



DEBATE: DEVE SER PORTUGUÊS QUEM NASCE EM PORTUGAL? A REFORMA
DA LEI DA NACIONALIDADE.

In the ambit of the Conference “Migration, Citizenship, Human Rights” 27 Nov
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Organized by
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Intervention by JASON KEITH FERNANDES

Before I begin I would like to thank the organisers of this event, and in particular Prof. Cristina Nogueira, for having invited me to participate in this event. While my research interests are focussed on citizenship, they have more to do with the citizenship of those in Goa, a former province of Portugal. It is precisely from this somewhat displaced location that I would like to contribute to this debate.

Thus, this afternoon, rather than address the question “Quem nasce em Portugal é português” directly, I will take a couple of steps back to reflect on the kind of framework through which we can address the citizenship rights of people who are associated with this country. Such a step back is necessary because while ‘*jus soli*’ is a valid argument that we can base our activism for citizenship rights on, we need to also draw from the larger context within which *jus soli* has traditionally been associated, if not born from. Indeed, I believe that through the argument I am making we could move beyond the argument of *jus soli*, to have an additional logic on which to base the change in citizenship law.

This context is that of empire, and my argument is that our citizenship activism must be



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motivated by a spirit of empire. I know that making such an argument in Portugal, with its own history of empire is bound to be controversial, but I believe that my argument offers nuances that distinguish it from the way the history of empire is normally valorized in this country. In an article that was part of the collection that reflected on the Roman empire's extension of citizenship to all residents of the Empire, Hervé Ingelbert (2016) argues that "Augustine disapproved of Roman imperialism, but not the Roman Empire." While convinced of Roman superiority, and the benefits of the empire, Augustine mourned that the extension of the empire and citizenship did not take place via negotiation and mourned that route for its spread was imposition and war. In other words, while Augustine approved of empire, he disapproved of imperialism. I think that this is a useful distinction that can be made, where imperialism is the aggressive act of extension, whereas empire can in fact be something that is much broader and embracing. Let us remember that the affect that motivates the change in the citizenship law is precisely that of embrace.

But can there be, some would ask, an empire without imperialism? In his book *The European Empire* (2016), Josep Colomer suggests that the EU is a good example of an empire that is not imperialistic, but expands through consensus. In his definition, "Empire means a form of political organisation for a vast territory which is based on a variety of formulas to link the units to the centre, and, as not having fixed borders it is also open to changes in membership." My interest, however, lies not so much in the dimension of territory, as much as in the implication of this form of polity on the people within the empire, i.e. on citizenship. In this aspect one can recognise that the EU has given members of EU nations similar rights, as well as a freedom of movement, for both leisure and work across these territories.

Such rights of movement and work might have been enjoyed by a larger segment of the global population had it not been for the manner in which decolonization was carried out.



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Decolonization, which was meant to be about affirming the rights of the colonized, their equality within the polity - i.e. the imperial polity, resulted in the restriction of their rights to travel within the imperial territory, to their imprisonment within national states. This is an argument that has been admirably elaborated by the Barry Hindess (2000) some years ago.

In the Portuguese case especially by suggesting that Portugal did not have colonies but overseas provinces, there was a formal acknowledgement of citizenship, if not a de facto realisation of these rights. In this context decolonization has in fact implied the rescinding of rights in the empire, and rights in the metropole. We need to bear in mind the following principle, an act of decolonization cannot be about the stripping of rights, it ought to be about the recognition of rights, i.e. the addition of more rights recognised by the state. Let us recollect that, as far as I know, a large number of the immigrants who are born in Portugal and will benefit from the proposed nationality law, are those from former colonies. Indeed, their presence here is the result of the imperial links that were forged between them and continental Portugal. It thus is a travesty of justice, and a testament to the wickedness of the process of decolonization that these groups are rendered without citizenship rights in a state with which they have traditional links.

I should point out that this is not my argument alone. In a recently published work *Freedom Time* (2015) Gary Wilder has highlighted that the Senghor and Aime Cesaire did not make univocal demands for national independence, but in fact also claimed for continuing relationships with the metropole, in a kind of imperial federation. We know that such a relationship was also contemplated within the Portuguese empire but did not eventually win out.



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The definition of empire that Colomer offers also reveals other aspects in which the empire is preferable to the post-colonial nation-state. The nation-state, which relies on forming citizens into a nation, has demonstrated that its existence is based on quotidian violence against those who cannot, or will not, become part of the nation. The empire, on the other hand, is capable of having a flexible relationship with those within its boundaries. What matters, are addressing the rights of the citizens. In the context of the on-going debates this distinction between the nation-state and empire, once again complicates our appreciation of the way in which Portuguese nationalism and the requirements for citizenship is based on the knowledge of the Portuguese language. I am not making an argument that groups can remain within Portugal without learning the language. The Portuguese language is the dominant language of the state, and the form through which the state communicates with its citizens, knowledge of this language is thus critical. However, to set it up as the single definer of Portuguese identity ensures that it ignores the complex ways in which Portuguese-ness can be, and is, expressed through other languages. These would be the languages that are spoken both by groups that have been historically Portuguese – that is colonized populations that do not necessarily speak Portuguese – as well as those that have recently begun making Portugal a home. I make this argument, because while *jus soli* is being argued for one set of proto-citizens of Portugal, *jus sanguinis* is being argued for another set – those who descend from Portuguese, and these descendants are required to demonstrate a capacity to speak Portuguese. But does this requirement not presume a certain kind of Portuguese ancestor? Weren't those who were under the Portuguese crown, or sovereignty, that is the colonized, also Portuguese even though they did not speak Portuguese?

I will conclude my initial comments here, by suggesting, that when debating the change in nationality laws we need to explore the way in which the concept of empire can be usefully brought to the table to expand the manner in which we argue for the rights of citizens.



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