

Valida Fuad Salimova

Azerbaijan State Pedagogical University
master student
svavalida@gmail.com

STATELESSNESS AS A PERSISTENT GLOBAL PROBLEM AND WAYS TO ELIMINATE IT

Abstract

The article is about statelessness, international legal documents on statelessness, current statistics regarding apatrides. The article looks at different circumstances in which people can lose their citizenships in different countries. It brings to attention actions United Nations High Commissioner for Refugees has been undertaking in order to prevent and eliminate statelessness, actions countries have done in past years in this direction. The article also looks at processes determining nationality in Azerbaijan, its work with stateless people and relevant statistics. It also underlines the threat of simplification of removing citizenship and negative effects of this situation.

Keywords: *statelessness, stateless people, revocation of citizenship, status of apatrides, eradication of statelessness, citizenship laws*

Validə Fuad qızı Səlimova

Azərbaycan Dövlət Pedaqoji Universiteti
magistrant
svavalida@gmail.com

Vətənsizlik davamlı problem kimi və onun aradan qaldırılması yolları

Xülasə

Məqalədə vətənsizlik anlayışı, vətənsiz şəxslərlə bağlı beynəlxalq sənədlər, apatridlərin sayı ilə bağlı müasir statistikadan bəhs edilir. Məqalə müxtəlif ölkələrdə vətəndaşlığın itirilməsi hallarına nəzər salır. BMT-nin Qaçqınlar üzrə Ali Komissarlığının vətənsizlik hallarının qarşısının alınması üzrə gördüyü tədbirləri, ölkələrin bu sahədə son illərdə həyata keçirdikləri fəaliyyətləri diqqətə çatdırır. Məqalə, həmçinin, Azərbaycanda vətəndaşlığın müəyyən edilməsi, ölkədə vətəndaşlığı olmayanlarla bağlı aparılan tədbirlər və statistikaya da nəzər yetirir. Dünyada vətəndaşlıqdan məhrumətin asanlaşdırılma təhlükəsinin artmasına diqqət yetirərək, bu halın mənfiliyini vurğulayır.

Açar sözlər: *vətənsizlik, vətəndaşlığı olmayan şəxslər, vətəndaşlığın ləğvi, apatridlərin statusu, vətənsizliyin aradan qaldırılması, vətəndaşlıq qanunvericiliyi*

Introduction

Statelessness is an important part and a persisting problem in migration. As of 2021, UNHR puts the official number of stateless people in 93 countries at 4.3 million. But unofficial figures are estimated to be much higher, approximately 10-15 million people are thought to be stateless. 1954 Convention on The Status of Stateless People defines stateless person as someone who is not considered a national of any state under its law (Convention relating to the status of stateless persons, 1954: 1).

Universal Declaration of Human Rights states that every person has a right to a nationality and people shall not arbitrarily deprived of this right. While in the past decade most countries moved to amend their citizenship laws, making it easier to acquire citizenship and harder to lose it, there are still high number of stateless population around the world. And number of democratic countries making changes to revocation clauses of their national citizenship laws is unfortunately on the rise. Thus the plight of stateless people should be at the forefront of migration issues and policy

discussions.

Being stateless renders people unable to exercise the most basic rights, as going to school, accessing medical help, enjoying security of a citizenship and passing it on their children, finding better job opportunities and overall being full-fledged part of society without citizen's ID becomes difficult, if not impossible.

Often referred as stateless people, this group of migrants sometimes are called apatrides, too. Actively used in french today, apatride is from Byzantine Greek word *apatris* – which means without country, or stateless.

Worldwide Statelessness statistics at a glance

As mentioned above number of stateless people are debated and differs according to official and unofficial statistics. And it also should be kept in mind that most of the time, these numbers mainly covers registered stateless persons. World's largest stateless population resides in Asia and the Pacific, around 1.6 million, followed by Africa with more than 715.000, Europe around 600.000, Middle East and North Africa approximately 400.000 apatrides. Americas estimated to be home for the least amount of stateless persons – near 200 thousand people. Today Rohingya people from Myanmar are the single largest stateless population in the world. There are estimated to be around 2 million stateless Rohingya in Bangladesh, Myanmar, Malaysia, Saudi Arabia, Pakistan and etc. combined. Bangladesh is now home for 918.000 Rohingya, more than their home country Myanmar. Ivory Coast hosts more than 955.399, highest number of stateless people in Europe reside in Latvia, around 225.000 people. **Chart 1** below shows top five countries hosting largest number of stateless population (Statelessness In Numbers, 2020: 4):

Countries with highest stateless populations	
Ivory Coast	955.399
Bangladesh	918.000
Myanmar	600.000
Thailand	475.009
Latvia	216.851
Syria	160.000
Malaysia	108.332
Uzbekistan	97.346
Kuwait	92.020
Estonia	75.599

Chart 1.10 countries with highest Number of stateless people (end of 2019)

Being a citizen

Before asking how people become stateless it is important to understand how one becomes a citizen under operational law of any state. People can acquire citizenship two ways:

- Through birth (filialization)
- Through naturalization

Each sovereign country holds the right to determine their own citizenship laws. Depending on this, there are different ways people born in different countries obtain (or does not) citizenship. Jus sanguinis and Jus soli are two main ways of birthright citizenship. By Jus sanguinis system – which means by blood – citizenship is acquired by blood relations or inheritance. Thus, children born to parents of nationals of a country, which follows this system, inherit that country's nationality. This

gives them right to become citizens of that country even when they are born in a different country. Most European countries apply jus sanguinis system.

Country following Jus soli principle – which means by soil (or land) – allows anyone who is born in its soil to become a citizen, even when their parents are not nationals of that country. Canada, USA, Pakistan, Brazil, Romania, Argentina, etc. follow this system.

According to the clause 52 of The Constitution of the Republic of Azerbaijan, people who have political and legal relations to Azerbaijan, those who maintain mutual legal rights and responsibilities with the country are considered citizens. The children born to Azerbaijani nationals and the children born in Azerbaijan's territory are citizens of Azerbaijan. Additionally, children with one parent holding Azerbaijani citizenship is also considered Azerbaijani national. This means that citizenship law in Azerbaijan covers both jus sanguinis and jus soli systems (Constitution of The Republic of Azerbaijan, 1995: 52).

Naturalization process allows people to claim nationality after living in a country certain amount of time. This process is also determined by national citizenship law of each country. Citizenship in this case can be granted by marriage, residence or grant.

How one becomes stateless

People can lose their citizenship, thus become stateless, or they can inherit statelessness via their apatride parents. There are several ways a person becomes stateless:

- Being born to stateless parents. This situation usually stems from gaps in nationality/citizenship laws. For example, when a child is born in a state where one can obtain nationality by descent, and child's parents are not citizens of the said state, that child effectively becomes stateless.

- When territories are exchanged between states, or known states are disbanded. When Yugoslavia ceased to exist, or when Soviet Union disbanded many Europeans became stateless. Many ethnic Russians living in Estonia, Latvia could not get citizenship and are therefore defined as non-citizens. When Ivory Coast gained independence from British Empire, it did not grant citizenship to thousands of people from Burkina Faso, Mali and Ghana, who came there in 20th century to work in plantations.

- Depending on parents' ability to pass their nationality to their children. Today 25 countries do not allow mothers to pass their nationality on their children. Therefore, if child's father is unknown, passed away, or is not the national of said country that child is left without a state.

- Voluntarily denouncing citizenship, in order to become a citizen of another state.

- Revocation of citizenship by government

In 1982 when Buddhist majority Myanmar drafted its new citizenship law, it excluded ethnic muslim Rohingya people. In 2014, during census Rohingya people once again were not considered one of the ethnic groups in the country. Today Rohingya comprise world's largest stateless population and it is estimated that the third of all the stateless people in the world.

Rohingya are not only ethnic minority that are left out of citizenship. In most countries, stateless populations are mainly ethnic, religious and racialized minorities. Women and children comprise majority of stateless populations.

Involuntary loss of citizenship is one of the ways people can lose their citizenship. While Convention on the Reduction of Statelessness limits deprivation, or loss of citizenship by ensuring that person who is renouncing their citizenship, or has their citizenship revoked have another nationality, it still allows governments to determine exceptions in their national laws.

In 1995 version of Constitution of Azerbaijan, clause 53 stated that Azerbaijani citizens can not be removed from citizenship under any circumstances. But, 2016 amendment to the clause states that in cases where law sees legal, people can be deprived of their citizenship. Threat to national security, fraudulent information in obtaining citizenship are grounds to revocation. Azerbaijan is not the only country to change revocation clause. Many countries in Western Democracies has made amendments to nationality laws, making it relatively easier to revoke citizenship.

In 2021 UK made changes to its nationality and border bills, which gives power to Home Office to revoke someone's nationality without notifying them. This change would make the deprivation of

citizenship easier and appeal harder, if not non-existent. In 2019 when then Home Secretary Sajid Javid revoked ISIS bride Shamima Begum's citizenship, it rendered her stateless. She joined ISIS when she was 15 and many criticized Home Office's move as racially, religiously motivated. At the time government claimed that Begum is eligible for Bangladeshi citizenship, because her parents were Bangladeshi nationals, but she was born in UK, only had UK citizenship, at the time of her citizenship removal Bangladeshi government officials stated that, the country has no intention of giving Begum citizenship.

It is expected that this new change will affect mostly racial and ethnic minorities living in UK and who are already vulnerable. According to The Guardian report, since 2006, 464 people lost their UK citizenship. Until then this power had not been used since 2006.

Many European countries have clauses determining involuntary loss of citizenship. Italy, Germany, France, Spain, Netherlands remove citizenship in cases of residence abroad for a set time period; Italy, Germany, Spain, Netherlands revoke citizenship when service in a foreign army is a case; France, Spain, Netherlands revoke citizenship of people who acquired it fraudulently. Unlike Azerbaijan and above mentioned countries, Poland, Croatia and Sweden do not cancel citizenship in cases of fraudulent acquisition.

Revoking citizenship and making people stateless should not be among powers of a state, much less democratic one. Being stateless makes it harder to appeal the decision, hire a lawyer and seek justice in cases of wrong decision. Most of the time people who are naturalized citizens are the ones losing their nationality. Even in laws where only dual citizens are allowed to lose their citizenship, they are found to be born, not naturalized nationals of said country. Which brings into question of equality based on ethnicity, racial identity, etc. Furthermore, people who have their citizenship revoked receive double punishment, by way of sentencing and losing nationality. Revocation in cases of national security does not guaranty the safety of population, and in most instances can not act as preventive measure against radicalism (Lenard, 2016: 81). Removing person's nationality in these instances signals that governments cannot take responsibility for their radicalized citizens, and don't want to do complex research as to why young people become radicalized. In case of Shamima Begum, she was only 15, therefore a teenager when she married an ISIS fighter, where some experts saw her as a victim, too. Revocation can also act as a punishment for political activity. For example, since 2012, Bahrain revoked citizenship of 738 nationals, many of whom were journalists, human rights defenders and political activists, while some could obtain citizenship, vast majority were left stateless.

Mitigating and eliminating statelessness

One of the main tools of mitigating, and eventually eliminating statelessness is the 1961 Convention on The Reduction of Statelessness. While some parts of convention are outdated, it is still an effective tool, which asserts that parties to it must assure children born in their territories, regardless of the status of their parents, are registered at birth as citizens. This insures that statelessness does not become a vicious cycle. It also prevents renunciation of nationality in cases where person might be left stateless. People can voluntarily renounce citizenship, when they hold nationality of another country. Convention determines that when states break up, cede territories to other countries people in these places must gain nationality of a new state (Convention on The Reduction of Statelessness, 1961).

Another important step toward elimination of statelessness is UNHCR Global Action Plan in Eliminating Statelessness: 2014-2024. During this period, action plan aims to:

- Solve existing statelessness problems
- Prevent new statelessness cases from happening
- Registering stateless people effectively and protecting them better

For this, in 2014 UNHCR started #IBELONG campaign, which aims to eliminate statelessness by 2024. To prevent and solve statelessness, UNCR recommends 10 actions, which countries can use depending on circumstances they have around statelessness. These can be making sure no child is born stateless, removing gender based discrimination in laws, protecting migrants who are stateless, becoming party to UN Convention on statelessness etc.

Since the start of campaign, many countries have made changes to their legal documents,

registered stateless people, made it easier for stateless people to gain nationality. In 2020, Ivory Coast adopted Africa's first Stateless Determination Procedure. With this procedure it will regularize the status of stateless people, recognize their status, which will help them to receive identity documents, attend school, find legal employment, access healthcare, etc. Since 2011, 27.000 stateless people obtained citizenship in Thailand (7). Thai government is cooperating with UNICEF and other NGOs to register children at birth. With the provision of Citizenship Law Uzbekistan is aiming to end statelessness of 50.00 people (8). New law will also prevent statelessness and simplify naturalization. Iran's new amendments will help 75.000 children to gain nationality (9). While country has not effectively abolished its gender discriminatory laws, it will allow children born to Iranian mothers, non-Iranian fathers receive citizenship.

During the campaign, Azerbaijan also moved to grant citizenship to stateless people and mitigate statelessness. Between 2008-2020 Azerbaijan gave 1830 people (1873 with children) citizenship (Statelessness in Azerbaijan, 2021: 15). And it is aiming to better register, protect stateless people, and eliminate statelessness all together. Below chart shows figures of people receiving citizenship between 2015-2020.

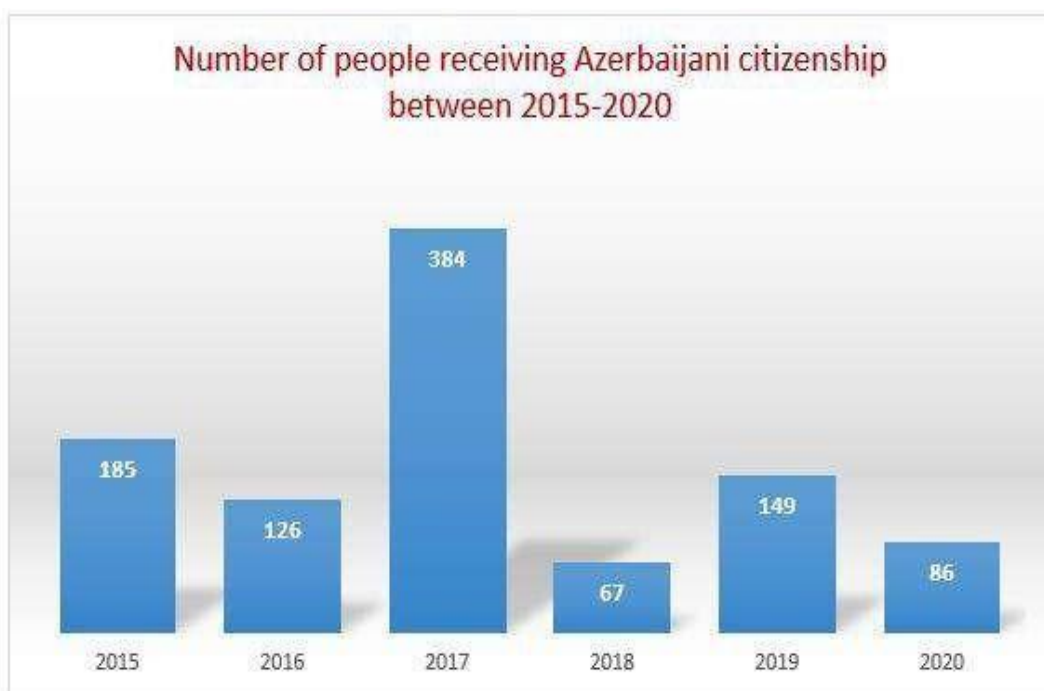


Chart 2. Number of people who received Azerbaijani citizenship (with children)

Conclusion

As it is obvious from the facts, statelessness is one of the most important problems in migration. While Conventions provide certain protection for stateless people and look to prevent statelessness, it is still persistent global problem. In the past decade countries aimed to eliminate, decrease statelessness. Some delivered in certain aspects of their aims, while some moved to make statelessness even easier. The problem and the plight of stateless people should never be forgotten in migration discussions and with policy changes, international advocacy, civil society's help it should be manageable for us to eliminate statelessness. And until then protecting stateless people, helping them access basic human needs, better education, work opportunities, legal rights and healthcare must be international communities main focus.

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