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The human rights aspects of statelessness
With regard to discrimination

Doctoral Thesis Summary

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Table of Contents

1. The research agenda and the research methods 3

2. The summary of research results..... 6

4. List of publications related to the area of research..... 9

1. The research agenda and the research methods

In my opinion, one of the biggest human rights violations of our time happens with stateless persons. My statement about the neglect of stateless persons is supported by the experience gained during the research work. According to which the literature on statelessness is very small, especially true for the Hungarian literature. Consequently, an immanent part of the literature consulted in my dissertation was international related. Furthermore, I would like to highlight that due to the lack of literature available, I put great emphasis on the analysis of primary sources. Most available primary research sources were in English, German, Italian, French, and Spanish language.

In my doctoral dissertation, I attempt to present the problem of statelessness and seek an answer to the question of whether the status and the rights of stateless persons are or can be ensured at all within the current framework of international and constitutional law.

With both the constitutional law and international public law aspects, I was able to explore the issue of statelessness and characterize the dissertation. In the dissertation, I paid special attention to the thorough analysis of the relevant legal acts on the right to citizenship, statelessness, and non-discrimination. The focus was also placed on the law, which presented the problem of statelessness, in order to highlight the relevance of this form of human rights violation.

In the dissertation I present the regulation related to citizenship and statelessness vertically, i.e., the international, EU and Hungarian aspects of statelessness, in order to get an answer to the question. Special emphasis is placed on the concepts of citizenship, as well as the principles of the acquisition of citizenship in the dissertation.

At the same time, I consider it extremely important in the dissertation to describe the efforts made by the international legal community in the past 100 years to eliminate discrimination against stateless persons. Also, I underline the development of European Union law, which is the result of four preliminary ruling proceedings in the context of statelessness. Presented in the dissertation is the Hungarian citizenship legislation, starting with the analysis of the first Hungarian citizenship legislation, the current law and the procedure for determining statelessness, and the two decisions of the Constitutional Court on statelessness so far.

In a separate chapter of the dissertation, I deal with one of the most important points of regulation, the in-depth analysis of the United Nations Convention relating to the Status of

Stateless Persons¹ (hereinafter: the 1954 Convention). It is essential to set out the rights that contracting states must grant to stateless persons, so their lack of nationality does not prevent them from exercising their rights in the period leading up to the acquisition of a nationality.

It is crucial to outline the international community's programs specifically for the eradication of statelessness, with a detailed analysis of the UN I Belong campaign and the Sustainable Development Goals. However, after describing the legal environment, the question arises as to how the eradication of statelessness is done in practice. During my research, I came to one of the main elements of my dissertation, the close connection between discrimination and statelessness.

One of the main aims of the doctoral dissertation is to show the extremely important role how discrimination in the inheritance of statelessness causes marginalization of stateless persons. In this context, the dissertation points out the racial and ethnic origin, since racial and ethnic origin are the main causes of arbitrarily deprivation of nationality, as well as sex. Sex is connected to the incapability of inheriting nationality; therefore, sex discrimination is a cause of childhood statelessness. The relevance of which is supported by several case studies in this dissertation.

An immanent part of the dissertation is dedicated to the detailed analysis of the concept of discrimination and the different forms of discrimination, as well as the description of the effect of discrimination on statelessness. Taking into account the vertical analysis of the legal background of statelessness, I paid particular attention to the analysis of the most relevant legal documents related to discrimination. I presented the universal international law, the regional international law, the EU law, and the Hungarian regulation concerning the principle of equal treatment. Regarding the relationship between discrimination and statelessness, I introduce several case studies that aim to shed light on the magnitude of statelessness and the inevitable role of discrimination in the increasing number of stateless persons.

In my dissertation, I did not only focus on drawing conclusions in the “Final Thoughts” section, but at the end of each chapter I paid special attention to briefly summarizing my findings in the given chapter, thus emphasizing the most basic connections I came to during my research.

I consider my dissertation as pioneering work, because no summary effort has yet been published in Hungarian language that shows the connection between discrimination and statelessness. A further aim of the dissertation is to draw attention to statelessness, especially its relationship to discrimination, as one of today's undeservedly neglected human rights crises.

¹ United Nations, Treaty Series, vol. 360. 117.

This dissertation aims to answer the question of whether the legal situation of stateless persons can be resolved within the current international and constitutional framework.

As far as the research methodology is concerned, in order to fulfill the goals set in the doctoral dissertation, I searched the Hungarian and international literature available on the topic. I had to conclude the literature on statelessness in Hungarian is very limited. In the light of all this, the immanent part of the material collected for the dissertation comes from a foreign language source.

In addition, considering the fact that statelessness, as a whole has not been widely researched so far, I paid special attention to the vertical presentation of the regulation in my dissertation. In particular, special attention was focused on the analysis of primary sources such as international human rights instruments. Additional attention was given to the EU law and the relevant domestic legislation, as well as the legislation on the acquisition of citizenship of the countries described in the dissertation case studies.

2. The summary of research results

For most of us, citizenship is a fundamental right that we take for granted. We take the exercise of our rights to citizenship for granted as well. The average person does not even think their citizenship is not pre-determined but is realized only if a number of conditions and factors coexist.

Citizenship rights are present unnoticeably in our daily lives, citing the right to education or the right to health care are just a few examples. We take all of this for granted, although for many people around the world today, it can only be imagined. During my research, the statement that statelessness is one of the undeservedly forgotten human rights crises was realized. Due to the nature of statelessness the magnitude of this problem can only be approximated. This is because stateless persons do not have citizenship, so they are unable to fully exercise their citizenship rights. As a result, they are marginalized, so they are not able to take an active part in the daily life of society.

To find the answers to the questions indicated in the dissertation, I started my research with the presentation of the concepts of citizenship and the issues of the origins of citizenship and the principles for acquiring citizenship. During my research, I have come to the conclusion the application of the principles of the acquisition of citizenship alone is not suitable for eliminating the problem of statelessness, however, the joint application of these principles can serve as a tool in combating statelessness. Therefore, I examined these principles of citizenship and their effectiveness in eradicating statelessness in international human rights documents.

In my comprehensive research on statelessness, I found many conventions explicitly state the importance of the right to citizenship because of international legal developments. Although there were efforts made, the international community has not been able to find a solution to statelessness. Consequently, the intention of the international community to find a solution to the situation of stateless persons has been clear since the adoption of the Universal Declaration of Human Rights². The international conventions adopted have proved insufficient in their function to eradicate statelessness. At the same time, there were efforts made from the international community including the adoption of the 1954 Convention, which has a generally positive effect on enforcing the rights of stateless persons and raising awareness of the problem. However, the 1954 Convention is not enforceable, and, in my view, it is not necessarily adequate to address the problem. Also, it means the 1954 Convention does not offer an adequate

² UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III)

solution to eradicate statelessness and enforce the rights of stateless persons. Also, taking into account the lack of political will in some countries and the principles enshrined in different social traditions in different countries.

Regarding the international community's campaigns to eliminate statelessness, such as the UN I Belong campaign and the Sustainable Development Goals, it should be noted that they deserve a prominent place in the dissertation in terms of their role in raising awareness, but at the same time they seem unrealistic. Both campaigns serve in awareness but cannot serve as flagships in the fight against statelessness.

In my view, remedial *ius soli* is the most appropriate of the principles relating to the elimination of statelessness. Indeed, the application of the principles for the acquisition of citizenship does not in itself provide an appropriate solution, as I have introduced it in detail in the dissertation, the combined application of these principles may offer an adequate answer. The use of remedial *ius soli* to avoid childhood statelessness could therefore in practice eradicate childhood statelessness, thus addressing the question in the introductory part of the dissertation as to whether there is a method that can substantially reflect on this extremely serious and undeservedly neglected human rights problem.

However, given that each country has different legal, historic and socio-cultural traditions and depths, the use of a single solution to eliminate statelessness is, in my view, utopian. The uniform and general solution offered by the international conventions described in detail in the doctoral dissertation is also a problem, because due to the above-mentioned differences between states it is almost impossible to develop a uniform solution or regime that could solve statelessness. This problem is compounded by the fact the current, internal problems of states will always have more advantage than the proper settlement of the legal status of stateless persons living in their territory.

In a separate chapter of the doctoral dissertation, I examined the relationship between discrimination and statelessness. During the research process, I concluded the relationship between discrimination and statelessness can be described as a never-ending cycle, supported by the hypothesis in the dissertation that we cannot speak of statelessness without discrimination. Discrimination is not only a consequence but also a cause of statelessness. Several case studies described in the dissertation also support this hypothesis, with particular reference to discrimination based on racial or ethnic origin and gender discrimination.

Consequently, discrimination is the alpha and omega of statelessness and the solution to the problem of statelessness is by eliminating discrimination. At the same time, with confidence in the future, states and the international community have to pay more attention to the fight of non-discrimination in order to eradicate statelessness to the full realization of human dignity.

4. List of publications related to the area of research

- UJVÁRI Blanka: *The Causes of Statelessness*. In: Marcel, SZABÓ; Petra, Lea LÁNCOS; Réka, VARGA (szerk.) *Hungarian Yearbook of International Law and European Law 2017*, The Hague, Hollandia: Eleven International Publishing, 2018. 105-113.
- UJVÁRI Blanka: A nemi alapú diszkrimináció és a hontalanság kapcsolata. *IUSTUM AEQUUM SALUTARE* 3. (2018) 251-266.
- UJVÁRI Blanka: *Statelessness in the European Union - An Issue to Be Solved*. In: Marcel, SZABÓ; Petra, Lea LÁNCOS; Réka, VARGA (szerk.) *Hungarian Yearbook of International Law and European Law 2018*, The Hague, Hollandia: Eleven International Publishing, 2019. 389-401.
- UJVÁRI Blanka: Az állampolgárság nemzetközi jogi vetületei, különös tekintettel a hontalanságra: Az elmúlt 100 év jogfejlődése. *Iustum Aequum Salutare* 2. (2020) 179-198.
- UJVÁRI Blanka: A gyermekhontalanság megelőzésére vonatkozó nemzetközi szabályok: A gyermekhontalanság, mint a gyermek mindenekfelett álló érdekének antitézise. *Pázmány Law Working Papers* 1. (2020) 1-16.
- UJVÁRI Blanka: Az állampolgársághoz való jog és a hontalanság kapcsolata Magyarországon. *Iustum Aequum Salutare* 1. (2021) 287-303.
- UJVÁRI Blanka: Az Alkotmánybíróság hontalansággal kapcsolatos határozatai. *Fontes Iuris: Az Igazságügyi Minisztérium Szakmai Folyóirata* 2. (2021) 9-15.
- UJVÁRI Blanka: Gondolatok a hontalan személyek jogállásáról szóló 1954. évi Egyezményről. *Pázmány Law Working Papers* – the article is being published