LUND UNIVERSITY

Citizenship as a political tool: The recent turmoil in the MENA and the creation and resolution of statelessness

Al Barazi , Zahra ; Tucker, Jason Edward

2014

[Link to publication](#)

Citizenship as a political tool

The recent turmoil in the MENA and the creation and resolution of statelessness

*Zahra al Barazi and Jason Tucker**

1   Introduction

Jawad Fairouz was an elected Member of Parliament (MP) in Bahrain between 2005-2008, exercising the most fundamental privilege of a citizen – representing the voices of fellow citizens. This article explores the shift from having citizenship, to the state's exclusion of its citizens, not only from the nation-state, but from the nation-state system as a whole. Furthermore, it explores the opposite, when the boundaries of citizenship can be shifted to (re)include those excluded from the system, showing the manipulation of citizenship as a political tool. In 2012, whilst on a visit to London, Fairouz received a phone call from his family in Bahrain to inform him that he was no longer considered a citizen of the country. The authorities had stripped him of his nationality, making him a stateless person.

Citizenship has commonly been used as a political weapon, and sometimes a direct, devastating consequence of this is the rendering of individuals, groups or even entire populations as stateless. This article, by considering the concept of citizenship through a legal standing – where citizenship is the legal bond an individual holds with a state – reflects upon the exclusion of persons from the entire nation-state system, when citizenship is wielded as a political weapon. More specifically, we will look at both the creation and resolution of stateless cases through the manipulation by states of its 'citizenry' during the recent turmoil in the Middle East. From these examples, a key communality can be drawn out between the exclusion/inclusion of subjects and their perceived lack/sufficient loyalty to the nation-state.

Although everyone is perceived as belonging to a nation-state, statelessness is a global phenomenon, affecting approximately 15 million persons worldwide.[1] Statelessness, which is a legal concept, is when a person is not considered as a national of any country under the operation of its law.[2] This should not be confused with

---

*   Zahra al Barazi is a Researcher and MENA Expert at the Statelessness Programme, Tilburg Law School. Jason Tucker is a PhD candidate from The University of Bath.
1   The United Nations Refugee Agency, UNHCR, place the number at 10 million, but there are a further 5 million stateless Palestinians under UNWRA's mandate (United Nations relief and works agency for Palestine refugees in the near east).
2   UN, 1954, The Convention Relating to the Status of Stateless Persons, www.unhcr.org/3bbb25729. html.

stateless nations, such as the Kurds, but is instead a specific, individual legal phenomenon. Often there is a focus on the blurred and fluid boundaries of citizenships(s), however these debates rarely explicitly consider those who are outside of the whole legal citizenship system itself. It is the process by which this is happening, and the potential danger of this norm spreading, that acted as a catalyst for this piece.

Although international human rights law stipulates fundamental human rights based on our shared humanity (and not citizenship status), in reality the legal bond of citizenship to a state is a crucial determinate in accessing many rights. This is highlighted in the inclusion of a right to nationality in various international treaties, most notably Article 15 of the Universal Declaration of Human Rights.[3] This Article additionally prescribes that 'No one shall be arbitrarily deprived of his nationality'.[4] Being left stateless often leads to exclusion from access to rights such as education, employment, movement and healthcare, which leads to the exacerbation of poverty, and the marginalization of these individuals and communities. Besides this, statelessness often leads to national and regional tensions, because these people and their communities are not perceived as belonging anywhere. It is therefore a phenomenon that should be prevented and reduced, the recognition of which led to two stateless specific international conventions; the 1954 **Convention Relating to the Status of Stateless Persons** and the 1961 **Convention on the Reduction of Statelessness**.[5]

Statelessness is caused as nations are sovereign in deciding and identifying who they consider to be their citizens, and there are no guarantees that everyone will be included in this system. However, there are restrictions to this, which relate to the creation of statelessness as stipulated in Article 1 of the 1930 Hague Conventions, which states that:

> 'It is for each State to determine under its own law who are its nationals. This law shall be recognised by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognised with regard to nationality.'[6]

In reality, however, millions are suffering as a consequence of not having secured this fundamental human right. Whilst it is legitimately a sovereign right of any state to withdraw nationality from their citizens, this can only be undertaken in extreme circumstances and must be done in adherence to both domestic and international regulations. Without such restrictions, it would be at the discretion of any ruling political power to implement a redefinition of its citizenry, for example

---

3   United Nations, 1948, The Universal Declaration on Human Rights, www.un.org/en/documents/udhr/, Article 15.
4   Ibid
5   The 1954 Convention Relating to the Status of Stateless Persons, www.unhcr.org/3bbb25729.html, and the 1961 Convention on the Reduction of Statelessness, www.unhcr.org/3bbb286d8.html .
6   League of Nations, *Convention on Certain Questions Relating to the Conflict of Nationality Law*, 13 April 1930, League of Nations, Treaty Series, vol. 179, p. 89, No. 4137, available at: www.refworld.org/docid/3ae6b3b00.html, Article 1 .

denationalizing a section of society who they may feel will not vote for them, or a section of society whose religious beliefs differs from the narrative of the nation. While the manipulation of the boundaries of legal citizenship is not a new phenomenon, it has received relatively little attention. This is despite the devastating consequences of the exploitation of statelessness, made evident by the Third Reich's treatment of European Jewry, and more recently by the government of Myanmar (Burma) and their persecution of the Rohingya.

This article draws on the increasingly frequent examples in the Arab world, during the recent socio-political turmoil, of the use of citizenship as a political weapon and the dangerous, arbitrary acts of (de)naturalization. By looking at the examples of Bahrain, the UAE, Syria and Kuwait, this article highlights the dangerous norm in the region of, while not being the explicit objective of states, manipulating the citizenship to such an extent that it can create statelessness.

2 Political 'homogenisation' of the citizenry; the case of Bahrain and the United Arab Emirates

The creation of new cases of statelessness at times of political instability in order to silence critical voices has been a tool utilised by several Arab states of late. A prominent example of this is Bahrain. The volatile situation in Bahrain started in February 2011, surrounding the need for more political freedom and equality between all citizens, without the preferential treatment of the Sunni minority. In November 2012, the Bahraini government ordered that 35 of its citizens, all of them prominent oppositional figures, be stripped of their Bahraini nationality. According to most reports, only six of them hold another nationality (Bahrain does not recognize dual nationality)[7], rendering an estimated 25 new cases of stateless individuals. Jawad Farouiz was one of these targeted in this decree.

The reasons given by the Ministry of Interior was that Article 10 of the Bahraini 1963 nationality law allows the withdrawal of nationality under extreme circumstances. The 35 individuals in Bahrain, without any form of due process, have under this provision been accused of undermining the security of the state. Article 10. 4 of the Bahraini nationality law does allow the withdrawal of nationality when someone 'causes harm to the security of the State'. Whether the targeted individuals have been found seriously undermining the security of the state is not clear, due to the lack of transparency regarding this decision. There had been instability in the country, with a spate of bombings in the weeks leading up to this decision, but most indications show that this was purely a political move. Those affected had first heard about the decision through the media and had not been made aware of any such impending process, highlighting this lack of transparency. This suggests that what would be considered an accepted threshold of 'undermining the security' has not been met. Immediately, the government publicly listed the names of the accused, including figures such as former MPs of the leading Shia movement, *al-Wifaq*, the head of the Bahrain Freedom Movement, and three Shia clerics – Hussein Mirza, Khaled Mansour Sanad and Alawi Sharaf. Although no conclusion can be made

---

7   Article 9 of the Bahraini Citizenship act.

without a full trial, these individuals – all leading Shia opposition members – seem unlikely to have instrumented extreme militant acts, but making them non-citizens delegitimises any of their criticisms towards the government.

Interestingly, the Interior Minister Sheikh Rashid Al Khalifah further stated that one of the reasons behind this action was that the country had seen repeated abuse by these individuals 'of the rights to freedom of speech and expression'[8], which they deemed could no longer be accepted. It is not in any way clear how they came to the conclusion that these individuals had been enjoying *too* much of this fundamental right. They have shown no evidence of the need to derogate from this right in this circumstance, but instead are claiming that overstepping the necessarily self-imposed limitations of this right justifies the withdrawal of nationality. Alongside the absurdity of this claim, that someone has been practicing too much of their right to freedom of speech, the belief that rendering them stateless would forbid them from accessing this right is worrying.

In the international context, the Interior Ministry's official statement and comments on state TV claimed that citizenship would be revoked in conformity with the Kingdom's commitments under international law. Bahrain has not ratified either of the statelessness conventions, but has other relevant instruments which it is now in the process of violating.[9] It is unclear what will now happen to these former citizens, particularly the majority who still reside in Bahrain.

Worryingly, all of the denationalized are of the Shia confession, highlighting suggestions floating in the media that members of this sect are more likely to be loyal to foreign states – namely Iran. This is a dangerous speculation that alienates and isolates this sector of society, and certainly does not address the prevalent socio-political problems of the country. This move may also create a sense of fear amongst other oppositions, especially those from the Shia sect, who could also face denaturalisation if they continue to be critical of the state.

Another earlier example of this means to delegitimize critical voices occurred in the United Arab Emirates (UAE) in 2011. Seven Emirati activists had their nationality withdrawn as they were accused of threatening the security of the state with their activities – a crime which entails denationalization under their citizenship law.[10] With the UAE prohibiting dual nationality, this has left them all stateless. The courts in November 2012 additionally rejected an appeal made by these individuals – which argued that the convictions were not legally based since no court ruled on the crimes that they were accused of – arguing that the government's actions were justified in protecting their national security.[11] The seven men have been called 'men of opinion, social activists and advocates for reform with allegiance to the

---

8   'Bahrain government bans protests amid violence', www.bbc.co.uk/news/world-middle-east
      -20135218 .
9   For example, the International Covenant on Civil and Political Rights (ICCPR).
10   Article in The National 'Appeals court ruling for seven stripped of UAE citizenship.'
      www.thenational.ae/news/uae-news/appeals-court-ruling-for-seven-stripped-of-uae-
      citizenship#ixzz2f4Tx6Gno.
11   Article in The National 'Appeals court ruling for seven stripped of UAE citizenship.'
      www.thenational.ae/news/uae-news/appeals-court-ruling-for-seven-stripped-of-uae-
      citizenship#ixzz2f4Tx6Gno.

UAE *Al-Islah* Association'.[12] What's more, the Board of Directors of *Al-Islah* have been suspended and replaced by a State Oversight Council – all of which strongly implies that this was a political gesture to silence them in a collective punishment, removing them from the reform discourse. As with the Bahraini example, this is alarming, as it shows that certain states in the MENA will, and have, withdrawn nationality of individuals, regardless of the potential for creating statelessness.[13]

3   Syrian Kurds and the Bidoon of Kuwait; including the excluded to build loyalty to the state

The Bidoon of Kuwait number over 100,000.[14] Their name reflects their citizenship status; they are, literally translated, 'without' citizenship. The Bidoon's stateless-ness was a result of the failure of the Kuwaiti authorities to register all of its inhab-itants before it gained independence in 1961. The 1959 Nationality Law only made citizenship of the newly formed state available to those who had maintained legal residency in the country since 1920.[15] A combination of some Bedouin living in parts of the country which were not reached by registration teams, illiteracy and the fail-ure to recognise the importance of being registered, meant that many persons in Kuwait were missed out. They are thus not recognised as Kuwaiti citizens and have been subsequently marginalised in society for decades.

This perceived lack of belonging within the Kuwaiti nation-state was reinforced following the withdrawal of Iraqi troops from Kuwait in 1990, when the Bidoon were accused of assisting the Iraqis, and those Bidoon who had fled were not able to return. With regard to how the government have framed this situation, it has been noted that:

> 'The term Bidoon is best described as a construction of the Kuwaiti Government, members of this group are not part of it voluntarily. On the contrary, membership of the Bidoon is unintentional and unwanted. Over time, it has developed into a classifi-cation forced upon its members. Today, this construction by the Kuwaiti Government is used to marginalise and oppress the Bidoon'.[16]

The Bidoon were therefore created, and these excluded persons and their descend-ants still live with the dire consequences of this exclusion. Their legal limbo is

---

12   www.echr.org.uk/wp-content/uploads/2012/07/Case-of-the-7-UAE-Nationals-Stripped-of-Citi-zenship.pdf.

13   See for a number of other examples of the withdrawal of nationality from individuals and groups within the MENA region, UNHCR, *The situation of stateless persons in the Middle East and North Africa*, October 2010, p. 8.

14   Immigration and Refugee Board of Canada, *Kuwait: Treatment of Bidoon by the Kuwaiti authorities (January 2003 – October 2005)*, 21 October 2005, KWT100681.E, available at: www.refworld.org/docid/440ed71912.html.

15   Kuwaiti Nationality Law, 1959, www.refworld.org/docid/3ae6b4ef1c.html.

16   Affleck, D., *Being 'Without'- Who are the Bidon of Kuwait?*, Right Now, 2012, http://rightnow.org.au/topics/asylum-seekers/being-%E2%80%9Cwithout%E2%80%9D-%E2%80%93-who-are-the-bidoon-of-kuwait.

justified as they are seen as a threat to the 'homogenous' Kuwaiti nation-state, and are often accused of being foreign infiltrators who are trying to benefit from this rentier state.

This exclusion has been challenged by the Bidoon in the recent socio-political turmoil in the region. Whereas the other groups mentioned were rendered stateless due to a perception of their lack of belonging/loyalty to the state, the Bidoon of Kuwait have been framed as disloyal only decades after being rendered stateless. Their statelessness was a result of poorly implemented registration; their persecution however is socially constructed as a means to reinforce what it means to be Kuwaiti, i.e. not Bidoon. Since 2011, the contestation of their status has been more vocal, with mass demonstrations by the population and, in response from the government, mass arrests and suppression of the protestors. However, as a consequence, the authorities did agree, in theory, to naturalize some of the Bidoon (including those who are the children of Kuwaiti mothers and those who have served in the Kuwait army and police).[17] This shows the expansion of the boundaries of citizenship, to those who are perceived as loyal either through maternal affiliation or services to the state. While the outcome of these statements has made little difference in terms of resolving the statelessness of the Bidoon, it does show the potential of acceptance that they are in fact 'Kuwaiti', since the disloyalty argument seems to be losing tractability with increased protests demanding recognition of their belonging in Kuwait. In the case of the Bidoon, this is in response to the increasing instability they are causing through their demand to be recognised as Kuwaiti.

The example of Syria is particularly interesting as it shows the same group of people being denationalised based on disloyalty, later being nationalized to build loyalty. In Syria, hundreds of thousands of Kurds were denaturalized in the 1960s amidst an agenda to Arabize the region. The Syrian government introduced a census in Decree No. 93, issued in August 1962, where everyone in the mainly Kurdish area of Al-Hassakah was required to prove long-term residence in the region – the purpose, ostensibly, was to identify illegal infiltrators. Many people were left out of this census for various reasons, such as the inability to provide the requested documents, a lack of knowledge about the census and the inability to register.[18] (The procedure was carried out so arbitrarily that often brothers from the same family were awarded different statuses.) For fifty years, hundreds and thousands of Kurds were left stateless, and in Syria, this meant being left with little access to any basic rights, with the government simply ignoring any national or international pressure to resolve the stateless problem. However, in 2011, when the government first felt that it was facing internal opposition at the beginning of the uprising, it very quickly announced Presidential Decree no. 49 which granted the 'ajanib' group of stateless Kurds and their descendents (those who had attempted to register in 1962 but were

17   Al Barazi, Z., *The Bidoon: a solution insight?*, Statelessness Programme, 2012, http://statelessprog. blogspot.co.uk/2012/03/bidoon-solution-in-sight.html.
18   For more information see Albarazi, Zahra, *The Stateless Syrians* (May 24, 2013). Tilburg Law School Research Paper No. 011/2013, research conducted by Thomas Mcgee.

unsuccessful) Syrian citizenship. The regime clearly viewed this as an opportunity to quell mounting opposition amongst the Kurds, who were often traditionally seen as anti-regime. Many of these stateless persons who remained in Syria have successfully been able to acquire citizenship. This (de)naturalization shows how fluid the shift can be in a state between removing and offering citizenship based purely on 'loyalty'.

4   Concluding summary

The examples of Bahrain and the UAE show the reduction in the 'citizenry' to delegitimise dissenting voices amongst their citizenry, while the case of the Bidoon of Kuwait and the Syrian Kurds shows a reversal in policies of exclusion as the boundaries of citizenship are manipulated as a political tool, in order to include certain populations to quell civil unrest.

What all the above examples show is that perceived (dis)loyalty to the state is used as a means to (de)naturalise persons or populations. This loyalty does not however have to be based on credible evidence, but on temporary political needs. (Dis)loyalty can be labelled on a population based criteria such as ethnicity (in the case of the Kurds) or religion (in the case of the Bahraini Shia'a) or on an individual's political position (in the case of the UAE and Bahrain). What these examples show is that there is a dangerous norm taking place in the current socio-political turmoil in the MENA with regard to creating statelessness. If states continue to see denaturalisation as a powerful temporary political weapon, the worry is that we may see expanded targeted withdrawal of nationality implemented under vague accusations of threatening state security or homogeneity. With increasing sectarian tensions in the region and the polarization of states, denaturalisation leading to statelessness could become increasingly prevalent as a solution to reinforce the narrative of the nation through the contraction of states citizenry.