

STATELESSNESS IN PUBLIC LAW

Statelessness is a situation where a person is not the citizen of any state. It is estimated that 10 million people are stateless in the world. Whilst most cases of statelessness are recorded in Asia, there are as much as 600 000 stateless persons in the European Union. Statelessness persons include Albert Einstein (who renounced his German citizenship), Osama bin Laden (who was deprived of his Saudi citizenship as a terrorist) as well as – in the popular culture – the Eastern European tourist Viktor Navorski (Tom Hanks) grounded as the resident of an airport in the movie ‘The Terminal’ depicting the problems of statelessness following the disappearance of the state as the result of a *coup d’État* that is supposed to have taken place during Navorski’s flight to USA. Such anecdotal examples might seem curious but the problem of mass statelessness is not just a curiosity. Mass statelessness was the daily bread of Jews who were stripped of their German citizenship. Nowadays, mass statelessness is the affliction of the Muslim Rohingya people of Burma, who are rightfully labelled as the most persecuted minority in the world.

The foregoing illustrates the fact that statelessness is a single notion that is applicable to a variety of situations. This observation, however, is seldom acted upon in academic research because statelessness is somehow considered as the dominant problem that foreshadows other characteristics of stateless persons. Accordingly, there is no comprehensive analysis that would view statelessness taking account of the panoply of factual and legal situations characterizing stateless persons. My research seeks to address this issue by looking at specific sub-categories of stateless persons and their respective legal and factual characteristics, both historically and contemporaneously. This is a new approach to the problem of statelessness. Firstly, I propose to discern sub-categories of stateless persons according to criteria that are not used in the literature; contrary to scholarship of the subject, I will show that the source of statelessness does not always define stateless persons. For example statelessness among children can have a variety of sources but stateless children should be considered a single sub-category of stateless persons because of the commonality of instruments for preventing and reducing statelessness as well as the instruments for protecting stateless children.

International law attempted healing the ills of statelessness with two statelessness Conventions after World War II, but the problem persists. Why this should be so is a brainteaser according to some legal scholars. One of the problems that might explain the lack of effect of international commitment to reduction and prevention of statelessness is the fact that there exists little reflection on how international standards translate into administrative law or indeed how administrative law approaches stateless persons. The literature of the subject is dominated by international law scholarship that does not venture into details of administrative law in how it addresses the problem of statelessness. Scarcely do academics look into domestic law and the problems that are proper to domestic public law. One of such problems concerns the explicit or implicit procedures used to identify stateless persons and the substantive law that regulates their standing that in some countries is specifically tailored to specific needs (e.g. how stateless persons are treated differently from persons of indeterminate citizenship). In my research the emphasis is put on the problems of public law that statelessness under international law entails.