule, and thus, some of the interviews were very brief. Some of the interviews kept being postponed in

which in the end the interviews had to be conducted through telephone calls, which may have caused some misinterpretation on questions being asked and the interviews were interrupted a few times because the key informants were outside in the middle of their break, for example. The reference to the previous studies was made to ascertain the information as some of the answers given by the key informants were very similar to the previous studies.

### ***3.4.3 Secondary Data Collection***

Secondary data related to dual nationality in Thailand is very limited. The previous studies were mainly focus on the issue of dual nationality in the three southern provinces of Thailand. Because of the limited resources and relatively small observation of this study, it would be technically correct to say that the result of this study therefore was based mostly on in-depth interviews with the case studies.

However, the studies on dual nationality occurring in other countries were used as reference for this study, which were found mainly in online journals and articles accessible through university website.

### ***3.4.4 Knowledge in Law Studies***

Since the topic is related to the nationality laws of Thailand and other States, the analysis and interpretation of these laws is very important, in order to recognize the rights of an individual to his/her legal status in a particular country, as well as to understand the rule and regulation of the State concerning the issue of dual nationality. However, my knowledge in Law Studies is very limited, thus it became one of the main obstacles in the study. Nevertheless with the help of the law experts through discussion and consultation, my knowledge on nationality laws has developed greatly and later I was able to interpret and analyze the concepts behind these laws.

Despite these limitations, the study is significant because it highlights some important theoretical and practical notions related to nationality issue and the rise of dual nationality in Thailand. The findings identified the causes and the recognition of dual nationality in Thailand, as well as the consequences of having dual nationality to the individuals and the Thai State. The findings are important for Thailand and other countries especially the ASEAN states. This is because one of the ASEAN visions is to create an ASEAN community and if this was to become successful, migration flow of people live in ASEAN will become



greater, and there will be more people migrate into Thailand. They may later wish to acquire Thai nationality, which may result in the increasing number of persons with dual nationality in Thailand. This study will help them to understand the question of dual nationality in Thailand as well as the Thai State's concerns and responses towards this issue. I also hope that the study will be useful to those who are interested in the topic of dual nationality and those who are in doubt of obtaining such status to be able to make their decision.



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

## CHAPTER IV

### RESEARCH FINDINGS ON NORMATIVE FACTS

#### **4.1 Nationality Law and Civil Registration Law of Thailand within the Context of International Law: Analysis and Interpretation**

The international legal framework on nationality can be found in the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights and the 1997 European Convention on Nationality. According to Article 15 of the Universal Declaration of Human Rights, “(1) Everyone has the right to a nationality; (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality,” and Article 24 of the International Covenant on Civil and Political Rights, “Every child has the right to acquire a nationality”. While, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights generally address the provision of nationality, the European Convention on Nationality addresses directly the rising issue of multiple nationalities in the global context. It is a comprehensive convention of the Council of Europe dealing with the law of nationality. The Convention notes the various approach of the states to the questions of multiple nationality and recognize that it depends on each state to decide which consequences it attaches in its internal to the fact that its national acquires or possesses another nationality. The Convention also proposes appropriate solutions to consequences of multiple nationalities and in particular as regards the rights and duties of multiple nationals, including the question of military obligations. This reflects the new way of thinking the issue of dual/multiple nationality in the age of globalization. The international legal framework will provide the context of the analysis of Thailand’s Nationality Law which will be discussed in this chapter.

##### ***4.1.1 The Development of Thailand’s Nationality Law***

The western notion of „nationality“ and „citizenship“ was not introduced into Thailand until King Rama VI period. According to Phunthip Kanchanachittra Saisoonthorn (2006: 41), prior to the modern concept of the Thai State, under the “Customary Law of the Thai State related to the Concept of Being Thai”, as referred by King Rama VI, Thai citizenship was based on the application of the principle of *jus sanguinis*, with the “Thainess of people” being derived from the Thai blood line of either both the father or mother. “Thainess of people” may also derive from the royal decree, which was the equivalent of naturalization. As the King saw that there were many aliens in Thailand who wished to obtain Thai nationality by naturalization, he appointed the Ministry of Foreign Affairs to be in charge of granting Thai

nationality to those who fell under the criteria of the *Naturalization Act Ror Sor 130*, enacted in 1911 (Phunthip Kanchanachittra Saisoonthorn, 2008: online) <sup>\*</sup>. Aliens who were eligible to naturalize had to either have fully assimilated or clearly show the potential of assimilation into Thai society (Phunthip Kanchanachittra Saisoonthorn, 2006: 41). From the implementation of the *Naturalization Act Ror Sor 130*, dual nationality was recognized in Thai society, since there was no condition in which stated that an alien who naturalized to be a Thai would lose his/her former nationality.

However, the word „Thai nationality“ only first appeared in the *Nationality Act B.E. 2456 (1913 C.E.)*, endorsed before the establishment of the Thai Parliament in 1932 (ibid: 40). Under “*Section 3* of this first written law on nationality, a person who was entitled to acquire Thai nationality was:

- 1) a person born of a lawful father who had Thai nationality;
- 2) a person of a lawful mother who had Thai nationality;
- 3) a person born in within the Kingdom of Thailand;
- 4) a woman legally married to a man who had Thai nationality; or
- 5) a person eligible for naturalization under the *Naturalization Act Ror Sor 130 (1911)*”

This law marked the first time in Thai history that granting of Thai nationality could be based on the *jus soli* principle (i.e. being born in Thailand), while the principle of *jus sanguinis* and naturalization remained the same as they were in the period of customary law. It was also the first time that an alien woman who married a Thai man had the right to gain Thai nationality. From this view, a child born in Thailand to alien parents were entitled to Thai nationality, without any constraints on the alien parents’ legal status in Thailand – whether the parents legally or illegally entered to the Kingdom of Thailand, or had the right to reside in Thailand temporarily or permanently in accordance with the *Immigration Act B.E.2456 (1927 C.E.)* (Phunthip Kanchanachittra Saisoonthorn, 2006: 40). This law acted as an instrument in uniting people of different ethnicities and people who came to Thailand from

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\* As a result of this law, naturalization of aliens in Thailand could occur if the alien was:

- (1) *sui juris* (legally adult) and had fully assimilated into Thai society;
- (2) *sui juris* and had socially contributed to Thailand;
- (3) *sui juris* and formerly had Thai nationality;
- (4) *sui juris* with parents who had obtained Thai nationality by naturalization;
- (5) a woman whose husband had obtained Thai nationality by naturalization; or
- (6) a minor whose father had obtained Thai nationality by naturalization.

other countries together. By allowing aliens and children of aliens born in Thailand to obtain Thai nationality, a higher level of assimilation has been achieved. Instead of creating the feeling of „otherness“ in Thai society “Thai nationality has promoted unity among these people” (ibid: 43).

In the view of dual nationality under this law, it can be seen that the children born to alien parents could also be entitled to their parents’ nationality under the *jus sanguinis* principle (if the parents had not yet become Thai nationals through naturalization under the *Naturalization Act Ror Sor 130*). Thus, because of the genuine links with the two states (by virtue of being born in the Kingdom of Thailand and by blood relation with the parents), these children would become dual nationals. It did not state under the law that dual nationality would be denied to this group of people. However, dual nationality status was denied to the women who married to alien husband as they would lose their Thai nationality while acquiring the nationality of their husband under *Section 4* of this law.<sup>\*</sup> But it did not state that these women would lose Thai nationality automatically. So the denial of dual nationality for Thai women married to alien spouse in this period is questionable. Furthermore, a person, who did not fall under Section 4, would lose Thai nationality only when he/she asked for the permission from Ministry of Foreign Affairs.

The second written law, the *Nationality Act B.E. 2495 (1952 C.E.)*, came into effect on February 13, 1952, replacing the *Nationality Act B.E. 2456 (1913 C.E.)*. The eligibility of an individual in acquiring Thai nationality still fell under the five circumstances in accordance with the previous law. The *1952 Nationality Act* was revised in 1953, 1956, and 1960 and finally annulled by the *Nationality Act B.E. 2508 (1965 C.E.)*.

The *1952 Nationality Act* set the third period of Thai nationality. It was during this period that nationalism began to soar in Thai society and an idea of discrimination against aliens began to reflect in the new nationality law, by restricting the acquisition of Thai nationality based on the *jus soli* principle. For instance, a person could acquire Thai nationality under the *jus soli* principle, only when his/her mother was a Thai national. Thus, those who were born although in the Kingdom of Thailand but to alien parents were not eligible to gain Thai nationality. Furthermore, under this law, any person who acquired Thai nationality based on *jus soli* would „immediately lose Thai nationality if that person accepted an identity card issued to an alien“. For a brief period, under this nationality law, dual

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<sup>\*</sup> See Thailand’s Nationality Act B.E. 2456 (1913 C.E.), available from: [http://www.archanwell.org/autopage/show\\_page.php?t=82&s\\_id=36&d\\_id=32](http://www.archanwell.org/autopage/show_page.php?t=82&s_id=36&d_id=32)

nationality was not recognized by the Thai State. However, in 1957 the Ministry of the Interior annulled these two provisions because of the growing influence of the ethnic Chinese in Thai society (Phunthip Kanchanachittra Saisoonthorn, 2006: 46). Despite the restriction on the principle of *jus soli*, the naturalization principle was still opened to any aliens who correspond with the requirements stated in the law.

The fourth period of Thai nationality was set by the *Nationality Act B.E. 2508 (1965)*, replacing the *Nationality Act B.E. 2495 (1952)*. This law comes into action in recognizing Thai nationality for the persons who have a connection with Thailand from 5 August 1965 (*ibid.*). This law has been revised twice in 1992 and the latest amendment took place in 2008. According to the latest Nationality Act (No.4) B.E. 2551 (2008), Thai nationality is determined by the following qualifications under *Section 7* and *Section 7 bis*:

“*Section 7*. The following persons acquire Thai nationality by birth:

- 1) a person born of a father or a mother of Thai nationality, whether within or outside the Kingdom of Thailand;
- 2) a person born within the Kingdom of Thailand except the person under *Section 7 bis* paragraph one.

“Father” in (1) means a person having been proved, in conformity with the Ministerial Regulation, that he is truly the father of the person even though he did not register marriage with the mother of the person or did not complete registration of legitimate child.”

“*Section 7. bis*. A person born within the Kingdom of Thailand of alien parents does not acquire Thai nationality if at the time of his/her birth, his/her lawful father or his/her father who did marry his/her mother, or his/her mother was:

- 1) a person having been given leniency for temporary residence in the Kingdom of Thailand as a special case;
- 2) a person having been permitted to stay temporarily in the Kingdom;
- 3) a person having entered and resided in The Kingdom of Thailand without permission under the law on immigration.”

“In particular cases where the Minister deems it appropriate, he may consider and give an order to grant Thai nationality to any person under paragraph one, in conformity with the rules prescribed by the Cabinet.

The person who is born within the Kingdom of Thailand and has not acquired Thai nationality under paragraph one shall reside in the Kingdom of Thailand under conditions stated in the Ministerial Regulation, but principles of national security and human rights have to be considered as well. The person shall still be deemed to have entered and resided in the

Kingdom of Thailand without permission under the law on immigration when there is no such Ministerial Regulation.”

Thus, the restriction of the granting of Thai nationality under the *jus soli* principle becomes even tighter. The persons born to alien parents who are eligible to acquire Thai nationality are those with parents who having been granted with permanent residence in the Kingdom of Thailand.

Table 1 and Table 2 show all possible combinations of conditions (nationality of each parent and their marital status) for children *born within Thailand* and for children *born outside of Thailand*, respectively and the resulting nationality in accordance to the principles and rules of Thailand’s nationality law:

**Table 1: Possible Combinations (nationality of each parent and their marital status) for Children born within Thailand and the Resulting Nationality**

	Nationality of father	Nationality of Mother	Matrimonial Status	Nationality of child	Legal Conformity
1	Thai	Thai	Registered	Thai	Under Section 7(1) and Section 10*
2	Thai	Thai	Not registered	Thai	Under Section 7(1) and Section 10
3	Thai	Legal alien (Tor Ror 13)**	Registered	Thai	Under Section 7(1) and Section 10
4	Thai	Legal alien (Tor Ror 13)	Not registered	Thai	Under Section 7(1) and Section 10
5	Thai	Illegal alien under Section 7 bis.	Registered	Thai	Under Section 7(1) and Section 10
6	Thai	Illegal alien under Section 7 bis.	Not registered	Thai	Under Section 7(1) and Section 10
7	Legal alien (Tor Ror 13)	Thai	Registered	Thai	Under Section 7(1) and Section 10
8	Legal alien (Tor Ror 13)	Thai	Not registered	Thai	Under Section 7(1) and Section 10

\* Section 10. An alien who possesses the following qualifications may apply for naturalization as a Thai:

- (1) become *sui juris* in accordance with Thai law and the law under which he has nationality;
- (2) have good behavior;
- (3) have regular occupation;
- (4) have a domicile in the Thai Kingdom for a consecutive period of not less than five years till the day of filing the application for naturalization;
- (5) have knowledge of Thai language as prescribed in the Regulations

\*\* Non-Thai nationals who are granted temporary residence in Thailand are now able to have their names registered in the household registration called "Tor.Ror. 13" according to Section 38 of the Civil Registration Act (No.2) 2008. See Appendix

	<b>Nationality of father</b>	<b>Nationality of Mother</b>	<b>Matrimonial Status</b>	<b>Nationality of child</b>	<b>Legal Conformity</b>
9	Illegal alien under Section 7 bis.	Thai	Registered	Thai	Under Section 7(1) and Section 10
10	Illegal alien under Section 7 bis.	Thai	Not registered	Thai	Under Section 7(1) and Section 10
11	Legal alien (Tor Ror 13)	Legal alien (Tor Ror 13)	Registered	Thai	Under Section 7(2)
12	Legal alien (Tor Ror 13)	Legal alien (Tor Ror 13)	Not registered	Thai	Under Section 7(2)
13	Legal alien (Tor Ror 13)	Illegal alien under Section 7 bis.	Registered	Cannot acquire Thai nationality	Under Section 7bis.
14	Legal alien (Tor Ror 13)	Illegal alien under Section 7 bis.	Not registered	Cannot acquire Thai nationality	Under Section 7bis.
15	Illegal alien under Section 7 bis.	Legal alien (Tor Ror 13)	Registered	Cannot acquire Thai nationality	Under Section 7bis.
16	Illegal alien under Section 7 bis.	Legal alien (Tor Ror 13)	Not registered	Cannot acquire Thai nationality	Under Section 7bis.
17	Illegal alien under Section 7 bis.	Illegal alien under Section 7 bis.	Registered	Cannot acquire Thai nationality	Under Section 7bis.
18	Illegal alien under Section 7 bis.	Illegal alien under Section 7 bis.	Not registered	Cannot acquire Thai nationality	Under Section 7bis.

Source: <http://www.consular.go.th/modules.php?name=Content&pa=showpage&pid=100>

**Table 2: Possible combination of conditions (nationality of each parent and their marital status) for children born outside Thailand, and the resulting nationality.**

	<b>Nationality of father</b>	<b>Nationality of Mother</b>	<b>Matrimonial Status</b>	<b>Nationality of child</b>	<b>Legal Conformity</b>
1	Thai	Thai	Registered	Thai	Under Section 7(1) and Section 10
2	Thai	Thai	Not registered	Thai	Under Section 7(1) and Section 10
3	Thai	Other	Registered	Thai	Under Section 7(1) and Section 10
4	Thai	Other	Not registered	Thai	Under Section 7(1) and Section 10
5	Other	Thai	Registered	Thai	Under Section 7(1) and Section 10
6	Other	Thai	Not registered	Thai	Under Section 7(1) and Section 10

Source: <http://www.consular.go.th/modules.php?name=Content&pa=showpage&pid=100>

Regarding the recognition of dual nationality in Thailand, according to the latest nationality law, there is no statement which mentions that dual nationality is not allowed in Thailand. However, according to a directory published by the U.S. Office of Personnel Management (Investigations Service, 2001: 196), it suggests that 89 countries worldwide recognize some form of dual nationality. In this report, it states Thailand does not recognize dual nationality with two exceptions:

Child born abroad to Thai parents, who obtains the citizenship of the foreign country of birth, may retain dual nationality until reaching the age of majority (18). At this point, person must choose which citizenship to retain.

A Thai woman who marries a foreign national and acquires her husband's citizenship has technically lost her Thai citizenship. Should the marriage end in death or divorce, the Thai national woman could regain her Thai citizenship. This is an unofficial dual nationality designed to protect female Thai nationals.

However, this statement conflicts with Thailand's Nationality Act B.E. 2508 (1965) as amended by Acts B.E. 2535 (1992) No. 2 and 3 and Act B.E. 2551 (2008), *Section 13* and *Section 14* which states as follow:

*“Section 13. A woman of Thai nationality who marries an alien and may acquire the nationality of her husband according to the nationality law of her husband, shall, if she desires to renounce Thai nationality, make a declaration of her intention before the competent official according to the form and in the manner prescribed in the Ministerial Regulations.”*

*“Section 14. A person of Thai nationality, who was born of an alien father or mother and has acquired the nationality of his father or mother according to the law on nationality of his father or mother, or a person who acquires Thai nationality under Section 12 paragraph two or Section 12/1 (2) and (3) is required, if he desires to retain his other nationality, to make a declaration of his intention to renounce his Thai nationality within one year after his attaining the age of twenty years, according to such form and in the manner as prescribed in the Ministerial Regulations. [Italics/Bold added]”*

In accordance to this, the renunciation of the former nationality is not forced upon those who married to foreigners, or those who acquired Thai nationality from being born in Thailand or through naturalization as a Thai before *sui juris*, unless he/she desires to do so. From this respect, dual nationality, to certain extent, is allowed in Thailand. The ambiguity of the language used in law, Thailand's Nationality Act in this content, has caused a lot of confusions to those with foreign spouse upon the question of Thailand's recognition to dual



nationality status. Persons with dual nationality status would only lose their Thai nationality when they request for an alien card or gain another nationality through naturalization, according to *Section 21* and *Section 22* of the Act B.E. 2551 (2008). For instance, if the person was born to German father and Thai mother, he is thus entitled to both German and Thai nationality. However if he were to naturalize to be a Swiss national, he would then lose his Thai nationality. In addition, it should be noted that the granting of Thai nationality do not only follow by these three fundamental principles of *jus soli*, *jus sanguinis* and naturalization solely. A granting of Thai nationality for each particular case is also valid, if the Minister deems it appropriate (will be discussed in further details in 4.3). Some of these exceptions also cause people to obtain dual nationality.

Phunthip Kanchanachittra Saisoonthorn (2007) argues that the issue of dual nationality is an „undeniable truth“ that exists in Thailand, as long as the migratory process persists in Thailand and it proves that the persons have genuine links with two or more states. The problem of this issue is that do people have enough knowledge in understanding the situation of the holders of dual nationality or not? Another problem is that has the government established an effective policy to maintain and manage those with such status yet? These are the important questions that need to be answered in dealing with the issue of dual nationality in Thailand posed by Phunthip.

#### ***4.1.2 The Importance of the Civil Registration Law and System***

Thailand enacted the first civil registration law called *Census of People in the Kingdom Act Ror Sor 128* in 1909. However, during this period there was no system of issuing documents to certify that a person was a national and there was no proposal to legislate people to request for a permission to immigrate to Thailand. The issue of civil registration and identity cards did not begin until 1976 as a mean to administering and managing the nationals living in the state. The issuance of these documents aim to regulate rules and principles for birth and death registration, house registration, change of residence forms, copying and authentication of personal records, addition and removal of names on house registrations, and revision of registration information. Civil registration comprises of fifteen forms of registration documents and identification cards which are issued by the Department of Local Administration. These civil registration services are provided at District and Branch District Registration Offices. Marriage and divorce registrations, as well as name and family registrations are included into these civil registration services (Thanida Boonwanno, 2007: 59).

Civil registration act is one of the most important laws which closely relates to individuals and Thai society. It sets out regulation to which what one should do in regarding birth, death or change of residence registration. The main procedure in regarding the birth registration is that the owner of the household must report the birth of a child to local registrar within 15 days since the date of birth. As for the death registration, the owner of the household must report this to local registrar within 24 hours since the death of the person. The owner of the household must report the change of residence with 15 days (สมาคมผู้ปกครองนักเรียนและครู โรงเรียนบุรีรัมย์พิทยาคม: online)

These civil registration documents are very crucial in providing an evidence of a person's existence in the country. Birth, death and house registrations provide important information of Thailand's population. These registrations, for instance, inform us the number and the gender of the population within a particular area, an increase or a decrease in number of the population, the relationship between the people in one household, the migration of people in the area, the density of the area, and so on. This data presents an overall picture of the locality which may become beneficial to the government officers in terms of providing guidelines for the development of the area.

#### ***4.1.3 The Amendment of Thailand's Nationality Act and Civil Registration Act***

There have been several amendments to the nationality act of Thailand, while the civil registration act has been amended twice. The most problematic amendment on Nationality Act is the enactment of Revolutionary Decree No. 337, which came into force on December 14, 1972. According to Thanida (2007), the results of this amendment were:

Thai nationality was withdrawn from any person born on Thai territory before 14 October 1972 of an alien father, who had temporarily entered the Kingdom, or with no lawful father and of an alien mother who had temporarily entered the Kingdom. A person born within The Kingdom of Thailand between 14 December 1972 and 25 February 1992 with alien father, who temporarily entered to the The Kingdom of Thailand, or with no lawful father, and alien mother who temporarily entered to the Kingdom of Thailand would not be granted Thai nationality.

Revolutionary Decree no. 337 was enacted in order to prevent people migrating from communist countries and their children from obtaining Thai nationality, during the spread of communism throughout Southeast Asia, particularly Indochina. However, the revolutionary decree affected all aliens whose situation might not be involved with the expansion of

communism (Thanida Boonwanno, 2007: 44-45). Although, the 1992 amendments 2 and 3 to the 1971 Nationality Act replaced the 1971 Nationality Act and Revolutionary Decree no. 337, restrictions in acquiring Thai nationality remain.

The 2008 amendment of Thailand's Nationality Act and Civil Registration Act aims to reduce the problem of statelessness and help everyone in Thailand to have personal identification documents. The amendment also helps the Thai government to receive accurate civil registration data for the development of the country and future national security. The essential point of the amendments of both laws, as stated by an official from the National Security Council of Thailand, is the incorporation of the principles of human rights to legal status and right to existence of an individual (Official from the National Security Council, **Interview**, 10 March 2010).

The amendments of both laws have also helped in reducing the problem of statelessness, especially the case of 1, 243 Mae-Ai Villagers, whose names were deleted from house registration certificates and of these 866 villagers also had their nationality withdrawn even though these villagers are Thai (Thanida Boonwanno, 2007: 71). Some of these victims were forced to accept „pink“ identity card, a card for „displaced Burmese nationals“, even though they are Thai nationals<sup>\*</sup>. There are fewer restrictions for those who are eligible to apply for Thai citizenship and for those affected from name withdrawal from the house registration can register their name and claim their entitlement to Thai nationality back (Bongkot Napaumporn, 2009: 148). Furthermore, the addition of *Section 7 bis* Paragraph Two of the Nationality Act as amended by Act B.E. 2551 (2008) has helped many non-Thai nationals who have resided in Thailand for a long period of time, such as ethnic hill minorities, Former Kuomintang (KMT) soldiers, Chinese „Haw“ political refugees, displaced Thai nationals in Koh Kong and so on, to be able to apply for Thai nationality. The process has also become less rigid and easier for these groups of people to apply (Official from the National Security Council, **Interview**, 10 March 2010).

According to the interview, currently, the policy proposed by the National Security Council of Thailand has granted Thai nationality to approximately 200,000 former Kuomintang soldiers and now 300,000-400,000 applications are being processed. The length of time for the application process is varied; sometimes the approval could take up to around 10 years. With the current political upheaval in Thailand, however, the process has been

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\* Color-coded cards are identity cards which are given mostly to immigrants and ethnic minorities, in which the Department of Provincial Administration (DOPA) has categorized them into 17 different groups. Different categories correspond to different colors. See Appendix

delayed. At the same time, there is some group of Thai nationals do not agree to let these people to have Thai nationality largely due to xenophobic sentiment. Recently, a draft of a new policy proposed for an amendment of *Section 7 bis* Paragraph Three of the nationality act was formulated<sup>\*</sup>. The proposal was to grant of temporary residence to children of unregistered migrant who were born in Thailand, so that they would have a legal status in Thailand and therefore the right to reside in Thailand.

According to *Section 38* of the 2008 amendment to the Civil Registration Act, those non-Thai nationals who are granted temporary residence in Thailand are finally able to have their names registered in the household registration called “*Tor.Ror 13*” (Fraser, 2009: online). Meanwhile, the rest of the non-Thai nationals will have their names appear on the “Profile Registration” either in “*Tor.Ror 38/1*” or “*Tor.Ror 38 Kor*” (Official from the National Security Council, **Interview**, 10 March 2010). Such actions will help those undocumented people, Stateless persons, and migrants who live in Thailand to enter a formal “Profile registration” as it appears in *Section 38* as follows:

“The district or local registrar shall issue a household registration for all persons without Thai nationality, and their children who were born within the Thai Kingdom who have been permitted to stay temporarily and those who have been given leniency and granted temporary residence in the Thai Kingdom as a special case in accordance with the laws on immigration and the declaration of the Cabinet. In those cases in which temporary residence has been granted but has expired permission of temporary residence overdue, the registrar shall immediately deport such persons.

The Director of Central Registration shall make profile registration for persons without Thai nationality other than those prescribed under paragraph one in accordance with the declaration of the Cabinet. Registrations under paragraph one and two shall be in accordance with the manner prescribed in the regulations under the discretion of the Director of Central Registration.”

One of the most crucial elements of the amended Civil Registration Act is that every child, including those born to undocumented migrants and refugees, must be registered

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\* Section 7 bis Paragraph Three:

“The person who is born within the Kingdom of Thailand and has not acquired Thai nationality under paragraph one shall reside in the Kingdom of Thailand under conditions stated in the Ministerial Regulation, but principles of national security and human rights have to be considered as well. The person shall still be deemed to have entered and resided in the Kingdom of Thailand without permission under the law on immigration when there is no such Ministerial Regulation.”

his/her birth and a birth certificate must be issued to them without exception<sup>\*</sup>. Before the amendment of the Civil Registration Act, birth certificates called “Birth Certificate Tor.Ror. 3” were used for non-Thai infants; however, the Department of Provincial Administration considered that only those who were legally registered to live in Thailand would have their registration processed. In contrast, the babies who were born to parents who were not registered and thus had no right to reside in Thailand did not have an opportunity to have their birth reported to the proper authorities and therefore did not receive a birth certificate. To avoid such problems, the Act of 1991 was amended to impose upon the registrar the duty to accept birth reports and to issue birth certificates of all cases (Fraser, 2009: online). However, having a birth certificate does not mean that children born of unregistered migrants would automatically gain Thai nationality, but this would have their name recorded into the civil registration system of Thailand and serves as evidence of their existence in the state.

Because of these amendments to the nationality and civil registration laws of Thailand, everyone who resides in Thailand will be able to register and have personal identification documents. This will also help the Thai State to receive accurate civil registration data for the development of the country and the national security.

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<sup>\*</sup> Section 16. Section 20 of the Civil Registration Act B.E. 2534 shall be repealed and replaced by the following:

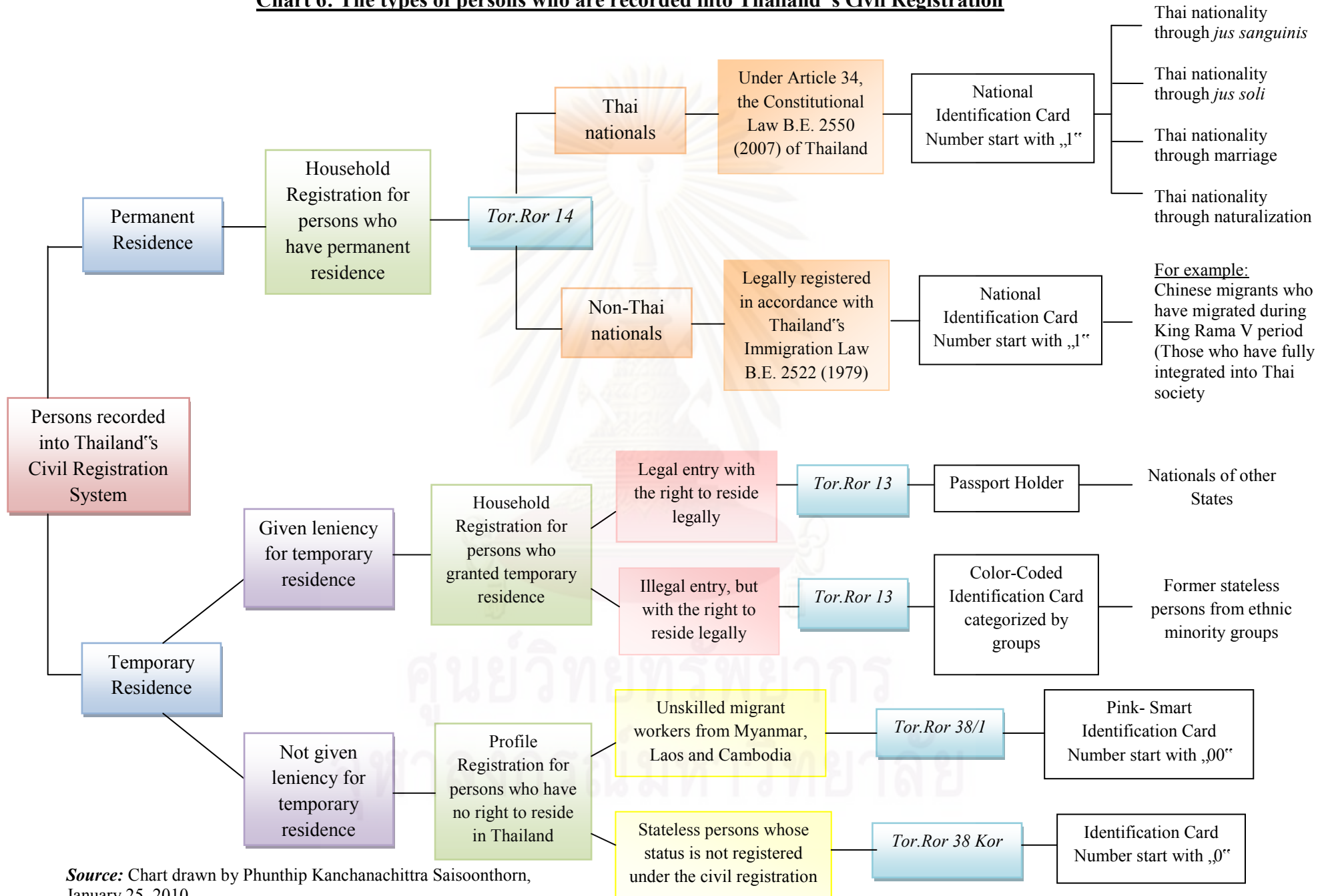
“Section 20. When there is the birth report of the child of Thai nationality or without Thai nationality by birth in accordance with Thai law on nationality under Section 18, Section 19, Section 19/1 or Section 19/3, as evidence the registrar shall accept such birth report and issue a birth certificate stating facts as much as it could be.

For the child without Thai nationality by birth in accordance with Thai law on nationality, the registrar shall issue a birth certificate in the manner prescribed in the forms under the discretion of the Director of Central Registration and the place of birth shall be stated as well.”

Source: Thailand’s Civil Registration Act (No.2) B.E. 2551 (2008), Bongkot Napaumporn (trans.)  
<http://www.unhcr.org/refworld/type.LEGISLATION,,THA,4a5464942.0.html>

Note: Birth report under *Section 18* means a normal birth that occurred in the house or outside the house reported by the parents of a child. As for *Section 19*, is the birth report by those who found neglected newborns or innocent children. The birth report by the chief, or others assigned by the chief of public or private organizations legally registered for giving assistance to such children under the discretion of the Cabinet is under *Section 19/1*, and those who report births after the mandatory deadline of 15 days has passed falls under *Section 19/3*

**Chart 6: The types of persons who are recorded into Thailand's Civil Registration**



Source: Chart drawn by Phunthip Kanchanachittra Saisoonthorn, January 25, 2010

## 4.2 Criteria for Conferring of Thai Nationality and the Potential Cause of Dual Nationality according to Thailand's Nationality Law

As discussed above, according to Thailand's Nationality Act B.E. 2508 (1965) as amended by Acts B.E. 2535 (1992) No. 2 and 3 and Act B.E. 2551 (2008), there are many criteria for granting Thai nationality to a person: granting nationality at birth and after birth.

Regarding the conferral of Thai nationality at birth, a person born in the territory of Thailand or a person with one or both of the parents are Thai nationals is entitled to acquire Thai nationality. The ways of conferring Thai nationality after birth are as follow: the granting of Thai nationality to a foreign woman who married to a Thai national; through naturalization; the reacquisition of Thai nationality; the granting of Thai nationality to particular case by the order of the Minister in accordance with Section 7 *bis*. Paragraph Two of the Nationality Act amended by Act B.E. 2551 (2008); and the acquisition of Thai nationality through *Section 23* of the Nationality Act amended by Act B.E. 2551 (2008). As for the case of acquiring Thai nationality by following *Section 23*, this is only restrictive towards persons born between the dates of 14 December 1972 to 25 February 1992. All of these criteria become a potential cause to dual nationality in Thailand which will be discussed in further details below. Dual nationality would occur, for example, when a Thai national who acquire both Thai nationality and other nationality at birth, by being born to parents of Thai nationals in another state, which has its nationality law based on the principle of *jus soli*; or the case of a Thai national who acquires dual nationality through marriage to a foreigner. In addition to this, there is no clear statement in Thailand's nationality law which determines Thai nationals who acquire dual nationality from the above examples to be forced upon the renunciation of their Thai nationality or to be punished if they hold dual nationality. Therefore, this gives the opportunity for a Thai national to remain having dual status.

### 4.2.1 Criteria for the acquisition of Thai nationality and other nationality at birth

The acquisition of Thai nationality and other nationality at birth occurs as a result of *Section 7*<sup>\*</sup> of Thailand's Nationality Act based principally on *jus sanguinis* and *jus soli*. A person who possesses Thai nationality through descent of either father or mother who is a

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\* *Section 7*. The following persons acquire Thai nationality by birth:

- (1) a person born of a father or a mother of Thai nationality, whether within or outside the Kingdom of Thailand;
- (2) a person born within the Kingdom of Thailand except the person under Section 7 *bis* paragraph one.

Thai national despite being inside or outside the Kingdom of Thailand would be able to acquire another nationality and become a dual national because of the following cases:

**1) The entitlement of a person born inside the Kingdom of Thailand to a Thai national and an alien to acquire Thai nationality based on the principle of *jus sanguinis* under Section 7(1) and another nationality based on the principle of *jus sanguinis* from an alien parent**

This person would be entitled to hold both Thai nationality and other nationality based on the principle of *jus sanguinis* descending from both parents, under the condition that the nationality law of the alien mother or father is based on the *jus sanguinis* principle. The table below shows all possible combinations of conditions (nationality of each parent and their marital status) for children *born within Thailand* to hold dual/multiple nationalities:

**Table 3: Possibility of having dual/multiple nationalities in the case of a person born within Thailand**

	Nationality of father	Nationality of Mother	Matrimonial Status	Nationality of child	Legal Conformity	Possibility of Having Multiple Nationalities
1	Thai	Legal alien ( <i>Tor Ror 13</i> )	Registered	Thai and Other	-	The Nationality Law of the Mother based on the principle of <i>jus sanguinis</i>
2	Thai	Legal alien ( <i>Tor Ror 13</i> )	Not registered	Thai and Other	Proved the relationship to be under Section 7(2)	The Nationality Law of the Mother based on the principle of <i>jus sanguinis</i>
3	Thai	Illegal alien under Section 7 <i>bis</i>	Registered	Thai and Other	-	The Nationality Law of the Mother based on the principle of <i>jus sanguinis</i>
4	Thai	Illegal alien under Section 7 <i>bis</i>	Not registered	Thai and Other	Proved the relationship to be under Section 7(2)	The Nationality Law of the Mother based on the principle of <i>jus sanguinis</i>



	Nationality of father	Nationality of Mother	Matrimonial Status	Nationality of child	Legal Conformity	Possibility of Having Multiple Nationalities
5	Legal alien ( <i>Tor Ror 13</i> )	Thai	Registered	Thai and Other	-	The Nationality Law of the Father based on the principle of <i>jus sanguinis</i>
6	Legal alien ( <i>Tor Ror 13</i> )	Thai	Not registered	Thai and Other	-	The Nationality Law of the Father based on the principle of <i>jus sanguinis</i>
7	Illegal alien under Section 7 <i>bis</i>	Thai	Registered	Thai and Other	-	The Nationality Law of the Father based on the principle of <i>jus sanguinis</i>
8	Illegal alien under Section 7 <i>bis</i>	Thai	Not registered	Thai and Other	-	The Nationality Law of the Father based on the principle of <i>jus sanguinis</i>

**Source:** Lalana Nonthransi (2008) Legal Questions Relating to Multiple Nationality and Its Solutions under Multilateral Conventions on Nationality. pp. 95-96

It should be noted that as for the case of unregistered marriage between a father of Thai nationality and an alien mother with legal or illegal status, there has to be a proof in conformity with the Ministerial Regulation that he is truly the father of the person.

## **2) The entitlement of a person born outside the Kingdom of Thailand to parents of Thai nationality to acquire Thai nationality under Section 7(1) and another nationality based on the principle of *jus soli***

This person would be able to acquire Thai nationality based on the principle of *jus sanguinis* descending from the parents and another nationality based on the principle of *jus soli*, under the condition that the nationality law of place of birth is applicable to the *jus soli* principle. The table below shows possible combinations of conditions (nationality of each parent and their marital status) for children *born outside Thailand* to hold dual/multiple nationality:

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**Table 4: Possibility of having dual/multiple nationalities in the case of a person born outside Thailand to parents of Thai nationality**

	Nationality of father	Nationality of Mother	Matrimonial Status	Nationality of child	Legal Conformity	Possibility of Having Multiple Nationalities
1	Thai	Thai	Registered	Thai and Other	-	The Nationality Law of the place of birth follows the principle of <i>jus soli</i>
2	Thai	Thai	Not registered	Thai and Other	-	The Nationality Law of the place of birth follows the principle of <i>jus soli</i>

*Source:* Lalana Nonthransi (2008) Legal Questions Relating to Multiple Nationality and Its Solutions under Multilateral Conventions on Nationality. pp. 97

**3) The entitlement of a person born outside the Kingdom of Thailand to a Thai national and an alien to acquire Thai nationality under Section 7(1) and another nationality (nationalities) based on the principle of *jus sanguinis* of an alien parent and the principle of *jus soli***

Under this circumstance, this person would be able to acquire multiple nationalities, as he/she would be entitled to acquire dual nationality from the parents under the principle of *jus sanguinis*, and another nationality through the principle of *jus soli* attached to the State where this person was born. The table below shows other possible combinations of conditions (nationality of each parent and their marital status) for children *born within Thailand* to hold dual/multiple nationalities:

**Table 5: Possibility of having dual/multiple nationalities in the case of a person born outside Thailand to parents of different nationalities**

	Nationality of father	Nationality of Mother	Matrimonial Status	Nationality of child	Legal Conformity	Possibility of Having Multiple Nationalities
1	Thai	Other	Registered	Thai and Other	-	- The Nationality Law of the place of birth follows the principle of <i>jus soli</i> - The Nationality Law of the Mother based on the principle of <i>jus sanguinis</i>

	Nationality of father	Nationality of Mother	Matrimonial Status	Nationality of child	Legal Conformity	Possibility of Having Multiple Nationalities
2	Thai	Other	Not registered	Thai and Other	Proved the relationship to be under Section 7(2)	- The Nationality Law of the place of birth follows the principle of <i>jus soli</i> - The Nationality Law of the Mother based on the principle of <i>jus sanguinis</i>
3	Other	Thai	Registered	Thai and Other	-	- The Nationality Law of the place of birth follows the principle of <i>jus soli</i> - The Nationality Law of the Father based on the principle of <i>jus sanguinis</i>
4	Other	Thai	Not Registered	Thai and Other	-	- The Nationality Law of the place of birth follows the principle of <i>jus soli</i> - The Nationality Law of the Mother based on the principle of <i>jus sanguinis</i>

**Source:** Lalana Nonthransi (2008) Legal Questions Relating to Multiple Nationality and Its Solutions under Multilateral Conventions on Nationality. pp. 98

**4) The entitlement of a person born inside the Kingdom of Thailand to alien parents to acquire Thai nationality under Section 7(2) and another nationality from alien parents based on the principle of *jus sanguinis***

This person would be able to acquire Thai nationality through the principle of *jus soli* according to Thailand's nationality law and another nationality descending from the nationality of his/her parents, under the condition that the nationality law of the country of the parents follows the principle of *jus sanguinis*.

**Table 6: Possibility of having dual/multiple nationality in the case of a person born within Thailand to alien parents**

	Nationality of father	Nationality of Mother	Matrimonial Status	Nationality of child	Legal Conformity	Possibility of Having Multiple Nationalities
1	Legal alien ( <i>Tor Ror 13</i> )	Legal alien ( <i>Tor Ror 13</i> )	Registered	Thai and Other	-	The Nationality Law of the Father or the Mother based on the principle of <i>jus sanguinis</i>
2	Legal alien ( <i>Tor Ror 13</i> )	Legal alien ( <i>Tor Ror 13</i> )	Not registered	Thai and Other	-	The Nationality Law of the Mother based on the principle of <i>jus sanguinis</i>

**Source:** Lalana Nonthransi (2008) Legal Questions Relating to Multiple Nationality and Its Solutions under Multilateral Conventions on Nationality. pp. 99

temporary residence in Thailand and have their name registered under the household registration. This is to show their stay in Thailand has been approved that it would be beneficial to the State. From this, it can be seen that the nationality law of Thailand limits an access to Thai nationality to children born of alien who fall under Section 7 *bis* paragraph one and Section 8, which will be discussed in more details in the latter part of this chapter.

#### ***4.2.2 Criteria for the acquisition of Thai nationality and other nationality after birth***

Cases of dual or multiple nationalities are likely to occur when the nationality is obtained after birth. This is because the State normally would not revoke the nationality of an individual without the consent, as it goes against principles of human rights, as stated in Article 15 of the Universal Declaration of Human Rights (Lalana Nonthransi, 2008: 99) that:

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

The acquisition of dual/multiple nationalities after birth can be divided into categories:

- The case of an alien obtaining Thai nationality
- The case of a Thai national acquiring other nationality

#### **1) The case of an alien obtaining Thai nationality after birth**

##### **a) The acquisition of Thai nationality under Section 7 bis, Paragraph Two of Thailand's Nationality Law:**

“In case the Minister deems it appropriate, he may consider and give an order for each particular case granting Thai nationality to any person under paragraph one, in conformity with the rules prescribed by the Cabinet.

The person who is born within the Thai Kingdom and has not acquired Thai nationality under paragraph one shall reside in the Thai Kingdom under conditions stating in the Ministerial Regulation, but principles of national security and human rights have to be considered as well. Nevertheless, the person shall be deemed to have entered and resided in the Thai Kingdom without permission under the law on immigration when there is no such Ministerial Regulation still.”

A person who falls under *Section 7 bis*, Paragraph One is:

“A person born within the Kingdom of Thailand of alien parents does not acquire Thai nationality if at the time of his/her birth, his/her lawful father or his/her father who did marry his/her mother, or his/her mother was:

- (1) a person having been given leniency for temporary residence in the Kingdom of Thailand as a special case;
- (2) a person having been permitted to stay temporarily in the Kingdom;
- (3) a person having entered and resided in The Kingdom of Thailand without permission under the law on immigration.”

The aim of this provision is to reduce the problem related to rights and legal status of aliens who was born in the territory of Thailand whose parents or ancestors have resided in Thailand for a long time but do not have Thai nationality. In practice, given the fact these people cannot go back to the country of origin and their children are bonded to Thailand more than the country where they came from since these children were born in Thailand. Nevertheless, if the nationality law of the State of origin does not have a provision to revoke the nationality of the persons who live outside the State for a long period of time, the acquisition of Thai nationality under this section would make these people become dual national.

**b) The acquisition of Thai nationality according to Section 23, Paragraph One of Thailand Nationality Act (No.4) B.E. 2551 (2008)**

“*Section 23.* A person of Thai nationality born within the Thai Kingdom, but his nationality was revoked by Section 1 of the Declaration of Revolutionary Party no.337 on the 13th of December, B.E. 2535 and a person who was born within the Thai Kingdom, but did not acquire Thai nationality by Section 2 of the Declaration of Revolutionary Party no.337 on the 13th of December, B.E. 2535, including children of the persons who were born within the Thai Kingdom before this act comes into force and did not acquire Thai nationality under Section 7 bis paragraph one of the Nationality Act B.E. 2508 as amended by the Act B.E. 2535 no.2 shall acquire Thai nationality from the day this Act coming into force if the person has evidence on civil registration proving the domicile within the Thai Kingdom for a consecutive period till the present and having good behavior, or having done acts to the benefits of official service. The persons already acquired Thai nationality with the discretion of the Minister before this Act comes into force are exempt.”

Persons who were forced to renounce their Thai nationality under this Decree were:

(1) Any persons born on Thai territory before 14 October 1972 of an alien father, who had temporarily entered the Kingdom, or with no lawful father and of an alien mother who had temporarily entered the Kingdom;

(2) Any persons born within The Kingdom of Thailand between the date of 14 December 1972 to 25 February 1992 with alien father, who temporarily entered to the Kingdom, or with no lawful father, and alien mother who temporarily entered the Kingdom

(3) Children of (1) and (2) born before 28 February 2008, only those who do not possess Thai nationality by birth

The condition for the reacquisition of Thai nationality is that these people must have their name registered in civil registration, including 13-digits national identification number, birth certificate, birth registration, household registration, or other profile registration such as *Tor Ror 38 Kor*, etc. (Lalana Nonthransi, 2008: 103).

**c) The acquisition of Thai nationality of an alien woman through marriage with husband of Thai nationality according to Section 9:**

*“Section 9. An alien woman who marries a person of Thai nationality shall, if she desires to acquire Thai nationality, file an application with the competent official according to the form and in the manner prescribed in the Ministerial Regulations.*

*The granting or refusal of permission for acquisition of Thai nationality shall lie with the discretion of the Minister.”*

According to the interview with the Official from the National Security Council, the provision of this section supports the idea of „family unity“, in a sense that members of one family should hold the same nationality. Hence, when an alien woman, who is married to a Thai national and has children born in Thailand, comes to apply for naturalization as a Thai, the consideration of granting Thai nationality is more lenient because of the notion of „family unity“ (Official from the National Security Council, **Interview**, 10 March 2010). Therefore, the nationality law of Thailand allows an alien woman to retain her former nationality. This is to prevent the woman from becoming a stateless person in the case that she is forced to renounce the nationality gained from her husband when the marriage comes to end. As for the case of Thailand, the granting of Thai nationality process would become completed upon the

publication in the Government Gazette, according to *Section 5*<sup>\*</sup>. The revocation of Thai nationality is also possible if the woman falls under the legal conditions stated in *Section 16*<sup>\*\*</sup>. However, it is possible for dual nationality to occur in such case, if the nationality law of the State of origin does not require a person to renounce the former nationality prior to obtaining of the new nationality.

**d) Naturalization as a Thai according Section 12 and Section 12/1**

“*Section 12*. Any person being desirous of applying for naturalization as a Thai, shall file an application with the competent official according to the form and in the manner prescribed in the Ministerial Regulations.

Should the applicant for naturalization as a Thai, under paragraph one, have children who are not *sui juris* in accordance with Thai law, and who have a domicile in Thailand, he may concurrently apply for such naturalization for his children. In this case, such children shall be exempt from possessing the qualifications under Section 10 (1), (3), (4) and (5).

The granting or refusal of permission for naturalization as a Thai shall lie with the discretion of the Minister. In case the Minister deems appropriate to grant permission, he shall submit the matter to the King for Royal Sanction. After the Royal Sanction, the applicant shall make an affirmation of loyalty to Thailand.

When there is the announcement under Section 5, the competent official shall issue a certificate of naturalization as a Thai as evidence.”

“*Section 12/1*. According to following situations, the applicant may apply for naturalization as a Thai for persons without Thai nationality, but having residence in the Thai Kingdom:

(1) A curator under an order of the court may apply for naturalization as a Thai for incompetent persons who has evidence proving the birth within the Thai Kingdom. In this case, such persons shall be exempt from possessing the qualifications under Section 10 (3)

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*Section 5*. The acquisition of Thai nationality under Section 9 or 12, the loss of Thai nationality under Chapter 2, or the recovery of Thai nationality under Chapter 3, shall be effective upon its publication in the Government Gazette and shall have an individual effect

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*Section 16*. With respect to an alien woman who acquires Thai nationality by marriage, her Thai nationality may be revoked if it appears that:

- (1) The marriage was effected by concealment of facts or making any statement false in material particular;
- (2) She commits any act prejudicial to the security, or conflicting with the interests of the State, or amounting to an insult to the nation;
- (3) She commits any act contrary to public order or good morals.

and (5) and making an affirmation to loyalty to Thailand of the persons shall lie with the discretion of the Minister.

(2) With a permission of the children, a ruler of public foster home in conformity with the Minister may apply for naturalization as a Thai for children of their responsibility who are not *sui juris* in accordance with Thai law and have been staying in such foster home not less than 10 years. In this case, such persons shall be exempt from possessing the qualifications under Section 10 (1) and (3)

(3) A Thai who adopted a child may apply for naturalization as a Thai for the adopted child who are not *sui juris* in accordance with Thai law, has been done a registration of legitimate child not less than 5 years and also has evidence proving the birth in the Thai Kingdom. In this case, such persons shall be exempt from possessing the qualifications under Section 10 (1) and (3)

Application on naturalization as a Thai for the others under paragraph one shall be in conformity with the Ministerial Regulation.”

Persons who are qualified as an applicant for naturalization as a Thai have to be those who fall under the provision of *Section 10* and *Section 11*:

“*Section 10*. An alien who possesses the following qualifications may apply for naturalization as a Thai:

- (1) become *sui juris* in accordance with Thai law and the law under which he has nationality;
- (2) have good behavior;
- (3) have regular occupation;
- (4) have a domicile in the Thai Kingdom for a consecutive period of not less than five years till the day of filing the application for naturalization;
- (5) have knowledge of Thai language as prescribed in the Regulations.”

“*Section 11*. The provisions of Section 10 (4) and (5) shall not apply if the applicant for naturalization as a Thai;

- (1) has rendered distinguished service to Thailand or has done acts to the benefit of official service, which is deemed suitable by the Minister;
- (2) is a child, wife, or husband of a person who has been naturalized as a Thai or has recovered Thai nationality
- (3) is one who used to have Thai Nationality.
- (4) is husband of a person with Thai nationality”



The granting of Thai nationality through naturalization process would become completed upon the publication in the Government Gazette, according to *Section 5*. The revocation of Thai nationality is also possible if the person who acquires Thai nationality through this process falls under the legal conditions stated in *Section 19*<sup>\*</sup>. However, it is possible for dual nationality to occur in such case, if the nationality law of the State of origin does not require a person to renounce the former nationality prior to obtaining of the new nationality. For example, in the case of Taiwan, its nationality law does not have any provision which does not allow dual nationality; a Taiwan national may choose to retain his or her Taiwanese while still applies for naturalization to gain Thai nationality. Therefore when Thai nationality is granted to a Taiwan national through naturalization process, he/she will then become dual status holder (Official from the National Security Council, **Interview**, 10 March 2010). It also should be noted that the conferring of Thai nationality to persons fall under Section 11(1) also follow the principle of „allegiance“ to the nation. This is since the provisions from Section 10 (4) and (5), which are the restriction impeding those who do not show the sign of integration into Thai society to obtain Thai nationality is lifted, is lifted from those who have performed distinguished service to Thailand or has done acts to the benefit of official service to the country.

#### **e) Recovery of Thai nationality under Section 23 and Section 24**

“*Section 23*. A man or woman of Thai nationality who has renounced Thai nationality in case of marriage to an alien under Section 13 may, if the marriage has been dissolved by whatsoever reason, apply for recovery of Thai nationality.

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\* *Section 19*. The Minister is empowered to revoke Thai nationality of a person who acquires Thai nationality by naturalization if it appears that:

- (1) The naturalization was effected by concealment of facts or making any statement false in material particular;
- (2) There is evidence to show that he still makes use of his former nationality;
- (3) He commits any act prejudicial to the security or conflicting the interests of the State, or amounting to an insult to the nation;
- (4) He commits any act contrary to public order or good morals;
- (5) He has resided abroad without having a domicile in Thailand for more than five years;
- (6) He still retains the nationality of the country at war with Thailand.

The revocation of Thai nationality under this section may extend to children of a person whose Thai nationality is revoked in case such children are not sui juris and acquire Thai nationality under Section 12, paragraph two and the Minister shall, after the order for revocation of Thai nationality has been given, shall submit the matter to the King for information.

In applying for recovery of Thai nationality, a declaration of intention shall be made before the competent official according to the form and in the manner prescribed in the Ministerial Regulations.”

“*Section 24.* A person of Thai nationality, together with his parent while not becoming *sui juris*, shall, if he desires to recover Thai nationality, file with the Competent official an application according to the form and in the manner prescribed in the Ministerial Regulations within two years from the day of his becoming *sui juris* under Thai law, and the law under which he has nationality.

The granting or refusal of permission for recovery of Thai nationality shall lie with the discretion of the Minister.”

It should be noted that if the nationality law of the current nationality that person who falls under *Section 23* and *Section 24* is holding does not force this person to lose the current nationality when the marriage is dissolved or when the recovery of the former nationality occur; this person would become a dual national if he/she has the Thai nationality successfully recovered. Nevertheless, the recovery of Thai nationality under *Section 24* must be done within two years after the applicant has become *sui juris*, otherwise the application would fail.

As a whole, the internal law of Thailand cannot set up a provision which forces a person who wishes to acquire Thai nationality to lose his/her former nationality as this would oppose the principle of sovereignty of other States set by the international law.

## **2) The case of Thai national acquiring other nationality after birth**

The case of Thai national becoming a holder of dual nationality after birth occurs when this person acquires another nationality through marriage with an alien. This is because according to the Thai nationality law, there is no provision which forces a Thai national to lose his/her Thai nationality after acquiring the nationality of his/her spouse. The law only states that if the person desires to renounce the Thai nationality, he/she can do so, but the State cannot compel them to do so<sup>\*</sup>.

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\* *Section 13.* A man or a woman of Thai nationality who marries an alien and may acquire the nationality of the husband or the wife according to the nationality law of them, shall, if he or she desires to renounce Thai nationality, make a declaration of his or her intention before the competent official according to the form and in the manner prescribed in the Ministerial Regulations.”

However, it should be noted that if a Thai national acquires other nationality through naturalization, he/she would lose Thai nationality according to *Section 22*.<sup>\*</sup> The loss of Thai nationality would be completed upon the publication in the Government Gazette under *Section 5*. This indicates that the Thai law does not accept the acquisition of dual or multiple nationalities as it clearly states that the Thai nationals who “naturalized as an alien shall lose Thai nationality”. It is the duty of the Thai Embassy or Consulate overseas to report back to the Thai government that there is a Thai national who has naturalized as an alien, so that the Government Gazette could be published. However, in practice, the Thai Embassies and Consulates normally turn the blind eyes to such case as they do not want to force Thai nationals to lose the nationality of their own country (Official from the National Security Council, **Interview**, 10 March 2010).

From this perspective, it can be seen that there are many ways of conferring Thai nationality in which may be the cause to dual nationality as well. It should be noted that the provisions under the Nationality Act of Thailand are not rules to be imposed on to an individual, but are rights that they are entitled to. A person may choose not to acquire Thai nationality, if he/she does not wish to. For example, Tiger Woods holds the right to obtain Thai nationality from his mother who is a Thai national under *Section 7 (1)*, but he chose not to acquire it. This could be because he considers that the connection between him and Thailand is much loosened and he does not intend to live in Thailand, so he does not see the reason behind obtaining Thai nationality.

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*Section 22*. A person of Thai nationality who has been naturalized as an alien, or who has renounced Thai nationality, or whose Thai nationality has been revoked, shall lose Thai nationality.

## CHAPTER V

### RESEARCH FINDINGS ON CASE STUDIES AND ANALYSIS

#### 5.1 Case studies on Thai persons who hold dual nationality: A study on the process, obstacles and consequence on an individual from having dual nationality

Four case studies are selected to represent different cause of dual nationality to a Thai person both at birth (through the principle of *jus soli* and *jus sanguinis*) and after birth (through marriage with an alien spouse and naturalization to become an alien). Each case is analyzed and discussed with a close examination of different nationality law and immigration procedures. Processes, obstacles as well as consequences of having dual nationality are presented in the following section.

##### 5.1.1 Scenario of the Case Studies

#### ***Case Study I: Michael (alias) - Born in Germany to a Thai mother and a German father***<sup>\*</sup>

Michael was born in Offenbach am main, Germany, in 1983 to a father of German nationality and to a mother of Thai nationality. His birth certificate was issued by the German authority, at Hessen District, Offenbach am main, Germany. His parents did not report his birth to the Thai Consulate in Germany, thus he does not have a Thai birth certificate and was not recorded into Thai's birth registration system. His parents registered their marriage in Germany, with an official German marriage certificate. During the stay in Germany, his mother did not naturalized and retained her Thai nationality. From this point, it can be said that Michael is entitled to hold dual nationality: German nationality from his father (*Section 4 (1) of the Nationality Act of Germany*<sup>\*\*</sup>) and Thai national from his mother (*Section 7(1) of Thailand's Nationality Act*). This is since the granting of nationality according to both nationality laws of Thailand and Germany is based on the principle of *jus sanguinis*.

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<sup>\*</sup> (Michael (alias), **Interview**, 17 February 2010)

<sup>\*</sup> Germany's Nationality Act (Staatsangehörigkeitsgesetz) was amended and came into effect on 1 January 2000. For more information of Germany's Nationality Act, See Appendix

*Germany's Nationality Act (Staatsangehörigkeitsgesetz) as amended on January 1, 2000:*

*"Section 4: Acquisition by birth*

(1) A child shall acquire German citizenship by birth if one parent possesses German citizenship. Where at the time of the birth only the father is a German national, and where for proof of descent under German law recognition or determination of paternity is necessary, acquisition shall be dependent on recognition or determination of paternity with legal effect under German law; the declaration of recognition must be submitted or the procedure for determination commenced before the child reaches the age of 23.

*Thailand's Nationality Act B.E. 2508 (1965) as amended by Acts B.E. 2535 (1992) No. 2 and 3 and Act B.E. 2551 (2008):*

*"Section 7. The following persons acquire Thai nationality by birth:*

(1) a person born of a father or a mother of Thai nationality, whether within or outside the Kingdom of Thailand;

(2) a person born within the Kingdom of Thailand except the person under Section 7 *bis* paragraph one.

"Father" in (1) means a person having been proved, in conformity with the Ministerial Regulation, that he is truly the father of the person even though he did not register marriage with the mother of the person or did not complete registration of legitimate child."

Under the German law, a person may not have more than one nationality unless he/she was born with both. Therefore, even if after Michael has obtained his Thai nationality, his German nationality shall not be lost since there is no provision in accordance with the German law which compels a German national by descent to renounce the other nationality acquired at birth (e.g. based on place of birth or descent from one parent), unless he/she desires to according to *Section 26* of the German law<sup>\*</sup>. As for the nationality law of Thailand, there is no provision which revokes Thai nationality through blood descent of which Michael

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<sup>\*</sup> Germany's Nationality law. See Appendix  
*Section 26. [Renunciation]*

(1) A German may renounce his or her citizenship if he or she possesses several nationalities. Such a renunciation shall be declared in writing.

(2) The written renunciation shall require the approval of the authority which is competent pursuant to Section 23 for issuing the certificate of release. Such approval shall be withheld if release may not be granted pursuant to Section 22; this shall not apply, however, if the person renouncing citizenship

1. has been permanently resident abroad for at least ten years or

2. has performed military service in one of the states whose citizenship he holds as a person liable for military service within the meaning of Section 22, no. 2.

(3) The loss of citizenship shall take effect upon delivery of the certificate of renunciation issued by the approving authority.

(4) Section 19 shall apply *mutatis mutandis* for minors.

is entitled to. Nevertheless, Michael never consider of applying for his Thai nationality until he was 18 year-old, after he has moved to Thailand with his family.

Michael's family moved from Germany to reside permanently in Ratchaburi Province, Thailand in 1994, when he was 11 years old. He entered Thailand by using his German passport and applied for Thai visa on a yearly basis; this is the same case as for his father. Since his father is married to his Thai mother, the type of Thai visa he applied for is a non-immigrant „O“ visa<sup>\*</sup>, which is a visa for foreigners who wish to stay with family in Thailand. As for Michael, he also applied for the same type of visa. For this type of visa: “An alien must apply for a non-immigrant visa "code O" at a Thai Embassy or Consulate abroad before entering the Kingdom. Duration of first permit: As warranted by this visa, permission is given for a period of 90 days. Duration of extension: The Immigration Office will grant him a maximum extension of one year at a time.”

For the case of Michael's father, documents required for his visa extension, which is based on marriage with a Thai national, are as follow:

1. Thai Visa Application form (T.M. 7) with one photograph size 4x6 cm. and Visa Fee 1900.- Baht
2. Copy of passport ( with certified true copy )
3. Required documentation for applying visa in case of:

**For supporting Thai wife**

- Marriage Certificate
- Child's birth certificate (if any)
- Wife's house registration
- Wife's identity card

\* Requirements for an Non-Immigrant "O" Visa overseas:

(1) Foreigners who wish to stay with family in Thailand must provide the following documents:

- If you are a former Thai citizen, proof of Thai citizen such as Thai passport, Thai identification card, Thai house register or Thai birth certificate

- **If you want to visit as a spouse or family member (son or daughter), proof of relationship such as a copy of marriage license or birth certificate with a proof that your spouse or family member is a Thai citizen**

(2) Foreigners who wish to perform duties for the state enterprise or social welfare organizations, to receive medical treatment in Thailand must provide the following documents:

- Letter of invitation or acceptance from the concerned companies/ organizations or institutes with business registration or business license

(3) Foreigners who wish to be a sport coach as required by Thai Government, to be a contestant or witness for the judicial process in Thailand must provide the following documents: Letter of invitation or acceptance from the Thai Government or concern organizations Visa.

Source: [www.thaivisa.com](http://www.thaivisa.com)

### **In case of Working**

- A copy of work permit or receiving work permit form ( WP.2 )
- The letter from the applicant's company to certify salary that the applicant receives not less than 40,000 baht per month (identifier position and salary) or husband or wife working has Income including at least 40,000 baht/month
- Personal Corporation income Tax (PND.1) in latest 3 months and personal income tax for previous year with receipt
- Recording interviewing the husband and wife for confirming status of husband and wife
- House's map
- Other such as Registration Company
- Picture of house and family

Note: 2 copies of each item are required.

Source: [www.thaivisa.com](http://www.thaivisa.com)

As for the case of Michael's visa extension which is for „aliens who support or are being supported by parents with Thai nationality or have residence in Thailand“, required documents are as follow:

### **Parents: Thai nationals**

1. Thai visa application form (TM. 7)
2. Passport copy
3. Passport picture 4x6 cm
4. Application fee 1,900.- Baht
5. Evidence of parenthood or birth certificate, marriage register of parents
6. Interview record of applicant and child
7. The official in charge reserves the right to request additional documents as needed.

Source: [www.thaivisa.com](http://www.thaivisa.com)

Both Michael and his father did not have any problems in applying for Thai visa since they have all the required documents. Ever since his family moved to Thailand, they have never returned to Germany. When the passport expires, Michael needs to go to the Embassy of Germany in Thailand to renew his passport. He never experiences any problems in terms of travelling inside or outside of Thailand.

Ever since he moved to Thailand, Michael started attending a Thai primary school at Prathom 5 (Grade 5). Since he did not have any basis knowledge of Thai language prior to his settlement in Thailand, he had to spend a year studying Thai language. Even though, Michael does not hold any Thai legal documents apart from his German passport with Thai visa which lets him stay in Thailand lawfully, he did not have any problems with the school admission or the way of living. He paid the school fee the same rate as other Thai students and integrated into Thai society. When he reached the age of 15, in the case of Thailand this is the time when a Thai national applies for the Thai national identification card, he did not consider of getting one because he had never encounter any problems by holding his German passport. The only disadvantage is that he cannot apply for the social security card. It did not occur to him that he would have troubles in getting a job at the later stage of his life. Michael never went through the military service obligation of both Germany and Thailand. This is because he has permanently moved out from Germany and has no connection with the country for more than 5 years. The German authority could not reach him, but if he was to return to Germany he might be called upon to serve the military service since he is still considered to be a German national. Since he has not held Thai nationality, he did not have to serve military service when he was 18 year-old either.

It was when Michael studied at Mathayom 6 (Grade 12) that he started to consider of getting Thai nationality. He saw that having no Thai nationality might post a problem when entering university, such as having to pay international student fees, applying for a job which mostly required an applicant to be a Thai national. So he decided at his own accord that he would apply for his Thai nationality. He then started looking up the nationality law and other related websites for more information. At first he was not sure if he was allowed to obtain Thai nationality. However, because of the procedure is rather complicated, he decided to postpone the acquisition of his Thai nationality and wait until after his graduation, since he would then have more time. Upon entering university, he had to go the Embassy of Germany to get an exception letter as evidence that he has been living in Thailand for a long time so that he was allowed to pay admission fee the same rate as a Thai national. As he has suspected, problems finally reached to him as soon as he graduated in terms of applying for a job. This is because one of the main requirements for most employments in Thailand is that you have to be a Thai national. Michael is not allowed to work on his non-immigrant „o“ visa unless he applies for a work permit to be able to work in Thailand. However, if he applied for



a work permit, i.e. an alien identification, according to *Section 21*<sup>\*</sup> of Thailand's Nationality Law as amended by Acts 2008, Michael would lose Thai nationality of which is entitled to. He did not wish for that to happen, so currently he has been trying to apply for his Thai nationality.

Around January 2010, he went to the Ban-kong District Office in Ratchaburi Province where his parents reside. The documents that he took with him were: 1) his parent's marriage certificate issued in Germany; 2) his German birth certificate; 3) household registration of Thai national (*Tor.Ror. 14*) of his mother; 4) Thai household registration for foreigner who granted temporary residence (*Tor.Ror 13*) of his father. At first, the Deputy Chief District refused to process his application because he did not know whether Michael would actually be allowed to apply for Thai nationality under Thai nationality law. Michael was rather well prepared, as he at that time had a copy of the amended nationality law with him. He spent around 3 hours discussing and looking through all the documents with the official who was very understanding. Because the ambiguity of the language usage in legal terms, they spent a long time trying to interpret the meaning behind the related provisions. In the end, the official did not find provision which states that a person like Michael who was born outside the Kingdom of Thailand to a Thai national would be denied of Thai nationality. The official agreed to proceed with the application after he had consulted with an immigration official based in Bangkok. However, Michael encountered a problem because his German birth certificate only stated his mother's name, not her nationality and his name is not registered into any „Profile Registration“ under Thai civil registration system. The immigration official suggested to the Deputy Chief District that Michael need to go through „Nationality Verification“ process to prove that Michael's mother is truly his mother, which may involve DNA testing of both Michael and his mother. Michael is now in the middle of decision making of whether to carry on with nationality verification. But because seeing that gaining Thai nationality would become very beneficial for him in terms of career opportunity, he would likely to carry on with the procedure.

In terms of political participation since Michael has no contact with Germany for a long time, he has not been participated in any election that takes place in Germany. At the same time, because he is not yet legitimate to be a Thai national, thus, he never took part in

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<sup>\*</sup> *Section 21.* A person of Thai nationality who was born of an alien father or mother and may acquire the nationality of his father or mother according to the law on nationality of his father or mother shall lose Thai nationality if he obtains an alien identification card according to the law on registration of aliens

voting for any election in Thailand either. Since Michael has no job, the question of paying tax is void. As for the question of his sense of belonging – national identity – Michael stated that he holds allegiance to both countries. This is because he feels that he still is a German national as he was born in Germany and part of his childhood is spent there, but at the same time, he feels more connected to Thailand as he has spent most of his time growing up in Thailand. He mentioned that there will always be a special bond to him with Germany as he still speaks the language with his father, although he has constantly lost the connection with German culture. He has fully integrated into Thai society: he speaks Thai, eats Thai food, his friends are Thai and he is surrounded by Thai culture. However, if asked by others whether he is German or Thai, he would answer that he is „still“ German. He said that once he gets his Thai national identification card, in other words, fully become Thai citizen, he would then answer that he is Thai, rather than German.

***Case Study II: Ploy (alias) – Born in the United States of America to parents of Thai nationals\****

Ploy was born in the United States of America in 1984 to Thai parents who have migrated to the United States for 10 years. She has her American birth certificate as well as Thai birth certificate because her parents went to report her birth at the nearest Thai Consulate. Before Ploy was born her parents were Green-card holders and thus both were still a Thai national. According to the US nationality law which based principally on *jus soli*, a person born in the US territory would automatically gain U.S. citizenship,\*\* in which a birth certificate issued in the United States serves a proof of U.S. citizenship. Thus, Ploy has automatically become a U.S. citizen. At the same time, Ploy is also entitled to Thai nationality through her parents“ Thai nationality under *Section 7*, since they were still a Thai national when she was born. Thus, Ploy became a American-Thai national, based on the principle of *jus soli* through the American law and the principle of *jus sanguinis* through the Thai law. When she visited Thailand at the age of 13 she went to apply for a Thai passport without any problems. This is because she had all the required documents ready, these are

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\* (Ploy (alias), **Interview**, 19 February, 2010)

\*\* The following shall be nationals and citizens of the United States at birth:

(a) a person born in the United States, and subject to the jurisdiction thereof.

For other criteria see Nationals and citizens of United States at birth [Online] Available from: <http://www.law.cornell.edu/uscode/8/1401.html>

Thai passport application form and 13-digit national identification number which is recorded in her Thai birth certificate<sup>\*\*\*</sup>.

Ploy has spent most of her time in the United States, until she decided to move to Thailand to study her Master degree in 2006. At that time she was 22 years old. She then thought of getting Thai national identification card as she saw a lot of benefits from having one. These benefits are: paying tuition fee at the same rate as a Thai national; do not need to apply for Thai visa; can work in Thailand without having to apply for a work permit. She viewed that having a Thai national identification means that she would fully become a Thai national who has possess full rights and have access to everything a Thai national entitled to while residing in Thailand.

At first she thought that the procedure would flow smoothly since she has a Thai birth certificate issued by the Thai Consulate in the United States, her parents' marriage certificate issued in Thailand. However, because her name is not registered under the Thai household registration, which is a required document for the Thai national identification card application procedure, so that was the first thing she did when she went to Sub-District Office where her father has his name recorded under. But because the name of her mother is on the different household registration, they had to remove her mother's name from the old household registration, and then put her mother's name into her father's household registration before Ploy could have her name added in. But before Ploy could add her name into her father's household registration, another problem occurred because of the spelling differences of her mother's name between the Thai national identification card and Ploy's birth certificate. Ploy's mother decided to spell her name differently after she has moved to the United States but did not report the name change to the Thai authority. This is because it did not occur to her that it would become such a big issue. Because of the spelling difference, the official refused to add Ploy's name into the household registration, given her evidence is not

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**\*\*\* Documents required when applying for a Thai passport**

- Passport application form
- 13 Digit Thai Identification card

**How to apply**

- Applicants must submit their application in person. An appointment is recommended.

**Notes :**

Consent of parents or legal guardian(s). Minors under 20 years of age must come to the passport office with both father and mother or legal guardian(s). In case one of the parents is unable to come, he/she must sign a letter of consent, which must be brought to the office by the other parent and the minor.

Source: <http://www.thaicongenvancouver.org/PASSPORT.htm>

sufficient. At first, Ploy and her mother proposed to change the spell of the mother's name in her Thai national identification card, but the official refused to do so and suggested that the correction of the name spelling in the birth certificate instead. However, this cannot be preceded in Thailand, the birth certificated need to be sent back to the place of issue. As a result, they had to send the original copy of the birth certificate back to the Thai Consulate in the United States, to have the name corrected and reissued, which was rather precarious in case the copy might be lost somewhere. After the reissuance of her birth certificate with the name correction, she finally had her name added into her father's household registration and received her Thai national identification card. Even though, she had all her documents prepared, only a slight mistake to the name spelling causes such a big commotion, and the procedure took longer than what it should be.

After having obtained the Thai national identification card, Ploy has earned all of these advantages as she mentioned above in terms of gaining rights and access in which a Thai national entitled to. She did not find herself having problems for having dual nationality. In terms of taxation, since she is employed within Thailand, she then needs to pay tax to Thailand. She mentioned that if she went back to the United States and was working there, she would be paying tax to the US then. Ploy also holds both American and Thai passports. She uses her Thai passport to enter and exit Thailand, while uses the American one to enter and exit America. Even though it is rather convenient in terms of travelling, she expressed that her mother always becomes quite anxious of which passport to use and every time they goes to the immigration check-point at the airport. This is because she is afraid that it might be illegal to hold two passports and may result in the revocation of one of her nationality.

When asked the question on how she views herself as, she answered that she has always seen herself as a dual identity both American and Thai, but leaning a bit more to the American side. This is because she was born and raised in the United States. In the past, she feels that she is Thai because of the cultural roots: her parents are both Thai; she can speak Thai; she has learnt some of the Thai customs even though she has grown up in the American society. But now since she has her Thai national identification card, she actually feels part of the country as she earns that title of being a Thai national, and also feels that her dual identity has intensified.

***Case Study III: Jittima (alias) – marriage with a French husband***<sup>\*</sup>

Jittima was born in Bangkok, Thailand, in 1975 to parents of Thai nationality, and thus is a Thai national based on the principle of *jus soli* and *jus sanguinis* under *Section 7* of the nationality law of Thailand. Her parents went to register her birth at the Chatuchak District office in Bangkok. At the age of 25, she went to study in France in 2000. After the graduation she was employed by a French company and later married to a French husband 2004. They had their marriage certificate issued both in France by the city hall and Thailand. Despite already having obtained a work permit to remain her stay in France, she applied for a „long-stay visa to marry a French citizen and move to France“ as she decided to stay in France with her husband permanently.

Apart from the completed two long-stay application forms, recent identity photographs and her passport, other proofs which she had to provide are:

- 1) Certificate of the publication of banns and the absence of any impediment (issued by the city hall in which the marriage will take place) (*original and photocopy*)
- 2) Two-copies of Proof of French nationality of the future French spouse, one of the following documents:  
Proof of registration in the registry of foreign nationals abroad (for example, a valid consular card);
  - A French identity card;
  - A certificate of French nationality; or
  - A true copy of the order of naturalization or reinstatement of French nationality;
- 3) Proof of residence in France of the future French spouse or the intention of the future French spouse to move to France (*original and photocopy*)
- 4) Proof of means of support and accommodation (an accommodation certificate from the city hall of the city or town where the person providing accommodation lives in the case accommodation is provided by a private individual) for the period the visa is valid (*original and photocopy*)
- 5) Health insurance and insurance for repatriation on medical grounds covering the period the visa is valid (*original and photocopy*)
- 6) Proof of adequate personal means to return to one’s country of residence (*original and photocopy*)

Source: France Diplomatie:

[http://www.diplomatie.gouv.fr/en/france\\_159/entering-france\\_2045/index.html](http://www.diplomatie.gouv.fr/en/france_159/entering-france_2045/index.html)

Jittima did not encounter any problems preparing for all the documents, despite having a few complaints about the long procedure of getting all the documentation ready to

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<sup>\*</sup> (Jittima (alias), **Interview**, 20 February, 2010)

be notarized. After the two years of marriage, she was going to apply for French nationality by declaration in December 2006, as according to the French law since 26 November 2003, a foreigner living in France, married to a French citizen for two years could acquire French citizenship by declaration, as long as they have resided in France for one year uninterrupted. However, the law was amended in August 2006, according to the current Article 21-2 of the French Civil Code, and the necessary period before declaration is possible was extended to four years, or five years if living abroad. As a consequence, Jittima had to wait for another two years before she could make the declaration. The conditions for the applicant to be able to make this declaration are:

- Marriage must be valid and undissolved;
- The act of marriage celebrated abroad must necessarily have been a transcript of the French Authority
- The applicant must be an alien or stateless person at marriage; the spouse of the applicant must be French since the date of marriage and has retained such nationality without interruption between the date of marriage and the date of declaration;
- The declaration shall be made after a period of 4 years from the date of marriage provided the cohabitation both emotional and material has not dissolved between the couple since their marriage.
- The period of cohabitation shall be a period 5 years if the applicant has not resided in France continuously and regularly. If the couples live outside of France, a three year waiting period is required. At the date of the declaration, the cohabitation both emotional and material should not have been interrupted since the date of marriage.
- The applicant must demonstrate sufficient knowledge of the French language.

The declaration of citizenship is made by the couple to the local court, or the French consulate if overseas. The declaration is accepted or rejected by decision of the Ministry of Justice. The government can oppose itself to the request on the ground of "indignity" or lack of "assimilation" to the French community, other than linguistic.

*Source: France Diplomatie - „Nationalité française (French Nationality)“  
[http://www.diplomatie.gouv.fr/fr/les-francais-etranger\\_1296/vos-droits-demarches\\_1395/nationalite-francaise\\_5301/index.html](http://www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/vos-droits-demarches_1395/nationalite-francaise_5301/index.html)*

Her declaration was accepted as she is well integrated into French society proved by her high-level of French language competency and French historical knowledge. From this point onwards, she has become a dual national. According to the French law, possession of one or more other nationalities did not, in principle, affect the French nationality. France denounced the Chapter I of the Convention of the Council of Europe on May 6, 1963 on *the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple*

*Nationalities*. The denunciation took effect March 5, 2009. Accordingly, as of that date, the voluntary acquisition of the nationality of States Parties to this Convention by a French national will not affect to his/her loss of French nationality. Those who lost their French citizenship on the basis of this Convention may be allowed to rejoin the French nationality (France Diplomatie, 2000: online). Moreover, France makes no distinction between the dual national and other French in terms of rights and duties of citizenship. It should be noted that Jittima's Thai nationality should not be lost unless she desires to renounce her Thai nationality according to *Section 13* of Thailand's nationality law,<sup>\*</sup> which should not be compelled by the Thai State.

After having gained French citizenship, Jittima mentioned that the access to services and other facilities which sometimes are for „citizens only“ has become available for her. She can vote in the national election as she believes that one vote is very important as she can vote for „whoever is going to control my destiny“. She also said that the reason for acquiring French citizenship is because she considered that it will become beneficial for herself – something that she did for her own sake and at her own accord. She still uses her Thai passport when she travels back home, which she finds to be very convenient. She did find any problems using the two passports; she uses French passport to enter and exit France, while using Thai passport to enter and exit Thailand. She pays tax to France only since her employment is there. She would remit money back home frequently for her parents as compensation that she cannot be there for them and take care of them personally. She said that her root is still Thai, and family is a very important aspect in her life, although she has no plan of returning back to Thailand the near future, as she saw that France offers a better schooling system for her children. She feels very proud of her Thai identity and resents the current political upheaval that is taking place in Thailand.

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<sup>\*</sup> *Section 13*. A woman of Thai nationality who marries an alien and may acquire the nationality of the husband or the wife according to the nationality law of them, shall, if he or she desires to renounce Thai nationality, make a declaration of his or her intention before the competent official according to the form and in the manner prescribed in the Ministerial Regulations.

***Case Study IV: Saranya (alias) – Thai national who is naturalized as a Dutch national*** \*\*

Saranya was born in 1986, Chonburi Province, Thailand to parents of Thai nationality, and therefore is a Thai national based on both the *jus soli* and *jus sanguinis* principles under *Section 7* of Thailand's nationality law. Her birth registration was issued at Bang Lamung district, Chonburi Province, Thailand. Her parents were divorced in 1996. In 2001, at the age of 14, she migrated to the Netherlands to be with her mother who has lived there for around 4 years prior to Saranya's arrival. She entered the country using her Thai passport with the Schengen visa. Before Saranya's arrival, her mother had already submitted the application for co-acquisition of Dutch nationality for herself and Saranya in accordance with the Netherlands' Nationality Act, of 1 January 1985<sup>\*</sup> under *Section 11(1)*<sup>\*\*</sup>, since Saranya was still a minor at the time. Her mother's residence reached the 5-year minimum requirement for naturalization under *Section 7* and *Section 8*, soon after Saranya has arrived in the Netherlands in 2001. It took another one year and a half after Saranya's arrival for the co-acquisition application submitted by her mother to be approved; as a result of this, both she and her mother became a Dutch national. Since the Thai Embassy in the Netherlands did not report of her acquisition of Dutch nationality through naturalization to the Thai authority in Thailand. Her loss of Thai nationality under the provision of *Section 22* of Thailand's nationality law is ineffective because the Government Gazette has not been published under the provision of *Section 5*. In this case, Saranya has become a holder of dual nationality of both Thai and Dutch nationality. Ever since she moved to the Netherlands she has been only to Thailand once, and that was when she was 17. During that visit she also had her Thai nationality identification card issued. She did not encounter any problem since she has her Thai birth certificate and her name is still registered under the Thai household registration. Since she still holds Thai passport, travelling back home is not a problem.

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\*\* (Saranya (alias), **Interview**, 23 February 2010)

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For more information of the Netherlands' Nationality Act, See Appendix  
The Act was adopted on 19 December 1984, and entered into force on 1 January 1985. Some provisions of the Act have changed as of 1 April 2003.

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Netherlands Nationality Act – Chapter Four The Grant of Netherlands Nationality

“*Section 11*

1. The minor, non-Netherlands child of a father or mother who has been granted Netherlands nationality shall also acquire Netherlands nationality provided this has been explicitly stipulated in the decree. The application for co-acquisition shall be submitted together with the application to grant Netherlands nationality.”



*The Netherland's Natonality Act, 1 January 1985:*

CHAPTER 4 - The Grant of Netherlands Nationality

“Section 7

1. On the recommendation of Our Minister and with due regard to the provisions of this Chapter, We shall grant Netherlands nationality to aliens who request this.

2. With regard to persons who have their principal place of residence in the Netherlands Antilles or Aruba, Our Minister of Justice of the Netherlands Antilles or Our Minister of Justice of Aruba, respectively, shall make recommendations regarding applications.”

“Section 8

1. The following applicants only shall be eligible for the grant of Netherlands nationality pursuant to Section 7:

- a. those who are of full age;
- b. a person whose residence in the Netherlands, the Netherlands Antilles or Aruba for an unlimited period does not meet with any objection;
- c. a person who has been admitted to and has had his or her principal place of residence in the Netherlands, the Netherlands Antilles or Aruba for a minimum period of *five years* immediately preceding their application; and
- d. a person who may be deemed to have been assimilated into Netherlands, Netherlands-Antillean or Aruban society on the ground that he or she has a reasonable knowledge of the Dutch language to be deterined by general administrative order of the Kingdom and/or – if he or she has his or her principal place of residence in the Netherlands Antilles or Aruba – of the language in common use on the island on which he or she has his or her principal place of residence in addition to the Dutch language, and a certain knowledge of the Netherlands, Netherlands-Antillean or Aruban political system and society, and who has also otherwise integrated in society in the Netherlands, the Netherlands-Antilles or Aruba”.

Saranya mentioned that prior to the amendment of the Netherland's nationality law in 2003; the procedure for naturalization was not very complicated. The interview and the language proficiency test were not as rigid, unlike the one after the amendments which require the applicants to even learn about the history of the country. The only problem in which her mother encountered during the preparation for the application submission was the paper work preparation. The required documents need to be translated and notarized by the Thai authority which took a long time to process.

Saranya found that it is very beneficial by having Dutch nationality while living in the Netherlands as well as travelling around Europe. It was easier for her to apply for the university entrance. She paid the tuition fee like other local students as well as received student allowance from the Dutch Government, which is enough for her to buy books and other stationary. The welfare for healthcare system in the Netherlands is rather limited; a Dutch national has to pay for a health insurance which will only cover some of the medication expenses. As for the political participation, she has the right to vote in the national election of the Netherlands, but since she does not pay much interest in this area, she would normally choose not to cast any vote to any political party. Because Saranya is still a university student, the question of paying taxation is invalid. Ever since she moved to the Netherlands she only went back to Thailand once in 2004, when she was 17. She entered into Thailand using her Thai passport without any problem. She also went to apply for her Thai identification card, which she was supposed to obtain 2 years ago when she was 15. Since her name was still recorded in the household registration and has her birth certificate issued in Thailand, she did not have any problem applying for Thai national identification card. The only question she was asked was where she was in the past two years, to which she replied that she has been living overseas. The official simply acknowledged her answer and just carried on with the procedure.

The reason which led her mother and Saranya to apply for naturalization as a Dutch is the benefits and convenience they would gain after having Dutch nationality, not because of the nationalistic sentiment towards the Netherlands. Saranya still feels that she is Thai as she still feels connected to her root, especially to the Thai culture and the traditions. This is because the Thai community in the Netherlands is well-bounded; important festivals such Songkran, Loy Kratong as well as religious practices have been carried out at the temples or other gathering. But at the same time, she feels that her behavior and her viewpoints have become more Dutch-oriented as she has now fully integrated into the Dutch society and surrounded by Dutch people. When she went back to Thailand her relatives would say that she has changed and did not act like a Thai person anymore. However, she viewed this as a process of growing up since personality of people could change through times.

### 5.1.2 Analysis of the case studies

All the four case studies represent different ways for a Thai-born national to obtain dual nationality, according to Thailand's nationality law and the law on nationality of the second country<sup>\*</sup>. The laws of other countries which were reviewed in this study were nationality laws of Germany, the United States of America, France, and the Netherlands. As explained above, Case One and Case Two show the example of persons who are entitled to obtain dual nationality at birth based on the principles of *jus sanguinis* and *jus soli*, while Case Three and Case Four are the example of persons who acquired dual nationality after birth, through marriage with a foreign spouse and through naturalization as an alien, respectively.

The law on nationality of Germany (applied to Case One) and the US (applied to Case Two) both recognize the concept of dual nationality. There are no provisions under these two laws which may cause the loss of nationality if the acquisition or the retention of dual nationality is automatic, i.e. born with dual nationality. The laws of these two countries also do not contain any provisions requiring persons who are born with dual nationality to choose one nationality or the other when they become adults. While recognizing the existence of dual nationality and permitting their people to have other nationalities, the German and the U.S. Governments do not endorse dual nationality as a matter of policy because of the problems it may cause. Claims of other countries upon dual-nationals often place them in situations where their obligations to one country are in conflict with the laws of the other. In addition, their dual nationality may hamper efforts to provide diplomatic and consular protection to them when they are abroad. It generally is considered that while dual nationals are in the other country of which they are citizens that country has a predominant claim on them (United States Diplomatic: online). As for the case of Thailand's nationality law, similarly, there are no provisions which lead to the loss of Thai nationality acquiring at birth under *Section 7* or which force a dual national to choose one of the nationality when he/she becomes an adult. The loss of Thai nationality under *Section 14*<sup>\*</sup> of Thailand's nationality

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\* However, it should be noted that only Case One is still not a Thai national, even though he has the right to be a Thai national at birth.

\* *Section 14.* A person of Thai nationality, who was born of an alien father or mother and has acquired the nationality of his father or mother according to the law on nationality of his father or mother, or a person who acquires Thai nationality under Section 12 paragraph two or Section 12/1 (2) and (3) is required, if he desires to retain his other nationality, to make a declaration of his intention to renounce his Thai nationality within one year after his attaining the age of twenty years, according to such form and in the manner as prescribed in the Ministerial Regulations.

law does not apply to Case One and Case Two of the study, since the person who is obligated to choose to retain one nationality are as follow (Lalana Nonthransi, 2008: 118-119):

- 1) A person who acquires Thai nationality by being born within Thailand and acquires another nationality through the nationality law of an alien father or mother;
- 2) A person who acquires Thai nationality through naturalization as a Thai before he/she becomes *sui juris* (reaching the age of majority as the case of Thailand is 20 years old);
- 3) A person under Section 12/1 (2) is a child under a ruler of public foster home who acquires Thai nationality through naturalization as a Thai before he/she becomes *sui juris*;
- 4) A person under Section 12/1 (3) is a child adopted by a Thai national who acquires Thai nationality through naturalization as a Thai before he/she becomes *sui juris*

Since Michael (Case One) and Ploy (Case Two) acquired Thai nationality through blood descent from Thai parents, they do not fall under the criteria of *Section 14*. The provision on the renunciation of Thai nationality of the Thai law that may apply upon them is *Section 15*<sup>\*</sup>. However, the law does not compel the renunciation of Thai nationality, thus Michael and Ploy are allowed to retain dual nationality while living in Thailand.

As for Case Three, Jittima acquires her second nationality which is French through marriage with her French husband, according to the French law. Since France recognizes dual nationality and does not coerce one to lose French nationality if he/she simultaneously holds other nationality. According to the Thai law, Jittima may renounce her Thai nationality if she desires to under *Section 13* of the nationality law of Thailand, however, this again cannot be imposed upon her. Moreover, the revocation of Thai nationality does not apply upon her since she did not naturalize to become a French citizen, unless the Thai Government considers that the declaration to become a French citizen through marriage as one of way of naturalization. Unlike Jittima, it is obvious that Case Four of the study, Saranya acquired a Dutch citizenship through naturalization and thus would lose her Thai nationality, according to *Section 22*. However, the process did not complete since there was no publication of the

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If, after consideration of the said intention, the Minister is of opinion that there is reasonable ground to believe that such person may acquire the nationality of his father, mother, or a foreign nationality, he shall grant permission, except in cases where Thailand is being engaged in armed conflict, or is in state of war, he may order the dispensation of any renunciation of Thai nationality.

\* *Section 15*. Except in the case under Section 14, a person who has Thai nationality and other nationality, or who acquires Thai nationality by naturalization shall, if he desires to renounce Thai nationality, file an application with the competent official according to such form and in the manner prescribed in the Ministerial Regulations.

The granting or refusal of permission for renunciation of Thai nationality shall lie with the discretion of the Minister.

Government Gazette. Saranya is also at risk of losing her Dutch citizenship since the Netherlands law restricts dual nationality, as indicated according to *Section 9 (b.)* of this law, which states that an applicant for naturalization would be refused if:

“b. the applicant possessing a foreign nationality has not made every effort to renounce that nationality and/or is not prepared to make such effort after his or her naturalization, unless this cannot reasonably be expected of him or her. <sup>\*\*</sup>”

However, Saranya may claim that she did try to renounce her Thai nationality but the process did not complete because the Government Gazette was not published. From this light, both Jittima and Saranya remain to hold dual nationality while living outside Thailand.

The process of acquiring dual nationality is varied depending on the circumstances of each case. In terms of acquiring another nationality (that is not Thai nationality):

For Case One and Case Two, Michael and Ploy both acquired another nationality other than Thai nationality at birth. Michael acquired his German nationality, by being born in Germany to a German father and his birth certificate issued in Germany. Similarly, Ploy acquired her American nationality by being born in the United States and has her birth certificate issued there which serves as a proof of her U.S. citizenship. For Case Three and Case Four, Jittima and Saranya both acquire another nationality after birth through marriage and naturalization, respectively. For these two cases, the process depends on the law of countries where they acquire the second nationality, which is explained above. But the common indicator which shows that all of them are a Thai national is having Thai national identification card. In other words, Thai national identification serves as a proof of a Thai national. But before being able to obtain the card, their birth must be reported to the local administration office in Thailand or nearest Thai consulate if born overseas, followed by having their names registered into Thailand’s birth registration system and have their Thai birth certificate issued. There is a need of evidence to prove that their parents are a Thai national. Furthermore, they are also required to have their name registered into the household registration in order to show that they hold a permanent residence in Thailand. Thus, it is first required to be registered into Thailand’s civil registration system in order to show that the person has fully become a citizen of Thailand, and then these registrations would serve as evidence which indicates that the person is a Thai national either through blood descent, place of birth or naturalization.

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\*\* The Netherlands’ Nationality Law. See Appendix

According to the four case studies, the main obstacle during the process is the document preparation and the long procedure. Jittima and Saranya did not have any problems obtain Thai national identification card since they were born in Thailand, had their names registered into the birth registration and the household registration as well as had their birth certificate issued in Thailand. However, the main obstacle for them while acquiring the second nationality was the preparation of required documents, which need to be translated and notarized, as well as the sign of assimilation into the society of the country where they acquired another nationality. Ploy did not have as many problems as Michael encountered since her parents reported her birth at the nearest Thai consulate in the United States and had her Thai birth certificate also. The obstacle she faces was to do with the mistakes in the documentation – the differences in the spelling of her mother’s name in her mother’s Thai national identification card and Ploy’s birth certificate issued by Thai consulate in the United States. According to the local administration official, the spelling must be corrected before the procedure could continue. But the correction cannot be done by the local authority in Thailand and must be sent back to the place of issuance, and thus they had to send the documents back and forth after Ploy could eventually obtain her Thai certificate. The process was prolonged due to the inflexibility of the local authority, despite the fact that all the required documents were readily prepared.

The person who encounters the most problem was Michael, who is now still in the middle of acquiring his Thai nationality and Thai national identification card. The main obstacle is again to do with documentation. This is because he was not recorded into any „Personal Registration“ of Thailand’s civil registration system. His birth was not reported at the Thai consulate, so his name was not registered into Thai birth registration or household registration and Thai birth certificate was not issued. Even though he is entitled to be a Thai national, he is still considered by the Thai State as an alien who resides in Thailand legally on his Thai visa. The only proof of his right to Thai nationality is his Thai mother, which indicates in his German certificate. However, the problem continued because his German birth certificate does not state his mother’s nationality. He and his mother, therefore, have to undergo the „national verification“ in order to determine their „mother-child“ relationship status. Another obstacle is the lack of knowledge of the local official as well as the acquirer. Thailand’s nationality law and the nationality law of the other country need to be studied carefully before the procedure takes place.

The main reason which drives the four respondents to acquire dual nationality is the economic benefits they could gain after the acquisition. They all indicate that by acquiring a nationality of a particular country, they would be able to enjoy all the rights that a national of that country is entitled to. The benefits gained after having dual nationality are being able to pay local fees, participate in the national election, travel easily between the two countries, work in the country without having to apply for work permit, and buy houses and property, for instance. They are also under the protection of the laws and regulation of the country where they reside. In terms of taxation, they only owe to the country where their employment is located. They did not find to have any troubles after acquiring dual nationality, apart from feeling conscious that they may lose either one of the nationalities. In terms of their national identity, the four respondents stated that they hold the values of both countries. In general, they would relate themselves and feel closer to the culture of the country where they spend most of their childhood or where they grew up at. But once they move to another country they would slowly adapt and integrate into the society of the country of destination. However, they still feel a strong sense of belonging to the country of origin. They stated that they feel loyal to both countries and they cannot separate and set this sense of emotion to only one country. Thus, it can be said that the sense of national identity is rather flexible which can be changed at all times, but at the same time the feeling of attachment to the countries where they have moved to and lived throughout their life will remain.

Altogether, there are different sources of dual nationality depending on the genuine link of each person, both at birth and after birth. In principle, dual nationality can be acquired through the principle of *jus soli*, *jus sanguinis*, naturalization process and marriage to an alien spouse. For all the countries of the case studies, a person who acquires dual nationality at birth will not be compelled to lose one of the nationalities once he/she becomes *sui juris*. In contrast, a person who acquires dual nationality after birth, through naturalization and marriage, may be compelled to lose one of the nationalities according to the law of each country. Civil registration documents or documents which provide evidence of the existence and status of an individual (e.g. birth certificate, marriage certificate, national identification card, birth registration, household registration, etc.) are very crucial for the acquisition of one's nationality. This is the reason why the document preparation has also become quite problematic during the nationality acquisition. The knowledge and understanding of the law on nationality is essential, in order to carry out the procedure smoothly and lessen the time consumption. At the individual level, having dual nationality is seen to be more beneficial than problematic, particularly in the economical aspect. In terms of social aspect, having

gained dual nationality, the person would share their sense of belonging to the two countries they have genuine links with. From this outlook, it seems that it is desirable for a person to have dual nationality. The consequences and the responses of the Thai State towards dual nationality will be discussed in the next section.

The table below shows the comparison of the four-case studies, categorized into profile, source of dual nationality, process of obtaining dual nationality, obstacles during the process and the consequences of having dual nationality.

**Table 7: Comparison of the Case Studies**

Case Studies	Michael	Ploy	Jittima	Saranya
Profile	<ul style="list-style-type: none"> <li>▪ German national</li> <li>▪ But entitled to hold Thai nationality also</li> <li>▪ German Father and Thai Mother</li> <li>▪ Born in Germany, 1983</li> </ul>	<ul style="list-style-type: none"> <li>▪ American-Thai nationality</li> <li>▪ Thai parents</li> <li>▪ Born in the United States of America, 1984</li> </ul>	<ul style="list-style-type: none"> <li>▪ Thai-French nationality</li> <li>▪ Thai parents</li> <li>▪ Born in Thailand, 1975</li> </ul>	<ul style="list-style-type: none"> <li>▪ Thai-Dutch nationality</li> <li>▪ Thai parents</li> <li>▪ Born in Thailand, 1986</li> </ul>
	<ul style="list-style-type: none"> <li>▪ Moved permanently to Thailand and never returned back to Germany since 1994</li> </ul>	<ul style="list-style-type: none"> <li>▪ Moved to Thailand to study since 2006</li> <li>▪ Still travel back and forth between the United States and Thailand using American and Thai passports</li> </ul>	<ul style="list-style-type: none"> <li>▪ Moved to France to study in 2000</li> <li>▪ Married to a French national and live there since 2004</li> <li>▪ Still travel back to visit her parents and family in Thailand using Thai and French passports</li> </ul>	<ul style="list-style-type: none"> <li>▪ Moved to the Netherlands with her mother since 2001</li> <li>▪ Went back to Thailand to visit her relatives once in</li> </ul>
	<ul style="list-style-type: none"> <li>▪ A graduate student without a job</li> </ul>	<ul style="list-style-type: none"> <li>▪ Now working in Thailand and pay tax to Thailand</li> </ul>	<ul style="list-style-type: none"> <li>▪ Now working in France and pay tax to France</li> <li>▪ Send remittance to her parents in Thailand</li> </ul>	<ul style="list-style-type: none"> <li>▪ An undergraduate student</li> </ul>



<p><b>Source of Dual Nationality</b></p>	<ul style="list-style-type: none"> <li>▪ Acquiring dual nationality based on the principles of <i>jus sanguinis</i> from the parents of different nationality (German father and Thai mother)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Acquiring dual nationality based on the principle of <i>jus soli</i> through the place of birth outside Thailand (U.S.) and the principle of <i>jus sanguinis</i> through blood descent of Thai parents</li> </ul>	<ul style="list-style-type: none"> <li>▪ Acquiring dual nationality through marriage with a French national</li> </ul>	<ul style="list-style-type: none"> <li>▪ Acquiring dual nationality through naturalization as a Dutch and the incompleteness of the Thai nationality renunciation, due to no publication of the Government Gazette</li> </ul>
<p><b>Process of Acquiring Dual Nationality</b></p>	<ul style="list-style-type: none"> <li>▪ Acquired German nationality at birth – German birth certificate</li> <li>▪ In the process of acquiring Thai nationality – at the moment consulting with the local administration official and immigration office</li> </ul>	<ul style="list-style-type: none"> <li>▪ Acquired American nationality at birth – American birth certificate</li> <li>▪ Acquired Thai nationality by having the name registered into Thailand’s birth registration and household registration and obtaining Thai national identification card</li> </ul>	<ul style="list-style-type: none"> <li>▪ Acquired Thai nationality at birth by having the name registered into Thailand’s birth registration and household registration and obtaining Thai national identification card</li> <li>▪ Acquired French nationality through declaration of marriage with a French national</li> </ul>	<ul style="list-style-type: none"> <li>▪ Acquired Thai nationality at birth by having the name registered into Thailand’s birth registration and household registration and obtaining Thai national identification card</li> </ul>
<p><b>Obstacles during the Process</b></p>	<ul style="list-style-type: none"> <li>▪ Lack of required documents – Thai birth certificate, name registration into Thailand’s birth registration and household registration records</li> <li>▪ Insufficient evidence to prove to be a Thai national – no statement of his mother’s Thai nationality in his German birth certificate</li> </ul>	<ul style="list-style-type: none"> <li>▪ Errors in the required documents – difference in spelling of the name of her mother in her Thai national identification card and the Thai birth certificate issued by Thai consulate in the United States</li> </ul>	<ul style="list-style-type: none"> <li>▪ Long process of document preparation and document notarization</li> <li>▪ Change of law which also prolonged the process</li> </ul>	<ul style="list-style-type: none"> <li>▪ Long process of document preparation – getting document translated and notarized</li> </ul>

<p><b>Consequences of Having Dual Nationality</b></p>	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> <li>▪ Being able to reside in Thailand without having to extend his Thai visa</li> <li>▪ Being able to work in Thailand without having to apply for work permit</li> </ul>	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> <li>▪ Being able to reside in Thailand without having to apply for a Thai visa</li> <li>▪ Paying tuition fee at the local rate</li> <li>▪ Being able to work in Thailand without having to apply for work permit</li> <li>▪ Fully become a Thai citizen who possess full rights and have access to everything a Thai national entitled to</li> <li>▪ Travelling freely between the two countries</li> </ul>	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> <li>▪ Being able to reside in France without having to apply for a French visa</li> <li>▪ Being able to work in France without having to apply for work permit</li> <li>▪ Sending her children to schools in France and being able to pay local tuition fees</li> <li>▪ Fully gaining access to everything and having right that a French national entitled to</li> <li>▪ Travelling back home to visit her parents in Thailand without having to apply for a Thai visa</li> </ul>	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> <li>▪ Being able to reside in the Netherlands without having to apply for a French visa</li> <li>▪ Easy to travel around Europe with her Netherlands passport</li> <li>▪ Easy to apply for the university entrance and able to pay local tuition fees</li> <li>▪ Fully gaining access to everything and having right that a Netherlands national entitled to Travelling back home to visit her parents in Thailand without having to apply for a Thai visa</li> </ul>
	<p><u>Disadvantages:</u> No disadvantage from having dual nationality</p>	<p><u>Disadvantages:</u> No disadvantage from having dual nationality</p>	<p><u>Disadvantages:</u> No disadvantage from having dual nationality</p>	<p><u>Disadvantages:</u> No disadvantage from having dual nationality</p>
<p><b>Consequences of Having Dual Nationality (continued)</b></p>	<p><u>National identity:</u></p> <ul style="list-style-type: none"> <li>▪ Feel more Thai, since growing up in Thailand. However cannot fully say that he is Thai, since he does not have Thai national identification card, which is a symbol of Thai nationality</li> <li>▪ Feel loyal to both Thailand and Germany, would be offended if someone insulted either Thailand or Germany</li> <li>▪ At the moment still state that he is a German, but if he gets his Thai national identification card he would say that he is „now“ Thai</li> </ul>	<p><u>National identity:</u></p> <ul style="list-style-type: none"> <li>▪ Feel more American as she was born and has grown up in the United States</li> <li>▪ After having obtain Thai national identification card, feel that her dual identity has intensified, and feel that she is „more“ Thai than before</li> </ul>	<p><u>Nationality identity:</u></p> <ul style="list-style-type: none"> <li>▪ Feel that she is still „full“ Thai and proud of her own country and its culture</li> </ul>	<p><u>Nationality identity:</u></p> <ul style="list-style-type: none"> <li>▪ Feel that she is still „full“ Thai and proud of her own country and its culture</li> <li>▪ Adopt some of the Dutch personality trait</li> </ul>

## 5.2 Consideration and Responses of the Thai State towards Dual Nationality

### 5.2.1 Consideration of the Thai State towards Dual Nationality

As a result of globalization, migration flows have increased across the globe: people start to migrate from one country to another and this leads to a growing number of migrant communities as well as mixed marriage. Despite the fact that there is no existing record on the number of persons who hold dual nationality in Thailand, the figure is increasing constantly due to the migration flow.

As discussed above, there are many ways to obtain dual nationality under the provision of Thailand's nationality law, both at birth and after birth; in this sense, the Thai state does recognize the existence of dual nationality in Thailand and, to certain extent, allow such status to occur depending on the circumstances. However, according to an interview with the state official, the Thai state holds a view that dual nationality is undesirable (Official from the National Security Council, **Interview**, 10 March 2010). This can be seen through the provision of the *Section 13* and the *Section 14* on the renunciation of Thai nationality, which states that those who have obtained another nationality through marriage, and those who hold dual nationality either at birth or after birth (i.e. naturalization) may renounce their Thai nationality if they desire to. The state views that having dual nationality is solely beneficial to an individual not to the public, or to the state as a whole; even worse it could become a threat to national security. The state may request a person with dual nationality to retain or to be identified with only one nationality, if the person has to go under the court procedure or take the military service obligation. Nevertheless, there is Thailand's Conflict of Laws Act B.E. 2581 (1938 C.E.) which serves as a guideline to solve the case of those who hold more than one nationality.

In terms of Thai nationality revocation, principally, Thai nationality acquired at birth based on the principles of *jus sanguinis* and *jus soli* cannot be revoked by the power of the Thai state. Even if this person may naturalize to be an alien, according to the law, the loss of Thai nationality would follow. However, the process of losing Thai nationality would be completed only under the condition that this case appears in the publication in the Government Gazette according to the *Section 15*. This would mean that if there is no publication of the Government Gazette, Thai nationality of this person still remains. While it is the duty of the Thai embassies and the Thai consulates to inform the name of Thai persons who have been naturalized to be an alien back to Thailand for the renunciation of Thai nationality, the practice is often disregarded as they view that to revoke one's nationality acquired through right of birth seems to be unethical. Thus, there are only few cases of the

persons born with Thai nationality (under the principles of *jus soli* and *jus sanguinis*) who have their Thai nationality revoked after the acquisition of another nationality yet. The view on dual nationals with a higher social status (i.e. well-educated, middle class – white collar and blue collar, married with a national from developed countries, etc.) by the government is often neutral, as they are not viewed as a threat to the national security. According to this view, this leads to the lax of austerity of the Thai government on the matter of Thai nationality revocation of a person with dual nationality. It is considered to be the duty of the other state to revoke the nationality later obtained by the Thai nationals through naturalization, if dual nationality is undesirable in that particular country. However, the policies and the restrictions imposed by the Thai State on the case of alien applying for naturalization are more rigid. This is to restrain those who only seek for personal gains and do not show any sign of assimilation into Thai society, or those who may challenge or harm the national stability to have an easy access in acquiring Thai nationality. There are also other groups of people with dual nationality who are viewed negatively as the State considers them as a threat to national security. These groups of people are those who may hold links with transnational crimes, terrorist groups and separatist movements (especially in the three Southern provinces of Thailand), as explained in the following section.

### ***5.2.2 Problems posed by dual nationality and responses of the Thai state***

According to Lalana (2008), the rise of globalization has made the world become smaller; everything – from society, individuals, and a group of people – has become interconnected via different channels of network. Flows of goods, information, people and other activities have been transmitted and transferred across borders both through figurative means, such as sending goods through airfreight from one country to another, and through nonfigurative means via the technological development and wireless electronic communication systems (Lalana Nonthrasi, 2008: 124-125). However, globalization does not only bring about benefits to the states and individuals, it also poses a threat to national security. This is because an increase in number of terrorism and transnational crimes is also a result of globalization. From this reason, if the persons who are involved in these criminal or terrorist networks hold dual or even multiple nationalities, the problems would become further complicated which makes become harder for the states and international organizations to procure the right solutions and effective prevention methods to the situation. This is because by having dual nationality, these people could have different names registered separately into the civil registration of each country of their nationalities, as well as holding

different identification documents issued by each state to travel in and out between different states to commit a crime and escape easily and conveniently. The state which becomes victimized by such crime will not be able to use the power based solely on its sovereignty to handle the situation due to the limitation of state jurisdiction and the standard set by the international laws.

The threats to national security posed by having dual nationality can be divided into three categories:

### **1) Transnational crimes**

There are many groups and networks of transnational crimes in Thailand which posed a big threat to Thailand, both socially and economically. These groups include drug traffickers, women and children traffickers, sea pirates, arms traffickers, money launderers, transnational economic criminals, and cyber or computer criminals (Lalana Nonthrasri, 2008: 126).

According to the interview with the official from National Security Council, Thailand becomes a place of origin, transit point and destination of these criminal networks due to its location as a centre point of Southeast Asian region and its transportation system is rather developed and convenient (Official from the National Security Council, **Interview**, 10 March 2010). Thailand is also known to be opened for tourist industry, which helps the criminals to disguise themselves as a tourist or an investor. These people could later marry a Thai woman then naturalize to become a Thai national for the purpose of gaining a better access in Thailand, in terms of travelling, money laundering, and extending the business in the future. Consequently, these people can use both identification documents issued by the governments of both Thailand and country of origin to travel between the states, buy properties and launder money from committing a crime. It would be harder for the States to investigate and prevent such behavior because of the limitation of state jurisdiction.

### **2) Terrorism**

The issue of terrorism is viewed to a great problem to the national security of many states. Such issue has intensified after the 9/11 incident, with the expansion of international networks and the enlargement of money supply of the terrorist groups around the world. Some groups use Thailand as a base for rejuvenation, a place to counterfeit their travel documents, and a site for their vacation and leisure. Therefore, the Thai State views that if this group of people were to allow holding dual nationality, it would be become difficult to

follow their trace as they would be able to travel freely in and out of Thailand and the second country (Official from the National Security Council, **Interview**, 10 March 2010).

As a result, many states have started to adopt a more restrictive rules and regulations in controlling the number of persons with dual nationality. For example, if a person found in the United States to be a holder of two passports, his/her American citizenship would be revoked immediately, as they are now afraid that terrorists might enter into the country by disguise themselves as a tourist.

### **3) Insurgency in Three Southern Provinces of Thailand – Separatist movement**

As mentioned earlier, the conflict between the Thai Buddhist State and three southern provinces of Thailand, where a large number of Malay Muslim populated, has begun as early as the period of the nation-state building in Thailand. In past few years, the insurgency remains to be a huge threat to Thailand's national security. Despite the TRF report conducted by Jiraporn and the research team (Jiraporn et al., 2010) which states that persons with dual nationality of Thai-Malaysian in these three provinces are not involved with the insurgency, skepticism and awareness of the Thai State remains. By allowing this group of people to have dual nationality, they can gain access to the resources from both countries and travel easily back and forth between the two countries. The main problem is that the name of these dual nationals recorded into the civil registration system of Thailand often differs to the name recorded into the Malaysian registration. There is no set up of the system which links the two civil registrations together. This would make it harder for the government to trace the record of the person. Having dual nationality would clearly become beneficial for the people who are involved with the insurgency.

Therefore, in recent years there have been a sign up of agreements between states to create international cooperation against crimes, the extradition, as well as cooperation in police affairs. During meetings among international organizations the information and updates on transnational crimes and the way to prevent has become one of the main elements, so that countries within the same regions would come together to prevent and repress such criminal networks. However, in regards to the holders of two passports, there is no restriction to which the person is only allowed to use one passport or punishment which imposed on the person found to be using two passports (Official from the National Security Council, **Interview**, 10 March 2010). This allows the holders to travel in and out of Thailand without restriction. But as for the naturalization process, each case will be considered individually by looking up the intention of the request as well as the personal background of the applicants,

performed by the Committee on Nationality Consideration under the *Section 25*<sup>\*</sup>. The test on Thai language ability is by the singing of Thai national anthem and Royal anthem „San Sern Phra Baramee“. As for some cases, the applicant might not be able to sing the song well, but they have a strong will and passion towards Thailand and would like to be Thai, by showing that he/she has integrated well into the Thai society, the Committee on Nationality Consideration may grant Thai nationality to the person. However, if the applicant only shows the sign of economic or political gains from becoming a Thai, the applications may get rejected. There are a few cases also of which the Thai nationality is revoked due to their misconduct behavior (Official from the National Security Council, **Interview**, 10 March 2010).

In terms of the population in the three southern provinces of Thailand, according to Thailand's National Security Committee, there are more than 1000 people living in these areas whose nationality is not identified whether they are a Thai national, a Malaysian national or a national of both countries. The Thai government has been seeking for cooperation with the Malaysian government to create better systems to link the civil registrations of the two countries together as well as to keep track of the travelling route of the people living in the area. The systems are the finger-print scan system as well as the issue of „smart card“ which can record the in-out migration route of the person are established. However, the problems still exist as Malaysia has not been very cooperative on such matter, seeing that it is a sensitive issue which may impact on matters of national security, political interests and individual's rights (Official from the Bureau of Registration Administration (BORA), Ministry of Interior, **Interview**, 22 March 2010). There was also a consideration of establishing a department which deals specifically on the issue of nationality in Thailand during Thaksin period. The department would be cooperation and collaboration between the Immigration Office and the Ministry of Interior. However, a problem with the administrative sector occurred as the police from the Immigration Office refused to lose their police ranks in

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\* *Section 25.* The Committee on Nationality Consideration shall be set up consisting of:

- (1) The Under Secretary of State for Interior as chairman;
  - (2) Representative from Ministry of Defense, Ministry of Foreign Affairs, Ministry of Social Development and Human Security, Ministry of Justice, Ministry of Labour, National Security Council, the Office of Attorney General, the Office of Royal Thai Police, the Office of National Intelligence Agency, the Narcotics Control Board and Internal Security Operations Command as members;
  - (3) Expertises on Nationality appointed by the Minister not more than 6 persons as committees.
- Director of the Department of Provincial Administration is a committee and a secretary of the Committee and two officials of the DOPA shall be appointed as secretary assistants by the Director.

order to be a civil official serving at the department. Thus, such department was never established in the end.

As a whole, the study found that, unlike the view of an individual, the Thai State seems to hold the stance against dual nationality and views such status to be undesirable. This is because certain groups of people may abuse and utilize the advantages gained from dual nationality in a wrong way such as conduct a crime in one country and escape to another country by switching between two passports, for instance. These groups of people certainly pose a threat to national security. Therefore, a better system to track a record of the movement of these people needs to be put in place. A strengthening in cooperation among different states is crucial in order to resolve the problem of growing numbers of transnational crime network groups, terrorist groups and separatist groups around the world.



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## CHAPTER VI

### CONCLUSION AND RECOMMENDATION

#### 6.1 Conclusion

From the findings of the study, the conclusion is drawn and in accordance with the hypothesis of the study, as follows:

##### ***6.1.1 The Development of Thailand's Nationality Law and Civil Registration Law and the Aim of the Amendments to Reduce Problems related to Nationality in Thailand***

Thailand's nationality law is one of the most important laws which determine who holds the rights to become a Thai national. Since the formation of Thai nation-state, Thailand's nationality law has been amended several times to bring it up to date with the current situation of the country and to address the existing issues related to nationality in Thailand. For example, according to Thailand's Nationality Act as amended by the Act No.4 B.E. 2551 (2008), the restriction of the granting of Thai nationality under the *jus soli* principle becomes more stringent. The persons born to alien parents that are entitled to obtain Thai nationality are those whose parents are granted with permanent residence in Thailand. It could be interpreted that this amendment took place to counteract a growing number of children of undocumented migrant workers born in Thailand to gain access to Thai nationality.

Another important law is the civil registration act which classifies all the different types of personal registration within the civil registration system in Thailand. These registrations are very important documents in determining who is entitled to be a Thai citizen and serve as evidence of a person's existence within the State. A person who has the right to obtain Thai nationality, being born in Thailand (the *jus soli* principle) or through blood descent from one of the parents of a Thai national (the *jus sanguinis* principle), under *Section 7* of Thailand's nationality law, must have his/her birth reported to the local administration, have the name registered into the birth registration and the household registration, following by the issuance of the birth certificate by the Thai authority. The name and the nationality of the parents would be recorded as well as the place of birth of this person, which functions as evidence to his/her existence and the right to have Thai nationality. Because of the amendment, children born to undocumented migrant workers or to stateless people are now allowed to be registered into Thai civil registration system. Although, these registration documents do not serve as evidence for them to acquire Thai nationality, at least they would

have something to determine their status and their existence within Thailand. Therefore, the problem of stateless persons in Thailand has gradually decreased because of the changes to these two laws. As a whole, the development and the amendments of the nationality and civil registration laws of Thailand have now helped everyone who resides in Thailand to have their names registered into Thailand's civil registration system and hold personal identification documents. It also helps the Thai State to have an accurate civil registration records for the future development and management of the country and the national security.

### ***6.1.2 The Recognition of Dual Nationality in Thailand and the Causes of such Status according to Thailand's Nationality Law***

In order to fully understand the underlined meaning behind each law, one needs to interpret the provisions of each section stated in the law carefully. The confusion bounds to happen to those who do not study the law. The thorough analysis and the interpretation of the nationality law of Thailand were made in the study and it is found that to certain extent dual nationality is recognized within Thailand, despite the fact that it may be undesirable by the Thai State. There are no provisions which state that the persons with dual nationality are illegal or would be punished for holding such status.

Dual nationality can be acquired through several ways, both at birth and after birth. The criteria for a Thai national to acquire dual nationality are:

1) The entitlement of a person born inside the Kingdom of Thailand to a Thai national and an alien to acquire Thai nationality based on the principle of *jus sanguinis* under Section 7(1) and another nationality based on the principle of *jus sanguinis* from an alien parent. This person would be entitled to hold both Thai nationality and other nationality based on the principle of *jus sanguinis* descending from both parents, under the condition that the nationality law of the alien mother or father is based on the *jus sanguinis* principle. It should be noted that as for the case of unregistered marriage between a father of Thai nationality and an alien mother with legal or illegal status, there has to be a proof in conformity with the Ministerial Regulation that he is truly the father of the person.

2) The entitlement of a person born outside the Kingdom of Thailand to parents of Thai nationality to acquire Thai nationality under Section 7(1) and another nationality based on the principle of *jus soli*. This person would be able to acquire Thai nationality based on the principle of *jus sanguinis* descending from the parents and another nationality based on the principle of *jus soli*, under the condition that the nationality law of place of birth is applicable to the *jus soli* principle.

3) The entitlement of a person born outside the Kingdom of Thailand to a Thai national and an alien to acquire Thai nationality under Section 7(1) and another nationality (nationalities) based on the principle of *jus sanguinis* of an alien parent and the principle of *jus soli*. Under this circumstance, this person would be able to acquire multiple nationalities, as he/she would be entitled to acquire dual nationality from the parents under the principle of *jus sanguinis*, and another nationality through the principle of *jus soli* attached to the State where this person was born.

4) The case of Thai national becoming a holder of dual nationality after birth occurs when this person acquires another nationality through marriage with an alien. This is because according to the Thai nationality law, there is no provision which forces a Thai national to lose his/her Thai nationality after acquiring the nationality of his/her spouse. The law only states that if the person desires to renounce the Thai nationality, he/she can do so, but the State cannot compel them to do so.

However, it should be noted that if a Thai national acquires other nationality through naturalization, he/she would lose Thai nationality according to *Section 22*. The loss of Thai nationality would be completed when appeared in the publication in the Government Gazette under *Section 5*. This indicates that the Thai law does not accept the acquisition of dual or multiple nationalities as it clearly states that the Thai nationals who “naturalized as an alien shall lose Thai nationality”. It is the duty of the Thai Embassy or Consulate overseas to report back to the Thai government that there is a Thai national who has naturalized as an alien, so that the Government Gazette could publish the case. However, in practice, the Thai Embassies and Consulates normally turn the blind eyes to such case as they do not want to force Thai nationals to lose the nationality of their own country. This has also become another source of dual nationality for a Thai national who has been naturalized as an alien but did not lose his/her Thai nationality.

It can be interpreted a person who acquires dual nationality at birth under *Section 7* of Thailand’s nationality law will not be compelled to lose Thai nationality or choose one of his/her nationalities. This also applies to the nationality laws of Germany, the United States, France and the Netherlands. On the other hand, a person who acquires dual nationality through marriage may renounce his/her Thai nationality if he/she desires to, while a person who acquires dual nationality through naturalization, in principle, is not allowed in Thailand. From this perspective, it can be concluded that dual nationality is a result from the fact that there is no uniform rule of international law relating to the acquisition of nationality. Each country has its own laws on the subject, and its nationality is conferred upon individuals on

the basis of its own independent domestic policy. Individuals may have dual nationality not by choice but by automatic operation of these different and sometimes conflicting laws. At the same time, persons who do not wish to maintain dual nationality may renounce the citizenship they do not want. The loss of nationality acquired at birth, however, cannot be forced by the State. Because of the globalization, the increase in migration flow around the world is evident, and this also causes in the growing figure of persons with dual nationality in Thailand and elsewhere

### ***6.1.3 Process, Obstacles and Consequences of Acquiring Dual Nationality in Thailand***

From the findings, the process of acquiring dual nationality is varied depending on the circumstances of each case, which can be summarized accordingly:

#### **1) The acquisition of dual nationality at birth, based on both the *jus soli* and *jus sanguinis* principles**

The process of acquiring dual nationality at birth is to be registered into the civil registration system in more than one country where the entitled nationality is descended from. For example, a dual nation of Thai-German should have his/her name registered in both Thai and German civil registration. The crucial information in the civil registration are: the name of the person, name of the parents, nationality of the person, nationality of the parents, date of birth, place of birth and place of residence.

As for Thailand, it is also important for a Thai national to obtain Thai national identification card once he/she reaches the age of fifteen. The card is an identity testimony to show that this person is a Thai national who gains the right and access to the resources available for the citizens of Thailand. The documents required for obtaining Thai national identification card are: 1) birth certificate issued by the local administration office in Thailand or Thai consulate abroad; or translated and notarized birth certificate issued by the country of birthplace; 2) marriage certificate of the parents, need to be translated and notarized if issued outside Thailand; 3) the „blue“ household registration book for a Thai national. Identification documents for each country differ. As for the case of Germany and the United State, the birth certificate issued by the authority of these countries is a crucial document which determines the person to be a German or an American citizen. As for France and the Netherlands, passport and the household registration document are the main identification document. Thus, an individual who has obtained personal identifications from more than one country would have dual, or even multiple, nationalities.

## **2) The acquisition of dual nationality after birth, through marriage and naturalization**

The acquisition of dual nationality through marriage depends on the nationality law and the policy of each country. The ways to acquire a nationality of a spouse are by declaration (French policy), by filing an application (Thai policy, Section 9 of Thailand's nationality law), and by naturalization (German, American and Dutch policy). Nowadays, most of the countries have adopted the policy in which required a person who wishes to obtain a nationality of the spouse need to be naturalized. This is a way to prevent the occurrence of dual nationality, as the provision according to the nationality law of most countries oblige a person who naturalized to be an alien to lose his/her former nationality. This is also evident in Thailand's nationality law under *Section 22*. Therefore, the acquisition of dual nationality through marriage may be possible depending on the nationality of each country. Obtaining a nationality of the spouse through declaration may allow a Thai national to retain his/her nationality and this would result the person to have dual nationality. As for the case of the acquisition of dual nationality through naturalization, as mentioned above, by principle it would go against the law. But in practice, in the case of Thailand, if the Government Gazette has not been published the loss of Thai nationality of a Thai national who naturalized as an alien would not be completed. This in the end would lead a person to hold both Thai nationality and the nationality later acquired through naturalization.

According to the four case studies, the main obstacle during the process is the document preparation and the long procedure. Having required documents translated and notarized may take some time. Furthermore, slight mistakes or missing in the statement may cause the document to be insufficient verification. For persons born inside the country, they would not have any troubles in acquiring the nationality of that country. On the other hand, persons born outside the country but are entitled to acquire the nationality through blood descent from the nationality of the parents, would encounter more obstacles if they wanted to apply for the nationality of his/her parents. Lack of knowledge on the nationality law of both officers and the individuals may become an obstacle to the process of acquiring dual nationality.

The main reason which drives the four respondents to acquire dual nationality is the economic benefits they could gain after the acquisition. They all indicate that by acquiring a nationality of a particular country, they would be able enjoy all the rights that a national of that country is entitled to. The benefits gained after having dual nationality are being able to pay local fees, participate in the national election, travel easily between the two countries,

and work in the country without having to apply for work permit, buy houses and property, as well as being protected under the laws and regulations of the country where they choose to reside. Another reason for acquiring another nationality is social reason, especially in the case of acquiring another nationality through marriage. This reinforces the notion of family unity that in the sense that members of the family should have the same nationality. The disadvantage of having dual nationality is not mentioned by the case studies, apart from feeling conscious that they may lose either one of the nationality.

Like individuals who possess only one nationality, dual national owe allegiance to the countries where they hold genuine links with and are obliged to obey the laws and regulations of these particular countries. In terms of their national identity, the four respondents stated that they hold the values of both countries. In general, they would relate themselves and feel closer to the culture of the country where they spend most of their childhood or where they grow up at. But the adaptation and assimilation to the country of destination is possible which may also influence their sense of belonging to the new country. However, the sense of belonging to the country of origin remains. Thus, it can be said that the sense of national identity is rather flexible which can be changed at all time, but at the same time the feeling of attachment to the countries where they have moved to and lived throughout their life will remain. By acquiring the second nationality, the sense of dual identity would be intensified, as a consequence.

As a whole, having dual nationality is seen to be more beneficial than problematic at the individual level, particularly in the economical aspect. In terms of social aspect, having gained dual nationality, the person would share their sense of belonging to the two countries they hold genuine links with. From this stance, it seems that it is desirable for a person to have dual nationality.

#### ***6.1.4 Responses and Consequences of dual nationality by the State***

It is evidence that the number of dual nationality has increased over the past few years as a consequence of globalization and the cross-border migration. As discussed above, there are many ways to obtain dual nationality under the provision of Thailand's nationality law, both at birth and after birth; in this sense, the Thai state does recognize the existence of dual nationality in Thailand and, to certain extent, allow such status to occur depending on the circumstances. However, unlike the view of an individual, the Thai state holds a view that dual nationality is undesirable. This is because in the recent years, the number of people involved in the complex networks of transnational crimes, terrorist groups and separatist

movements has increase continuously across the globe, which has become one of the main threats to national security. Many states, including the Thai State view that these people may abuse and utilize the advantages gained from dual nationality in a wrong way such as conduct a crime in one country and escape to another country by switching between two passports, for example. The main concern of the Thai State directs towards persons with dual nationality who reside in the three southern provinces of Thailand who are inclined to be involved with the current insurgency. Nevertheless, the Thai State does not always hold a negative attitude towards persons with dual nationality. The view towards dual nationals with a higher social status (i.e. well-educated, middle class – white collar and blue collar, married with a national from developed countries, etc.) by the government is often neutral, as they are not viewed as a threat to the national security.

In order to solve the problem of the increasing number of persons with dual nationality who may challenge the nationality stability, the management of the number of persons with dual status in Thailand is needed. However, there are still many possibilities for individuals to obtain dual nationality under the nationality law of Thailand, which makes the occurrence of persons with dual nationality in Thailand to be unavoidable. Furthermore, the management on this matter is still not well-organized due to the lack of unity and cooperation among governmental departments that are involved and responsible for the matter. A better system and greater cooperation need to be put into place in order to counteract the problem of the increase in number of dual nationality who may become a threat to national security of Thailand.

## **6.2 Discussion on Findings**

### ***6.2.1 The Cause and the Process of Acquiring Dual Nationality in Thailand***

As discussed in Chapter II, the rise of dual nationality is a result from globalization which leads to a better access to new innovations and technologies, as well as a grater flow of goods and people movement across the globe. From the findings, it is found that the main cause of dual nationality for every case study is due to migration. Two of out of four cases acquire dual nationality through mixed marriage: as for Case One, Michael, his parents are of different nationality; and for Case Three, Jittima is married to a French husband. From this, it can be seen that through migration the connection of people from different nationality and cultural background has become closer.

The cause of migration for two out of four cases links to the neoclassical theory and the social capital theory (as explained in Chapter II). For Case Three and Case Four, both of

them were born in Thailand and then migrated overseas as they saw the opportunities and benefits they could gain while living abroad for their future. It was not only because of the economic disparities between Thailand and the countries they have moved to (in these cases, France and the Netherlands), but also because of the „cultural capital“ – knowledge of other countries, capabilities for organizing travel, finding work and adapting to a new environment) that pushed them to go abroad. The migration process for Case One and Case Two took place as the two of them who were born in foreign countries returned back to Thailand, the country where they have a cultural link with, since their parents are Thai.

From the findings, it confirms that migration process is one of the main causes of dual nationality. Another cause of dual nationality is a lack of common criteria in international law regarding the granting of nationality, as each state has an executive right under its own law to designate who are its national, according to the European Convention on Nationality 1997. Thus, for a person who holds genuine links with two countries or more is likely to have more than one nationality. Although, there are differences in the sample of this study and the study conducted by Horstmann (2002) as its focus area was in the Southern part of Thailand. From the literature review, Horstmann argues that the process of acquiring dual nationality can be done through registering the birth of the children, by marriage, by making use of kinship relations and by applying for naturalization, which is the same as the findings from the case studies. According to the findings, the civil registration system is a very important system in recording the vital events of an individual and serves as evidence of his/her existence. Civil registration documents such as birth registration, marriage registration and household registration are very important for nationality acquisition process.

### ***6.2.2 Consequences of Dual Nationality on an Individual***

According to the literature review, the benefits of a person with dual nationality are being able to gain lawful rights and access to resources, such as welfare and education systems, easy to travel between two countries and better in job opportunity. Seeing that they could gain benefits from having more than one nationality, the main reason which drives the four cases to acquire dual nationality is because of the economic reason. From the findings, it is found that by acquiring a nationality of a particular country, they would be able enjoy all the rights that a national of that country is entitled to. The benefits gained after having dual nationality are being able to pay local fees, participate in the national election, travel easily between the two countries, work in the country without having to apply for work permit, and buy houses and property, for instance. They are also under the protection of the laws and



regulation of the country where they reside. In terms of taxation, they only owe to the country where their employment located.

In terms of their national identity, the four respondents stated that they hold the values of both countries. In general, they would relate themselves and feel closer to the culture of the country where they spend most of their childhood or where they grow up at. But once they move to another country they would slowly adapt and integrate into the society of the country of destination. However, they still feel a strong sense of belonging to the country of origin. They stated that they feel loyal to both countries and they cannot separate and set this sense of emotion to only one country. Thus, it can be said that the sense of national identity is rather flexible which can be changed at all time, but at the same time the feeling of attachment to the countries where they have moved to and lived throughout their life will remain. This confirms Levitt's statement (1997: 513) which says that „naturalization no longer shifts signals a shift in allegiance and an end to sending country involvements.’ The changing in sense of national identity of the four case studies supported by Hall's argument, as discussed in Chapter II, that the identification process continues throughout the life of the individual and is not “stable, fixed, or unified...identities are fragmented and fractured, never singular but multiply constructed across different, often intersecting and antagonistic, discourses, practices and positions (Hall, 1996: 16 cited in Isin and Wood, 1999: 16)”, especially in the late modern period. Therefore, from this argument, there seems to be no fixed stable boundaries of identity as it constantly become contested by new identities and their fluidity.

### ***6.2.3 Consequences of Dual Nationality to the State***

As argued in Chapter II that although dual nationality maybe seen as beneficial to an individual, this issue is seen as problematic by the State. The findings show that the view from the state towards the issue of dual nationality remains unchanged, as they view that some people with dual nationality could be a threat to national security, particularly those who hold links with transnational crime, terrorist network and separatist movements. In the case of Thailand, the three border provinces in the Southern Thailand are sensitive areas of high concern that people who cause the insurgency have dual nationality. Although, there is a study (Jiraporn et al., 2010) which argues that the majority of the population who has dual nationality in this area hardly has any links with the insurgency, the negative view of the Thai government is still there. The theory of ethnic majority and minority relation helps in explaining the view of Thai Buddhist State towards the population from southern sub-region

as „subordinate“ group which it can exert its authority over. This also reflects the responses and consideration of Thai State towards persons who hold dual nationality in Thailand. Due to this reason, the Thai government, although recognizes the existence of dual nationality, has tried to adopt various policies to avoid such status.

### **6.3 Recommendation**

The following recommendations are made from the research findings and should be used to guide concerned working groups to develop appropriate measures to solve the problems of dual nationality in Thailand.

1) There should be a consideration by the Thai state to set a clear provision in Thailand's Nationality towards the recognition of dual nationality in Thailand whether or not such status should be allowed in Thailand

2) At the international level, there should be agreements between Thailand and other states, in terms of sharing and exchanging information and records of persons with dual or multiple nationalities, the extradition of persons with dual or multiple nationalities who commit a crime.

3) A shared database of civil registration and immigration records between Thailand and other states is essential in order to trace the migration route of persons with dual nationality.

4) The information on dual nationality should be shared with the department and organization who are involved in the issue at the practical level, in order to establish a mutual understanding and knowledge of the recent problems. A set up of training for officers at the local level is also needed

5) At regional level, Thailand should propose to the ASEAN members that there is a need to set up a regional framework that is responsible to monitor challenge and threats to national stability of the member countries, in order to prevent and resolve the problems of transnational crimes, terrorist attacks, and other problems which challenge the stability of the nations in the region.

6) Awareness raising to create a sense of unity and mutual understanding among the people living in the country is very important in order to reduce the conflicts between different groups of people and make them being able to live together harmoniously.

It is hoped that the implementation of these recommendations will help to address some problems and related issues of the rise of dual nationality which may pose a threat to national security of Thailand.

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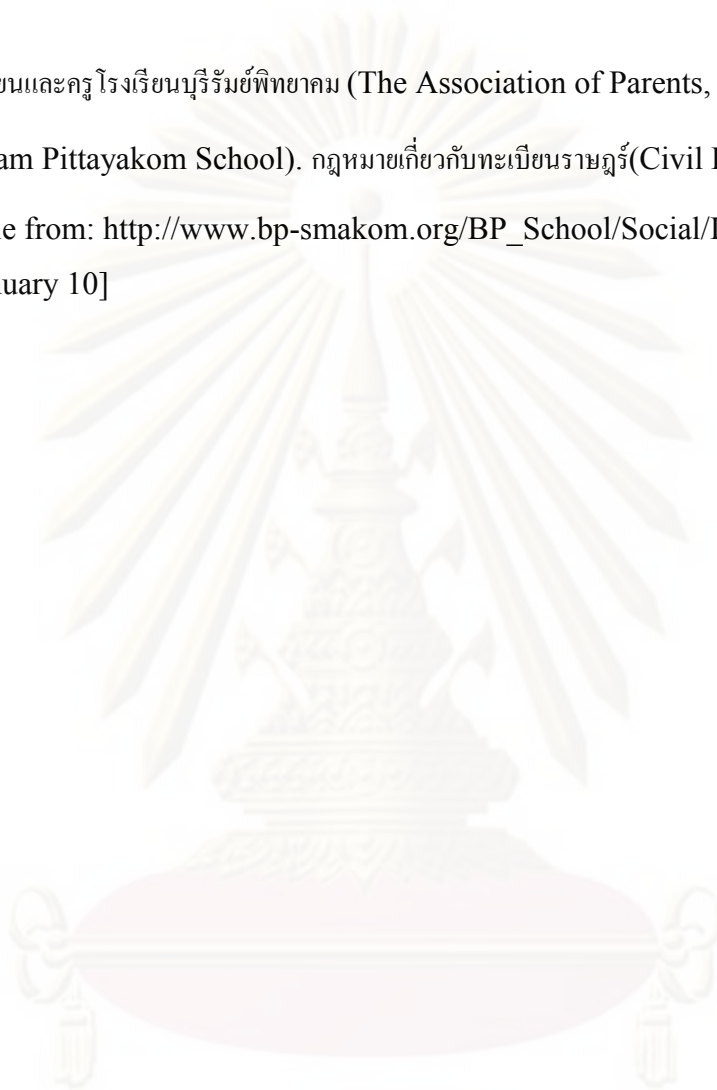
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ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย



## **Appendices**

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

## Appendix A

### Thailand's Nationality Act B.E. 2508 (1965) as amended by Acts B.E. 2535 No. 2 and 3 (1992), and Act B.E. 2551 No. 4 (2008)<sup>1</sup>

Given on the 21st day of July, B.E. 2508 (1965) Being the 20th Year of the Present Reign. His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that: Whereas it is expedient to revise the law on nationality, Be it, therefore, enacted by the King, by and with the advice and consent of the Constituent Assembly in the capacity of the National Assembly, as follows.

*Section 1.* This Act shall be called the "Nationality Act, B.E. 2508"

*Section 2*<sup>2</sup>. This Act shall come into force on and from the day following the date of its publication in the Government Gazette.

*Section 3.* The following shall be repealed:

- (1) The Nationality Act, B.E. 2495;
- (2) The Nationality Act (No. 2), B.E. 2496;
- (3) The Nationality Act (No. 3), B.E. 2499;
- (4) The Nationality Act (No. 4) B.E. 2503.

*Section 4.* In this Act:

"Alien" means a person who does not have a Thai nationality;

"Committee"<sup>3</sup> means a committee who holds responsibility for nationality consideration.

"Competent official" means the person appointed by the Minister for the execution of this Act;

"Minister" means the Minister taking charge and control of the execution of this Act.

*Section 5*<sup>4</sup>. The acquisition of Thai nationality under Section 9, 12 or 12/1; the loss of Thai nationality under Chapter 2; or the recovery of Thai nationality under Chapter 3 shall be effective upon its publication in the Government Gazette and shall have an individual effect."

*Section 6*<sup>5</sup>. The Minister of Interior shall take charge and control of the execution of this Act and shall have the power to appoint competent officials and to issue Ministerial Regulations fixing fees not exceeding the rates annexed to this Act, and to exempt any person as he thinks fit from fees for the following:

- (1) Application for naturalization as a Thai;
- (2) Certificate of naturalization as a Thai;
- (3) Application for recovery of Thai nationality.

<sup>1</sup> Unofficial translation by Ms. Bongkot Napaumporn (20 March 2008)

<sup>2</sup> The Government Gazette Vol. 82/Chapter 62/ Page 1 Por (1๗)/August 4, 1965

<sup>3</sup> Section 4. Definition of "Committee" was added by the Act (no.4) B.E. 2551 (2008)

<sup>4</sup> Section 5. Amended by Nationality Act (no.4) B.E. 2551 (2008)

<sup>5</sup> Section 6. Amended by Nationality Act (no.4) B.E. 2551 (2008)

Such Ministerial Regulations shall become effective upon their publication in the Government Gazette.

## Chapter 1 Acquisition of Thai Nationality

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*Section 7<sup>6</sup>.* The following persons acquire Thai nationality by birth:

(1) A person born of a father or a mother of Thai nationality, whether within or outside the Thai Kingdom;

(2) A person born within the Thai Kingdom except the person under Section 7 *bis* paragraph one.

Father” in (1) means a person having been proved, in conformity with the Ministerial Regulation, that he is truly a father of the person even though he did not register marriage with the mother of the person or did not do a registration of legitimate child<sup>7</sup>.

*Section 7.<sup>8</sup> bis.* A person born within the Thai Kingdom of alien parents does not acquire Thai nationality if at the time of his birth, his lawful father or his father who did not marry his mother, or his mother was:

(1) the person having been given leniency for temporary residence in Kingdom as a special case;

(2) the person having been permitted to stay temporarily in the Kingdom;

(3) the person having entered and resided in the Thai Kingdom without permission under the law on immigration.

In case the Minister deems it appropriate, he may consider and give an order for each particular case granting Thai nationality to any person under paragraph one, in conformity with the rules prescribed by the Cabinet<sup>9</sup>.

The person who is born within the Thai Kingdom and has not acquired Thai nationality under paragraph one shall reside in the Thai Kingdom under conditions stating in the Ministerial Regulation, but principles of national security and human rights have to be considered as well. Nevertheless, the person shall be deemed to have entered and resided in the Thai Kingdom without permission under the law on immigration when there is no such Ministerial Regulation still.<sup>10</sup>

*Section 8.* A person born within the Thai Kingdom of alien parents does not acquire Thai nationality, if at the time of his birth, his father or mother was:

(1) Head of a diplomatic mission or a member thereof;

(2) Head of a consular mission or a member thereof;

(3) An officer or expert of an international organization;

(4) Member of a family, either as a relative under patronage or servant, who came from abroad to reside with the person in (1), (2) or (3).

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<sup>6</sup> Section 7. Amended by Nationality Act (no.2) B.E. 2535 (1992)

<sup>7</sup> Section 7. Paragraph Two Added by Nationality Act (no.4) B.E. 2551 (2008)

<sup>8</sup> Section 7 bis. added by Nationality Act (no.2) B.E. 2535 (1992)

<sup>9</sup> Section 7 bis. Paragraph Two amended by Nationality Act (no.4) B.E. 2552 (2008)

<sup>10</sup> Section 7 bis. Paragraph Three amended by Nationality Act (no.4) B.E. 2552 (2008)

*Section 9.* An alien woman who marries a person of Thai nationality shall, if she desires to acquire Thai nationality, file an application with the competent official according to the form and in the manner prescribed in the Ministerial Regulations.

The granting or refusal of permission for acquisition of Thai nationality shall lie with the discretion of the Minister.

*Section 10.* An alien who possesses the following qualifications may apply for naturalization as a Thai:

- (1) becoming *sui juris* in accordance with Thai law and the law under which he has nationality;
- (2) having good behavior;
- (3) having regular occupation;
- (4) having a domicile in the Thai Kingdom for a consecutive period of not less than five years till the day of filing the application for naturalization;
- (5) having knowledge of Thai language as prescribed in the Regulations.

*Section 11.* The provisions of Section 10 (4) and (5) shall not apply if the applicant for naturalization as a Thai;

- (1) has rendered distinguished service to Thailand or has done acts to the benefit of official service, which is deemed suitable by the Minister;
- (2)<sup>11</sup> is a child, wife or husband of a person who has been naturalized as a Thai or has recovered Thai nationality; or
- (3) is one who used to have Thai Nationality.
- (4)<sup>12</sup> is husband of a person with Thai nationality

*Section 12.* Any person being desirous of applying for naturalization as a Thai, shall file an application with the competent official according to the form and in the manner prescribed in the Ministerial Regulations.

Should the applicant for naturalization as a Thai, under paragraph one, have children who are not *sui juris* in accordance with Thai law, and who have a domicile in Thailand, he may concurrently apply for such naturalization for his children. In this case, such children shall be exempt from possessing the qualifications under Section 10 (1), (3), (4) and (5).

The granting or refusal of permission for naturalization as a Thai shall lie with the discretion of the Minister. In case the Minister deems appropriate to grant permission, he shall submit the matter to the King for Royal Sanction. After the Royal Sanction, the applicant shall make an affirmation of loyalty to Thailand.

When there is the announcement under Section 5, the competent official shall issue a certificate of naturalization as a Thai as evidence<sup>13</sup>.

*Section 12/1*<sup>14</sup>. According to following situations, the applicant may apply for naturalization as a Thai for persons without Thai nationality, but having residence in the Thai Kingdom:

- (1) A curator under an order of the court may apply for naturalization as a Thai for incompetent persons who has evidence proving the birth within the Thai Kingdom. In this

<sup>11</sup> Section 11 (2). amended by Nationality Act (no.4) B.E. 2551 (2008)

<sup>12</sup> Section 11(4). added by Nationality Act (no.4) B.E. 2551 (2008)

<sup>13</sup> Section 12. Paragraph Four. amended by Nationality Act (no.4) B.E. 2552 (2008)

<sup>14</sup> Section 12/1 added by Nationality Act (no.4) B.E. 2552 (2008)

case, such persons shall be exempt from possessing the qualifications under Section 10 (3) and (5) and making an affirmation to loyalty to Thailand of the persons shall lie with the discretion of the Minister.

(2) With a permission of the children, a ruler of public foster home in conformity with the Minister may apply for naturalization as a Thai for children of their responsibility who are not *sui juris* in accordance with Thai law and have been staying in such foster home not less than 10 years. In this case, such persons shall be exempt from possessing the qualifications under Section 10 (1) and (3)

(3) A Thai who adopted a child may apply for naturalization as a Thai for the adopted child who are not *sui juris* in accordance with Thai law, has been done a registration of legitimate child not less than 5 years and also has evidence proving the birth in the Thai Kingdom. In this case, such persons shall be exempt from possessing the qualifications under Section 10 (1) and (3)

Application on naturalization as a Thai for the others under paragraph one shall be in conformity with the Ministerial Regulation.

## Chapter 2 Loss of Thai Nationality

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*Section 13<sup>15</sup>*. A woman of Thai nationality who marries an alien and may acquire the nationality of the husband or the wife according to the nationality law of them, shall, if he or she desires to renounce Thai nationality, make a declaration of his or her intention before the competent official according to the form and in the manner prescribed in the Ministerial Regulations.

*Section 14<sup>16</sup>*. A person of Thai nationality, who was born of an alien father or mother and has acquired the nationality of his father or mother according to the law on nationality of his father or mother, or a person who acquires Thai nationality under Section 12 paragraph two or Section 12/1 (2) and (3) is required, if he desires to retain his other nationality, to make a declaration of his intention to renounce his Thai nationality within one year after his attaining the age of twenty years, according to such form and in the manner as prescribed in the Ministerial Regulations.

If, after consideration of the said intention, the Minister is of opinion that there is reasonable ground to believe that such person may acquire the nationality of his father, mother, or a foreign nationality, he shall grant permission, except in cases where Thailand is being engaged in armed conflict, or is in state of war, he may order the dispensation of any renunciation of Thai nationality.

*Section 15.<sup>17</sup>* Except in the case under Section 14, a person who has Thai nationality and other nationality, or who acquires Thai nationality by

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<sup>15</sup> Section 13. amended by Nationality Act (no.4) B.E. 2551 (2008)

<sup>16</sup> Section 14. amended by Nationality Act (no.4) B.E. 2551 (2008)

<sup>17</sup> Section 15. Paragraph One amended by Nationality Act (no.2) B.E. 2535 (1992)



naturalization shall, if he desires to renounce Thai nationality, file an application with the competent official according to such form and in the manner prescribed in the Ministerial Regulations.

The granting or refusal of permission for renunciation of Thai nationality shall lie with the discretion of the Minister.

*Section 16.* With respect to an alien woman who acquires Thai nationality by marriage, her Thai nationality may be revoked if it appears that:

- (1) The marriage was effected by concealment of facts or making any statement false in material particular;
- (2) She commits any act prejudicial to the security, or conflicting with the interests of the State, or amounting to an insult to the nation;
- (3) She commits any act contrary to public order or good morals.

Revocation of Thai nationality in paragraph one shall lie with the discretion of the Minister.<sup>18</sup>

*Section 17<sup>19</sup>.* With respect to a person who has Thai nationality, by reason of his having been born within the Thai Kingdom of an alien father or mother, his Thai nationality may be revoked if it appears that:

- (1) He has resided in a foreign country, of which his father or mother has or used to have nationality, for a consecutive period of more than five years as from the day of his becoming *sui juris*;
- (2) There is evidence to show that he makes use of the nationality of his father, mother, or of a foreign nationality, or that he has an active interest in the nationality of his father, mother, or in a foreign nationality;
- (3) He commits any act prejudicial to the security or conflicting with the interests of the State, or amounting to an insult to the nation;
- (4) He commits any act contrary to public order or good morals.

The Minister in the event of (1) or (2), and the Court in the event of (3) or (4) and upon request of the public prosecutor shall order the revocation of Thai nationality.

*Section 18.<sup>20</sup>* When there exist circumstances suitable for maintaining the security or interests of the State, the Minister is empowered to revoke Thai nationality of the person who acquires Thai nationality under Section 7 Bis. Paragraph two.

*Section 19.* The Minister is empowered to revoke Thai nationality of a person who acquires Thai nationality by naturalization if it appears that:

- (1) The naturalization was effected by concealment of facts or making any statement false in material particular;
- (2) There is evidence to show that he still makes use of his former nationality;
- (3) He commits any act prejudicial to the security or conflicting the interests of the State, or amounting to an insult to the nation;
- (4) He commits any act contrary to public order or good morals;
- (5) He has resided abroad without having a domicile in Thailand for more than five years;

<sup>18</sup> Section 16 Paragraph Two added by Nationality Act (no.4) B.E. 2551 (2008)

<sup>19</sup> Section 17 amended by Nationality Act (no.4) B.E. 2551 (2008)

<sup>20</sup> Section 18. amended by Nationality Act (no.2) B.E. 2535 (1992)

(6) He still retains the nationality of the country at war with Thailand.

The revocation of Thai nationality under this section may extend to children of a person whose Thai nationality is revoked in case such children are not *sui juris* and acquire Thai nationality under Section 12, paragraph two and the Minister shall, after the order for revocation of Thai nationality has been given, shall submit the matter to the King for information.

*Section 20*<sup>21</sup>. (repealed)

*Section 21*.<sup>22</sup> A person of Thai nationality who was born of an alien father or mother and may acquire the nationality of his father or mother according to the law on nationality of his father or mother shall lose Thai nationality if he obtains an alien identification card according to the law on registration of aliens.

*Section 22*. A person of Thai nationality who has been naturalized as an alien, or who has renounced Thai nationality, or whose Thai nationality has been revoked, shall lose Thai nationality.

### **Chapter 3** **Recovery of Thai Nationality**

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*Section 23*.<sup>23</sup> A man or a woman of Thai nationality who has renounced Thai nationality in case of marriage to an alien under Section 13 may, if the marriage has been dissolved by whatsoever reason, apply for recovery of Thai nationality.

In applying for recovery of Thai nationality, a declaration of intention shall be made before the competent official according to the form and in the manner prescribed in the Ministerial Regulations.

*Section 24*. A person of Thai nationality, together with his parent while not becoming *sui juris*, shall, if he desires to recover Thai nationality, file with the Competent official an application according to the form and in the manner prescribed in the Ministerial Regulations within two years from the day of his becoming *sui juris* under Thai law, and the law under which he has nationality.

The granting or refusal of permission for recovery of Thai nationality shall lie with the discretion of the Minister.

### **Chapter 4** **Committee on Nationality Consideration**<sup>24</sup>

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*Section 25*.<sup>25</sup> The Committee on Nationality Consideration shall be set up consisting of:

<sup>21</sup> Section 20. repealed by Nationality Act (no.4) B.E. 2551 (2008)

<sup>22</sup> Section 21. amended by Nationality Act (no.4) B.E. 2551 (2008)

<sup>23</sup> Section 23. Paragraph One. amended by Nationality Act (no.4) B.E. 2551 (2008)

<sup>24</sup> Chapter Four "Committee on Nationality Consideration" added b Nationality Act (no.4) B.E. 2551 (2008)

- (1) The Under Secretary of State for Interior as chairman;
- (2) Representative from Ministry of Defense, Ministry of Foreign Affairs, Ministry of Social Development and Human Security, Ministry of Justice, Ministry of Labour, National Security Council, the Office of Attorney General, the Office of Royal Thai Police, the Office of National Intelligence Agency, the Narcotics Control Board and Internal Security Operations Command as members;
- (3) Expertises on Nationality appointed by the Minister not more than 6 persons as committees.

Director of the Department of Provincial Administration is a committee and a secretary of the Committee and two officials of the DOPA shall be appointed as secretary assistants by the Director.

*Section 26.*<sup>26</sup> The expertises shall hold office for a term of two years and shall serve for only two terms.

*Section 27.*<sup>27</sup> The Committee shall give recommendation and opinion to the Minister. The discretion of the Minister under Section 7 bis, Section 9, Section 11, Section 12, Section 12/1, Section 14, Section 15, Section 16, Section 17, Section 18, Section 19, and Section 24 and the enactment of the Ministerial Regulation are considered with the recommendation from the Committee.

*Section 28.*<sup>28</sup> The Committee shall have the power to appoint the Subcommittees.

*Section 29.*<sup>29</sup> Provisions on the Committee on Administrative Consideration under the Law on Administrative Procedure shall be allowed to come into force for the appointment and the vacation of the Expertises and the meetings of the Committee and the Sub-committees.

#### **Nationality Act (no.4) B.E. 2551 (2008)**

*Section 20.* Rates of fees stating in the Nationality Act B.E. 2508 shall be repealed and replaced by the rates of fees in the end of this Act.

*Section 21.* Paragraph two of Section 7 of the Nationality Act B.E. 2508 as amended by this Act shall be affective for a person born before this Act comes into force.

*Section 22.* Paragraph three of Section 7 bis of the Nationality Act B.E. 2508 as amended by the Act B.E. 2535 no.2 and by this Act shall be affective for a person born before this Act comes into force.

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<sup>25</sup> Section 25. added by Nationality Act (no.4) B.E. 2551 (2008)

<sup>26</sup> Section 26. added by Nationality Act (no.4) B.E. 2551 (2008)

<sup>27</sup> Section 27. added by Nationality Act (no.4) B.E. 2551 (2008)

<sup>28</sup> Section 28. added by Nationality Act (no.4) B.E. 2551 (2008)

<sup>29</sup> Section 29. added by Nationality Act (no.4) B.E. 2551 (2008)

*Section 23.* A person of Thai nationality born within the Thai Kingdom, but his nationality was revoked by Section 1 of the Declaration of Revolutionary Party no.337 on the 13th of December, B.E. 2535 and a person who was born within the Thai Kingdom, but did not acquire Thai nationality by Section 2 of the Declaration of Revolutionary Party no.337 on the 13th of December, B.E. 2535, including children of the persons who were born within the Thai Kingdom before this act comes into force and did not acquire Thai nationality under Section 7 bis paragraph one of the Nationality Act B.E. 2508 as amended by the Act B.E. 2535 no.2 shall acquire Thai nationality from the day this Act coming into force if the person has evidence on civil registration proving the domicile within the Thai Kingdom for a consecutive period till the present and having good behavior, or having done acts to the benefits of official service. The persons already acquired Thai nationality with the discretion of the Minister before this Act comes into force are exempt.

After 90 days from the day this Act coming into force, a person possessing the qualifications under paragraph one shall apply for Thai nationality registration into the civil registration system towards a district registrar or a local registrar at the district of his present domicile.

*Section 24.* Ministerial Regulations, Declarations, Rules or Orders under the Nationality Act B.E. 2508 and the Nationality Act B.E. 2535 no.2 shall be affective unless they are conflictual with provisions in this Act. When there is the enactment of Ministerial Regulations, Declarations, Rules or Orders under this Act, the previous ones shall be repealed.

*Section 25.* Within 180 days from the day this Act coming onto force, Section 27 of the Nationality Act B.E. 2508 as amended by this Act shall not be affective with the discretion of the Minister under Section 7 bis, Section 9, Section 11, Section 12, Section 12/1, Section 14, Section 15, Section 16, Section 17, Section 18, Section 19, and Section 24 and the enactment of the Ministerial Regulation under this Act.

*Section 26.* The Minister of Interior shall take charge and control of the execution of this Act.

Countersigned by:  
Surayuth Chulanon  
The Prime Minister

### Rates of Fees

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- |   |                       |
|---|-----------------------|
| (1) Application for naturalization as a Thai  | each time 10,000 baht |
| (2) Application for naturalization as a Thai for<br>a child of the applicant, who is not <i>sui juris</i> | each time 5,000 baht  |
| (3) Certificate of naturalization as a Thai   | each copy 1,000 baht  |
| (4) Substitute of the certificate of naturalization, as a Thai  | each copy 1,000 baht  |
| (5) Application for recovery of Thai nationality  | each time 2,000 baht  |
| (6) Other applications  | each copy 100 baht    |



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

**Appendix B**  
**Civil Registration Act (No.2)**  
**B.E. 2551<sup>30</sup>**

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Given on the 15th day of February, B.E. 2551 (2008)

Being the 63th Year of the Present Reign

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to revise the law on civil registration,  
This Act consists of some provisions limiting personal rights and freedom in conformity with  
Section 29 with Section 34, 35 and 56 of the Constitution of the Kingdom of Thailand.

Be it, therefore, enacted by the King, by and with the advice and consent of the Constituent  
Assembly in the capacity of the National Assembly, as follows.

**Section 1.** This Act shall be called the "Civil Registration Act (No.2), B.E. 2551"

**Section 2.** This Act shall come into force after 180 days from the day following the date of its  
publication in the Government Gazette.

**Section 3.** The following shall be added as paragraph two of Section 5 of the Civil  
Registration Act B.E. 2534:

“The Ministerial Regulation in paragraph one may set rates of fees which is not excessive in  
the end of this Act.”

**Section 4.** Paragraph two of Section 6 of the Civil Registration Act B.E. 2534 shall be  
repealed and replaced by the following:

“The provision in paragraph one is allowed to use for making a copy or making a copy and  
being certified true copy of identification card and other civil registration document in  
accordance with this Act for persons without Thai nationality.”

**Section 5.** The following shall be added as paragraph three of Section 6 of the Civil  
Registration Act B.E. 2534:

“The registrar shall proceed immediately when accepting such applications under paragraph  
one and two.”

**Section 6.** Section 8 of the Civil Registration Act B.E. 2534 shall be repealed and replaced by  
the following:

“Section 8. Under Section 8/1, the following registration office, in accordance with  
this Act, shall be taken place:

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<sup>30</sup> Translated by Ms. Bongkot Napaumporn (20 March 2008)

(1) Central Registration Office: The Director, the Vice-director and the assistants are registrars and responsible for registration in whole Kingdom.

(2) Bangkok Registration Office: The Bangkok official and the assistant are registrars and responsible for registration in Bangkok.

(3) Provincial Registration Office: The Provincial official and the assistant are registrar and responsible for registration in the province.

(4) District Registration Office: The District official and the assistant are registrars and responsible for registration in the district.

(5) Local Registration Office: The Local official and the assistant are registrars and responsible for registration in the local administration.

**Section 7.** The following shall be added as Section 8/1 and 8/2 of the Civil Registration Act B.E. 2534:

“Section 8/1. The establishment of district and local registration offices under Section 8 (4) and (5) shall lie with the discretion of the Director of Central Registration. The issues of readiness in the area, convenience for rendering services to people, overlap and economization shall be considered.

District or local registration offices under Section 8 (4) and (5) establishing with the consideration of conditions under paragraph one may be dissolved or united by the Director of Central Registration.

Power and Responsibility of the offices establishing under paragraph one or uniting under paragraph two shall lie with the discretion of the Director of Central Registration.

Section 8/2. The following registrars take charge under this Act:

(1) The Director of the Department of Provincial Administration is the Director of Central Registration having the power to issue rules and procedures, to set a form in accordance with this Act and to appoint the vice director and the assistant.

(2) Bangkok Governor is a Bangkok registrar having the power to appoint the assistant.

(3) Provincial Governors are provincial registrars having the power to appoint the assistant.

(4) District Chief Officer or Minor District Chief Officer is district registrar having the power to appoint the assistant.

(5) Municipal Clerk, the District Director, Pattaya Chief Officer or Chief Officer of local administration units are local registrars having the power to appoint the assistant.

The Vice-director, the assistant or other officials subordinate to the Department of Provincial Administration may be assigned by the Director of Central Registration under (1) to particular work under his responsibility.

The assistant or a chief officer of a division or above in the Office of the Bangkok Metropolitan Administration may be assigned by the Bangkok registrar under (2) to particular work under his responsibility.

The assistant, the Vice-governor or the Deputy-governor may be assigned by the provincial registrar under (3) to particular work under his responsibility.

The assistant district officer or the other assistants may be assigned by the district registrar under (4) to particular work under his responsibility.

The assistant, the Deputy Municipal Clerk, the assistant District Director, the assistant Pattaya Chief Officer or the assistant Chief Officer of local administration units may be assigned by the local registrar under (5) to particular work under his responsibility.

**Section 8.** The following shall be added as paragraph four of Section 10 of the Civil Registration Act B.E. 2534:

“Procedures under paragraph three, opposition or explanation and appeal of a person affected by acts of the registrar, including consideration of appeal shall be in the manner prescribed in the Ministerial Regulations. Any registration acts may be refrained before the registrar accepts such explanation or opposition.”

**Section 9.** The following shall be added as paragraph two of Section 12 of the Civil Registration Act B.E. 2534:

“To be useful for civil registration data storing and using, governmental organizations whose work relates to personal data of people without Thai nationality within the Thai Kingdom shall refer such data to the Director of Central Registration as requested.”

**Section 10.** Paragraph two of Section 14 of the Civil Registration Act B.E. 2534 shall be repealed and replaced by the following:

“The registrar shall proceed immediately when accepting such applications under (2). If the application is denied or partly preceded, the applicant shall appeal to the provincial registrar, the Bangkok registrar or the Director of Central Registration within 15 days from the day of acknowledgment from the registrar.”

**Section 11.** Paragraph two of Section 15 of the Civil Registration Act B.E. 2534 shall be repealed and replaced by the following:

“Any governmental organizations being desirous of computer connecting shall be allowed to use such civil registration data by the Director of Central Registration. Necessary information appearing in household registration, birth registration, death registration or profile record for persons without Thai nationality can be used only.”

**Section 12.** The following shall be added as paragraph three and four of Section 15 of the Civil Registration Act B.E. 2534:

“In a case of the advantage of national security, the Cabinet may approve permission of the Director of Central Registration to allow the governmental organizations to use other information of civil registration under paragraph two by computer connecting. Necessary information shall lie with the discretion of the Cabinet. To use such information in accordance with this Section for business benefit or other issues is prohibited.”

**Section 13.** The following shall be added as paragraph three of Section 18 of of the Civil Registration Act B.E. 2534:

“For facilitating people, reporting under paragraph one may be done to the registrar in the other areas. The procedure shall be in the manner prescribed in the Ministerial Regulations.”



**Section 14.** Section 19 of the Civil Registration Act B.E. 2534 shall be repealed and replaced by the following:

“Section 19. Any person encountering neglect of a newborn or a baby shall immediately refer the child to administrative officials, the police, or officials under the Ministry of Social Development and Human Security in the area of such encounter.

The record of acceptance shall be made after the officials accept the child. The administrative official or the police shall refer the child with the certificate of the record to officials under the Ministry of Social Development and Human Security in that area. The officials under the Ministry of Social Development and Human Security shall report the birth and the registrar shall issue the certificate of birth report in the manner prescribed in the regulations and forms under the discretion of the Director of Central Registration.

Two certificates of acceptance of the child under paragraph one shall be made and kept with the official accepting the child and the registrar accepting the birth report. Details about the person of the encounter, place and time of the encounter, physical conditions of the child, document, and profile of the child shall be recorded as much as possible. If the nationality of the child is unknown, such fact shall be recorded.”

**Section 15.** The followings shall be added as Section 19/1, Section 19/2 and Section 19/3 of the Civil Registration Act B.E. 2534:

“Section 19/1. The chief or the others assigned by the chief of public or private organizations legally registering for giving assistance to such children under the discretion of the Cabinet shall report the birth and apply for the registration into the household registration of the organizations for such gains in their responsibility in the area of the location. The registrar shall issue a certificate of birth report in the manner prescribed in the regulations and forms under the discretion of the Director of Central Registration.

Section 19/2. Verification of birth or nationality of the child under Section 19 and Section 19/1 shall be in the manner prescribed in the Ministerial Regulations. If it is unable to verify birth and nationality of the child, the district or local registrar shall issue a profile registration and identification document for the child as evidence in the manner prescribed in the regulations under the discretion of the Director of Central Registration.

Section 19/3. A householder or parents of Thai nationality who did not report birth of the child under Section 18 may apply for the birth report in the manner prescribed in the regulations under the discretion of the Director of Central Registration and the provision under Section 19/2 shall be allowed to use for this case.

If persons under paragraph one who are not sui juris in accordance with Thai law, the parents or the guardian shall, instead, report birth. In the case of the parents of the child, the registrar shall proceed after receiving fine under Section 47 (2) and Section 51.”

**Section 16.** Section 20 of the Civil Registration Act B.E. 2534 shall be repealed and replaced by the following:

“Section 20. When there is the birth report of the child of Thai nationality or without Thai nationality by birth in accordance with Thai law on nationality under Section 18,

Section 19, Section 19/1 or Section 19/3, as evidence the registrar shall accept such birth report and issue a birth certificate stating facts as much as it could be.

For the child without Thai nationality by birth in accordance with Thai law on nationality, the registrar shall issue a birth certificate in the manner prescribed in the forms under the discretion of the Director of Central Registration and the place of birth shall be stated as well.”

**Section 17.** The following shall be added as Section 20/1 of the Civil Registration Act B.E. 2534:

“Section 20/1. In a case of approval of Thai nationality or naturalization by the Cabinet resolution, or in a case of the other necessary situations requiring the birth document of a persons, he shall apply for such document in the manner prescribed in the regulations and conditions under the discretion of the Director of Central Registration.”

**Section 18.** The following shall be added as paragraph four of Section 21 of the Civil Registration Act B.E. 2534:

“The provision under paragraph three of Section 18 shall be allowed to use for birth reporting under paragraph one.”

**Section 19.** The following shall be added as paragraph four of Section 30 of the Civil Registration Act B.E. 2534:

“The provision under paragraph three of Section 18 shall be allowed to use for birth reporting under paragraph one.”

**Section 20.** Paragraph one of Section 36 of the Civil Registration Act B.E. 2534 shall be repealed and replaced by the following:

“Section 36. The district or local registrar shall issue a household registration for every house of both persons with Thai nationality and without Thai nationality having a domicile within the Thai Kingdom.”

**Section 21.** Section 38 of the Civil Registration Act B.E. 2534 shall be repealed and replaced by the following:

“Section 38. The district or local registrar shall issue a household registration for persons without Thai nationality having been permitted to stay temporarily and those having been giving leniency for temporary residence in the Thai Kingdom as a special case in accordance with law on immigration and the declaration of the Cabinet and their children born within the Thai Kingdom.

In a case of permission of temporary residence overdue, the registrar shall immediately dispose of such persons. The Director of Central Registration shall make profile registration for persons without Thai nationality besides those under paragraph one in accordance with the declaration of the Cabinet.

Registrations under paragraph one and two shall lie in the manner prescribed in the regulations under the discretion of the Director of Central Registration.”

**Section 22.** Section 41 of the Civil Registration Act B.E. 2534 shall be repealed and replaced by the following:

“Section 41. Any persons demolishing a house having a house number and intending not to build a new one in the same area or to build a new one in the other area shall report the demolition to the registrar within 15 days from the day of the complete demolition in order to dispose of the house number and the household registration.

If the householder did not report the demolition to the registrar under paragraph one, the registrar shall dispose of the house number and the household registration and remove a name of persons in such household registration to the Central Household Registration in the manner prescribed in the regulations under the discretion of the Director of Central Registration.”

**Section 23.** The Provision under (2) of Section 47 of the Civil Registration Act B.E. 2534 shall be repealed and replaced by the following:

“(2) disobeying provisions under Section 18, Section 19/1, Section 21, Section 23, Section 30, Section 33, Section 34, Section 39 paragraph one or two, Section 41 or Section 42”

**Section 24.** The following shall be added as Section 48/1 of the Civil Registration Act B.E. 2534:

“Section 48/1. Anyone infringing Section 15 paragraph four shall serve punishment with imprisonment between six months to five years and a fine from 10,000 baht to 100,000 baht. The chief of governmental organizations infringing this Section shall be punished in accordance with the provision of offence unless it can be proved that he did not connive in such offence and appropriately handled with the situation before it took place.”

**Section 25.** Rates of fees stating in the Civil Registration Act B.E. 2534 shall be repealed and replaced by the rates of fees in the end of this Act.

**Section 26.** The district registration offices and the local registration offices before the day this Act coming into force shall be the district registration offices and the local registration offices under Section 8/1 of the Civil Registration Act B.E. 2534 as amended by this Act.

**Section 27.** Ministerial Regulations, Rules or Declarations under the Civil Registration Act B.E. 2534 shall be affective unless they conflict with provisions in this Act. When there is the enactment of Ministerial Regulations, Declarations, Rules or Declarations under this Act, the previous ones shall be repealed.

**Section 28.** The Minister of Interior shall take charge and control of the execution of this Act.

Countersigned by:

Surayuth Chulanon  
The Prime Minister

Remark: It has published in the Government Gazette No.125, Part 39 A, on 25<sup>th</sup> of February, B.E. 2551

## Rates of Fees

- (1) Identification card for persons without Thai nationality under Section 5
- For the first time or renewing each copy 100 baht
  - For losing or being ruined each copy 100 baht
  - For changing in the details each copy 100 baht
- (2) A copy or a copy with certification of a true copy of registration or identification card under Section 6 each copy 100 baht
- (3) A copy or a copy with certification of a true copy of civil registration under Section 14 (1) each copy 100 baht
- (4) Birth report under Section 18 paragraph three; Death report under Section 21 paragraph four or Notice of change of address under Section 30 paragraph two and paragraph four each copy 100 baht
- (5) A copy of a household registration under Section 39 paragraph two each copy 100 baht

## Appendix C

### Germany's Nationality Act<sup>31</sup>

As of 22 July 1913 (Reich Law Gazette I p. 583 - Federal Law Gazette III 102-1), as last amended by Article 5 of the Act on the implementation of residence- and asylum related directives of the European Union of 19 August 2007 (Federal Law Gazette I p. 1970)

#### Section 1

#### [Definition of a German]<sup>32</sup>

A German within the meaning of this Act is a person who possesses German citizenship.

#### Section 2

#### (Repealed)

#### Section 3

#### [Acquisition of citizenship]

(1) Citizenship is acquired:

1. by birth (Section 4),
2. by a declaration pursuant to Section 5,
3. by adoption (Section 6),
4. by issuance of the certificate pursuant to Section 15 (1) or (2) of the Federal Expellees Act (Section 7),
  - 4a. for Germans without German citizenship within the meaning of Article 116 (1) of the Basic Law, under the procedure laid down in Section 40a below (Section 40a),
  5. for a foreigner by naturalization (Sections 8 to 16, 40b and 40c).

(2) German citizenship shall also be acquired by any person who has been treated by German public authorities as a German national for 12 years and this has been due to circumstances beyond his or her control. In particular, any person who has been issued a certificate of nationality, a passport or a national identity card shall be treated as a German national. Acquisition of citizenship shall apply as of the date when the person was deemed to have acquired German citizenship by treating him or her as a German national. The acquisition of German citizenship shall extend to those descendants who derive their status as Germans from the beneficiary pursuant to sentence 1.

#### Section 4<sup>33</sup>

#### [Acquisition by birth]

(1) A child shall acquire German citizenship by birth if one parent possesses German citizenship. Where at the time of the birth only the father is a German national, and where for

<sup>31</sup> Unofficial Translation by the Translation Division of the Federal Ministry of the Interior

<sup>32</sup> Titles in square brackets are not official titles.

<sup>33</sup> Section 4, sub-section 3, sentence 2 of the Nationality Act does not incorporate the amendments made in the course of amending the Act to Reform the Law on Civil Status of 19 February 2007 (Federal Law Gazette I, page 122) which will enter into effect on 1 January 2009, when the text will read as follows: "Acquisition of German citizenship will be recorded in the birth registry where the birth of the child is documented."

proof of descent under German law recognition or determination of paternity is necessary, acquisition shall be dependent on recognition or determination of paternity with legal effect under German law; the declaration of recognition must be submitted or the procedure for determination commenced before the child reaches the age of 23.

(2) A child which is found on German territory (foundling) shall be deemed to be the child of a German until otherwise proven.

(3) A child of foreign parents shall acquire German citizenship by birth in Germany if one parent

1. has been legally ordinarily resident in Germany for eight years and

2. has been granted a permanent right of residence or as a national of Switzerland or as a family member of a national of Switzerland possesses a residence permit on the basis of the Agreement of 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other hand on the free movement of persons (Federal Law Gazette 2001 II p. 810).

The acquisition of German citizenship shall be recorded by the registrar responsible for certifying the child's birth. The Federal Ministry of the Interior shall, with the consent of the Bundesrat, be authorised to issue regulations concerning the procedure for recording the acquisition of citizenship pursuant to sentence 1 by way of ordinance.

(4) German citizenship shall not be acquired pursuant to sub-section 1 in case of birth abroad if the German parent was born abroad after 31 December 1999 and is ordinarily resident abroad, unless the child would otherwise become stateless. The legal consequence pursuant to sentence 1 shall not ensue if the German parent notifies the competent diplomatic mission abroad of the birth within one year. Where both parents are German nationals, the legal consequences pursuant to sentence 1 shall ensue only if they both fulfil the conditions stipulated therein.

## **Section 5**

### **[Right of declaration for children born before 1 July 1993]**

By declaring a wish to become a German national, a child born before 1 July 1993 of a German father and a foreign mother shall acquire German citizenship if:

1. paternity has been recognized or determined with legal effect under German law;

2. the child has been legally ordinarily resident in the federal territory for three years and;

3. the declaration is submitted prior to the child's 23rd birthday.

## **Section 6**

### **[Acquisition by adoption as a child]**

A child who is below eighteen years of age at the time of application for adoption shall acquire citizenship as a result of valid adoption by a German under German law. The acquisition of citizenship shall extend to the child's descendants.

## **Section 7**

### **[Acquisition by issuance of the certificate pursuant to Section 15 (1) or (2) of the Federal Expellees Act]**

Repatriates of German ancestry and their family members included in the admission notice shall acquire the German citizenship when they are issued a repatriates certificate in accordance with Section 15 (1) or (2) of the Federal Expellees Act.

### **Section 8**

#### **[Discretionary naturalization]**

(1) A foreigner who is legally ordinarily resident in Germany may be naturalized upon application provided that he or she

1. possesses legal capacity pursuant to Section 80 (1) of the Residence Act or has a legal representative,

2. has not been sentenced for an unlawful act and is not subject to any court order imposing a measure of reform and prevention,

3. has found a dwelling of his or her own or accommodation and

4. is able to support himself or herself and his or her dependents.

(2) The requirements stipulated in sub-section 1, sentence 1, nos. 2 and 4 may be waived on grounds of public interest or in order to avoid special hardship.

### **Section 9**

#### **[Naturalization of spouses or life partners of Germans]**

(1) Spouses or life partners of Germans should be naturalized in keeping with the requirements set out in Section 8, if

1. they lose or give up their previous citizenship or a ground exists for accepting multiple nationality pursuant to Section 12 and

2. it is ensured that they will conform to the German way of life, unless they do not have sufficient command of the German language (Section 10(1), sentence 1, no. 6 and sub-section 4) and do not fulfill any condition that would justify an exception under Section 10, sub-section 6.

(2) The provision pursuant to sub-section 1 shall also apply if naturalization is applied for within one year of the German spouse's death or of a ruling dissolving the marriage becoming final and the applicant is entitled to custody of a child issuing from the marriage who already possesses German citizenship.

(3) (repealed)

### **Section 10<sup>34</sup>**

#### **[Entitlement to naturalization; derivative naturalization of spouses and minor children]**

(1) A foreigner who has been legally ordinarily resident in Germany for eight years and possesses legal capacity pursuant to Section 80 of the Residence Act or has a legal representative shall be naturalized upon application if he or she:

1. confirms his or her commitment to the free democratic constitutional system enshrined in the Basic Law of the Federal Republic of Germany and declares that he or she does not pursue or support and has never pursued or supported any activities:

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<sup>34</sup> Section 10(1) no. 7 and Section 10(5) of the Nationality Act shall enter into effect as of 1 September 2008.

- a) aimed at subverting the free democratic constitutional system, the existence or security of the Federation or a Land or;
- b) aimed at illegally impeding the constitutional bodies of the Federation or a Land or the members of said bodies in discharging their duties or;
- c) any activities which jeopardise foreign interests of the Federal Republic of Germany through the use of violence or preparatory actions for the use of violence, or credibly asserts that he or she has distanced himself or herself from the former pursuit or support of such activities;

2. has been granted a permanent right of residence or as a national of Switzerland or as a family member of a national of Switzerland possesses a residence permit on the basis of the Agreement of 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other hand on the free movement of persons or possesses a residence permit for purposes other than those specified in Sections 16, 17, 20, 22, 23(1), 23a, 24 and Section 25 sub-sections 3 to 5 of the Residence Act,

3. is able to ensure his or her own subsistence and the subsistence of his or her dependents without recourse to benefits in accordance with Book Two or Book Twelve of the Social Code or recourse to such benefits is due to conditions beyond his or her control,

4. gives up or loses his or her previous citizenship,

5. has not been sentenced for an unlawful act and is not subject to any court order imposing a measure of reform and prevention,

6. possesses an adequate knowledge of German and

7. possesses knowledge of the legal system, the society and living conditions in the Federal Republic of Germany.

The conditions under sentence 1 numbers 1 and 7 do not apply to foreigners who do not have legal capacity pursuant to Section 80 (1) of the Residence Act.

(2) The foreigner's spouse and minor children may be naturalized together with the foreigner in accordance with sub-section (1), irrespective of whether they have been lawfully resident in Germany for eight years.

(3) Upon a foreigner confirming successful attendance of an integration course by presenting a certificate issued by the Federal Office for Migration and Refugees<sup>4</sup>, the qualifying period stipulated in sub-section 1 shall be reduced to seven years. This qualifying period may be reduced to six years if the foreigner has made outstanding efforts at integration exceeding the requirements under sub-section 1, sentence 1, no. 6, especially if he or she can demonstrate his or her command of the German language.

(4) The conditions specified in sub-section 1, sentence 1, no. 6 are fulfilled if the foreigner passes the oral and written language examinations leading to the Zertifikat Deutsch (equivalent of level B 1 in the Common European Framework of Reference for Languages). Where a minor child is under 16 years of age at the time of naturalization the conditions of sub-section 1, sentence 1, no. 6 shall be fulfilled if the child demonstrates age-appropriate language skills.

(5) As a rule, the conditions specified in sub-section 1, sentence 1, no. 7 shall be fulfilled if the foreigner has passed the naturalization test. To prepare for the test, foreigners may participate in voluntary integration courses. (6) The requirements of sub-section 1, sentence 1,



nos. 6 and 7 shall be waived if the foreigner is unable to fulfill them on account of a physical, mental or psychological illness or disability or on grounds related to age.

(7) The Federal Ministry of the Interior shall be authorized, without the need for approval by the Bundesrat, to issue ordinances defining the test and certification requirements as well as the basic structure and contents of the naturalization courses under sub-section 5, based on the contents of the orientation course under Section 43, sub-section 3, sentence 1 of the Residence Act.

## **Section 11**

### **[Grounds for exclusion]**

Naturalization shall not be allowed:

1. there are concrete, justifiable grounds to assume that the foreigner is pursuing or supporting or has pursued or supported activities aimed at subverting the free democratic constitutional system, the existence or security of the Federation or a Land or at illegally impeding the constitutional bodies of the Federation or a Land or the members of said bodies in discharging their duties or any activities which jeopardise foreign interests of the Federal Republic of Germany through the use of violence or preparatory actions for the use of violence, unless he or she credibly asserts that he or she has distanced himself or herself from the former pursuit or support of such activities, or

2. a ground for expulsion applies pursuant to Section 54, nos. 5 and 5a of the Residence Act. Sentence 1, no. 2 shall apply mutatis mutandis for foreigners within the meaning of Section 1 (2) of the Residence Act and also for nationals of Switzerland and their family members possessing a residence permit on the basis of the Agreement of 21 June 1999 between the European Community and its Member States on the one hand and the Swiss Confederation on the other hand on the free movement of persons.

## **Section 12**

### **[Naturalization accepting multiple nationality]**

(1) The condition stipulated in Section 10 (1), sentence 1, no. 4 shall be waived if the foreigner is unable to give up his or her previous citizenship, or if doing so would entail particularly difficult conditions. This is to be assumed if:

1. the law of the foreign state makes no provision for giving up its citizenship,  
 2. the foreign state regularly refuses to grant release from citizenship,  
 3. the foreign state has refused to grant release from citizenship for reasons for which the foreigner is not responsible, or attaches unreasonable conditions to release from citizenship or has failed to reach a decision within a reasonable time on the application for release from citizenship which has been submitted in due and complete form,

4. the subsequent multiple nationality represents the sole obstacle to the naturalization of older persons, the process for release from citizenship entails unreasonable difficulties and failure to grant naturalization would constitute special hardship,

5. in giving up his or her foreign citizenship the foreigner would incur substantial disadvantages beyond the loss of his or her civic rights, in particular such disadvantages of an economic or property-related nature, or

6. the foreigner holds a travel document in accordance with Article 28 of the Convention relating to the Status of Refugees of 28 July 1951 (Federal Law Gazette 1953 II, p. 559).

(2) The condition stipulated in Section 10 (1), sentence 1, no. 4 shall further be waived if the foreigner holds the citizenship of another member state of the European Union or Switzerland.

(3) Further exemptions from the condition stipulated in Section 10 (1), sentence 1, no. 4 may be granted pursuant to the provisions of agreements under international law.

## **Section 12a**

### **[Decision in case of conviction for an offence]**

(1) The following shall not be taken into consideration in the process of naturalization:

1. The imposition of educational or disciplinary measures under the Juvenile Court Act,

2. sentencing to fines of up to 90 daily rates and

3. the imposition of suspended sentences of up to three months' imprisonment which are waived after expiry of the probationary period.

Where more than one term of imprisonment or more than one fine have been imposed pursuant to sentence 1, nos. 2 and 3, they shall be cumulated, unless doing so would result in a lesser punishment overall; where a fine and imprisonment are imposed simultaneously, one daily rate equals one day's imprisonment. If the punishment or the total of all punishments slightly exceeds the framework under sentences 1 and 2, it shall be decided on the merits of the individual case whether it can be disregarded. Where a measure of reform and prevention under Section 61, no. 5 or no. 6 of the Criminal Code has been imposed, it shall be decided on the merits of the individual case whether this measure of reform and prevention can be disregarded.

(2) Foreign convictions shall be considered if the offence concerned is to be regarded as liable to prosecution in Germany, the sentence has been passed in proceedings conducted in accordance with the rule of law and the sentence is commensurate. Such a conviction cannot be considered if its removal from the records would be required in accordance with the Federal Central Criminal Register Act. Sub-section 1 shall apply *mutatis mutandis*.

(3) If a foreigner who has applied for naturalization is under investigation on suspicion of having committed an offence, the decision on naturalization shall be deferred until conclusion of the proceedings, and in the case of conviction until the judgment becomes unappealable. The same shall apply if the imposition of youth custody is suspended pursuant to Section 27 of the Juvenile Court Act.

(4) Convictions abroad and criminal investigations and proceedings which are pending abroad shall be stated in the application for naturalization.

## **Section 12b**

### **[Interruptions of residence]**

(1) Ordinary residence in Germany shall not be considered interrupted by stays abroad of up to six months in duration. In case of longer stays abroad, ordinary residence in Germany shall be considered to continue if the foreigner re-enters the federal territory within the deadline stipulated by the foreigners authority. The same shall apply if the deadline is exceeded solely on account of the foreigner carrying out statutory military service in his or her country of

origin and the foreigner re-enters the federal territory within three months of discharge from military or community service.

(2) If the foreigner has resided abroad for over six months for a reason of a non-temporary nature, the previous period of residence in Germany may be counted towards the duration of residence which is necessary for the purposes of naturalization, up to a period of five years.

(3) Interruptions in the lawfulness of residence shall be disregarded if they arise as a result of the foreigner having failed to apply in good time for initial issuance or subsequent extension of the residence title.

### **Section 13**

#### **[Discretionary naturalization of former Germans abroad]**

A former German and his or her minor children who are ordinarily resident abroad may be naturalized on application if they meet the requirements of Section 8, subsection 1, nos. 1 and 2.

### **Section 14**

#### **[General discretionary naturalization abroad]**

A foreigner who is ordinarily resident abroad may be naturalized subject to the other conditions of Sections 8 and 9 if ties with Germany exist which justify naturalization.

### **Section 15**

#### **(Repealed)**

### **Section 16**

#### **[Certificate of naturalization]**

Naturalization shall become effective upon delivery of the certificate of naturalization issued by the competent administrative authority. Before the certificate is handed over to the foreigner he or she shall make the following solemn statement: "I solemnly declare that I will respect and observe the Basic Law and the laws of the Federal Republic of Germany, and that I will refrain from any activity which might cause it harm." Section 10, sub-section 1, sentence 2 shall apply mutatis mutandis.

### **Section 17**

#### **[Loss of citizenship]**

Citizenship shall be lost:

1. by release from citizenship (Sections 18 to 24),
2. by acquisition of a foreign citizenship (Section 25),
3. by renunciation (Section 26),
4. by adoption by a foreigner (Section 27),
5. by joining the armed forces or a comparable armed organization of a foreign state (Section 28) or,
6. by a declaration (Section 29).

### **Section 18**

#### **[Release from citizenship]**

A German shall, on application, be released from citizenship if he or she has applied for a foreign citizenship and the competent body has furnished an assurance that such citizenship will be granted.

### **Section 19**

#### **[Release from citizenship of a person in parental custody or in the care of a guardian]**

(1) Application for the release from citizenship of a person in parental custody or in the care of a guardian may be filed by the legal representative only and shall require approval from the German guardianship court. The public prosecutor's office is to be notified of the decision reached by the German guardianship court and may appeal against this decision; further appeals against the court of appeal's decision shall be permissible without any restrictions.

(2) The approval of the guardianship court shall not be required where the father or mother applies for release from citizenship for himself or herself and for a child at the same time by virtue of the right of custody and the applicant is entitled to custody for the child concerned.

### **Section 20**

**(Repealed)**

### **Section 21**

**(Repealed)**

### **Section 22**

#### **[Refusal of release from citizenship]**

Release from citizenship must not be granted to:

1. Civil servants, judges, Federal Armed Forces soldiers and other persons employed in a service or official capacity under public law, for as long as they remain employed in said service or official capacity, with the exception of persons employed in an honorary capacity.

2. Persons liable for military service, until it is confirmed by the Federal Ministry of Defense or a body designated by the said Ministry that no reservations exist regarding release from citizenship.

### **Section 23**

#### **[Certificate of release]**

Release from citizenship shall become effective upon delivery of the certificate of release from citizenship issued by the competent administrative authority.

### **Section 24**

#### **[Invalidity of release from citizenship]**

The release from citizenship shall be deemed to be null and void if the released person fails to acquire the foreign citizenship of which he or she was assured within one year of issuance of the certificate of release.

## **Section 25**

### **[Loss of citizenship on acquisition of a foreign citizenship following due application for the same; approval of retention of citizenship]**

(1) A German shall lose his or her citizenship upon acquiring a foreign citizenship where such acquisition results from an application filed by the German concerned or his or her legal representative, whereas the represented person shall suffer such loss only if the qualifying conditions for application for release from citizenship apply as stipulated in Section 19. The loss under sentence 1 shall not take effect if a German acquires the citizenship of another member state of the European Union, Switzerland or of a state with whom the Federal Republic of Germany has signed a treaty under Section 12, sub-section 3.

(2) Citizenship shall not be lost by any person who, prior to acquiring foreign citizenship following their application for the same, received written approval from their competent authority for retention of their citizenship. Where an applicant is ordinarily resident abroad, the German diplomatic mission abroad shall be consulted in this connection. The public and private interests shall be weighed up in reaching the decision on an application pursuant to sentence 1. With regard to an applicant who is ordinarily resident abroad, special consideration shall be accorded to the question of whether he or she is able to furnish credible evidence of continuing ties with Germany.

## **Section 26**

### **[Renunciation]**

(1) A German may renounce his or her citizenship if he or she possesses several nationalities. Such a renunciation shall be declared in writing.

(2) The written renunciation shall require the approval of the authority which is competent pursuant to Section 23 for issuing the certificate of release. Such approval shall be withheld if release may not be granted pursuant to Section 22; this shall not apply, however, if the person renouncing citizenship:

1. has been permanently resident abroad for at least ten years or

2. has performed military service in one of the states whose citizenship he holds as a person liable for military service within the meaning of Section 22, no. 2.

(3) The loss of citizenship shall take effect upon delivery of the certificate of renunciation issued by the approving authority.

(4) Section 19 shall apply mutatis mutandis for minors.

## **Section 27**

### **[Loss of citizenship on adoption by a foreigner]**

A German under the age of majority shall lose his or her citizenship as a result of adoption by a foreigner in accordance with German law, if he or she acquires the adopting person's citizenship by virtue of such adoption. The loss of citizenship shall extend to his or her descendants where the acquisition of citizenship by the adoptee pursuant to sentence 1 also extends to the descendants. The loss under sentence 1 or sentence 2 shall not take effect if the adoptee or his or her descendants maintain a legal relation to their German parent.

## **Section 28**

**[Loss of citizenship as a result of joining the armed forces or a comparable armed organization of a foreign state]**

A German who, without the consent of the Federal Ministry of Defense or a body designated by the said Ministry, voluntarily enlists with the armed forces or a comparable armed organization of a foreign state whose citizenship he or she possesses, shall lose German citizenship. This shall not apply if he or she is entitled to enlist in the aforesaid manner by virtue of an inter-governmental agreement.

**Section 29**  
**[Declaration]**

(1) After attaining the age of majority and after receiving due advice in accordance with sub-section 5, a German who, after 31 December 1999, has acquired citizenship pursuant to Section 4 (3) or via naturalization pursuant to Section 40b and possesses a foreign citizenship is to declare whether he or she wishes to retain the German or foreign citizenship. The declaration shall be submitted in writing.

(2) If the person obliged to furnish a declaration pursuant to sub-section 1 declares a wish to retain the foreign citizenship, German citizenship shall be lost upon the declaration being received by the competent authority. Citizenship shall also be lost if no declaration has been made by the time the person concerned reaches the age of 23.

(3) If the person obliged to furnish a declaration pursuant to sub-section 1 declares a wish to retain German citizenship, he or she shall be obliged to furnish proof that he or she has given up or lost the foreign citizenship. German citizenship shall be lost if no such proof is furnished by the 23rd birthday of the person concerned, unless the German has previously applied for and received the written approval of the competent authority to retain German citizenship (retention approval). The application for retention approval, including as a precautionary measure, may only be filed up to the 21st birthday of the person concerned (preclusive period). The loss of German citizenship shall not take effect until rejection of the application becomes legally valid.

The possibility of provisional legal redress pursuant to Section 123 of the Code of Administrative Procedure shall remain unaffected.

(4) The retention approval pursuant to sub-section 3 shall be granted where renunciation or loss of the foreign citizenship is not possible or cannot reasonably be expected or where acceptance of multiple nationality would be required in case of naturalization in accordance with Section 12.

(5) The competent authority shall advise the person required to furnish a declaration pursuant to sub-section 1 of his or her obligations and the possible legal consequences as set out in sub-sections 2 to 4. The said advice shall be formally served. Such service shall be effected immediately after the 18th birthday of the person who is required to furnish a declaration pursuant to sub-section 1. The provisions of the Act to regulate service in administrative proceedings shall apply.

(6) The continuation or loss of German citizenship in accordance with this provision shall be determined ex officio. The Federal Ministry of the Interior may, by ordinance with the

consent of the Bundesrat, issue provisions regulating the procedure to determine the continuation or loss of German citizenship.

### **Section 30**

#### **[Establishment of German citizenship]**

(1) Possession or lack of German citizenship shall be established by the nationality authority upon application. The outcome of this assessment shall be binding in all matters for which possession or lack of German citizenship is of legal relevance. In the case of a public interest, possession or lack thereof may be established upon the competent authority's own motion.

(2) To establish possession of German citizenship it shall be required and sufficient to give reliable evidence that German citizenship was acquired and has not since been lost by furnishing documents, extracts from the citizens' registers or other written evidence. Section 3, sub-section 2 remains unaffected.

(3) Where possession of German citizenship has been established upon application, the nationality authority shall issue a certificate of nationality.

Upon request, the nationality authority shall issue a certificate confirming non-possession of German citizenship.

### **Section 31**

#### **[Personal data]**

Nationality authorities and diplomatic missions abroad may collect, store, modify and use personal data insofar as this is necessary to discharge their duties under this Act and in accordance with provisions relating to nationality contained in other acts. For the purpose of deciding on the citizenship of persons specified in Article 116 (2) of the Basic Law, such information may also be collected, stored or modified and used which relates to the political, racial or religious reasons due to which these persons were deprived of their German citizenship between 30 January 1933 and 8 May 1945.

### **Section 32**

#### **[Transmission of data to nationality authorities]**

(1) Public bodies shall transmit personal data to the bodies specified in Section 31 upon request, insofar as knowledge of these data is necessary to discharge the duties referred to in Section 31. Public bodies shall transmit these data to the competent nationality authority even without a request if the public body considers such transmission to be necessary for the nationality authority to decide on a pending application for naturalization or loss or non-acquisition of German citizenship. With regard to naturalization procedures, pursuant to Section 87 (4) if the Residence Act, this refers particularly to data relating to the initiation and execution of criminal proceedings, proceedings for the collection of fines, and extradition procedures of which the foreigner's authorities have obtained knowledge. The data referred to in sentence 3 shall be transmitted without delay to the competent nationality authority.

(2) Personal data shall not be transferred pursuant to sub-section 1 if such transfer is precluded by special statutory regulations on the use of the said data.

### **Section 33**

#### **[Register of decisions relating to nationality law]**

(1) The Federal Office of Administration (registration authority) maintains a register of decisions relating to citizenship matters. The following shall be entered into the register:

1. Decisions on certificates on nationality,
2. Decisions on the statutory loss of German citizenship,
3. Decisions on the acquisition, possession and loss of German citizenship made between 31 December 1960 and 28 August 2007.

(2) More specifically, the following items of information may be stored in the register:

1. the basic personal data of the person concerned (surname, surname at birth, former surnames, given names, day and place of birth, sex, the fact that under Section 29 German citizenship may be lost, as well as the postal address at the date of the decision),
2. The way in which, and the date when the decision or certificate or the loss of the citizenship shall take effect,
3. Name, postal address and file reference of the authority which made the decision.

(3) The nationality authorities shall be obliged to immediately transmit all personal data specified in sub-section 2 relating to decisions made under sub-section 1, sentence 2, nos. 1 and 2 after 28 August 2007 to the registration authority.

(4) The registration authority shall transmit the data referred to in sub-section 2 to the nationality authorities and diplomatic missions abroad upon their request insofar as knowledge of the data is necessary to discharge their duties relating to nationality law. The provisions of the Federal Data Protection Act shall apply to the transmission to other public bodies or for research purposes.

(5) The nationality authority shall transmit the data specified in sub-section 2 to the competent authority to which a person must report his/her current address or to the competent diplomatic mission abroad immediately after it has established that a person has been naturalized, retains German citizenship or has lost, renounced or never acquired German citizenship.

### **Section 34**

#### **[Opting procedure]**

(1) With a view to implementing the opting procedure under Section 29, the authority to which a person must report his/her current address shall transmit the following personal data relating to persons who will reach 18 years of age in the following months and may lose German citizenship under Section 29 to the competent nationality authority:

1. name at birth,
2. surname,
3. former names,
4. given names,
5. sex,
6. date and place of birth,
7. current postal addresses,
8. the fact that under Section 29 the person may lose German citizenship.



(2) If a person referred to in sub-section 1 has moved to a foreign country, the competent authority to which the person must report his/her current address shall transfer the data specified in sub-section 1, the date when the person moved abroad and the new address abroad, if known, to the Federal Office of Administration within the period specified in sub-section 1. If a person immigrates from abroad, sentence 1 applies mutatis mutandis.

**Section 35  
(Repealed)**

**Section 36  
[Naturalization statistics]**

(1) Annual naturalization surveys shall be conducted for the purposes of federal statistics, beginning in 2000 and relating in each case to the previous calendar year.

(2) The surveys shall cover the following attributes for each naturalized person:

1. year of birth,
2. sex,
3. marital status,
4. place of residence at time of naturalization,
5. duration of residence in the federal territory in years,
6. legal basis for naturalization,
7. previous citizenships and
8. continuation of previous citizenships.

(3) Supplementary attributes covered in the survey shall be:

1. designations and addresses of those obliged to furnish information pursuant to sub-section 4,
2. names and telecommunication numbers of the persons available to answer queries and,
3. registration number of the naturalized person at the naturalization authority.

(4) In respect of the surveys there shall be a duty to furnish information. This duty shall be incumbent on the naturalization authorities. The naturalization authorities shall furnish the information to the competent statistical offices of the Länder by 1 March each year. Provision of the information pertaining to sub-section 3, no. 2 shall be voluntary.

(5) Transmission of tables containing statistical results, including where a field in a table only shows a single case, may be effected by the Federal Statistical Office and by statistical offices of the Länder to the competent highest federal and Land authorities for use in dealings with the legislative bodies and for planning purposes, but not for measures pertaining to individual cases.

**Section 37  
[Procedural provisions]**

(1) Section 80 (1) and (3) and Section 82 of the Residence Act shall apply mutatis mutandis.

(2) The naturalization authorities shall transmit the personal data which they have stored on applicants aged 16 or over to the authorities for the protection of the constitution for the purpose of investigating grounds for exclusion under Section 11. The authorities for the

protection of the constitution shall notify the inquiring body forthwith in accordance with the applicable special statutory provisions on use of the said data.

### **Section 38**

#### **[Fees]**

(1) In the absence of any statutory provision to the contrary, official acts in citizenship matters shall be subject to costs (fees and expenses).

(2) The fee for naturalization under this Act shall be 255 euros. This fee shall be reduced to 51 euros for a minor child which is naturalized at the same time and which has no independent income within the meaning of the Income Tax Act. No fee shall be payable for the acquisition of German citizenship pursuant to Section 5 and the naturalization of former Germans who have lost their German citizenship as a result of marrying a foreigner. Establishment of the possession or non-possession of the German citizenship under Section 29, sub-section 6 and Section 30, sub-section 1, sentence 3, as well as issuance of a retention approval under Section 29, subsection 4 are free of charge. The fee stipulated in sentence 1 may be reduced or renounced on grounds of equity or public interest.

(3) The Federal Minister of the Interior shall be empowered to determine the additional circumstances in which fees shall be payable and to make provision in respect of the levels of fees and the reimbursement of expenses via statutory order with the approval of the Bundesrat. The fee shall not exceed 51 euros for release from citizenship, 255 euros for retention approval and 51 euros for the certificate of citizenship and other forms of certification.

### **Section 38a**

#### **[Ban on issuance of citizenship certification in electronic form]**

It shall not be permissible to issue certification pertaining to citizenship matters in electronic form.

### **Section 39**

**(Repealed)**

### **Section 40**

**(Repealed)**

### **Section 40a**

#### **[Acquisition of German citizenship by Germans without German citizenship within the meaning of Article 116 (1) of the Basic Law]**

Any person who, on 1 August 1999, is a German within the meaning of Article 116 (1) of the Basic Law without possessing German citizenship shall acquire German citizenship on the said date. For a repatriate, his or her non-German spouse and his or her descendants within the meaning of Section 4 of the Federal Expellees Act, this shall apply only if they have been issued a certificate pursuant to Section 15 (1) or (2) of the Federal Expellees Act prior to the aforesaid date.

### **Section 40b**

#### **[Transitional provision for children up to the age of ten]**

A foreigner who is legally ordinarily resident in Germany on 1 January 2000 and is under ten years of age shall be naturalized upon application if the conditions pursuant to Section 4 (3), sentence 1 were met at the time of his or her birth and continue to be met. The application can be filed up to 31 December 2000.

#### **Section 40c**

##### **[Transitional provision for persons applying for naturalization]**

Sections 8 to 14 and Section 40c as last amended before 28 August 2007 (Federal Law Gazette I, p. 1970) shall continue to apply to applications for naturalization filed before 30 March 2007, as far as these sections contain more lenient provisions.

#### **Section 41**

##### **[No possibility of deviation on the part of the Länder]**

Land law shall not deviate from the regulations of the administrative procedure set out in Sections 30 to 34 and Section 37(2).

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## **Appendix D**

### **The Netherlands“Nationality Act**

#### **CHAPTER 1 - General Provisions**

##### **Section 1**

1. For the purposes of this Act:
  - A. Our Minister means Our Minister of Justice of the Kingdom;
  - B. person of full age means a person who has attained the age of eighteen or has married before attaining that age;
  - C. mother means the woman who bore the child in question;
  - D. father means the man with whom the child has lineal consanguinity of the first degree, other than by adoption;
  - E. alien means a person who does not possess Netherlands nationality;
  - F. stateless person means a person who is not regarded as a national citizen by any State under its legislation;
  - G. admission: permission by the competent authority with respect to a durable place of residence of the alien in the Netherlands, the Netherlands Antilles or Aruba;
  - H. principalplace of residence: the place where a person has his or her actual domicile.
2. Without prejudice to the application of Section 15A under a ofthis Act, a spouse must also be taken to mean the partner in a partnership registered in the Netherlands, and marriage must also be taken to mean the partnership registered in the Netherlands.

##### **Section 2**

1. Unless the Act provides otherwise, Netherlands nationality shall not be acquired or lost retroactively.
2. Declarations and applications by minors must be made or submitted by their statutory representatives.
3. The child, provided it has reached the age of twelve years, and its statutory representative are provided with the opportunity, at their request, to express their views regarding the acquisition or co-acquisition of Netherlands nationality. If the representation of the child is conferred on one of the parents by operation of law, the other parent may submit the same application. If both the child and its statutory representative or the other parent have objections against the co-acquisition, the child shall not acquire Netherlands nationality

#### **CHAPTER 2 - Acquisition of Netherlands nationality by Law**

##### **Section 3**

1. A child shall be a Netherlands national if the father or mother is a Netherlands national at the time of its birth, or if a Netherlands national who dies before its birth.
2. A foundling found in the territory of the Netherlands, the Netherlands Antilles or Aruba, or on a sea-going vessel or aircraft registered in the Netherlands, the Netherlands Antilles or Aruba shall be deemed to be the child of a Netherlands national unless it becomes apparent

within five years of the day on which it was found that the child possesses a foreign nationality by birth.

3. A child shall be a Netherlands national if it is born to a father or mother who has his or her principal place of residence in the Netherlands, the Netherlands Antilles or Aruba at the time of its birth and who was born to a father or mother who himself or herself had his or her principal place of residence in one of those countries at the time of its birth, provided that the child has its principal place of residence in the Netherlands, the Netherlands Antilles or Aruba at the time of its birth.

#### **Section 4**

1. In derogation of Section 3, the child of a person whose fatherhood is ascertained judicially shall acquire Netherlands nationality if the child is a minor on the day of the judgment in the first instance and the father was a Netherlands national on the day referred to in the next sentence, or, if the latter has died and was a Netherlands national on the day of his decease. If it concerns a Netherlands judgment, the child shall acquire Netherlands nationality on the first day following a period of two months after the day of the judgment in the first instance or, if an appeal is instituted within this period, two months after the day of the judgment on appeal, and/or, if an appeal is taken to the Supreme Court within this latter period, on the day of the judgment in cassation. If it concerns a judgment of a foreign court, the child shall acquire Netherlands nationality on the day on which this judgment becomes final and conclusive.

2. The children of a minor who has acquired Netherlands nationality pursuant to the first subsection shall also acquire Netherlands nationality.

#### **Section 5**

1. A child shall become a Netherlands national if it is adopted in the Netherlands, the Netherlands Antilles or Aruba pursuant to a judicial decision, provided that the child was a minor on the day of the judgment in the first instance and that at least one of the adoptive parents is a Netherlands national on the day referred to in the next sentence. The child shall acquire Netherlands nationality on the first day following a period of two months after the day of the judgment in the first instance or, if an appeal is instituted within this period, two months after the day of the judgment on appeal, and/or, if an appeal is taken to the Supreme Court within this latter period, on the day on which this judgment becomes final and conclusive.

2. A child shall also acquire Netherlands nationality if it is adopted abroad pursuant to a decision of a competent local authority in accordance with the Convention concluded on 29 May 1993 in The Hague, the Netherlands, for the protection of children and cooperation in respect of inter-country adoption, if and when the following requirements are met:

- a. the adoption is concluded in accordance with the aforementioned convention, and
- b. the previously existing family-law relationships cease to exist as a result of this adoption, and
- c. at least one of the adoptive parents is a Netherlands national on the day on which the judgment becomes final and conclusive, and
- d. the child was a minor on the day of the judgment in the first instance.

3. A child shall also acquire Netherlands nationality if it is adopted in accordance with the Convention, concluded on 29 May 1993 in The Hague, the Netherlands, for the protection of children and cooperation in respect of inter-country adoption by an adoption that does not result in the cessation of previously existing family-law relationships, which adoption is converted into an adoption under the law of the Netherlands, the Netherlands Antilles or Aruba by a judicial decision in accordance with Section 27 of the aforementioned convention, if the following requirements are met:

- a. the adoption is concluded in accordance with the aforementioned convention, and
- b. at least one of the adoptive parents is a Netherlands national on the day after a period of two months since the judgment in respect of the conversion in the first instance or on appeal has expired without an appeal or appeal in cassation being lodged, and/or, if an appeal in cassation is taken to the Supreme Court, on the day of the judgment in cassation, and
- c. the child was a minor on the day of the judgment in respect of the conversion in the first instance.

4. The child of the person who acquires Netherlands nationality by adoption shall also acquire Netherlands nationality.

### **CHAPTER 3 - Acquisition of Netherlands Nationality by Option**

#### **Section 6**

1. After making a written declaration to that effect, the following persons shall acquire Netherlands nationality by a confirmation referred to in the second subsection:

- a. An admitted alien who is of full age and who was born in the Netherlands, the Netherlands Antilles or Aruba and has his or her principal place of residence there since his or her birth;

- b. an alien who was born in the Netherlands, the Netherlands Antilles or Aruba and has been admitted to and who has had his or her principal place of residence there during a continuous period of at least three years and is stateless since his or her birth;

- c. an alien who as a minor was recognized by a Netherlands national or had become the child of a Netherlands national by legitimation without recognition and before coming of age had been raised and cared for during a continuous period of at least three years by the Netherlands national by whom he or she is recognized or whose child he or she has become by legitimation;

- d. an alien who as a minor comes under the joint custody of persons of whom at least one is a Netherlands national by a decision of a Netherlands court, provided that he or she after the custody is granted and before he or she comes of age has been raised and cared for during a continuous period of at least three years by this Netherlands national, and provided that he or she does not have his or her principal place of residence in the country of which he or she is a subject;

- e. an alien who is of full age and who has been admitted to and has his or her principal place of residence in the Netherlands, the Netherlands Antilles or Aruba since attaining the age of four;

- f. an alien who is of full age and who has at some time possessed either Netherlands nationality or the status of Netherlands subject without Netherlands nationality and during a minimum period of one year had been admitted for an indefinite period of time to and had his

or her principal place of residence in the Netherlands, the Netherlands Antilles or Aruba unless he or she has lost Netherlands nationality pursuant to Section 15 first subsection under d;

g. an alien who for a minimum period of three years is married to a Netherlands national and has been admitted to and has his or her principal place of residence in the Netherlands, the Netherlands Antilles or Aruba during a continuous period of at least fifteen years;

h. an alien who has reached the age of sixty-five years and has been admitted to and has his or her principal place of residence in the Netherlands, the Netherlands Antilles or Aruba during a continuous period of at least fifteen years.

2. The authority who receives the declaration, assesses on the basis of the documents submitted the grounds on which the declaration is based. If the requirements are satisfied, it shall confirm the acquisition of Netherlands nationality in writing.

3. It shall refuse the confirmation if there are grave reasons for believing, on the ground of the behavior of the person concerned that he or she may constitute a danger to public order, public morals or the security of the Kingdom, unless this is in conflict with international-law obligations.

4. It shall decide within a period of thirteen weeks of the date of receipt of the declaration; this term may be postponed for a maximum period of thirteen weeks on one occasion.

5. If a person to whom the declaration refers, has no surname or forename, or if the correct spelling thereof has not been determined, such names and the spelling thereof shall be established, in consultation with this person, in the confirmation; where necessary, his or her name shall be transliterated into the characters in use in the Kingdom.

6. For the application of the first subsection, opening words and under a and b, the birth on a sea-going vessel or aircraft registered in the Netherlands, the Netherlands Antilles or Aruba is considered equivalent to a birth in the Netherlands, the Netherlands Antilles or Aruba.

7. The minor, non-Netherlands child of the person who makes a declaration to acquire Netherlands nationality shall also acquire Netherlands nationality if it has been admitted to and has its principal place of residence in the Netherlands, the Netherlands Antilles or Aruba since the time at which the declaration was made and provided this is stated for that purpose in the declaration. Children of a child that co-acquires Netherlands nationality shall also acquire Netherlands nationality under the same conditions. A child that has reached the age of sixteen years when the declaration is made shall only co-acquire Netherlands nationality if it explicitly consents to this and provided that no grave reasons exist to suspect him or her in the sense of the third subsection.

## **CHAPTER 4 - The Grant of Netherlands Nationality**

### **Section 7**

1. On the recommendation of Our Minister and with due regard to the provisions of this Chapter, We shall grant Netherlands nationality to aliens who request this.

2. With regard to persons who have their principal place of residence in the Netherlands Antilles or Aruba, Our Minister of Justice of the Netherlands Antilles or Our Minister of Justice of Aruba, respectively, shall make recommendations regarding applications.

## Section 8

1. The following applicants only shall be eligible for the grant of Netherlands nationality pursuant to Section 7:

- a. those who are of full age;
  - b. a person whose residence in the Netherlands, the Netherlands Antilles or Aruba for an unlimited period does not meet with any objection;
  - c. a person who has been admitted to and has had his or her principal place of residence in the Netherlands, the Netherlands Antilles or Aruba for a minimum period of five years immediately preceding their application; and
  - d. a person who may be deemed to have been assimilated into Netherlands, Netherlands-Antillean or Aruban society on the ground that he or she has a reasonable knowledge of the Dutch language to be determined by general administrative order of the Kingdom and/or – if he or she has his or her principal place of residence in the Netherlands Antilles or Aruba – of the language in common use on the island on which he or she has his or her principal place of residence in addition to the Dutch language, and a certain knowledge of the Netherlands, Netherlands-Antillean or Aruban political system and society, and who has also otherwise integrated in society in the Netherlands, the Netherlands-Antilles or Aruba.
2. The first subsection under c shall not apply to an applicant who has at some time possessed either Netherlands nationality or the status of Netherlands subject without Netherlands nationality, or who has been married to and has been living with a Netherlands national for a period of at least three years, or since coming of age has been adopted in the Netherlands, the Netherlands Antilles or Aruba by parents at least one of whom possesses Netherlands nationality.
3. The period referred to in the first subsection under c shall be two years for the person who has been admitted to and has had his or her principal place of residence in the Netherlands, the Netherlands Antilles or Aruba for a total period of at least ten years.
4. The period referred to in the first subsection under c shall be three years for an applicant who has either been living with a Netherlands national in a permanent relationship other than marriage for a continuous period of at least three years or who is stateless.
5. The period referred to in the first subsection under c shall also be three years for an applicant who by recognition or legitimation without recognition has become the child of a Netherlands national. As regards an applicant who was recognized or legitimated when he or she was a minor, the three-year term is reduced by the continuous period immediately preceding his or her coming of age during which he or she was raised and cared for by the Netherlands national by whom he or she was acknowledged or whose child he or she had become by legitimation without acknowledgement.
6. A general administrative order of the Kingdom laid down pursuant to the first subsection under d does not enter into force until four weeks after the date of publication of the *Staatsblad* in which it is published. Both Houses of the States-General shall be promptly informed of this publication.

## Section 9

1. An application by an alien who fulfils the conditions laid down in Sections 7 and 8 shall nevertheless be refused if



a. there are grave reasons for believing, on the ground of the behaviour of the applicant that he or she constitutes a danger to public order, public morals or the safety of the Kingdom;

b. the applicant possessing a foreign nationality has not made every effort to renounce that nationality and/or is not prepared to make such effort after his or her naturalization, unless this cannot reasonably be expected of him or her;

c. an applicant to whom one of the exceptions referred to in Section 8 second subsection applies, has his or her principal place of residence in the country of which he or she is a subject.

2. If an applicant has lost Netherlands nationality pursuant to Section 16 first subsection, the application may only be refused on the grounds laid down in the first subsection under a if he or she was convicted for a criminal offence against the safety of the Kingdom or sentenced to a prison term of a minimum period of five years for another criminal offence during the ten years preceding the application.

3. The first subsection, opening words and under b shall not apply to

a. an applicant who is a national of the State that is party to the Second Protocol concluded on 2 February 1993 in Strasbourg concerning the amendment to the Convention for Limiting the Cases of Multiple Nationality and in respect of military obligations in case of multiple nationality (*Tractatenblad* 1994, 265);

b. an applicant who was born in the Netherlands, the Netherlands Antilles or Aruba and who has his or her principal place of residence there at the time of the application;

c. an applicant who had his or her principal place of residence in the Netherlands, the Netherlands Antilles or Aruba for a continuous period of five years before turning eighteen;

d. an applicant who is married to a Netherlands national;

e. an applicant who is acknowledged as a refugee in the Netherlands, the Netherlands Antilles or Aruba.

4. A decision on the application shall be taken within one year of payment of the fee referred to in Section 13 or of the decision to grant an exemption of payment and/or of the receipt of the requested supplement to the application, necessary for its assessment. The decision may be held over for a maximum period of six months on not more than two occasions.

5. Decisions to refuse or hold over applications to grant Netherlands nationality may be taken by Our Minister.

### **Section 10**

We may, after hearing the Council of State of the Kingdom, grant Netherlands nationality on grounds other than those laid down in Section 8 first subsection, opening words and under a, c and d, Section 9 first subsection, opening words and under c, and the term referred to in Section 11, third, fourth and fifth subsection.

### **Section 11**

1. The minor, non-Netherlands child of a father or mother who has been granted Netherlands nationality shall also acquire Netherlands nationality provided this has been explicitly stipulated in the decree. The application for co-acquisition shall be submitted together with the application to grant Netherlands nationality.

2. An application by the father or the mother to co-grant Netherlands nationality to a child under 16 years of age shall be granted if the child has been admitted for an unlimited period of time to and had its principal place of residence in the Netherlands, the Netherlands Antilles or Aruba at the time of the application.
3. An application by the father or mother to co-grant Netherlands nationality to a child who reached the age of 16 years at the time of the application shall be granted if the child had been admitted for an unlimited period of time to and had its principal place of business for a continuous period of at least three years immediately preceding the application and to whom no grounds for dismissal apply as referred to in Section 9 first subsection, opening words and under a, including the second subsection of that Section. It shall only acquire Netherlands nationality if it explicit consents to this.
4. Netherlands nationality shall, at its request, be granted to a minor, non-Netherlands child of a father or mother who has acquired Netherlands nationality by option or to whom it is granted, who did not co-acquire Netherlands nationality, provided it had been admitted for an unlimited period of time to and had its principal place of residence in the Netherlands, the Netherlands Antilles or Aruba for a continuous period of at least three years immediately preceding the application. The term for admission for an unlimited period of time and the principal place of residence shall not apply to a child that is born after his parent has submitted the declaration referred to in Section 6 first subsection or the application referred to in Section 7 first subsection. Netherlands nationality is only granted to a child that has reached the age of sixteen years at the time of the application subject to its explicit consent and to whom no grounds for dismissal apply as referred to in Section 9, opening words and under a, including the second subsection of that Section.
5. Netherlands nationality shall, at its request, be granted to a non-Netherlands child of a father or mother who has acquired Netherlands nationality by option or to whom it was granted, that was a minor at the time of the declaration or the application by that parent and who did not co-acquire Netherlands nationality because it had come of age, provided that it had been admitted to and had its principal place of residence in the Netherlands, the Netherlands Antilles or Aruba for a continuous period of at least three years immediately preceding the application and commencing prior to its coming of age and to whom no grounds of dismissal apply as referred to in Section 9 first subsection, opening words and under a, including the second subsection of that Section.
6. The requirement of admission for an unlimited period of time and the principal place of residence of the second and third subsection shall not apply to a minor child of a father or mother who has his or her principal place of residence abroad and who acquires Netherlands nationality by application of the second subsection of Section 8, provided the child forms an actual part of the family of this parent and does not have his or her principal place of residence in the country of which he or she is a national.
7. Children of a child who co-acquires Netherlands nationality shall also acquire Netherlands nationality under the same conditions.
8. For the application of this Section, father or mother must also be taken to mean the adoptive parent, provided the adoption took place in accordance with the rules of Dutch international private law and the adoption had resulted in the cessation of the previously existing family-law relationships.

## Section 12

1. If the applicant has no surname or forename, or if the correct spelling thereof has not been determined, such names and the spelling thereof shall be established in consultation with the application in the decree granting Netherlands nationality.
2. Where necessary, the name of the applicant shall be transliterated into the characters in use in the Kingdom and it may be changed with the consent of the applicant in the decree granting Netherlands nationality, if this in the interest of his or her assimilation.

## Section 13

1. Rules shall be laid down by general administrative order of the Kingdom with respect to the fee to be paid for making and handling the declaration by option and the application for granting Netherlands nationality, the cases in which full or partial exemption may be granted and the manner in which payment must be made.
2. Rules shall be laid down by general administrative order of the Kingdom with respect to proof of admission to one of the countries of the Kingdom.

## CHAPTER 5 - Loss of Netherlands Nationality

### Section 14

1. Our Minister may revoke the decree granting Netherlands nationality if it is based on a false declaration made by the person concerned or fraud and/or on concealment of any fact relevant to this decree. The revocation has retroactive effect to the time of the acquisition or grant of Netherlands nationality. The revocation is not possible following the expiration of a period of twelve years since the decree granting Netherlands nationality. The third sentence shall not apply if the person concerned is convicted for criminal offences referred to in the Criminal Law in Wartime Act (*Wet Oorlogsstrafrecht*), the Torture Convention Implementation Act (*Uitvoeringswet folteringsverdrag*) and the Genocide Convention Implementation Act (*Uitvoeringswet genocideverdrag*).
2. Netherlands nationality is lost by a minor on cessation of the family-law relationship on which it is based pursuant to Sections 3, 4, 5 or 6 first subsection, opening words and under c, and pursuant to Section 4 as it read until the coming into force of the Kingdom Act to amend the Netherlands Nationality Act with respect to the acquisition and the loss of Netherlands nationality of \*, *Staatsblad* \*. The loss referred to in the first sentence shall not occur if the other parent was a Netherlands national at the time of the cessation of that relationship or if this parent was a Netherlands national at the time of his or her death. Nor does the loss occur if Netherlands nationality can also be based on Section 3 third subsection or Section 2 under a of the Netherlands Citizenship and Residence Act (*Wet op het Nederlanderschap en het ingezetenschap*) of 12 December 1892 (*Staatsblad*268).
3. Netherlands nationality may only be lost pursuant to one of the provisions of this chapter.
4. Without prejudice to the case referred to in the first subsection, Netherlands nationality may not be lost if this would lead to statelessness.

### Section 15

1. A person who is of full age shall lose his or her Netherlands nationality:

- a. by acquiring another nationality of his or her own free will;
  - b. by making a declaration of renunciation;
  - c. if he also has a foreign nationality and, after coming of age, he has his or her principal place of residence for a continuous period of ten years, while possessing both nationalities, outside the Netherlands, the Netherlands Antilles and Aruba, and outside the areas to which the European Union Treaty applies, other than in the service of the Netherlands, the Netherlands Antilles or Aruba and/or of an international organization at which the Kingdom is represented, or as the spouse of or as an unmarried person in a permanent relationship living with a person in such a service;
  - d. by Our Minister's revocation of the decree granting Netherlands nationality, which may take place if the person concerned has failed, after his or her naturalization, to make every effort to divest himself of his or her original nationality;
  - e. if he or she, of his or her own free will, takes military service with a foreign power involved in actions against the Kingdom and/or against an alliance of which the Kingdom is a member;
2. The first subsection, opening words and under a, do not apply to the acquirer
- a. who was born in the country of that other nationality and has his or her principal place of residence there at the time of the acquisition;
  - b. who before coming of age has had his or her principal place of residence in the country of that other nationality for a continuous period of at least five years;
  - c. who is married to a person possessing that other nationality.
3. The period referred to in the first subsection under c is deemed to be interrupted if the person concerned has his or her principal place of residence in the Netherlands, the Netherlands Antilles or Aruba and/or in the areas to which the European Union Treaty applies.
4. The period referred to in the first subsection under c is interrupted by issuing a declaration with respect to the possession of Netherlands nationality and/or a travel document within the meaning of the Passport Act (*Paspoortwet*). A new period of ten years commences as from the day of issue.

### **Section 15a**

A person who is of full age shall also lose his or her Netherlands nationality:

- a. if he or she acquires the nationality of a Contracting State to the Convention concluded on 6 May 1963 in Strasbourg concerning the limitation of cases of multiple nationality and military obligations in case of multiple nationality (*Tractatenblad* 1964, no 4) as a result of an explicit declaration of intention by naturalization, option or correction to this and this convention implies that loss. However, the foregoing does not apply if this State is also party to the Second Protocol to amend that Convention (*Tractatenblad* 1994, no 265) and the person involved belongs to one of the categories referred to in Section 15 second subsection;
- b. if he or she acquires the Surinam nationality under the Agreement between the Kingdom of the Netherlands and the Republic of Surinam concerning the assignment of nationality concluded on 25 November 1975 in Paramaribo (*Tractatenblad* 1975, no 132).

## Section 16

1. A minor shall lose his or her Netherlands nationality:

a. by recognition, legitimation or adoption by an alien, if he or she thereby acquires the nationality of the alien or already possesses it;

b. if his or her father or mother acquires another nationality of his or her own free will and the minor thereby also acquires the foreign nationality or already possesses it;

c. if his or her father or mother loses his or her Netherlands nationality pursuant to Section 15 first subsection under b, c or d or pursuant to Article 15A;

d. if he or she acquires the same nationality as his or her father or mother in his or her own right.

For the application of parts b, c and d father or mother must also be taken to mean the adoptive parent from whom the minor acquired Netherlands nationality.

2. The loss of Netherlands nationality referred to in the first subsection shall not occur:

a. if and for as long as the other parent possesses Netherlands nationality;

b. if the other parent dies after the time at which Netherlands nationality would be lost pursuant to the first subsection;

c. if the other parent dies as a Netherlands national before the time at which Netherlands nationality would be lost pursuant to the first subsection;

d. if the minor complies with Section 3 third subsection or Section 2 under a of the Netherlands Citizenship and Residence of 12 December 1892(*Staatsblad* 268);

e. if the minor was born in the country of the nationality acquired by him or her and has his or her principal place of residence there at the time of the acquisition; or

f. if the minor has or has had his or her principal place of residence in the country of the nationality acquired by him or her for a continuous period of at least five years;

g. if, in the case referred to in the first subsection under d, the other parent is a Netherlands national at the time of the acquisition.

## Section 16a

In addition, the minor shall lose Netherlands nationality if he or she acquires the nationality of a Contracting State to the Convention concluded on 6 May 1963 in Strasbourg for limiting cases of multiple nationality and military obligations in cases of multiple nationality (*Tractatenblad* 1964, no 4) as a result of an explicit declaration of intention by naturalization, option or correction to this and this convention implies that loss. The foregoing shall not apply if this State is also party to the Second Protocol to amend that Convention (*Tractatenblad* 1994, no 265) and the person involved belongs to one of the categories referred to in Section 16 second subsection under e, f and g;

## CHAPTER 6 - Establishing Netherlands Nationality

### Section 17

1. Any person who has an immediate interest in a case instituted other than before a judicial body or administrative appeals tribunal in either part of the Kingdom, may submit to The Hague District Court or, if he or she is resident in the Netherlands Antilles or Aruba, to the Court of Justice of the Netherlands Antilles and Aruba, an application for an order confirming either that he or she does or that he or she does not possess Netherlands

nationality. Application may also be made for an order establishing whether the person concerned did or did not possess Netherlands nationality at a certain time.

2. An application as referred to in the immediately preceding subsection may also be made with respect to a deceased person.

### **Section 18**

1. The District Court or the Court of Justice or the Public Prosecutions Department shall hear the applications referred to in the immediately preceding section. In the case of the Netherlands, Articles 429-d, 429f-429l and 429s-429t of the Code of Civil Procedure shall apply.

2. The interested parties may only lodge an appeal in cassation against the order.

### **Section 19**

An order which is made under Section 17 and has become final shall be binding on all bodies charged with the enforcement of any statutory regulations.

### **Section 20**

1. If, in a case instituted before a judicial body in the Netherlands or in the Netherlands Antilles or Aruba, it is uncertain whether an interested party involved in the case possesses Netherlands nationality or possessed it at an earlier date, the court in question may seek the advice of Our Minister or Our Minister of Justice of the Netherlands Antilles or Our Minister of Justice of Aruba.

2. If, in a case instituted before an administrative appeals tribunal in the Netherlands or in the Netherlands Antilles and Aruba, there is uncertainty as referred to in subsection 1, the tribunal shall hold over the case and request the advice of Our Minister or Our Minister of Justice of the Netherlands Antilles or Our Minister of Justice of Aruba.

3. The proceedings of the case shall be resumed immediately upon receipt of the advice referred to in subsections 1 and 2.

## **CHAPTER 7 - Declarations and Official Registers**

### **Section 21**

By a general administrative order of the Kingdom, the authorities and public officials who are authorized to receive declarations relating to the acquisition and renunciation of Netherlands nationality shall be designated and further regulations may be laid down in this order with respect to the manner in which the declarations and applications, the confirmations referred to in Section 6 must be received and the further administrative treatment of acquisition of Netherlands nationality.

### **Section 22**

1. Our Minister shall keep a public record of:

- a. declarations of acquisition and renunciation of Netherlands nationality;
- b. the confirmations, referred to in the second subsection of Section 6 and in Section

28;

- c. the granting of Netherlands nationality;

d. the revocations referred to in the first subsection of Section 14, and Section 15 first subsection under d.

2. Our Ministers of Justice of the Netherlands Antilles and of Aruba shall keep a public register of the documents referred to in the first subsection that concern residents in their country.

## **CHAPTER 8 - Final Provisions**

### **Section 23**

By or pursuant to general administrative order of the Kingdom, we may lay down further regulations relating to the implementation of this Act.

### **Section 24**

1. This Kingdom Act may be cited as the „Netherlands Nationality Act“. It shall enter into force on a date to be determined by Us. We may designate an alternative date for the entry into force of Chapter 6.

2. The Act of 12 December 1892(*Staatsblad* 268) governing Netherlands Citizenship and Residence shall be revoked.

## **CHAPTER 9 - Transitional Provisions**

### **Section 25**

Persons who on entry into force of this Act already possess Netherlands nationality shall also be Netherlands nationals within the meaning of the Act.

### **Section 26**

1. The requirement of admission and principal place of residence referred to in Section 6 first subsection under f shall not apply to an alien who, after coming of age, has lost Netherlands nationality as a result of acquiring another nationality pursuant to Section 5 (old) as this read up to 1 March 1964 and Section 7, opening words and first or third, of the Act of 12 December 1892 (*Staatsblad* 268) governing the Netherlands Citizenship and Residence, and/or has lost this pursuant to Section 15, opening words and under a, if the person:

a. was born in the country of the other nationality and had his or her principal place of residence there at the time of the acquisition;

b. had his or her principal place of residence in the country of the other nationality for a continuous period of at least five years before coming of age; or

c. was married to a person of that other nationality at the time of the acquisition of that other nationality.

2. The first subsection shall not apply to an alien who after the entry into force of this Act was a national citizen of the State of the other nationality for a minimum period of ten years.

3. A minor non-Dutch child of a person referred to in the first subsection shall also acquire the latter's nationality if he or she is included in the declaration to that effect. Children of a child co-acquiring Netherlands nationality also acquire Netherlands nationality under the same conditions. A child that has attained the age of 16 when the declaration is made shall only co-acquire Netherlands nationality if it explicitly consents to this and provided that no grave reasons exist to suspect him or her in the sense of the third subsection of Section 6.

**Section 27**

1. Section 3 of this Act shall only apply to children born after the entry into force of this Act.
2. A non-Dutch child – including a child adopted in the Netherlands, the Netherlands Antilles or Aruba – of a woman who is a Netherlands national or – if she is deceased – was a Netherlands national at the time of her decease shall acquire Netherlands nationality by making a declaration to that effect, provided the said child has not reached the age of 21 years upon the entry into force of this Act and is not married and has not been previously married. In the case of children under 18 years of age, the declaration must be made by the mother or – if she is deceased – the statutory representative. This declaration shall be made within three years of the entry into force of this Act.

**Section 28**

1. The woman who lost her Netherlands nationality through or in connection with her marriage before the entry into force of this Act, shall acquire Netherlands nationality by making a written declaration to that effect followed by a confirmation, which must be made within a year of the dissolution of that marriage or within a year after she may have learned of such dissolution. Acquisition of Netherlands nationality in this manner shall be retroactive to the date of dissolution of the marriage.
2. Section 6 second up to and including fifth subsection shall apply *mutatis mutandis*.
3. The minor non-Dutch child of the person referred to in the first subsection shall also acquire Netherlands nationality if it is included in the declaration for that purpose. Children of a child co-acquiring Netherlands nationality shall also acquire Netherlands nationality under the same conditions. A child that has attained the age of 16 when the declaration is made shall only acquire Netherlands nationality if it explicitly consents to this and provided that no grave reasons exist to suspect him or her in the sense of the third subsection of Section 6.

**Section II**

1. The revocation of Netherlands nationality pursuant to Section 14 first subsection shall only be retroactive to the date of the entry into force of this Act if Netherlands nationality was granted before that date.
2. For the application of Section 6 first subsection under f and Section 8 second subsection, a person whose Netherlands nationality is revoked pursuant to Section 14 first subsection in conjunction with the first subsection of this Section shall be deemed not to have possessed Netherlands nationality.

**Section III**

The Sections 14 subsection 2 and 16 second subsection under a, b, c and d of the Netherlands Nationality Act as it shall read under this Kingdom Act, shall be retroactive up to and including the date on which the Netherlands Nationality Act entered into force.

**Section IV**



1. The period referred to in Section 15 first subsection under c does not commence until this Act enters into force.
2. The first subsection does not apply if it concerns a person who upon the entry into force of this Act has his or her continuous principal place of residence in the country in which he or she was born and which nationality he or she also possesses after coming of age.
3. If the period referred to in Section 15 first subsection under c ends for the person referred to in the second subsection within one year of the entry into force of this Act, it shall be extended to the end of that year.

#### **Section V**

1. A person who is of full age and who has lost his or her Netherlands nationality before the entry into force of this Act pursuant to or, as a minor, on account of Section 15, opening words and under c, of the Netherlands Nationality Act, shall regain Netherlands nationality by making a written declaration to that effect within a period of two years following the entry into force of this Act. This shall be retroactive to the date of loss. Section 6, second, fourth and seventh subsection shall apply *mutatis mutandis* with the exception of the requirement of admission and principal place of residence. The period referred to in Section 15 first subsection, opening words and under c, commences on the date of confirmation as referred to in Section 6 second subsection.
2. A person who lost his or her Netherlands nationality pursuant to Section 15, opening words and under c, of the Netherlands Nationality Act as it read before the entry into force of this Act and to whom a declaration regarding the possession of Netherlands nationality and/or a travel document within the meaning of the Passport Act was issued, shall be deemed to not have lost Netherlands nationality. The period referred to in Section 15 first subsection, opening words and under c, shall commence for this person on the date of issue of said declaration or document, but not before 1 January 1992.

#### **Section VI**



The Kingdom Act of 14 November 1963 (*Staatsblad* 467) with respect to an amendment to the Netherlands Citizenship and Residence Act (*Staatsblad* 1892, 268) regarding marriage shall be revoked.

#### **Section VII**

The Sections of this Act shall enter into force on a date to be determined by Royal Decree, which may entail different dates for the different sections or parts thereof.

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**Appendix E**  
**Color-coded Identification Cards issued by the Thai Government to aliens**  
**residing within the territory of Thailand**<sup>35</sup>

Group	Given Color-coded Identification Cards
<p><b>Vietnamese migrants</b></p> <ul style="list-style-type: none"> <li>• Are those who took refuge in Thailand between B.E. 2488-2489 (C.E. 1945-1946) in thirteen provinces along Thai-Laos Border;</li> <li>• Children born from these Vietnamese migrants are entitled to Thai citizenship</li> </ul>	<p style="text-align: center;"><i>White card with blue edges</i></p> 
<p><b>Former Kuomintang (KMT) Soldiers</b></p> <ul style="list-style-type: none"> <li>• Are those who took refuge in Burma after losing to Mao regime, then moved down to three northern provinces of Thailand (Chiang Mai, Chiang Rai and Mae Hong Sorn) in B.E. 2493-2497 (C.E. 1950-1954)</li> <li>• They were recognized as having done good deeds to the country as they supported Thailand's government in fighting against the communist party in B.E. 2515-2518 (C.E. 1972-1975). Thus, these KMT soldiers were granted Thai citizens in 30<sup>th</sup> May 1978 through naturalization.</li> <li>• Also, child born from this group of people are entitled to Thai citizenship.</li> </ul>	<p style="text-align: center;"><i>White Card</i></p> 

<sup>35</sup> Taken from [www.tobethai.org](http://www.tobethai.org), translated to English by the writer

**Chinese „Haw“ Political Refugees**

- Are those who are the family of KMT soldiers taking refuge in three northern provinces of Thailand, like KMT soldiers, in B.E. 2493-2505 (C.E. 1950-1962) and due to political situation, they cannot go back to China
- Children born from Thai lue migrants are entitled to Thai citizenship

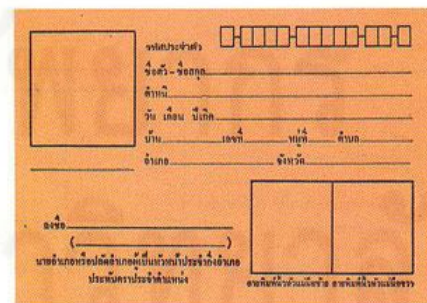
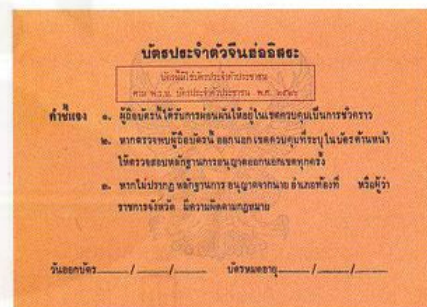
*Yellow card*



**Chinese „Haw“ Migrants**

- Are those who claimed to be the relatives of KMT soldiers and Thai Lue refugees who migrated into Thailand in B.E. 2505-2521 (C.E. 1962-1978) and resided in five northern provinces
- A Cabinet Resolution B.E. 2544 (C.E. 2001) approved legal alien status for these people who migrated into Thailand before B.E. 2528 (C.E. 1985) and to grant Thai citizenship to children of these people who were born between 14 December, 1972 – 25 February 1992)

*Orange Card*



**Former Communist Party of Malaya (CPM)**

- Are those from Malaysia who took refuge in three southern provinces of Thailand (Yala, Narathiwat and Songkla)
- The Cabinet Resolution first registered and issued them identification card for 851 CPM members from B.E. 2532-2533 (C.E. 1989-1990) and allowed to grant Thai citizenship to children of these people

*Green Card*



**Laotian Migrants**

- Are those who migrated to live with their relatives who reside in Thailand (these migrants are not included Laotian refugees who stay in shelter home arranged by the United Nations)
- They migrated to Thailand due to the change in political situation in Laos and came to marry with Thai citizens. Most of them reside in five north-eastern provinces of Thailand
- Children born from this group of people are allowed to get Thai citizenship in accordance with Thailand's Nationality Act B.E. 2535 (C.E. 1992)

*Blue card with Blue edges*



**Nepali Refugees**

- Are those who lived in Burma before WWII – because at that time Burma was still under British Rule
- During WWII, Japanese army recruited this

*Green Card*

group of Nepali to work on the rail-construction in Thailand in Karnchanaburi.

- Thai government later registered them as „Nepali Refugee“ in B.E. 2530 (C.E. 1987)
- Children born during 24th December 1972 – 24th February 1992 from these people are allowed to get Thai citizenship



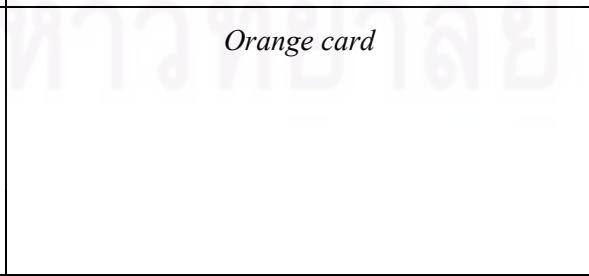
**Displaced Burmese Nationals**

- Comprised of different ethnic groups such as Mon, Karen, Shan, Lawa, Burman, Laotian, etc. who migrated in Thailand before 9<sup>th</sup> March, 1976 (which set by Thai government that those who migrate into Thailand after this date will be considered as illegal migrants)
- The reason behind their migration is due political situation and economic stagnation in Burma.
- This group of people mostly reside in northern-western- and southern border towns between Thailand-Burma
- Children born during 24th December 1972 – 24th February 1992 from these people are allowed to get Thai citizenship



**Illegal Burmese Migrants**

- Comprised of different ethnic groups who migrated into Thailand after 9<sup>th</sup> March, 1976, in which are recognized as illegal migrants by Thai government. Most of them reside along the border towns like displaced Burmese



nationals.

- From 1993-1994, Thai government issued 2 types of identification cards to them: Orange card for illegal Burmese migrants who have residence in Thailand; and purple card for illegal Burmese migrants who reside with their employers
- Thai government let them temporarily stay in Thailand before repatriation. However, they cannot only stay in the restricted area controlled by the provincial office. They will only be allowed to go out from the marked area upon the emergency situation.
- Children born from this group of people are *not* allowed to get Thai citizenship



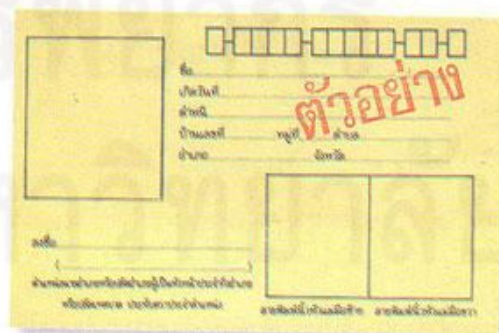
Purple Card


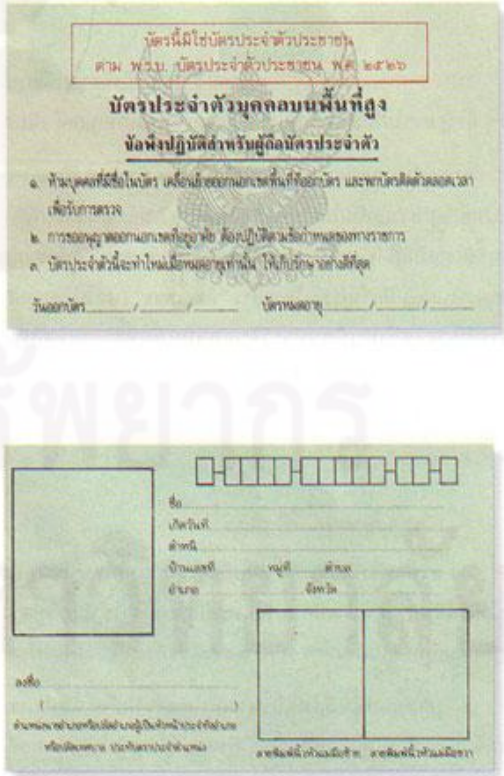




**Displaced Thai Nationals in Burma territory**

- Are those who lived in Thai territory before the demarcation lines were drawn during the reign of King Rama V
- This territory became under British rule during colonial period and became part of Burma. Local who have been living in this area did not want to move back to Thailand so they decided to stay, while there are new groups of Thai people who live in the border area moving into this piece of land for employment.
- However, due to the change of political situation and stagnation of Burmese economy, these people migrated back into western provinces of Thailand.
- Thai government then used the set date of 9<sup>th</sup> March 1976 to identify those who migrated after this date are considered as illegal migrants.
- For the children of those who migrated before


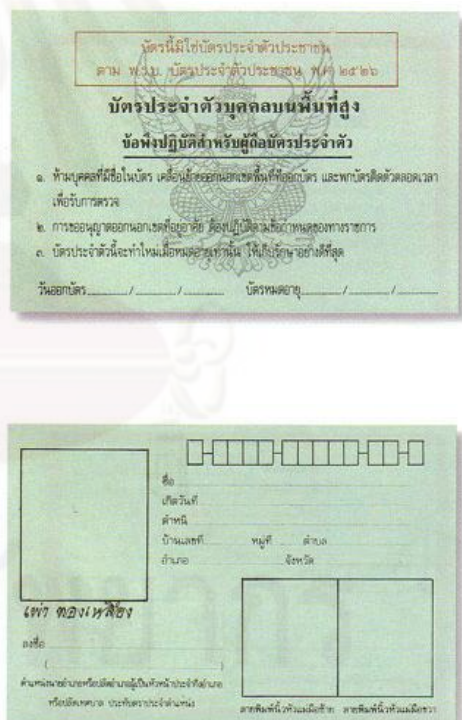
Yellow Card with Blue edges




<p>9<sup>th</sup> March 1976 are allowed to gain Thai citizenship</p>	
<p><b>Tai Lue Migrants</b></p> <ul style="list-style-type: none"> <li>• Are Thai nationals who used to live in Yunnan province, China, then migrated into Thailand around 100 years ago</li> <li>• In the past, this group of people would registered under „displaced Burmese nationals“ with the issuance of pink card; or „hill minorities“ with the issuance of blue card. However, in B.E. 2507 (C.E. 1964) Ministry of Interior set up a new registration especially for these Thai Lue migrants who live in Chiang Mai, Chiang Rai and Phayao.</li> <li>• Tai Lue Migrants are not allowed to travel freely within Thailand, unless they ask for a travel pass from the provincial office</li> <li>• Children born during 24th December 1972 – 24th February 1992 from these people are allowed to get Thai citizenship</li> </ul>	<p style="text-align: center;"><i>Orange Card</i></p> 
<p><b>Hill Minorities</b></p> <ul style="list-style-type: none"> <li>• Are hill tribe and ethnic minorities who live in highland areas which defined by the 1997 Cabinet.</li> <li>• The areas considered to be „highland“ areas have to be 500 meters above sea-level, which includes 20 provinces in Thailand.</li> <li>• Hill minorities can be divided into 2 categories: indigenous hill tribe and ethnic hill migrants from neighboring countries.</li> <li>• For those indigenous hill tribe, they are entitled to Thai citizen according to Hill minorities regulation handbook of 2000</li> <li>• Those 9 hill tribes who migrated into Thailand before 3<sup>rd</sup> October 1985 are considered as legal migrants</li> <li>• As for those ethnic minorities (who are not considered to be hill tribe population) who moved into Thailand before 3<sup>rd</sup> October 1985 are also considered as legal migrants.</li> <li>• Children born from this group of people who</li> </ul>	<p style="text-align: center;"><i>Blue Card</i></p> 

<p>migrated before 3<sup>rd</sup> October 1985 and born between 14 December 1972 and 24 February 1992 are entitled to get Thai citizenship.</p>	
<p><b>Displaced Thai Nationals in Koh Kong, Cambodia</b></p> <ul style="list-style-type: none"> <li>• are Thai nationals who used to live in Koh Kong (Prachankirikate Province), in which used to belong to Thailand.</li> <li>• During the reign of Rama V, this province became under the French rule and later became part of Cambodia.</li> <li>• After Cambodia gained her independence, Thai nationals who resided in this area refused to move back into Thai territory because they had been living in that area for a great period of time.</li> <li>• However, in 1974, political revolution took place in Cambodia, which forced Thai nationals who lived in Koh Kong to migrate back into Thailand. Thai government set 15<sup>th</sup> November 1977 as the last date for these people to enter legally into Thai territory.</li> <li>• Because these people used to have Thai citizenship, once they moved back to Thailand they were able to regained their Thai citizens back.</li> </ul>	<p style="text-align: center;"><i>Green Card</i></p> 
<p><b>Illegal Cambodian Migrants</b></p> <ul style="list-style-type: none"> <li>• During the period when Thai nationals who used to live in Koh Kong, Cambodia migrated back into Trad Province of Thailand. There were some Cambodian nationals moved into Thailand along with them. In addition, there remained some Thai nationals who moved back in but after the set date of 15<sup>th</sup> November 1977, so these groups of people became illegal migrants.</li> <li>• Thai government only registered the number of them into them and issued them a color-coded card. However, their legal status in Thailand is still not settled. Moreover, they are not allowed to move out from Trad province.</li> </ul>	<p style="text-align: center;"><i>White Card with Red edges</i></p> 



	
<p><b>Tong Lueng (Mlabri)</b></p> <ul style="list-style-type: none"> <li>• Are indigenous people who live in Prae and Nan Provinces of Thailand</li> <li>• They are considered to be hill minorities; hence, they become blue card holder.</li> <li>• Since they are considered as indigenous Thai people, so they are entitled to get their Thai citizenship according to the 2000 Regulation Handbook</li> </ul>	<p><i>Blue Card</i></p> 
<p><b>Members of Highland Communities</b></p> <ul style="list-style-type: none"> <li>• Are those who reside in „highland“ areas and are „hill minorities“ defined by the Cabinet Resolution relating to Environmental and Drug Reduction Community of 1977</li> </ul>	<p><i>Green card with Red edges</i></p>

<ul style="list-style-type: none"> <li>• The first population census was conducted in 1st May – 25<sup>th</sup> September 1997 and colored cards were issued for these people.</li> <li>• The card holders must provide evidence to show whether they are indigenous Thai hill minorities who missed the 1999 hill population census; or they are illegal hill migrants who moved into Thailand after 3<sup>rd</sup> October 1985.</li> <li>• These people are not allowed to travel freely within Thai territory.</li> </ul>	
<p><b>Illegal Migrant Workers (from Burma, Lao and Cambodia)</b></p> <ul style="list-style-type: none"> <li>• Who come to seek for employment all over Thailand, and are those come to register for work permit later</li> <li>• These people are not allowed to get Thai citizenship and are seen as a threat to national security.</li> </ul>	<p><i>Tor Ror 38/1 Card or Pink-colored Smart card with 13-digit identification number</i></p> <p><i>(Image not available)</i></p>

## BIOGRAPHY

Patarin Khaochan was born in Bangkok, Thailand in 1986. She received Bachelor Degree of International Relations and Chinese from Victoria University of Wellington, New Zealand in December 2007. She had her internship at Beijing New Era Citizens' Education Institute, Beijing, China from February to May 2008. Since June 2008, she has started studying her Master Program in Southeast Asian Studies at Chulalongkorn University. Currently, she is working for Asian Research Center for Migration, Institute of Asian Studies, Chulalongkorn University as a research assistant.



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