

Abstract

This thesis aims to study property rights of stateless and nationalityless persons. First, it studies definitions of stateless and nationalityless persons in order to identify kinds, classifications and main characteristics of stateless and nationalityless persons in Thailand. In addition, this thesis aims to scrutinize the property rights problems of stateless and nationalityless persons in possessions and ownerships of the properties in accordance with private and public laws.

The findings from researching this topic are as follows.

First, “stateless person” means the person who is not accepted from any state to be recorded in citizen registration database in the world. In the other meaning, the stateless person is not recognized as a national in any civil registration database of any countries in the world. The stateless person also remains illegal immigrant for every state. A straightforward way to eliminate statelessness is to accept the person in the Thai Civil Registration, despite the state will not agree to consider conferring the status of lawful immigrants under the immigration law or conferring Thai nationality. The stateless person does not have any identification documents issued by any states in the world.

Second, “nationalityless person” means the person who is recognized in a state’s civil registration as an alien but she or he is not recorded in the Civil Registration as having any nationality in any states of the world. The nationalityless person remains the alien to every country in the world. It is also found that there are two kinds of nationalityless persons in the Thai Civil Registration as follows. (1) The person who is in the process of Thai nationality verification, particularly, when the process is not finished. Hence, the nationalitylessness of the person is a factual problem but not a legal problem. (2) For the person who could be heard that she or he does not possess Thai nationality, the problem can be solved by conferring Thai nationality.

Third, the stateless and nationalityless persons can be categorized into 5 groups: (1) the persons who are completely stateless; (2) the nationalityless persons

who had the names recorded in the Thai Civil Registration with the status of aliens, while showing the fact of having Thai nationality; (3) the nationalityless persons who had the names recorded in Thai Civil Registration with the status of aliens, but were born in Thailand; (4) the nationalityless persons who had names recorded in Thai Civil Registration with the status of aliens, and were born outside Thailand; and (5) the nationalityless persons who had names recorded in Thai Civil Registration as aliens that are categorized as illegal-immigration labor.

Forth, the stateless and nationalityless persons have the right to be entitled to movable properties and real estate under the private law. The nature of rights and the problems of the capacity to undertake the legal transaction of the properties are governed by the Thai law, regarding the conflict of the laws, which prescribed that the law of the domicile state shall be used in place of the law of the nationality state. Hence the stateless and nationalityless persons residing in Thailand will be governed under the Thai Civil and Commercial Code. On the other hand, with regard to the right to possess properties under the public law, which requires the state's intervention to limit the rights of property possession, the stateless and nationalityless persons encounter obstacles are compromised under the two aspects. (1) When the stateless and nationalityless persons have alien statuses, the right to possess the land under the Land Code is limited. Thus, they will have difficulties to find housing. (2) The persons who are completely stateless and who are without any personal identification documents, the proof of ownership is difficult. Other evidences and witnesses such as documentary evidences and witnesses are required. As a result, the stateless and nationalityless persons are insecure with regard to the properties possession under their right in the private law.

Fifth, It is found that in Thailand, the money is a property that the Thai law does not impose any restrictions of rights in the private and public law. There is no discrimination on the rights related to money as the property rights between the nationals and the aliens, including the stateless and nationalityless persons. Particularly the right to deposit and withdraw money with commercial banks and postal banking.

The said rights ensure security and safety to possess the money, which is an important factor for every human being nowadays. However, it is also found that the stateless and nationalityless persons still encounter obstacles to open a bank account or transfer money, through money orders. After investigations, the author found that the obstacles were not related to the denial of the right to money but there were from other causes. One of the causes for the completely stateless persons is they have not been identified by proper identification documents issued by the state. Hence, the identification and verification of the persons before commercial banks and the Thailand Post Co.,Ltd. cannot be done, unless the commercial banks and the Thailand Post Co., Ltd. will verify and identify the persons by themselves. Indeed, it is an idea conceived in the Thailand Post Co., Ltd. For nationalityless persons, who already had their names registered in the state's Civil Registration Database, if they were denied when opening bank accounts or using money transfer by money orders, it is constituted the discrimination, which is against the human rights principles. Since they have the state's personal identification documents, identification and verification of the persons is not problematic.

Finally, to create financial security to stateless and nationalityless persons so that they can deposit and transfer money, the first step should be the acceptance to record their personal statuses in the Civil Registration and issue them the personal identification documents. Hence, they can retain the money, an important living requisite, safely.