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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their country of residence, (4) a comparison of two historical policies on restoration of nationalities which had been withdrawn in the context of political persecution, namely the case of the Jewish population who lost German nationality during the Nazi regime, and the case of the Faili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.

Samenvatting in het Nederlands

In dit proefschrift wordt de stelling ontwikkeld dat het huidige beleid ten aanzien van staatloosheid geen prioriteit geeft aan de emancipatie van degenen wier bestaan door dit beleid wordt beïnvloed. Om dit te veranderen, stel ik voor om een op de rechten van betrokkenen gebaseerde benadering toe te passen om dit probleem op te lossen. In Deel I bespreek ik de betekenis van de begrippen van nationaliteit en staatloosheid. Diepgewortelde maar ongegronde veronderstellingen, zoals dat nationaliteit per definitie goed is voor iedereen, en dat staatloosheid per definitie problematisch is, zijn de hoofdoorzaak van de tekortkomingen van het huidige beleid. Ik analyseer waar zulke veronderstellingen vandaan komen, en waarom ze zo invloedrijk blijven. In deel II wordt daartoe het huidige juridische en beleidsdiscours op het gebied van staatloosheid besproken, en wordt vastgesteld hoe dit tekortschiet bij het emanciperen van degenen op wie dit beleid zich richt. Voorgesteld wordt om om in plaats daarvan een op de rechten van betrokkenen gebaseerde benadering toe te passen. Zo een benadering vereist het heroverwegen en opnieuw doordenken van het taalgebruik in het huidige juridische en beleidsdiscours in het algemeen, en het aanpassen van specifieke regels die geen prioriteit geven aan de emancipatie van de doelgroep, zoals bijvoorbeeld het verbod op vrijwillige staatloosheid. Ik bespreek vier casus van beleidsreacties op staatloosheid, ter illustratie van de praktische implicaties van de huidige benadering en het voorgestelde alternatief. De casus betreffen (1) een staatloze die de Armeense nationaliteit kan verkrijgen door een risicovolle militaire dienst te vervullen, (2) een nationaal registratiesysteem in Nederland dat als expliciet beleid heeft om het opnemen van staatloosheid te vermijden, (3) de staatloze Russisch-sprekende minderheid in Letland, die een hoog niveau van bescherming geniet in hun land van verblijf, en (4) een vergelijking van twee historische benaderingen van het herstellen van de nationaliteit die in het kader van politieke vervolging waren ontnomen, c.q. de Joodse bevolking die de Duitse nationaliteit verloor tijdens het Naziregime, en de Feili-Koerden die de Iraakse nationaliteit hebben verloren tijdens het regime van Saddam Hoessein. Ik concludeer dat bij een op rechten gebaseerde benadering het staatloosheidsbeleid niet meer gerechtvaardigd hoeft te worden met een ongegronde idealisering van nationaliteit en een evenzeer ongegronde demonisering van staatloosheid. In plaats van krampachtig te proberen alle staatlozen in staatsburgers te veranderen, stelt een dergelijk staatloosheidsbeleid mensen in staat te kiezen of, wanneer, en hoe

ze beroep willen doen op de relevante rechten. Dit geeft degenen die onder het beleid vallen de macht en vrijheid om zowel het probleem als de oplossing zelf te definiëren.

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I remember looking at a humoristic drawing in a Ukrainian newspaper, entitled ‘Lenin eliminates illiteracy’. It made fun of a very successful campaign slogan of the early Soviet Union. The drawing featured a group of villagers receiving a letter from Lenin. The two soldiers that personally came to the village from Moscow to deliver the letter ask the villagers whether there is anyone among them who can read the letter. Two men raise their hands, and the rest are shot dead.

I started working on statelessness in 2011, curious about the phenomenon’s ability to startle any bureaucratic system it encountered. It was not until 2014 when the UNHCR announced its ‘End Statelessness in 10 Years’ campaign that I found my doctorate’s research question. Needless to say, I never doubted that the UN policy makers are deeply committed to improving the lives of stateless persons. But the exultation of elimination and its various understandings throughout history gave me pause for thought. The bad joke on how Lenin eliminated illiteracy somehow stuck. The ‘End Statelessness’ slogan raised a question for me about how a global statelessness policy can stay true to the complex commitment to the welfare and empowerment of an extremely diverse and often marginalized group such as the stateless, especially in the face of the temptation of simplicity of quantitative solutions. A study on statelessness thus evolved into a quest about balancing the elimination of vulnerability against the empowerment of the vulnerable.

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