

# Towards Dual Nationality: China's Legal and Policy Initiative for Human and Capital Inflow and Promotion of Social Justice\*

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*China's sole nationality principle was formulated at the beginning of the People's Republic of China. However, it was not officially adopted as a legal standard until 1980 when New China promulgated its first nationality act. Sole nationality, initiated as an expedient for foreign policy, was originally designed to help with neighbourliness. However, not only did it fail to achieve this goal, but it even resulted in more domestic institutional discrimination among Chinese people. Nowadays, in such a globalization and 'humanrightization' era, international law and domestic nationality laws in most countries throughout the world recognize an individual's right to a nationality, and accept dual nationality so as to facilitate migrants' returning to their homelands and help them reintegrate into local communities. Contemporary theory and practice of international law support the legitimacy of dual nationality. Also, China has experience in dealing with dual nationality. It would therefore be legitimate, beneficial and practical for China to restore dual nationality.*

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\* The term 'nationality' used in this article, limited to its narrowest sense, refers only to the nationality of human beings, excluding those of artificial persons, vessels and aircrafts. This article uses 'nationality', a term of international law, instead of 'citizenship,' denoting an individual's relationship with a sovereign state, not with a jurisdiction or legal unit.

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*'Nationality has no positive, immutable meaning.'*  
-Harvard Research in International Law (1929)-<sup>1</sup>

## I. INTRODUCTION

The People's Republic of China ("PRC")'s<sup>2</sup> dual nationality campaign started around two decades ago<sup>3</sup> in response to the serious challenges of the out-migration 'brain drain' and capital outflow.<sup>4</sup> But the government repeatedly rejected requests for dual nationality.<sup>5</sup> Instead, it granted foreigners permanent residency to attract foreign talent, intended as a strategy to relieve China from reverse brain drain and capital outflow. However, it caused more new problems than it solved.

Continuing outflows of talent and capital combined with unsuccessful foreigner permanent residency policies are made worse by China's sole nationality policy. The Chinese government has been pressed to restore the dual nationality system, which was accepted long before by most countries throughout the world, but to no avail.

The primary purpose of this research is to analyse legal and policy questions regarding China's nationality principle by reviewing the historical evolution of China's nationality law. The author will further redefine the concept of 'nationality' from both domestic and international legal perspectives. This paper is composed of six parts including a short Introduction and Conclusion. Parts two and three will review the sole nationality policy in China from a critical perspective. The author concludes that this policy has led to irreversible outflows of talent and capital, and even discrimination among Chinese population groups.<sup>6</sup> Part four will introduce dual nationality as it exists in international law as a means for the humanrightization<sup>7</sup> of international law. Part five will examine dual nationality practice in China.