

A Rights-Based Approach to Statelessness

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Summary in English

In this thesis I argue that current policies on statelessness fail to prioritize the empowerment of affected persons. I suggest adopting a rights-based approach to statelessness policies to remedy that problem. In Part I, I focus on the meanings of the concepts of nationality and statelessness. Deeply rooted yet unfounded assumptions that nationality is by definition good for everyone, and that statelessness is by definition problematic are at the core of the failure of current policies. I analyse where such assumptions come from, and why they remain influential. Part II discusses the current legal and policy discourse on statelessness, identifies the way in which it fails to empower affected persons, and suggests an alternative. A rights-based approach to statelessness requires rethinking the language used in policy and law making generally, as well as amending specific rules that do not prioritize the empowerment of affected persons, such as for example the prohibition on voluntary statelessness. I discuss four case studies of policy responses to statelessness to illustrate the practical implications of the current approach and of the proposed alternative. These cases involve (1) a stateless individual who can acquire the nationality of Armenia at the cost of fulfilling a high-risk military service, (2) a national registration system in the Netherlands which avoids recording instances of statelessness as a matter of explicit policy, (3) the stateless Russian-speaking minority in Latvia, who enjoy a high level of protection in their country of residence, (4) a comparison of two historical policies on restoration of nationalities which had been withdrawn in the context of political persecution, namely the case of the Jewish population who lost German nationality during the Nazi regime, and the case of the Faili Kurd population who lost Iraqi nationality during the regime of Saddam Hussain. I conclude that by adopting a rights-based approach, statelessness policies no longer need to draw their justifications from an unfounded idealization of nationality, and an equally unfounded demonization of statelessness. Instead of focusing on turning stateless persons into nationals, a rights-based statelessness policy empowers affected persons to choose whether, when, and how to invoke the relevant rights. This puts the power to define the problem as well as its solution in the hands of those affected by the policies.