



Middle East
Centre

CHALLENGES TO CITIZENSHIP IN THE MIDDLE EAST AND NORTH AFRICA REGION



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Overview: Challenges to Citizenship in the Middle East and North Africa Region Post-2011

Karen E. Young

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On 24 January 2014, scholars from the American University of Sharjah and the London School of Economics and Political Science convened a workshop on the question of 'Challenges to Citizenship after the Arab Uprisings'. A selection of the working papers is now available from the Middle East Centre, reflecting a range of theoretical and empirical understandings of how belonging and political identity have evolved in juridical practice and social life in the Middle East and North Africa (MENA) region after 2011. The cases reflect the diversity of experience from North Africa to the Arabian Peninsula. The papers explore how, even within non-revolutionary states, ideas about citizenship have been changing and as citizens and non-citizens test those boundaries within law and society, the outcomes reveal tensions and mounting pressures to reform along gender, class and ethnic lines.

In my own work on the United Arab Emirates (UAE), I have tried to uncover how nationalist mobilisation occurs in moments of competing or emerging political identities. In the Gulf states, efforts to consolidate national identity have coincided with a state-building project that is troubled by extreme demographic pressures on a small citizen population surrounded by a diverse and politically syncretic expatriate community. For most professional-class expatriates, to live and work in the UAE is to keep politics private and to concentrate on stability, financial security and the education of one's children. The Arab uprisings of 2011 pushed beliefs, affinities and practices of social belonging into a wider public sphere, connecting life in the UAE to life in the broader region.

The social contract between the UAE government and its citizens and many expatriate residents had been peace and prosperity in exchange for no political activism. As the UAE increases its foreign policy ambitions, its many foreign residents may find it difficult to reserve their political activism for holiday visits home. The military leaders who ordered the crackdown on protesters in Cairo on 14 August 2013 had just received the promise

of financial and political support from the federal government of the UAE on 9 August.¹ Emblematic of the awkward positioning of Arab Gulf state interventionism after the Arab uprisings, state–society relations within the UAE between citizens and guest residents are reconfiguring. The making of the state and the nation, the people who contribute their work and their minds to the UAE, is at a crisis point, a critical juncture.

Scholars of nationalist mobilisation and the construction of national identity have focused on these critical moments and events that heighten contention between competing forms of identity. These moments are erupting in the UAE, not in violent confrontations with riot police, but within families, universities, businesses and social organisations. The identification as an Arab, Gulf Arab, emerging economy migrant, expat, religious sect member, Emirati, Bedu, Northern Emirate Emirati or capital Emirati from Abu Dhabi is stratifying. The list is long; as it grows, it is a contestation of the attempt by the UAE as a new state to centralise and control national identity and, in times of increasing political tension, to enforce loyalty. As Mark Beissinger, a noted scholar of nationalist mobilisation in the post-Soviet states, has argued:

Like other modes of contestation, the disruptions engendered by nationalism have tended to grow salient in the political arena in defined historical periods – in the context of waves and tides of nationalism in which states and those challenging states openly vie over the boundedness of political communities. National politics is punctuated by these spikes and parabolas of disruption, a periodic clustering of events that emerge largely as a function of changing perceptions of the possibilities for challenge and the varying resonance of nationalist frames across space and over time.²

Beissinger's work contemplates nationalist mobilisation in contests against an existing (repressive) multi-ethnic state. His argument applies in the context of a burgeoning nationalism manipulated by a new state, but increasingly challenged by its citizens and by residents of its extended domestic and regional political community. The temporal and geographical element of the argument is essential, as moments of political upheaval and consideration of identity are extremely sensitive to the events around them. This was true in the post-socialist transitions of the 1990s, and perhaps even more so now in the age of social media and hyper-migration of the post-Arab Spring.

The action of constructing a national identity in the UAE, and in many of the Gulf Cooperation Council (GCC) states, is very new and very unresolved, and operates in a volatile context of regional (often sectarian) violence, increased militarisation and mounting pressure to assert a unified national identity to the exclusion of non-citizens. As an outcome, a state may attempt to 'bind' the political community to the exclusion of those who challenge its authority. These challenges are stressing existing cleavages and sometimes creating new ones.

¹ See Elizabeth Dickenson, 'UAE, Saudi Arabia Express Support for Military Removal of Morsi', *National*, 4 July 2013. Available at <http://www.thenational.ae/news/world/middle-east/uae-saudi-arabia-express-support-for-egyptian-military-s-removal-of-morsi> (accessed 6 March 2015). See also *Reuters*, 'UAE Offers Egypt \$3 Billion Support, Saudi \$5 Billion', 9 July 2013. Available at <http://www.reuters.com/article/2013/07/09/us-egypt-protests-loan-idUSBRE9680H020130709> (accessed 6 March 2015). The UAE offered \$1 billion in a cash grant, and \$2 billion in the form of an interest-free loan to be deposited in the Egyptian central bank. This cash injection surpassed the previous commitment (unrealised) the UAE made in 2011 to Egypt under the Morsi administration.

² Mark Beissinger, *Nationalist Mobilization and the Collapse of the Soviet Union* (Cambridge: Cambridge University Press, 2002), p. 25.

The Working Papers

As the papers in this collection demonstrate, transitions after the Arab uprisings in 2011 have included novel state efforts to approximate the benefits of citizenship, or to outsource the responsibility. Kevin Gray, in his appraisal of the different visions and expectations of citizenship in the UAE, discusses how a neoliberal understanding of citizenship might focus on economic access, property rights and mobility, over more juridical understandings of personhood and equality under law. Different normative frameworks and legal traditions have challenged the Gulf states, in particular, to stretch their constitutional interpretations of citizenship rights. The rights of women and interpretations of family law become sites of contention, as female Emiratis have won the ability to transfer citizenship to their children (with expatriate fathers), marking a milestone in political reform efforts in the UAE.

Claire Beaugrand uncovers a similar legal understanding of state responsibility to citizens in the treatment of the *bidun* in Kuwait. The Kuwaiti government has created an outsourcing of citizenship by providing an alternative passport to long-time residents petitioning for citizenship on the basis of cultural and familial ties to the land. The option of a Comoros Islands passport offers basic mobility, but little else in terms of personhood status or access to social services for these unrecognised people of Kuwait. Beaugrand captures the stratification of citizenship rights (and recognition of petitions for rights) along class lines, as more prosperous merchant groups such as the *hadhar* have had more success in gaining full rights than the *bidun*.

James Sater makes a comparative contribution to the study of constitutionalism across North Africa. He examines the concept of trust and its differentiation between cognitive and affective trust. He theorises that affective trust is based on an unconscious worldview and emotions, while cognitive trust is based on rationalised experiences. He argues that the success of any transition post-2011 should be analysed through an historical framework of constitutional experience within state–society relations. His use of public opinion data across Morocco, Tunisia and Egypt underlines differences in both formal and informal institutional processes in each state.

Thomas DeGeorges relies on his participant-observer status during the Tunisian revolution to uncover how government institutions and leadership manipulate messages of citizenship and rights during moments of contention and uprising. Using a discourse analysis of Ben Ali's speeches leading up to the revolution, DeGeorges seeks to explain how the state's response to citizen demands sought to diminish and absorb dissent.

Yuting Wang presents some compelling survey data among university students in the UAE on conceptions of belonging and the enforcement of nationalism among expatriates. As survey work is increasingly difficult to conduct in the GCC states, Wang's contribution provides some interesting ethnographic insights into youth and third culture experience in the Gulf.

Though the cases selected here are not representative of the entire region after 2011, they provide windows on some of the overlapping politics of demographic change, socioeconomic disparity and securitisation prevalent in many states of the MENA region.

Gradations of Citizenship in the United Arab Emirates

Kevin W. Gray

Dr Kevin W. Gray is Assistant Professor at the American University of Sharjah. His doctoral research focused on the difficulties of using systems theory in critical theory, and the implications posed by this problem for Habermas's philosophy. His past research has been published in PhaenEx, Philosophia, the Journal of the Philosophy of the Social Sciences, Dialogue, amongst other places. His current research and teaching focuses on theories of the public sphere and civil society (particularly in the Middle East), critical theory, existentialism, philosophy of law and western Marxism.

Introduction

Social scientists are no longer content to explain citizenship in purely political or juridical terms. The rights and obligations of citizens and the social capital that accompanies citizenship lie in a complex web of social categories, including membership in social classes and in linguistic and religious groups. The Gulf societies, including the United Arab Emirates (UAE), provide an extreme example of this phenomenon: different categories of juridical citizenship exist alongside visa categories providing a temporary right of residence to migrant groups, who enjoy what might be termed social but not juridical citizenship. As a consequence, literature in political science and in anthropology treats the development of citizenship inside the Gulf states as a transfiguration of basic categories of belonging in the light of these societies' own peculiar historical trajectories.¹

The change in these basic categories has revealed, at least in part, what others have called in different contexts the provincialised discourses which surround Western modernity.² This expansion and transfiguration of belonging has occurred either as a result of the increased use of social markers of citizenship (e.g. in the post-oil generation, the quasi-universal adoption of the 'abaya, the black dress worn by many Emirati women, as a social marker) or through the lived experience of multiple types of social citizenship (including the extension of quasi-citizenship to Indian diasporic communities, which have resided in Dubai for a century or more in some cases).

I want to thank the participants in a symposium at LSE, particularly Dr Tom Degeorges and Dr Karen Young, for their helpful comments, and my research assistants at AUS for their help with translating sections of the UAE civil code.

¹ Frauke Heard-Bey, *From Trucial States to United Arab Emirates* (Dubai: Motivate Publishing, 2004), p. 18 *et passim*. Neha Vora, *Impossible Citizens: Dubai's Indian Diaspora* (Durham, NC: Duke University Press, 2013).

² Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton: Princeton University Press, 2007).

In this working paper, I will ask three interrelated questions. How have the two dimensions of citizenship and civic belonging³ – the rights of citizens (including their access to social services and institutions) and their obligations – been altered by variations within the UAE legal structure of the basic criteria for membership in the political community? How has the codification of legal categories of citizenship resulted from the interplay between globalisation, modern notions of legalism and traditional categories of belonging? How has that codification, itself a result of globalisation, been coupled to a retreat of *de jure* citizens behind markers of nationality?

I will conclude that an examination of citizenship in the UAE reveals two key facts. First, the manner in which the relationship between membership, rights and obligations has been taken up by citizenship laws in the UAE reveals the inherent contingency (and provinciality) of Western ideas of citizenship, and the all-or-nothing approach it assumes for the rights of citizenship. Citizenship rules in the Arab states often include express provisions linking citizenship to religious belief, creating a separation of rights between first- and second-class citizens (e.g. naturalised citizens), and reveal the importance of paternal *jus sanguinis* (line of descent).⁴ Thus, a study of those laws in the UAE reveals, depending on your perspective, either the broadening of the category of citizenship to include various social categories or the contingency of Western legal categories of citizenship. Second, I will conclude that much of what might be termed the reconfiguration of categories of citizenship in the UAE has occurred against the backdrop of, and probably as a result of, the neoliberal drive to privatise the state in the UAE (and particularly Dubai). The converse of the retreat of the state behind neoliberal self-governance and the concomitant separation of the rights of citizenship from one overarching juridical entitlement is the production of other markers of citizenship. The uncertainties of globalisation produce, I shall argue, a retreat of citizens behind the few remaining available normative structures of the nation-state.⁵ It is not the case that the state has become increasingly irrelevant; instead, the locus of state construction of citizenship has moved from the political and economic spheres to the social sphere. The state remains important as citizens, driven by the winds of capitalism, seek refuge in the nation-state, and retreat behind its walls as the guarantor of culture.⁶ In the UAE, the state has created a discourse stressing the relationship between culture and citizenship; it has created a discourse of ‘Emiratiness’ which is not based on the participation of citizens in the economic or in the (largely non-existent) formal political sphere, but instead disciplines family life and the bodies of Emiratis themselves. This is particularly evident in the ability to purchase aspects of what might be thought of as the traditional attributes of citizenship on the open market.

³ David Owen, ‘Citizenship and the Marginalities of Migrants’, *Critical Review of International Social and Political Philosophy* 16/3 (2013), pp. 344–65.

⁴ Gianluca Parolin, *Citizenship in the Arab World: Kin, Religion and Nation-State* (Amsterdam: Amsterdam University Press, 2008).

⁵ Bryan S. Turner, ‘Outline of a Theory of Citizenship’, *Sociology* 24 (1990), pp. 189–217.

⁶ Aihwa Ong, *Flexible Citizenship* (Durham, NC: Duke University Press, 1999), p. 111.

The Construction of Colonial and Post-Colonial Categories of Citizenship

A complex set of parallel legal systems existed in many societies in the Middle East prior to colonisation, or in the case of the UAE prior to the dissolution of the British protectorate over the Trucial Coast. However, as Talal Asad has shown in the Egyptian context, the writing of law in the colonial context entailed bringing together different, competing legal systems into one as part of the general codification of law. In particular, various tribal or traditional (*urf*), national (*milliya*) and religious (*shari'a*) courts were brought together in a civil code administered by so-called secular courts.⁷ As part of that process, traditional systems were drawn into the purview of European legal codes (which certainly would never have included traditional courts in the legal framework). In so doing, elements of what would have, by the European eye, been seen as extraneous aspects of other social systems were drawn into the legal framework.

In the UAE, the codification of citizenship law was coupled to the creation of a written legal system more generally, and to the development of various mechanisms for its enforcement, which led to the grafting of various different codes and procedures together.⁸ The early legal system of the Trucial States was, like that of much of the rest of the Levant, drafted during the process of decolonisation. In the specific case of the UAE, Egyptian and to a lesser extent Jordanian jurists played an important role in drafting the legal code. They drew a great deal on the French civil code; many of the original jurists in the Arab world studied in France and held doctorates in the civil law.⁹

Prior to independence, there was no formal codification of law in the UAE, but rather a series of individual decrees which were published as Queen's Regulations, often derived from decrees by the ruling sheikhs, and which only obtained force when promulgated by the British Resident.¹⁰ The regulations often had a rather ad hoc character. The first civil code covering the UAE as a whole went into force on independence in 1971. The first law regulating citizenship (Federal Law 17/1972; substantially modified by Federal Law 10/1975) dates to the period of independence. These laws have remained largely untouched since that immediate post-independence period, with only slight amendments through subsequent decrees, most notably in 2011 to allow children of Emirati mothers and foreign fathers access to citizenship upon attaining the age of majority.¹¹

The original Emirati citizenship law codified the rules of paternal *jus sanguinis*, albeit with some exceptions. In a formalistic sense, it provided for a uniform class of citizen. However, that uniformity, as I will discuss below, is belied both by laws regulating the welfare state and by state practice. Broadly speaking, Emirati nationality may be acquired by birth to an Emirati father (which the law refers to as *hukum al qanun* or sometimes as *bil qanun*),

⁷ Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2003), pp. 210–11.

⁸ For instance, for the role of the military in creating the norms and procedure of law enforcement, see Khalifa Rashid al Shaali and Neil Kibble, 'Policing and Police Accountability in the UAE: The Case for Reform', *Arab Law Quarterly* 15/3 (2000), pp. 272–303.

⁹ Parolin, *Citizenship in the Arab World*.

¹⁰ Heard-Bey, *From Trucial States*, p. 317.

¹¹ Wafa Issa, 'Children of Emirati Mothers, Expatriate Fathers Offered Citizenship', *National*, 30 November 2011. Available at <http://www.thenational.ae/news/uae-news/children-of-emirati-mothers-expatriate-fathers-offered-citizenship> (accessed 16 March 2015).

by affiliation or dependence (*bil tabi'ah*) and by naturalisation (*bil tajannus*). Article 2 of Federal Law 17 of 1972 (including subsequent amendments) contemplates *jus sanguinis* as the principle mechanism for the acquisition of Emirati nationality on independence (provided that some minimal initial *lex soli* requirements are met).

In this respect, Emirati citizenship law mirrors the Kuwait civil code, which granted citizenship to all males who had lived continuously in Kuwait from 1920 until the adoption of the law, and to their descendants.¹² The legal code in the UAE mirrors that of Kuwait in that regard, but instead treats 1925 as the watershed year for Emirati citizenship. It grants citizenship by birth to those individuals of Arab descent who resided in 'any of the member Emirates during or before year 1925, and who has maintained his regular residence until the date of enforcement of this Law', as well as to children born in the state or abroad to Emirati fathers, or children born to Emirati mothers where it is impossible to establish the nationality of the father, or where the father is unknown or stateless, or to children born in the territory of the UAE to unknown parents, under Article 2, Federal Law 17/1972.

Two subordinate types of nationality are also provided by Federal Law 17/1972: nationality by affiliation and nationality by naturalisation, which may only be granted by an affirmative act of the Minister of the Interior. Nationality by affiliation refers primarily to the process under which women may acquire citizenship through marriage: a woman may, upon marriage to an Emirati national, acquire Emirati nationality after a period of three years and upon approval of the Minister of the Interior. Nationality by naturalisation is provided for in a series of different articles. Citizenship may be acquired: (1) by persons of Omani, Qatari or Bahraini origin who have lived continuously in the UAE for a period of three years, and individuals from Arab tribes who have immigrated to the UAE from neighbouring states and have resided continuously in the UAE for a period of three years (Article 5); (2) by any other Arab who has lived in the UAE for at least seven years prior to submitting naturalisation application (Article 6); (3) by any person who has resided continuously in the UAE since or before 1940 and is proficient in the Arabic language (Article 7); (4) by any person who has resided continuously in the Emirates for a period of twenty years after the promulgation of the law (Article 8); and (5) by any person who has rendered honourable service to the state, irrespective of period of residency (Article 9). In all cases, naturalisation is contingent upon the approval of the Minister of the Interior, provided that the applicant has a source of income, is well respected by the community and has not been convicted of a serious crime.

Nominally, the citizenship law does little to prejudice the rights of those who become citizens through naturalisation or affiliation. While it is true that such individuals may not be appointed, under Article 13, to many public posts, in practice that section of the law seems to have been largely ignored. Many of the early UAE ambassadors were either non-citizens or naturalised citizens.¹³ Instead, the only significant restriction appears to be that those who are non-citizens by birth may lose their citizenship more easily. Whereas citizens by birth may only lose citizenship by joining the military of another country or by making an

¹² As modified by Kuwaiti Emiri decree 15/1959. See Parolin, *Citizenship in the Arab World*, p. 89. Paul Dresch, 'Debates on Marriage and Nationality in the United Arab Emirates', in Paul Dresch and James Piscatori, *Monarchies and Nations: Globalisation and Identity in the Arab States of the Gulf* (London: I.B. Tauris, 2005). Citizenship law in Kuwait, by virtue of Kuwait obtaining its independence before the other Gulf countries, is by far the most studied of the law in all the Gulf countries.

¹³ Private communication, November 2013, with journalist Sultan al Qassemi.

affirmative declaration of loyalty to another state (Article 16), citizens by naturalisation or acquisition may lose their citizenship for a broader variety of offences, including committing acts harmful to the UAE's security, committing moral crimes, residing outside the country for an extended period (at least four years) or having fraudulently obtained citizenship in the first place (Article 16).

The loss of citizenship has served as a particularly powerful weapon for the state to use to control dissent. Since the beginning of the Arab Spring, several naturalised citizens have been stripped of citizenship by the government of the UAE.¹⁴ To avoid rendering them stateless, they were ordered to acquire foreign passports (in many cases, they purchased passports from the Comoros Islands) and were threatened with incarceration if they did not. One individual was subsequently deported to Thailand, with a tourist visa stamped in his newly acquired Comoros Islands passport.¹⁵

However, beyond the need to toe the government line for those who have acquired citizenship under Federal Law 17, in order to avoid loss of citizenship and deportation, the definition of nationality is not applied uniformly across the legal system. This situation is not unique to the UAE: in Egypt, the definition of an Egyptian differs between pieces of legislation, creating a patchwork of rights and obligations.¹⁶ In the UAE, the defining feature of this bifurcation lies in the difference between those rights granted by nationality (the right to residence, employment, passport etc.) and those granted by possession of a UAE family book (*khulasat al qayd*).

The journalist Sultan al Qassemi argues, in his provocatively titled article 'The Book that Proves Some Emiratis Are More Equal than Others',¹⁷ that the right to a family book matters more than mere Emirati nationality. While that is probably an exaggeration, possession of a family book entitles Emirati nationals to free health care, subsidised housing, free or subsidised education and many of the other entitlements of the welfare state.¹⁸ Only upon presentation of that book will those entitlements be granted. All natural-born Emiratis are, at birth, written into their father's (*rabb al usrah*) family book (or in very rare cases, their mother's).¹⁹ Upon marriage, every Emirati male is entitled to his own family book, starting the process anew for the next generation.²⁰

¹⁴ Jane Kinninmont, 'Citizenship in the Gulf', in Ana Echagüe (ed.), *FRIDE Report: The Gulf States and the Arab Uprisings* (FRIDE, 2013), p. 54. Available at <http://www.fride.org/publication/1139/the-gulf-states-and-the-arab-uprisings> (accessed 16 March 2015).

¹⁵ Loveday Morris, 'UAE Turns to Deportation to Silence Regime's Critics', *Independent*, 7 June 2012. Available at <http://www.independent.co.uk/news/world/middle-east/uae-turns-to-deportation-to-silence-regimes-critics-7821155.html> (accessed 16 March 2015).

¹⁶ Pacha A. Badawi, 'Apperçu sur la question de la Nationalité Egyptienne', foreword to A. Assabghy and E. Colombani, *Questions de nationalité en Egypte* (Cairo: Misr, 1926), p. 12, cited in Parolin, *Citizenship in the Arab World*, pp. 79–80.

¹⁷ Sultan Sooud al Qassemi, 'The Book that Proves Some Emiratis Are More Equal than Others', *National*, 7 February 2010. Available at <http://www.thenational.ae/news/book-that-proves-some-emiratis-are-more-equal-than-others?pageCount=0> (accessed 16 March 2015).

¹⁸ The law surrounding family books is particularly murky in the UAE. Much of my argument in this section, as opposed to the discussion of nationality, I draw from interviews with citizens.

¹⁹ Note that being written into the family book is different from the (largely ceremonial) process of being written into a tribal book and being given a tribal name.

²⁰ Every female is written into her husband's family book upon marriage, or may in principle obtain her own at the age of 30 if single, or at any age if married to a foreigner.

The process can prove particularly difficult for naturalised Emiratis and for foreign-born wives of Emiratis (whose registration in the book is entirely controlled by the husband). Naturalisation is only the first step in obtaining a family book and begins upon the issuance of a presidential decree (*marsoom*). The waiting period for a family book can be particularly onerous, leaving families in limbo for quite some time.²¹ A foreign-born wife of an Emirati may or may not, depending on the time of immigration, have been able to obtain a family book for her offspring and the rights it entails.²²

As a result, juridical citizenship is actually a stratification of different levels of citizenship, which grants variable access to the welfare state and provides different protections against revocation to individual citizens. In the next section, I will argue that the retreat of the state from some of its core competences not only creates further stratification amongst citizens, but also grants what appears to be quasi-citizenship to some residents of the UAE.

Social Citizenship, Economic Citizenship and the Rise of the Expatriate Community

Emirati citizenship law mostly avoids questions of tribe and class, either relegating those concerns to indirect mechanisms of access to power, or embedding them in questions of access to the entitlements of the welfare state. A similar retreat is in evidence with respect to the other rights accorded citizens in the social and economic spheres, creating differentiated classes of citizens and non-citizens. In these spheres, substantial rights of the sort normally reserved for citizens can, through the retreat of the state from the normal sphere of governance, be granted to non-citizens. This is particularly evident in the rise of a class of transnational citizens – a group termed, overly narrowly, expatriate workers or migrant labourers.

In one respect, the emergence of a transnational class reflects the decline of the authority of the nation-state over its citizens. On that view, state-imposed identity gives way, for a small class of individuals, to the emergence of a personal identity embodied in participation in the transnational late capitalist labour market characterised by flexibility, contingency and mobility.²³ Citizenship is less about belonging to a particular community than about the ability to labour in particular contexts. To quote Benedict Anderson, passports become ‘less and less attestations of citizenship, let alone of loyalty to a protective state, than of claims to participate in a labour market’.²⁴ A passport tells us more about where an individual may be able to work and reside (either by direct right or by ease of visa acquisition) than it does about where an individual actually resides or the type of citizenship she possesses.

²¹ al Qassemi documents the difficulty students will have in enrolling for university without a family book (‘The Book that Proves’). It also appears that individuals without a family book may be able to obtain only temporary passports.

²² Dresch, ‘Debates on Marriage’, p. 145.

²³ David Harvey, *The Condition of Postmodernity: An Inquiry into the Origins of Cultural Change* (Oxford: Blackwell, 1989). These individuals form what Guy Standing and others have labelled the profician class, a class of (globalised) individuals who benefit from flexible conditions of employment. The flip side is the growth of the precariat, a class of those individuals without the skills to profit from the new regime, forever consigned to temporary employment. Guy Standing, *The Precariat: The New Dangerous Class* (London: Bloomsbury, 2011).

²⁴ Benedict Anderson, ‘Exodus,’ *Cultural Inquiry* 20 (1994), pp. 314–27 at p. 323.

What is missing from this structuralist account is how human meaning is produced by individuals caught in this situation.²⁵ The structuralist view has the effect of reducing the subject to a victim of globalisation, forever condemning the migrant to drift between different labour markets at the whim of global capitalism. As Aihwa Ong notes in her discussion of the emergence of East Asian expat communities, embodied in the figure of the Hong Kong entrepreneur, entrepreneurs migrating between different countries produce their own subjectivities and modes of belonging, including types of quasi- or temporary citizenship, even while moving between different national jurisdictions.²⁶

Discussions of immigration to the UAE tend to begin by discussing the large expatriate communities which exist in the Gulf, focusing either on the exceptionality of the states comprising the Gulf Cooperation Council (GCC), where, depending on the estimates and the country, up to 80 or 90 per cent of the population are thought to be non-citizens, or on contrasting the lives of wealthy citizens with the lives of a larger mass of mostly overworked, mostly underpaid, mostly South Asian migrant labourers who come to work temporarily in the UAE, and live a contingent, precarious existence, ready to return home at any moment.²⁷ In such accounts, these workers are almost always assumed to be men working in low-skilled jobs. This heteronormative conception of migration excludes the many single women who come to the UAE to work, as well as the middle-class families living in the UAE, particularly in the older sections of Dubai and Sharjah.

Moreover, it excludes the lived experiences of members of these expatriate communities, some of whom have lived in the Gulf States for over a century and in many cases are third- or fourth-generation members of their communities.²⁸ These expat workers form the backbone of many industries in the UAE and are often essential in providing government services in the country. In that respect, the system of migration in the UAE permits migrants a great deal of latitude to become de facto citizens. In so far as members of the expatriate middle and upper classes are prepared to conform to the demands of neoliberal governmentality,²⁹ by transforming themselves into the appropriate transnational neoliberal subjects,³⁰ and are willing to move in search of greater employment opportunities, to tolerate extended periods of separation from either nuclear or extended families and to obey the laws of their host countries, they are free to stay in the UAE. In this way, they form the Middle Eastern mirror image of the holders of Hong Kong passports described by Ong – neoliberal, self-enterprising subjects. What is certainly true of the older narrative of the presence of the expat communities in the UAE is that, for the vast majority, there is no path towards juridical citizenship. Instead, through a process of investment and the acquisition of short-term visas, they are able to live in the UAE. In so far as they are willing participants in the rhetoric of a free, open market they are able to stay.³¹

²⁵ Ong, *Flexible Citizenship*, p. 3.

²⁶ Ibid., p. 111.

²⁷ Vora, *Impossible Citizens*, p. 2.

²⁸ Ibid., p. 3.

²⁹ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 2nd edn (New York: Vintage Books, 1995).

³⁰ Christian Laval, *L'homme économique: Essai sur les racines du néolibéralisme* (Paris: Gallimard, 2007). Attiya Ahmad, 'Beyond Labor: Foreign Residents in the Persian Gulf States', in Mehran Kamrava and Zahare Babar (eds), *Migrant Labor in the Persian Gulf* (London: Hurst, 2012).

³¹ Vora, *Impossible Citizens*, p. 4.

Nevertheless, juridical citizenship is neither the only available category of belonging nor, arguably, the most important component of modern citizenship. Moreover, as in the case of juridical citizenship in the country, there are actually multiple layers of social citizenship. The boundary between citizens and non-citizens is actually quite porous.

Beyond access to the welfare state, citizens are allocated extensive rights as part of the retreat of government from its traditional functions and decision-making capacities. Officially, only citizens have access to various other mechanisms of neoliberal governance, most notably the exclusive right to open businesses in the country,³² the right to sponsor workers and the right of residence. However, neither system actually functions as it would first appear to, as the juridical components of citizenship are modified by participation in social and economic life.

Nominally, any business in the UAE must have a majority owner who is also an Emirati citizen, under Federal Law 5/1985. For instance, to obtain a licence to open a limited liability company in Dubai, a businessman must be able to produce a certificate showing both the appropriate ownership structure and capital reserves of AED 150,000 in a bank account.³³ However, actual practice differs in two important ways.

First, although these formal requirements do in fact exist, the judicial and economic systems have allowed minority owners to place substantial checks on the powers of (citizen) majority owners of businesses. Businessmen report that they have been able to secure memoranda of understanding, apparently notarised by the Dubai government, stating that they as foreign businessmen actually own 80 per cent of corporations (when they may officially own only 49 per cent). Others have obtained power of attorney over these corporations.³⁴ Still others have reached side agreements for full ownership over the corporations, in exchange for the payment of an annual licensing fee. Second, there has been a continued proliferation of free zones in the UAE (prominent free zones include the Dubai Multi-Commodities Center, the Dubai International Financial Center, the Jebel Ali Free Zones and those located at the airports in Dubai, Sharjah and Abu Dhabi). In free zones, the requirement for local ownership is waived. Foreigners may wholly own businesses, corporations are guaranteed tax exemptions for extended periods (often 50 years) and investors are given help securing licences and visas for employees. Third, some businessmen report that they have been grandfathered into the old system, wherein local ownership was not required. Businessmen with connections to the ruling family were allowed to continue to operate with 100 per cent foreign ownership, outside of the free zones.³⁵

³² An exclusive privilege which is gradually eroding, as I discuss below.

³³ Embassy of the United Arab Emirates to the United Kingdom, 'Establishing a Business'. Available at <http://www.uae-embassy.ae/Embassies/uk/Content/578> (accessed 16 March 2015). Vora appears to err, giving a higher number of AED 300,000 (*Impossible Citizens*, p. 106).

³⁴ Vora, *Impossible Citizens*, p. 106.

³⁵ Ibid., citing Magnhanmnal J. Pancholia, *Footprints: Memories of an Indian Patriarch* (London: Motivate, 2009).

Under the sponsorship (*kafala*) system, codified by Article 13, Federal Law 6/1973,³⁶ only citizens may sponsor individuals entering the country on work visas. Originally, the system appears to have functioned as a way of hosting foreigners in the Gulf and vouching for their conduct.³⁷ It may also have functioned as a mechanism for insulating merchants from foreign competition, by requiring all foreigners to pair off with citizens.³⁸ Under the current system, the sponsor (*kafeel*) takes legal and social responsibility for the worker, signing a declaration with the Ministry of Labour certifying that the worker is employed by him or her, pledging to repatriate the worker at the sponsor's expense and promising to notify the Ministry promptly of any changes in residence or employment status. The sponsor system has the effect of offloading the traditional responsibility of the government to exercise control over its borders onto individual citizens, who take on the governmental function, with minimal oversight, of issuing permits to work and to reside in the country. Moreover, it opens the extension of citizenship rights to those non-citizens who are able to acquire them in some manner on the market.³⁹

While nominally the right of sponsorship lies only with citizens, that right is both more restrictive and more open than it would at first appear. To sponsor an individual, a citizen must possess the appropriate connections and appropriate wealth in order for the government to issue a visa: obtaining the large number of visas necessary to run a business may require a network of personal contacts, for both locals and foreigners.⁴⁰ However, much of the actual work of sponsorship, including the management of those individuals who are sponsored, depends on 'foreign resident managers and employers, who often act in the stead of citizens to perform the day-to-day practices of migrant governance'.⁴¹ Some individuals wishing to come to the UAE are able to 'buy' so-called free visas, where they are sponsored for non-existent jobs, and are then free, upon arrival, to search for their own work, remitting part of their income to the sponsor.⁴² Finally, the right of sponsorship does not depend on the *kafala* system with respect to the sponsorship of wives (and to a lesser extent husbands), parents and children. A foreign resident of Dubai may, given certain minimum salary requirements, sponsor his wife (or to a lesser extent her husband) and children (boys until they reach 18 or graduate from university; girls until they are married).⁴³

³⁶ Whereby foreigners may only be issued visas by a sponsor (*kafeel*) who lives in the country (Article 13(c)), and who will provide a guarantee to pay the cost of bringing the worker to and return the individual from the UAE (Article 14). In practice, this has been interpreted to require citizens to sponsor those coming to work.

³⁷ A. M. Gardner, 'Gulf Migration and the Family', *Journal of Arabian Studies* 1 (2011), p. 8. Ahn Nga Longva, 'Keeping Migrant Workers In Check: The *Kafala* System in the Gulf', *Middle East Report* 211 (1999), pp. 20–2.

³⁸ Sulayman Khalaf, 'Gulf Societies and the Image of Unlimited Good', *Dialectical Anthropology* 17 (1992), pp. 53–84.

³⁹ It also allows for government disavowal of abuses of workers by transferring state responsibility to individuals. David Mednicoff, 'The Legal Regulation of Migrant Rights: Politics and Identity in Qatar and the United Arab Emirates', in Kamrava and Babar, *Migrant Labor in the Persian Gulf*, p. 202.

⁴⁰ Vora, *Impossible Citizens*, p. 106.

⁴¹ *Ibid.*, p. 93. The system allows for the exploitation of semi-skilled and unskilled workers, compelling them to pay fees to brokers who arrange visas for them, sending them into debt. Gardner, 'Gulf Migration and the Family', p. 9.

⁴² *Ibid.*, p. 8.

⁴³ Currently the minimum salary requirement is AED 4,500. Those regulations are set pursuant to Article 27 of Federal Law 6/1973.

Finally, the right of residence, while granted to citizens, can also be purchased on the market in somewhat modified form. While the exact mechanisms vary from emirate to emirate, ownership of freehold property generally grants the owner and his family the right to a multiple entry visa (renewable every six months), effectively granting the owner the right of residence, though not the right to work.⁴⁴

This newer regime supplants the older one which granted a right of residency to property owners, under Ministerial Decision 281 of 2009.

Many of the rights often associated with citizenship (the right of residency, the right to open a business and the right of sponsorship) are therefore available for purchase on the market. The legal system permits the private regulation of citizenship and migration through law. However, the role of the market in assigning many of the rights of citizenship reveals two important components for any theory of citizenship: first, in many places in the world, law permits an expansion of the neoliberal agenda behind the retreat of the state; and second, traditional (Western) theories of citizenship do not capture the potential complexity of citizenship categories.

Social Markers of Citizenship

So far, this paper has discussed the rights of citizens. In this section, I will argue that globalisation has led to the rise of what might be termed non-traditional obligations of citizenship in the UAE. The consequence of the retreat of the state behind neoliberalism and the fact that citizenship has become less a judicial than a social category is the production of other markers of citizenship. The uncertainties of globalisation produce, I shall argue, a retreat of citizens behind the few remaining available normative structures of the nation. Thus, it is not that the state has become increasingly irrelevant, but that citizenship is no longer (solely) a judicial attribute but increasingly a social one. Capitalism has caused citizens to seek refuge in the state, as it is only the state which can guarantee the preservation of a national culture. This has led, in the UAE, to the creation of a state-sponsored discourse of 'Emiratiness', stressing the link between culture and citizenship. This new discourse stresses less the participation of citizens in the economic or in the (largely non-existent) formal political sphere than the disciplining of the family life and the bodies of Emiratis themselves.

Since at least the 1980s, the issue of marriage has become central to discussions of Emirati identity, as more and more Emiratis have married non-citizens. Public discourse has seized on the issue as one more instance of the loss of Emirati identity. The state has taken a view that 'Emiratiness' cannot be determined solely by patrilineality, thus departing at least in part from more traditional conceptions of nationality. To the concerns that exogamy is leading to the breakdown of the family, the state has responded with a carrot-and-stick approach.

⁴⁴ Binesh Panicker, 'Ask the Law: Property Queries', *Gulf News*, 15 April 2011. Available at <http://gulfnews.com/business/property/uae/ask-the-law-property-queries-1.790407> (accessed 16 March 2015). *WAM* (*wakalat inba' al emarat*), 'Multiple-Entry Visas for Property Owners to Start from June', 4 May 2009. Available at www.wam.ae (accessed 16 March 2015).

First, the government established, in 1992, the so-called Marriage Fund (*sunduq al zawaj*), which was designed to encourage marriage between Emirati citizens, to provide financial support for expenses related to marriage, to curb the marriage of Emirati men to foreigners, and to promote stable family life.⁴⁵ The fund has offered seminars to young Emiratis on the dangers of depending on foreign maids; young men are warned of the dangers of marriage to foreign women⁴⁶ – all cashed out in terms of the danger to Emirati society such actions posed.⁴⁷ The magazine put out by the Marriage Fund focuses not only on issues of child rearing and schooling, but also on the disruptive effects of foreign wives.⁴⁸ The president of the Marriage Fund took to discussing the arrival in Dubai of marriage brokers, who offered to arrange marriages for women to locals in order to obtain the right of residency in the country and social benefits, as a threat to identity and nationality.⁴⁹

Funds were also made available to construct elaborate wedding halls, and to pay for wedding expenses. For example, during the first three years some AED 435 million was dispensed.⁵⁰ Specific grants were made available to Emirati men who married Emirati women. The fund has offered housing to those willing to oblige.⁵¹

Second, contrary to the provisions of the law on citizenship, new orders appear to have been issued by the presidential *diwan* (court) in 1996, ordering the Ministry of Justice to regulate the marriage of citizens to foreigners. Women were to be forbidden to marry foreign men and would lose their citizenship if they went ahead and did it anyway.⁵² Although no such proposal appears to have been officially gazetted and it appears never to have been enforced, the winds of change were clearly blowing away from the previous, more permissive regime. The government also drafted articles, again never entering into law, which would ban students studying abroad and state functionaries from taking foreign wives.⁵³ Men who were not outright prevented under the law from taking foreign wives would still need permission from the Marriage Fund before marrying.⁵⁴

⁴⁵ Dresch, 'Debates on Marriage', p. 147. Part 1, Paragraph 3 of Federal Law 47/1992.

⁴⁶ The refrain has been continued by members of the government in the press. See Najla al Awadhi, 'Why Emirati Men Marry Foreign Women', *Gulf News*, 16 May 2008. Available at <http://gulfnews.com/opinions/columnists/why-emirati-men-marry-foreign-women-1.105273> (accessed 16 March 215).

⁴⁷ Dresch, 'Debates on Marriage', p. 147.

⁴⁸ Ibid., p. 152.

⁴⁹ Ibid., p. 154.

⁵⁰ Ibid., p. 148.

⁵¹ *Al-Ittihad*, 10 March 2000, cited in Dresch, 'Debates on Marriage', p. 148.

⁵² Presidential Order, 19 December 1996, cited in Dresch, 'Debates on Marriage', p. 151. This was quickly revised in an order of 25 January 1997 to judges from the Ministry of Justice that by 'foreign men' the President did not mean male citizens of GCC countries (Dresch, 'Debates on Marriage', p. 151).

⁵³ *Al-Ittihad*, 24 April 1999, cited in Dresch, 'Debates on Marriage', p. 155.

⁵⁴ Ibid.

In a similar manner, discourses around 'Emiratiness' focusing on dress have increasingly occurred in the public arena. The launch, through Twitter, of the campaign #UAEDress-Code drew on concerns that national or religious sensibilities were being swept aside by the presence of foreigners. Started by two Emiratis, Hanan al Rayes and Asma al Muhairi, the campaign aimed to create a discourse on religiously or culturally appropriate dress in the Emirates.⁵⁵ Although concern may have been expressed over the conduct of expatriates, the relationship between dress and nationality is played out on the body of Emiratis, particularly of Emirati women, and in national and transnational discourses on dress. While there is no legal requirement in the UAE for women to wear the 'abaya or for men to wear the *kandurah* (the white robe), this dress is prescribed for all citizens and operates within a national power dynamic connecting citizens to the state.⁵⁶ Citizens are expected to wear it as a marker not only of religious but also of national belonging, separating them from the expatriates who greatly outnumber them. In that respect, clothing operates as a signifier of a nation's 'true identity' in a nation face to face with a globalised world.⁵⁷ The state has increasingly encouraged discussions of appropriate attire for Emiratis, going so far in Abu Dhabi in 2005 as to promulgate a regulation (*ta'meem*) requiring the wearing of so-called national dress (the 'abaya and *shaylah* (black headscarf) for women and the *kandurah* for men) in places of work for citizens. Both citizens and the state have turned, in the face of globalisation, to an expansion of the social obligations of citizenship.

Conclusion

In this paper, I have tried to show how the study of the lived experience of the rights and duties of citizenship in the UAE destabilises inherited notions of citizenship. While juridical citizenship grants broad (though not equal) rights to citizens, including ample welfare state protections, the retreat of the state from many core areas of governance, and the marketisation of others, leads to graduated levels of citizenship, some of which are open to non-passport holders. At the same time, the obligations of citizens are increasingly read out in social terms – as obligations to choose appropriate wives and to raise children in a culturally appropriate way so as to preserve constructed ideas of Emirati culture.

More broadly, any attempt to hold on to Western theories of citizenship will necessarily lead to the conclusion that some foreigners in the UAE hold weakened forms of citizenship; any attempt to understand citizens in purely juridical terms will show the contingency of theories of the rights and obligations of citizens.

⁵⁵ Mishaal al Gergawi, 'Dressing Down: UAE Dress Code Hashtag Sends Right Message', *Gulf News*, 1 June 2012. Available at <http://gulfnews.com/opinions/columnists/dressing-down-uae-dress-code-hashtag-sends-right-message-1.1030688> (accessed 16 March 2015).

⁵⁶ Noor al Qasimi, 'Immodest Modesty', *Journal of Middle East Women's Studies* 6/1 (2010), pp. 49–50.

⁵⁷ Partha Chatterjee, *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Princeton: Princeton University Press, 1993), cited in Al Qasimi, 'Immodest Modesty', p. 50.

Torn Citizenship in Kuwait: Commodification versus Rights-Based Approaches

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Introduction

Defining citizenship in a static way – for example, as a bundle of rights and duties binding an individual to a sovereign state – corresponds to the state's practical endeavours at controlling people and borders but fails to grasp the essentially contentious and evolving nature of the concept. Although shared by all sovereign states, citizenship is not a given, but both time- and place-specific: from the outset and the seminal work of T. H. Marshall,¹ it has often been argued in citizenship studies that citizenship differed in terms of content (rights and duties granted) and extent (the *dialectic* of inclusion and exclusion)² according to the time period and international environment. The notion of citizenship, as expressed in a set of laws peculiar to each state, is subject to evolution in particular as a result of the ways people conceive of and practise citizenship. By formulating new claims or circumventing legal constraints or obstacles to take up new rights, people's practice of citizenship and struggle for rights have the power to make the definition of citizenship evolve in law. Turner emphasises the dialectic character of citizenship:³ he argues that citizenship results from the state's reactions to social 'struggle' mobilisations. These state reactions, reflecting (part of) the existing citizenry, can also be ones of rejection and obstruction, that is, of restriction on content, extent or rights.

Kuwait is no exception: on the part of the state, citizenship, reduced to nationality or the dutiful possession of legal papers, is a given status that can be taken away. This was the case in the summer and autumn of 2014 when the government, by cabinet decree, denaturalised nearly a hundred people for constituting a threat to the country's security or for using

The author wishes to thank Professor Isin for his comments on the text.

¹ T. H. Marshall, *Citizenship and Social Class and Other Essays* (Cambridge: Cambridge University Press, 1950).

² See for instance the cross-national study in Europe by Ruud Koopmans, Paul Statham, Marco Giugni and Florence Passy, *Contested Citizenship: Immigration and Cultural Diversity in Europe* (Minneapolis: University of Minnesota Press, 2005).

³ Bryan S. Turner, 'Outline of a Theory of Citizenship', *Sociology* 24 (1990), pp. 189–217.

forged documents in order to acquire Kuwaiti nationality.⁴ Although practised on an unprecedented scale in Kuwait,⁵ the phenomenon of citizenship revocation, inscribed in the legal system of any state, is not peculiar to Kuwait: states, including democratic ones, use the legal tool of citizenship deprivation to shape national identities.⁶ In Kuwait, as of July 2014, the state reacted in a defensive manner to the mobilisation of the tribal-Islamist periphery that had practically assumed new rights: these new rights were, in effect, the practice of open critique of the ruler or transnational involvement in the Syrian regional conflict. By the same token, the state reasserted the prominence of the holders of the Kuwaiti first degree of nationality,⁷ since Kuwaitis by origin (*bi-t'assîs*) are immune to denaturalisation on the basis of forgery in the process of acquiring nationality. The political gesture signified a clear warning to the part of the Kuwaiti population of tribal origin that was integrated comparatively late – between 1965 and 1980 – into the Kuwaiti citizenry: the message delivered was that these latecomers were less legitimate, if they were legitimate at all, in formulating new claims to rights.

The situation of people who have been rendered stateless or *bidun* in Kuwait is a particularly poignant illustration of the contentious and contested, and thus dynamic, nature of citizenship. *Bidun* are people referred to as stateless and considered as illegal on Kuwaiti soil by the State of Kuwait, which accordingly denies them any rights. They number 106,000 according to the conservative estimate of the government body created to review their files in November 2010, that is, the Central System to Resolve Illegal Residents' Status (hereafter 'Central System'). The contention between the State of Kuwait and part of its long-term resident population revolves around the fact that although they have not been granted nationality of the country in which they live, the *bidun* have developed a feeling of entitlement to it. In this controversy, the State of Kuwait, through the Central System, seeks to document and ascertain the national origins of the *bidun*, on the basis of material proofs and archival

⁴ Figures come from 'The New Unpeople: Statelessness as Punishment against Political Dissent in the Gulf', *The Economist*, 15 November 2014. Available at www.economist.com/news/middle-east-and-africa/21632640-statelessness-punishment-against-political-dissent-gulf-new-unpeople (accessed 28 November 2014). These people included Ahmed al Shammari, owner of the Al-Yum TV station and newspaper, mouthpiece of the opposition; his denaturalisation was decided on the basis that his activities undermined the country's security and stability (*tahdîd amn al qawmî*). So too were the cases of former MP Abdullah al Bargash, from the Emirate of Ajman and close to the scientific salafi current, and Nabil a Awadhi, a salafi preacher whose case was officially related to his involvement in Syria. The remaining people, all Bedouin from the Mutair and Shammari tribes, were denaturalised for having obtained their naturalisation through false documents (*tazawîr al tajnîss*). Correspondence with a human rights activist, 12 August 2014.

⁵ Famous denaturalisations included those of the Shi'i scholar Ahmad al Muhri (whose Sunday lectures were deemed potentially revolutionary) and his family, deported to Iran in 1979, and the Shi'i anti-Sunni preacher Yasser Habib in 2010. Claire Beaugrand, *Statelessness and Transnationalism in Northern Arabia: Bidun and State Building in Kuwait, 1959–2009*, PhD thesis, London School of Economics and Political Science, 2011, p. 147.

⁶ Sandra Mantu, *Contingent Citizenship: The Law and Practice of Citizenship Deprivation in International, European and National Perspectives*, PhD thesis, Centre for Migration Law, Radboud University, Nijmegen, 2014. Ben Herzog, *Revoking Citizenship: Expatriation in America from the Colonial Era to the War on Terror* (New York: New York University Press, 2015).

⁷ The holders of the first degree of nationality (*madat îla*), as per paragraph 1 of the 1959 Nationality Law, are those who can prove their residency in Kuwait in 1920, and their descendants.

documents:⁸ the logic of checking the accuracy of historical claims belongs to debates between historians and might seem somewhat anachronistic in a matter where the understanding of papers, loyalty and the implication for rights of a place of abode has drastically altered over the course of a century. The government's logic is challenged as 'outdated' by the new generation of *bidun* that emerged in the 2011 protests and only holds for certain that they were born, raised and discriminated against in the Emirate.⁹

The *bidun* issue in Kuwait, studied in a dialectic fashion, forms a nexus where different interpretations of citizenship, stemming from far-distant perspectives, intersect, enter on collision courses and presumably affect each other. These perspectives are embedded in various parts of Kuwaiti society that, according to their positions in the overall class structure, lay different claims to rights on the state. In a particularly acute fashion in Kuwait, nationality has acquired an economic and financial value, from the early period of state-building when political acquiescence was exchanged for exclusive economic privileges,¹⁰ through the mechanisms of access to land ownership, cheap labour and compulsory partnership of foreign companies with a local firm (ensured by the *kafala* or sponsorship system), the granting of exclusive dealership of imported products (the less well-known but equally fundamental *wikâla*) and the awarding of massive public contracts. These privileges, although granted to all, benefited only the closer allies of the ruling family, that is, the *hadhar* (urbanites) or more precisely the merchant families among them. The *hadhar*, by contrast with the Bedu or Bedouin, could boast a certain experience of trade and interaction with international markets before oil discovery. Now these rights have become *unquestionable entitlements*. With the rise of the middle classes, hitherto civil servants but now developing business ambitions as well, the historical elite expects from the state, in defence of its interests, that it upholds the elite's privileged position in business.¹¹ This elite sees citizenship as much as a political enactment as an entitlement to benefit from a protected position to do business – including making investments abroad. At the other end of the spectrum, the less privileged articulate claims for greater social justice while the *bidun*, at the very bottom, have first redoubled their

⁸ In an interview in Kuwait (29 April 2014), Salih al Sa'idi, communication officer at the Central System, explained, when asked about the demographic structure of the *bidun* group, that most of the *bidun* are from Iraqi tribes (Muntafiq and their Sa'dun sheikhly lineage). According to him, the tribes who were part of Kuwait were paying a tax to trade there. 'We have 1902 Ottoman documents covering the period before the border's establishment. Lorimer [John Gordon Lorimer, a British official who wrote and compiled the *Gazetteer of the Persian Gulf, Oman and Central Arabia* (Calcutta 1915)] also listed the tribes of Kuwait. Moreover in 1945, the government supplied people who had an established relationship with the Emir with *papers* [our emphasis], particularly food cards during WWII [World War II]. In the modern period (1960–66) the [nationality] committees [responsible for granting nationality according to the 1959 Nationality Law] went to the Bedouins and looked for their tangible written documents.'

⁹ Revisiting history as well, a *bidun*, leader of the unregistered *muwâtinûn* (citizens) movement that not only plays a core role in *bidun* mobilisation but also coordinates a unified response to Central System actions, said 'over time, the criteria for *tawfîn* [here meaning settling as a citizen] have changed: in the 1960s, it was on the basis of the nationality committees and references that people could provide. In the 1970s, it was on the tribal basis; in the 1980s on the basis of exceptional services rendered to the state (*khidmat jalila*). Now we think the citizenship is a right.' Dr Abdul Hakim al Fadhli, Kuwait, 18 April 2014.

¹⁰ Jill Crystal, *Oil and Politics in the Gulf: Rulers and Merchants in Kuwait and Qatar* (Cambridge: Cambridge University Press, 1990).

¹¹ So far the nomination of ministers by the emir has ensured access to high political postings, since the economic elite abandoned the idea of forming a majority at the parliament (*majliss al Umma*) at least from the 1980s with the opening up of the position of MPs to new sociological classes.

efforts to demonstrate civic commitment and loyalty to the symbols of the Emirate and its community, then gradually broken with the existing patrimonial model and formulated new claims based on the idea that they were punished for a crime they did not commit.

This background is essential in order to understand the views that emerged with regard to solving the riddle of the presence of stateless people in Kuwait: albeit untheorised by the actors themselves, the practice of selling ‘faked nationality’ to *bidun* or, as some *bidun* would feel, ‘selling *them* to other countries’ amounted to a gradual commodification and desubstantialisation of the citizen bond. Yet, if essential, this national context is not the only factor: Kuwait is surfing on a larger, global trend that sees citizenship being commodified. If in other cases people are willing to pay to acquire a more beneficial nationality for tax haven, residency visa exemptions and job opportunity purposes, in the case of Kuwait as well as the United Arab Emirates (UAE), the state is arranging a financial and economic transaction on behalf of ‘unwanted’ residents. Finally, this trend towards commodification intersects with a regional policy of counter-revolution, led by the UAE and Saudi Arabia since the fall of Hosni Mubarak, their close ally in Egypt. While Kuwait had given up on the idea of enacting a 2008 project of granting Comorian ‘economic citizenship’ to its *bidun* population, as was done in the UAE,¹² for fear of its vocal parliament or international disapproval, the convergence of interests with the two above-mentioned Gulf states to combat domestic unrest made at least part of the state apparatus change its mind; in May and then November 2014 the application of the new scheme was announced through the Ministry of Interior.

The year 2011 marks a real rupture as *bidun* organised a protest on their own for the first time. *Bidun* reclaimed agency, first by setting at a distance the Kuwaiti-led organisations that had initially promoted their case in the 2000s, and breaking with the victimisation discourse of some of them.¹³ Second, the *bidun* reacted to the emptying out of meaning of their bond to a territory and membership in the community by sparking a debate on this very meaning and claiming rights through what Engin Isin calls ‘acts of citizenship’, that is, political acts performed outside of the citizenry or from its excluded margins.¹⁴

Clearly there is a widening gap between a business-minded and commodified version of citizenship enacted from on high, impregnated with patrimonialism, and a bottom-up conception torn between a logic of loyalty to the place and a breaking away from the paternalist logic of belonging.

The next section, depicting the historical background to citizenship understanding in Kuwait, gives the original narrative: in this view, the *hadhar*, portrayed as state-builders, hold a conception of citizenship close to the Western one (and its etymology as ‘city-zen’ community or city-membership), which marks an attachment to the city of Kuwait understood in nationalist history as the walled city of 1920. In this vision the Bedouin understand

¹² Noora.Lori, *Unsettling State: Non-Citizens, State Power and Citizenship in the United Arab Emirates*, PhD thesis, Johns Hopkins University, Baltimore, 2013.

¹³ For literature on the creating of victims see Sandrine Lefranc,, Lilian Mathieu and Johanna Siméant, ‘Les victimes écrivent leur histoire’, *Raisons Politiques*, May (2008), pp. 5–20. Sandrine Lefranc and Lilian Mathieu, *Mobilisations des Victimes* (Rennes: Presses Universitaires de Rennes, 2009).

¹⁴ Engin F. Isin, ‘Theorizing Acts of Citizenship’, in Engin F. Isin and Greg M. Nielsen (eds), *Acts of Citizenship* (London: Zed Books, 2008), pp. 15–43 at p. 15. Engin F. Isin, ‘Enacting Citizenship’, in Engin F. Isin, *Citizens without Frontiers* (London and New York: Continuum, 2012), pp. 108–46.

belonging as a link to a person, a leader. The period ushered in by oil discovery and export (1948) drastically changed this initial deal, if it did not simply reverse it: as the *hadhar* elite gradually integrated into global capitalism, including real estate investment abroad and business travel, its physical tie to the city slackened, with interests vested in the perpetuation of a system based on privileged access to the Emir and his close advisors. The former Bedouin, turned middle classes, have for their part made theirs the nationalist narrative on the homeland.

The rest of the paper analyses how the logics of class and paternalism intertwined in practice and led to the idea of monetising the nationality of *bidun*. Not only does the idea of a Comorian ‘economic citizenship’ rid the country of unwanted residents, but its implementation also financially benefits the few among the business elite who engineered the complex system of ‘economic nationality’, linking the granting of a Comorian legal status to investment – later translated into development projects on the islands. On the other hand, the *bidun* broke with the piecemeal approach to rights to adopt outright claims for full citizenship.

The Myth of Kuwait’s Foundations and the Original Views on Citizenship Turned Upside Down

The sociological and identity cleavage structuring Kuwait society matches clear-cut class interests: the urbanites or *hadhar* – that is, those who lived within the limits of the 1920 city wall – consider themselves state-builders on the basis that they occupied government posts at the crucial time of creating a Western-type state administration. For the very reason that this earned them a privileged economic position, they regard the once-nomadic Bedouin as latecomers.¹⁵ To this identity divide there corresponded different endogenous narratives on visions of citizenship:

Urban Kuwaitis, on the other hand, understand citizenship as *jinsiyya*, from the root verb *jns*, meaning ‘to make alike, to assimilate, to naturalize’. [...] There is an idea of similarity and horizontal solidarity. [...] [*Jinsiyya*] does not posit a priori an idea of hierarchy and supreme authority. In this sense, it is much closer to the Western concept of citizenship. [...] the urban Kuwaitis relate this notion [*jinsiyya*] with a territorialized community [...] previously the town, today the nation-state, rather than with a particular leadership.

The tribes in Kuwait understand nationality and citizenship in the sense of *taba’iyya*, which can be translated as the ‘following’ of or ‘allegiance’ to a leader, in this case Kuwait’s ruling family. The root verb of *taba’iyya* means, among other things, to walk behind someone, to be subordinate to, to be under someone’s command. The concept is clearly built on an idea of hierarchy and vertical allegiance.¹⁶

¹⁵ Anh Nga Longva, ‘Nationalism in Pre-Modern Guise: The Discourse on *Hadhar* and *Badu* in Kuwait’, *International Journal of Middle East Studies* 38 (2006), pp. 171–87.

¹⁶ Mary Ann Tétreault, *Stories of Democracy: Politics and Society in Contemporary Kuwait* (New York: Columbia University Press, 2000), p. 47. See also, for an analysis of citizenship in Kuwait, Anh Nga Longva, ‘Citizenship in the Gulf States: Conceptualization and Practice’, in Niels A. Butenshon, Uri Davis and Manuel Hassassian (eds), *Citizenship and the State in the Middle East: Approaches and Applications* (Syracuse, NY: Syracuse University Press, 2000), pp. 179–97.

These narratives are very tenacious, and all the more so because the *hadhar*, feeling under demographic pressure from the Bedu,¹⁷ tend to cling to their civic and political legacy as a legitimisation for their privileged situation. During the early decades after independence in 1961, the class of merchants, starting with only relative wealth but with habits of dealing internationally through business networks, amassed fortunes domestically thanks to the state policies that forced foreign enterprises to enter into business alliance with a local partner and granted them most of the government contracts or exclusive sale of imported goods (*wikâla*).

The situation, domestically and internationally, has evolved since the days of independence and, as a consequence, the respective conceptions of citizenship need to be revisited.

On the one hand, the idea of *jinsiyya* as advocated by the *hadhar* has changed along with their socioeconomic circumstances. Kuwaiti merchant families are not only recipients of state contracts and benefits, but have become global investors:¹⁸ their wealth, massively invested abroad in real estate and securities, generated huge revenues at the time of ‘asset appreciation in industrial countries, to the point that their wealth and earning abroad surpassed their wealth and earnings at home. Consequently, their dependence on the goodwill of [...] [the] government was reduced.’¹⁹ This was all the more so in the case of Kuwaiti capitalists as, in contrast to the bourgeoisie in other Gulf states, they were quite slow to invest back in Kuwait when the economic liberalisation in the 1990s opened up new investment opportunities at home. When they chose to invest in the Gulf region, Kuwaiti businessmen opted for the UAE or Bahrain – especially after 9/11 when sanctions and asset freezing incited them to repatriate part of their capital from the West. This preference was largely explained by the looming threat posed by the rule of Saddam Hussein until 2003, as well as the hindrances put in the way by the parliament, whose majority, representing civil servants, is seen as prioritising the direct distribution of government revenues over their investment in infrastructure projects, and also puts much efforts into exerting strong pressure to curb the monopolies on the giving of public contracts to the great family businesses.²⁰

The Kuwaiti globalised bourgeois class thus has ties outside of its country of origin. It could be said to be part of ‘a network of connections and functional interdependencies which has developed within certain important sectors of the “global market”, above all finance, technology, automation, the manufacturing industry and the service sector’, that Danilo Zolo equates with what ‘western cosmopolitans call “global civil society”’.²¹

¹⁷ Interview in Kuwait, 30 August 2007, with Sheikha Fawzia, a pro-*bidun* member of the royal family. She employed a very significant vocabulary to describe the *hadhar*’s fear of being outnumbered by the Bedu, referring to the urban historic distinction mirroring the socioeconomic divide: ‘*yakhâf yushârikûn min nahiat iqtisâdiyya dâkhil al sûr*’ (‘They [*hadhar*] are afraid that they [*bidun*] come to share in the economy “within the wall”’). Although there are no official numbers, the Bedu/*hadhar* divide is estimated at 60/40.

¹⁸ Adam Hanieh, *Capitalism and Class in the Gulf Arab States* (New York: Palgrave Macmillan, 2011).

¹⁹ Giacomo Luciani, ‘Linking Economic and Political Reform in the Middle East: The Role of the Bourgeoisie’, in Oliver Schlumberger (ed.), *Debating Arab Authoritarianism: Dynamics and Durability in Nondemocratic Regimes* (Stanford: Stanford University Press, 2007), pp. 161–76 at p. 170.

²⁰ Michael Herb, ‘A Nation of Bureaucrats: Political Participation and Economic Diversification in Kuwait and the United Arab Emirates’, *International Journal of Middle East Studies* 41/3 (2009), pp. 375–95.

²¹ Danilo Zolo, *Cosmopolis: Prospects for World Government* (Cambridge: Polity, 1997), p. 137.

Yet Kuwaitis, more often than not, do not pretend to belong to this society, sticking to the family line.²² Moreover, the Kuwaiti upper classes – like the rest of the Gulf's, studied by Luciani – remain structurally constrained to keep strong business links with the homeland:

Among businessmen in the Gulf, the desire to invest at home originates from the realisation that, if they become alienated from their countries of origin, they will carry no weight as major international business characters. Their international status is contingent on their remaining closely associated with their countries of origin. Also these countries offer by far the best opportunities for investment and growth, much better than those offered by the industrial countries. The comparative advantage of the Gulf bourgeoisie lies exactly in being the protagonist in the development of the Gulf and of the Arab world more broadly rather than in the real estate market in Mayfair, Knightsbridge, and Belgravia [...] Hence the Gulf bourgeoisie is, on the one hand, substantially autonomous from the state, but on the other hand, very much committed to the development of their countries of origin – and to demands from the state that it should vigorously promote it.²³

In this sense, the initial understanding of *jinsiyya* attributed to the *hadhar* that relates to a 'territorialized community [...] rather than [...] a particular leadership' needs to be heavily qualified, as the *hadhar* usually do not hold the Bedu as legitimate members of the national community,²⁴ and, albeit integrated globally, are still dependent upon their privileged situation in the homeland, itself highly embedded in the current interpersonal relations within the monarchical system.

The business ties to Kuwait do not prevent an extreme mobility and very frequent and extended sojourns abroad, in particular in the European capitals or in the USA. These multi-level economic interests, coupled with multiple places of sojourn or abode, shed a new light on the official narrative, according to which the state-building *hadhar* have an interest in the public good (as exemplified by the 1960–85 golden age) as opposed to the influx since the 1980s of Bedu who do not care about a land they have no or little perennial link with, but are only interested in getting money from the state. Increased cross-border mobility is now a feature of the globalised business elite, while Bedouin nomadism has come to an end.

²² See, as a matter of comparison, an article on Gulf youth on holiday in Europe that shows the strong tendency exhibited by Gulf holiday makers to recreate the familiar environment of home, its sociability networks and consumption patterns while abroad. Claire Beaugrand, 'Les vacances en Europe: Univers familial, univers familier des "Golfiens"', in Laurent Bonnefoy and Myriam Catusse (eds), *Jeunes arabes du Maroc au Yémen: Loisirs, cultures et politiques* (Paris: La Découverte, 2013), pp. 210–14.

²³ Luciani, 'Linking Economic and Political Reform', p. 171.

²⁴ The anti-tribal rhetoric infused in the Kuwaiti media fluctuates according to the electoral danger that the tribes pose to the government and its ruling partners. After the 2008 tribal-Islamist victory, for instance, the TV station Sour ('Wall', referring to the old wall of Kuwait, enclosing the exclusively *hadhar* population) was diffusing anti-tribal themes, such as questioning the tribes' loyalty to Kuwait, embodied in the sensitive issue of their double nationality (*al-muzdawijin*).

In terms of citizenship, this has two main consequences. The first is the relative weakening of 'horizontal solidarity', which has become class-based, as this solidarity never really integrated the salaried citizens as equally entitled to run the affairs of the country.²⁵ The second is a relative loosening of ties with the 'territorialized community', the state of Kuwait being more of a core business provider than a 'nation-state'. This trend and collusion between the royal family (for as diverse as they might be, the royals do not behave significantly differently when it comes to business) and a high-flying class of businessmen offer the background against which to pose the question: how is it that nationality, as a form of bond to the state and as such unmarketable, could eventually be commodified?

On the other hand, the alleged Bedu allegiance to a leader rather than the territorial sovereign state should also be seriously revised. The now long-settled Bedouin populations have obviously accepted the logic and legitimacy of the state system and the rules of the Kuwaiti democratic game. Their absence of identification with and commitment to the national community is attributed to their 'backward' traditions, coming from Saudi Arabia, as well as, in the eyes of the more secular *hadhar*, to their Islamist orientation, particularly Sunni. The derogatory discourse against tribes has crystallised in Kuwait on the question of dual nationality, as Bedouin have been suspected of collecting passports from more than one country to ensure their mobility and to maximise state advantages. However, Bedu and Islamist MPs from the periphery of Kuwait raise demands that are closely associated with the concepts integral to the nation-state model, such as social equality and democratic accountability. Although they indulge in a certain populism tinged with Islam or tribal values to gather support on tribal and sectarian grounds, their demands reflect less a 'vertical allegiance' and the acceptance of the 'hierarchy' than pressure for economic redistribution. In the end, the only ones who adhere to the *tabi'iyya* notion of citizenship (albeit a contradiction in terms) seem to be the rulers, as part of their legitimacy is drawn from the patriarchal myth that portrays the Emir as the father of his people and the polity as a family story.

To sum up, the different social classes' conceptions of citizenship in Kuwait have evolved together with their respective positions and their integration within the wider economic global context. They seem even to be inverted, with a greater emphasis on territorial identity by the lower class that pushes towards a fairer distribution, and greater social equality among the nationals. In contrast, the state-protected capitalist class, who are integrated into some informal global networks and whose civic virtues are still celebrated, as opposed to the Bedu culture being marked by profiteering, lean towards an exclusive and elitist notion of citizenship.

²⁵ See for instance the opinion piece by Mona Kareem, 'Anti-Racism in Kuwaiti Elections', *al Akhbar*, 4 July 2013. Available at <http://english.al-akhbar.com/node/16322> (accessed 10 December 2013). This evokes the 'notion of politics as a privilege only suitable for "the old families" and the big tribes'.

The Commodification of Citizenship and the Counter-Revolution

After denying for a long time its intention to strike a deal with the Comoros Islands to grant the *bidun* Comorian nationality,²⁶ the government of Kuwait made an announcement on 9 November 2014: the Ministry of Interior assistant undersecretary for nationality, passports and residency affairs, Major-General Mazen al-Jarrah al Sabah, stated that *bidun* would be granted ‘special application forms for Comoros economic citizenship’, which would help them regularise their status; that is, that they would be given free residency permits and an incentive package including the recovery of rights to employment, free education and health care.²⁷ The statement came as a materialisation of a previous public announcement on 15 May 2014 when the Major-General said in a TV interview on *al Watan* that his country was negotiating with an unnamed ‘Arab country’ to grant them its nationality in exchange for economic benefits.²⁸ In this interview, Sheikh Mazen mentioned that the Central System, headed by former MP Salih Fadhala, having studied the UAE–Comoros deal to naturalise Emirati *bidun*, was in the process of finalising the agreement in a proper legal manner, with the signatures of the heads of the ‘Arab country’ concerned.

Although Kuwait had until recently denied any involvement, Kuwait-based businesses were among the initial actors who set up a policy of ‘nationality offshoring’, an expression coined by Noora Lori to describe ‘a market solution to the “problem” of migrant incorporation’.²⁹ If at first the idea seemed to be unacceptable in Kuwait because of the vocal opposition of some parliament members, who did not hesitate to denounce it as bringing shame on the country’s reputation, the new geo-strategic situation resulting from the Arab uprisings that reached the Gulf created new conditions for Kuwait to align with its more authoritarian, more daring and less ashamed Gulf neighbours.

The practice of using dinar diplomacy to solve delicate social problems that require a *political* approach, either a political decision on the part of the authorities or a political debate in the society (if the authorities allow it), is an extreme form of denying the existence of ‘politics’ in exchange for a seemingly technical and economic but authoritarian approach.

²⁶ The day following the Comorian Parliament’s refusal to pass the text on ‘economic citizenship’, the Kuwaiti ambassador in Cairo and non-resident ambassador to the Comoros, Dr Rashid al Hamad, stated that no Kuwaiti official had discussed with Comorian counterparts the status of the Kuwaiti *bidun*. KUNA, ‘Stateless Issue Not Raised in Kuwait–Comoros Talks – Al-Hamad’, 27 July 2008. Available at www.kuna.net.kw/ArticleDetails.aspx?language=en&id=1927583 (accessed 20 November 2014). During his visit to the Gulf the same year, the Minister of Foreign Affairs of the Comoros, Ahmed Ben Said Jaffar, stated that there had been no ‘official’ demand on the part of the Kuwaiti government regarding the *bidun* file, yet he was unofficially in touch with the Ministry of Interior via the UAE.

²⁷ See Mohamed al Sharhan, ‘Al Jarrah to al Jarida: *Bidun* to the Comoros Islands’, *al Jarida*, 9 November 2014. Available at http://m.aljarida.com/pages/news_more/2012693535 (accessed 12 March 2015).

²⁸ See the interview: www.alan.cc/pagedetails.asp?nid=188135&cid=30 (accessed 12 March 2015).

²⁹ At the Institute for the Transregional Study of the Contemporary Middle East, North Africa, and Central Asia Brown Bag Lunch, 23 April 2013. See also Lori, *Unsettling State*.

A Precursor: Forged African Passports in Order to Remain Residents

The first endeavours at using money to reduce the number of *bidun* files date back to the end of the 1990s and early 2000s, when the Kuwaiti Ministry of Interior³⁰ tried to push *bidun* to seek and buy (forged) foreign nationalities.

‘Outside the Executive Committee³¹ you find persons selling forged passports for KD 2,000’,³² explained one *bidun* in June 2008.³³ The traffic in forged passports is no secret:³⁴ forged passports were sometimes purchased in order to leave the country, but most of the time they were used to stay in Kuwait, with the ‘nationality’ of the Dominican Republic, Somalia, Eritrea, Liberia or Yemen. It is no secret for the Ministry of Interior either; it is said it even participates in the traffic.³⁵ The researcher Faris al-Waqian, principal consultant of the 2006–8 parliamentary commission on the *bidun*, attested the phenomenon, describing, for instance, the case of a *bidun* member of the armed forces who participated in the 1991 war of liberation: ‘when he was sacked from the army, he was encouraged to change his civil status, through special offices designed to grant the nationality of Eritrea, Liberia, the Dominican Republic and a few other African countries. He refused a sum of KD 4,000–5,000 offered to him to purchase the passport.’³⁶ According to the researcher, 4,000 *bidun* employed in the Ministry of Defence did change their status with the Executive Committee by obtaining the nationalities of foreign countries. The under-the-table dealings, although an open secret in Kuwait, were kept unofficial and no country whose faked nationality was concerned ever commented on the matter.

In contrast, the news of negotiations with the Comoros Islands broke in July 2008 with the failure of the Parliament of the Comoros to pass the first law granting economic citizenship.

³⁰ The Ministry was then headed by Sheikh Mohamed Khalid al Hamad al Sabah (October 1996 to July 2003), the brother of the current minister of foreign affairs, Sabah Khalid Hamad al Sabaha, who replaced Mohamad al Sabah when he resigned in October 2011. *Bidun* see behind the announcement of the upcoming signing of a deal with the Comoros Islands the possible continuation of the policy of Sheikh Mohamed Khalid al Hamad, who returned to the Interior portfolio in August 2014. Skype interview, 10 November 2014.

³¹ That is, the Executive Committee for the Affairs of Illegal Migrants. Special institutions to handle the case of the *bidun* were established as of 1993: first the Central Committee (1993–6), then the Executive Committee, created in 1996. Both were affiliated to the Ministry of Interior. The Emiri decree of November 2010 that set up the Central System, with a mandate to review *bidun* claims to nationality, established an institution that was independent from any other ministries. Its decisions even prevail over other ministries’. While the Ministry of Interior, dealing in sovereign matters, is traditionally headed by a member of the royal family (*min abnâ’ al Sabah*), Salih Fadhala, the head of the Central System, belongs to the core *hadhar*: he is known for his tough stance on naturalisation, and his nomination was a sign directed at fellow *hadhar* (interview, Kuwait, Salih Sa’idi, 29 April 2014).

³² One Kuwaiti Dinar (KD) was roughly equivalent to £2 at the time.

³³ Interview, Kuwait.

³⁴ Harrow Kuwaiti Community Association, ‘Open Letter to Mr David Blunkett, Head of the Home Office of the United Kingdom: A False Passport is the Only Way to Become a Citizen’, reproduced in *Kuwait Community News* 4 (May–June 2004), p. 5. A forged British or Canadian passport was reported to be valued at £5,000 or KD 2,500.

³⁵ Interview with Sheikha Fawzia, Kuwait, 30 August 2007.

³⁶ Interview, Kuwait, 5 March 2007.

At the time, the bill that stated that any person residing in a foreign country bound by a signed agreement with the Union of the Comoros was eligible for the Comorian nationality was rejected by 19 votes out of 33 MPs, in a resounding press scandal.³⁷

Comorian 'Economic Citizenship'

The amended law was nevertheless approved on 27 November 2008 by the Parliament of the Union of the Comoros (by 18 votes out of 33) and promulgated on 16 December 2008.³⁸ It stipulated that:

Article 1 The acquisition of economic citizenship through the decision of the public authority results from a decision made on the basis of an application filed by a major person holding the status of economic partner of the Comoros government. [...]

Article 2 Any person interested in obtaining economic citizenship in the framework of the economic investment programme in the Union of the Comoros should present a written request to the Independent National Commission.³⁹

The putting of the draft law on the Comorian government's agenda came in the aftermath of active visits by Kuwaiti businessmen.⁴⁰ A private actor appears as pivotal in the bilateral relation between Kuwait and the Union of the Comoros, ruled at the time by Ahmed Abdallah Mohamed Sambi (May 2006 to May 2011), a graduate of Islamic studies from both Saudi Arabia and Iran: this actor is Comoro Gulf Holding (CGH), affiliated to Kuwait Holdings. The Union of the Comoros is one of the poorest countries in the world: 44.8 per cent of the 734,500 inhabitants are below the poverty line, 14 per cent of them being unemployed.⁴¹ Against this background, the CGH appeared as the main country developer with a long-term vision of the Comoros as a Gulf tourist destination: starting from the rehabilitation and expansion of the Itsandra Hotel, one of two international-standard establishments in Grande Comore, the CGH had obtained licences for investments to carry out projects in infrastructure, tourism, finance, commerce, media and communication, in particular to open a bank,⁴² extend the Port of Moroni, establish a mobile phone company and develop

³⁷ 'Still No Place to Call Home for Arab Bidoon', *AFP*, 26 July 2008, according to which the deal was to naturalise 4,000 Gulf *bidun* (from the UAE, Kuwait and Saudi Arabia) for a sum of \$100 million; 'Human Rights Body to Study the Plight of "Stateless" Tribes', *Arab News*, 29 July 2008. In 'Passeports comoriens en vente libre pour les sans-papiers du Golfe', *Le Monde*, 15 March 2009, the figures are 4,000 *bidun* from Kuwait with the UAE already pledged to an immediate payment of \$200 million. The deal included in addition a pledge from Gulf countries to invest in the Comoros, with every applicant for nationality paying \$2,800 to develop the Comorian local economy.

³⁸ See Annex I.

³⁹ Translation by the author. A first National Commission was created by a decree of 10 January 2009, but never convened. It was replaced by a second one by a new abrogating decree in October 2011.

⁴⁰ See the report of the visit by the then foreign affairs minister, Sheikh Mohamed Sabah al Salim, in a US diplomatic cable: WikiLeaks, 'Kuwait FM in Comoros to Discuss Investment', 19 February 2008. Available at www.wikileaks.org/plusd/cables/08ANTANANARIVO136_a.html (accessed 12 March 2015).

⁴¹ World Bank, 'Comoros'. Available at <http://data.worldbank.org/country/comoros> (accessed 22 December 2013).

⁴² Federal Bank of Commerce, 'Lettre du Président'. Available at www.bfcbanque.com/president_letter.php (accessed 12 March 2015).

air routes.⁴³ The economic influence of CGH, which imposed itself as the main private investor in the country, translated into political lobbying, whereby, according to a US cable, the 'CGH actively and openly lobbied for a controversial "economic citizenship law" that appeared to be rejected, then was passed at the National Assembly'.⁴⁴ In the complicated arrangement struck between the Comorian presidency and certain Gulf states, the Kuwaiti holding was to be in charge of managing the investment disbursed in return for granting 'economic citizenship'.

Whether it is because of the publicity attracted by the scandal at the parliament or not, no deal was agreed between the Comoros and Kuwait at first. The deal was nevertheless signed with the Emirati authorities:⁴⁵ it involved the down payment of \$200 million, which represents slightly less than half of the pre-2008 GDP of the country;⁴⁶ \$25 million of this was to be allocated to the government budget, \$175 million to the realisation of big infrastructure projects. According to international donors to the Comoros trying to evaluate the amount and duration of this windfall and quoting the new vice-president, Mohamed Ali Soihili,⁴⁷ there had been a new bilateral agreement signed between Moroni and Abu Dhabi in October 2011, designed to be temporary (for a period of 18 months) but possibly renewable. Its stated objective was to grant certain members of tribes qualified as 'close to the authorities' a temporary passport with limited rights, for a sum of around \$6,250, that would enable the holders to apply eventually for Emirati nationality. In the case of Kuwait, no such possibility has ever been put forward: the proposal entails no eventual granting of Kuwaiti nationality; on the contrary, it states that the children of holders of 'economic citizenship' will get original (*asli*) Comorian passports.⁴⁸

⁴³ 'Since its establishment in the Comoros in 2006, the holding has set up the Federal Bank of Commerce, created the newspaper *Albalad* and bought the Itsandra Hotel, which it is refurbishing. CGH estimates its current investments in the country at €35 million.' Nations Unies, *Guide de l'investissement aux Comores: Opportunités et Conditions 2011*, p. 13 (translation by the author). Available at http://unctad.org/fr/docs/diaep-cb2011d4_fr.pdf (accessed 20 December 2013). The presentation brochure of the company, headed by Sheikh Sabah al Jaber al Mubarak, presents a broader list of companies, including media activities (*Al Waseet*, a classified newspaper; Concord Media, outdoor advertising; *Layalina*, a magazine that proved very successful in Kuwait; and Quadri, a printing house); telecommunications (Tawama); and construction (the Combined Group, a Kuwait-based enterprise that set up a Comorian subsidiary, the Comoro-Combined Group, in June 2009). CGH, *From Vision to Decision*. Available at <http://comoros-islands.com/images/articles/File/cgh%20profile.pdf> (accessed 20 December 2013).

⁴⁴ WikiLeaks, 'Gulf Investment Group Influence in the Comoros', 5 January 2009. Available at www.wikileaks.org/plusd/cables/09ANTANANARIVO2_a.html (accessed 12 March 2015).

⁴⁵ The involvement of Saudi Arabia remains unknown though it is mentioned sometimes in the Comoros press.

⁴⁶ According to the World Bank, the GDP was \$595 million in 2012 and had been \$465 million in 2007. World Bank, 'GDP (Current US\$)'. Available at www.data.worldbank.org/indicator/NY.GDP.MKTP.CD?page=1 (accessed 20 December 2014).

⁴⁷ Interview, Paris, January 2013. Concerns surrounding the massive payments arise from the fact that they are not traceable: in a reply to parliamentary questions in June 2013, the finance minister, Mohamed Ali Soihili, distinguished between two parts of the bilateral agreement, one being subject to parliament's scrutiny, the other being in the exclusive purview of the government, as the agreement included a confidentiality clause.

⁴⁸ 'The head of the household will receive a passport and nationality, both called "economic documents" [*ihbātān iqtisādīān*], whereas the children will be granted an original Comorian passport and nationality.' al Sharhan, 'Al Jarrah to al Jarida'. This provision, together with the one that states that *bidun* committing crimes could be deported, seems to be quite new in relation to the assurance usually given to the Comorians, namely that the *bidun* would never be residents of the islands (and thus in contradiction of the spirit of the law in Annex I).

The Broader Trend: Naturalisation for Investors

The announcement by the Kuwaiti Ministry of Interior, if implemented ‘when the Comoros embassy opens in Kuwait’, ought to be understood in a double context. First, just as the Gulf Cooperation Council (GCC) countries make use of sociological categories drawn from migration studies, such as ‘illegal migrants’, that do not precisely match the reality of the multi-generational stateless people in their societies, they also take part in an identified wider trend by which granting nationality – rather than citizenship⁴⁹ – *and its advantages* is used as an incentive to further the investment in a given country.

‘Economic citizenship’ is not per se a creation out of nothing. Some precedents do exist, especially in the fiscal havens of the Caribbean where invested money is exempt from taxes, as in St Kitts and Nevis and the Dominican Republic.⁵⁰ The latest cases at the time of writing belong to Europe: Cyprus, Malta, Austria⁵¹ and Bulgaria (see Annex II). For example, cash-strapped Cyprus set up a ‘scheme for naturalisation of investors in Cyprus by exception’ on 24 May 2013.⁵² It mainly targets non-EU residents (read: Russian investors) on the island, who would get, through the acquisition of EU citizenship, access to the Schengen Area and visa facilitation around the world in addition to free access to 160 countries.⁵³ Nationality has become a real business: private companies such as Henley & Partners or 101 Immigration Inc. (see Annex II) specialise in advising wealthy individuals on how to obtain several passports to ease their life and their mobility, as well as governments on how to attract high-net-worth individuals. The idea that nationality can be bought and sold is gaining greater currency for the selected few who can afford it.

Yet the main difference from economic citizenship in the Comoros Islands lies in the fact that, although the scheme is designed to develop the country, those concerned in the scheme are not applying for it willingly. ‘What is certain, is that the beneficiaries of this

⁴⁹ A remark ought to be made at this point: the term ‘economic citizenship’ is in fact a misnomer, as citizenship implies a certain bond to a political community. The more correct word would be ‘nationality’ (the one used in Arabic *jiniyya*), which sometimes tends to be equated with official documents, identification or passports.

⁵⁰ Atossa Araxia Abrahamian, ‘Special Report: Passports ... for a Price’, *Reuters*, 12 February 2012. Available at www.reuters.com/article/2012/02/12/us-passport-idUSTRE81B05A20120212 (accessed 26 November 2014). Since 1984, St Kitts has offered so-called ‘citizenship by investment’ for a price of \$250,000 (a cash donation for the pension of retired sugar workers) or \$400,000 to buy approved real estate, while the Dominican Republic set the price at \$75,000. Atossa Araxia Abrahamian ‘Passports for Sale’, *Dissent Magazine*, autumn 2014. Available at www.dissentmagazine.org/article/passports-for-sale (accessed 12 March 2015).

⁵¹ Austria requires an investment of at least \$10 million to grant citizenship.

⁵² Available at www.moi.gov.cy/moi/crmd/crmd.nsf/All/0DFC69BD46FBCB89C2257BF800238148?OpenDocument&highlight=investment (accessed 20 December 2013). The link, which provided details of the scheme, was later disabled by the Cypriot Ministry of the Interior.

⁵³ The granting of Cypriot nationality is in return for mixed investments (€2 million) and a donation to a state fund (€0.5 million), direct investment or bank deposits of at least €5 million, a combination of the three, or 3-year-long business activities in Cyprus with the amount paid to the state fund or in business services in the country reaching €500,000 annually. Special provision is made for those whose deposits with the Bank of Cyprus and the Popular Bank were impaired during the financial crisis of March 2013. In any case, the ‘applicant must hold a permanent privately-owned residence in the Republic of Cyprus, the market value of which must be at least EUR 500,000’. Available at www.moi.gov.cy/moi/crmd/crmd.nsf/All/0DFC69BD46FBCB89C2257BF800238148?OpenDocument&highlight=investment (accessed 20 December 2013).

citizenship are not economic partners of the government of the Comoros, as stipulated in the law, but rather individuals who appear sometimes in the “news in brief” section of the Gulf press’, as a well-informed source on a Comorian blog sums it up.⁵⁴ This is how the ‘commodification of citizenship’ differs from the ‘purchasing of passports’ for jet-setters: it empties out any political bond. The desubstantiation and deterritorialisation of the citizen bond first, but then also of the national bond, is pushed to its extreme: it is the logical result of two decades of dissociation between the right to nationality, on the one hand, and a generation-long place of abode and anchorage in the national community, on the other. It is also the next step in two decades of rights deprivation, when nationality has come to mean nothing but papers, almost in their material dimension. Moreover, the commercialisation of nationality to buy time officially to eradicate claims to naturalisation ought to be set in the Gulf context, where migrant workers can be conceived of not only as labour – that is, through the perception of their work utility/power – but as a sheer source of revenue by the virtue of their presence (in particular in the most extreme case of ‘free visas’⁵⁵).

Finally, the Kuwaiti decision takes place in the context of a closing of GCC ranks: years of Kuwaiti and *bidun* mobilisation, though leading to no solutions, had contributed to prevent a certain conception of nationality being imposed top-down on the *bidun*, as has been the case in the UAE.⁵⁶ With the *bidun* uprising and the threat of a protest contagion in the region, Kuwait seems to have aligned its approach with the UAE’s and coordinated its policy towards statelessness with that of other GCC countries: in April 2012, Salih Fadhala toured the GCC countries, in particular the UAE and Saudi Arabia, and ‘exchanged views over illegal residents’.⁵⁷ Coincidentally, the 9 November announcement by Sheikh Mazen came two days after the official visit of the Emir of Kuwait to the UAE. The anti-tribal discourse and the revoking of nationality affecting opponents and naturalised people illustrated that, more than ever, if there is such a thing in Kuwait as *citizenship* understood as membership in a political community, it applies preferentially to those in the circles of power, that is, powerful *hadhar* businessmen and non-dissenting Bedu. The rest hold only a *nationality*, which is an administrative document that can be disposed of.

⁵⁴ *Comores-Droit*, ‘La gestion opaque des fonds de la citoyenneté économique’, 21 August 2013 (translation by the author). Available at www.comoresdroit.centerblog.net/1353-la-gestion-opaque-des-fonds-de-la-ci-toyennete-economique (accessed 6 January 2014).

⁵⁵ ‘Free visas’ refer to foreign labourers who are brought into the country by a sponsor (or *kafeel*) without a proper work contract and left to their own devices to find employment (on the black market), usually in exchange for a payment to the fictitious sponsor.

⁵⁶ The conditions of the arrest of the *bidun* blogger Ahmed Abdul Khaleq on 22 May 2012, as he was summoned to regularise his legal status and accept a Comorian passport in exchange for his current ID, illustrated the same administrative ascribing of identity as the Kuwaiti *bidun* suffered from when they were obliged to carry identity documents stating ‘illegal resident’. See Human Rights Watch, ‘UAE : Free Blogger Activist’, 28 May 2012. Available at www.hrw.org/news/2012/05/28/uae-free-blogger-activist (accessed 12 March 2015).

⁵⁷ KUNA, ‘Kuwaiti Official in Charge of Illegal Residents Arrives in Dubai’, 3 April 2012. Available at www.kuna.net.kw/ArticlePrintPage.aspx?id=2231582&language=en (accessed 12 March 2015).

‘Acts of Citizenship’: Visions of Kuwaiti Citizenship from Below?

On 18 February 2011, in the aftermath of the Egyptian uprising, the *bidun* broke away from the methods they had used hitherto to further their cause and claim their rights. First, they started to stage demonstrations on their own territory, in Jahra, Taima and more precisely the destitute areas of *buyut sha’biyya* (popular housing) where they live at the far periphery of Kuwait.⁵⁸ This contrasted with the events organised in front of the parliament in central Kuwait before this. Second, their relations with Kuwaiti nationals who helped in the second half of 2000 to bring their plight into the open, formulate rights demands and clean up their reputation – smeared by government-spread accusations of treachery during the Iraqi invasion – also evolved.

This is clear when observing the *bidun* movement. The first organisation that set itself the goal of providing a platform for *bidun* to react to official measures and policies with testimonies and counter-discourse was the Popular Committee for *Bidun* Issues (*lajnat Sha’biyya li Qadhâ-î al Bidûn*). Created in 2006 by Sheikha al Awrad, it enabled the *bidun* to try to oppose a united front to the government and the Executive Committee. In opposition to what they felt was a paternalist approach, *bidun* members of this organisation then formed *bidun*-run (unregistered) societies in 2008: the Kuwaiti *Bidun* Gathering (*the Tajammu’ al Kuwaytiyyûn* (sic) *al Bidûn*) and the Kuwaiti *Bidun* Committee (*Lajnat al Kuwaytiyyûn* (sic) *al Bidûn*), created in February and May 2008 respectively, both emphasised in their names the term ‘Kuwaiti’ to hammer home their belonging to Kuwait. The two groups differed in the way they saw the priorities of the *bidun* struggle: while the Committee thought the granting of rights would follow from naturalisation, the Gathering laid stress on claiming rights first to stop *bidun* suffering, leaving the issue of naturalisation for later. Both groups took part in the *bidun* demonstrations, and in February 2012 were severely repressed after the *bidun* movement ignored the Ministry of Interior’s ban on demonstrations. A third movement that emerged with a completely different approach was called *Muwâtinûn* (‘Citizens’).

The leaders of these movements, prominently the two Abdul Karim al Fadhli’s⁵⁹ and Ahmad Attiah, are *bidun* from a younger generation, born in the second half of the 1970s. They emerged as charismatic figures, articulating a new discourse on citizenship; they fear no government threat and in particular they do not fear being sentenced to jail. Distanced from the approach of the human rights discourse and also in disagreement with a new Kuwaiti-run campaign, Group 29,⁶⁰ which targets the gradual restitution of confiscated rights through the recognition of the stateless status of *biduns*, they aim at fully fledged naturalisation for all. They resent the role of intermediary between themselves and the international organisations that is played by Kuwaitis, who speak just enough human rights language both to satisfy their international interlocutors and not to jeopardise the interests of their own government.⁶¹

⁵⁸ Claire Beaugrand, ‘Urban Margins in Kuwait and Bahrain: Decay, Dispossession, and Politicization’, *City* 18/6 (2014), pp. 807–17.

⁵⁹ The two hold the same name: both born in 1976, one is a dentist, trained in Ukraine, while the other studies automotive engineering in a local institute for industry and is employed by Volvo.

⁶⁰ Group 29 was formed by six Kuwaiti women from the middle and upper classes who, as part of the fight against what they see as a ‘racist’ Kuwaiti society, want to improve the conditions of *bidun*. The number ‘29’ refers to the article of the 1962 Constitution that states: ‘All people are equal in human dignity, and in public rights and duties before the law, without distinction as to race, origin, language or religion.’ Interview, Kuwait, 16 April 2014.

⁶¹ Interview with Mona Kareem, 15 January 2014.

‘We operate underground, as intellectuals’, states Abdul Karim al Fadhli.⁶² The claims of *Muḥātinūn* are non-negotiable: they articulate a new discourse that they know is a complete rupture with the prevailing conception of citizenship in Kuwait. According to Dr Abdul Karim al Fadhli, multilingual and possessing a dentist’s diploma: ‘nationality is different from identity. I don’t need documents from the state to ascertain my identity; your real identity is your competencies. Education is the element that will reverse the given order/hierarchy.’⁶³

In that sense, *Muḥātinūn* performs ‘acts of citizenship’ as defined by Isin and Nielsen, who distance themselves from the earlier focus on legal status and the practices that this status enables, and concentrate on the ‘deed’ itself:

To investigate citizenship in a way that is irreducible to either status or practice, while still valuing this distinction, requires a focus on those acts when, regardless of status and substance, subjects constitute themselves as citizens or, better still, as those to whom the right to have rights is due. But the focus shifts from subjects as such to acts (or deeds) that produce such subjects.⁶⁴

The new conception of citizenship constituted ‘acts of citizenship’ that broke with passive citizenship practices such as voting or participating in wealth allocation and asserted itself outside of the multiple networks of authority. Among the few educated *bidun* activists, debates are indeed going on about how to conceive of citizenship: the majority of the *bidun* throughout the protests have, for instance, been exhibiting portraits of the Emir and symbols of the Emirate, partly to prove their loyalty, partly to disarm criticism and suspicion of foreign influence. For some *bidun*, this illustrates the lack of multicultural understanding of citizenship interiorised by the *bidun* themselves, who feel that even with their most radical claims to outright naturalisation, they have to mould themselves into the model of the *hadhar* Kuwaitis, look like them, behave like them and talk like them – that is, more Najdi than Iraqi. As a matter of fact, the internalisation of a stigmatised origin in northern Arabia or, say, southern Iraq is still very prevalent, and does not leave any room for a diversity of origin.⁶⁵

Conclusion

By exploring different ways in which the solution to the conundrum of statelessness is being thought about in Kuwait, this paper has identified irreconcilable conceptions of citizenship, a fact inherent to the notion of citizenship itself. On the one hand, a mercantile approach almost equates citizenship with a commercial value. Those sharing in the business with the state’s blessing are the ones most entitled to participate in ruling the country’s affairs, while those who are excluded from it and, in that sense, closer to foreign temporary labour are seen through the prism of their economic utility. The engineering of an ‘economic citizenship’ twisted the existing practice of providing naturalisation’s advantages in order to attract foreign money to a country by providing tax exemptions and/or mobility and access: in the case of Comorian nationality, the practice is tantamount to ascribing a national bond

⁶² Interview, Kuwait, 18 April 2014.

⁶³ Ibid.

⁶⁴ Engin F. Isin and Greg M. Nielsen, Introduction’, in Isin and Nielsen, *Acts of Citizenship*, pp. 1–12 at p. 2.

⁶⁵ I am grateful to Mona Kareem for discussing this point with me in an early draft.

that desubstantiates and deterritorialises the citizenship bond to make it purely formal and material (that is, a passport). In the face of the stalemate and the commodification process, *bidun* reacted with an assertion of their own subjectivity and agency through acts that dramatically ruptured the state-imposed process of naturalisation in the hands of the Central System. What emerges from the decades-long *bidun* stigmatisation process is the realisation, albeit in its infancy, of the denial of the transnational foundations of the Kuwaiti population, or in other words, an illusory narrative of urban origin mixed with noble Najdi human inputs. In the gap, in between, some Kuwaiti activists, cutting across social groups, timidly join if not necessarily in this awakening then in the rejection of the too business-minded conceptions of the elite, and hence themselves enact a different kind of citizenship.

Constitutionalism and Transitions in North Africa: Analysing Conflicts between Legal and Extra-Legal Sources of Constitutional Rights

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Introduction

Constitutionalism is commonly defined, following Carl Friedrich, as a principle of government based on constraint in which liberal-democratic rules are applied using principles of rule of law.¹ In this sense, rule of law and constitutionalism can be used as synonyms. As Michel Rosenfeld, editor of the *International Journal of Constitutional Law*, notes, 'modern constitutionalism requires imposing limits on the powers of government, adherence to the rule of law, and the protection of fundamental rights'.² The latter definition overlaps with T. H. Marshall's famous distinction of three types of citizenship rights, civil, political and positive, that constitutional states set out to protect and, in the case of positive rights, to guarantee.³ Consequently, while citizenship is a much broader concept than constitutionalism, a *legal* approach to citizenship rights as civil rights (corresponding to the German *Staatsbürgerrecht*) corresponds to the practice of rule of law and constitutionalism.

Drawing on this analytical perspective, this paper aims to discuss the theory and practice of constitutionalism in three North African countries: Egypt, Tunisia and Morocco. This paper addresses a common lacuna in Middle East citizenship studies. Many studies have successfully uncovered substantive and legal mechanisms of exclusion within Middle East populations according to gender, sect and ethnicity.⁴ In addition, the opposition of group rights and individual rights has been thoroughly examined with regard to religion and

¹ Carl J. Friedrich, *Constitutional Government and Democracy: Theory and Practice in Europe and America* (Boston: Ginn, 1950), pp. 25–8.

² Michel Rosenfeld, *Constitutionalism, Identity, Difference, and Legitimacy: Theoretical Perspectives* (Durham, NC: Duke University Press, 1994), p. 3.

³ T. H. Marshall, *Class, Citizenship and Social Development* (Westport, CT: Greenwood, 1950/1973).

⁴ Nils Butenschon, Uri Davis and Manuel Hassassian (eds), *Citizenship and the State in the Middle East* (Syracuse, NY: Syracuse University Press, 2000).

patriarchal Middle Eastern culture.⁵ The democratisation literature has in turn largely focused on the political processes that enabled or challenged authoritarian rule since the mid-1980s.

Yet what studies have failed to address is how trust (or the lack thereof) in the legal protection of citizenship rights *qua* constitutionalism has provided an important societal perspective on why in North Africa constitutionalism appears to succeed in some countries, yet not in others.

The core of this analytical perspective can be summarised in the following three points: first, the successful protection of rights through constitutionalism requires the existence of people's trust in the constitution to be a powerful institution and not just a piece of paper. Second, such trust can be affective, cognitive or a combination of both.⁶ While affective trust is based on an unconscious worldview and emotions, cognitive trust is based on rationalised experiences. This means that the history of constitutionalism and people's experience with their system of government is an important factor to be analysed following a rational choice model of trust. Clearly, though, affective trust plays an additional important role that can also be examined through ethnographic or anthropological means.⁷ Third, while trust in the constitution as an institution together with judicial independence can be considered a judicial source of trust, there may be rival sources of both cognitive and affective origins that can be considered extra-judicial and extra-constitutional and informed by traditional or religious practices. As Thornhill points out with regard to the doctrine of constituent power, in classical liberal theory it has been constituent power that 'forms an original and *pre-legal* wellspring for legitimate political order'.⁸ This means that in successful constitutionalism, an extra-judicial, pre-legal source of trust is institutionalised in an assembly and legitimated through universal suffrage. In short, constitutions themselves rely on pre-legal norms, worldviews and stable patterns of behaviour that rival other pre-legal norms that have the ability to render constitutionalism unstable.

Hypothesis

Consequently, focusing on the recent constitutional transitions in Tunisia, Egypt and Morocco, this paper attempts to examine such pre-legal trust in constitutional principles and the institutions endowed with trust to control and protect citizenship rights, regardless of political majorities and precise constitutional provisions. In analysing these beliefs and these institutions, this paper will examine the following two interrelated hypotheses. First, I will suggest that trust in constitutions to do what constitutionalism promises – that is, to protect individual rights – is in tension with trust in extra-constitutional institutions. Second, considering the recent experiences of these countries with illiberal legality and a lack of constitutionalism, there is little reason to believe that a belief in constitutionalism will at any time soon replace mistrust in state elites and trust in extra-constitutional institutions.

⁵ Hisham Sharabi, *Neopatriarchy: A Theory of Distorted Change in Arab Society* (Oxford: Oxford University Press, 1992).

⁶ Frank B. Cross, 'Law and Trust', *Georgetown Law Journal* 83/5 (2005), pp. 1457–1546 at pp. 1463–71.

⁷ Hussein Ali Agrama, *Questioning Secularism: Islam, Sovereignty, and the Rule of Law in Modern Egypt* (Chicago and London: University of Chicago Press, 2012).

⁸ Chris Thornhill, 'Contemporary Constitutionalism and the Dialectic of Constituent Power', *Global Constitutionalism* 1/3 (2012), pp. 369–404 at p. 369.

These hypotheses are part of what can be called the transition literature and constitute one of the core problems that O'Donnell and Schmitter emphasised with regard to political transitions in Latin America in the 1980s. The uncertainties surrounding transitions from authoritarian rule make it very difficult to predict which actors gain the upper hand. According to O'Donnell and Schmitter, this is because periods of 'order' which characterise the high point of authoritarian rule are contrasted with the uncertainty and indirection implied in movements away from such a state. Hence, the perceived 'disorder' can easily lead to feelings of nostalgia⁹ and thereby reinforce not only authoritarian tendencies, but also traditional identities. Adopting this perspective, I will argue that questions of constitutionalism and citizenship are strongly rooted in the broader uncertainties inherent in these countries' current transitions.

Methodology

Comparing Egypt with Tunisia and Morocco for the purpose of extra-legal sources of (cognitive and affective) trust poses particular challenges. The particular historical and political contexts make the data-collection process for the purpose of exact comparisons difficult. While I have been able to include one survey on trust in political institutions for Morocco, the same data is not available for Egypt and Tunisia. As the paper focuses on the perceived absence of credible institutions able to protect citizenship rights, an analysis of these institutions shows that they vary greatly.

The second problem occurs with respect to how to distinguish effectively between legal and extra-legal sources of trust. Following Thornhill,¹⁰ the pre-legal constituent powers are as extra-legal as, for example, religious doctrines or charisma. While the argument outlined here does not attempt to solve this problem, it uses one criterion: number and expressed consensus among actors that make reference to constitutional rule and secular laws. The constitutional practices in Tunisia and Morocco since 2011 illustrate an increasing number of actors and institutions that are perceived to be united and capable of ensuring citizenship rights *qua* constitutional rule, while such actors have been remarkably divided in Egypt.

The reason for such divisions and differences will be traced back in the main body of the paper, drawing on recent political history using the comparative method. Yet, given the constraints of space, this method runs the risk of overly simplifying some of the more complex processes. To avoid some of these pitfalls, the paper emphasises the role of the judiciary.

The Limited Nature of Constitutionalism in North Africa

From the outset, it must be pointed out that constitutionalism as briefly outlined in this introduction has been very limited in North Africa. Post-independence regimes found their legitimacy in part based on the legitimacy of independence movements (the National Liberation Front (FLN) in Algeria, the Neo-Destour Party in Tunisia, the Istiqlal Party in Morocco) and the charismatic and traditional-religious qualities of their leaders. Gamal Abdel Nasser, Habib Bourguiba and King Mohamed V all serve as excellent examples in this respect.

⁹ Guillermo O'Donnell and Philippe C. Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore and London: Johns Hopkins University Press, 1986), p. 4.

¹⁰ Thornhill, 'Contemporary Constitutionalism', p. 369.

In the case of Algeria, revolutionary ideology replaced constitutionalism so that the 1963 constitution only served to cement FLN single-party rule and disguise military rule.

Similarly, Morocco's 1961 constitution cemented the traditional-religious and increasingly authoritarian regime, rather than serving the purpose of constitutionalism as defined above. For example, Article 24 of the post-1970 constitutions outlawed any criticism of the King. Given the King's religious character, this meant that any such criticism became both a sacrilege and an anti-constitutional, secular offence. In Morocco, this change proved not to be enough either – in 1965, the same year that Houari Boumedienne suspended the Algerian constitution, the King suspended Morocco's constitution. The parliament was also suspended and re-elected in 1970, leading to an increasingly docile political elite.¹¹ The new 1970 constitution further centralised and restricted citizenship rights and significantly diminished the prospects for constitutionalism.¹²

In Egypt, Nasser's post-1952 single-party regime largely based its legitimacy on the army, pan-Arabism and Arab socialism, all embodied by the charismatic young Gamal Abdel Nasser. A 1952 executive decree annulled the constitution; 20 prominent members of *Majlis al Da'wa*, Egypt's supreme administrative court, were forced to retire or transferred to non-judicial positions; and one of Egypt's most prominent legal scholars, Abdel Raziq al Sanhuri, was even physically beaten by pro-regime thugs in 1954. Law served as an instrument to increase the power of the regime by creating extra-constitutional, 'special' courts including the Mahkmat al Ghadr ('Court of Treason'), Mahkmat al Thawra ('Court of the Revolution') and Mahakim al Sha'b ('People's Courts').¹³ This became even more important when the legitimacy of the regime based on pan-Arabism and socialism faltered as a result of Sadat's *infitah* policy,¹⁴ exemplified by the extensive use of the State Security Court and parallel military courts.¹⁵

In Tunisia, Habib Bourguiba used the law extensively as a tool of social transformation and for the promotion of citizenship, best illustrated in the 1956 Personal Status Code. His successor Ben Ali used the constitution for a *coup d'état* in 1987. Both aspects illustrate the use of laws for the promotion of citizenship *and* for the political manoeuvres of regime leaders. In the case of Tunisia, it is worth pointing out that Tunisia prides itself on having the region's oldest constitution (Fundamental Pact of 1857), and that its independence movement, quite significantly, called for a reinstitution of its constitution as a way of obtaining independence from French colonial rule, and consequently named itself Destour ('Constitution') Party. Yet paralleling Nasserist Egypt, the rule of Bourguiba has most often been equated with populism and affective trust – given his charismatic abilities.¹⁶

¹¹ John Waterbury, *The Commander of the Faithful: The Moroccan Political Elite* (London: Weidenfeld and Nicolson, 1970).

¹² James N. Sater, 'Reforming the Rule of Law in Morocco: Multiple Meanings and Problematic Realities', *Mediterranean Politics* 13/2 (2009), pp. 181–93.

¹³ Tamir Moustafa, 'Law versus the State: The Judicialization of Politics in Egypt', *Law and Social Inquiry* 28/4 (2003), pp. 883–930 at p. 888.

¹⁴ Fouad Ajami, 'The End of Pan-Arabism', *Foreign Policy* 57/2 (1978–9), pp. 355–73.

¹⁵ Anoush Ehteshami and Emma Murphy, 'Transformation of the Corporatist State in the Middle East', *Third World Quarterly* 17/4 (1996), pp. 753–72.

¹⁶ Nazih Ayubi, *Over-Stating the Arab State* (London: I.B. Tauris, 1995).

Extra-Judicial Sources of Trust in North Africa

From this overview, it appears that belief in protection from the state by constitutional principles (and the guarantee of rights through the state) has been negatively shaped by the post-colonial experiences with constitutionalism. If anything, the region witnessed the rise of what has been termed illiberal legality,¹⁷ which has been marked by the state's use of the concept of legality in order to legitimise authoritarian rule. Given this situation, these countries' recent political history has witnessed the rise of political groups that made reference to extra-judicial sources of trust in order to instil protection from state authorities couched in moral and Islamic terms. As Brown points out, principles of *shari'a* law can be read, on that telling, as a source mandating firm limits on state law, given that these enable individuals to evaluate state practices from a religious perspective.¹⁸ The rise of Islamic groups since the late 1970s that make reference to extra-judicial sources of legislation – such as those derived from divine sources – has been particularly virulent in countries that made reference to nationalist republicanism. During the same period, the Middle East has also seen the rise of closed, military-national forms of republicanism based on *esprit de corps* and *'asabiyya* that rely on extra-judicial sources trust that equally limit state power. Both tendencies pursued a form of constitutionalism that emphasises group and group rights above the individual, corresponding to strong community values prevalent in these tribal societies.¹⁹ Not related to trust, yet another limitation on state power has been the rather radical option of leaving. Leaving the territory was the most prevalent form of resisting the state's intrusion in the medieval Islamic world and continued with the mass migration movements of the twentieth century.²⁰ This has led to the mosaic of ethnic and sectarian groups prevalent in many Middle Eastern states that has continued intra-regionally and across continents over the last decades.

Apart from the radical form of exit, cognitive trust in the political system is the only source for stable state–society relations and support for constitutionalism. Without it constitutionalism can quickly become weak, as political majorities may always be suspected of undermining the rights of political minorities, that is, using the instruments of the law and the power of the majority against political minorities and political opponents. As Ayubi points out, this has been a crucial ingredient of the politics of the Middle East due to the importance of kin-ordered sources of power in capitalist systems of wealth creation responsible for the establishment of neo-patrimonial state–society relations.²¹ In other words, affective trust embedded in kin-ordered societal structures can quickly become a surrogate if cognitive trust in institutions is absent, further undermining any potential for stable legality as a source of trust.²²

¹⁷ Nathan Brown, *Rule of Law in the Arab World: Courts in Egypt and the Gulf* (London and New York: Cambridge University Press, 1997), p. 10.

¹⁸ Ibid.

¹⁹ Frederic Volpi, 'Pseudo-Democracy in the Muslim World', *Third World Quarterly* 25/6 (2004), pp. 1061–78 at p. 1065.

²⁰ Ellis Goldberg, 'Private Goods, Public Wrongs, and Civil Society in Some Medieval Arab Theory and Practice', in Ellis Goldberg, Resat Kasaba and Joel S. Migda (eds), *Rules and Rights in the Middle East* (Seattle and London: University of Washington Press, 1993), pp. 248–71.

²¹ Ayubi, *Over-Stating the Arab State*, pp. 164–255.

²² Sharabi, *Neopatriarchy*.

Finally, tied to the discussion of *shari'a*, another extra-judicial source of trust is religion. The piety among Middle Eastern Muslims has translated in many countries into religious leaders playing an unequivocal political role, from the Shi'a clerics in Lebanon and Iran to the revolutionary imams in Morocco, Algeria, Tunisia and Egypt. In the case of Morocco and Algeria, religious leaders have traditionally been involved in founding brotherhoods and tribal confederations, *taraqa*, that combined religious authority and secular rule.²³ In modern Morocco, religious leaders have often been strongly involved in the nationalist parties, such as Allal al Fassi in the Istiqlal Party. In most Arab countries, religion provided an important source of mobilisation in the anti-colonial struggle, combining ideas of jihad with martyrdom in a variety of contexts.²⁴ Even apparently secular regimes such as those of Tunisia and Syria have often pursued policies of Islamisation that have moved them away from *laïcité*²⁵ and secular Ba'thism respectively.²⁶

Trust and Constitutionalism in Post-Independence Tunisia, Egypt and Morocco

The prospects for constitutionalism are probably the best in Tunisia of all the countries in the Middle East. There are some historical reasons that lead to this assessment. As mentioned above, Tunisia had its first constitution drafted in 1857, and the belief in legality and constitutionalism was such that it became a key mobiliser in the struggle for independence from the French. In fact, as we have seen, the nationalist movement's name derived from 'constitution': the Destour Party. It drafted a platform consisting of nine demands, which are all core demands of citizenship and constitutionalism and included, amongst others, universal suffrage and representation, separation of powers, and equal legal rights for all Tunisians (that is, French and native Tunisians) irrespective of national origins. The Destour Party comprised the more secular young Tunisians' movements together with the religious-conservative Old Turban movement centred on the cleric Sheikh Abd-al Aziz Taalbi, who wrote the famous pamphlet *La Tunisie Martyre* in 1920.²⁷ During the struggle for independence, the call for the inclusion and representation of all Tunisians was initiated by step-by-step constitutional reforms from 1950 to 1955 that eventually led to the independence of Tunisia in 1956.²⁸ The leader of the independence movement, Habib Bourguiba, was a French-trained lawyer and a keen moderniser who took advantage of the state's legal and constitutional powers.

Consequently, the social basis for trust in constitutional changes and their real impact on the political sphere was very well developed, and continued under Habib Bourguiba in the

²³ Rahma Bourquia and Susan G. Miller, *In the Shadow of the Sultan: Culture, Power and Politics in Morocco* (Cambridge, MA: Harvard University Press, 1999).

²⁴ Thomas P. DeGeorges, 'The Social Construction of the Tunisian Revolutionary Martyr in the Media and Popular Perception', *Journal of North African Studies* 18/3 (2013), pp. 484–6.

²⁵ Rikke Hostrup Haugbølle and Francesco Cavatorta, 'Beyond Ghannouchi: Islamism and Social Change in Tunisia', *Middle East Report* 262 (2013), pp. 20–5.

²⁶ Line Khatib, *Islamic Revivalism in Syria: The Rise and Fall of Ba'thist Secularism* (Abingdon and New York: Routledge, 2011).

²⁷ Benjamin Rivlin, 'The Tunisian Nationalist Movement: Four Decades of Evolution', *Middle East Journal* 6/2 (1952), pp. 167–93 at p. 169.

²⁸ *Ibid.*, pp. 179–80.

famous 1956 Personal Status Code (CSP).²⁹ Here, the law was used to make fundamental changes in the way that Tunisian women became secular, legal citizens, primarily by outlawing polygamy and giving equal access to divorce and other administrative processes. While Islam continued to be the religion of state, its judicial impact has been greatly reduced. The abolition of religious family courts in favour of the CSP, as well as the abolition/integration of the Islamic Zitouna University into the regular system of higher education under the auspices of the state, all served this purpose. While such reforms were meant to strengthen the primacy of law and therefore the state, Bourguiba's personalised rule and increasingly arbitrary decision-making with regard to his main challengers in the early 1980s, the rising Islamic Tendency Movement led by Rached Ghannouchi, led to political instability.

In fact, while the underlying problems during that period were linked to the 1984 austerity measures sponsored by the International Monetary Fund (IMF), to demographic changes, unemployment and persistently postponed political pluralism, the state's legal system was undermined by two rival sources of extra-judicial trust – personalised rule and religious piety. This was evidenced by the precipitating cause of the 1987 coup that ended the Bourguiba era: this was Bourguiba's ordering of a retrial of, and the imposition of the death penalty on, a number of Islamists who were previously charged with planning to overthrow the regime. He had done so because of his belief in the apparent leniency with which the State Security Court had handed down prison sentences to the accused, as it failed to provide sufficient evidence for their subversive activities. Consequently, the political situation became so unstable that Bourguiba's prime minister, Zine al-Abidine Ben Ali, instigated the 7 November 'constitutional coup' in which he acted according to Article 57 by obtaining from four independent medical doctors a certificate asserting the incumbent president's inability to fulfil his official duties. In line with the constitution, Ben Ali would act as an interim president until 1989, when he stood for re-election.

In his first presidential address, Ben Ali promised a revision of the constitution with regard to the clause of lifetime presidency, whilst also strengthening the sanctity of legal procedures in a direct response to Bourguiba's recent arbitrary interventions in the legal system.³⁰ In other words, Ben Ali promised and acted upon the idea of a revival of constitutionalism – an important part of his legitimacy when he won the 1989 parliamentary and presidential election by a landslide, something that observers referred to as 'L'Effet Ben Ali'.³¹ In line with such constitutional practices, it may also be pointed out that the interim president after Ben Ali's departure was designated in line with Article 57 of the Constitution – Fouad Mebazaa, who held office until the first free and fair election of October 2011. In fact, Murphy optimistically asserts that Mebazaa's appointment was a critical moment in Tunisia's transition: 'Rather than succumbing to either a battle over the carcass of power by senior regime figures, a military coup or revolutionary chaos, Tunisian politics had reverted to what it has historically known best – constitutionalism.'³²

²⁹ Laurie A. Brand, *Women, the State, and Political Liberalization: Middle Eastern and North African Experiences* (New York: Columbia University Press, 1998), pp. 177–201.

³⁰ L. B. Ware, 'Ben Ali's Constitutional Coup in Tunisia', *Middle East Journal* 42/4 (1988), pp. 587–601.

³¹ Emma C. Murphy, 'Women in Tunisia: Between State Feminism and Economic Reform', in Eleanor Abdella Doumato and Marsha Pripstein Posusney (eds), *Women and Globalization in the Arab Middle East* (Boulder: Lynne Rienner, 2003), pp. 169–93. Emma C. Murphy, *Economic and Political Change in Tunisia: From Bourguiba to Ben Ali* (London: Palgrave Macmillan, 1999).

³² Emma C. Murphy, 'The Tunisian Elections of October 2011: A Democratic Consensus', *Journal of North African Studies* 18/2 (2013), pp. 231–47 at p. 232.

In spite of such positive assessments, the revolutionary pressure on the protagonists, Mohamed Ghannoushi and Fouad Mebaaza, expressed a strong sense of mistrust: the fear was that the political elite would reproduce the old political nomenclature from inside the single-party regime that Ben Ali created. After all, the previous 20 years had seen a centralisation of political power inside the Constitutional Democratic Rally (RCD) and around the Ben Ali clan, including his wife Leila Trabelsi, which Tunisians referred to as their royal families. In addition, Ben Ali's ruthless rule through the secret police after 1990 had left a strong reminder that politicians may be easily tempted to use the coercive apparatus of the state to secure their positions of power. Ben Ali had also used constitutionalism as a way of cementing his own claims to leadership. After all, he organised the country's only constitutional referendum in 2002, which changed the presidential term limit to three terms, a limitation that was ironically imposed by Ben Ali himself after his disposal of Bourguiba as part of his 1988 National Pact.

Egypt's post-1952 history may stand in strong contrast to that of Tunisia. In the revolution that brought down King Farouk, the Free Officer Movement led by Gamal Abdel Nasser and Mohamed Naguib ruled on the basis of their core objectives, which may be loosely described as Egyptian nationalism: anti-colonialism, campaigns to free Egypt from (indirect) British rule, and campaigns against the corruption that was characteristic of the *ancien régime* under the monarchy. Constitutionalism was far from part of these objectives. Parliamentaryism was blamed for the lack of the unity that was required to fight for Egyptian national objectives.³³ The early focus on independence, nationalism and redistribution through collective army rule was perceived to be successful in the light of the outcome of the Suez crisis of 1956, making Nasser the undisputed leader of the Egyptian people and, arguably, the Arab world towards the end of the 1950s.

Moreover, Egypt was significantly less secular than Tunisia – after all, the Muslim Brotherhood was an important ally in the 1952 revolution and only turned against the Free Officer Movement once its political ambitions were rejected by Nasser. Nasser's Arab Socialism was also influenced by his anti-communism, due in part to communist emphasis on atheism. Consequently, Islamic sources of legislation in family law were preserved, and Islamic fatwa councils, together with *shari'a*-based family courts, remained bastions in which one of Islam's most prestigious centres of Islamic learning, the al Azhar Mosque, continued to exercise influence. Under Nasser's successor Anwar Sadat, the Egyptian constitution elevated *shari'a* to *the* principal source of legislation – a change from the more general phrase that it was *a* principal source of legislation which was included in the 1971 constitution. This change was a reflection of the growing tide of Islamic conservatism across the Middle East. Yet it was also a tactical move to pass a second constitutional change that was closer to the president's heart in 1980: abolishing term limitations on presidents.³⁴

The manipulation of constitutional texts led to an increasing role for *shari'a* in jurisprudence, made possible through the rise of political Islam in all echelons of Egyptian society throughout the 1980s. In Egypt, a blurring of the lines of secularism and Islamic jurisprudence occurred, so that by 1995 a secular court used the *shari'a* obligation of *hisba* –

³³ Peter Mansfield, 'Nasser and Nasserism', *International Journal* 28/4 (1973), pp. 670–88.

³⁴ Mohamed Abdelaal, 'Religious Constitutionalism in Egypt: A Case Study', *Fletcher Forum of World Affairs* 37/1 (2013), pp. 35–51 at pp. 36–7.

‘the commanding of the good when it is manifestly neglected; forbidding of the evil when its practice is manifest’³⁵ – in order to deny a University of Cairo university professor promotion and annul his marriage on the basis of his academic writings, which allegedly amounted to apostasy from Islam. With the legal profession increasingly counting more religious and Islamist lawyers among its numbers, Agrama observed an increased ‘secularization of religious concepts’ as well as ‘the subversion of secular legal precepts’.³⁶

Consequently, extra-judicial sources of trust have been very strongly institutionalised in the post-1952 Egyptian state in two rival camps. On one hand, the army has been a core institution manifesting a strong *esprit de corps* that guaranteed Egypt’s independence from Britain, and, arguably, from the expansionist tendencies of the Israeli state. On the other, a rival, extra-judicial source of trust has taken hold, based on Islamic institutions. The constitutional make-up of Egypt largely reflected those two sources of trust. It may be added that trust was not simply affective, but underpinned by socioeconomic patronage that both the religious sector, through the Muslim Brotherhood’s charity activities that involve hospitals and schools, and the military sector, through the army’s strong influence over large sectors of the economy, have been developing over the last decades. Given those two strong influences, trust in constitutionalism and the juridical institution to protect it can be considered low, in spite of the very apparent increasing constitutional review capacities that the Egyptian judiciary, through the Supreme Constitutional Council (SCC), expressed.³⁷ In fact, even if the SCC became an independent and quite vocal institution throughout the 1980s and 1990s, leading to more electoral accountability, it appeared that it had only been tolerated as long as it was economically useful for the state. Its fortunes significantly reversed when this was no longer the case in the 2000s. This tendency became clear when in 2000 the new head of the SCC was no longer elected from within its own ranks, a tacit understanding since its creation in 1979, but rather appointed by Mubarak. In fact, the appointment of the hard-line minister of justice Fathi Naguib heralded a process of decreasing the SCC’s independence in the constitutional review process.³⁸

Morocco’s post-independence institutions are remarkably different from those of Egypt and Tunisia. In contrast to both those countries, Morocco’s pre-eminent monarchical institution has survived the turbulent post-independence period. This was partially because the independence movement, organised primarily in the Istiqlal Party, used the return of the King’s sovereign powers as a key mobiliser for Moroccan independence from French colonial rule. The monarch’s extensive religious credentials as Amir al Muminin meant that trust in religious courts extended to the secular state, as the King oversaw the administration of justice through juridical appointments and, if necessary, intervention. The country’s pre-eminent religious institution, the Qarawiyyin of Fes, has continuously held an influential position by having its graduates recruited into the Ministry of Interior. In addition, its status has been recognised as independent in 1962 after the Ministry of Education tried to incorporate it into its system of higher education. The institution called League of Moroccan *ulema* has been an important political organisation through which mainstream members of the *ulema* were granted a privileged position in exchange for their support for the notion of a sacred

³⁵ Cited in Agrama, *Questioning Secularism*, p. 19.

³⁶ Ibid., p. 21.

³⁷ Chibli Mallat, *Introduction to Middle Eastern Law* (Oxford: Oxford University Press, 2007), pp. 196–210.

³⁸ Moustafa, ‘Law versus the State’.

sultan-king. This doctrine, consecrated in the 1962 constitution and maintained ever since, has been controversial among orthodox *ulema*, and more in line with traditional forms of Islam in the Moroccan countryside.³⁹

Consequently, the religious monopoly of the King has become institutionalised through the state and embedded in traditional, popular practices, such as the slaughtering of the ram during Eid el Kebir. This coincided with the pluralisation of the political elite into rival political parties up until the late 1990s, organised around opposition parties that emanated from the nationalist movement Istiqlal Party, and administrative and rural parties whose creation the King's advisors often encouraged. This partially reflected regional and socio-economic conflicts between cities and countryside, as well as tensions along Berber–Arab lines and tribal lineage. In 1962 the King's response to criticism concerning his large constitutional prerogatives is indicative of the semantic strategy and the monarchy's emotional and cognitive trust-building exercise.

The constitution makes of Us an arbiter [...] I am certain that many have said 'The powers of the King are enormous' [...] I would say to them, to take a very simple example: 'Imagine two football teams on a field, take away from the referee the power to whistle out and expulse a player, and then gentlemen, play.' The problem is very simple, and thus is it posed.⁴⁰

Consequently, authoritarian structures were legitimised with reference to the centrifugal forces inside the country that would otherwise threaten the very existence of the Moroccan state. Multi-party politics and splits between political groups were therefore encouraged in order to illustrate the monarchy's unifying properties.

Throughout Morocco's post-independence period, the monarchy's unifying qualities have been evident, as in its call for the Green March of 1975 that solidified Moroccan claims to Western Sahara. When political opponents to Hassan II, the heir to the throne after Mohamed V's early death in 1960, accepted the monarch's unquestionable position above political squabbles, they were allowed to participate and form various governments. Democratisation has therefore become synonymous with free and fair elections that led to alternating governments and were distinctively different from the monarchical institution that guaranteed national unity and Islamic supervision.

This view has constantly been reinforced by the idea of rule of law and constitutionalism. In fact, in Moroccan parlance rule of law has had a particular authoritarian meaning derived from *siyadat al qanun*, namely that nobody is above the law and everybody is the subject of the King's sovereign powers. Yet, given the King's religious credentials, it has been particularly important that his rule was being viewed as just – given the Islamic importance of the concept of justice, *'adala*. Therefore the minister of justice had up until the 2002 election been appointed not from any of the political parties, but rather from within the circle of loyal monarchists, called the *makhzen*. Important legal reforms, such as that of reforming the family code, *moudawana*, have been endorsed by the King with explicit reference to render-

³⁹ James N. Sater, *Morocco: Challenges to Tradition and Modernity* (Abingdon and New York: Routledge, 2010), pp. 44–6.

⁴⁰ Cited in Waterbury, *Commander of the Faithful*, p. 146 n. 8.

ing more justice to women.⁴¹ Also, due to the King's oversight and religious function, he has repeatedly repealed particularly harsh prison sentences that the judges have handed out, such as those of Ali Lmbrabet (editor of *Demain*) and Fouad Mourtada (who created a fake Facebook profile of the King's younger brother Moulay Rachid). This meant that the King's role has been that of rectifying the mistakes of the system of justice, creating a rule of law *à la marocaine*.⁴² This has been all the more prominent due to the King's enormous political and legal reform agenda – especially in the area of human rights, which in 2005 saw North Africa's first Equity and Reconciliation Commission.

The success of this paradigm of rule of law has been quite remarkable. In a survey in four towns – Fes, Meknes, Rabat and Casablanca – among 1,114 randomly selected individuals, conducted by al Akhawayn University in Ifrane in 2007 prior to the legislative elections, trust in various institutions was measured (Table 1). While the precision of the measurement indicated is not to be overestimated, a tendency to value those institutions with a stronger connection to the King, such as the army and the religious institutions, is stronger than the trust that political parties are endowed with.⁴³ This distrust is not just based on affective trust, as the monarch's relationship to religion may indicate, but is also cognitive: in an exit poll survey in 2007 in Casablanca, 44 per cent of voters reported having been offered money in exchange for their vote. In turn, corruption charges are very well known at the local level and often involve local politicians.⁴⁴

Table 1 Trust in Moroccan political institutions

| 'I am going to read you a list of institutions in our country. As I read each one, please tell me whether you have a great deal of trust, a fair amount of trust, only a little trust, or no trust at all in the institution to deal responsibly with the problem.' | | | | | | |
|---|---------------------|------------------------|-------------|---------------------|-----------------|----------------|
| | Great deal of trust | A fair amount of trust | Total trust | Only a little trust | No trust at all | Total no trust |
| Army | 58% | 14% | 72% | 5% | 11% | 16% |
| Religious authorities | 44% | 23% | 67% | 8% | 13% | 21% |
| Police | 33% | 27% | 60% | 11% | 23% | 34% |
| Government | 21% | 31% | 52% | 14% | 28% | 42% |
| Courts | 23% | 27% | 50% | 14% | 23% | 37% |
| Tribes and clans | 14% | 19% | 33% | 15% | 43% | 58% |
| Political parties | 7% | 17% | 24% | 12% | 49% | 61% |

Source: Cited in Sater, 'Reforming the Rule of Law in Morocco', p. 398 n. 43.

⁴¹ James N. Sater, 'Reserve Seats, Patriarchy and Patronage in Morocco', in Jennifer Piscopo and Mona L. Krook (eds), *The Impact of Gender Quotas* (Oxford: Oxford University Press, 2012), pp. 72–87.

⁴² Sater, 'Reforming the Rule of Law in Morocco', p. 187.

⁴³ James N. Sater, 'Elections and Authoritarian Rule in Morocco', *Middle East Journal* 63/3 (2009), pp. 381–400.

⁴⁴ Saloua Zerhouni and Abdelaziz Baboussa, 'Le marketing politique face aux réalités électorales', *Economia: La Revue Sociale Économique et Managériale* 1 (November 2007–February 2008), pp. 48–71 at p. 67.

The Moroccan case reveals interesting nuances in the way that extra-judicial trust is expressed. First, as in Egypt, trust in extra-judicial institutions is quite high, and the belief in constitutionalism understood as majoritarianism and the secular political process is viewed with a lot of scepticism. In fact, it appears that neither political parties nor the fragmented clan and tribal structures are trusted to protect the individual from the state. In turn, religious authorities and the King's personality are endowed with significantly more trust, based on his perceived position as a referee (*arbitrator*) that structures Moroccan pluralism. Clearly, the semantics of the King's position as a referee significantly blurs the lines between government, authority and the monarchical system.

Extra-Judicial Trust and Constitutionalism in Transition

While the mass demonstrations that brought down Zine al-Abidine Ben Ali and Hosni Mubarak may be viewed as opening a new chapter in the history of North Africa, it is clear that from the perspective of trust and constitutionalism they amplified a substantial problem of insecurity and distrust of what remained of the political elite and of the rising political groups that have experienced some form of democratic empowerment. In Tunisia, when the first post-Ben Ali government under Mohamed Ghannouchi was announced on 17 January 2011, it still included 12 RCD politicians among the 23 government ministers, leading to mass and increasingly violent protests, such as the 'liberation caravan' that brought thousands of protesters into Tunis from the provinces, defying a night-time curfew that the government unsuccessfully tried to impose.⁴⁵ After governmental readjustments, the resignation of Mohamed Ghanoushi and promises of all-encompassing constitutional reforms supported by non-RCD-affiliated politicians, elections were held on 23 October 2011 to bring the exiled Islamist Ennahda Party under Rached Ghannouchi to electoral victory with 40 per cent of the popular vote. While the assembly was primarily responsible for drawing up a constitution, it also became the main legislature that would form a government led by Ennahda, Ettakatol and Congress for the Republic (CPR). Ennahda's success was partially based on its diligent campaigning, its calls for a radical break with the past, and its emphasis on constitutionalism and citizenship in its election manifesto:

The Republican system is the best guarantee of democracy and best use of the country's wealth for the benefit of the people, as well as the essentials of a dignified life, including employment, health, education, respect of human rights without discrimination on the basis of sex, colour, belief or wealth, and the affirmation of women's rights to equality, education, employment and participation in public life.⁴⁶

Its emphasis on women's rights deserves special attention. It has been by accepting Tunisia's CSP that Ennahda has been able to project itself as a moderate Islamist party, not much different from Christian Democratic parties in Europe. Yet the weakness of parties which have projected themselves as secular compared to Ennahda is also due to the crisis of secular constitutionalism from which Tunisia suffered. After all, unlike Ennahda and its commitment to democracy, which is often couched in religious terms, secular parties have had a history of using secular laws against traditional Islamic practices, such as the wearing of the *hijab* and,

⁴⁵ Murphy, 'Tunisian Elections of October 2011', p. 233 n. 30.

⁴⁶ Ibid., p. 240.

since 2011, the full face cover, *niqab*, at Tunisian universities. In order to increase the level of trust in secular constitutionalism, secular Tunisians have endorsed international law and attempted to make it binding for Tunisian lawmakers and judges. Human Rights Watch asserts in its criticism that “The constitution should state that treaties “duly approved and ratified” by Tunisia without exception have a status superior to national law.”⁴⁷ In a similar vein, the Tunisian parliament, even before the October 2011 election, ratified in June 2011 the Rome Statute and became the first Arab member state of the International Criminal Court. While extra-judicial sources of trust, based on either Islam or international law, may exist, it appears that the Tunisian public’s belief in the parties themselves, and the political parties’ own acceptance of each other, have been at the heart of the more compromising attitude of the different political currents – the salafist Hizb al Tahrir and Ansar al *Shari’a* groups’ marginal popularity notwithstanding. The reason for this may have been unique to Tunisia’s recent history: Ettakatol, and especially CPR under Moncef Marzouki (who later became Tunisia’s first president), worked together uninterruptedly with Ennahda in the 18 October Collectif – an inclusive coalition of opposition parties – from 2005 until the January 2011 events.⁴⁸ Consequently, Ennahda’s commitment to secular-liberal principles such as its assertion of women’s equality, as well as these secularists’ willingness to address cultural questions of Islam from the point of view of religious freedom and human rights, enabled both groups to develop trust and coalition building and govern without resorting to destabilising accusations and suspicion. This was in spite of the immense politicised issues, such as the government’s dealings with salafist violence, assassinations of prominent secular politicians, and the use of courts to imprison journalists and others who were accused of anti-Islamic behaviour, that have raised widespread suspicions among many secular Tunisians with regard to Ennahda’s involvement and responsibility.

Egypt in this respect represents the counter-example. The Egyptian military’s overthrow of Mubarak and the rule of the Supreme Council of the Armed Forces (SCAF) headed by Field Marshal Mohamed Tantawi – amidst widespread protest against the president – resulted in doubts over SCAF’s intentions and the ways in which it would try to protect its privileges. Jockeying for power between the army and elected politicians on the one hand, and between secular politicians and the Muslim Brotherhood on the other, often created violent conflicts. These conflicts became even more pronounced due to the result of the parliamentary election. In November 2011 and January 2012, voters elected a two-thirds majority of Islamists to parliament, electing members from both the Muslim Brotherhood under Mohamed Morsi (Freedom and Justice Democratic Alliance) and a new salafi party called al Nour, with 37.5 and 27.8 per cent of the popular vote respectively. In June 2012 Mohamed Morsi was elected to the presidency. The subsequent election to the Constituent Assembly by the parliament reflected the Islamist-dominated political landscape and led to severe conflicts. A minority of secular and leftist individuals led by Mohamed Elbaradei, Amr Moussa and Hamdeen Sabahi opposed the Islamist majority, fearing an incremental transition to, and implementation of, Islamic-inspired law and legislation.⁴⁹

⁴⁷ Human Rights Watch, ‘Tunisia: Strengthen New Constitution’s Rights Protection’, 24 July 2013. Available at <http://www.hrw.org/news/2013/07/24/tunisia-strengthen-new-constitution-s-rights-protection-0> (accessed 1 August 2014).

⁴⁸ Andrea G. Brody-Barre, ‘The Impact of Political Parties and Coalition Building on Tunisia’s Democratic Future’, *Journal of North African Studies* 18/2 (2013), pp. 211–30.

⁴⁹ James N. Sater, ‘Egypt’s Dilemma: Democracy Without Democrats’, Odense: Centre for Contemporary Middle East Studies, January 2013. Available at <http://static.sdu.dk/mediafiles//3/D/6/%7B3D64DFC7-8160-4183-B721-0F60092202F7%7DJS0113.pdf> (accessed 1 August 2014).

This conflict was carried into the judicial system, which became a political player in its own right. On two occasions the Constituent Assembly was challenged by the courts. The first dissolution of the Assembly in April 2012 was based on charges of lack of representation. The first 100-member Assembly included only six women and five Coptic Christians. The second ruling by the Supreme Constitutional Court on 2 June 2013 questioned the first dissolution, and thereby the second Constituent Assembly, six months after the new Constitution had been approved by a referendum. This similarly created doubts over, and diminished any trust in, the constitutional process, its legitimacy and consequently constitutional protection. This has become all the more pronounced as secularists and Islamists have been taking uncompromising positions in the Constituent Assembly. The minority of secularists threatened to boycott the Assembly if no compromises were found on the question of Islam and *shari'a* in the new constitutional text. Islamists in turn threatened to approve the Constitution with their majority in the Assembly if the secularists were to abandon cooperation there. The articles in question of the now defunct Constitution referred to Islamic rules and jurisprudence, as well as accepted sources among Sunni Muslims (Article 219), the outlawing of any 'insults to the prophets or any other messenger' (Article 44) and the necessity of consulting al Azhar scholars on all questions pertaining to Islam (Article 4). Given the absence of any explicit mention of gender equality, the door was open for a large variety of measures that, if approved by the Islamist-dominated parliament, could easily change the secular character of the Egyptian state and lead to an accelerated pace of Islamisation. Meantime, the role of the army became a side issue: pro-army politicians secured the army's superior status to the law by declaring it in Article 194 the property, *mulk*, of the people, which pursues its mission under the National Defence Council, not the Constitution.⁵⁰

Trust in Islamic beliefs and institutions such as al Azhar to protect Egyptian citizens appears to be the result of the failure of laws and constitutions to do so since the mid-1950s. Yet it is important to point out that the political majority of Islamists in parliament, government and the Constituent Assembly, and its willingness to use its majority to impose itself on its adversaries, further diminished the belief in constitutionalism and law to limit the majority's power effectively, giving rise to the trust in the country's army expressed in Article 194. Clearly, some of President Mohamed Morsi's actions were viewed as illiberal. The above-mentioned articles were viewed as elevating Islamic principles to higher importance, compared to the previous marginalisation of Islamic law to fatwa councils and family courts. Yet the primary concern appears to be that little trust had developed between the different political groups, so that it became questionable to what extent the text of the now defunct Constitution, and its emphasis on individual rights and democratic procedures, would be adhered to by the elected majorities. In other words, the issue of extra-judicial sources of trust in constitutionalism has not been sufficiently addressed in the transition period, and such trust continued to be derived from the ranks of the army or the religious institutions.

Consequently, the military coup of 3 July 2013, which followed mass demonstrations throughout Egypt against President Morsi, is significant in that it symbolises the victory of extra-judicial sources of trust over constitutionalism and electoral accountability. What deserves special attention is the fact that Abdul Fatah al Sisi, the defence minister leading

⁵⁰ Ellis Goldberg, 'Constituting Generals', *Jadaliyya*, 12 August 2013. Available at <http://www.jadaliyya.com/pages/index/13528/constituting-generals-1> (accessed 1 August 2014).

the coup, also called upon al Azhar as the institution that would approve any new constitution that the new leaders wished to enact. al Sisi also included the grand imam of al Azhar, Ahmed el Tayeb, together with the Coptic pope, Tawadros II, opposition leader Mohamed El Baradei, officials from al Nour and 'rebel' al-Tamarrud leaders in the decision leading to, and the announcement of, President Morsi's removal.⁵¹ With this move, it appears that the combination of *esprit de corps* and official religious legitimacy has ultimately imposed itself as the major source of trust, to the detriment of rule of law and protection of individual rights *qua* constitutionalism, and of electoral bargaining.

Morocco's starting point for the Arab Spring has been significantly different. A mass movement asking for a constitutional monarchy and more checks on the executive organised itself into the February 20 Movement. While its calls for reforms did include the removal of the King, the call to establish a stronger system of checks and balances to enhance constitutionalism and electoral accountability touched a nerve among the political elite. Both the officially recognised Islamist party, the Justice and Development Party (PJD), and the Socialist Union of Popular Forces (USFP) had called for such a constitutional reform in 2006, mostly emphasising the King's unfettered right to nominate a prime minister without consideration for electoral majorities. In addition, in 2006 there had already been a very widely published and debated list of recommendations by the kingdom's Equity and Reconciliation Commission. This Commission had organised public hearings into human rights abuses and had awarded financial compensation to the victims of state abuse, including the relatives of the thousands of Moroccans who have disappeared. In this list of recommendations, a separation of powers and a constitutional reform appeared as the key to avoiding the repetition of the serious human rights abuses.

Consequently, the February 20 Movement's demands were quite compatible with what the King had been quite comfortable with over the years since his accession to the throne in 1999. After all, with a new constitution, the King could reinforce the image of a constitutional and reform-minded monarchy. By using the King's reputation as a liberal, yet moderate reformer, the regime would proactively counter any potentially revolutionary challenges that would result from blindly defending the status quo. As a result, the King announced on 9 March 2011 the formation of a committee that would draft a new constitution subject to a referendum on 1 July 2011:

We are aware [...] of the legitimacy of the aspirations and the necessity to preserve what has been achieved [*les acquis*] [...] It is still our firm intention to give a strong impulse to the profound reform dynamic that is under way, of which the constitutional, democratic framework constitutes the quintessential basis.

The sacred values of our constants are the basis of our national consensus. These constants are Islam as the religion of the state and as the guarantor of the freedom of religion, the function of the commander of the faithful, the monarchical regime, national union, territorial integrity, and the democratic path. All of this gives us a solid base in order to construct a historical compromise, which has the power of a new pact between the throne and the people.⁵²

⁵¹ 'Egyptian Army Suspends Constitution and Removes President Morsi – As it Happened', *Guardian*, 3 July 2013. Available at <http://www.theguardian.com/world/middle-east-live/2013/jul/03/egypt-countdown-army-deadline-live> (accessed 1 August 2014).

⁵² Royal Speech, 9 March 2011. Available at www.maroc.ma (accessed 1 August 2014). Translated from French by the author.

Careful not to alienate the moderate members of the February 20 Movement, the King underlined the legitimacy of the protests and the opportunity they offered to continue the monarchy's path towards democratisation. Yet his emphasis on the 'constants' shows that any accusation of his 'giving in' to the protesters' demands were misplaced. Instead, the new constitution would be a 'historical compromise' and a 'new pact'.

The constitution has been extensively analysed elsewhere.⁵³ For my purposes here, three points are important:

1. Liberal principles including gender equality, minority rights, youth councils and the electoral accountability of the prime minister figure prominently in the new Constitution. An independent constitutional court was created that was to limit governmental interference in judicial decisions.
2. All senior appointments remain royal appointments. All legislation and appointments can be vetoed by the King. The King heads a shadow, appointed and unaccountable government (Council of Ministers) that is responsible for the government's policy orientation and that has exclusive authority over economic and fiscal policies. The Council of Ministers therefore has more than just equal authority to the official government.
3. The King remains not just the commander of the faithful, whose personality is 'inalienable' – a change from the use of 'sacred' in previous constitutions. In addition, he remains the commander in chief of the Royal Armed Forces, giving him power to enforce the constitution not just with his religious status, but also with the use of coercion.

The process's purpose was to undermine the February 20 Movement, an objective it achieved when the Constitution was approved with an overwhelming majority of 97.58 per cent. The quiet nature of subsequent protests illustrates an important difference between Morocco and its republican neighbours. The process illustrates that trust in the power of constitutions exists, but it is superseded by trust in the extra-constitutional principles of Amir al Muminin and the personality of the King. Effectively, as a result of the King's reputation as liberal and reform-minded, he personifies the constitutional guarantee that the Constitution will protect the rights of Moroccans, and that the government will not abuse the rights of Moroccan citizens. In other words, he epitomises the idea of guaranteeing Moroccan citizenship, understood as civil, political and social-religious rights.

It must be pointed out that this idea has been controlled and established through the mass media since the mid-1950s. Any public criticism of his role and personality are outlawed and persecuted by the courts. Yet in quite rare cases this image is broken. A convicted child rapist, Daniel Galvan Vina, received a royal amnesty in June 2013. Normally, such decrees are used by the King to 'rectify' unjust prison sentences. In this case, the King liberated someone who clearly did not deserve such generosity in the eyes of average Moroccans. Yet thousands of protesters who in July 2013 demonstrated against his release in the streets of Rabat met the same violent reaction from the Moroccan security forces and riot police as the more revolutionary February 20 Movement. Clearly, the King's role was not just involved but at the heart of the problem, even warranting an editorial in *Le Monde*.⁵⁴ To escape from this embarrassment, the King publicly claimed that he had been misinformed and that he

⁵³ James N. Sater, 'The Arab Spring and Democratization in Morocco', *Orient* 53/1 (2012), pp. 30–7.

⁵⁴ 'Le dangereux faux pas du roi du Maroc', *Le Monde*, 5 August 2013.

had not known about the crimes committed by Vina, thus raising other questions about royal practices. To rectify and solidify the King's claims, he ordered a comprehensive investigation into the process of Vina's release, once again capturing his position of (1) safeguarding individual Moroccans' rights and (2) rectifying mistakes in which elected politicians and officials are involved. In addition, the pardon was revoked – an unprecedented event in Moroccan history – and Vina was again arrested by the Spanish authorities. Words were followed by deeds, ensuring that emotional trust was underpinned by cognitive trust of which the institution of monarchy is perceived to be a guarantee. Yet, as the Vina case illustrates, the question of judicial independence and royal interference is occasionally challenged. Interestingly, recently this challenge was even expressed from within the ranks of the judiciary, in the form of a Young Judges Movement that asked for more autonomy and less oversight from within the Ministry of Justice.⁵⁵

Conclusion

Table 2 Trust and constitutionalism in Tunisia, Egypt and Morocco

| | Characteristics of constitutionalism | Trust in constitutions | Extra-judicial sources of trust |
|----------------|---|--|--|
| Tunisia | Regularity of constitutional rule high; rule by parallel institutions significant | High, regularity of CSP, constitutional rule even in transitions | Low – charisma, Bourguibism |
| Egypt | Regularity of constitutional rule low; rule by parallel institutions high | Low | Divided and high – army, religious courts |
| Morocco | Regularity of constitutional rule high; rule by parallel institutions high but decreasing | Medium to high | High – centred on King, representing both army and Islam |

This paper has explored ideas of extra-judicial sources of trust in constitutionalism. It has been suggested that the three cases of Tunisia, Egypt and Morocco illustrate important differences in the way that institutions have been endowed with trust that serves as a guarantee for the constitutional protection of citizenship rights. The findings are summarised in Table 2. As I have argued, such a belief in constitutionalism has been best developed in Tunisia, yet here also the trust in the viability of political compromise has been experimented with inside the ruling coalition – the troika of Ennahda, Ettakatol and CPR for many years prior to 2011. In other words, affective trust has been compounded by some degree of cognitive trust among the political elite.

⁵⁵ Anass Saadoun, 'Judiciary Draft Laws in Morocco: Undercutting the Young Judges Movement', *Jadaliyya*, 1 February 2014. Available at <http://www.jadaliyya.com/pages/index/16077/judiciary-draft-laws-in-mo> (accessed 1 August 2014).

In Egypt, extra-judicial sources of trust have for a long time dominated any concepts of Egyptian constitutionalism. Islamic notions of trust rivalled those based on a military *esprit de corps*, and have also been compounded by patron–client relations through welfare and economic opportunities offered by the armed forces. These rival sources of extra-judicial trust have been further accentuated by the landslide electoral victory of the Muslim Brotherhood-affiliated Freedom and Justice Party, which together with the al Nour party dominated the parliament, winning more than 60 per cent of the seats. This set the stage for the military coup and the mass protests against President Morsi, and will continue to weaken any prospects of constitutionalism for some time to come.

Morocco, in turn, has so far illustrated a unique ability to combine constitutionalism with extra-judicial sources of trust in the person of the King. Quite significantly, the February 20 Movement called for a new constitution, indirectly demonstrating a belief that there will be an institution capable of overseeing the constitution's application. While some of the protagonists of the February 20 Movement may have believed that this would be an independent supreme court or electoral alliances, a fairly large proportion of Moroccans believed that the institution best capable of ensuring the viability of constitutionalism would be the Moroccan King himself. Given the King's supreme religious and military and increasingly liberal credentials, Morocco has thereby bypassed the rivalry of religious and military sources of trust that Egypt is experiencing.

Concepts of Citizenship in Tunisia Following the Fall of Ben Ali

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Introduction: Citizenship and Constitutions – Tunisia’s Troubled Past

The astute historian recognises that while political revolutions often have clear ‘beginnings’ they rarely have tidy endings. Nevertheless, the ratification of the new Tunisian Constitution at the end of January 2014 would seem to mark a milestone in the revolutionary saga that began three years earlier. Its predecessor, the Constitution of 1 June 1959, emerged out of a three-year negotiation period following the formal transfer of power from the former protectorate power, France. During that period, the hereditary monarchy had been abolished and independent Tunisia was firmly set on the road of a presidential republic.

As it turned out, the term ‘presidential’ was to characterise Tunisia’s government during the next half century more than the term ‘republic’. Habib Bourguiba (1903–2000), who led the Neo-Destour Party’s nationalist movement, became Tunisia’s first elected president, a post he would hold until his deposition in 1987. While the text of the Constitution (like many in the Arab world) promised equality and justice to the Tunisian people, the amendments to this foundational text over the years indicated a drift towards authoritarianism and an accumulation of executive power in the office of the presidency. Most seriously, the manipulation of the office of the powerful presidency via constitutional amendments concerning term limits and maximum age served to entrench its occupant, whether Bourguiba or Zine al-Abidine Ben Ali (r. 1987–2011).

As the rights of one citizen (the president) were made paramount in the Constitution of 1959, the rights of the majority of Tunisians languished and contracted. Although the technical language ensuring a citizen’s basic human rights remained, in practice state authorities often employed arbitrary arrest and detention to stifle political opposition to the presidency. Courageous human rights campaigners (often in exile), such as Moncef Marzouki¹ and Taoufik Ben Brik,² criticised such tactics which were applied to both secular opponents and those adhering to various forms of political Islam. Once someone was detained or imprisoned, the rights guaranteed for the basic dignity of a human being often disappeared altogether in the depths of Tunisia’s penal system.

¹ Moncef Marzouki was the interim president of Tunisia from 2011 to 2014.

² Taoufik Ben Brik is a journalist who was previously imprisoned by Ben Ali’s regime.

The new Tunisian Constitution is an attempt to place the country's commitment to citizenship on a more legitimate and unshakeable foundation than previously. However, the decision to make such a clear break with the former regime was not evident in the early months following the revolution. The first transitional governments formed after the departure of Ben Ali relied heavily on the Constitution of 1959 for their transfer of power (and legitimacy) to a government led by the former speaker of the parliament (following Article 57 of the 1959 Constitution). This decision, and subsequent promises to hold a presidential election in two months' time, elicited a massive popular outcry that coalesced in the so-called 'Casbah protests' of January and February 2011. At that point, average Tunisians from around the country converged on the capital, Tunis, to demand the dissolution of the pre-revolutionary Constitution and its relevant institutions. By early March, the Tunisian political elite had embraced such a move, thus paving the way for national elections for a Constituent Assembly, held on 23 October 2011.

Theoretical Framework: Negative and Positive Liberties

The discussion of Tunisian citizenship in this paper will be framed around the concepts of negative and positive liberties.³ The concept of negative liberties is used by its defenders as the best way to guarantee personal dignity and one's person from abusive state authority. A negative liberty (often associated with American constitutional law) prohibits the government from infringing upon broad categories of citizens' rights (speech, religion, property). The other form of liberty is referred to as 'positive' in that the citizen is presumed to want state intervention to guarantee such promises. Many European constitutions, for example, often include wording enumerating specific rights to their citizens. The most important of these include the right to employment, education and health care for each citizen. As Ian Carter maintains, the category of negative liberties is often seen as favouring the individual over the state, whereas positive liberties often mark the aspirations of a collectivity.⁴

The definitions of liberties and their uses in political formats is succinctly summarised by Carter in the following quote:

Political liberalism tends to presuppose a negative definition of liberty: liberals generally claim that if one favors individual liberty one should place strong limitations on the activities of the state. Critics of liberalism often contest this implication by contesting the negative definition of liberty: they argue that the pursuit of liberty understood as self-realisation or as self-determination (whether of the individual or of the collectivity) can require state intervention of a kind not normally allowed by liberals.⁵

These liberties are not only 'codified' by constitutional documents such as the one mentioned above, but also 'lived' by an average citizen who judges their validity or obsolescence

³ I gratefully acknowledge the assistance of Dr Kevin Gray, whose discussions and suggestions introduced me to the concepts of 'positive' and 'negative' rights.

⁴ Ian Carter, 'Positive and Negative Liberty', in Edward N. Zalta (ed.), *The Stanford Encyclopedia of Philosophy*, winter 2012 edn. Available at <http://plato.stanford.edu/archives/win2012/entries/liberty-positive-negative> (accessed 8 March 2015).

⁵ Ibid.

on a daily basis. Thus, this paper will also examine the role that political parties and government institutions play in upholding promises of citizens' rights. Such decisions condition a citizen's expectations of the state and its capacity to improve their social condition. However, these promises are often undermined by elite, authoritarian plans for its implementation which scholar James C. Scott calls 'high modernism': a belief that science and technology can be harnessed by state bureaucracies to improve the lives of the average citizen. In practice, Scott argues, such strategies often fail as they oversimplify the complex nature of the societies they seek to tame.⁶ The interplay between citizens' rights, high modernism and constitutionalism determines the state's ability to foster either loyalty or alienation among its citizenry.

We will now focus our attention away from the broad theoretical outlines of a citizen's negative or positive rights and examine the role that positive liberties have had in shaping citizens' expectations of their governments in Tunisia. As in the case of other former French protectorates in North Africa, the French 'Declaration of the Rights of Man and of the Citizen' (1789) and the first French Constitution (1791) loom large as models throughout North Africa.

Nathan J. Brown explains the importance of positive liberties in the introduction to his work on constitutionalism in the Arab world:

The French constitution of 1791 empowered the central government. To be sure, the document incorporated the Declaration of the Rights of Man and Citizen. But the constitution not only forbade state authorities from infringing on some spheres, it also required them to act in others. The state was instructed to provide for public relief and education, establish national fetes, and provide a code of civil laws. *The authors of the document were concerned not simply with limiting state authority but also with removing obstacles in its path.*⁷

It is clear from Brown's analysis of this early French Constitution that the need for the state to guarantee positive liberties is paramount. The last sentence is indicative of what Scott would call 'high modernism', in that the state (and its governing elites) decide what is best to realise the various rights of each citizen.

Due to the long colonial experience of much of the Middle East and North Africa (MENA) region, most constitutions in the Arab world explicitly contain promises of positive liberties, a prominent example of which is that national wealth will be used for the benefit of a social welfare network for its citizens instead of being diverted by colonial financial interests. In the case of the new Tunisian Constitution of 2014, Articles 38–41 guarantee citizens the rights to health care, education and jobs respectively. Each article also contains a proviso that the state will work to ensure the availability of such benefits to the general populace.⁸

⁶ James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998), pp. 4–5.

⁷ Nathan J. Brown, *Constitutions in a Nonconstitutional World: Arab Basic Laws and the Prospects for Accountable Government* (Albany, NY: State University of New York Press, 2002), p. 98. Italics mine.

⁸ According to the wording of Article 38 (health care), the state assumes the cost of 'free treatment' for those 'lacking support' or 'of limited income'. Likewise, the assurance of free education is guaranteed 'at all levels', but children are only required to attend school until the age of 16. The right to work appears unrestricted, as are the government's responsibilities to guarantee this right to its citizens. *Dustūr al-jumhūriyya al-tūnisīyya* ('The Constitution of the Tunisian Republic') (Tunis: Imprimerie Officielle de la République Tunisienne, 2014).

In the event, for our purposes in this paper, I would argue that the dominant concept of citizenship expressed and supported by the *governing elites* of Tunisia (not necessarily all of its people) is reflective of positive liberties. Likewise, the constitution the Tunisian Constituent Assembly approved in 2014 to implement this universalist vision of citizenship is one heavily reliant on emphasising the positive liberties of its citizens, with the important exception of individual rights before the state security forces and the judiciary. In these cases, a restrictive vision of state power emphasised by theorists of negative liberties prevails.

As mentioned earlier, most of the governing elite in Tunisia have employed political rhetoric emphasising the concept of positive liberties as the cornerstone of their relationship to their fellow citizens. That is, the state must guarantee fundamental rights to the Tunisian people so that they might prosper. Obviously, the actions needed to realise such promises have often been lacking in an elite class that has been criticised as hypocritical and distant. Nevertheless, by tracing the rhetoric of ‘positive liberties’ back to the Ben Ali period, we can better understand why such concepts remain embedded in the Tunisian political psyche. This is important since the post-revolutionary environment has seen a plethora of political claims based on positive liberties initiated by political actors across the ideological spectrum.

Detecting the Demise of Tunisia’s ‘First Republic’ in Ben Ali’s ‘Three Speeches’

Although most analysts rightly dismiss the Ben Ali era (1987–2011) as one of deepening corruption and mismanagement, the justification the former president gave for his continued rule relied heavily on ensuring positive liberties for the Tunisian people. What follows is an analysis of Ben Ali’s three final speeches to the Tunisian people (26 December 2010, 10 and 13 January 2011) prior to his overthrow.⁹ What is important to keep in mind is that, although Ben Ali has been absent from the political scene in Tunisia since 2011, former regime officials (who consistently supported the rhetoric on ‘positive liberties’) made a remarkable comeback in the legislative elections held on 23 October 2014. The political front known as Nidaa’ Tunis (‘Call for Tunisia’) won the most seats in the parliament.¹⁰ Led by former interim prime minister Beji Caid Essebsi, this group has received support from former Ben Ali officials who view it as a way to confront and derail the ambitions of the major Islamist party in the country, Ennahda.

Before delving into Ben Ali’s speeches, it will be useful to review briefly the chronology of the events leading up to his departure. Most people are now familiar with the broad outlines of the events of December 2010 and January 2011 that led to the abdication of President Zine al-Abidine Ben Ali and his current exile in Saudi Arabia. The desperate actions of the fruit seller Mohammad Bouazizi resulted in a spectacular suicide that became a unifying symbol of the isolation and poverty of Tunisia’s interior governorates. Progressively larger

⁹ Reproduced in ‘Azmi Bishara, *al-thawra al-tūnisiyya al-majīda: buniyyat thawra wa šrūratiha min khilal yūmiyyat-ihā* (‘Tunisia: The Diary of a Resplendent Revolution in the Making’) (Doha: Arab Center for Research and Policy Studies, 2012), pp. 361–72.

¹⁰ Official election results tabulated by the International Foundation for Electoral Systems (IFES) indicates that Nidaa’ Tunis won 37.56 per cent of the vote and was apportioned 86 parliamentary seats as a result. Available at <http://www.electionguide.org/elections/id/2746> (accessed 8 March 2015).

demonstrations in these areas (Sidi Bouzid and Kasserine) led to escalating confrontations with the security forces. Ultimately, via a relatively uncensored internet and a large number of average Tunisians who could practise 'mass self-communication' by sending texts, images and video clips through mobile phones, the uprising spread to the wealthier coastal cities of Sfax, Sousse, Monastir and ultimately the capital city of Tunis.¹¹ By December 2010, President Ben Ali himself took notice of the situation and, for the first time, appeared to understand that his long rule over the country was being seriously challenged.

To meet the challenge of this popular, if relatively unfocused, uprising, Ben Ali decided to talk directly to the Tunisian people on 26 December 2010. It turned out that this initial effort only fuelled the protestors' indignation and, in an incredible bit of political theatre, the head of state issued two more, increasingly desperate, appeals promising economic and social reforms designed to meet citizens' expectations for positive liberties such as jobs, health care and education.

The most striking change over the three speeches has to be the use of language by the former president. The link between common language and a sense of belonging to a nation has long been acknowledged. In the Arab world, two languages are used interchangeably: Classical or Modern Standard Arabic (MSA, reserved for formal situations and official media) and local dialects (used as the language of everyday, informal interactions). In recent years, the boundaries between appropriate use of one or the other form of Arabic has become blurred. In the case of Tunisia in particular, the radio airwaves (once the bastion of MSA broadcasts) now share the broadcast band with stations such as Mosaique FM or Shems FM, which are entirely composed of segments recorded in Tunisian dialect.¹²

In the first address (26 December), MSA is used to indicate command and presidential authority. Almost all public speeches delivered by Tunisia's president up until the revolution were crafted using MSA and not the local dialect. However, because of the unprecedented nature of the speech, and its reception across the country in real time, the use of MSA turned into a liability for the president. In addition, although the speech discusses the 'events' of Sidi Bouzid in its introduction, Ben Ali rapidly identifies 'foreign television channels' (a clear reference to the Qatari television channel al Jazeera) working with various 'parties' (*atraf*) who do not have the country's interests at heart.

As Ben Ali proceeds to outline his remedy to improve the 'social condition' responsible for the outbreak of riots in Sidi Bouzid, his first recommendation is instructive and will be reproduced in full here:¹³

FIRST: We therefore understand the feelings that confront each unemployed person and especially when his search for work is extended, while his social conditions

¹¹ For a more detailed explanation of the concept of 'mass self-communication', please refer to the recent work of Manuel Castells, *Communication Power* (Oxford: Oxford University Press, 2009), pp. 63–71.

¹² Both radio stations predate the Tunisian revolution and were at one time partly owned by members of Ben Ali's extended family. For further information, see Viviane Bettaieb (ed.), *Dégage: La révolution tunisienne* (17 décembre 2010–14 janvier 2011) (Tunis: Editions du Layeur, 2011), p. 115.

¹³ The texts of Ben Ali's speeches that I reproduce here were all published in Arabic in Bishara, *al-thawra al-tūnisiyya al-majīda*. I have translated the relevant portions into English and take full responsibility for any grammatical or stylistic errors.

are difficult. This creates an unfortunate self-perception that leads to unwise solutions in order to distract the unemployed from his situation.¹⁴

The use of the royal 'we' in this case (although often embraced by Arab leaders in formal speeches) entirely vanishes by the third speech. If we compare a similar statement regarding the unemployed in the third and last speech, note the stark differences:

I understand you, yeah I understand you, all of you: the unemployed, the needy, the political and those who call for more freedom. I understand you, I understand you all. But the events that happened today in our country ain't reflective of us, looting ain't among Tunisian customs. A Tunisian is civilised, a Tunisian is peaceful.¹⁵

The third speech, delivered on 13 January 2011 (a day before Ben Ali's departure), could not be more different in style and substance. The use of Tunisian dialect throughout the speech is the most fascinating aspect given our earlier discussion of the role language plays in defining citizenship. 'I'm talkin' to you today' is how the first phrase of the speech might be effectively rendered into English:

I'm talkin' to you today, I'm talkin' to everyone in Tunisia and outside of Tunisia. I'm talkin' to you in the language of all Tunisians, I'm talkin' to you because the situation demands a change, a deep change [...] yes, a deep and complete change.¹⁶

Although much ridicule has been heaped on these three now infamous speeches,¹⁷ to me they represent the symbolic levelling of the Tunisian field of public discourse. On the eve of his own resignation and flight to Saudi Arabia, Ben Ali was unwittingly participating in the 'universalising' of public discourse: a move from elite forms to a common tongue shared by the angry residents of Sidi Bouzid and the desperate resident of the Carthage palace. The speeches are also of continuing importance since the promises of positive liberties with security clearly resonated with Tunisian voters, who gave Beji Caid Essebsi's coalition, Nidaa' Tunis, an electoral victory over their rivals in the 2014 parliamentary elections.

High Modernism in Action: Representatives of Tunisia's Political Elite Speak Out

The departure of former President Ben Ali left a political vacuum in Tunisia following years of authoritarianism, reinforced by an electoral process that was seen as neither free nor fair. Yet Tunisian society during the reign of Ben Ali was not entirely the passive or willing collaborator it is sometimes made out to be. In the immediate aftermath of the Tunisian Revolution, scholars Laryssa Chomiak and John Entelis published an analysis of what they called 'North African *intifadas*' in Morocco, Algeria and Tunisia. Writing about Tunisia, Chomiak and Entelis refer back to the decade of the 2000s to find evidence for protest movements among labour groups operating in the south of the country, as well as among cybernauts based in Tunis.¹⁸

¹⁴ Ibid., p. 361.

¹⁵ Ibid., p. 369.

¹⁶ Ibid.

¹⁷ One of my Tunisian friends joked with me that, after Mubarak's resignation later in January 2011, Arab leaders' speeches resembled an inning of American baseball: three strikes, and you are out!

¹⁸ Laryssa Chomiak and John Entelis, 'The Making of North Africa's Intifadas', *Middle East Report* 259 (2011), pp. 8–15.

Unlike the situation in Egypt after the 25 January revolution, there were no strong political or institutional factions capable of monopolising debate or channelling power in post-revolutionary Tunisia. The army, which was widely praised for its non-intervention during the Tunisian revolution, is relatively small and apolitical. The commander of the army during the revolution, General Rachid Ammar, recently retired quietly without much fanfare. Much has been made of the electoral gains made by the formerly banned Islamist movement and affiliated political party, Ennahda, in the first country-wide elections since Ben Ali's departure (23 October 2011). However, it is instructive to compare Ennahda's beginnings in the 1970s and 1980s with those of the Muslim Brotherhood in Egypt (which dates back to the 1930s).¹⁹ Under the rule of Habib Bourguiba and his successor, Islamist activists and the movements they represented were harshly suppressed, whereas in Egypt, the Muslim Brotherhood was given some latitude to build up social welfare programmes in certain areas.²⁰

In the post-revolutionary environment, an astute political observer can detect two significant political blocs that came to dominate the political discourse by 2014: the Islamist movement known as Ennahda, led by Rachid Ghannouchi, and their more secular rivals, Nidaa' Tunis, led by Beji Caid Essebsi. In 2014, the political parties agreed to dissolve the Ennahda-led government of Prime Minister Ali Laarayedh in favour of a technocratic government led by Mehdi Jomaa. This government (whose members renounced standing for office in the next nationwide elections) had a mandate to run the country until the next elections under the new Constitution, held in October 2014.

Although the two groups are rivals, a comparison of their political programmes reveals remarkable similarities in the values they profess and their goals for the country. As discussed above, some followers of Essebsi's movement formerly worked for the Ben Ali regime in various capacities and thus shared the rhetorical commitment to positive liberties seen in the former president's discourse. One of the goals the Ennahda movement endorses is the 'dedication to the principle of the sovereignty of the people [*al-sha'b*]'²¹ in the construction of a democratic and civilized state [with] justice and work in order to achieve equality among the citizens and construct a civil society'.²² Likewise, Essebsi's movement proclaims on its website that it seeks 'justice and equality between all social classes and between the regions, as well as between men and women'.²³ Even among smaller political parties

¹⁹ For more on Ennahda's origins, see the noted biography of its most famous founder, Rachid Ghannouchi. Azzam Tamimi, *Rachid Ghannouchi: A Democrat within Islamism* (Oxford: Oxford University Press, 2001).

²⁰ The period immediately after Ben Ali's seizure of power (1987–90) represented a thaw of sorts in the government's relationship with the Islamists. The new president signed the 'National Pact', which appeared to promote a pluralistic political system, and met with representatives of Ennahda. The growing power of Islamists in neighbouring Algeria, as well as upcoming presidential elections in Tunisia in 1990, saw a return to oppressive tactics employed against Ennahda and its supporters.

²¹ The shifting conceptions of the term *al-sha'b* analysed by Nadia Marzouki are relevant to official and popular discourse in Tunisia. She points out that although the term has been used disparagingly in the past (notably under former Presidents Bourguiba and Ben Ali), it has taken on new cadences in the aftermath of the revolution. Using the example of Abdelfatah Mourou (an Islamist leader) and Beji Caid Essebsi, Marzouki rightly points out that the term has been used by groups on all sides of the Tunisian political spectrum, and that it has become a prerequisite of any serious policy proposal and thus a rhetorical tool which allows various factions to seek compromise in their negotiations. Nadia Marzouki, 'From People to Citizens in Tunisia', *Middle East Report* 259 (2011), pp. 16–19.

²² Ennahda, 'The Political Program'. Available from www.ennahda.tn (accessed 16 January 2014).

²³ Nidaa' Tunis, 'Our Values'. Available from www.nidaatounes.org (accessed 16 January 2014).

and public intellectuals, we find a remarkable rhetorical similarity. In January 2012, several members of the Constituent Assembly, including Hama Hammami (Parti Communiste Ouvrier de Tunisie) and Mohamed Bennour (Ettakatol)²⁴ supported an initiative modelled on the OpenGov concept promoted by Barack Obama in 2009 to make transparent the functions of government. According to Hammami, 'The objective is to permit citizens to follow what is occurring in the public sphere and get a clear idea about it. At the same time, this permits citizens to play their regulatory role as individuals or members of parties, unions or associations.'²⁵

Political Islam and Citizenship in Tunisia's 'Second Republic'

Until now, we have not examined the diverse viewpoints of the broad spectrum of Tunisia's Islamist parties on citizenship and negative/positive liberties in depth. Before turning to Ennahda and its salafist competitors, it is important to examine the role the *ulema* have played historically in the Middle East to shape an Islamic response to Western models of citizenship and constitutionalism. From the beginning of constitutionalist movements in the MENA region in the nineteenth century, many religious scholars or *ulema* debated the appropriateness of 'representative democracy' within the context of Islamic law. To a degree, this debate reflected the larger conversation about reform in general within Islamic societies: are efforts at modernisation (namely working within an electoral framework that sees multi-party contestation) *ijtihad* (approved interpretation) or *bid'aa* (unlawful 'innovation')? By comparing and contrasting two prominent members of the *ulema*, Sheikh Fazl Allah Nuri of Iran (1843–1909) and Muhammad Abduh of Egypt (1849–1905), we can understand how current discourse in Tunisia about citizenship and negative/positive liberties has been influenced.

Let us begin with a representative of the *ulema* who views Western-inspired constitutionalism and notions of universal citizenship as unlawful 'innovation': Sheikh Fazl Allah Nuri, who wrote to the Qajar ruler of Iran in 1906 opposing the then recently drafted constitution and its promises of equality among citizens and freedom of the press. I reproduce here one of his more memorable passages on the incompatibility of constitutionalism with Islamic law:

Oh, heretics! If this state law is in conformity with Islam, it is not possible to include equality in it, and if it is at variance with Islam, it would be against what is written in the previous part of the constitution, that is: 'whatever is against Islam cannot be lawful'.²⁶

How are Sheikh Nuri's comments, made at the beginning of the twentieth century, relevant to the views of Tunisian Islamists in the twenty-first century?

²⁴ Ettakatol shared power in the interim government with Ennahda (which appointed the interim prime minister) and the Congress for the Republic party (whose leader, Moncef Marzouki, was interim president). The leader of Ettakatol, Mustafa Ben Jaafar, served as head of the Constituent Assembly.

²⁵ Hassine Bouazra, 'Le concept d'Open Gov, introduit en Tunisie: Une garantie de totale transparence', *Le Temps*, 22 January 2012.

²⁶ 'Shaykh Fazl Allah Nuri's Refutation of the Idea of Constitutionalism', in Lloyd Ridgeon, *Religion and Politics in Modern Iran: A Reader* (New York: I.B. Tauris, 2005), pp. 37–54.

At their core, his ideas represent the impossibility of replacing *shari'a* law with any man-made constitution. Political liberalism, for many pious Muslims, is simply incompatible with Muslim law (at best) or sacrilegious (at worst). Sheikh Nuri's words, although written in the early twentieth century, echo today in the speeches of Tunisian salafists from the Hizb al-Tahrir or Ansar al-Sharia political organisations.²⁷

In the case of Tunisia, the trial of Nabil Karaoui represents an example of how Nuri's complaints about constitutionalism echo today. Karaoui, the owner of the television channel Nessma, permitted the Iranian film *Persepolis* to air just prior to the October 2011 elections for the Constituent Assembly. Enraged by what they perceived to be depictions of the Prophet Muhammad in the film, some Tunisian Islamists appeared daily outside the court where Karaoui was being tried and demanded that he not only be charged with insulting Islam, but also be put to death as an apostate.²⁸

I want to emphasise here that the salafi activists who espoused such radical views may or may not have belonged to the Ennahda movement. Unlike in Egypt, where the initial elections for the Constituent Assembly saw the participation of the Muslim Brotherhood as well as more radical salafi parties, Ennahda was the only religious party permitted to take part in similar elections in Tunisia in 2011. It is likely that future elections will see a more diverse field of Islamist parties vying for a share of the vote that Ennahda received in October 2011.

Where do such theological opinions fit in our discussion of negative and positive liberties? It is clear that a governmental system based on such a framework would no doubt espouse positive liberties, albeit strictly derived from the Qur'an and the *hadith*. The state would guarantee life, liberty and prosperity as the *ulema* saw fit to interpret these concepts in the corpus of relevant Islamic texts. In no small way, the current constitution of the Islamic Republic of Iran is based upon the concepts of 'positive Islamic liberties' that Nuri espoused at the beginning of the twentieth century. Likewise, the rise of the Islamic State of Iraq and Syria (ISIS) in 2013–14, although more recent and amorphous, would also seem to fit into this pattern, as do the actions of the salafists protesting the screening of *Persepolis*.

If we can trace some of the contemporary salafist critique of democracy and universal citizenship to Nuri and his colleagues, the larger and more moderate party espousing political Islam in Tunisia, Ennahda, pursues a more sympathetic approach to electoral politics and broadly inclusive forms of citizenship. Leaders such as Rachid Ghannouchi, Hamadi Jebali and Ali Laarayedh thus follow the thinking of prominent reformers such as Muhammad Abduh of Egypt. In his famous work *Risalat al-Tawhid* (1897), Abduh firmly rejects the narrow viewpoint of Nuri and his peers:

So the Qur'an directs us, enjoining rational procedure and intellectual enquiry into the manifestations of the universe, and, as far as may be, into its particulars, so as to come by certainty in respect of the things to which it guides. It forbids us to be slavishly credulous and for our stimulus points the moral of people who simply followed their fathers with complacent satisfaction and were finally involved in an utter collapse of their beliefs and their own disappearance as a community.

²⁷ Séverine Labat, *Les islamistes tunisiens: Entre l'état et la mosquée* (Paris: Editions Demopolis, 2013), esp. ch. 6, 'En-Nahda et les salafistes: entre connivence et confrontations'.

²⁸ Mona al-Bou'aziz, 'The "Nessma" Affair: The Trial in the Chamber ... and the Sentence in the Street', *al-Shurūq*, 24 January 2012.

[...]

Islam encouraged men to move away from their clinging attachment to the world of their fathers and their legacies, indicting as stupid and foolish the attitude that always wants to know what the precedents say. Mere priority in time, it insisted, is not one of the signs of perceptive knowledge, nor yet of superior intelligence and capacity.²⁹

What we see in Abduh's writings, which would go on to inspire generations of Muslim reformers, is a healthy suspicion of rulership, the abuse of which can lead to violations of human rights. What is important about the following sentences is not so much their historical veracity (which is debatable) as the sentiment and commitment on Abduh's part to use reform to correct such abuses:

The early Abbasids knew the extent of their debt to the Persians for the successful establishment of their power and the overthrow of the Umayyad state. They relied strongly on Persian collaboration and brought them into high positions among their ministers and retainers. Many of them thus came into authority without any part or lot in Islam religiously [...] They began to disseminate their opinions and by attitude and utterance induced those to whom their views were congenial to accept their direction.

[...]

As a consequence a complete intellectual confusion beset the Muslims under their ignorant rulers [...] Fostered by the general educational poverty, they gained ground, aided too by the remoteness of men from the pristine sources of the faith. They evicted intellect from its rightful place and dealt arbitrarily with the false and the valid in thinking. *They also went so far as to espouse the view of some in other nations who alleged an enmity between knowledge and faith.*³⁰

How would Mohammad Abduh and his intellectual descendants in modern political Islamic movements such as Ennahda compare the concepts of negative and positive liberties that we have been discussing? It would appear that they would be sympathetic to key aspects of Ian Carter's definition of political liberalism which we encountered in the introduction to this paper: 'if one favors individual liberty one should place strong limitations on the activities of the state'.

²⁹ Muhammad Abduh, *The Theology of Unity*, trans. Ishaq Musa'ad and Kenneth Cragg (London: George Allen & Unwin, 1966), pp. 39, 127.

³⁰ *Ibid.*, pp. 35, 38–9.

Law and Disorder: Relationships between the Security Forces and Citizens in the Wake of the Revolution

In a reversal of the focus on positive liberties above, most Tunisians would probably agree with the language in their new Constitution *limiting* or *restricting* the rights of the security forces to infringe on personal liberties. Articles 27–31 of the second section of the Tunisian Constitution limit state authorities from infringing upon the presumed innocence of a suspect, upon personal dignity and upon freedom of thought.³¹

One of the most reviled figures to characterise the reactionary attitudes towards the Arab Spring has been the policeman. The brutal authority exercised by the forces of order, seemingly beyond the reach of the justice system, has been caricatured in the post-revolutionary environment in Tunisia. As a result, the basic tenet of citizenship in which an individual and the state have rights and responsibilities towards each other cannot be upheld in the face of such repression.

While there is, no doubt, much that is true about such a characterisation, such stereotypes also obscure the complex historical and legal contexts in which such law enforcement powers evolved. As Susan Slyomovics argues in her book *The Performance of Human Rights in Morocco*, much of the security apparatus (directed from the Ministry of the Interior) in Francophone countries such as Morocco, Algeria and Tunisia has been directly inherited from and shaped by the former colonial power. Speaking of Morocco in particular, Slyomovics argues that the human rights abuses committed in the name of the state during the reign of King Hassan II were partly the result of the French *garde à vue* legal principle, which permits security forces to detain a person for longer than would be possible in the USA as charges are drawn up against them. As she states:

Procedures that set no limits to police power – [...] *garde à vue* in French – point to an absence of a body of fundamental laws to protect the basic rights of defendants [...] In practice, *garde à vue* refers to the period during which [*sic*] the suspect spends in detention while a police inquiry is undertaken, but before he or she is charged with a crime and brought to trial. In Morocco under the reign of Hassan II, *garde à vue* had been effectively reversed from a person ‘kept in sight’ to one ‘out of sight’, as the monarchy within a newly created post-independence political context maintained colonial legal mechanisms that were repressive, arbitrary, and undemocratic.³²

Under the fiction of performing legitimate investigations against potential criminals, therefore, authoritarian states like Hassan II’s Morocco (or Bourguiba and Ben Ali’s Tunisia) found a potent tool to silence political and labour dissent.³³ The legacy of this concept of police power and investigative practices cannot be overestimated. The Civilian Complaint Review Board that exists in the city of New York to oversee the actions of the police has no counterpart in North Africa. The idea of an ‘Internal Affairs Bureau’ which monitors police ethics and procedure from within a specific department likewise seems to have been

³¹ Dustûr al-jumhûriyya al-tûnisiyya.

³² Susan Slyomovics, *The Performance of Human Rights in Morocco* (Philadelphia: University of Pennsylvania Press, 2005), p. 14.

³³ Ibid.

a foreign concept. As a result, much of the effort and time spent in police investigations was dedicated to identifying political threats to the regime and neutralising them.

The overthrow of the authoritarian regime in Tunisia in January 2011 threw the law enforcement system described above into disarray. As an eyewitness to the revolutionary period from December 2010 to June 2011, I can attest that, although they may have been well trained to track and root out political dissent prior to the Tunisian Revolution, the security forces seemed singularly unable to track or prevent the acts of looting, vandalism and assault that surged after January 2011. Journalists who covered the state and morale of the security services after 2011 reported an atmosphere of confusion, dejection and self-absorption.³⁴

The People Speak: Voices, Views and Demands of the Average Tunisian

In our discussions of negative and positive liberties, it would be accurate to state that average Tunisians' views on the subject reflect a spectrum of beliefs that encompass calls for greater government intervention to right social ills (positive liberties) as well as appeals for the government to refrain from interference in an individual's preferences (negative liberties). One of the remarkable things that occurred in Tunisia after the revolution was the journalistic coverage of its aftermath throughout the country. Every day since 14 January 2011, Arabic newspapers, such as the daily *al-Shurûq*,³⁵ have contained at least one article canvassing local opinion about a particular issue. Although this practice was also common during Ben Ali's rule, the topic of politics was always strictly off limits. A sampling of such articles from 2012 will illuminate some of the ways that average citizens (of all ages) articulate their ideas of post-revolutionary citizenship.

One of the first official acts pursued by Tunisia's interim leaders after the revolution was to dismantle the Ministry of the Interior's apparatus for pursuing political and religious opposition figures, as well as to withdraw security forces from within the universities. By 2012, these trends emboldened young Islamist activists who challenged the secular establishment openly, precisely over the definition of freedom of expression and justice. One of the most controversial campaigns in this regard was in support of female university students who wished to wear the full *niqab* (veil) at Manouba University. The other was the trial of Nabil Karaoui, who, as we have seen, was accused of insulting Islam by airing *Persepolis* on his television channel.

In the case of the veil, the controversy erupted when fully veiled students attempted to enter Manouba University to take their exams. Some refused to lift their veils to confirm the picture of themselves on their identification cards. As one fully veiled woman explained more fully:

I agreed with them [that I would lift my veil] on the condition that I would reveal my face to a female teacher or administrator and confirm my identity at the college entrance and the door to the exam room. However, they [the administration]

³⁴ Naji al-Za'iri, 'Security Forces Find Themselves Far from Secure', *al-Shurûq*, 26 January 2012.

³⁵ Like the radio stations mentioned earlier, this newspaper also predates the revolution, having been founded in 1984. For further information, see Bettaieb, *Dégage*, p. 115.

demanded that I remain unveiled for the duration of the exam [...] *I permitted them to inspect me on the condition that they respect my well-being and my freedom.*³⁶

In response to this challenge, an assistant to the college dean gave a statement setting out the university's position: 'We want the exams to be given in normal circumstances and *respecting the relevant laws* for examinations [which mandate] the lifting of the veil during the exam period.'³⁷

I would argue that as the repressive authoritarian apparatus weakened and withdrew from areas where the public interacted, people felt free to experiment with new articulations of their rights as citizens vis-à-vis the state. The example I have provided demonstrates the evolving contractual relationship, in the female student's mind, towards representatives of the state (professors and administrators). The conditions she attaches to proving her identity to their satisfaction include the preservation of her 'well-being' and 'freedom'. The opposing position articulated by the college administration requests the application of existing laws governing the examination process.

Although we have considered examples of positive liberties accruing to the citizen (and enforced by the state) in our discussion regarding certain aspects of Tunisian citizens' expectations, let us consider another example of negative liberties in this case. Returning to our discussion of positive versus negative liberties, let us examine Article 5 of the French 'Declaration of the Rights of Man and of the Citizen' (1789), which states:

The law has the right to prohibit *only those actions harmful to society*. All that is not prohibited by the law cannot be hindered, and no one can be forced to do what it does not order.³⁸

I would argue that in the post-revolutionary society, Tunisians such as the veiled student and the university administrator were engaging with concepts such as the one I have italicised above, which in turn represent clear examples of negative liberties. Does a female student who remains veiled throughout the exam constitute an 'action harmful to society' which demands state intervention to rectify? Referring back to the 'high modernist' principles articulated by the political elites earlier, we get no real guidance. The generic concepts they claim to hold have no clarification, nor any clear definition. Rather, it appears that 'justice', 'equality' and 'freedom' are concepts whose meaning remains in flux at the local level.

Political Islam was only one of the concerns that occupied the average citizen following the revolution. Older Tunisians, not surprisingly, focused on more immediate economic issues and unresolved problems. The newspaper *al-Shurûq* ran an article on 24 January 2012 entitled 'The People Ask for Their Share of Development.'³⁹ Just after the first anniversary of the revolution, people in the rural town of Meknine (near Monastir) expressed their dissatisfaction at not having received what they thought they were owed for supporting the revolution. One older man was quoted as saying that 'the revolution occurred for bread and

³⁶ Ismail al Jerbi, 'Violence ... Confrontation ... and Exams', *al-Shurûq*, 25 January 2012. Italics mine.

³⁷ Ibid.

³⁸ 'Declaration of the Rights of Man and of the Citizen' (1789), reprinted in Alfred J. Andrea and James H. Overfield (eds), *The Human Record: Sources of Global History*. Vol. II: Since 1500, 6th edn (New York: Houghton Mifflin, 2009), pp. 157–8.

³⁹ Khalifa al-Mehdi, 'The People Ask for Their Share of Development', *al-Shurûq*, 24 January 2012.

respect' and that he and his neighbours 'as citizens participated in accomplishing it without burning or looting or smashing buildings'. However, their children 'who paid a high price still complained of unemployment and no one has answered them'.⁴⁰

As we have seen in the case of the Manouba University student who wished to take her examinations fully veiled, the articulation of citizenship here is one of a 'contract' of sorts between an individual and a government in which each party bears rights and responsibilities towards the other. As we can see from the economic example above, the man from Meknine believes that the non-violent actions taken in support of the revolution should be rewarded by government efforts to lower unemployment.

Conclusion

It is clear that other, more popular concepts of Tunisian citizenship overlap with elite-driven ones and share many of the same commitments to positive liberties. In an article published in 2013, I explored how Tunisians articulated the multi-faceted concept of 'martyrdom' in the post-revolutionary environment.⁴¹ I found that although the concept of 'martyr' was shared by almost all Tunisians to describe those who suffered under Ben Ali's regime, 'people's personal political and regional views [played a role] in determining how the martyr should be defined and honored'.⁴² This multiplicity of views obscures a set of societal goals shared by most who invoke the martyr's sacrifice: to activate the concept of 'collective sacrifice' that martyrs represent as a means of extracting wealth and social benefits from the *distributory* state that has become the hallmark of Tunisia's political economy since independence.⁴³ The danger with such popular interpretations of the state's responsibilities to its citizens is to privilege short-term, tangible gains over longer-term structural changes to institutions and practices that shape political and economic behaviour. As I argue: 'In short, protest and martyrdom are interpreted as strategies to seize control over the distributory mechanisms of the state. The merits and efficiencies of the developmentalist model are rarely debated or opposed.'⁴⁴ Recalling our previous discussion of the 'positive' rights guaranteed to citizens in the Tunisian Constitution (enjoining an enforcement and financial commitment on the state), one can sense a potential conflict if the state is fiscally or politically too weak to 'ensure' its citizens an adequate job, health care or education, as the citizenry's sense of entitlement to such perquisites does not diminish.

How might these diverse views on post-revolutionary citizenship coalesce to advance Tunisia's progress towards stability? If the elites involved in shaping core principles and institutions of the state can forge enough consensus over a common (if imperfect) vision for the country, then political stability may be achieved long enough to encourage economic growth. This would provide the state with the resources needed to 'remove obstacles in the path of providing positive liberties' (to paraphrase Nathan Brown above).⁴⁵

⁴⁰ Ibid.

⁴¹ Thomas P. DeGeorges, 'The Social Construction of the Tunisian Revolutionary Martyr in the Media and Popular Perception', *Journal of North African Studies* 18/3 (2013), pp. 482–93.

⁴² Ibid., p. 482.

⁴³ A concept drawn from rentier economics, the notion of a 'distributory state' clearly reflects positive liberties as discussed above.

⁴⁴ DeGeorges, 'Social Construction', p. 486.

⁴⁵ Brown, *Constitutions in a Nonconstitutional World*, p. 98.

Likewise, at a popular level, if people employ the concept of martyrdom as a form of collective sacrifice that demands increased transparency in state functions and a higher responsiveness of state institutions to local and regional concerns, this may also help in creating a 'public sphere' in which the best practices of state institutions are refined and improved. Such gains would represent a victory for the 'negative liberties' we have explored in the case of freedom from unauthorised state intrusions into a person's private life or behaviour.

In any event, the immediate future looks unclear for Tunisia. The year 2013 deepened the sense of crisis in the country with the two successive assassinations of opposition leaders Chokri Belaid (6 February) and Mohamed Brahmi (25 July). As a result of these still unsolved murders, disputes over the finalisation of a new constitution and a persistent economic crisis, Tunisia's political system has been thrown into turmoil.⁴⁶ Two prime ministers appointed from within Ennahda's ranks, Hamadi Jebali and Ali Laarayedh, resigned within 11 months.

Despite these setbacks, the *New York Times* in 2014 published two articles that praise Tunisian leaders in the Constituent Assembly for nearing the end of their arduous task of approving a new constitution, under which formal elections for a permanent government may be held.⁴⁷ When compared with the parallel process of approving a new constitution taking place in Egypt, Tunisia's certainly does seem like a success story. The two nationwide elections held in 2014 for the legislature and presidency seem to confirm this optimistic political outlook.

The elections for the legislature and presidency in October and November 2014 respectively provide interesting updates on Tunisians' views on citizenship three years after the fall of Ben Ali. As mentioned above, the Nidaa' Tunis party of Beji Caid Essebsi won the largest share of votes in the legislative elections (approximately 39.71 per cent), with the Islamist party of Ennahda placing second with approximately 31.79 per cent.⁴⁸ As a result, Tunisia experienced a peaceful, democratic alternation of power from one political faction to another for the first time in its history. Essebsi enhanced his party's grip on the state by winning the presidency in a closely watched run-off election with the interim president, Moncef Marzouki, in December 2014.⁴⁹ The new government of Prime Minister Habib Essid comprises a majority of ministers drawn from Nidaa' Tunis with representation from several other parties, including Ennahda.⁵⁰

⁴⁶ Although the investigation into the deaths of the two leftist leaders identified a key suspect, Kamal Ghadghadi (who was killed in a raid on suspected terrorists in Tunis in February 2014), several others suspected of masterminding the crime remain at large. Possible groups behind the attacks include radical Islamists of the Ansar al-Sharia faction and organized crime. For more on the investigation, see the articles available at <http://www.aljazeera.com/indepth/%20features/2013/09/201394183325728267.html> (an overview of the murders) and <http://www.aljazeera.com/indepth/features/2013/09/2013912123114596685.html> (a description of the main suspects) (both accessed 8 March 2015).

⁴⁷ Carlotta Gall, 'Tunisian Constitution, Praised for Balance, Nears Passage', *New York Times*, 14 January 2014. David D. Kirkpatrick and Carlotta Gall, 'Arab Neighbors Take Split Paths in Constitutions', *New York Times*, 14 January 2014.

⁴⁸ These figures were reported by Carlotta Gall, 'Secularist Win is Confirmed in Tunisia', *New York Times*, 30 October 2014. Other parties winning lesser, yet still significant, proportions of the vote include that of businessman Slim Riahi and the Popular Front.

⁴⁹ Carlotta Gall, 'Ex-Cabinet Member Wins Tunisian Presidential Runoff', *New York Times*, 22 December 2014.

⁵⁰ Associated Press, 'Tunisia: Premier Announces More Inclusive Cabinet', *New York Times*, 2 February 2015.

However, it remains to be seen whether political optimism can provide solutions to the perilous state of the Tunisian economy, whose outlook remains weak due to a combination of internal and external challenges. While the latest report from the International Monetary Fund lauds Tunisia's fiscal discipline and tax policies, it warns that chaos in Libya coupled with economic stagnation in the European Union are external challenges threatening the country's growth. Domestically, Tunisia is burdened by the persistent high unemployment rates among youth and college graduates, as well as a crisis in bank capitalisation due to non-performing loans.⁵¹

These indicators are potentially ominous given the high expectations the Tunisian electorate brought with them to the polls in 2014. So what are the prospects for success for Tunisia? Paradoxically, they may rest upon the country's inhabitants applying the evolving concepts of citizen–state relations to the global arena. In the increasingly globalised 'network' society, as Manuel Castells characterises the world we live in today, nation-states are being challenged to defend their local cultures, while simultaneously engaging with transnational financial and industrial sectors which are vital to economic growth.⁵² Will the new rights and responsibilities of both citizen and state currently under construction in post-revolutionary Tunisia be transferable to the global marketplace? The promise of a better life for future generations of Tunisians may depend on it.

⁵¹ International Monetary Fund, *Tunisia: Fifth Review Under the Stand-By Arrangement, Request for Modification of Performance Criteria, and Rephasing of Access-Staff Report*; Press Release; and *Statement by the Executive Director for Tunisia* (December 2014). Available at <https://www.imf.org/external/pubs/cat/longres.aspx?sk=42564.0> (accessed 8 March 2015).

⁵² Castells, *Communication Power*.

'Global Citizen' and the Dislocated Generation in the United Arab Emirates

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Introduction

Global migration continues to shape individual experiences and group behaviours. Alternative migratory routes and the expansion of social networks further erode boundaries and challenge accepted beliefs and practices. Although North America remains the top recipient of worldwide immigrants, a new direction of population movement began to emerge during the twentieth century. From the 1930s onwards, a growing number of migrant workers began to flow into the Arabian Gulf searching for a brighter future. The enormous wealth brought by the soaring oil price in the 1970s triggered profound economic and social transformations. Today, many of these small nation-states in the Gulf region are among the richest countries in the world. Although there is a great level of uncertainty about the sustainability of such an economy that largely relies on oil wealth,¹ the strategic importance of the Gulf countries is unlikely to change in the foreseeable future. The ongoing social and cultural changes in the region as the result of rapid economic development continue to attract public interest and scholarly scrutiny.

Situated in the southeastern corner of the Arabian Peninsula, the United Arab Emirates (UAE) covers just over 30,000 square miles and shares borders with Saudi Arabia to the south, southeast and west, and Oman to the southeast and northeast. The rapid socio-economic development in the UAE since the 1970s creates an extremely unbalanced ratio of native to foreign population. As of 2010, non-national residents in the UAE had reached 7.24 million or roughly 87.7 per cent of the total population, and made up a stunning 95.6 per cent of the workforce.² Today, the UAE maintains one of the highest net immigration rates in the world.³ The exponential growth of foreign population in the UAE is deeply unsettling to the indigenous population and is seen as the top challenge to UAE society.⁴

¹ Christopher M. Davidson, *Dubai: The Vulnerability of Success* (New York: Columbia University Press, 2008).

² UAE Bureau of Statistics. Available at <http://www.uaestatistics.gov.ae/ReportPDF/Population%20Estimates%202006%20-%202010.pdf> (accessed 22 December 2013).

³ 'Middle East: United Arab Emirates', in CIA, *The World Factbook*. Available at <https://www.cia.gov/library/publications/the-world-factbook/geos/ae.html> (accessed 22 December 2013).

⁴ IPSOS, 'UAE Demographics Survey', 2007, cited in Ingo Forstenlechner and Emilie J. Rutledge, 'The GCC's "Demographic Imbalance": Perceptions, Realities, and Policy Options', *Middle East Policy* 18/4 (2011), pp. 25–43.

The UAE upholds one of the most closely controlled immigration systems, similar to those implemented in other Gulf countries.⁵ By design, it creates a large, temporary, transnational workforce instead of a more integrated immigrant population. The policy was first rolled out to respond quickly to the huge demand for manpower as the result of the UAE's ambitious economic development plans in the 1970s. The overriding importance attached to infrastructural and institutional development, combined with a strong desire to maintain the traditional political and social structures, legitimises the employment of a large number of foreign workers on a contract basis. Many of these temporary workers are unskilled or semi-skilled labourers working in low-paying jobs, are not financially qualified to bring their families to the country, and often return home once their contracts end. The highly skilled professionals who are employed in the sectors of health care, education, service industries and government tend to have a more stable employment status and are generally allowed to bring their families to the UAE. A large number of self-employed businesspeople have also been attracted to the country and operate under 'sponsors' in what is known as the *kafala* system.⁶ Thus, in essence, all expatriates, regardless of their educational levels, occupations and racial/ethnic backgrounds, are guests in the country. There is generally no naturalisation procedure, except in rare cases granted by the rulers.

The benefit of such immigration policies seems apparent. Admitting only temporary workers minimises the economic cost of sustaining a growing number of immigrants, since many cannot bring their families to the UAE and therefore make little use of public services and little economic demand.⁷ In addition, maintaining a transient workforce also decreases the political, social and cultural risks posed by immigrants. For the expatriates, this temporary status creates a sense of insecurity. Even for those who have lived in the country for decades, the UAE is still a place of transit and can never become 'home'. Under such circumstances, it is assumed that temporary workers are less likely to become attached to Emirati society. Thus this policy prevents the social/cultural integration of immigrants that would inevitably influence the indigenous culture and possibly the traditional political system.

In reality, the migration process has become rather more enduring than temporary for practical reasons, especially in the case of skilled professionals who have unavoidably become indispensable in many newly developed institutions. Many of them are allowed to renew their contracts and continue to work until retirement. In fact, some have even managed to stay beyond retirement. The difficulties in providing a large number of qualified nationals to meet the demand of an ever-expanding economy have led to some undesirable outcomes: temporary workers turned into lifelong residents who have raised families in the country and inevitably grown emotionally attached to the place.⁸ The phrase 'permanent impermanence'⁹ vividly captures expatriate experiences in the UAE.

⁵ Anh Nga Longva, *Walls Built on Sand: Migration, Exclusion and Society in Kuwait* (Boulder: Westview, 1997). Andrzej Kapiszewski, *Nationals and Expatriates: Population and Labor Dilemmas of the Gulf Cooperation Council States* (Reading: Ithaca Press, 2001). Sayed Ali, *Dubai: Gilded City* (London: Yale University Press, 2010).

⁶ *Kafala* is the sponsorship system implemented in the Gulf Arab countries to monitor temporary foreign guest workers. Under this system, only UAE nationals or corporate entities can obtain legal visas and residency permits for foreign guest workers.

⁷ Myron Weiner, 'Immigration: Perspectives from Receiving Countries', *Third World Quarterly* 12/1 (1990), pp. 140–65.

⁸ Neha Vora, *Impossible Citizens: Dubai's Indian Diaspora* (Durham, NC: Duke University Press, 2013).

⁹ Sayed Ali, 'Going and Coming and Going Again: Second-Generation Migrants in Dubai', *Mobility* 6/4 (2011), pp. 553–68.

The UAE poses an interesting case in the study of transnational migration. For the migrants – generally referred to as expatriates – in the UAE, their temporariness requires them to remain mobile or have the ability to be mobile at any point in time. Widely used ideal types such as ‘sojourners’, ‘immigrants’ and ‘transnationals’ in the existing literature of migration studies¹⁰ only inadequately capture such a form of mobility. The expatriates in the UAE are generally legal residents on a temporary basis with no hope of ever becoming permanent. There is a lack of incentive for them to assimilate into the host society, largely because the host society has no intention of facilitating (in fact is generally against) assimilation or acculturation. Such structural constraints have led the expatriates to become thoroughly transnational. Since their residency in the UAE remains temporary, or a mere sojourn, they are compelled to maintain close ties with their home countries, preparing for their future return, or moving on to another destination that they may eventually call ‘home’.

Similarly affected by the rapid economic development and the immigration policies in the UAE are the nationals who were uprooted not long ago from tribal communities and put into a postmodern society. UAE nationals remain the privileged minority living in the midst of an overwhelming number of highly diverse expatriate guest workers. Nevertheless, nationals’ sense of insecurity is mounting as well. Demographic imbalance has clearly become the nexus of recent studies on the UAE. There has been a growing ‘anti-foreign’ sentiment in the midst of rampant social protests and revolutions in the Middle East since December 2010.¹¹ Emiratisation – the nationalisation of the workforce – gained greater momentum in the years following the Arab Spring. Still, achieving a major correction of this demographic imbalance is unrealistic in the near future.

It is, therefore, sociologically meaningful to study the generations that have spent either most or all of their lives in the country, both nationals and non-nationals. How do the non-nationals evaluate their experiences in a country where they are permanently temporary? For the younger generation of expatriates born and/or raised in the UAE, how do they perceive their national identities and political rights? As technological advancement and economic globalisation continue to erode national boundaries, can we still use the existing conceptual categories to understand the new generation’s experiences?

In this paper, I focus on college students in one of the leading higher educational institutions in the Middle East, as they are in close contact with people of diverse backgrounds and have been exposed to a wide range of activities and programmes that promote cultural diversity and cosmopolitan ideas. I will draw on findings from a questionnaire survey and in-depth, face-to-face interviews to examine how transnational experiences and global awareness among these young adults shape their understanding of UAE society, their sense of belonging and their attitudes towards social and political issues. I will also evaluate the concepts of ‘global citizen’ and ‘cosmopolitanism’. As the UAE makes its way to becoming the new global economic hub and centre of the Arab world, the idea of educating a new generation of ‘global citizens’ is hugely appealing, and finds strong support in UAE-based global university branches as well as many local universities. In my research, I found that striving to become cosmopolitan ‘global citizens’ helps young people to reconcile their troubled

¹⁰ Peggy Levitt and B. Nadya Jaworsky, ‘Transnational Migration Studies: Past Development and Future Trends’, *Annual Review of Sociology* 33/1 (2007), pp. 129–56.

¹¹ Forstenlechner and Rutledge, ‘GCC’s “Demographic Imbalance”’.

relationship with the rapidly changing society of the UAE. This case study sheds light on various conceptual challenges facing scholars of immigration studies and globalisation in an increasingly interconnected and fluid world.

Data and Research Methods

This paper draws on relevant findings from a questionnaire survey on the changing values and worldviews among college students. It was conducted between 2010 and 2011 on 550 randomly selected college students at the American University of Sharjah (AUS), supplemented by 37 follow-up in-depth interviews with respondents identified from the initial sample. A research team comprised of two sociologists and a research assistant with a Master's degree in Anthropology designed and carried out the study. Anonymous questionnaires were distributed to students in randomly selected classes in the College of Arts and Sciences and returned immediately to the research team after completion. The research assistant – a non-AUS person – conducted most interviews in order to reduce the possible influence of faculty members (the two sociologists, including the author) on students during the interviews. Both survey and interviews were conducted in English. During the interviews, however, respondents occasionally used Arabic, Hindi or Urdu words to describe their feelings, or to refer to terms for which they could not find comparable words in English. The research assistant is fluent in English, Arabic and Urdu, and therefore was able to record and translate these words into English.

AUS is one of the leading comprehensive universities in the Gulf and the greater Middle East region that adopt an American higher education model, with an emphasis on liberal arts education. Its co-educational campus and residential college lifestyle further differentiate AUS from other higher educational institutions in the region. Founded in 1997 by the ruler of Sharjah, one of the seven emirates that form the federation, AUS is a not-for-profit organisation operating on the model of private educational institutions. AUS students tend to come from more liberal and financially well-off families than those who enrol in national universities that offer free education on gender-segregated campuses. At the time of this study, more than 5,000 undergraduate and graduate students were enrolled at AUS, including UAE nationals (20 per cent), Arabs from other countries (42 per cent), South Asians (12 per cent) and students of other ethnic backgrounds (26 per cent).¹² Since all AUS students are required to take courses in the College of Arts and Sciences to fulfil the general education requirements, the researchers were able to survey students from a wide range of specialisations at all levels.¹³ A total number of 393 valid and completed surveys were received. The response rate was 71.5 per cent. See Table 1.

¹² Data obtained from the AUS Office of the Registrar.

¹³ We did consider conducting a campus-wide survey using online survey tools. However, on the basis of our previous experiences with online surveys in the UAE, we decided to draw a smaller sampling frame – students who are enrolled in courses offered by the College of Arts and Sciences. We distributed questionnaires in randomly selected classes to ensure more reliable responses and a higher rate of completion.

Table 1 Descriptive statistics of survey respondents

| Category | Subcategory | Number | Percentage |
|--------------------------|---|------------|------------|
| Year in college | Freshmen | 84 | 21.3 |
| | Sophomore | 123 | 31.2 |
| | Junior | 67 | 17.1 |
| | Senior | 119 | 30.4 |
| Specialisation | College of Arts and Sciences | 118 | 30.0 |
| | College of Engineering | 128 | 32.6 |
| | College of Architecture, Art and Design | 25 | 6.4 |
| | School of Business Administration | 122 | 31.0 |
| Gender | Female | 216 | 55.0 |
| | Male | 177 | 45.0 |
| Ethnicity | Arabs | 254 | 64.6 |
| | South Asian | 32 | 8.1 |
| | Mixed | 34 | 8.7 |
| | All others | 73 | 18.6 |
| Status in the UAE | UAE nationals | 90 | 23.0 |
| | Expatriates | 213 | 55.0 |
| | International students | 90 | 23.0 |
| Total | | 393 | 100 |

To enrich the quantitative data, students were also asked to provide their contact information on a separate page if they were willing to participate in follow-up face-to-face interviews. Out of 103 students who provided their contact methods, indicating their interest in follow-up interviews, only 37 actually accepted the requests for face-to-face interviews. Eight of them were UAE nationals, or approximately 22 per cent. About half (17, or 46 per cent) were born/raised or mostly educated in the UAE.¹⁴ Certainly, this sampling method is not free of the problem of self-selection. However, such problems are not unusual in survey studies. The level of reluctance among students to participate in this study and the lack of institutional support made data collection particularly challenging.¹⁵ In addition, the volatile political environment in the Middle East in subsequent years made it almost impossible for the researchers to gain permission to conduct surveys in other universities so as to enable comparisons across institutions. Nevertheless, the fact that AUS students are clearly exposed to diverse cultures offers a unique opportunity to study young adults whose identity matrices may be the most complex and dynamic.

¹⁴ In this paper, I consider respondents who received their primary education in the UAE as born/raised in the UAE.

¹⁵ The Institutional Review Board approval process was delayed for almost six months. A number of questions in the survey were deemed inappropriate or sensitive in the context of UAE society.

Delineating the Boundaries of UAE National Identity

Despite the UAE's restrictive immigration policies, the growing middle and upper middle class of professionals and business owners from diverse racial/ethnic backgrounds have become increasingly visible in the local and national communities, while maintaining strong transnational ties. Throughout the years, they have established private ethnic schools, hospitals, trade organisations, professional associations, religious fellowships etc. Some own real-estate properties and other forms of investment in the UAE. These expatriates are qualified to sponsor residence visas for direct family members. As their children grow up in the UAE and temporary visas sometimes stretch into de facto permanent residence, their status raises many questions, among which stands the issue of naturalisation and citizenship.

Mass naturalisation has never been an option to address the issue of labour shortage in the UAE and other Gulf Cooperation Council (GCC) countries.¹⁶ As is the case for many other countries, UAE nationality is based on the principle of *jus sanguinis* (line of descent). More specifically, UAE nationality is generally based on tribal lineage, except for the small number of Ajam,¹⁷ who add a thin layer of ethnic diversity to the demography. Therefore, the term 'Emirati' can hardly be extended to include foreigners. However, it is important to note that the UAE is a federation of seven emirates, each comprised of many tribes and clans. A unified nation did not come into being until 1971. Until then, there was no such concept as UAE national identity. People who have historically resided in the Gulf region are generally referred to as *Khaleeji*, or people of the Gulf. Yet people were expected to be loyal to their own tribes. The formation of the UAE and the independence of Bahrain and Qatar created several distinctive nationalities that did not exist before. The Emirati identity was largely constructed in the decades following the formation of the federation and in the process of an economic development that has solidified the dualistic structure, with a clear line drawn between nationals and non-nationals in almost every aspect of social life. The importance of blood purity further creates subgroups among the UAE nationals, differentiating 'pure' Emiratis from 'mixed' ones.¹⁸

Visitors are often so fascinated by the racial/ethnic diversity in the UAE as to see it as a cosmopolitan place. To some degree, the UAE prides itself on being an open society that has accommodated an overwhelmingly large number of foreigners who are both racially/ethnically and religiously diverse. But this openness is more or less the inevitable consequence of a small national population and the UAE's ambitious economic development plans, rather than an ideal social structure preferred by the ruling families. While being a 'tolerant, open caring society', the UAE 'cherishes its religious and traditional roots'.¹⁹ In order to ensure that the traditional culture of Emirati society remains intact in the process of fast modernisation, the expatriates have been accommodated on a temporary basis. Resistance among the indigenous population lends further support to the current policies. Foreigners are seen as economically oriented, unlikely to develop loyalty to the state and therefore not to be trusted.

¹⁶ Forstenlechner and Rutledge, 'GCC's "Demographic Imbalance"'.
¹⁷ The Ajam are the descendants of Persian, Indian African and Baluchi merchants settled prior to the era of the 'oil boom'. Fatema al Sayegh, 'Domestic Politics in the United Arab Emirates: Social and Economic Policies, 1990–2000', in Joseph A. Kechichian (ed.), *Iran, Iraq, and the Arab Gulf States* (New York: Palgrave, 2001), pp. 161–75.

¹⁸ Ibid.
¹⁹ *UAE Yearbook 2008*, p. 213. Available at <http://www.uaeyearbook.com/Yearbooks/2008/ENG> (accessed 25 December 2013).

For people who have lived in the UAE long enough, its multiculturalism is rather superficial. The immigration policy has created dualism, rather than pluralism, in various social institutions. Reward is not always determined by merit. There is little meaningful social interaction between the nationals and expatriates. The various social institutions, instead of ameliorating social frictions, reinforce this pattern of dualism, which further generates a compartmentalised society largely divided along racial/ethnic lines. As a result, there are ample racial/ethnic stereotypes in society. The new expatriate communities are often mere extension of social networks at home.²⁰ The conflictual status of indigenous and foreign complicates individual identities and group relations.

In our interviews, almost all the respondents were able to describe the UAE's demographic characteristics and discuss intelligently the consequences of diversity and the existence of an overwhelmingly large non-national population. Many of the respondents had personally witnessed the amazing transformation of this desert nation through the 1990s and the first decade of the twenty-first century. However, the feeling towards the growing racial/ethnic diversity was much more mixed. When asked about the impact of racial/ethnic diversity in the UAE, a Palestinian student shared her experience of living there:

There are different kinds of people, you learn from different kinds of people. If you stick to one race, one nationality, you will be ignorant, you won't know as much as everyone does. In the UAE they make you learn about different cultures. For example I am Muslim and I have a Christian friend who is Lebanese. I have learned a lot of stuff that are in her culture but are not in my culture.

It may be exciting for a Palestinian to make friends with a Lebanese; yet the distance between the nationals and expatriates has hardly narrowed despite the growing diversity in the country. More than two-thirds of our respondents said that they did not have any real Emirati friends. They found that the nationals tended to stay within their own small groups and were not interested in mingling with the expatriates. Language barrier was one of the factors that prevented meaningful social interactions between the nationals and non-nationals. More importantly, according to the respondents, it was a sense of privilege and fear that kept the nationals away from the expats. A Palestinian girl thought the distance was natural because '[the locals] are really afraid [of] us [foreigners]'. They think that we are coming here to take everything from them.' Mostly, respondents said that the lack of interaction and integration intensified the dualistic nature that characterises UAE society, which exacerbates mutual stereotyping and contributes to the growing anti-foreign sentiment among UAE nationals. Indeed, Emiratis have been depicted as uneducated, arrogant and lazy. Fatima, a UAE national studying Biology who had maintained an almost perfect grade point average, hoped to break the stereotype by being a diligent student and a dedicated employee. Daughter of an Emirati father and an American mother, Fatima contends,

It's frustrating when I sometimes hear all those negative comments about the locals, which makes me feel almost like an impostor. If I get a good job, people will say that it is only because of my nationality. It is just like what the Affirmative Action does to the African Americans in the States.

²⁰ Vora, *Impossible Citizens*, p. 3.

Fatima was exceptional in many ways. Although she was not afraid of competing in a genuine merit system, others were far less enthusiastic about this idea. In fact, it seems that excluding expatriates from the legal realm of 'citizenship' in the UAE did little to create a sense of security among the nationals. In any case, under the shadow of the mushrooming skyscrapers, the UAE's political structure remains opaque, leaving little room for cultivating meaningful citizenship among its local population. Given its political connotation, citizenship is generally avoided in public discourses. Therefore, the imminent danger of losing 'Emirati' identity has little to do with the boundaries of citizenship with regard to rights and responsibilities. It is, in fact, about the threats expatriates pose to family and marriage structures, gender relations, traditional lifestyle and even the self-perception of Emiratis. The diverse foreign cultures coexisting in UAE society continue to push the boundaries of social norms and dilute the indigenous Khaleeji culture, which could result in the breakdown of social equilibrium.

Although the immigration policy successfully prevents expatriates from obtaining UAE citizenship, it appears powerless to prevent foreign cultures from entering Emirati society. Our study shows that the line between nationals and non-nationals has become increasingly vague. A respondent of Russian and Syrian descent recounted her reaction when Sheikh Maktoum bin Rashid al Maktoum, former vice president, prime minister and ruler of Dubai, passed away in 2006. She recalled that her Christian friends of Indian descent were extremely saddened by the news, 'as if they had just lost their own father'. This sentiment expressed by non-Arab and non-Muslim expatriates in the UAE clearly challenges the boundaries of national identity. If 'national identity is to feel you belong to your homeland and to feel zeal toward everything related to it', as Khalfan Musabih, cultural advisor at the Sheikh Mohammad bin Rashid Foundation, defines it,²¹ then we must ask whether we could define the presence of such 'zeal' among expatriates as a kind of national identity. The dilemma of 'belonging' but 'not being' constantly reminds the expatriates of the transitory nature of living in the UAE.

Although the rights and responsibilities of the UAE citizens are limited compared to those in a democratic polity, the legal status of UAE citizenship does offer them protection and delineates boundaries. It prevents the expatriates from becoming active participants in public life and becoming attached to Emirati society. Citizenship also entails responsibilities and duties. Not being a citizen excludes expatriates from consciously making positive contributions to society. For many expatriates, the dualistic social structure prevents them from becoming active members of the UAE. They lament that their purpose in living in the UAE can only be economic, that there is nothing else and should not be anything else. Frustrated, some wish to move to other countries because their 'love' for the UAE is considered a threat. Such frustration was felt clearly in our interview with a Palestinian student born and raised in the UAE: 'No, I don't call [the UAE] home [...] I don't feel like its home although I lived all my life here. I don't know why. Maybe because of the way locals treat us, I think.'

²¹ Eman Mohammed, 'The Debate on UAE National Identity', *Gulf News*, 26 May 2008. Available at <http://gulfnews.com/news/gulf/uae/general/the-debate-on-uae-national-identity-1.106921> (accessed 19 October 2011).

Dislocated or Transnational: Anchoring Conflicting Identities in a Globalising UAE

The voluminous literature on immigration offers important insights into the process of identity formation among immigrants, both legal and illegal, both sojourners and transnationals, who maintain multiple social relationships that link their roots and new homes.²² Many of the discussions are coalesced around the problem of assimilation.²³ Scholars who examine immigrants in the USA find the term 'assimilation' tarnished by white supremacy. Both theoretical and empirical studies show that immigrants have developed varied ways to cope with the challenges of living in a strange world. Some become acculturated, while others achieve selective adaptation.²⁴ The model of multiculturalism has also gained much popularity. Yet the dark side of multiculturalism has led many to turn to pluralism.

The case of the UAE challenges some important assumptions and constituencies in immigration studies. The UAE's immigration policies in reality create a group of 'forced sojourners', who are not expected to seek assimilation or adaptation. The compulsory tie between employment and residential status implants a sense of insecurity and consistently reminds the expatriates of their temporary status in the UAE. They must be prepared to leave the country like 'sojourners' in the traditional sense of the term. In practice, the UAE's immigration policies are based on neoliberal principles facilitating rather than impeding economic growth. Based on agreed social contracts between the rulers and local elites who have enthusiastically sponsored a large number of multinational corporations, the immigration policies also seek to generate institutional stability rather than chaos. As a result, it is possible for expatriates who have the desire to live in the country to achieve long-term stability.²⁵ In this context, the status of expatriates is indeed similar to that of immigrants. The idea of multiculturalism has enabled them to reconcile various challenges in everyday life. Like ethnic minorities in other immigrant-receiving countries, expatriates in the UAE have also created ethnic business associations, ethnic educational institutions, ethnic religious fellowships etc.²⁶ Adaptation or selective adaptation has occurred, although acculturation is generally prevented due to the lack of interaction between the nationals and the expatriates.

Consequently, the absence of acculturation helps to maintain strong ties between expatriates and their home countries. It is desirable for expatriates to continue cultivating their social, economic and in some cases political ties at home in preparation for their return in the future. These ties are transnational in nature, stressing the importance of blood lineage, heritage and traditions at home. In addition, for many expatriates from other countries in the Middle East and North Africa, South Asia and Southeast Asia, the UAE is also an ideal place from which to continue their migration journeys. It is often a stepping-stone en route to Europe, North America or Oceania. The neutrality the UAE maintains in its international relations provides a safe haven for refugees and voluntary migrants alike to prepare for more promising futures.

²² Levitt and Jaworsky, 'Transnational Migration Studies'.

²³ Alejandro Portes and Rubén G. Rumbaut, *Legacies: The Story of the Immigrant Second Generation* (Berkeley: University of California Press, 2001).

²⁴ Margaret Gibson, 'Immigration Adaptation and Patterns of Acculturation', *Human Development* 44 (2001), pp. 19–23.

²⁵ Vora, *Impossible Citizens*.

²⁶ Frauke Heard-Bey, 'The United Arab Emirates: Statehood and Nation-Building in a Traditional Society', *Middle East Journal* 59/3 (2005), pp. 357–75.

In our survey, more than 20 per cent of the respondents held passports issued by developed countries including the UK, France, Germany, the USA and Canada. More than 60 per cent had resided in two or more countries. Their transnational experiences need to be understood in the broader process of globalisation. What makes the UAE more attractive than other GCC countries, judging from the accounts of our respondents, is its enthusiasm for building itself as 'the new meeting place of East and West', with Dubai as its anchoring global city, where diversity is actively promoted and law enforcement is mostly unbiased. One respondent applauded the achievement of the UAE:

I think the UAE is one of the most beautiful and developed countries in the world. It's the most stable, economically and politically and people even if they are not happy because of their work conditions or life conditions regarding money or something, they prefer to be here because they have a lot of choices. [...]

I love Dubai because it has everything, people with religion, no religion. I think it is much better to live here because it is the city that involves everybody and you don't feel like you are discriminated by anything.

Others are more sober about the UAE and future prospects. Nevertheless, instead of being resentful of the immigration policies in the UAE, the majority of the respondents felt that the education they received in the UAE enabled them to develop a global mentality. They tended to look beyond the restraints they faced due to their temporary status in the UAE and draw on their transnational experiences to reconcile the conflict.

More importantly, although the children of expatriates are often described as a 'rootless' generation that is deprived of meaningful citizenship in any country, they felt such 'rootlessness' transcended national boundaries and enabled them to embrace globalisation. Prepared by their interactions with a diverse population in the UAE, combined with the liberal arts education that exposed them to various social problems around the world, they were eager to break away from tribalism, parochialism and nationalism, and to develop compassion towards 'others'. This was also true among young Emiratis. Born to an Emirati diplomat father and a Syrian mother and having grown up in Europe, Sarah was not convinced that there is an 'Emirati culture'. She said:

The country is fairly new [...] so I think it's too early to say what true culture is or what true traditions are because to be honest it is extremely multicultural. There is no room for [the locals] to have their own culture. They are borrowing from other places and especially Dubai, it is adapted for the foreigners. You have buildings brought in from different countries, replicas of towers, supermarkets, [and] shopping malls. They are all brought in from the West so you need to look at what lies in the soil of the country but the soil is still, I mean the grass is green but its not real. It's a desert.

Her experiences of living in a number of countries in Europe had allowed her to develop a strong awareness of social inequality:

When I came [back to the UAE] I was not impressed by the sort of segregation in [social] class and how there was a hierarchy of the locals, upper classes, lower classes and it was so divided and the lack of meritocracy in this country was something

that I didn't agree with. Its like if you were born in a good family then you have good opportunities to get better jobs, paid better, especially if you are local and I feel that is very unfair. Because what does it leave the other people to do? They work just as hard and don't get paid the same. [...] The underpaid workers, the Indian, Pakistani, Bangladeshi etc. I think it is extremely unfortunate because they supply the country with the streets that we walk on, the buildings that we walk into, and things like that. But they get treated unfairly.

These comments reflect the changing mentality. Although these young adults were often facing very different challenges and came from a wide range of socioeconomic backgrounds, their visions of the world were clearly shaped by their experiences of rapid globalisation. While feeling 'dislocated', they were also striving to stay connected. These connections were cultivated through their transnational experiences, which ironically were facilitated by UAE's immigration policies. These young adults' interpretations of the relationship between global and local and the opportunities they enjoyed in the UAE rearranged the coordinates on their identity matrices.

The Paradox of Being a Global Citizen: Developing Coping Strategies

In the existing literature, citizenship has been defined in many different ways.²⁷ It often acts as 'a powerful instrument of social closure'.²⁸ In a democratic polity, citizenship gives the right to vote, to run for office and to participate freely in various civic organisations, while requiring the citizen to fulfil his or her obligations by paying taxes or serving in the military etc. Although, in the era of globalisation, the association of citizenship with the nation-state is under siege as the phenomenon of 'world citizen' or 'global citizen' emerges as the result of mass transnational movements, scholars argue that citizenship is still very important and relevant in today's world.²⁹ It delineates the boundaries of nation-states. The concept of citizenship includes 'us' and excludes 'them'. It offers protection and mandates obligations. It is also an important measure by which either to alienate or to integrate immigrants. In the socio-political context of the UAE, citizenship carries a set of rights and duties that are different from those under a typical democratic polity. Still, it undoubtedly creates boundaries that differentiate citizens from foreign residents by associating privileges and favourable treatments with national citizenship.

Living in a time of rapid economic development and social transformation, most of our interviewees felt overwhelmed, powerless and anxious. They were eager to become independent and assertive, yet the reality appeared gloomier than they had imagined. Out of the eight UAE nationals we interviewed, all were fascinated by the diverse cultures brought to the UAE by the expatriates. Several of them showed strong sympathy towards the poor and condemned the dark side of globalisation. The expatriates expressed a similar appreciation of diversity. Although they were obviously worried about their future, none of them made clear their views of citizenship. Some of them did show a level of frustration, but mostly

²⁷ Marc Morjé Howard, 'Comparative Citizenship: An Agenda for Cross-National Research', *Perspectives on Politics* 4/3 (2006), pp. 443–55.

²⁸ Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press, 1992).

²⁹ Howard, 'Comparative Citizenship'.

they chose to look beyond these structural limitations to describe their experiences in the UAE as enriching and empowering. In response to the uncertainties about the future, the contrasts between the rich and the poor and the ambivalence about traditional values, many respondents connected their transnational experiences to the term 'global citizen' or 'world citizen'. To cope with various challenges at home, in university and at the workplace, they had generally shifted their attention to 'things that are much bigger' than the immediate concerns of everyday life.

The UAE is ambitious to improve its global status. Discourses on cultivating 'world citizens' or 'global citizens' in the cosmopolitan UAE cities have generated much interest. The term 'world citizen' has been mentioned frequently in the mass media. Moreover, Dubai has successfully hosted a number of high-profile global events in the past few years, such as the World Economic Forum, the Global Citizen Forum and more recently the World Islamic Economic Forum, putting the city on a par with other global cities. Paralleling these developments is the growing effort to build civil society in the UAE.³⁰ These public discourses embody the ideal of inclusiveness.

Dubai, the most prominent city in the UAE, is often described as 'cosmopolitan'. The impression is usually based on the observation of the existence of diverse people and organisations in its public space. However, in reality, this multicultural appearance contributes to the compartmentalisation of society in which little social interaction exists across groups, let alone the development of 'a love of humanity', as cosmopolitan scholars advocate. The limited daily interactions between the nationals and expatriates help to maintain the rigid status quo. Social inequalities based on national origins become institutionalised to a great extent. Thus, Dubai hardly qualifies as a 'cosmopolitan' city.

The concept of 'cosmopolitan' is probably little understood and therefore misused by the public. In the contemporary rejuvenation of the Stoic idea of cosmopolitanism, it is understood as the love of humanity as a whole, or as being about duties owed to every person in the cosmos (world), without or beyond national, religious and ethnic differentiations. Cosmopolitanism is a moral disposition; as Diogenes said, 'I am a citizen of the world [*kosmopolitês*].' Cosmopolitans are those who put right before country, and universal reason before the symbols of national belonging.³¹ Such a disposition requires reasons to examine one's own customs and bonds critically, love of humanity beyond one's local or group loyalty, and narrative imagination to think what it might be like in the shoes of others in terms of personal stories, emotions, wishes and desires.³² A more relaxed version of Nussbaum's cosmopolitanism is based on common humanity – reason, love and duties – as well as her insistence on developing moral capabilities through liberal education. Her exultation of cosmopolitanism has been met with criticism because it sacrifices patriotism and other group identities (from a multiculturalist perspective) and overemphasises the values of humanity over individual rights or choices (from a liberal perspective).³³

³⁰ The UAE's top research foundations, such as the Emirates Foundation, have dispatched various calls for research on civil society in the UAE during the last several years.

³¹ Martha Nussbaum, 'Patriotism and Cosmopolitanism', *Boston Review* 19/5 (1994), pp. 3–34 at p. 8.

³² Ibid., p. 7. Martha Nussbaum, *Cultivating Humanity: A Classical Defense of Reform in Liberal Education* (Boston: Harvard University Press, 1997).

³³ Samuel Scheffler (ed.), *Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Thought* (New York: Oxford University Press, 2001). Fred Dallmayr, *Dialogue among Civilizations: Some Exemplary Voices* (New York: Palgrave Macmillan, 2003).

Certainly, others have also attempted to interpret the idea of cosmopolitanism. Jeremy Waldron,³⁴ for example, constructs a thicker theory of cosmopolitanism that requires people living side by side to interact with each other, regardless of their differences. Habermas and Benhabib et al.,³⁵ representing another school of thought on cosmopolitanism, argue that we already live in a 'post-national constellation' of transnational citizenship, in which the 'conventional model' of a world of 'nation states regarded as independent actors' and bounded forms of national citizenry is 'less and less appropriate to the current situation'.³⁶ For them, citizenship must be addressed through an expanded theory of transnational discursive democracy exactly because international migration and inclusion of aliens in political processes have become connected to transnational economic and cultural enterprises. The deliberation process in a global civil society implies that a global citizenship not only should be extended as a universal human rights regime to all the people in the world, but also involves inclusion of third-country nationals or other underprivileged immigrants in the developing countries.³⁷

The UAE's 'cosmopolitanism' is skin deep, as the large number of foreigners and a much smaller number of nationals clearly continue to live in different worlds with little overlap. The limited interactions between nationals and expatriates prevent the development of Waldron's version of cosmopolitanism. Nevertheless, in some sense, the Nussbaum style of cosmopolitanism may offer a way to integrate the young adults who have never had any meaningful experiences with citizenship. Growing up in modern cities in the UAE, young adults have relatively few connections with their parents' ethnic culture. The transnational lifestyle and frequent travel detach them from a particular locale and allow them to develop genuine understanding of universal human rights regardless of ethnic or national boundaries. Their transnational experiences make it easier to move across multiple boundaries and to appreciate the post-national social structure, in which they find citizenship of little use. The experiences of living in the UAE could potentially encourage one to develop a sense of global citizenship as a way to reconcile conflicting identities.

Alongside the public discourses on the 'global citizen', scholars have also explored other alternative concepts to understand life in diaspora. The concept of the citizen is not static. Studies show that one becomes a citizen by claiming membership in a social body. This citizen-making process is understood and regulated by other members of society.³⁸ It could be viewed as 'a cultural process of "subjectification"' or a 'negotiated relationship, one which is subject [...] to change, and acted upon collectively within social, political and economic relations of conflict'.⁴⁰ Non-citizens negotiate citizenship rights in the process of developing strategies to cope with their disadvantaged social status.

³⁴ Jeremy Waldron, 'What is Cosmopolitan?', *Journal of Political Philosophy* 8/2 (2000), pp. 227–43.

³⁵ Jürgen Habermas, *Postnational Constellation: Political Essays*, trans. Max Pensky (Boston: MIT Press, 2001). Seyla Benhabib, Jeremy Waldron, Bonnie Honig and Will Kymlicka, *Another Cosmopolitanism: Hospitality, Sovereignty, and Democratic Interactions*, ed. Robert Post (New York: Oxford University Press, 2006).

³⁶ Sheldon Pollock, 'Cosmopolitan and Vernacular in History', *Public Culture* 12/3 (2002), pp. 15–53 at p. 29.

³⁷ Dallmayr, *Dialogue among Civilizations*.

³⁸ Hae Yeon Choo, 'Gendered Modernity and Ethnicized Citizenship: North Korea Settlers in Contemporary South Korea', *Gender and Society* 20/5 (2006), pp. 576–604.

³⁹ Aihwa Ong, 'Cultural Citizenship as Subject-Making: Immigrants Negotiate Racial and Cultural Boundaries in the United States', *Current Anthropology* 37 (1996), pp. 737–62 at p. 737.

⁴⁰ Daiva Stasiulis and Abigail B. Bakan, 'Negotiating Citizenship: The Case of Foreign Domestic Workers in Canada', *Feminist Review* 57 (1997), pp. 112–39 at p. 112.

The situation expatriates in the UAE face is peculiar in that their stay is always temporary and they should always be prepared to leave the country. Although many of them have developed a great deal of emotional attachment to the UAE, they are unlikely to be perceived as 'just like us' by the UAE nationals. The differences are exaggerated and similarities minimised due to the lack of interaction. Even Arabs who share many social, cultural and religious traditions with the Emiratis are perceived as 'others'. What connects the expatriates and UAE society has been confined within the economic realm. In the city-states of the UAE, this economic relationship deserves much attention. It is the primary reason for the emirates to import immigrants as well as for the immigrants to remain in the emirates. When asked about their opinions of UAE society, all of our 37 interviewees mentioned shopping malls, festivals and luxury goods.

Without doubt, one of the important activities in the UAE is consumption. Neha Vora uses 'consumer citizenship' to explain the paradox of 'belonging' but 'not being' among the sizeable middle-class Indian expatriate population of Dubai. She argues:

Expatriate consumer citizenship, while seemingly a form of belonging that exceeds and challenges the nation-state, was actually an integral part of the production of the UAE nation-state as distinct from other states, and as distinct from the economy.

Indians in Dubai, even though they do not have formal access to citizenship and are segregated from Emiratis and other expatriate groups, provide examples of new subjectivities enabled by migration, and in so doing, challenge conceptions of belonging as based in liberal notions of rights, citizenship, and cultural assimilation.⁴¹

Vora's concept of 'consumer citizenship' challenges the traditional boundaries of citizenship that is strictly defined by the borders of nation-states. Becoming an active consumer in the UAE has indeed been utilised as one of the coping strategies. The shopping malls are important public spaces for social networking and group interaction. 'Consumer citizenship' reveals an important aspect of social life in the UAE. While consuming, expatriates enjoy various social services and are granted the right to access various facilities.

This 'consumer citizenship' also indicates people's indifference towards issues that are often considered important in other societies, such as corruption, women's rights, unemployment and the environment. Judging from our survey, students have little interest in politics, which was seen as just slightly more important than traffic problems on a list of 14 items.⁴² On the other hand, health, security and education were ranked as the three most important social issues, followed by economic development and human rights.

There is still very little to be said about civil society in the UAE and it is obvious that there is a sense of political apathy; however, there was clearly a growing level of civic engagement among the young adults surveyed in our study. Despite the multiple barriers in society

⁴¹ Neha Vora, 'Producing Diasporas and Globalization: Indian Middle-Class Migrants in Dubai', *Anthropological Quarterly* 81/2 (2008), pp. 377–406 at p. 379.

⁴² We used a Likert scale to measure the importance of a total of 14 social and political issues: security, health, women's rights, national-expatriate relations, economic development, unemployment, corruption, public morality, human rights, labour rights, traffic, education, environment and politics. We also asked respondents to identify what they considered the three most important issues as well as the three least important.

preventing the expatriates from experiencing citizenship in a meaningful way, the liberal education offered at AUS had encouraged the young adults to redefine their status in UAE society, through the formation of alumni associations, environmental preservation groups, voluntary sports groups, religious clubs, community service clubs etc. These organisations create opportunities of civic participation for both nationals and expatriates. More importantly, these associations provide a level playing field for nationals and expatriates, transcending the conventional dualistic social structure that gives preference to nationals over non-nationals, and providing institutional support for more meaningful experiences of 'citizenship'. Participants in these organisations deliver services to society through various programmes, and subsequently learn to become globally responsible and ultimately cosmopolitan people. Originally from Kerala, India, but raised in Sharjah, a student studying Journalism found opportunities to continue learning about Emirati culture:

People from the different nationalities do mix. The upcoming Global Day is an example of how different cultures and nationalities mix. Even though there are different cultural clubs. There is the Pakistani Cultural Club, [and] there is the Emirati Cultural Club. Even though I am not an Emirati national, I did go and join the club. I mean there are different people joining different clubs and participating in different activities. There is a lot of mixing and integration.

Conclusion

The fast-growing economy of the UAE has only increased the UAE's dependence on foreign workers during the last several decades. The expatriates have played significant roles in the social development and are the backbone of the economy. Although the UAE government has a clear goal of only using temporary or short-term immigrant workers to meet the labour shortage, it has become evident that foreign guest workers have been 'structurally integrated into the economy'.⁴³ The sheer formidable number of foreigners alone has a profound impact on the indigenous population. Particularly, the growing number of middle-class, high-income professionals and their increasing influence in society present a threat to the local lifestyle and raise concerns domestically over the social values of the UAE. The dualistic characteristics of UAE society allow the state to control the distribution of wealth between its nationals and expatriates. Economically, it has probably worked in the UAE government's favour; however, socially and culturally it does more harm than good. The current immigration policy in the UAE needs to address its apparent paradoxical outcomes, since it not only fails to slow down the erosion of local culture, but also creates mistrust within society.

In the case of the UAE, citizenship exists within the political structure of patriarchal sheikhdoms, Khaleej tribal identity and the federation system. Although the rights and responsibilities of UAE citizens are limited compared to those in a democratic polity, UAE nationals have been actively participating in the governance of their country since the 1970s, while the expatriates have largely been excluded from participating in public social life.⁴⁴ The concept of citizenship as membership within a political structure discourages or even

⁴³ Weiner, 'Immigration'.

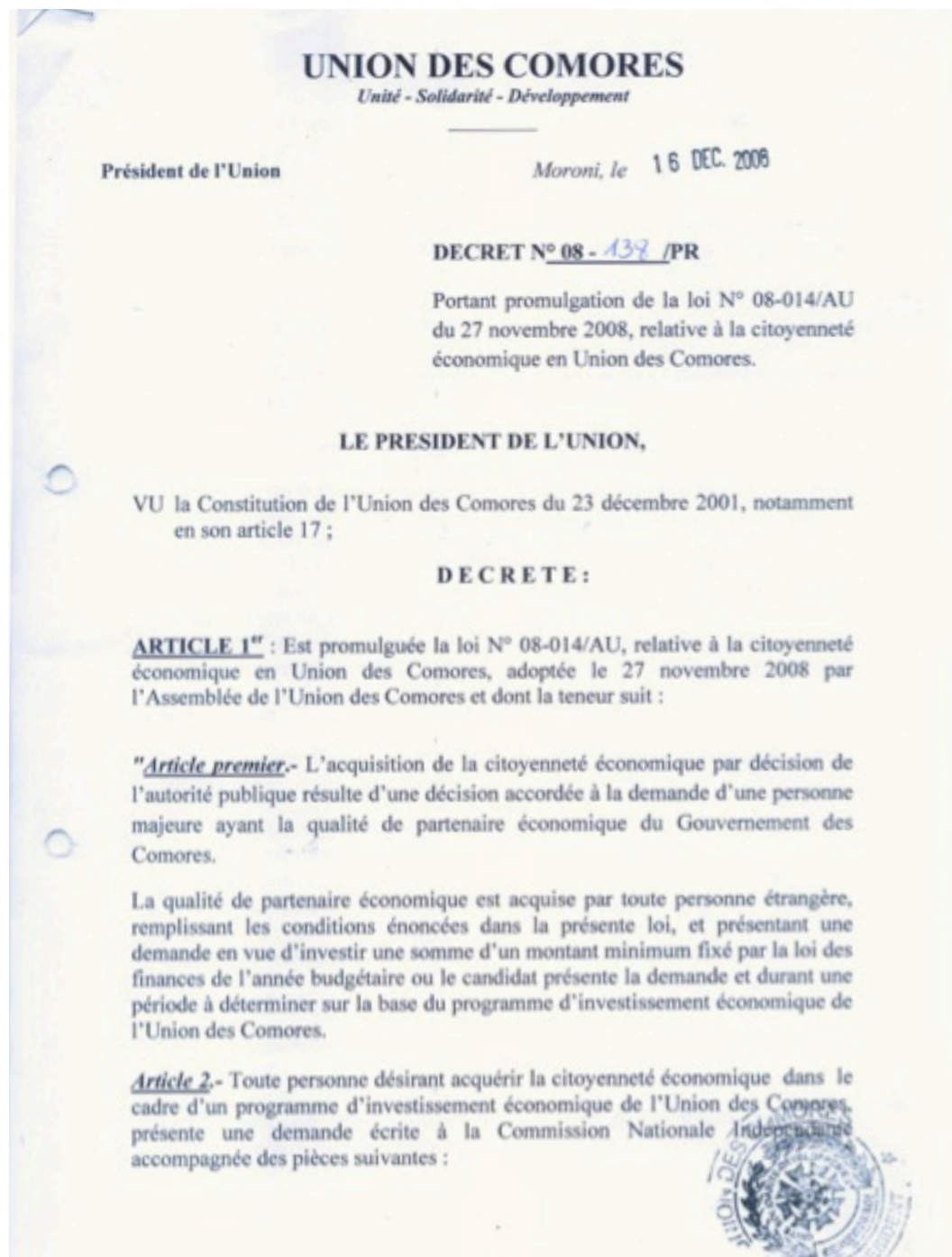
⁴⁴ Heard-Bey, 'United Arab Emirates', p. 369.

rejects the positive contribution of expatriates, for they are not citizens, are not granted any citizen rights and therefore do not carry any responsibilities. The rhythm of the temporary lives of foreign residents in the UAE is comprised of three essential steps: working hard, saving money and departing. The purely economic relation between the expatriate communities and UAE society is in every sense against the development of global citizenship.

However, as the UAE continues its neoliberal economic policies and becomes more integrated into global society, its traditional cultures will not stay static. Various boundaries will become more fluid and so create space for individuals and groups to redefine their social roles. The concept of the 'global citizen' is still at the stage of conceptualisation. In some cases, it contradicts patriotism, contests the dominant power structure and, more importantly, is practised by a small number of 'transnationals' who have been inspired by the liberal arts education they receive and empowered by their migratory experiences to develop a sense of global awareness. Nevertheless, the frustrations and hopes expressed by this generation of transnationals and their growing sense of responsibility towards humanity as a whole will continue to enrich our understanding of the enduring effect of global migration.

Annexes

Annex I: Law Pertaining to 'Economic Citizenship' in the Union of the Comoros



- Un acte de naissance de moins de trois mois ;
- Un certificat médical de moins de trois mois ;
- Un casier judiciaire de moins de trois mois ;
- Un acte de mariage ; le cas échéant
- Une preuve de dépôt du montant requis pour l'investissement prévu fourni par une banque ou tout autre institution financière agréée en Union des Comores.
- La quittance ou le reçu de droit et frais délivré par le trésor public,
- Le dossier du projet d'investissement ;

Article 3.- Mission, composition et fonctionnement de la Commission Nationale Indépendante :

a) la Commission Nationale Indépendante a pour mission de :

- recevoir les demandes et exploiter les informations relatives à l'identité de la personne.
- recueillir ou faire recueillir, vérifier ou faire vérifier l'authenticité des pièces y afférentes, mener les enquêtes préliminaires, opérer la sélection des candidats et émet une recommandation avant de transmettre le dossier au Ministre de la Justice ;
- coopérer avec les organismes nationaux, étrangers et internationaux pour toute information utile.

b) Composition

La Commission Nationale Indépendante est composée de 7 membres repartis comme suit :

- deux représentants du Ministère de la Justice ;
- deux représentant du Ministère des Investissements ;
- le Directeur Général de l'Agence nationale des investissements ;
- deux représentants de l'Assemblée de l'Union.

Les membres de la CNI sont nommés par le Président de la République.

c) Fonctionnement

La Commission Nationale Indépendante se réunit sur convocation de son Président.

La CNI peut faire appel à tout expert ou consultant susceptible de l'assister dans ses travaux conformément aux dispositions de son règlement intérieur.



Article 4.- La citoyenneté économique est accordée par décret du Président de la République pris en Conseil des Ministres sur avis conforme de la Commission Nationale Indépendante et après présentation du dossier par le Ministre de la Justice.

Article 5.- La Commission Nationale Indépendante ne rend son avis qu'à l'unanimité de ses membres.

Article 6.- La citoyenneté économique est accordée sans condition de résidence habituelle aux Comores ni de stage.

Elle ne peut être accordée qu'à l'étranger justifiant de sa résidence habituelle hors du territoire Comorien.

Article 7.- Un décret du Président de la République détermine les droits reconnus aux conjoints et enfants mineurs de la personne devenue citoyen économique.

Article 8.- Nul ne peut acquérir la qualité de citoyen économique en application de la présente loi :

- 1- S'il est membre d'un groupe terroriste ou postulant des principes contraires à l'Islam et à la Sunna,
- 2- s'il présente une menace pour la sécurité, la paix, la cohésion sociale et culturelle de la société comorienne ou s'il s'identifie d'un extrémisme religieux portant atteinte à l'ordre public ;
- 3- S'il n'est pas pleinement intégré au tissu social et démographique de son pays d'origine ;
- 4- S'il n'est pas de bonne vie et mœurs ;
- 5- Sil a fait l'objet d'une condamnation pour acte qualifié de crime ou délit contre la sûreté de l'Etat, vol, escroquerie, abus de confiance, recel, chantage, extorsion de fonds, faux et usage de faux, crime contre les personnes ou d'attentat aux mœurs et à la pudeur ;
- 6- S'il n'est reconnu, être sein d'esprit ;

Article 9.- L'institution financière ou bancaire agréée en Union des Comores reçoit au nom de la Commission Nationale Indépendante la demande et perçoit les droits et frais au profit du Trésor Public".

L'acte de citoyenneté économique est déclaré nul lorsqu'il ne porte pas mention sur avis conforme de la commission.



Article 10.- Il est perçu au profit du trésor Public, à l'occasion de chaque acte de citoyenneté économique en vertu de la présente loi, des droits de chancellerie de 1.000.000 FC.

Article 11.- La personne ayant acquis la qualité de citoyen économique en vertu de la présente loi ne peut servir :

- dans l'Armée nationale,
- dans les instances judiciaires des Comores.

Il ne peut être électeur.

Les avantages accordés aux citoyens économiques ne peuvent être inférieurs à ceux accordés à tout investisseur étranger dans le cadre du code des investissements

Article 12.- L'Union des Comores passe des accords avec des Etats ou institutions publiques ou privées pour la promotion et la mise en oeuvre des programmes d'investissements économiques. Cet accord annexé au programme d'investissement économique est soumis à l'approbation ou à la ratification de l'Assemblée de l'Union.

DISPOSITIONS TRANSITOIRES ET FINALES

Article 13.- Tout acte visant à octroyer la citoyenneté économique intervenu avant l'entrée en vigueur de la présente loi, est déclaré nul et sans effet.

Article 14. Des textes réglementaires précisent en tant que de besoin les modalités d'application de la présente loi.

Article 15.- La présente loi sera publiée partout où besoin sera et exécutée comme loi de l'Etat".

ARTICLE 2 : Le présent décret sera enregistré, publié au Journal Officiel de l'Union des Comores et communiqué partout où besoin sera.

AHMED ABDALLAH MOHAMMED SAMBI



**Annex II: Advertisement for a For-Profit Company Helping to Obtain Citizenship
(Found in an On-Board Magazine)**

*Enjoy visa free travel, international flexibility, expanded business opportunities, protect your family,
give your children the best education, safety and peace of mind.*

101 IMMIGRATION INC.
*We provide only the best professional Citizenship,
Residency & Consulting Services*



| Country | Investment / Requirement | Residency / Citizenship Timeline |
|-------------------|-------------------------------------|---|
| United States | \$500,000 Green Card | 2 years, Citizenship in 5-7 years |
| Canada | CAD\$200,000* | Resident visa in 4 years, Citizenship after 4 years |
| United Kingdom | £200,000* | Residency in 3 months, Citizenship in 6 years |
| Bulgaria | €280,000* | Residency in 9 months, Citizenship in 2 years |
| Cyprus | €300,000 Property investment | Citizenship in 6 years |
| Malta | €650,000 Fund + Property investment | Citizenship in 2 years |
| St. Kitts & Nevis | \$250,000 - \$400,000 | Optional property Citizenship in 1 year |
| Antigua & Barbuda | \$250,000 - \$400,000 | Optional property Citizenship in 6 months |

101 Immigration Inc. offers superior immigration, residency and citizenship by investment services, advice, and planning. Our clients thrive to expand their options for travel, education, business opportunities, investments and wealth generation for themselves and their families. 101 Immigration Inc. offers expertise and experience in this specialized area offering multiple programs through a broad network of professional partners globally.

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* Investment amounts through financing (loan) options - amounts subject to change



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