

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

National “ID” card and citizenship of Afghanistan in the reign of Ghazi Amanullah Khan

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Abstract:

Citizenship or nationality is the main principle of modern world. Afghanistan has admitted it about a century ago and a bylaw has been approved by King Amanullah Khan’s government named “*population identity card and passport regulations’ Nizamnamah and citizenship law*”. King Amanullah Khan has aimed to related his citizens with government and that’s why he signed such bylaw. According to bylaw of citizenship, all Afghan people had been given the citizenship and no one had been excluded. Moreover, Afghan were being lived abroad had been provided citizenship as well. The responsibility of granting citizenship for Afghans lived abroad was general consulates of Afghanistan. Furthermore, another important issue, granting citizenship to foreigner, was also considered as a norm in bylaw of citizenship. Further, the next favor of aforementioned bylaw was that to assigned the population and statistical officials and employees to prepare statistical and populace reports of population biannually and send out to central government. Finally, the bylaw had gotten all points of relation between afghan citizens and government including military services and so on. In addition to above mentioned spots, some international norms regarding citizenship will be explained as well.

Key terms

Citizenship, nationality, citizen, bylaw.

Forward

Citizenship is a relation between persons and government. The relation donate identity to persons and find real persons for state’s sovereignty to be applied. If such relation doesn’t exist, thus individuals’ identity could be imperfect and states’ sovereignty might be questionable, due to non-existence of person for implementation of state’s sovereignty.

Research aim: Every country has its own principles and regulations for citizenship. Afghanistan had established such regulations almost a century ago. Those rules and regulations will be explained and analyzed in this paper.

Research's importance and efficiency: Almost a century ago, Afghanistan had the most significant rules for citizenship's acquisition, leaving of citizenship, duplicate citizenship, granting citizenship to foreigners and other regulation regarding citizenship. Its more critical to study, analyze, and criticize such norms and regulations. Those norms have its importance to be explained and analyzed according to citizenship's bylaw of Afghanistan.

Has it been a favor and meet bylaw named *population identity card and passport regulations' Nizamnamah and citizenship law?*

It is supposed that Afghanistan had meet and favorable rules for ID cards and other citizens related norms almost a century ago that was unique in the region.

Research methodology: This research has been conducted with descriptive-analytical method.

Citizenship Definition

Citizenship has multiple definition from various scholars, however, there isn't any definition that unified all scholars. Nevertheless, there is singularity at whole that citizenship is the legal and political relationship of state and persons.

Citizenship, the synonymous of an Arabic word (تابعیت) that is used for obedience and subordination of persons to state/government. The synonymous of citizenship in French is *citoyenneté* which mean Citizen quality. But, Professor Wali Muhammad Naseh, used the word "nationality" as French word and meant as nation. He farther says, nation was used first time for native people that were born in an area and resides, however, migrants and refuges weren't included.¹

The Encyclopedia Britannica defines citizenship as a relation among people and their government. **Citizenship**, relationship between an individual and a state to which the individual owes allegiance and in turn is entitled to its protection. Citizenship implies the status of freedom with accompanying responsibilities. Citizens have certain rights, duties, and responsibilities that are denied or only partially extended to aliens and other non-citizens residing in a country. In general, full political rights, including the right to vote and to hold public office, are predicated upon citizenship. The usual responsibilities of citizenship are allegiance, taxation, and military service.²

However, the term of citizenship sometimes used as nationality, but its broader than nationality. In this particular the Encyclopedia explain the relation between these two terms. Citizenship is the most privileged form of nationality. This broader term denotes various relations between an individual and a state that do not necessarily confer political rights but do imply other privileges, particularly

protection abroad. It is the term used in international law to denote all persons whom a state is entitled to protect. Nationality also serves to denote the relationship to a state of entities other than individuals; corporations, ships, and aircraft, for example, possess a nationality.³

“The Law Dictionary” online website of legal words used term “Nationality” for “citizenship”. That quality or character which arises from the fact of a person’s belonging to a nation or state. Nationality determines the political status of the individual, especially with reference to allegiance; while domicile determines his civil status. Nationality arises either by birth or by naturalization. According to Savigny, “nationality” is also used as opposed to “territoriality,” for the purpose of distinguishing the case of a nation having no national territory; e. g., the Jews. 8 Sav. Syst.⁴

Wali Muhammad Naseh quoted a definition of “Legal Terminology” that as follows: citizenship is a relation that relates individuals or things to the state, in the manner which rights and privileges of the individual have origin in such relationship.⁵

As mentioned before, there isn’t any mono-definition regarding citizenship, however, the “The legal Dictionary” has provided a perfect definition: Political, legal, and spiritual relation between a certain state and an individual that individuals’ original rights and obligations derived from such relation.⁶

This definition provides three points as below:

1. Citizenship is a political relation; means that state has the authority to determine who will have the citizenship of such country and who will not. Terms and conditions of naturalization refer to state. It is worth mentioning that naturalization isn’t the authority of government absolutely, but securing citizenship belongs to the individual’s intention, whenever he/she wants, it can be secured (this argumentation refers to citizenship by acquisition). Furthermore, citizenship determines the loyalty of individuals to its state and is obliged to enforceable law and regulations.
2. Citizenship is a legal relation. Means that it has a series of legal consequences, and develops rights. Through this relation, an individual can enjoy all rights inside the country, and protection of government abroad.
3. Citizenship is a spiritual relation. Means that the relation isn’t bound up with residence, whether or not a person resides inside its own country, he/she is considered as its citizen. For instance, an Afghan lives abroad, whether permanent or provisional, he/she is considered as Afghan.

Difference Between Nationality and Citizenship

Most of times it supposes that nationality and citizenship are synonyms and replaceable of each other. It's clear that nationality is being used for person's birth of place while citizenship is being used for person's intention acquisition. In this particular, it will be discussed that what's the exact meaning of nationality and citizenship? what are their differences and relations?

In general, to be a national is to be a member of a state. Nationality is acquired by birth or adoption, marriage, or descent (the specifics vary from country to country). Having a nationality is crucial for receiving full recognition under international law. Indeed, Article 15 of the Universal Declaration of Human Rights declares that "Everyone has the right to a nationality" and "No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality" but is silent on citizenship. Citizenship is a narrower concept: it is a specific legal relationship between a state and a person. It gives that person certain rights and responsibilities. It does not have to accompany nationality. In some Latin American countries, for example, such as Mexico, a person acquires nationality at birth but receives citizenship only upon turning 18: Mexican children, therefore, are nationals but not citizens.⁷

Nationality and citizenship are one of the most misconstrued terms, in the world. For a layman, the term nationality works as a substitute for citizenship and vice versa. But in reality, the difference between nationality and citizenship is quite evident, that we cannot ignore it. The **nationality** of a person, reveals his/her place of birth, i.e. from where he/she belongs. It defines the connection of a person to a particular nation. On the contrary, **citizenship** is granted to an individual by the government of the country, when he/she complies with the legal formalities. It is the status of being a citizen of a country.⁸

Based on international conventions, every sovereign state is entitled to determine its nationals, as per nationality law. One has the right enter or return to the country; they came from.

Citizenship is a status acquired by becoming a registered member of the state by law. Any person can become a member of the state by satisfying the legal requirements of the respective country. In simple terms, the virtue of being the citizen of the country is called citizenship. By inheritance, marriage, birth, naturalization are the ways to become a recognized citizen of the country. Every state grants some legal rights and privileges to its citizens, and they are bound to follow the rules and regulations framed by the government of the respective country. Once the person becomes a citizen of the state, he has the right to vote,

work, reside, pay taxes and take an active part in the country. Every person is a citizen of the country where he/she is born, but to become a citizen of some other country, one needs to apply for it.⁹ In more specific, summary of differences as follow:

1. The status arising out of the fact that a person is the origin of a particular nation is called Nationality. Citizenship is the political status that can be obtained by meeting the legal requirements set by the government of the state;
2. The nationality is an ethnic or racial concept. On the other hand, citizenship is a legal or juristic concept;
3. The nationality of a person indicates his/her place or country of birth while the citizenship of a person shows that the individual is registered as a citizen by the government of the respective country;
4. A person can become a national of a country by birth or by inheritance. As against this, there are a variety of ways through which an individual can become the citizen of a country, i.e. by birth, inheritance, marriage, naturalization or registration;
5. The nationality of a person cannot be changed. However, his citizenship can be changed;
6. The nationality of a person cannot be taken back, once acquired while the citizenship of a person can be taken back;
7. A person cannot be a national of more than one country. In contrast, a person can possess citizenship of more than one country at a time.¹⁰

The history of citizenship

As mentioned above, (تابعیت) “*taabeyat*” derived from obedience. It is an Arabic term and used for citizenship in Arabic grammar. In early ages of Islam, the word *taabeyat* was being used for obedience, when a person got power, other people reveal their intention by (بيعت) *beiat* which is close to *taabeyat*. However, this term was being used from early ages of Islam, it’s not mean that the current meaning of citizenship, formalities for securing and granting citizenship, and other respective procedures and regulations were at same position.

The concept of citizenship first arose in towns and city-states of ancient Greece, where it generally applied to property owners but not to women, slaves, or the poorer members of the community. A citizen in a Greek city-state was entitled to vote and was liable to taxation and military service. The Romans first used citizenship as a device to distinguish the residents of the city of Rome from those

peoples whose territories Rome had conquered and incorporated. As their empire continued to grow, the Romans granted citizenship to their allies throughout Italy proper and then to peoples in other Roman provinces, until in AD 212 citizenship was extended to all free inhabitants of the empire. Roman citizenship conferred important legal privileges within the empire.¹¹

The concept of national citizenship virtually disappeared in Europe during the Middle Ages, replaced as it was by a system of feudal rights and obligations. In the late Middle Ages and the Renaissance, the holding of citizenship in various cities and towns of Italy and Germany became a guarantee of immunity for merchants and other privileged persons from the claims and prerogatives of feudal overlords. Modern concepts of citizenship crystallized in the 18th century during the American and French Revolutions, when the term citizen came to suggest the possession of certain liberties in the face of the coercive powers of absolutist monarchs.¹² After gaining information about basics of definition, it's better to begin with King Amanullah Khan's reign explanation of citizenship.

Securing citizenship in the reign of King Amanullah Khan

Later on his majesty secured independence, King Amanullah Khan drafted the first constitution for reforming and rectification, afterwards his majesty begun to draft bylaws and developed several bylaws named "Nizamnamah". Amongst them, the "population identity card and passport regulations' Nizamnamah and citizenship law" was a bylaw that legalized the citizenship norms and regulations.

It has worth mentioning that Mr. Wali Muhammad Naseh didn't mentioned about (Nizamnamah), and quoted that citizenship begun in Afghanistan with "citizenship bylaw" (Taabeyat osolnamah) that was established in the reign of King Muhammad Nadir Khan. While the bylaw, which was developed in the reign of King Amanullah Khan, was about citizenship and has explained all procedures regarding citizenship.

Afghanistan's citizenship bylaw, which's name is already mentioned, was drafted in 1924 AC and consisted of 29 articles that including not only citizenship, but also had information about issuance organizations' and their authorities. Furthermore, the bylaw printed out in 2000 volume by Ministry of Education's press.

End of identity card based on bylaw

The main aim of citizenship is to identify citizen of a country, and to enjoy the rights and privileges and perform duty and responsibilities of their respective countries.

In the reign of King Amanullah Khan, the government commence granting citizenship due to recognize the character and identification of individuals. Moreover, protecting and assisting Afghans were being lived abroad is the objective of granting citizenship as well. First article of population identity card's bylaw says regarding its goals: the goal of issuing population identity card inside the country as well as abroad is to determine the identification of citizenship, our employ assist the mentioned person and all hardship and difficulty suffering during travel be vanished by our employees.¹³

Afghan citizens are imposed to gain identity card in various case, and every Afghan must have had the identity card, which called population identity); and he/she will be asked in particular conditions to show his/her ID cards. The second article quoted: Afghan citizen, whether resides inside or abroad, is imposed to gain certain citizenship of their own country.

First: in case when break up dealing with government, to reveal identity card is necessary;

Second: must reveal identity card during delivery of government products;

Third: commencement governmental tasks.

Fourth: to acquire passport, the ID was necessary.

Fifth: to gain subsidy*

Sixth: Throughout enrolment and admission of pupils at schools.¹⁴

In the above six case, it was necessary that every afghan must have had ID, if a person didn't, so he/she won't be able to enjoy such privileges and advantages mentioned above.

Do allow for foreign to be granted citizenship?

The principal grounds for acquiring citizenship (apart from international transactions such as transfer of territory or option) are birth within a certain territory, descent from a citizen parent, marriage to a citizen, and naturalization. There are two main systems used to determine citizenship as of the time of birth: jus soli, whereby citizenship is acquired by birth within the territory of the state, regardless of parental citizenship; and jus sanguine, whereby a person, wherever born, is a citizen of the state. If at the time of his/her birth, his/her parent is one. The United States and the countries of the British Commonwealth adopt the jus soli as their basic principle; they also recognize acquisition of nationality by descent but subject it to strict limitations. Other countries generally adopt the jus

* A governmental subsidy which was given to farmers for supporting their fields, these weren't cash loan but it was grains and cereals.

sanguine as their basic principle, supplementing it by provisions for acquisition of citizenship in case of combination of birth and domicile within the country, birth within the country of parents born there, and so on. The provisions of nationality laws that overlap often result in dual nationality; a person may be a citizen of two countries. Alternatively, the lack of uniform rules on citizenship acquisition and loss have sometimes produced lack of citizenship (statelessness). The acquisition of citizenship by a woman through marriage to a citizen was the prevailing principle in modern times until after World War I. Under this system, the wife and children shared the nationality status of the husband and father as head of the family. From the 1920s, under the impact of woman suffrage and ideas about the equality of men and women, a new system developed in which a woman's nationality was not affected by marriage. The resulting mixed-nationality marriages sometimes create complications, particularly in regard to the nationality status of the children, and accordingly various mixed systems have been devised, all stressing the woman's and child's freedom of choice.¹⁵

In general, acquisitive citizenship is being granted by individual's request accompany with respective government euphoria after some formalities. Every country has their own systems and procedures for granting citizenship to foreigner, and some countries imposed particular terms and conditions. In this particular, some countries asked a person to be grant citizenship that he/she must reside regularly or have to pay some taxes to earn citizenship of desired country. The following are some requirements to be generally meet by a person want to acquire citizenship of sought country.

In the reign of King Amanullah Khan, government was committed to grant citizenship to foreigner, and those who want to get Afghani citizenship, he/she must regard and observe the citizenship bylaw of Afghanistan. The bylaw says in this particular: The population's citizenship is being granted to citizen of Afghanistan great state, and while foreigners regard and observe the citizenship bylaw, he/she can have the Afghanistan's population citizenship.¹⁶

The above mentioned article says about granting citizenship to foreigner and recognizes as a right for foreigner, however, there isn't any terms and conditions to be fulfilled by a foreigner want to has got Afghan citizenship. This article mentioned only regarding the bylaw. The regarding bylaw was also uncertain and even there wasn't any other single article or clause to explain how to regard or observe the mentioned bylaw by foreigner during earning Afghani citizenship.

Afghans resided abroad

Commonly, every country provides facilities for their citizens to enjoy their own rights such as gaining citizenship, voting and so on. These rights are accessible through embassy or consulate of respective country for their citizens. Therewith, consulates of respective countries are liable for providing their citizen the whole civil/private rights and must purvey all rights to their citizens.

The government of Afghanistan are also commit to purvey the utilization of whole rights to its citizens, and to benefited Afghans to their own rights. This includes the right of citizenship as well. Such right was also taken into account in the reign of King Amanullah Khan as well, and Afghans were resided abroad were provided with citizenship gaining opportunities and track through consulate of Afghanistan. Consulate of Afghanistan was assigned to facilitate all opportunities for Afghan living abroad to enjoy their rights. The sixth article of citizenship bylaw states as follow: Afghan resides abroad are provided citizenship through respective embassies and consulates of Afghanistan. Moreover, those mentioned above, recourse (to respective office) during a year, collect their own ID cards, and do payment.¹⁷

The fee of an ID in the reign of King Amanullah Khan was one Qi-ran (50 cents).*

* One Qi-ran was equal to 50 cents or half an Afghani (Afghanistan currency).

This fee was estimated in the 12th article of citizenship bylaw of Afghanistan.

There was fear of fake ID cards. Avoiding such fake IDs, and for validating sic IDs, these ID cards must have had the seal (stamp) and specific serial number of an Afghan employee hired in one of Afghanistan's consulate. If an ID didn't have got seal and serial number, it would be considered as fake ID. This provision was stated in 8th article of the bylaw of citizenship. Among Afghans who resides abroad, and want to acquire population citizenship from Afghanistan's respective consulate, if it wasn't sealed or didn't had serial number on behalf of an Afghan employee, it shouldn't be considered as valid ID.¹⁸

Duplicate citizenship

Duplicate citizenship is the second similar citizenship to original one, qua the original to be missed or to be burn. Moreover, Afghanistan's ID cards are made of paper that is more damageable, hurtful, and pernicious to any other external cause. In the reign of King Amanullah Khan the population citizenships were made of paper as well, and the quality of paper was too low than nowadays quality of paper and more damageable than current paper citizenship. The bylaw that was applicable that era considered such issue and solved the problem with better solution. It was duplicated copy of ID; was being issued by employees of MoI (ministry of interior). The 7th article of citizenship bylaw states: if an Afghan citizen missing his/her population ID inside or abroad, he/she must prove his/her Afghan citizenship, and secure population ID from pre-specified office.¹⁹

Citizenship's advantages

Citizenship is the relationship between an individual and government that relate each other. Citizenship is beneficial for both individual and government. Through citizenship; individuals are provided by whole governmental rights and privileges, on the other hand, government determine its citizens' obligation and responsibilities. First, there is discussion about advantages of citizenship in generally; afterward benefits of citizenship based on bylaw are explained.

General advantages of citizenship

In general, citizenship has more benefits for both side government and citizen as well. The most important benefit is the right to vote in elections. In a democracy regime, citizens can have a big role in shaping the decisions a country makes. The desires and opinions of citizens can influence elected lawmakers. Since citizens have the right to vote, they can elect officials whose political ideas they share. If they are unhappy with an elected official, they can

vote for someone else in the next election. Citizens can run for political office themselves.²⁰

In other countries, such as US, the citizenship has advantages that rather meet to democracy, voting, and right of election. Every year many people become naturalized, or are given rights, as U.S citizens. Bishop J. Douglas Deshotel pointed out some advantage of US citizenship that as follow:

1. *Right to Vote;*
2. *Right to Immigrate Family Members;*
3. *Greater Employment Opportunities;*
4. *Right to Remain Outside of the U.S. for an Extended Period of Time;*

At present, we will discuss the advantages of Afghanistan citizenship that had been mentioned in bylaw of citizenship after securing independence.

Every country has its own laws and regulations for gaining and losing citizenship. While the acquiring of citizenship has specific benefits for citizen of such countries and every individual must be given citizenship. In Afghanistan, there are some benefits of citizenship that as follow:

Now the benefits of citizenship that was highlighted in bylaw of citizenship of Afghanistan as below.

A; To determine an Afghan citizen. One of the main and apparent advantages of citizenship is to recognize the character and identity of individuals and provide information regarding their residence and any other requirements and necessary information. Citizenship bylaw says about this advantage: determination of Afghan citizen's identity is based on population ID...²¹ It shows that the easiest way of knowing one's identity is citizenship or population ID which King Amanullah Khan consider strongly this issue for identifying Afghans inside the country as well as in the rest of world. It's worth mentioning, in the reign of Majesty Amanullah Khan hundreds of thousands of people migrated from British-Control-India into Afghanistan, and settled several provinces of the country. If those people were resided and integrated with Afghans, thus they were excluded in those subsidies and privileges which King Amanullah Khan allocated to migrants. Due to Afghans weren't be benefited from such privileges, hence citizenship was the best way to recognize and determine the identity and character of individuals.

B; Securing passport: As living inside the own country, enjoying respective rights, and fulfillment obligation requires citizenship and ID particularly, and without citizenship the identification of individuals' can't be determined; similarly,

travel abroad requires passport. Without passport and visa of respective country, a person can't be able to travel abroad. Issuing passport is based on ID or citizenship of respective country. When a person wants to secure a passport of a country, he/she must be the citizen of respective country; without citizenship, he/she won't be able to even apply for passport.

Issuing passport in the reign of King Amanullah Khan was related to citizenship, and was taken into account as a compulsory and essential tool for securing passport. If a person hadn't got ID or citizenship, so he/she couldn't travel abroad. Aforementioned, must had got ID or citizenship first, then applied for and secured passport, finally he/she could travel abroad easily.

Military services

There was biannually reporting system (Hamal and Hoot month of solar year) regarding population from regional official to central government in the reign of King Amanullah Khan. The lower official must classified all population based on age, and send all information to central government. Every category was classified separately based of age and sent to central government. Those lists included the whole character and identity and any other information of newborn, tot, kids, adult, adolescent, youth, mature, middle aged and elder as well as who's passed away. Moreover, those list included information about people had disabilities and defective people. Based on those reports, government summoning and calling up those people, who's ages were met to military service and recruited them. Those who recruited must serve specific time for security and defense of Afghanistan. Recruiting provision was quoted in 18th article of citizenship bylaw. Ministry of defense must have asked the necessary recruitments before November (Qaus month of Solar year) of forthcoming year. Population directorate prepare list of meet people to be recruited and send back to the ministry of defense. Based on those information send backed to them, Ministry of defense summon and recruit the require amount for army.

If an employ, official, or headman of a village have committed disobedience or refuse to collect and report information to the central government, he/she would be punished according to 17th article of citizenship bylaw. Further, if a person committed fraud or falsification, he/she would be punished as well. Finally, the military service was one of obligation of Afghan, which aims to defense their own country against any internal and external enemy and stable peace.

In addition, there was explanation of issuing employees in citizenship bylaw of Afghanistan, and general director in the formation of MoI was the first in-charge.

Furthermore, populace directorate in Kabul and other lieutenant governors and temporary clerks in districts were the distributors of population ID cards as well.

Conclusion

Every research has its own results. These results have significance due to the researcher done research on truth and reach to importance spot of such research based on researcher's study and data. This research concluded as follow:

1. Afghanistan, a century ago, not only developed a spirit of independence with endeavor of King Amanullah Khan, but also mainstream the legislation of various law for arrangement and ordering.

2. Citizenship is the main and original connection between an individual and government and can be developed and strengthen with legislation. King Amanullah Khan established such relation by his wise effort for first time.

3. It had its own shortcoming in itself; however, aforementioned bylaw of citizenship had meet and perfect role and regulation regarding citizenship's arrangement.

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