

The nationality laws of the Lusophone states in Africa

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Abstract: This article provides a detailed comparative overview of the nationality laws of the five Lusophone member states of the African Union, known collectively as the Países Africanos de Língua Oficial Portuguesa (PALOP): Angola, Guinea Bissau, and Mozambique on the continental mainland, and the island archipelagos of Cape Verde and São Tomé and Príncipe. The five states share family likenesses among themselves and with East Timor, but also show important differences, and have diverged since independence. The legal regimes reflect not only the framework of law inherited from Portugal, but also the ideological outlooks of the liberation movements that took power on Portugal's departure in 1975, and the political struggles over belonging and participation that have taken place since independence. All five states have shared in the continental trend towards adopting or strengthening gender equality and reducing restrictions on dual nationality. There is, however, a lack of research on the application of the rules in practice, given low rates of birth registration and civil registration generally.

Key words: Nationality, citizenship, civil registration, Africa, statelessness

1. Introduction

The nationality laws of Portugal's former colonial territories in Africa – Angola, Guinea Bissau, and Mozambique on the continental mainland, and the island archipelagos of Cape Verde and São Tomé and Príncipe – share family likenesses among themselves and with East Timor, but also show important differences, and have diverged since independence.² The legal regimes reflect the frameworks of law inherited from Portugal itself, the ideological outlooks of the liberation movements that took power on Portugal's departure in 1975, and the political struggles over belonging

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² This article uses the term 'nationality', rather than 'citizenship', in line with the wording of international law. The constitutions and laws of the PALOP states are not consistent, using *nacionalidade* for the abstract principle, and *cidadão* to refer to an individual with nationality. The Guinea Bissau constitution, however, provides for a right to *cidadania*, rather than *nacionalidade* (art.44).

and participation that have taken place since independence. Like the laws of the former colonial territories of Britain and France they demonstrate the ways in which a particular colonial regime creates a form of path-dependency in the framework of the law, but also the real importance given to nationality by politicians and activists alike as laws have been shaped and adjusted since independence (Manby, 2018).

Today, their nationality laws remain among the more open on the continent in relation to those born in the territory (reflecting both Portugal's example, and the socialist leanings of the liberation movements), even though Angola and Guinea Bissau have reduced such rights. All five states have shared in the continental trend towards adopting or strengthening gender equality and reducing restrictions on dual nationality. There is, however, a serious lack of research on the application of the rules in practice, especially on the practical implementation of the system, given low rates of birth registration and civil registration generally.

2. History

2.1. Colonial period

As the European empires in Africa expanded, residents of territory annexed by a European power were considered to become nationals of that state, unless treaties provided otherwise (as applied in Africa, see discussion in Manby, 2018, chap. 3; for the international law see Weis, 1979). There was, however, at that time a clear distinction between the claim of an individual to the protection of his or her country of nationality against other states, and the rights of that individual within the territory of which he or she had nationality. Only a tiny minority of Africans ever achieved an equivalent legal status to whites, even where there was an ideology of assimilation; while those of mixed parentage created legal and intellectual confusions that the colonial powers struggled to resolve within their worldview (Keese, 2007; Lewis, 1962; Mann and Roberts, 1991; Saada, 2007).

The Portuguese territories in Africa were subject to repeated changes in political status, but the basic policies towards indigenous populations remained more or less stable (Manby, 2018, chap. 3.3; Newitt, 1995, pp. 378–577; Nugent, 2004, pp. 17–18 & 261–71). During the eighteenth century, Portuguese overseas territories were named *colónias*; they were rebranded as *províncias* in the 1820 Portuguese constitution, a status they kept in the 1911 constitution. They were once again renamed *colónias* in the 1933 constitution of the *Estado Novo*

dictatorship, until 1951, when they were again called *províncias*. Two categories of citizenship were introduced in 1899, for the purposes of labour regulations: the *indígena* (native) and the *não-indígena* (non-native). The *não-indígenas*, European-born Portuguese and white-skinned foreigners were full Portuguese citizens (*cidadãos*) subject to metropolitan laws, or alternatively benefited from the diplomatic protection of their state of nationality; whereas the *indígenas* were administered under the customary laws of each territory, as modified or interpreted by Portuguese authorities, and subject to a range of coercive measures (Mendy, 2003). Gradually, a third category emerged, that of *assimilado*, that is, a person (initially usually of Asian descent, or those of mixed-race – especially in Cape Verde and São Tomé & Príncipe – but including some Africans) who claimed the status of *não-indígena* on the basis of education, knowledge of Portuguese language and culture, profession, and income. From 1917 specific procedures were adopted to establish status (da Ponte, 1974; Newitt, 1995, pp. 382–85 & 441–44), and a 1954 decree-law on the *Estatuto do Indigenato*³ established a more complete and less arbitrary framework on the status of *indígena* in the mainland territories, as well as the rules and procedures by which an *indígena* could become a *cidadão* (Durieux, 1955). Formal legal equality in the colonies was established by the Portuguese only in 1961, in the midst of liberation wars in Africa, when any African could formally choose to become a Portuguese citizen and the worst kinds of forced labour were abolished (Ishemo, 1995; Mamdani, 2000; O’Laughlin, 2000).

Though the systems differed, in all colonial territories the ‘natives’ (*indigènes* in French, *indígenas* in Portuguese) were not only subject to different legal regimes but were also usually obliged to work, to pay specific taxes (in cash, in kind and in labour), and to obtain a pass to travel within or to leave the country; while European citizens could leave the country freely, were exempt from labour legislation, and paid taxes at different rates.

2.2. Transition to independence

The five former Portuguese colonies gained independence a decade and a half later than most of the African states, following a long liberation struggle and the final 1974 collapse of the *Estado Novo* in Portugal. Unlike the former British territories, but similarly to the French territories, there was no bilaterally negotiated framework for attribution of nationality on independence. Although at least in the case of Angola and Mozambique the accords between the new Portuguese government and

³ Decreto-lei No.39666 of 26 May 1954.

the various liberation movements provided some frameworks, the detailed legal provisions on nationality at succession of states were not mutually agreed (Jerónimo, 2019a, p. 6, 2019b, p. 7).⁴ The departing Portuguese adopted rules on who retained Portuguese nationality (which left some at risk of statelessness: see Ramos, 2013), while the new states were free to adopt their own laws.

Four of the new states, known collectively as the *Países Africanos de Língua Oficial Portuguesa* (PALOP) adopted rules favouring the grant of nationality to those who had fought against the Portuguese or penalising those who had collaborated with the colonial regime. In Mozambique, those who had participated in the liberation struggle within the structures of FRELIMO (the *Frente de Libertação de Moçambique*) were given the right to opt for Mozambican nationality, and nationality was excluded for people who had been members of ‘colonial-fascist political organisations’.⁵ Angola provided for those who had given services to the national liberation struggle to be considered Angolans with full rights; and denied nationality to those had committed crimes against the people or the national liberation struggle.⁶ Cape Verde and Guinea Bissau had matching provisions mutually facilitating access to the other’s nationality, based on the relationship created by the single party that brought both to independence, the *Partido africano de independência da Guiné e Cabo Verde* (PAIGC), founded by Amílcar Cabral.⁷ Cape Verde also adopted a 1976 ordinance providing for a special register as an ‘exceptional solution’ to create a record of thousands of Cape Verdeans returning to the country from Angola and Timor without any documents.⁸ (In 2004, a law provided for attribution of nationality following a simple declaration to those issued birth certificates under this ordinance, and to their children and grandchildren.⁹)

Generally, transitional measures favoured the automatic attribution of the nationality of the new state: for example Angola’s first nationality

⁴ There were some general terms agreed by negotiation, however. In the case of Angola, the ‘Alvor Agreements’ of 15 January 1975, between the Portuguese government and representatives of the three Angolan liberation movements (FNLA, MPLA and UNITA), enshrined the principle that all inhabitants of Angola irrespective of race would be entitled to Angolan nationality; while the Lusaka Accord of 7 September 1974 with FRELIMO as the sole representative of the Mozambican people stated that there would be separate mutual agreements to regulate the status of Portuguese citizens residing in Mozambique and of Mozambican citizens residing in Portugal.

⁵ Moçambique Lei da nacionalidade de 20 de Junho de 1975, arts. 3 & 7.

⁶ Angola Lei da nacionalidade de 10 de Novembro de 1975, arts. 4 & 6.

⁷ Guiné-Bissau Lei no.1/1976 de 3 de Maio, capítulo II, secção I; Cabo Verde Decreto-Lei no.71/76 de 24 de Julho, capítulo II, secção I.

⁸ Portaria No.5/76 de 25 de Fevereiro.

⁹ Lei No.51/VI/2004 de 13 de Setembro.

law provided that those born in Angola who did not want to maintain Angolan nationality had to declare their renunciation within one year of independence; the other four lusophone countries attributed nationality to a range of categories of person, including based on double *jus soli* and to those domiciled in the country at independence, and provided for renunciation within one year for those who did not want to acquire the new nationality.¹⁰

2.3. Initial nationality regime and trends since independence

For those born after independence, as in the case of the former British and French territories that had gained independence in the 1960s, the new laws on nationality generally followed the model established by the colonial power. Portugal's nationality regime, relatively constant since the 19th century, had favoured double *jus soli* and the automatic attribution of Portuguese nationality to children of foreigners still resident in the territory at majority, subject to a right to refuse this status.¹¹ These rules were reflected in the strong rights based on birth and residence adopted by the new states.

In addition to the transitional provisions providing for facilitated access to nationality for comrades in the struggle for independence, the new laws of the PALOP states also drew on the ideology of international socialism that had inspired their liberation movements (a generational contrast to most of the independence leaders of the francophone and anglophone states, apart from Sékou Touré of Guinea-Conakry). This influence was shown especially in the gender equality that was the rule in all the newly independent states in attribution to children, except in Mozambique for children born abroad; and also to spouses, except in Mozambique and São Tomé and Príncipe. It was twenty years later that the major wave of reforms on gender equality began elsewhere in the continent. Mozambique itself adopted gender equality in transmission to children in 1987, and removed automatic loss by a woman on marriage¹²; while São Tomé & Príncipe adopted equal rights on marriage in 1990. Mozambique did not, however, create equal rights on marriage until the adoption of a new constitution in 2004, and has yet to update its law to reflect this position (see table 4).

¹⁰ Angola Lei de 10 de novembro de 1975, Article 1 ; Cabo Verde Decreto-Lei No.71/76 de 24 de julho, Article 1 ; Guiné Bissau Lei da nacionalidade No.1/76 de 4 de maio, Article 1 ; Moçambique Lei da nacionalidade de 20 de junho de 1975, Article 1 ; Sao Tomé & Príncipe, Lei da nacionalidade de 1 de dezembro 1975, Article 1.

¹¹ Civil code, 1867 ; Lei da nacionalidade, 1959.

¹² Lei da nacionalidade de 1975 de 20 de Junho, alterada pela Lei No.16/87 de 21 de Dezembro, arts. 14(1)(e) & art. 20.

Angola and Guinea Bissau have also shared the tendency seen especially in the anglophone African states, to reduce the element of *jus soli* in the nationality laws adopted at independence. Angola first created greater limits to acquisition based on birth in the territory in 1984, adjusted in revisions to the law in 1991, 2005 and 2016. Nonetheless, the law remains more open than in many states, and it has maintained the right to apply for Angolan nationality for a child born on the territory of unknown or stateless parents, or of parents with unknown nationality.¹³ Guinea Bissau removed the more generous provisions in 1992, leaving a descent-based system, but then in 2010 restored protections against statelessness for children born in the country without a nationality.¹⁴ In the other countries, the basic framework has remained relatively stable, despite amendments to the law.

Finally, the PALOP countries have joined in the overwhelming trend across the continent towards acceptance of dual nationality, though not always in a simple trajectory, and some confusions remain (see commentary with table 6).

3. Current regime

3.1. Nationality based on birth in the territory

The five PALOP countries all have relatively open nationality laws, drawing on both the Portuguese model and the legacy of their socialist-influenced liberation movements. Nonetheless, there are significant variations. Except in the case of Mozambique, the main substantive provisions on nationality are set out in law rather than in the constitution, as is generally standard for civil law countries. The tables here are updated and adapted versions of those found in Bronwen Manby, *Citizenship Law in Africa: A comparative study* (3rd ed., 2016).

All five countries provide the basic guarantees required by international law for protection against statelessness in case of children born in the territory, establishing the automatic attribution or right to apply for nationality for children of stateless parents and for children who would otherwise be stateless. They also apply the standard presumption of nationality for newborn infants found on the territory (established as a principle of international law as early as 1930¹⁵), and, with the exception

¹³ Lei no.2/84 de 7 de Fevereiro; Lei No.13/1991 de 11 de Maio; Lei No.1/2005 da 1 de Julho; Lei No.2/2016 da 15 de Abril.

¹⁴ Lei no.2/1992 de 6 de Abril; Lei No.6/2010 de 21 de Junho.

¹⁵ Convention on Certain Questions Relating to the Conflict of Nationality Laws, The Hague, 1930, art. 14.

of Guinea Bissau and São Tomé & Príncipe, extend rights also to a child of unknown parents (that is, not only to infants). All five states provide for the children of parents whose nationality is unknown to be attributed or have the right to acquire nationality – an important additional protection, also envisaged in 1930¹⁶, beyond the case of children of stateless parents (which could potentially be restricted to those who have been officially recognised as stateless), given the low rates of birth registration and other documentation, especially among the three mainland states. Angola and Guinea Bissau also provide for the right to a nationality in their constitutions.¹⁷

Even within these provisions there are important differences among the states, with Angola generally being the most cautious in providing a route to nationality based on birth in the territory. There are no general rights based on birth in Angola, and, in relation to the protections against statelessness, the law¹⁸ does not automatically attribute nationality but requires an application in case of the children of unknown or stateless parents, or parents whose own nationality is unknown, or who would otherwise be stateless, providing automatic attribution only in the case of abandoned infants (Jerónimo, 2019a). Guinea Bissau adopted a superficially similar regime through amendments to the law adopted in 2010, but provided for nationality to be automatically attributed in all these cases.¹⁹

At the other end of the spectrum, the most generous state is Mozambique, which provides automatic nationality based on birth in the territory, as well as (redundantly, in case of those born after independence) based on two generations born in the territory. The only exclusions are if both parents are foreign and one is a diplomat; but even in this case the child has right to opt for nationality based on birth and residence until majority, as is the rule for those whose parents were resident in Mozambique at independence but declined Mozambique nationality at that time (for a comprehensive discussion, see Jerónimo, 2019b).

The two island states – Cape Verde and São Tomé & Príncipe – are somewhere in the middle, but closer to Mozambique. In the case of São Tomé & Príncipe, there is a difference in language between the 2003 constitution, which attributes nationality automatically on a *jus soli* basis,

¹⁶ *Ibid.*, art. 15.

¹⁷ Angola Constitution 2010, art. 32; Guinea Bissau Constitution 1984 (as revised to 1996), art. 44 (using the term *cidadania*).

¹⁸ Decreto Presidencial n.º 152/17, de 4 de Julho, regulamento da Lei da nacionalidade, art. 4.

¹⁹ Lei No.2/92 de 6 de Abril, alterada pela Lei No.6/2010 de 21 de Junho, art. 5.

and the 1990 law, which requires that parents be ‘resident’, and excludes the children of those in the service of a foreign state.²⁰ Except for the specific protections against statelessness, Cape Verde requires the parents to have been ‘resident’ for five years for the child to have the right to nationality, and also requires an option on behalf of or by the child.²¹

The PALOP states, like the former French territories, follow the standard civil law rule that civil status events – births, marriages, divorces, adoptions, deaths – are only legally valid if they are recorded in the civil register. Birth registration is especially important: in Angola, Cape Verde and Guinea Bissau, the nationality law provides that nationality of origin is proved by a birth certificate unless there is mention to the contrary.²² In Mozambique, both the constitution and law provide that the civil register is proof of all facts relating to nationality,²³ while the decree establishing implementing regulations provides the same rule of presumed nationality unless birth registration includes any information to the contrary.²⁴ In São Tomé & Príncipe the law delegates the question of proof of nationality to regulation; but no regulation appears to have been adopted.²⁵

In practice, however, the low coverage even of birth registration means that this system cannot be followed in practice. While the small island states of Cape Verde and São Tomé & Príncipe do better, reaching 91 percent birth registration for Cape Verde and 75 percent for São Tomé & Príncipe, all three of the mainland states are below 50 percent registration for children under five (UNICEF, 2013).²⁶ There is a dearth of research on the application of the rules in practice.

²⁰ STP Constitution, 2003, art. 3 ; Lei No.6/1990, art. 5(1)(f).

²¹ Cape Verde Lei No.80/III/90 de 29 de Junho (alterada pela lei No.41/IV/92 e a lei No.64/IV/92), art. 7; Decreto-Lei No.53/93 de 30 de agosto de 1993, arts. 1 and 6.

²² Angola: Lei No.2/2016 de 15 de Abril, art. 26 ; Guinea Bissau: Lei No.6/2010 de 21 de Junho, art.19(1); Cape Verde: Lei No. 80/III/90 de 29 de Junho (alterada pela Lei No.41/IV/92 e a Lei No.64/IV/92), art. 28.

²³ Mozambique Constitution 2004 art. 34; Lei de 20 de Junho de 1975 (alterada pela Lei no.2.82 de 06 de Abril & pela Lei No. 16/87 de 21 de Dezembro), art. 19.

²⁴ Decreto 3/75 da lei da nacionalidade, alterado pelo Decreto No. 5/88, art. 4(1).

²⁵ STP: Lei 6/90 de 11 de Setembro, art.16.

²⁶ Latest UNICEF dataset on birth registration available at <https://data.unicef.org/topic/child-protection/birth-registration/>.

Table 1: The right to a nationality based on birth in the country

Country	Birth in country	Birth and one parent also born	Birth and residence	Parents stateless (ps) or of unknown nationality (pun) or child otherwise stateless (os)	Abandoned baby (ab) or parents unknown (pu)	Relevant legal provision (most recent amendment in brackets)
Angola				ps† pun† os†	ab pu†	C2010 Art9 L2016 Arts9&15
Cape Verde	JS*†			ps pun os	ab	L1990(1992) Arts7-8
G. Bissau				ps pun os	ab	L1992(2010) Art5
Mozambique	JS	JS/2	(JS)†	ps pun os	pu	C2004 Arts23-25 L1975(1987) Arts1-2
STP !!	JS*			ps pun os	ab	C2003 Art3 L1990 Art5

JS: *jus soli*: child born in the country is attributed nationality by operation of law (with exclusions for children of diplomats & some other categories)
 JS*: child born in country of parents who are residents is attributed or can acquire nationality
 JS/2: double *jus soli* attribution: child born in country of one parent also born in the country is attributed nationality by operation of law
 (JS): child born in country of foreign parents is attributed or can acquire nationality at majority and/or after residence period
 † : application needed
 !! : legislation varies from constitution

3.2. Nationality based on descent

All five PALOP countries provide for parents to have equal rights to transmit nationality to their children, and, except for Mozambique, have done so since independence. Although Mozambique's *jus soli* law meant that discrimination did not affect those born in the country, until 1987 only the children of Mozambican fathers had the right to nationality if born abroad.²⁷

None of the states, however, provide for automatic transmission of nationality to children born outside the territory, requiring the parents or child to claim nationality before attaining majority. For example, Mozambique requires all children born outside the country to declare their intention of retaining Mozambican nationality within one year of majority

²⁷ Lei da nacionalidade de 1975 de 20 de Junho, alterada pela Lei No.16/87 de 21 de Dezembro, art. 8.

(unless their parents were abroad in service of the state).²⁸ Although Angola’s law²⁹ appears to establish automatic attribution to children born outside the country (with an option to renounce at majority), the nationality regulations³⁰ require registration of the birth with the consular authorities or in the state of birth, with proof of one of the parents’ Angolan nationality recorded (Jerónimo, 2019a, p. 23).

Cape Verde provides for the right to opt for nationality for those born overseas, and since 1992 has extended this right to the grandchildren as well as children of nationals (thus including those whose parents may have lost or renounced nationality in order to naturalise in a new country).³¹

Table 2: Right to nationality by descent

Country	Born in country				Born abroad				Legal Provision
	In wedlock + Father (F) &/or Mother (M) is a national		Out of wedlock + Father (F) &/or Mother (M) is a national		In wedlock + Father (F) &/or Mother (M) is a national		Out of wedlock + Father (F) &/or Mother (M) is a national		
	F	M	F	M	F	M	F	M	
Angola	R	R	R	R	C	C	C	C	C2010 Art9 L2016 Art9 R2017 Art4
Cape Verde	R	R	R	R	C^	C^	C^	C^	L1990(1992) Arts7
G. Bissau	R	R	R	R	C	C	C	C	L1992(2010) Art5
Mozambique !!	R	R	R	R	C	C	C	C	C2004 Art23&24 L1975(1987) Art1
STP	R	R	R	R	C	C	C	C	C2003 Art3 L1990 Art5
!! legislation conflicts with the constitution and/or other legislation—the constitutional provisions are noted here R: child is a national from birth as of right C: can claim nationality following an administrative process (including compulsory birth registration, registration with consular authorities, or declaration) ^ Rights to nationality through a grandparent									

²⁸ Constitution 2004, Art.23(3); Lei da nacionalidade, 1975, art. 8(1). The law, but not the constitution, also requires renunciation of any other nationality they may have acquired.

²⁹ Lei No.2/16 de 15 de Abril, art. 11(2).

³⁰ Decreto Presidencial no.152/17, de 4 de Julho, art. 4.

³¹ Lei No.80/iii/90 de 29 de Junho (alterada pela Lei 41/IV/92 e a Lei No. 64/IV/92), art. 8 – this provision was established by law No.64/IV/92 of1992

3.3. Acquisition of nationality after birth: adoption, marriage, and naturalisation

3.3.1. Adoption

By contrast to at least 15 African states,(Manby, 2016 Table 3) the PALOP countries all have provisions in their laws for adopted children (table 3). These were introduced by amendments to the laws between 1990 and 1992 in Angola³², Cape Verde, Guinea Bissau and São Tomé & Príncipe. Mozambique introduced rights based on adoption only in the 2004 constitution (and the law and implementing decree have yet to be updated); while in Angola 2016 amendments to the law repealed the automatic attribution in place since the 1991 law (and provided for in the 1986 regulation, but not the law) in case of full adoption, instead, it required a specific option.

Table 3: Provisions on minor adopted children

Country	Auto.	Opt.	Comments	Legal provision
Angola		x	Parents must request, and at 14 years old the adopted child must show desire to obtain nationality	L2016 Art12
Cape Verde		x	Automatic if stateless	L1990(1992) Art11
G. Bissau	x			L1992(2010) Art7
Mozambique	x			C2004 Art29
STP	x			L1990 Art9
Auto: Acquisition of nationality automatic on completion of adoption formalities Opt: Parents or child have the right to opt for nationality				

3.3.2. Marriage

All the PALOP countries now provide for equal rights to transmit nationality between spouses (table 4), with Mozambique the last to do so, based on the 2004 constitution – although the law has yet to be updated to reflect this position. Angola’s 2016 law introduced conditions for acquisition based on marriage that had not been present in the 2005 law.

³² Angola’s 1986 regulation, but not the 1984 law, had provided for the possibility of acquisition through adoption. Decreto No.1/86 de 11 de Janeiro, art. 10. see discussion in Jerónimo (2019a), p.11.

Table 4: Right to pass nationality to a spouse

Country	Nationality by marriage	Res. period (if any)*	Marriage period (if any)	Level of discretion	Relevant legal provision(s)	Year of equality
Angola	=		5 yrs	On application; offer civic and moral guarantees of integration into Angolan society; not convicted of crime punishable by more than 3 years in prison	L2016 Art13	1975
Cape Verde	=			By declaration	L1990(1992) Art9	1976
G. Bissau	=	1 yr	3 yrs	By declaration	L1992(2010) Art8	1976
Mozambique !!	=		5 yrs (unless stateless)	By declaration, must fulfil conditions set by law. Law provides only for a woman marrying a Mozambican, who must fulfil conditions for naturalisation	C2004 Art26 L1975(1987) Art10	2004
STP	=			By declaration if domiciled in STP	L1990 Art6	1990

!! legislation conflicts with the constitution—the constitutional provisions are noted here (in Zambia the Citizenship Act refers to a provision in the abrogated 1973 constitution which is not included in the 1991 constitution)

* If residence period noted then residence is after marriage
= Equal rights for men and women to pass citizenship

3.3.3. Naturalisation

The PALOP countries have provisions on naturalisation that are generally speaking similar to those in other African states, with a residence period of between 5 and 10 years, and more or less standard conditions relating to criminal record, health and integration (see table 5). In addition, all the states have restrictions on naturalised persons holding public office, with the widest restrictions in place in Mozambique. Once again, the situation in Mozambique is complicated by the inconsistency between the constitution (which provides for five years' residence) and the law (ten years, and other conditions apply), creating difficulties in interpretation. Angola made the conditions for naturalisation slightly more onerous in its 2016 law (including excluding a person for a crime punishable by a shorter period of imprisonment); proposed amendments to give the president more discretion to award naturalisation had led to protests during 2014.³³ Guinea Bissau's 2010 amendments, however, reduced the period of residence from ten years to six.

As in other African states naturalisation is rare in practice. While individual decrees of naturalisation are published in the official journal (*Boletim da República*) – in common with the former French territories, and by contrast to the anglophone states – there is no published research on the overall statistics.

³³ António Rocha, «Angolanos indignados com proposta de mudanças na Lei da Nacionalidade », Deutsche Welle, 7 October 2014.

Table 5: Right to acquire nationality as an adult by naturalisation

Country	Res. period	Language / cultural requirements	Character	Ren. other	Health / income	Other ¹	Minor children included?	Limits on rights for naturalised ²	Legal provision
Angola	10 yrs	Civic and moral guarantees of integration into Angolan society; sufficient knowledge of Portuguese language; effective connection to national community; knowledge of rights and duties under constitution	Not sentenced to prison more than 3 years; can be opposed on grounds no effective connection; conviction for crime punishable by 3 years imprisonment, or crime against security of state; exercise sovereign powers for another state; military service for another state	No	Capacity to make decisions (<i>reger a sua pessoa</i>); means of subsistence	Nat. Ass. can authorise naturalisation if relevant services or exceptional qualifications. President can enter into bilateral agreements with PALOP countries for naturalisation of residents, or waive some conditions	Yes, on application	President must have nationality of origin, naturalised person can only be member of national assembly after 7 yrs	C2010 Arts110,129, 145 L2016 Arts7,11,14,16,19,20,30
Cape Verde	5 yrs	-	Good reputation (<i>idoneidade moral ou civil</i>); can be opposed if committed a crime subject to major punishment (<i>pena maior</i>), or exercised political functions or military service for another state	No	Capacity to make decisions (<i>reger a sua pessoa</i>); means of subsistence	Period can be waived if of CV descent, or if sizable investment promised	Yes, on application	President must have nationality of origin	C1992(2010) Art110 L1990(1992) Arts12,13, 19,20
Guinea Bissau	6 yrs	Basic knowledge of and identification with Guinea-Bissau's culture	Govt can oppose in case of conviction of a crime punishable by 6 yrs imprisonment, a crime against state security, or exercising sovereign functions or serving in military service of another state	No	-	No residence period if services rendered to the Guinean people before or after the liberation struggle or for Guinea's development	Yes, on application	President must have nationality of origin, as well as both parents	C1984(1996) Art63 L1992(2010) Arts6,9, 12
Mozambique !!	10 yrs	Knowledge of Portuguese or a Mozambican language	Good reputation (<i>idoneidade cívica</i>)	No	Capacity to make decisions (<i>reger a sua pessoa</i>); means of subsistence	Residence period and language can be waived if the person has provided 'relevant services' to the state	Yes, on application	President must be national of origin; naturalised citizens cannot be deputies, members of government or in diplomatic or military service	C2004 Arts27,28,30, 147 L1975(1987) Arts11-13
São Tomé and Príncipe	5 yrs	Knowledge of Portuguese or another national language; civic and moral guarantees of integration into STP society	No acts against sovereignty of STP state or crimes punishable by a serious punishment	Yes	Capacity to make decisions (<i>reger a sua pessoa</i>); means of subsistence	Conditions can be waived in case of relevant services or higher state interests/reasons. Govt can oppose in court within 1 yr on national security grounds or that committed major crime.	Yes, on application	President and Prime Minister must be nationals of origin	C2003 Art78&100 L1990 Arts7,10, 14

1. Most countries require the person to be adult, currently and legally resident and to intend to remain so if they wish to naturalise; these provisions are not included here.
 2. Provisions in the nationality law and constitution (not including electoral code)
 !! legislation conflicts with the constitution; constitutional provisions noted here
 NB. There is simplification of complex provisions

3.4. Dual nationality

All the PALOP states, with the exception of São Tomé & Príncipe, now allow dual nationality in all cases. All, with the exception of Guinea Bissau, provide that the president may not hold dual nationality. The history of detailed revisions, however, shows that the current situation has not been the result of a clear political consensus: indeed, the history of the liberation wars meant that the PALOP states perhaps suspected the loyalties of those with potential dual nationality (especially with Portugal) to an even greater extent than in other African states. (See, in the case of Mozambique, Sumich, 2013).

In the case of Angola, the first nationality law of 1975 was silent on this point, but the 1984 law provided for automatic loss on acquisition of another and required a person naturalising to renounce their existing nationality; from 1991, both these provisions were removed, permitting dual nationality in all cases.³⁴

The initial Mozambican law provided for automatic loss on acquisition of another and that if a person held another nationality it would not be recognised inside the country – but did not require renunciation of another on naturalisation (except in case of a woman marrying a Mozambican man) or in case of dual nationality from birth.³⁵ The 1990 constitution then required a person naturalising to renounce another nationality,³⁶ and only with the 2004 constitution were these restrictions removed – but the law has not been updated since 1987. The law but not the constitution requires that children born abroad renounce any other nationality to which they are entitled, that women marrying Mozambican men must renounce another nationality, and that those who acquire another nationality automatically lose their Mozambican nationality.³⁷

Like Mozambique, Guinea Bissau also provided from 1975 for automatic loss of nationality on acquiring another, but did not require renunciation in case of naturalisation or dual nationality from birth, although if a person held another nationality it would not be recognised inside the country.³⁸ From 1990, the law provided that a person would not lose nationality if the acquisition of another was because he or she had

³⁴ Lei No.2/84 de 7 de Fevereiro, arts. 5(1)(d) and 7(a); Lei No.13/91 de 11 de Maio, arts. 13 and 15.

³⁵ Lei da nacionalidade de 20 de Junho de 1975, arts. 10, 14(1)(a) and 17.

³⁶ Constitution 1990, art. 21(a).

³⁷ Lei da nacionalidade de 1975 de 20 de Junho, alterada pela Lei No.16/87 de 21 de Dezembro, arts. 8(1), 10 and 14(1)(a).

³⁸ Lei No.1/76, capítulo III, Base VIII(a)(a), capítulo V, base XV.

emigrated ‘essentially for economic reasons’; but 2010 amendments to the law removed any restrictions.³⁹

Cape Verde provided from the outset for automatic loss on acquisition of another nationality and for a person naturalising to renounce another nationality,⁴⁰ but amended the law in 1992 to permit dual nationality in all cases.⁴¹

São Tomé and Príncipe permitted dual nationality from the outset for all, although, as in the case of Mozambique, the law stated that another nationality would not be recognised inside the country.⁴² From 1990, however, those naturalising were required to renounce, and those who acquired another nationality elsewhere automatically lost their São Tomé & Príncipe nationality ‘unless the acquisition is for reasons of emigration’⁴³; in 2003 the new constitution clarified that nationality of origin would never be lost if a person acquired another – but the inconsistency between the two provisions remains.⁴⁴ Renunciation of another nationality remains a condition of naturalisation.

Table 6: Rules on dual nationality

Country	Dual nationality permitted	Date current regime adopted	Restrictions on public office	Relevant legal provisions
Angola	Yes	1991	President cannot be dual national	C2010 Art110 L2016 Art17(1)(a)&32-33
Cape Verde	Yes	1992	President cannot be dual national	C1992(2010) Arts5&110 L1990(1992) Arts14,15
Guinea Bissau	Yes	2010		L1992(2010) Art10
Mozambique !!	Yes	2004	President cannot be dual national	C2004 Arts27,31,33&147 L1975(1987) Arts10&14
São Tomé and Príncipe !!	Only for nationals from birth	2003	President and prime minister cannot be dual nationals	C2003 Arts3,78&100 L1990 Arts10&12
!! constitution conflicts with legislation: constitutional provisions noted here				

3.5. Loss, deprivation and reacquisition of nationality

Four of the PALOP states provide that a person who holds nationality from birth cannot lose or be deprived of nationality. In the case of Angola, this statement in the 2010 constitution is undermined by the

³⁹ Lei No. 2/92 de 6 de Abril, art. 10 amended by Lei No.6/2010 de 21 de Junho.

⁴⁰ Decreto-Lei No.71/76 de 24 de Julho, arts. 6(1) and 10(a).

⁴¹ Lei No.41/IV/92, arts. 12 and 15.

⁴² Lei da nacionalidade de 1 de Dezembro de 1975, art. 11.

⁴³ Lei No.6/90, art. 12(a).

⁴⁴ Lei No.6/90 arts. 10(1)(e) and 12(a); constitution 2003, art. 3.

law of 2016, which provides for loss of nationality if the person exercises sovereign functions in favour of another state and does not inform the National Assembly in advance; in addition since 2016 the National Assembly must approve all cases of reacquisition of nationality.⁴⁵

Once again, there is a conflict between the constitution and the law in Mozambique, where the constitution provides for no means of involuntary loss or deprivation, but the law nonetheless sets out reasons for deprivation of nationality.

Table 7: Criteria for loss or deprivation of nationality

Country	Nationality from birth			Nationality by naturalisation					Relevant legal provisions
	Acquire another nationality	Work for / serve in military of another state	Crime vs state	Work for / serve in military of another state	Fraud / misrep.	Crime vs state	Ordinary crime	Disloyal / incompatible behaviour	
Angola		x		x	x	x			L2016 Art17
Cape Verde									C1992(2010) Art40 L1990(1992)
Guinea Bissau					x	x		x	L1992(2010) Art10
Mozambique !!									C2004 Art31 L1975 Arts14-15
STP		x		x				x	L1990 Art12
!! Constitution conflicts with legislation, constitutional provisions noted here									

⁴⁵ Constitution 2010, art. 9(4); Lei no2/16 de 15 de Abril, arts. 17(1)(b) and 18(3).

Table 8: Renunciation and reacquisition

Country	Renunciation		Relevant legal provisions
	Conditions applied	Protection vs statelessness	
Angola	By declaration	Yes	L2016 Art17(1)(a)(c)&(d)
Cape Verde	By declaration	Yes	L1990(1992) Art15
G. Bissau	By declaration	Yes	L1992(2010) Art10
Mozambique	By declaration	Yes	C2004Art31 L1975(1987) Art14
STP	By declaration	Yes	L1990 Arts12&13
	Reacquisition		
Angola	After 1 year's residence and within 3 years of majority if renounced on child's behalf by parents After 5 yrs residence, if deprived, and Nat. Ass. must authorise; reacquisition may be opposed on grounds similar to those for deprivation		L2016 Art18-19
Cape Verde	By declaration if lost because renounced		L1990(1992) Art17
G. Bissau	By declaration, if lost because renounced & if establishes domicile in country		L1992(2010) Art11
Mozambique	Must be domiciled in Mozambique and satisfy conditions relating to integration		C2004 Art32 L1975(1987) Art16
STP	By declaration after 2 yrs residence in STP		L1990 Art13

4. Comparison with East Timor

The nationality laws of the PALOP states show a clear familial relationship with the law in East Timor, in particular in the formulation of the protections against statelessness for those born in the country of unknown or stateless parents, or parents of unknown nationality. East Timor's provision for a child born in the territory to be able to acquire nationality by declaration at majority is similar to the regime in Mozambique. East Timor shares the PALOP states' contemporary framework of gender equality for transmission to children and spouses, but does not provide the restrictions on transmission for those born outside the territory established by the African laws. Like the PALOP states, East Timor also permits dual nationality.⁴⁶

The circumstances of East Timor's more recent independence have also led to conditions that are similar to some of those put in place on transition to independence in Africa. For example, East Timor's provision in relation to naturalisation that foreign citizens settled in Timor-Leste as a result of the (Indonesian) policy of transplantation of workers (*política de transmigração*) or military occupation shall not be considered habitual

⁴⁶ Lei no. 9/2002 de 5 de Novembro, arts. 8, 9, 11, and 14(1).

residents,⁴⁷ is reminiscent of provisions favouring or restricting access to nationality for those who supported or opposed the liberation struggles in Africa.

Like four of the African states, the East Timor law provides no circumstances in which a national from birth may involuntarily lose or be deprived of nationality, but naturalised persons lose nationality (the implication that this is automatic) on the basis of various crimes or acts against the state, or if it was acquired fraudulently.⁴⁸

5. Conclusion

The delayed independence of the PALOP states meant that they were all born out of a liberation struggle that was more violent than that of most African states that gained self-rule in the 1960s (with the notable exception of Algeria). Both Mozambique and Angola then suffered until the 1990s from the ongoing conflict resulting from their location in the southern African region, and the proxy wars fought on their territory by South Africa, Rhodesia (future Zimbabwe), and the great powers of the Cold War. Divisions created by ethnicity were very relevant both to these conflicts and subsequent politics, as in other African states faced by the challenges of ‘managing diversity’ (UN Economic Commission for Africa, 2011). However, the question of nationality and belonging has not been politicised – even ‘weaponised’ – in these crises as it has in neighbouring countries such as Democratic Republic of Congo, Zimbabwe, Kenya or Côte d’Ivoire. In the broader African context, I have argued that the initial frameworks and subsequent amendments of nationality law have had important consequences for the occurrence and nature of political or military crises in the continent, often unintended. (Manby, 2018) In this, I agree with Catherine Boone that ethnic identity is not so much an ‘essentially pre-political or non-political’ preference or ideology, but ‘better understood as a juridical status, or a state-recognised or even state-imposed political identity, which operates through state processes’ (Boone, 2014, p. 317). There are major gaps in our understanding of the ways in which nationality law and administration has shaped ethnic and political identity in lusophone Africa, or of the ways in which politicians and activists mobilised for the changes that have been made: this article has attempted to set out at least the history and current status of the legal framework, the starting point for such work.

⁴⁷ Lei no. 9/2002 de 5 de Novembro, art. 12(2). ‘Não são considerados residentes habituais, nem residentes regulares, os cidadãos estrangeiros que fixaram residência em Timor-Leste por força da política de transmigração ou da ocupação militar estrangeira.’

⁴⁸ Lei no. 9/2002 de 5 de Novembro, art. 14(2).

Appendix: List of nationality laws and regulations since independence

Angola	<p>Lei da nacionalidade de 11 de novembro 1975 Lei No.2/84 da nacionalidade de 7 de fevereiro Decreto No.1/1986 de 11 de janeiro regulamento da Lei da nacionalidade Lei No.13/91 da nacionalidade, de 11 de maio Lei No.1/05 da nacionalidade, de 1 de julho Constitution, 2010 Lei No.2/16 da nacionalidade da 31 de marzo Decreto Presidencial n.º 152/17, de 4 de Julho, regulamento da Lei da Nacionalidade</p>
Cape Verde	<p>Decreto-Lei n.º 71/76, de 24 de Julho Decreto-Lei n.º 102/76, de 20 de Novembro – Nacionalidade Originária Decreto-lei 31/87 de 28 de março Lei n.º 80/III/90 de 29 de Junho de 1990 Decreto n.º 114/90, BO n.º 49, I Serie, de 08 de Dezembro de 1990 Lei n.º 41/IV/92 de 06 de Abril de 1992 Constitution 1992 (revised 1995, 1999 & 2010) Lei n.º 64/IV/92 de 30 de Dezembro Decreto-Lei No 53/93 de 30 de Agosto de 1993 Decreto-Lei n.º 19/2000, 24 de Abril de 2000 Lei no.51/VI.2004 de 13 de Setembro</p>
Guinea Bissau	<p>Lei da nacionalidade No.1/76 de 4 de maio Lei da nacionalidade No.1/84 de 15 de fevereiro Constitution 1984 (modified 1991, 1993 and 1996) Lei da nacionalidade No.2/92 de 6 de abril Lei da nacionalidade No.6/2010 de 21 de junho</p>
Mozambique	<p>Lei da nacionalidade de 20 de Junho de 1975 as amended by Lei no. 2.82 de 06 de Abril & Lei No. 16/87 de 21 de Dezembro Decreto 3/75 de 16 de Agosto de 1975 regulamenta a lei da nacionalidade Decreto No. 5/88 de 8 de Abril regulamenta a lei da nacionalidade Constitution 1990 Constitution 2004</p>
São Tomé and Príncipe	<p>Lei 39/75 da nacionalidade de 15 de dezembro 1975 Lei n.º 6/90, de 13 de Setembro de 1990, Lei da nacionalidade Constitution 2003</p>

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