

Human Right to Citizenship in International Conventions and Omani Legislation - Comparative Study

Assistant Professor Doctor
Najm Abbood Mahdi
Arab Open University -
Deanship of Law
najim.a@aou.edu.om

Assistant Professor Doctor
Hamad Said Alkalbani
Arab Open University –
Deanship of Law
hamad.k@aou.edu.om

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Abstract

The idea of citizenship is one of the old political and legal ideas that have long occupied a wide area of thinking in most countries of the world because the right of citizenship is linked to the identity and cultural reference of human persons of different origins and ethnicities. Citizenship is the equality of citizens irrespective of religious, sectarian, tribal, ethnic, or sexual tinctures. Countries sought to enshrine this right through international conventions, affirmed through the constitutions, statutes, laws, and media of States, to increase the association of individuals affiliated with the State with their national identity and to grant these individuals all their rights under international conventions, constitutions, or domestic laws as an important element of the State. Citizenship in its sense remains an inclusive framework. This right safeguard the rights of the minority and the majority within the scope of the concept of inclusive citizenship. The citizen has all the rights and duties, and real citizenship does not ignore the realities of the country's cultural, social, and political composition.

The rights enshrined in the Universal Declaration of Human Rights and international human rights conventions have affirmed the utmost importance of every individual in society. This right has been enshrined in the constitutions of States, including the Basic Law of the State of the Sultanate of Oman.

Keywords: Human Rights, Citizenship, Nationality, Right to Citizenship.

حق الانسان في المواطنة في الاتفاقيات الدولية والتشريعات العمانية - دراسة مقارنة

أستاذ مساعد دكتور
حمد بن سعيد الكلباني
الجامعة العربية المفتوحة - عمادة القانون
hamad.k@au.edu.om

أستاذ مساعد دكتور
نجم عبود مهدي
الجامعة العربية المفتوحة - عمادة القانون
najim.a@au.edu.om

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المستخلص

تعد فكرة المواطنة من الأفكار السياسية والقانونية القديمة التي طالما شغلت حيزاً واسعاً من التفكير لدى معظم دول العالم، وذلك لارتباط حق المواطنة بهوية الإنسان ومرجعياته الحضارية على اختلاف أصوله وأعرافه، والمواطنة هي المساواة بين المواطنين بصرف النظر عن الصبغات الدينية أو المذهبية أو القبلية أو العرقية أو الجنسية. سعت الدول إلى تكريس هذا الحق من خلال الاتفاقيات الدولية، وتم التأكيد عليه من خلال دساتير الدول وأنظمتها الأساسية وقوانينها ووسائل إعلامها، وذلك لزيادة ارتباط الأفراد المنتسبين إلى الدولة بهويتهم الوطنية، ولمنح هؤلاء الأفراد جميع حقوقهم المنصوص عليها في اتفاقيات دولية أو الدساتير أو القوانين الداخلية كونهم عنصر مهم من عناصر الدولة. وتبقى المواطنة بمفهومها إدارياً يستوعب الجميع، فهذا الحق يحافظ على حقوق الأقلية والأكثرية في نطاق مفهوم المواطنة الجامعة، فالمواطن له جميع الحقوق وعليه جميع الواجبات، والمواطنة الحقيقية لا تتجاهل حقائق التركيبة الثقافية والاجتماعية والسياسية في الوطن.

جرى التأكيد على الحقوق التي تركز الحق في المواطنة في الإعلان العالمي لحقوق الإنسان والاتفاقيات الدولية الخاصة بحقوق الإنسان، وذلك لأهميته البالغة لكل فرد في مجتمعه، وتم التأكيد على تكريس هذا الحق في دساتير الدول ومنها النظام الأساسي للدولة في سلطنة عمان.

الكلمات المفتاحية: حقوق الإنسان، المواطنة، الجنسية، الحق في المواطنة.

Introduction

The idea of citizenship is one of the aspects of modern democracy that belongs to modern political thought, but this does not imply its existence in the old political systems. Citizenship is known in the Old Greek Civil State and the subsequent stages of the State's existence up to the modern State.

The concept of citizenship in modern ages has begun to assume other multidimensional forms due to the political and economic changes experienced by States. The right to care for one's interests within a broad freedom has never been witnessed before. The image of the citizen is no longer confined to the traditional framework of loyalty to the State and its ruling class, whatever the nature of that class's relationship with the nationals of the State. s rights and personal freedoms.

The right to exercise citizenship is embodied in various forms, such as participation in political life, the exercise of the right to vote, the right to stand for election, or the freedom of expression through peaceful protests or strikes to implement certain legitimate demands. The organization of local parties, establishment of trade unions under State supervision, or accession to international civil organizations and States differ in the degree to which the principle of citizenship is enshrined, specifically in practice and application. It may sometimes be more than the apparent formality of lighting the political landscape, we find them in constitutions without referring to the word "citizenship," and they are implicit in the regulation of the citizen-State relationship. Considering the openness and political reform currently taking place in most countries, voices have begun to rise through political parties and NGOs to activate citizens' political participation and abandon a culture of political exclusion, all of which promote the idea of citizenship and respect for its rights and establish the principles of democracy.

The Importance of Research

The importance of research stems from the importance of international legal norms relating to the right to citizenship and the need to preserve this right and not violate it. Therefore, national legislation reinforces the provisions of international conventions.

Research Objective

This research aims to define the right of citizenship and to clarify the right to nationality as recognized by international conventions, as the basis of citizens' right to claim all their rights.

Search Problem

The problem of research lies in the questions it raises, the most important of which are as follows:

- What is the right of citizenship and its importance to the citizen?
- What is the role of international conventions in affirming the right to nationality?

Research Hypothesis:

Through the research pages, the stability of the concept of the right of citizenship will be emphasized in international conventions and comparative national legislation. The importance of the human right of citizenship will be emphasized in international conventions as the basis for granting all citizens' rights. We will know to emphasize this right in the Basic Law of the State of the Sultanate of Oman.

Methodological Framework for Research:

The historical curriculum and descriptive analytical approach will be followed to analyze the texts of the conventions and charters in question and link them to the research hypotheses to achieve the goals and achieve the required results.

Subdivisions of Study

The research has been divided into three sections. The first deals with the definition of the right to citizenship, the second discusses the right

to citizenship, and the third explains the right to citizenship in Omani laws.

1. Definition of Citizenship Right

There are many disagreements between writers and specialists in determining the meaning of citizenship because this concept holds different perspectives (political, economic, social, and cultural) and each specialist views the concept which he considers the most accurate and appropriate in defining the concept of the right of citizenship. The right to domicile must be defined linguistically and terminologically, as this is one of the most important stages of the methodology used to offer a precise concept of any term and logically know the linguistic meaning before the terminology.

1.1. Definition of Citizenship Rights in the Arabic Language

To clarify the linguistic meaning of the right of citizenship, it is necessary to know the linguistic meaning of this term. The word "right الحق" is the sole right and is against falsehood. It is the source of the right, if it must be established, the relevance of conformity. The right is conformity, consent, and uses¹.

Citizenship is a language taken from the home or house in which we reside, which is the home and work of man, a homeland where he resides, the country's homeland which he has taken, and the country which collects homelands means the home and residence of the human being in which he was born or not. Citizenship is the name of a citizen's source. Citizenship is the status of a citizen and the form of an act of a citizen, which is more indicative of the state of participation in the homeland itself, and the citizen is the human being who originates with you in one homeland or in which he resides with you².

1.2. Definition of Citizenship Right in Terminology

Citizenship is defined as "giving a legitimate citizen born in a country or who has acquired nationality the right to benefit from the privileges and rights of that country's membership of its citizens. In its political

sense, citizenship refers to "the rights and obligations imposed by the State on its nationals. Citizenship in the economic and social sense is" the satisfaction of the basic needs of individuals, not concerned with the public interest, but also with the common interest and purpose of the citizens of the State, to achieve cooperation, complementarity, and joint collective action³.

Citizenship is defined in Encyclopedia Britannica as "a relationship between an individual and a State defined by the law of that State and by the duties and rights of that State," and the British Knowledge Service affirms its concept of citizenship as "generally giving citizens political rights, such as the right to vote and to hold public office. According to some researchers, the concept of citizenship is limited to the one country in which the individual lives, which determines the citizen's fulfillment and duties, his loyalty to his country and its service in times of peace and freedom and cooperation with others in the achievement of national objectives. From the point of view of one researcher, Islam views citizenship as "an image of human interaction between members of one society on the one hand and the global humanitarian community on the other, which is based on rights, duties, brotherhood, love of good for people, care for their benefit and suffering with them to the satisfaction of God Almighty⁴.

Theoretically, the concept of "citizenship" refers to three aspects. It includes a legal relationship of "nationality," a relationship between an individual and a State whereby a state attributes its nationality to several individuals per the laws governing that principle. The second aspect refers to a political relationship involving a range of rights, freedoms, and duties. Only citizens have the right to benefit from the economic and social services provided by State bodies, and only those entitled to exercise political rights such as elections, candidatures, and the formation of parties have the duty to perform military service. The concept of citizenship is closely linked to citizens' participation in

public life. While the third aspect refers to a moral and emotional relationship associated with the love of the nation and loyalty to its gifts and symbols of language, history, culture, and other symbols of identity and belonging⁵.

Citizenship is a person's enjoyment of rights and duties exercised in a particular geographical location, with limits, known as the modern nation-State, which in its existence is based on the law. All citizens in this State have equal rights and duties, without discrimination on grounds of difference in religion, color, race, social location, etc., and the law is the one that achieves equality within the State, imposes order, and makes relations between citizens known in advance to everyone's satisfaction⁶. Citizenship in its modern definition means a person's attachment to a homeland to which he belongs, bears his nationality, believes in its legitimacy and values, obtains his rights in it, achieves his beneficial relationship with society and the state, fulfills the duties and obligations of the homeland, and applies its laws to it⁷.

1.3. Elements and Conditions of Citizenship

Citizenship is based on several basic elements and conditions that must be met, and citizenship cannot be guaranteed in the absence of these conditions.

a- **Equality, justice, and equal opportunities:** This requirement is essential for the stability of any organized legal society, unequal coexistence and partnership between members of one society. No community of the same nation is conceived to survive without equal rights and duties, and equal opportunities without any discrimination based on sex, color, ethnic origin, religious belief, intellectual convictions, affiliation, and intellectual activism, or any unconstitutional basis.

b- **Loyalty and belonging to the homeland:** Legislators and scholars of politics and law believe that citizenship includes patriotism, loyalty,

and belonging as one of the rights of the State over its citizens⁸. Loyalty is the close link between the citizen and his homeland. This conscientious association must be translated from a mere theoretical idea into a concrete practical phenomenon embodied in the service of the nation and the work on its upliftment, preservation of gains, loyalty to the homeland, and the interests of the homeland taking supreme precedence. This loyalty remains important after a citizen's country because being away from home for any reason does not imply a derogation from citizenship requirements.

c- **Participation in public life and responsibility:** This implies citizens' right to benefit from all services and needs with which the State satisfies its nationals, such as various public facilities, participation in political, economic, social, and cultural activities, the acquisition of public rights such as the right to hold public office, the right to vote and the right to stand for election to various councils. This participation is envisaged to be activated only through the freedom of thought and expression⁹.

2. Right to Nationality

Nationality is conferred and withdrawn by states based on their domestic laws. In principle, every state has the sovereignty to draw up its own legislation and policies, but the developments in international law over the course of the last century have set important limits to state discretion regarding nationality matters. Most states adopt similar criteria for the acquisition of nationality, i.e., based either on the connection with the state's territory, which may be proven by birth on state soil (*jus soli*), or on long-term residence within the state (such as through naturalization) or based on family relation to a national of the state, through descent (*jus sanguinis*) or marriage. After acquiring nationality, there is no guarantee that it will continue for life, but it can be lost per the conditions established by States in their law¹⁰.

Some researchers associate citizenship with nationality and the fact that citizenship may be a ground for citizenship provided the person is not deprived of the exercise of his or her political rights; Deprivation of nationality entails a denial of the fundamental legal right to associate with the State. Citizenship in its sense remains an inclusive framework, preserving minority and majority rights within the concept of inclusive citizenship. Citizenship is the equality of citizens irrespective of religious, sectarian, tribal, ethnic, or sexual language. Every citizen has all the rights and duties, and true citizenship does not ignore the realities of the nation's cultural, social, and political composition. The right to nationality is one of the most important political rights affirmed in the Islamic Shari'a, as stipulated in international instruments and the constitutions and laws of States as we will set out in the following demands.

2.1. Right to Nationality in Islamic Law

The right of the human to descend and to belong to the father and tribe is established by the legitimacy of the human being. It cannot be changed, replaced, disposed of, or waived. The Islamic Shari'a recognizes the right to belong and the citizenship and nationality of every citizen residing in its territory, whether Muslim or non-Muslim, emphasizing the enjoyment by all of the same rights and duties of treatment.

The right to nationality of a State is established either based on blood, namely, belonging to the father who enjoys nationality, on the basis of birth in the State's territory, or on naturalization, except for a citizen, is a foreigner who is associated with the State's residence association. resettlement, hospitality, or asylum, expressed in the Islamic jurisprudence of the insured s territory," who is a citizen of a non-Muslim State and has secured access to and residence in Muslim territory for a fixed period. Thus, citizenship rights have been evident

in Islam for centuries. No citizen may be removed from his country and State, and he cannot be deprived of his nationality¹¹.

Nationality is the basis for the enjoyment of national rights. When a person acquires the nationality of a country, he or she has the right to enjoy all national rights, such as the right to reside, hold public office, and participate in political life. Citizenship is one of the pillars of the State's national authority as a participant in the legitimate source of power in a nation made up of all citizens. Establishing one's nationality means the enjoyment of all other rights of a citizen, such as the right to work, free education, and social security, which are necessary for living within the borders of the State. Outside its borders, the enjoyment of the nationality of the State means the enjoyment of its protection against other States. Thus, nationality is "the inevitable starting point of an individual's legal life without which he or she has no entity"¹².

2.2. Right to Nationality in International Conventions and State Constitutions

For some people, nationality is just a motto on the front of a passport or a drop-down box on a form. It's possible to live your whole life without really thinking about what it means to be "British" or "Irish," let alone what it means to be a citizen of the European Union (EU). In fact, about 19% of the population of Northern Ireland do not have a passport. However, even within this group, many continue to attach symbolic significance to their national identity.

For others, whose livelihood and residence depend on their status, the rules on citizenship are of urgent practical importance. But since the Brexit referendum, questions of citizenship have become more pressing for more people; There has been a growing realization that different passports carry distinct benefits. When talking about the citizenship of the European Union, derived from being a citizen of one of the European Union member states of the European Union, and the

most prominent of these advantages is freedom of movement and work throughout the European Union¹³.

The right to citizenship has been recognized in the constitutions and laws of all States of the world and has been recognized by international declarations and conventions as the basis for citizens' enjoyment of their rights and duties under their right to citizenship. The Universal Declaration of Human Rights recognized this right by stipulating in article 15 that "Everyone has the right to Nationality, and no one shall be arbitrarily deprived of his nationality or denied the right to change it"¹⁴.

The International Covenant on Civil and Political Rights (ICCPR) has been briefly subjected to this right. Article 12, paragraph 4, stipulates that "no one shall be arbitrarily deprived of the right to enter his country." Article 24, paragraph 3, stipulates: "Every child shall have the right to a nationality"¹⁵. Article 29, paragraph 1, of the Arab Charter on Human Rights stipulates that "Everyone has the right to a nationality and may not be arbitrarily or unlawfully revoked.

The United Nations has adopted several conventions to address the right to nationality, namely the Convention on the Reduction of Statelessness, the Convention on the Status of Stateless Persons, the Convention on the Nationality of Married Women, and then the Convention on the Rights of the Child¹⁶.

Pursuant to international conventions, States' constitutions stipulate the right to nationality and refer the organization of its provisions to domestic laws. This is guaranteed by the American, Italian, German, and Swiss constitutions. The mother of Arab constitutions interpreted most of them in the same direction, providing for the right of nationality and referring to the laws of nationality to regulate its provisions; However, they differed in detail, with some briefly stipulating this right, such as Jordan's Constitution. Saudi Arabia, Palestine, Egypt, Syria, and others such as Lebanon, Kuwait, UAE,

Yemen, Algeria, Oman, Bahrain, and Egypt have expanded the provision for denunciation or withdrawal of citizenship. It should be noted that some constitutions are distinct from others in the elaboration of this right. The Yemeni Constitution absolutely prohibits the revocation of citizenship from Yemeni citizens, with the possibility of withdrawing it from those who have acquired it per the law, and Sudan's Constitution, which stipulates that "Every child born of a Sudanese mother or father has the right to enjoy nationality, its rights, and its potential costs. Every person born in Sudan or resident for several years has the right to nationality as regulated by law. The Constitution of Qatar has made constitutional the provisions of the law governing nationality provisions. Finally, some Arab constitutions have not provided for the right to nationality, including the Constitution of Djibouti, Mauritania, Morocco, and Tunisia, and appear to have left their determination to the National Citizenship Law¹⁷.

3. Right to Citizenship in Omani Legislation

The State's statute has a series of legal articles, enshrining the principle of citizenship, through its organization of public rights and freedoms, and establishing a clear path for citizens' association with the State with a set of principles that reinforce the principle of citizenship, such as ensuring the free exercise of economic activities and protecting private property and the duty to ensure the preservation of public property. Municipal councils have played an important role in enshrining the right of citizenship within the Sultanate.

3.1. Right to Citizenship in the Basic Law of the State of Sultanate of Oman

The Basic Law of the State affirms social principles, including the fact that the Omani family continues to maintain the customs and traditions of the original Omani society. The family is the foundation for preserving the legacies rooted in the conscience of people by

raising one's patriotism and promoting the principle of loyalty and citizenship. Oman's legislation, particularly the Basic Law of the State, has also ensured that society is built on a solid foundation of justice, equality, and equal opportunities and that the principle of social solidarity is strengthened. These principles constitute a solid shield for the protection of a collective sense of responsibility towards society.

The Basic Law of the State guarantees the right to work by allowing every citizen to engage in any kind of work or occupation (professional, commercial, industrial, or commercial) in contrast to the law prohibiting the compulsory exercise of any work by any individual; The Civil Service Act guarantees the regulation of an employee's relationship with the State in the civil sector in addition to other special laws governing this relationship in different sectors of the State. The Labor Code regulates the relationship between the worker and the employer, which in turn promotes the principle of citizenship.

Education plays a prominent role in the advancement of peoples and States; Accordingly, the Sultanate of Oman has endeavored to provide educational institutions at all levels, to make education compulsory at the earliest stages to eradicate illiteracy, create a conscious society that values the nation's achievements, and preserve its gains.

One of the public rights and freedoms guaranteed by the State is The right to nationality, which constitutes the association of belonging and loyalty between a citizen and his or her State of nationality, does not amount to the enjoyment of the nationality of a State; It goes beyond being an internal and conscious association born with the person, growing up when the State embraces its citizens, respects their rights and freedoms, and provides them with a sense of security. The Omani Statute stipulates the right to nationality in article 15, which states as follows: "Nationality is regulated by law and may be revoked or

withdrawn only within the limits of the law." Pursuant to this article, the Omani Nationality Act was promulgated by Decree No. 38 of 2014, establishing the conditions for the granting, waiver, restitution, or withdrawal of Omani nationality¹⁸.

The right to security is a right owed to the State for the benefit of individuals. The State is obliged to provide security, which is one of the State's most essential functions to ensure its survival and continuity. According to the Statute of the State, no person may be arrested, searched, detained, imprisoned, determined his residence or restricted freedom of residence or movement except in accordance with the law. No one shall be subjected to torture, whether physical or moral, nor may the dignity of the human person be undermined or threatened to extract any words or recognition from him forcibly. All such practices are prohibited by law to preserve the security and dignity of the human person, which in turn reinforces and perpetuates the principle of citizenship.

Freedom of movement is also guaranteed by the Basic Law of the State, the freedom to reside in the place of one's choice, and the Basic Law of the State prohibits the expulsion, exile, or denial of citizens from returning to the Sultanate.

The inviolability of a home is also one of the rights to which the law provides special protection because of the great importance of housing for every human being. The home is the place of the individual's private life through which he or she can exercise his or her personal life without restrictions or conditions within the limits established by law. The inviolability of correspondence and correspondence, whatever the means used, in addition to intellectual rights and freedoms; Practicing religious observances is not coerced into religion, freedom of opinion by various means of expression, writing or reference, and freedom of the press, which is one of the rights most

protected by its widespread reach, may sometimes expose press professionals to criticism, objection, and threats.

The Basic Law enshrines the political rights of every citizen, the most important of which is the right to vote, the right to stand for membership of the Consultative Council, the right to participate in public affairs, and the right to address public authorities. All these rights strengthen the bond of loyalty between the individual and the State, reinforce the principle of citizenship by involving citizens in the political process, and develop their sense of responsibility towards the State.

The promotion of the principle of citizenship is not limited to the protection of public rights and freedoms, intellectual and political rights; It extends to imposing a range of duties on nationals of the State and residents of its territory alike in view of their protection of their persons and property. These duties are aimed at defending the homeland of Omanis., Preservation of national unity and performance of taxes and overhead costs are covered by special safeguards against abuse in their application, The obligation to respect laws and the resident's obligation to respect the prevailing societal customs, traditions, and values of Omani society¹⁹.

3.2. Governorate System and Municipal Affairs and its Role in Promoting the Concept of Citizenship

Before the promulgation of Royal Decree No. 101/2020 on the governorate system and municipal affairs, municipal councils established by Royal Decree No. 116/2011 were dedicated to the dissemination of the idea of municipalities at the higher regional level of governorates, having been limited to the lower level of states, and municipal councils were reorganized by the Royal Decree No. (126/2020). This step was to establish the core of the establishment of the local administration system, especially with the law adopting the

method of elections synonymous with an appointment as a means of establishing municipal councils for governorates.

These councils strengthen the community entity; Through its role in maintaining its social, development, cultural and economic stability, the Sultanate, and because of the cumulative experiences of electoral work in the Consultative Council over the past years, Omani citizens, have gained a good culture to exercise their right to vote and stand freely.

This step aims to empower councils by giving them more powers to reduce administrative redundancy (bureaucracy), to give the governorates the powers of self-management, to implement the decisions and recommendations approved by these councils, and to give them the right to choose their chairpersons and rapporteurs. All these powers reflect the idea of adopting administrative decentralization in the Sultanate and enshrining the principle of citizenship.

Conclusions

- The right to citizenship is linked to a human being's identity and cultural reference of different origins and ethnicities.
- The right to citizenship is the right of every person born in a country who has acquired the privileges and rights of that country's membership.
- The concept of "citizenship" refers to several aspects. The first contains a legal relationship of "nationality.," The second includes a political relationship involving a range of political rights, freedoms, and duties. The third affirms the existence of a moral and emotional relationship linked to the love and loyalty of the nation and its symbols of language, history, culture, and other symbols of identity and belonging.
- The right of citizenship is not limited to the possession of the State's nationality or to residence in its territory; It extends even if the individual renounces the State's nationality and immigrates and resides in another State.

Recommendations:

- We recommend the formation of municipal councils by free election, and the gradual abandonment of the method of appointment after the establishment of clear requirements for the voter and candidate.
- We recommend that municipal councils be given broader executive and supervisory powers to support the idea of participation in local government; This contributes to the enshrinement of the individual's principle of citizenship.
- We recommend that dual or renounced nationality should not be a reason for depriving an individual of the right to citizenship.
- We recommend that the curriculum at different levels be informed by the concept of citizenship outside the traditional framework (right of nationality); The right to citizenship and the privileged status of citizens in the State are established within the limits of the laws and legislation governing citizens' personal rights and freedoms.

الهوامش

Footnotes

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