Acquired Citizenship & Role of Apparent Status in Proving It: A Comparative Study

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Abstracts

The apparent situation is a method of establishing nationality where an individual can invoke it if he or she loses proof of his or her belonging to the country that claims to be entitled to his or her nationality. s nationality ", a legal situation in which an individual is unable to prove his or her nationality in order to lose evidence of his or her acquisition of citizenship from official documents or an incidental occurrence that has made the question of his or her nationality doubtful to the State in which he or she lives.

Keywords: Effect, Status, Proof, Acquired, Nationality, Legislation.

Introduction

The apparent situation is one of the legal solutions created by the French legislature for problematic situations on the ground that needed to be remedied. The apparent situation means that there is a person in the territory of a particular State to whom he claims to belong, but who does not have official documentation to substantiate his claim. In our research, we will try to address how to establish nationality acquired through the apparent situation.

Importance of the Study.

The importance of the study is highlighted in several ways:-

1.   It shows how the apparent situation can be a means of establishing an individual's entitlement to citizenship without any official documentation proving his or her affiliation.

2.   It shall examine all cases of acquired nationality and indicate the position of Arab legislation on the question of the apparent situation.

Problem of the Study.

1.   Were the legislations in question able to regulate the legal status of the individual who adheres to the apparent situation or not?

2.   Can the apparent situation confer on an individual the right to acquire citizenship or not?

Study Objectives.

    The purpose of this study is to learn all matters relating to the apparent situation both in terms of meaning and concept and in terms of its legal nature, as well as the position of Arab legislation thereon.

Literature Review.

1.   Dr. Maher Ibrahim al-Sadawi's book Proof of Original Nationality Based on Right of Blood by Apparent Condition s role in establishing the original nationality based on the right of blood, The study curriculum followed a comparison between Egyptian and French law in order to ascertain the legislators' position on the apparent situation regarding the original nationality based on the right to blood, published in 1982.

2.   This study examined the apparent situation and the manner in which it was used to establish Algerian nationality. The provisions of the Algerian Nationality Code were analysed and identical to the status of the apparent situation and the texts that it dealt with in order to establish the applicant's right to acquire Algerian nationality.

3.   Ali Pasha Khalifa, the idea of the apparent situation in the field of proof of Egyptian nationality, examined the apparent situation as a presumption capable of establishing an individual's entitlement to Egyptian nationality if not.

4.   What is the Apparent Situation & Acquired Nationality?

The question as to what is the apparent situation requires us to explain and define its concepts and the elements on which they depend. In this regard, Mahiya's establishment requires knowledge of the concept and understanding of a specific definition of it (Hussam El-Din Fathi Nassif, 2007). In this regard, we must address the definition of acquired nationality and clarify it as follows:

4.1.   Concept of Apparent Status & Acquired Nationality.

    The concept is defined as one of the most important fundamentals through which it is known, since through the concept the recipient can know what the meaning of the term means. In our research, the terms "apparent state" and "acquired nationality" are important expressions of private international law (Muhammad bin Makram bin Manzur Al-Andalusi, 1994). Therefore, both terms must be defined so that the reader can distinguish the concept and clarify them as follows:

4.1.1.   Definition of Apparent Situation.

The apparent situation is a term consisting of two words (status) and (phenomenon), so the linguistic definition of the term must be produced after partial knowledge; It is stated in the language dictionaries that the situation is feminized, the situation is what the human or animal

was from a recipe body, and the phrase "phenomenon" is a word derived from the act, which appears to be feminized by the name of the perpetrator; The phenomenon is unlike the esoteric, and the phenomenon is said; It's caused by people gathering phenomena (Abu Al-Hussein Ahmed bin Faris, 1979). In terminology, the apparent situation is defined as the situation in which a person manifests himself or herself in his or her behaviour and relations with the environment in which he or she lives, in terms of whether or not he or she is a citizen and a member of the community within which he or she lives (Houria Gharbi and Al-Tayeb Zorti, 2019).

4.1.2. Acquired Nationality.

Acquired nationality is defined as being acquired by Christmas, because a person acquires it during his life after birth, and the elements of its acquisition by law are not completed by birth, but are completed later, the most important of which is residence and eligibility, and does not change its nature if birth is one of the elements of its validity as long as it is not granted to a person immediately after birth (Abdul Rasoul Abdul Redha Al-Asadi, 2000).

4.2. Elements of the Apparent Situation.

The apparent situation has a set of elements first: name: -the name is intended for the individual to enjoy a national name from the country's name; It is what distinguishes a person from the other, and realizes his personality, and it is the word that is called a person (Moshaal Fatima, 2012). to appoint him and distinguish him from other members of his family, and the distinctive identifier name of the individual is that which he calls, sometimes prevents him from suspicion and distinguishes him from his peers and is a necessity for each individual and the Iraqi legislator has defined the name of the individual who distinguishes him from the other person in the same family, which is recorded in the civil registry and the information base, while algerian legislature has to have an individual's name and surname s name, but also the surname and nickname (Yassin Taher Al-Yasiri, 2019). Second: fame means fame that the individual appears and is renowned for the appearance of patriotism in front of others whether in his dealings with them or his beliefs s persistent and repeated belief that this person is a constituent of the people of the State (Zahir Majeed Qader and Kawan Ismail Ibrahim, and Hiwa Ibrahim Qader, 2019). He manifests himself as a patriot by practising his customs and traditions and embracing his beliefs; this society is linked to actual and legal ties and appears before the people in the image of the national individual (Ahmed Mokhtar Abdel Hamid, 2008). Third: Treatment: Treatment is intended to be treated by all people as a patriot, and the person must be treated as such by the State's administrators, but not only as such by a particular group of individuals, but also as a mutual act of nationality by the same person (The Arabic Language Academy, 1972).

5. Role of the Apparent Situation in Establishing Acquired Nationality.

The granting of another nationality may impose on an issue considered to be one of the problems of nationality, known as dual nationality, which may result in the loss or execution of one of the two nationalities, so it is imperative that the individual prove it. In this study (Laidi Abdel Qader, 2011), we will address ways of establishing the apparent situation in the methods of granting acquired nationality such as naturalization and mixed marriage, as follows:

5.1. Proof of Nationality Acquired by Naturalization through Apparent Situation.

Naturalization is one of the most important ways of acquiring acquired citizenship, naturalization or (Naturalization) in the language is taken from the root (N L Z) which expresses a single true origin indicating the multiplication of the object The conditions for naturalization vary from State to State (Ahmed Mahmoud Mowafi Ahmed, 2010). States with a densely populated population are difficult to naturalize. Several difficult conditions are required to reverse States with low population density and tend to simplify naturalisation procedures (Abdul Hakim Mustafa Abdul Karim, 2017). In the past, the Iraqi legislature tried to simplify the difficulty of identifying evidence of Iraqi nationality. This official document was represented by the so-called Iraqi nationality certificate, through which the evidence became direct. Thus, it can be understood from the previous text that the Iraqi legislator considered the written evidence to be the only evidence capable of establishing acquired nationality (Ali Pasha Khalifa, 2021).

In Egypt's legislation, he placed the burden of proof on those who claimed to possess Egyptian nationality or who denied it; the burden of proof falls on the plaintiff who will face the competent authority to grant Egyptian nationality (Ezz El-Din Abdullah, 1977). Some have argued that the reference in the proof of Egyptian nationality is the provisions of the Constitution and the law governing nationality and not to what is contained in his papers, even if it is official since it is not originally prepared for the proof of nationality and issued informally (Ikhlas Farhan Muhi, 2024). The evidence in these papers is nothing but a reality that dictates that the Administration may not investigate the validity of this information. Thus, the Egyptian legislator was no different from his Iraqi counterpart in that the burden of proof lay with the plaintiff and that the apparent situation could be proven to be reversed when stronger evidence emerged (Nadim Marashli and Osama Marashli, 1974).

5.2.   Proof of Nationality Acquired by Mixed Marriage through Apparent Situation.

The Iraqi legislator defined marriage as a contract between a man and a woman legitimately dissolved for the purpose of establishing an association of common life and offspring, as well as the Algerian legislature as a consensual contract between a man and a woman legitimately aimed at the formation of a family based on affection, compassion and cooperation, the immunity of the spouses and the maintenance of affiliation (Mustafa Kamel Yassin, 2007).

From the foregoing, we can arrive at a specific definition of mixed marriage after what we know about the marriage contract. Therefore, the definition of mixed marriage does not depart from the fact that it is a consensual contract between a man and a woman, one of which is different from the nationality of the other, the purpose of which is to create a common life and reproduction in which the foreign spouse must acquire the nationality of the other spouse's country (Rashid Sultan Ali Al-Khidr, 2013).

In the event that the alien marries an Iraqi who maintains the apparent situation, we consider that the alien is entitled to citizenship from the date on which the valid contract was established and not from the date on which his race was ruled; Because this is a matter where the duration is crucial and because the apparent situation means the appearance of the individual as a national, that is, it is a presumption that he belongs to the country (Ahmed Mahmoud Mowafi Ahmed, 2010). Once he is deemed to be indeed Iraqi and legally, his personal actions have gone back

and all the rights have been retroactively restored to him. (Marriage status) Marriage must first be proven in order to establish the apparent situation and the reason for granting citizenship to the alien who maintains the apparent situation. In the case of the Algerian project, the alien or foreigner who married Algerian nationals is considered to have acquired Algerian citizenship whenever 3 years have elapsed since marriage and have at least two years' residence in Alg. and we find that the Algerian legislature has not explicitly provided for the possibility of adopting the apparent situation in this case, nor has it denied that it can be upheld, They can therefore be relied upon as we have already spoken about (Gibran Masoud, 1992).

Conclusion

After talking about the topic (the impact of the apparent situation on the proof of nationality acquired a comparative study), we have reached several conclusions through our research, which can be summarized as follows:

First: Results:

1.   In the apparent case, the appearance of an individual in a given country is a legal presumption in the legislation of certain States, such as France, Morocco and Algeria, and a judicial presumption in the legislation of other States, such as Iraq and Egypt.

2.   We have demonstrated that the apparent situation can be used to establish acquired nationality once the person acquiring the country's nationality has lost proof of his prior belonging to that State.

3.   Mixed marriage is a case in which an individual can acquire the nationality of the other spouse's country status ", comparable legislation had differed in the terms of the grant, and it had been found that the apparent situation in that type of nationality could only rarely occur. The basis for granting citizenship was the existence of a marriage contract, which was an official source that could be used to establish the reality rather than the apparent situation.

Second: Recommendations:

1.   The Iraqi legislature should have a role in amending the Iraqi Nationality Law No. 26 of 2006 by allowing the apparent situation to be regarded as a legal presumption by which Iraqi nationality can be established.

2.   States should rely on a method of preservation of all their decisions on the granting of nationality to foreigners so as to ensure that they do not fall at the juncture of the apparent situation.

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