

Compatibility of the Arabian Nationality Laws with the International Conventions for Protection against the Phenomenon of Statelessness

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The study aimed at identifying the issue of stateless persons in light of international conventions and national legislations. It addressed a global and serious issue that violates the rules of international law and human rights, affecting about 15 million people in the world who are among the most vulnerable groups. The international community recognised the magnitude of this issue and adopted two treaties: the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Despite these efforts, a comprehensive solution has not yet been reached. In order to identify the real reasons behind this issue, especially with regard to adequacy of legislative texts related to the Jordanian nationality to reduce the phenomenon of statelessness, a comparative approach was adopted to compare the relevant international conventions with the legislations of 17 other countries. The study concluded that there are legislative shortcomings in provisions governing nationality in the benchmark countries. The study uncovered a number of legal gaps in the relevant conventions.

Key words: *Acquired Nationality, Benchmark States, Nationality, Original Nationality, Stateless By Law, Stateless By Reality*

Introduction

Despite the evolution of human rights in the world, a significant proportion of the world's population lacks the rights to nationality, estimated to be 15 million people (Universal Declaration of Human Rights, 1948, No.15). A stateless child is born every 10 minutes (Ma'an, 2015, p. 50), putting big pressure on international human rights conventions, most notably the International Covenant on Civil and Political Rights (Guterres & Arbo, 2017, p. 1).

There are many reasons for statelessness, including conflict of laws between States, denial of nationality by withdrawing or nullifying (Simperingham, 2003, p.3), laws related to mixed marriages, adoption and renunciation of nationality in order to acquire a new one, and reasons with respect to State inheritance (Hedawi, 2001, p.39), racial discrimination, lack of civil registration, disputes, and conditions of instability (Abbas, 2003, p.17).

There is no doubt that there are real risks violating the economic, social and political rights of a stateless person, leading to forcible displacement that leads to degrading the dignity of that person (Khallf, 2018, p. 30).

Statelessness is of great importance because it is primarily humanitarian. The international law provides for the right of every person, regardless of gender, colour or other discriminatory grounds, to nationality (Hedawi, 2001, p.40).

The study aimed to provide human rights specialists with a clear view of the various international and national mechanisms seeking to address statelessness. This study aims at demonstrating the compatibility of Jordanian Nationality Law No. (6) for the year (1954) and the laws of the benchmark countries with the international human rights standards regarding the right to nationality. The study also analysed the reasons to find out the legal gaps leading to statelessness, and suggested necessary amendments to the Jordanian nationality law and laws of the benchmark countries so that they conform to international standards. The study concluded with recommendations to combat this problem and submit it to the competent authorities to adopt legislative measures to reduce statelessness.

In order to achieve study objectives, a descriptive approach was used; the texts of international conventions and national legislation were presented to clarify statelessness. The analytical approach was used to analyse the texts of international and regional conventions and national legal texts, to identify the legal framework governing the status of stateless persons. The study used a comparative approach to compare the texts of national legislation with the relevant international and regional conventions, as presented in detail in the following pages:

Methodology and Discussion

In this part of the study the researchers presented a detailed analysis and comparison of legislations relevant to the benchmark states regarding statelessness.

First Section: Adequacy of Rules on Indigenous Citizenship to Protect and Reduce Statelessness

First Topic: The Adequacy of Invoking Jus Sanguinis by One or Both Parents as an Original Means of Preventing Statelessness

Under paragraph (3), article (3) of the Jordanian Nationality Law, it is clear that Jordanian legislators recognise jus sanguinis descending from the father in original and jus sanguinis descending from the mother in exceptional cases. It can be clarified as follows:

First Case: Acquisition of the Original Jordanian Nationality by Jus Sanguinis Descending From the Father in Original

Article 3, paragraph 3, of the Jordanian Nationality Law No. (6), 1954, as amended by Law No. (22), of 1987, stipulates: “A Jordanian citizen shall be a person born to a father of Jordanian nationality” (Jordanian Nationality Law, 1954).

The Jordanian legislator considers the father's nationality as a basis for the acquisition of Jordanian nationality, regardless of gender of the child, whether the birth took place inside or outside Jordan. However, there are certain conditions that shall be met:

A- The Father Shall Enjoy Jordanian Nationality at Time of Delivery and not Afterwards

Any previous or subsequent change in nationality of this father shall not affect the acquisition of Jordanian nationality by the child as long as the father enjoys it at time of birth. This provision shall not be invalidated if the father is a foreigner at time of pregnancy and then he has acquired Jordanian nationality; because it is clear from the operative text of the above article that the point is to acquire nationality at the time of birth, i.e., the article provided for the right to nationality with timekeeping (Jordanian Nationality Law, (1954).

The right of a child to acquire the nationality of his father shall be established whether the father has acquired the original nationality or by naturalisation, or in any other manner. Also, there is no effect if the father dies before delivery if the father has Jordanian nationality at time of death. The acquisition of nationality here shall not be affected by nationality of the mother,

whether stateless or foreign, even in the event of dissolution of marriage. The Jordanian legislator didn't restrict the acquisition of the father's nationality by a particular generation; even if birth of these generations succeeded outside Jordan, that is, the legislator issued the ruling without any restrictions (Al-Mutairi, 2016: 30).

B – The Descent Shall Be Established through the Jordanian Father (Abdul-Al, 1986: 62)

The descent that is reliable for acquisition of nationality is jus sanguinis descending from the father; this is not affected whether the marriage survives or is dissolved by divorce or death. It must be a true marriage, in reality or in judgment, at the beginning of pregnancy.

There is no doubt that if the descent is established through the father at time of birth, the child will enjoy Jordanian nationality. This doesn't raise problems. There will be a dilemma if it isn't possible to establish the descent at time of birth and the descent wasn't established until the elapse of a certain period of time. Here, a complex issue arises: whether the acquisition of nationality extends to the moment of birth or to the moment the descent is established.

Establishing the descent through the father is a revealing of the nationality, not originating it. Thus, establishing the descent through the father extends to the date of birth, not to the date of establishing the descent.

In fact, most laws, especially Arab, recognise jus sanguinis descending from the father. Consequently, the father can pass on the nationality to his children whether they are born inside or outside the country without the need for certain procedures (Jordanian Citizenship Law, 1954). In this context, Libya is the only country where citizenship is not automatically acquired (Libyan Nationality Law, 2010).

Second Case: Acquisition of the Original Jordanian Nationality by Jus Sanguinis Descending From the Mother in an Exceptional Manner And Due To the Right of the Territory

Article 4, paragraph 4 of the Jordanian Nationality Law No. (6), of (1954) stipulates: “A Jordanian is the person who is born in Jordan to a Jordanian mother and a father of unknown nationality or stateless, or whose descent has not been legally established to his father”, according to certain conditions as follows:

First Condition: Delivery shall be from a Jordanian Mother

The mother must be Jordanian, whether she acquired the nationality in original or in subsequent manner, as the point is the time of birth (Sanori and Borini, 2012: 51).

Second Condition: Delivery shall be in Jordan

Here, delivery should take place within the boundaries of Jordan; on land, sea or air (Al-Rawi, 1971: 100).

Third Condition: The Father Shall Be Unknown or Stateless or If Child's Lineage Hasn't Been Legally Linked to His Father (Sanori and Borini, 2012: 556)

To understand the above cases, the following can be addressed:

First: If the Father Is Stateless

It happens when the father is stateless, i.e., the father is known but doesn't have nationality, the point is that the father has no nationality at the time of birth. If the father has a nationality of a country, a child born to a Jordanian mother doesn't benefit from this provision (Ibrahim, 2003: 87).

Second: The Nationality of the Father is Unknown

This means that the nationality of the father is unknown, but may have the nationality of a state, which distinguishes this case from the previous one (Ezzedine, 1986).

Third: If the Lineage of the Child Hasn't Been Legally Linked to the Father

If there was no proof that the child was born legally to the father, in other words a bastard, the offspring of a relationship between an unmarried woman and a known man, but that man recanted the child's lineage to him or that the man is not already known. The last assumption is that the child came from a legitimate and correct marriage relationship duly, but the man recants the child without recognising his lineage (Al-Hedawi, 2001: 101).

If the above conditions are met, Jordanian nationality shall be established to the child by force of law from the day of birth.

After the Jordanian nationality of the child has been established, there are cases that should be clarified as follows (Al-Hedawi, 2001: 102):

First Case: If the Father Didn't Have Nationality of A Country at Delivery, and Then Acquired Nationality of A Particular State

Here, the nationality of the child isn't affected by the fact that the father's acquisition of nationality of a particular state subsequent to birth of the child doesn't extend to the past, as the conditions required by the law aren't met.

Second Case: If the Father is of an Unknown Nationality, then this Nationality Should Be Unveiled

If the father is found to be Jordanian, the child's nationality must be corrected according to rules of lineage –article 3, paragraph 3, of the Jordanian Nationality Law, in this case nationality shall apply. However, if the father is found to be a non-Jordanian then, nationality of the child shall be forfeited from the date of birth, provided that this doesn't prejudice the rights of non-bona fide persons (Khallaf, 2018: 56).

Third Case: If the Child's Lineage Hasn't Been Linked to the Father, then afterwards Proved to be of the Father's Lineage

Here, the same rules of the second case apply, whether the father is Jordanian or a foreigner. The study finds that the Jordanian law is insufficient for caring about the nationality of a Jordanian mother if the child was born outside Jordan. Moreover, Jordanian law didn't equate women with men regarding the right to grant nationality to children, as women were granted this right only in exceptional circumstances. Jordanian law is not different from other Arab laws, like those of Bahrain (Bahrain Nationality Law, 2014).

In Mauritania, a child, born to a Mauritanian mother inside the country, gets the Mauritanian nationality; but a child born abroad needs more procedures to obtain nationality (Mauritanian Nationality Law, 1961).

In contrast, a number of countries have equated rights of men with women in granting nationality to children, including Egypt, Morocco, Algeria, Iraq, Yemen, Tunisia, Libya and France (Egyptian Nationality Law, 1975).

The researchers would like here to outline some Arab nationality laws as follows:

Yemen Nationality Law after Amendment

In Article (3) of the Yemeni Nationality Law, the Yemeni legislator has equated the father's ability with the mother's in granting citizenship to children (Yemeni Nationality Law, 2010), which was issued on November 21, 2010. Despite the importance of the law, still there are people who will lose their nationality, especially before the enforcement of the law. People born to a Yemeni mother before November 21, 2010 need to submit an application to the minister within three years in order to obtain nationality. The approval of the Minister is required, or a full year has elapsed from the date of submission without a decision of refusal.

Iraq Nationality Law

Article 3 of the Iraqi Nationality Law 2006 states:

A Person Is Considered an Iraqi

(A) If he is born to an Iraqi father or an Iraqi mother.

Article 4 stipulates: "The Minister may consider a person born outside Iraq by an Iraqi mother and an unknown or stateless father an Iraqi person, if he chooses it within one year from the date of the age of maturity, unless difficult circumstances prevent it provided that he is a resident in Iraq at the time of submission for Iraqi nationality "(Iraqi Nationality Law, 2006).

It can be said that Iraqi legislation has been in conflict with legal texts, therefore there is no point in continuing this conflict (Mutashar and Hussein, 2015: 342).

The study attributes the existence of such a text to two things:

1. It might be a material error made by the Iraqi legislator.
2. Lack of real and actual desire to grant women equal rights with men to grant nationality to children.

What applies to Iraqi law also applies to Libyan law; Article 11 refers to equality between men and women in granting nationality to children, while retaining provisions that exceptionally allow women to pass their nationality to children (Libyan Nationality Law, 2010).

Second Topic

Adequacy of the Right to Territory as a Means of Preventing Statelessness

Article 3, paragraph 3, of the Jordanian Nationality Law states: “A Jordanian is a person born in Jordan from unknown parents. He is considered to be a bastard in Jordan unless the contrary is proved” (Jordanian Nationality Law, 1954).

The Jordanian legislator stipulated several conditions for children to enjoy nationality, outlined as follows:

The Child Shall be of Unknown Parents

The term “unknown parents” means that the father and mother together are unknown; if one is known, the text doesn’t apply because he stipulated that both together shall be unknown, the nationality is a temporary nationality. If one parent is known and found to be non-Jordanian, the nationality of the child shall be revoked retroactively.

Thus, the unknown mother is a matter of fact, and the unknown father is a legal issue (Al-Hedawi, 2001: 57).

Delivery shall be in Jordan

Delivery is a material fact that may be proved by all means of proof. The legislator assumes that the delivery took place in Jordan until the contrary is proved. If the father is found to be a foreigner, the nationality shall be revoked from the bastard retroactively, without prejudice to the rights of bona fide parties. If it is found that the father is Jordanian, he shall still enjoy Jordanian nationality; if the mother is Jordanian, as a general principle, Jordanian law shall not count jus sanguinis descending from the mother except in exceptional cases.

Returning to the legislation of the benchmark countries, it was found that the bastard could be granted citizenship in accordance with the conditions that had been dealt with in relation to Jordanian legislation (Jordanian Nationality Law, 1954).

It is clear that the Jordanian legislation and legislation of the benchmark countries were in conformity with international standards, which provide for the protection of bastards from the risk of statelessness (Convention on the Reduction of Statelessness, 1961).

The study finds that there are drawbacks in the Jordanian legislation and that of Arab countries, as legislation didn't provide for equality between men and women in giving nationality to children, and that these countries made the status of bastards better than one who was born to a national mother.

Moreover, these countries, including Jordanian legislation, didn't protect a child born in their territory if they were at risk of being stateless except for two countries, Lebanon and Syria (Lebanese Nationality Law, 1925) (Syrian Nationality Law, 1969).

The laws of these countries didn't include a private provision in case of delivery in their territory when the parents were stateless, except Syria and Tunisia (with additional conditions) (Tunisian Nationality Law, 1963).

Second Section

Adequacy of Rules on Acquired Nationality to Prevent Statelessness

According to the ruling issued on February 7, 1956, Egyptian administrative judiciary defines the acquired nationality as the nationality earned by the individual after delivery, even if the delivery is the reason for the acquisition (Maan, 2015: 40).

This adequacy can be illustrated as follows:

First Topic: Adequacy of Rules Concerning the Acquisition of Nationality through Naturalisation to Prevent Statelessness

States set certain conditions to obtain nationality by naturalisation, which vary from one country to another. This can be illustrated as follows:

There are common requirements between the benchmark countries; the first of which is language. Some countries require that the applicant must have advanced knowledge of the language (Jordanian Nationality Law, 1954), while others restrict to that just knowing the language is sufficient to meet the requirement (Syrian Nationality Law, 1969).

With regard to conditions of residence, which is the most important bond for the States, it can be noted that Jordan has fixed the length of stay by four years (Jordanian Nationality Law, 1954). Some states set a minimum of five years (Tunisian Nationality Law, 1963). For Algeria, it has been limited to seven years, while others set this period to 10 years; however, others set the duration to be at least twenty-five years (Kuwaiti Nationality Law, 1959).

Other standards which are normally required by States include good conduct; that a person seeking naturalisation has a legitimate means of acquisition, in addition to being physically and mentally sound.

The requirement of physical and mental integrity may be overstated by some States to the extent of violating international standards. For example, article 18 of the Convention on the Rights of Persons with Disabilities states:

(A) The right to acquire and change nationality and not to be deprived of it arbitrarily or on the basis of disability; referring to the first paragraph of article 19 of the Mauritanian Nationality Law, although the law contains discriminatory provisions against persons with disabilities. It furthermore states that if a person is suffering from any physical or mental disability through the following year, such nationality shall be withdrawn, even if that makes a person stateless.

Article 4 of the Syrian Nationality Law stipulates that persons must be free from communicable diseases, disabilities and illnesses (Syrian Nationality Law, 1969). Tunisian law stipulates that a person applying for nationality shouldn't be in a physical condition that makes him a burden or danger to society (Tunisian Nationality Law, 1963).

The laws of Kuwait, Syria, Yemen and Qatar violate human rights. Kuwait requires that person must have a competence the country needs, and that he is Muslim (Kuwaiti Nationality Law, 1959). Syria requires that the applicant seeking naturalisation possesses qualifications that benefit the country. (Syrian Nationality Law, 1963). Yemen requires that he be a Muslim or Arab (Yemeni Nationality Law, 2010), while Qatar requires that the number of persons doesn't exceed 50 per year (Qatar Nationality Law, 2005).

The 1954 Convention related to the Status of Stateless Persons states in Article 32 that; "States shall facilitate the accommodation of stateless persons and grant them nationality and shall make every effort to expedite naturalisation procedures, and reduce the financial burden and the length of stay required so as not to exceed seven years, while some states require much more (Convention on the Status of Stateless Persons, 1954).

It can be noted that Jordanian Nationality Law and the laws of the benchmark countries don't provide facilities in the conditions related to naturalisation except for the text of Article VI of Yemeni Nationality Law. However, this provision is broad, and may allow, under these circumstances, to apply to stateless persons as their need is certainly urgent for citizenship (Yemeni Nationality Law, 2010).

Researchers believe that all legislations of the benchmark countries were inconsistent with the rules of international law regarding the provision of assistance and facilities for stateless persons to facilitate naturalisation. The standards adopted by States are excessive and complex in naturalisation procedures.

Second Topic: Marriage

Researchers attempt to reveal the adequacy of laws related to nationality governing the issue of mixed marriages, which means marriage between individuals from different nationalities (Al Sayyed, 2012: 77), (Al Adwan, 2012: 63).

Paragraph (2), article (8) of the Jordanian Nationality Law revealed that Jordanian legislation adopted the principle of independence of nationality in the family. It explained that marrying a woman of nationality to a foreigner doesn't lead to automatic loss of nationality (Jordanian Nationality Law, 1954).

This is the approach adopted by nationality laws of the benchmark countries, as none of these laws stipulates that marrying a woman of nationality to a foreign man leads to automatic loss of nationality, meaning that this approach is consistent with modern international standards (Convention On the Reduction of Statelessness, 1961).

The other aspect to be addressed in mixed marriages is gender inequality in rules related to nationality in the case of mixed marriages (Jordanian Nationality Law, 1954).

By examining the legal provisions related to Jordanian nationality, it is made clear that Jordanian legislation facilitated the process of obtaining nationality when a Jordanian marries a foreign woman. However, when a foreign man marries a woman of nationality, he cannot obtain it even if he is stateless, but if he wants to acquire Jordanian nationality, he must meet the normal conditions of law.

In the Sultanate of Oman, it is easier to obtain nationality for spouses, but the facilities granted to the wife of an Omani man are better than those granted to a foreign man married to an Omani woman (Oman Nationality Law, 2007).

Other countries – Lebanon, Egypt, Yemen, Libya, Kuwait, Qatar and Saudi Arabia – don't grant women equal rights with men in their ability to pass nationality to their foreign spouses. The following articles elaborate on that (Article (5) of the Lebanese Nationality Law of (1925), as amended in 1960, Article (6) of the Egyptian Nationality Law No. (26) of (1975), as amended by Law No. 154 of (2004), Article (11) of the Yemeni Nationality Law No. (25) of (2010), Article 5 of the Libyan Nationality Law No. 24 of (2010), Article 7 of the Kuwaiti



Nationality Law No. 1959, as amended by Decree No. 100 of (1980), and Article 8 of the Qatari Nationality Law No. 2 of 1962, and Article (15,16) of the Saudi Nationality Law No. (4) dated 25/11/1374 AH).

By examining nationality laws of the benchmark countries, it is made clear that Iraq and Algeria have laws that provide for non-discriminatory provisions to facilitate acquisition of nationality.

Researchers believe that a woman's inability to grant her foreign husband nationality is contrary to international standards that provide for gender equality; such an approach may increase the risk of statelessness, especially if the father is stateless.

The benchmark States don't recognise the right of a national woman to transfer nationality to her foreign spouse, even under exceptional circumstances, including the fact that the husband is stateless.

Third Section: Adequacy of Rules on Renunciation and Loss of Nationality to Protect Against Statelessness

The nationality held by the individual may be removed either voluntarily, and this is common, with the aim of acquiring a new nationality (Al-Rawi, 1971: 70), and may be withdrawn against his will (Hafez, 1977: 45).

Legislation on nationality regarding the issue of renunciation and loss by deprivation to protect against statelessness will be addressed as follows:

First Topic: Adequacy of Legislation Relating to the Renunciation of Nationality to Prevent Statelessness

Through reviewing Jordanian Nationality Law in force, it is clear that the legislator has stipulated conditions for the application of the previous text as follows (Jordanian Nationality Law, 1954):

First Condition: The Person Shall Be Jordanian, the Text Doesn't Specify Whether the Person Has Nationality in Origin or is Naturalised

Second Condition: The Person Shall Have Nationality Acquired Through Naturalisation Of A Foreign Country.

It is not enough just to declare or get a new nationality, but to acquire it. In addition, this nationality must be foreign and not Arab (Al-Hedawi, 2001: 162).

Third condition: renunciation of a nationality must be done willingly, (Sanori and Borini, 2012: 558)

Fourth Condition: Cabinet Approval is Required

If a person is naturalised by a foreign country without the approval of the Cabinet, or before that, he doesn't lose Jordanian nationality.

This is in case that the nationality the individual needs is that of a foreign country. However, if the renunciation of a nationality was made to obtain the nationality of an Arab state, the conditions would differ in this case (Jordanian Nationality Law, 1954).

The conditions to be met are as follows:

First condition: the person shall have Jordanian nationality.

Second condition: the person shall willingly renounce nationality by his own will.

Third condition: the person shall be naturalised by an Arab country.

The Special Court for the Interpretation of Laws affirms that a person's acquisition of Arab nationality shall not be deemed a loss of the Jordanian one.

This means that a Jordanian who acquired Jordanian nationality by naturalisation is not subject, under article 16 of law, to lose this nationality once he has renounced it. Rather, it is stipulated that, after such renunciation, he shall be naturalised by nationality of an Arab State. If such naturalisation is not accomplished, he can retain his Jordanian nationality without a need for a new naturalisation certificate.

This is what the supreme Court of Justice ruled for in many of its rulings as stated in (Journal of Bar Association, 1984: 655).

From the previous text it is clear that Jordanian law didn't consider a person without a nationality just because of his desire for naturalisation, but it is necessary to obtain an actual nationality; an approach that was applied by the Yemeni legislator (Yemeni Nationality Law, 2010).

It is clear to researchers that most of the laws of benchmark countries don't provide for a person who loses his nationality by simply declaring his desire to change it. This is the same case in Iraq, Bahrain and Lebanon, while they varied in the degree of protection, they require being able to obtain new citizenship.

UAE and Kuwait have addressed the issue of renunciation in a different approach; they stipulate a general situation that if a person acquires a foreign nationality, he automatically loses his old one, which constitutes a strong protection against statelessness, but it reduces the individual's right to renounce nationality (UAE Federal Law, 1990) (Kuwaiti Nationality Law, 1959).

Thus, the approach taken by the Jordanian legislator and the countries which followed this approach is consistent with international standards, in particular the text of Article VII of the 1961 Convention on the Reduction of Statelessness, which states that if the legislation of a contracting State arranges the loss of nationality, such renunciation may not result in loss of nationality unless the person has acquired another one.

Second Topic: The Adequacy of Legislation Related to the Loss and Deprivation of Nationality to Protect Against Statelessness

In fact, in legal enactments on nationality, States provide for standards by which a person loses his nationality (Saadi, 2004: 29-30), if he commits certain acts. Therefore, the researchers attempt to clarify the standards adopted by Jordanian legislation and the benchmark countries and to clarify the extent of their compatibility with international standards, as follows:

Articles 18 and 19 of Jordanian Nationality Law No. (6) (1954) specify cases of loss of Jordanian nationality as a penalty. These cases will be presented in a separate paragraph (Jordanian Nationality Law, 1954).

First Paragraph: Losing Jordanian Nationality by Judgment

Article 18, paragraph 1, of the Jordanian Nationality Law provides for a set of conditions for which a person loses his nationality by judgment as follows:

If A Jordanian Enters into the Military Services of a Foreign Country

In order to apply aforementioned provision, the Jordanian must have actually joined a foreign military force. The mere acceptance of or preparation to do this service is inadequate. Military service refers to any service related to the regular army of that state – the paramilitary or

revolutionary military units and militias are not covered by the above mentioned text (Al-Rawi, 1971: 144).

The Person Enters into Military Service Voluntarily

The person in this case joins the army with his free will. However, if a person is forced to join army units, as if being a prisoner and forced to do so, there is no way to activate this provision.

Such Service Shall be in the Interest of a Foreign State

Regarding this condition, Al-Rawi believes that to apply this provision, the State receiving such military service must be foreign, being a friend or an enemy. This is explained by the fact that, in light of the interpretation of the provisions of Jordanian Nationality Law that differentiates between foreigners and Arabs, it doesn't include Arab countries (Al-Rawi, 1971: 14).

Sanouri and Borini, who explained the loss of Jordanian nationality, see that "In order to activate this provision, it shall be considered whether the service is for an Arab State or not" (Sanouri & Borini, 2012: 559).

The researchers agree with Al-Rawi's opinion, because by reading the texts of Jordanian Nationality Law, it turns out that they distinguished between Arab and foreign countries. This is the justification that Al-Rawi presented. The other justification is to reduce the cases of statelessness and apply the text as narrowly as possible to serve this goal.

Failure to Obtain Permission from the Cabinet

For political or security reasons, the State may decide to assist a State militarily and allow citizens to join the military units of that foreign State. Accordingly, it is up to the Cabinet to decide regarding the Jordanian person joining the military units of the foreign State. Therefore, if the citizen has obtained this permission, the provision won't apply.

Refraining from Leaving Service

This clause didn't specify the mechanism for notifying the person who joined the military service, nor did it specify a certain period during which he should leave this service. Therefore, there may be arbitrariness against this individual with such an absolute condition.

Second Paragraph: Loss of Nationality by Decision

The second paragraph of Article 18 stipulates that “the Cabinet may, with the consent of the King, declare that the Jordanian may lose his Jordanian nationality in certain cases as follows” (Jordanian Nationality Law, 1954):

Engaging in civil service in another State

In order to implement this provision in the case of the civil service, the following conditions shall be met:

1. Real and actual engagement in the service of another State, not merely acceptance. The engagement must also have been of his choice. Here, he who works for another person doesn't fall under the risk of deprivation, but if the person offers civil service for a state, whether the service is paid or unpaid, and whether done at home or abroad, this only changes the text implementation if the following is followed: (Abdul Hadi, 2010) : 32-33):

1. Jordan has assigned him to serve therein.
2. Refrain from leaving the service and not comply with the request
3. The Cabinet, with the consent of the King, declares that such person has lost Jordanian nationality.

Engaging in the Service of a Hostile State

A hostile state is defined as: “A State which is at war with Jordan and may not establish diplomatic relations with it” (Al-Hedawi, 2001: 169).

The researchers believe that the definition is inaccurate, and can be attributed to the difference between the state of hostility and war and the state of severed diplomatic relations, because severance of diplomatic relationship is the absolute right of the state; it is one of the most important pillars of national sovereignty.

The definition is also general, and does not specify a time when this state is considered hostile, or a period during which a person who works for a hostile country is required to leave the work (Sanori and Borini, 2012: 560).

(C) A person who comes or tries to come for work is a threat to the security and safety of the State:

To apply this case, the following conditions are required:

1. The person undertakes work that is considered to be a danger to the security and safety of the State.

It is noted, in this text, that it did not specify what works are considered to be a threat to the safety and security of the State, therefore the competent body in this authority may be arbitrarily due to wide discretion, but it is possible to refer to the Penal Code which defined such works.

2. The Cabinet must declare this after His Majesty's approval.

Third Paragraph: The Status of Withdrawal of Jordanian Nationality

Article 19 of the Jordanian Nationality Law provides for cases in which Jordanian nationality maybe withdrawn, as follows:

If he tries to take any action that is considered a danger to the security and safety of the State. The conditions of this case are as follows:

- (A) Taking action or attempting to take action which is a threat to the security and safety of the State;
- (B) The person who attempted to do this work has obtained Jordanian nationality through naturalisation.
- (C) The naturalisation certificate has been revoked by the Cabinet with the consent of His Majesty, the King.

2 - If fraud appears in the data that was used to grant the naturalisation certificate.

To apply this provision, the following conditions shall be met:

- (A) The person is Jordanian by naturalisation.
- (B) The person obtains nationality through counterfeit data. It should be noted here that this provision does not cover all cases where an individual acquires Jordanian nationality illegally, as the legislator did not count on the broad concept of cheating or false statements.
- (C) Finally, the Cabinet must have declared this with the consent of His Majesty.

If the certificate of naturalisation is to be revoked, the cancellation in this case is retroactive because it is null and void and is withdrawn retroactively from everyone who acquired it through him, such as wife and children, young and old (Al-Rawi, 1971: 151).

This situation is considered the most serious because this withdrawal does not only affect the individual himself, but extends to all who obtained citizenship through him, which in turn increases statelessness.



Upon reviewing the legal texts of the benchmark countries of comparison, it is clear that there are key criteria relating to deprivation of nationality, often relating to loyalty and belonging to the state (Jordanian Nationality Law, 1954) (Yemeni Nationality Law, 2010).

With regard to deprivation of nationality obtained through illegal means such as counterfeiting and forgery, it can be noted that countries such as: Bahrain, Egypt, Iraq, Kuwait, Libya, Mauritania, Morocco, Oman, Syria, Qatar, Saudi Arabia, UAE – provided articles for this section, but Tunisia, Lebanon and Algeria did not.

Another reason provided for by the laws of some states is terrorism. Article 22 of the Moroccan Nationality Code provides for such a requirement.

Researchers believe that such a requirement is as dangerous for citizenship as the concept of terrorism is broad, and it is therefore possible to abuse power.

The laws of some countries provide for deprivation of citizenship based on residency abroad for a long time, such as: (Egypt, Libya, Qatar, Syria, and UAE).

Some legislations stipulate that dismissal from public office for reasons of honour or honesty are reasons for the loss of nationality (Qatar Nationality Law, 2005).

As for non-fulfillment of military obligations, Tunisia and Morocco consider the failure to fulfil military obligations to be one of the reasons for the loss of nationality (Tunisian Nationality Law, 1963).

It is *hardly surprising, then*, that there are some States whose legislation has not only included exceptional provisions on deprivation of nationality other than general provisions, but has gone further. The loss of nationality is based on grounds that contravene international law and flagrantly violate human rights. Among the countries that have adopted such provisions is Qatar (Qatari Nationality Law, 1961).

Religion can sometimes be a reason for deprivation of nationality in the laws of some countries (Qatar Nationality Law, 2005).

A person may also be deprived of his or her nationality because of political beliefs. The Egyptian Nationality Law grants the state the power to revoke a person's nationality if he is a Zionist.

Results

The researchers came up with the following results:

1. The State is the only person of international law entitled to grant nationality, and therefore nationality is included in the so-called legislative competence that prohibits the freedom of States to abide.
2. Citizenship is a human right enshrined in the Universal Declaration of Human Rights and many relevant international instruments, yet there are millions of stateless people around the world.
3. There are two types of stateless persons: de jure stateless and de facto stateless. The 1954 Convention addressed the definition of a stateless person de jure.
4. The causes of statelessness vary and can be divided into both pre and post-birth reasons.
5. The Jordanian legislator didn't equate women with men in granting nationality to children.
6. The position of the Jordanian legislator and the benchmark laws were in line with international standards regarding protection of bastards.
7. The Legislation of States included provisions related to acquisition of nationality, though they differ in several ways.
8. When referring to the first paragraph of article 19 of the Mauritanian Citizenship Law, it included discriminatory provisions against persons with disabilities; the laws of Kuwait, Yemen and Libya did that as well.
9. The position of the Jordanian legislator and the laws of the benchmark countries, with regard to mixed marriages, are in line with modern international standards.
10. What is held against the Jordanian and Omani legislators is that they did not equate the ability of men with women to grant nationality in case of mixed marriages.
11. The Jordanian legislator's position was in line with international standards regarding the renunciation of nationality. This was also the case with the laws in question. However, the UAE and Kuwait addressed this issue in a manner that restricts the right of an individual to change his nationality.

Recommendations

In light of the findings, the study recommends the following

1. In determining nationality laws, states need to enact rules consistent with international conventions.

2. Legislators in Jordan, Bahrain, Kuwait, Lebanon, Oman, Qatar, Syria, the United Arab Emirates and Saudi Arabia must grant women equal rights with men in order to grant citizenship to their children.
3. It is desirable for legislators in Jordan, Lebanon, Egypt, Yemen, Libya, Kuwait, Qatar, Saudi Arabia and Oman to put women and men on the same footing with regard to nationality of the spouse in mixed marriages.
4. It is advisable for the Jordanian legislator and countries in question to facilitate the process of naturalisation and not to complicate the conditions and criteria required for naturalisation.
5. The Jordanian legislator and all comparable laws except Lebanon and Syria shall include in their laws a special provision for granting nationality to the child on its territory, otherwise he will be stateless.
6. It is important that the Jordanian legislator and the rest of the comparable laws – with the exception of Syria and Tunisia regarding the children born in their territories – enact legislation to grant nationality.
7. The benchmark countries shall include in their laws a specific and explicit provision that a citizen may not relinquish his nationality, unless a new nationality is acquired or assurances relevant to that are given.
8. It is advisable for the Jordanian legislator and the laws in question not to exaggerate cases of deprivation of nationality, even in cases where permissible. This should preferably not be based on racial or ethnic grounds and should be accompanied by full procedural guarantees.
9. States should conclude an international treaty recognising the flaws of previous treaties and hold national and international seminars to raise sufficient awareness of statelessness, under the auspices of UNHCR.

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