

Acts of Citizenship and Alternative Perspectives on Voice among Stateless Vietnamese Children in Cambodia

By Charlie Rumsby

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Author biography

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Abstract

The international response to statelessness has mostly focused on trying to find durable solutions for stateless populations. These solutions are characterised by attempts to provide the stateless with legal protection and an ability to have access to the same rights as citizens. Without citizenship, and membership of a (nation) state, the stateless are thought to lack meaningful political voice, but this paper argues that 'acts of citizenship' are not always dependent on citizenship as membership. The case study of *Preah Thnov* village in Cambodia demonstrates how a Christian school became a site where children with undetermined nationality were able to enact themselves as citizens.

1. Introduction

Theorists who have addressed the discourse surrounding citizenship since World War II have argued that the globalisation of universal human rights has advanced the meaning of citizenship to transcend the nation state. Furthermore, the ability to make claims to, and access rights in, contemporary Western states is said to be based on personhood rather than nationality.¹ However, for stateless populations—those who do not have a legal bond with a state—attempts to make claims to human rights are often achieved only through the work of advocacy organisations who speak on their behalf. Therefore, it is often assumed that the stateless are voiceless as they cannot speak for or represent themselves. Furthermore, statelessness research is usually characterised by an urgency to act quickly and find a solution with little time and resources, whether that is because populations are stranded at sea whilst governments decide between them who will be responsible for hosting them,² or because state succession leaves a population stateless.³ In their haste to act, advocates may miss the subtle creation of new sites and scales where the stateless can enact themselves as citizens of their own making, a process which can be interpreted as acts of citizenship.⁴

Acts of Citizenship are a way of thinking about citizenship beyond membership⁵ of a state, and conceptualising articulations of resistance made by groups and individuals who are marginalised from official claim-making processes. Documenting how individuals and groups seek to “change citizenship from below”,⁶ by carving out their own processes of habitation and subsistence that exist alongside, outside of, and across the constraints of government policies and practices, exercising what Soguk⁷ has called “the capacity for agency against all odds”,⁸ provides an insight into the creative ways in which people disrupt and momentarily subvert their marginal statuses. These enactments take a different form to social actions which are already instituted and associated with scripted behaviours of citizenship, acts such as voting and taxpaying.⁹ Conversely, acts of citizenship shifts our attention away from asking “who *is* a citizen” to “what *makes* a citizen”.¹⁰

The question this paper raises is whether ethnic Vietnamese children who have undetermined nationality can enact themselves as citizens, and if so, how? In short, I will argue that the children in *Preah Thnov* can, although the enactment of citizenship I observed through fieldwork may not immediately secure ethnic Vietnamese children the durable solution of a formal ‘legal’ bond of nationality as citizens. Nevertheless, the acts of citizenship I documented could in the future lead to further acts of successful claim making.

¹ D Jacobson, *Rights across Borders: Immigration and the Decline of Citizenship* (The Johns Hopkins University Press 1996); YN Soysal, *Limits of Citizenship: Migrants and Postnational Membership in Europe* (The University of Chicago Press 1994); S Benhabib, *The Rights of Others: Aliens; Residents and Citizens* (Cambridge University Press 2004).

² Such was the plight of the Rohingya in May 2015. BBC, ‘Why Are so Many Rohingya Migrants Stranded at Sea?’ (2015) <<http://www.bbc.com/news/world-asia-32740637>> accessed 3 September 2015.

³ K Southwick, ‘Ethiopia-Eritrea: Statelessness and State Succession’ [2009] *Forced Migration Review* 15.

⁴ E Isin & G Nielsen, *Acts of Citizenship* (Zed Books 2008).

⁵ Throughout this paper membership of state will have a synonymous meaning with citizenship as nationality.

⁶ EF Isin & P Nyers, *Routledge Handbook of Global Citizenship Studies* (Routledge 2014).

⁷ N Soguk, *States and Strangers: Refugees and Displacements of Statecraft* (University of Minnesota Press 1999).

⁸ PA Palmgren, ‘Irregular Networks: Bangkok Refugees in the City and Region’ (2013) 27 *Journal of Refugee Studies* 21.

⁹ EF Isin, ‘Citizenship in Flux: The Figure of the Activist Citizen’ [2009] *Subjectivity* 367.

¹⁰ *ibid.*

2. The ethnic Vietnamese in Cambodia

The Vietnamese are the largest minority group in Cambodia. Recent estimates suggest they make up 5% of the total Cambodian population numbering around 400,000 - 500,000.¹¹ The Vietnamese currently residing in Cambodia can be divided into two categories: those who are long term settlers who have lived in Cambodia for generations, with the omission of the Khmer Rouge period where they were forcibly deported to Vietnam and more recent migrants who have taken advantage of Cambodia's open market policies. I will focus on the former group as it is their children and their children's children who can be defined as being at high risk of statelessness, unlike the latter who are mostly citizens of Vietnam¹².

A small number of authors have written about the Vietnamese minority in Cambodia¹³ and even fewer have specifically addressed the issue of nationality.¹⁴ However, when the issue of nationality has been addressed it has been argued that the Vietnamese face a very real threat of statelessness - especially children.¹⁵ Without citizenship and other documentation for themselves, it is extremely difficult for ethnic Vietnamese parents to secure Cambodian nationality for their children based on Cambodia's Nationality Law (1996). For instance, despite introducing a *jus soli* provision, ethnic Vietnamese children born in Cambodia can acquire nationality only insofar as their parents can prove that they were either born or have lived legally in the country.¹⁶ However, most Vietnamese who returned to Cambodia after the Khmer Rouge period lost their papers and cannot prove their residence before the adoption of the 1994 Immigration Law; therefore their children are not considered Cambodian citizens.¹⁷ For children to be considered Vietnamese citizens, their parents would have to apply for naturalization.¹⁸ However, most Vietnamese who are long term residents see Cambodia as their home and do not wish to leave. Furthermore, it is not guaranteed that the Vietnamese authorities would recognize them as eligible for citizenship.¹⁹

Cambodia is currently not a signatory of the Statelessness Conventions but is a signatory to other conventions with provisions to protect against statelessness. For example, Article 7 of the Convention on the Rights of the Child specifies that every child shall "be registered immediately after birth" and shall have "the right to acquire a nationality". Moreover, Article 15 of the Universal Declaration of Human Rights stipulates that "everyone has the right to a nationality" and that "no-one shall be arbitrarily deprived of his nationality". However, this does not seem to have made a great impact on the lives of Vietnamese people in Cambodia who cannot claim citizenship rights and consequently face vulnerabilities in every area of life²⁰. For the community in *Preah Thnov*, parents who have attempted to have their children registered have reported being rejected or required to pay large sums of money.

¹¹ J Schliesinger, *Ethnic Groups of Laos Vol 2: Profile of Austro-Asiatic-Speaking Peoples* (BooksMango 2015).

¹² L Nguyen & C Sperfeldt, 'Boat Without Anchors: A Report on the Legal Status of Ethnic Vietnamese Minority Populations in Cambodia under Domestic and International Laws Governing Nationality and Statelessness' (2012) RegNet Research Paper No. 2014/50; B Ang & J Chan, 'The Situation of Stateless Ethnic Vietnamese in Cambodia LIMBO ON EARTH : An Investigative Report On the Current Living Conditions and Legal Status of Ethnic Vietnamese in Cambodia' (2014).

¹³ R Amer, 'Domestic Political Change and Ethnic Minorities—A Case Study of the Ethnic Vietnamese in Cambodia' (2013) 13:2 Asia-Pacific Social Science Review 87; R Amer, 'A Minority in at Risk ?' (1994) 16 Contemporary Southeast Asia 210; CM Tarr, 'The Vietnamese Minority in Cambodia' (1992) 34 Race & Class 33; Didier Bertrand, 'Refugees and Migrants, Migrants and Refugees. An Ethnological Approach' (1998) 36 International Migration 107.

¹⁴ JS Berman, 'No Place Like Home: Anti-Vietnamese Discrimination and Nationality in Cambodia' (1996) 84 California Law Review 817; S Ehrentraut, 'Perpetually Temporary: Citizenship and Ethnic Vietnamese in Cambodia' (2011) 34 Ethnic and Racial Studies 779.

¹⁵ Nguyen & Sperfeldt; Ang & Chan (n 12).

¹⁶ Art. 4(2) of 1996 Law on Nationality.

¹⁷ Ehrentraut (n 14).

¹⁸ Nguyen & Sperfeldt (n 12).

¹⁹ *ibid.*

²⁰ IRIN, 'Ethnic Vietnamese in Cambodia Face Discrimination' (2013) <<http://www.irinnews.org/fr/report/98786/ethnic-vietnamese-in-cambodia-face-discrimination>> accessed 2 September 2015; Ang & Chan (n 12).

The reasons for this are varied, however discrimination against the Vietnamese as a minority is said to be a prominent cause of barriers²¹.

Whilst it is important to spell out the threat of statelessness faced by the Vietnamese in Cambodia, my intention is to provide a nuanced perspective of the lives of the children themselves to illustrate the ways that they have come to enact an alternative citizenry despite their uncertain status. In so doing the normative discourse around nationality being the bedrock of civic activity is not only challenged, but broadened to include the voice and acts of those who otherwise are not recognised.

3. Rethinking speech and the politics of recognition through Acts of Citizenship

The juridico-philosophical discussion regarding statelessness identifies it with voicelessness.²² Populations who face either *de jure* statelessness²³ or have undetermined nationality are 'dehumanised' and denied supposedly inalienable rights.²⁴ Perceivably rendered to 'bare life',²⁵ stateless populations lack access to rights, therefore legal advocates work towards the durable solution of creating a legal bond between a person and a state. Ensuring citizenship as legal status is often seen as an essential element to ensuring meaningful enjoyment and inclusion in other distinct dimensions, for instance citizenship as rights, political participation, and as identity.²⁶ Exclusion from this legal experience of citizenship, it has been argued, reduces any actions taken by individuals to be included as meaningless. The rationale behind such arguments stem from the idea that the stateless without 'protection statuses' not only lack civic rights, but the 'right to have rights'²⁷ - "the deprivation of a place in the world which makes opinions significant and actions effective".²⁸ What makes speech and actions meaningful are their ability to make a difference,²⁹ and in order to make a difference one must have an ability to be heard. Following this rationale, citizenship as legal status enables political participation and a claim to rights which are reserved for those who belong as citizens. In the words of Parekh, the logic then follows that

without the capacity to form meaningful opinions, one cannot be part of the political realm. For Arendt, following Aristotle, this is to be deprived of my very humanity. Speech, action and opinion are intimately bound up with not only our humanity, but also with the constitution of ourselves as individuals.³⁰

In the discourse surrounding statelessness, meaningful speech is usually identified by its overt political nature - speech that is recognised by authorities who then answer and act upon what has been said

²¹R Amer, 'Domestic Political Change and Ethnic Minorities'(n 13); Tarr (n 13); Berman (n 14).

²² H Arendt, "The Decline of the Nation-State and the End of the Rights of Man", *The Origins of Totalitarianism* (Meridian Books 1951); D Tubb, 'Statelessness and Colombia: Hannah Arendt and the Failure of Human Rights' (2006) 3 *Undercurrent* 40; P Hayden, 'From Exclusion to Containment: Arendt, Sovereign Power, and Statelessness' (2008) 3 *Societies Without Borders* 248; UNHCR, 'UNHCR Statement: Stateless and Voiceless in the EU' (*No Hate Speech Movement*, 2014) <<http://blog.nohatespeechmovement.org/unhcr-statement-stateless-and-voiceless-in-the-eu/>> accessed 3 September 2015.

²³ "A person who is not considered as a national by any State under the operation of its law", Article 1 1954 Convention Relating to the Status of Stateless Persons.

²⁴ H Arendt, *The Origins of Totalitarianism* (Meridian Books 1971).

²⁵ G Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford University Press 1998).

²⁶ L Bosniak, 'Citizenship Denationalized (The State of Citizenship Symposium)' (2000) 7 *Indiana Journal of Global Legal Studies* 447.

²⁷ Arendt, "The Decline of the Nation-State and the End of the Rights of Man" (n 22).

²⁸ Arendt, *The Origins of Totalitarianism* (n 24) 296, quoted in Serena Parekh, 'Hannah Arendt and Global Justice' (2013) 8 *Philosophy Compass* 771, n 44.

²⁹ Isin (n 9).

³⁰ Parekh (n 28) 48.

in an equal manner.³¹ I want to suggest that only attaching significance to this kind of speech and action overlooks alternative ways of claim making, as political acts, which sit outside of normative practices but can nevertheless be interpreted as acts of citizenship.

‘Acts of Citizenship’ is a concept popularised in the book by the same title edited by Isin and Nielsen³² that queries existing notions of citizenship as only a “formal and enduring legal and political status within the boundaries of representative democracy and the (nation) state”.³³ Conversely, acts of citizenship create actors and scenes where subjects who may not be citizens can enact themselves as if they were. These acts, which may not be intentional, produce what Isin and Nelson call ‘activist citizens’.³⁴ In contrast to active citizens who act out a previously written script such as voting, taxpaying and enlisting, activist citizens participate in writing scripts creating and acting in a scene. Just as the nature of citizenship expressed as political membership finds its meaning in the answerability of an action, so too acts of citizenship are inherently intersubjective and dialogical.³⁵ Consequently this interconnectedness allows non-citizens to join a body politic.

The case study of *Preah Thnov* demonstrates how a Christian school became a new site³⁶ of contestation and belonging. The scale³⁷ of this contestation stretched across global boundaries and both the new site and the scale of contestation were produced by acts of citizenship. Acknowledging acts of citizenship is important when thinking about the issue of statelessness as they point towards strategies of ‘everyday resistance’;³⁸ creative and innovative deeds that increase the possibility of people being able to constitute themselves as citizens who are heard in public, and provoke dialogue on issues³⁹. The next section will illustrate this point.

4. Case Study: *Preah Thnov*

Since 2012 I have had communication with a community of Vietnamese living in *Preah Thnov*, a village in Cambodia. Children of *Preah Thnov* with undetermined nationality who cannot afford the bribes and payments to teachers are denied access to Cambodian schools. In 2014 I conducted a one month pilot study using participant observation and semi structured interviews to research the ‘capacity to aspire’⁴⁰ amongst the children of *Preah Thnov*. Further fieldwork is being undertaken at present for my PhD thesis.

During my time in *Preah Thnov* I observed the daily lives of the children, in particular their behaviour at a school established and run by Vietnamese volunteers who provided free education to the children. The school was attended by around 100 children a day, some as young as three years old, most coming from *Preah Thnov*. The children were split into three sections: Kindergarten, middle

³¹ Isin & Nielsen (n 4).

³² *ibid.*

³³ H Oosterhuis, ‘Book Review: Engin F Isin, Greg M Nielsen (eds.), *Acts of Citizenship*, London and New York, Zed Books.’ [2009] *Medical history* 605 <http://journals.cambridge.org/abstract_S0025727300000697> accessed 21 November 2015.

³⁴ Isin (n 9).

³⁵ A Reinach, ‘The Apriori Foundations of Civil Law’ (1983) 3 *Aletheia* 1-142.

³⁶ “The fields of contestation around which certain issues, interests, stakes as well as themes, concepts and objects assemble”, Isin (n 9) 370.

³⁷ “The scopes of applicability that is appropriate to these fields of contestation. When we use already existing categories such as states, nations, cities, sexualities and ethnicities, we inevitably deploy them as ‘containers’ with fixed and given boundaries. By contrast, when we begin with ‘sites’ and ‘scales’ we refer to fluid and dynamic entities that are formed through contests and struggles, and their boundaries become a question of empirical determination” *ibid.*

³⁸ JC Scott & BJ Kerkvliet, *Everyday Forms of Peasant Resistance in South-East Asia* (Frank Cass 1986).

³⁹ Oosterhuis (n 33).

⁴⁰ A Appadurai, ‘The Capacity to Aspire’ in V Rao & M Walton (eds.), *Culture and Public Action* (Stanford University Press 2004).

school and upper school. All children under five were regarded as Kindergarten and were washed, fed and napped at the school. Lessons in Vietnamese, English and Mathematics were given to all children in middle and upper school, each child engaging in at least three lessons a day. As a Christian school, each day also included a time of thanksgiving, prayer and teaching from the Bible. The brevity of this paper means a critique of religious motives when working among vulnerable communities will not be given. However, all parents gave consent to their children receiving Christian education before enrolling them.

To recognise certain acts as acts of citizenship requires the demonstration that these acts produce subjects as citizens.⁴¹ During my fieldwork I observed children performing scripts they had written, so to speak. These performances were intersubjective, local, global and dialogical in nature - all the characteristics of acts of citizenship. For instance, through the practise of prayer, children in the *Preah Thnov* community were able to create a scene and enter it as actors. They acted out their belonging to a Christian community by identifying with others' experiences of the world and responding with 'activist-like' behaviour, voicing their political desires through the use of prayer. From the visits of international English-teaching volunteers to the school, children were able to learn of world affairs and see beyond their own geography. Ideas around good governance were exposed to the children as volunteers and visitors openly discussed situations of life at home of war or political discord in their own country. During these discussions which children listened and participated in, the interstitial space of the classroom was claimed as political, which gave rise to further acts.

As outsiders in Cambodia, children who live on the margins largely lack interconnectivity. However, in this context they were given opportunities to interact with others and reciprocated an affinity with them as Christians. Through daily prayer the children prayed for themselves, each other's needs, their country and families. Building a daily dialogue with a God who they believed listened to them seemed to give children freedom and confidence to speak. On one occasion at the end of school time, a 12 year-old boy led the other children in praying for the Vietnamese and Cambodian governments, that they would not be politically corrupt that they would pursue justice and their people would be protected. Another girl who had heard from an international visitor about the war in Ukraine prayed for the war to end with Russia and peace to exist between the two nations. Children's convictions were legitimised by hearers who through the use of the Hebrew word '*amen*', meaning 'so be it', created an intersubjective union, and arguably allowed a moment where children could subvert their uncertain status and belong to an alternative citizenry where their speech was meaningful.

The examples above are important additions to the discourse on statelessness as they show that statelessness does not always render acts as meaningless. Whilst voicing their political desires, children were developing a consciousness that could later translate into political action to challenge their own marginality and status. An observation that supports this possibility was the way children displayed confidence to speak about their beliefs outside of the school. For example, when the team of teachers visited *Preah Thnov* to speak to parents about their child's progression in school, one parent was evidently anxious and restless about personal circumstances. In a dramatic reversal of traditional hierarchical power structures, the child wanted to pray for her mother who agreed. The child prayed for her mother to have peace, wisdom, help and protection. This account shows that prayer was being used as a tool to challenge disharmony and declare a desire for a change in circumstances.

In Cambodia, a state often described as authoritarian⁴² with the absence of strong democratic channels, these acts of citizenship could develop an alternative consciousness of citizenship among

⁴¹ Isin (n 9).

⁴² RJ Hanlon, 'Constitutional Democracies or Authoritarian Regimes: Dysfunctional Law and Human Rights in Cambodia, Sri Lanka and Thailand', presented at the Canadian Political Science Association 80th Annual Conference, University of British

the younger Vietnamese generation. The students' regular exposure to international affairs and citizens from other countries gives this marginalised group an insight into possible alternatives to the current state of affairs. Furthermore, the empowering and democratic nature of prayer in this context, being equally accessible and effective to children of all ages, has the potential to subvert real social power structures (as seen in the previous paragraph). Further longitudinal research will be needed to analyse to what extent these potentialities are realised by this community in *Preah Thnov*, which is one focus of my PhD research.

5. Conclusion

According to Nielson and Isin, acts build upon acts. Acts involve accomplishments, with the moment when they start and end, but they also have continuity within themselves,⁴³ this is evident in the observations I made in *Preah Thnov*. The affirmation and 'amen' of children's prayers meant their need to be heard was met. Children performed, through prayer, a creation of an alternative world in which they could make requests, political or otherwise and be heard. The act was "answerably aware of itself and actually performed".⁴⁴ This is an important observation because it shows that there are multiple facets to speech and political recognition. Populations deemed to live in abject spaces are momentarily subverting their statuses, enacting citizenship and claiming recognition through their intersubjective connections and alternative forms of belonging. The potential for supposedly 'spiritual' acts to have significant socio-political impacts is clearly seen by the Liberation Theology movement in Latin America. As the school has only been running for three years, it remains to be seen whether these 'acts of citizenship' will develop into a tangible contribution towards a durable solution for the marginalised Vietnamese community in Cambodia.

Columbia, Vancouver, Canada, June 2008; D McCargo, 'Cambodia: Getting Away with Authoritarianism?' (2005) 16 *Journal of Democracy* 98.

⁴³ Isin & Nielsen (n 4) 23.

⁴⁴ *ibid* 30.