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Assimilation of Cultures: Why the Protection and Recognition of Dual Nationality is Necessary

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NOTE

**ASSIMILATION OF CULTURES:
WHY THE PROTECTION AND RECOGNITION OF DUAL
NATIONALITY IS NECESSARY**

*Kevin James**

*Under current United States nationality law regarding citizenship through naturalization, dual nationality is neither inherently protected nor restricted. Specifically, the United States law does not explicitly mention dual nationality. The law does, however, create a subtle barrier to holding true dual nationality, a federally recognized and protected status of holding two or more nationalities, by requiring those obtaining citizenship through naturalization to participate in a long-standing tradition dating back to 1790: the “Oath of Allegiance” to the United States.¹⁶³ Reciting the oath declares that one relinquishes all loyalty from “every foreign prince, potentate, state, or sovereignty,” and swears complete allegiance to the United States.¹⁶⁴ Although the United States does not require one to formally renounce citizenship with other countries, the language present within the oath essentially requires one to yield their loyalty to their home country. This Note divulges important factors as to why the United States should formally recognize and protect dual nationality in written immigration laws instead of allowing *de facto* dual nationality by simply not restricting or recognizing it.*

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¹⁶³ See *History of the Oath of Allegiance* (2020), U.S. Citizenship and Immigration Services, <https://www.uscis.gov/citizenship/learn-about-citizenship/the-naturalization-interview-and-test/history-of-the-oath-of-allegiance>.

¹⁶⁴ *Id.*

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I. INTRODUCTION

Many people refer to the United States as a “melting pot of cultures.” It is a land founded by immigrants, and that flourishes because of immigration from countless countries. However, once one comes to this country should they yield the identity of their homeland for “American” values and identity? Although the United States does not require one to relinquish their citizenship from another country upon obtaining citizenship in the United States, immigration laws create many barriers that essentially accomplish this. The first barrier is the required “Oath of Allegiance,” which requires one to relinquish their loyalty to their homeland and pledge their allegiance only to the United States upon naturalization. The next barrier is passport restrictions on those who hold multiple citizenships; all United States citizens must travel with a United States passport when entering and leaving the United States.¹⁶⁵ Meaning, even if one holds a passport from their previous country, they may not use it while traveling in and out of the United States.

Although this may not seem restrictive, it forces dual nationals to get a United States passport and pressures them to use it as their primary passport. This also pushes dual nationals to yield their passport from other countries in order to avoid the cost of maintaining both, unless they are required to use it while entering or leaving that country. Lastly, there is an abundance of foreign policy laws implemented by other countries that require one to relinquish their prior citizenship upon obtaining new citizenship with another country. Specifically, countries such as Cuba, India, China, Japan, the Bahamas, and many more forbid dual citizenship and either automatically revoke or require that they formally renounce their citizenship upon obtaining citizenship with another country.¹⁶⁶ Although the United States is more progressive than these nations with allowing dual nationalities, the United States immigration laws must be further amended to truly allow and formally recognize dual citizenship by repealing these barriers. This is an important

¹⁶⁵ See *Dual Nationality*, U.S Department of State - Bureau of Consular Affairs, <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/Advice-about-Possible-Loss-of-US-Nationality-Dual-Nationality/Dual-Nationality.html#:~:text=The%20concept%20of%20dual%20nationality,countries%20at%20the%20same%20time.&text=U.S.%20law%20does%20not%20mention,his%20or%20her%20U.S.%20citizenship>.

¹⁶⁶ See Daniel Wambugu, *Countries That Don't Recognize Dual Citizenship* (2019), WorldAtlas, <https://www.worldatlas.com/articles/countries-that-don-t-recognize-dual-citizenship.html#:~:text=There%20are%20numerous%20countries%20that,and%20China%20forbid%20dual%20citizenship>.

step toward embracing the United States' diversity, as well as its multitude of cultures and identities.

II. NATURALIZATION OATH OF ALLEGIANCE

Starting in 1790 — the year the first naturalization law was introduced — applicants applying for United States citizenship through naturalization are required to recite an oath to support and uphold the Constitution of the United States.¹⁶⁷ Shortly thereafter, the Naturalization Act of 1795 required applicants to “declare an intention (commitment) to become a U.S. citizen before filing a Petition for Naturalization.”¹⁶⁸ This commitment required applicants to state that upon obtaining citizenship, they will renounce all foreign loyalty by reciting the Oath of Allegiance. In addition to this, any “applicants born with a hereditary title also have to renounce their title or order of nobility.”¹⁶⁹ These barriers have stripped away immigrants' identities for centuries and although naturalization laws have been modified, these restrictions of representative culture and identity are still present today.

Prior to 1906, naturalization laws provided vague guidance to the approximately five thousand courts with naturalization jurisdiction. Prior naturalization laws did not provide a verbatim oath for recitation, but rather only stated that one:

Shall... declare, on oath... that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty; and, particularly, by name, to the prince, potentate, state, or sovereignty of which he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.¹⁷⁰

Due to the lack of guidance and structure provided to naturalization courts, many proceeded with different methods of enforcing this law.¹⁷¹ Some courts would simply document that an applicant recited this oath, while others would print their own version of the oath for applicants to read and recite upon being granted United States citizenship.¹⁷² However, Theodore Roosevelt signed an executive order on March 1, 1905 to form a commission to investigate the United States' naturalization laws and propose a draft for updated laws.¹⁷³ This commission included Chairman Milton D. Purdy of the

¹⁶⁷ See *History of the Oath of Allegiance*, *supra* note 1.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ See Milton Purdy, Gaillard Hunt, and Richard Campbell, *Report to the President of the Commission on Naturalization* (1905), <http://hdl.handle.net/2027/coo.31924032790044>.

Department of Justice; Gaillard Hunt of the Department of State; and Richard K. Campbell of the Department of Commerce and Labor.¹⁷⁴ The commission ultimately “recommended classifying and summarizing naturalization laws into a code (re-codification), the creation of a federal agency to oversee naturalization procedures, and standard forms for all U.S. naturalizations, including a form for the oath of allegiance.”¹⁷⁵

The recommendations of the commission resulted in the Basic Naturalization Act of 1906, which included many of the commissions’ recommendations but refused to require a “separate form for the oath of allegiance”; the oath remained a requirement at an applicants’ final hearing.¹⁷⁶ In addition, the act also “added the section of the oath requiring new citizens to defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; and bear true faith and allegiance to the same.”¹⁷⁷ However, the official and standardized text for the oath of allegiance still did not appear in the regulations until 1929.¹⁷⁸

The oath of allegiance was yet again amended in the Immigration Act of September 23, 1950 to include language that forced applicants to commit to “bearing arms on behalf of the United States when required by the law; and performing noncombatant service in the armed forces of the United States when required by the law.”¹⁷⁹ The only exception to the oath of allegiance occurs when an applicant is opposed to bearing arms or noncombatant service due to religious beliefs.¹⁸⁰

The last modification to the oath of allegiance that still remains today was added in the Immigration and Nationality Act of 1952, which requires applicants to swear to perform deemed to be of national importance when required by law.¹⁸¹ The principles outlined in the Oath of Allegiance are “codified in Section 337(a) in the Immigration and Nationality Act (INA)”.¹⁸² The full Oath of Allegiance that applicants of immigration through naturalization must recite currently states:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and

¹⁷⁴ *Id.*

¹⁷⁵ See *History of the Oath of Allegiance*, *supra* note 1.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² See *Naturalization Oath of Allegiance to the United States of America* (2020), USCIS, <https://www.uscis.gov/citizenship/learn-about-citizenship/the-naturalization-interview-and-test/naturalization-oath-of-allegiance-to-the-united-states-of-america>.

defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.¹⁸³

The Oath of Allegiance has been restrictive in nature since its 1790 implementation and amendments within the past hundreds of years have ultimately only created more barriers in expressing national identities and culture. Immigration through naturalization remains a controversial topic today, though even within recent generations, most Americans have directly descended from immigrants. However, this required oath has greatly suppressed their national identity. Numerous other restrictions have also been proposed that would create extreme barriers to cultivating, embracing, and encouraging our nation's cultural diversity.

Specifically, the same commission created by President Theodore Roosevelt in 1905 proposed that "no one be admitted to citizenship who does not know the English language."¹⁸⁴ In the "Report To The President of the Commission on Naturalization" submitted during the 1st Session of the 59th Congress, it claims "no man is a desirable citizen of the United States who does not know the English language."¹⁸⁵ While this specific policy proposed over a century ago was not implemented, the concept of a national language resembles other policies still being debated today that would restrict cultural and national identities. United States immigration laws remain incredibly vague and lack the protection that immigrants and descendants of immigrants need. The Oath of Allegiance has not been updated since 1952; a progressive step would be to repeal the Oath of Allegiance completely or at the minimum, eliminate language that restricts one from embracing their heritage or homeland identity.

III. INTERNATIONAL TRAVEL WITH MULTIPLE PASSPORTS

Many dual nationals, including those born as a United States citizen, hold multiple passports; it is common for dual nationals to have a passport for each country in which they have citizenship. However, the United States and other countries implement barriers that restrict the mobility and function of these passports. United States citizens are required to use a government issued

¹⁸³ *Id.*

¹⁸⁴ See Purdy, Hunt, and Campbell, *supra* note 11.

¹⁸⁵ *Id.*

passport while leaving and entering the country.¹⁸⁶ While this may not seem like a large barrier in expressing national identities, it mandates dual nationals to have a United States passport even if they already own a valid passport from another country.

It also may financially incentivize dual nationals to skip renewing their foreign passport if that country does not also have the exit and entry passport restrictions as per United States passport regulations. If one legally holds a foreign passport that the United States accepts from non-citizens, the government should allow these passports for dual United States citizens to travel as well. Moreover, *Kawakita v. U.S.* 343 U.S. 717 (1952) ruled that dual nationality is:

A status long recognized in the law; and that, a person may have and exercise rights of nationality in two countries and be subject to the responsibilities of both. The mere fact that he asserts the rights of one citizenship does not without more mean that he renounces the other.¹⁸⁷

After all, those who obtain dual nationality through United States naturalization can still hold recognized citizenship in their country of origin, and that person — along with others holding dual citizenship through other methods — should have the freedom to choose which passport to use as their primary travel document since they hold legal obligations to both nations.

IV. FOREIGN LAWS CONCERNING DUAL NATIONALITY

Although the United States has numerous restrictions regarding dual nationality, its naturalization laws are far more protective and progressive than several other countries. Many countries forbid their citizens from holding citizenship in another country. For example, Malaysia and Thailand made a joint-agreement in 2007 to “crack down” on dual-nationality holders by forcing persons with dual citizenship to formally renounce citizenship from one country.¹⁸⁸ Malaysian Prime Minister Abdullah bin Ahmad Badawi described this policy as “one of the most positive steps that both countries had taken to solve the issue of dual citizenship.”¹⁸⁹ However, dual nationality and diversity should not be considered an “issue,” but rather celebrated, recognized and protected.

¹⁸⁶ See *Dual Nationality*, *supra* note 3.

¹⁸⁷ See H Ansgar Kelly, *Dual Nationality, the Myth of Election, and a Kinder, Gentler State Department*, 23-45.

¹⁸⁸ See Arul Rajoo, *Malaysia, Thailand agree to crackdown on dual citizenship holders*, BBC Monitoring Asia Pacific, (Feb. 13, 2007), <https://advance-lexis-com.avoserv2.library.fordham.edu/api/document?collection=news&id=urn:contentItem:4N20-GMX0-TX34-N29B-00000-00&context=1516831>.

¹⁸⁹ *Id.*

However, Thailand wishes to restrict dual nationality to ‘battle’ “a Muslim insurgency in its southern provinces.”¹⁹⁰ Thailand and Malaysia deliberately enacted this policy to strip Muslim citizens of certain privileges that come with citizenship. To implement and enforce this policy, Prime Minister Abdullah explained that “both countries would present the number of suspected people holding dual citizenship before their respective authorities use biometric technology to make comparisons on their identities and trace those with such status.”¹⁹¹ Similar to Thailand and Malaysia, several other countries have implemented similar policies and extreme measures to forbid dual citizenship.

Botswana also holds one of the strictest policies in regard to holding multiple citizenships; except under rare exemptions, it is illegal for any citizen to have dual citizenship. In 2018, Botswana announced that it would:

Cancel citizenship for all persons above the age of 21 who have not renounced citizenship of another country. Currently a child born to a Botswana citizen and a foreigner has dual citizenship or is considered to assume the nationality of both parents until the age of 21.¹⁹²

Any person under 21 with dual nationality must formally renounce all other citizenship statuses before the age of 21 or face the automatic loss of Botswana citizenship. It is their belief that if a child is born in Botswana with dual citizenship inherited from a parent of a foreign nation, they must choose citizenship from one country. This is why Botswana allows any individual until legal adulthood to make this decision; they believe this permits a better understanding of both countries to choose from. However, renouncing one’s citizenship is a difficult and often emotional decision. Even if they have grown up enjoying the cultures provided by both nations, they must choose one country to receive citizenship privileges for.

Due to restrictive nationality laws such as these that are still forcing citizens to make a choice between two worlds their identity and livelihood, it is apparent that allowing dual nationality is the bare minimum that a nation should commit to within immigration and nationality laws. Especially in comparison to the plethora of countries with these restrictions, some argue that the United States already provides adequate protection for their dual national citizens. However, the United States should lead by example and fully protect dual-national status; current protections are monumental

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² See Omang Kilano, *Botswana cancels dual citizenship - The Patriot on Sunday* (2018), *The Patriot*, <https://www.thepatriot.co.bw/news/item/5498-botswana-cancels-dual-citizenship.html>.

compared to other aforementioned countries, but there is more that should be done to protect and recognize this status for the future.

V. CONCLUSION

While noting more lenient than many other countries by simply not prohibiting dual nationality, the United States continues to have restrictive barriers to truly allowing true dual citizenship — a federally recognized and protected status of holding two or more nationalities. In particular, the Oath of Allegiance required upon receiving United States naturalization essentially sets the standard that, while you may hold citizenship in your country of origin, you must remain loyal to the United States above all other nationalities. Reciting the oath erases the meaningfulness of having dual citizenship: having the ability to reap the benefits and privileges that come with holding citizenship in countries that make up one's identity. Current United States policy essentially asserts that an immigrant must hold their American identity as their dominant culture and identity.

While many other immigration laws are constantly modified and remain within popular political discourse, the Oath of Allegiance has not been updated since 1952. In addition to the Oath of Allegiance, passport restrictions create an additional barrier for allowing dual citizens the full benefits of their various citizenships. As a country that prides itself upon a diverse populace — a country founded by and built by immigrants — it is of the utmost importance to federally recognize, protect, and celebrate dual national status. Anything less than full recognition and legal protection is cultural assimilation and restricts people from expressing and reaping the benefits of their multicultural identities.

* * *