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主　論　文　の　要　旨

論文題目　Citizenship Regulation in the Republics of the Former USSR Territory;
an International Legal Study in Nationality and Statelessness
旧ソ連邦領内諸共和国における市民権規制　―国籍と無国籍についての国際法的研究―

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論　文　内　容　の　要　旨

By 1990, more than 285 million people were linked to the USSR by legal bond of citizenship. In the same year, after the Soviet Union ceased to exist, identification of their new citizenship became enormously complicated. Some former Soviet states adopted selective citizenship laws or tough naturalization policies. It soon caused large-scale statelessness which especially hit ethnic minorities. Separately, Russians and Russian speaking population scattered throughout the post-Soviet space faced aggravated citizenship problems. It eventually raised human rights concerns and tensions between states.

Even after more than 20 years from the dissolution of the USSR there is still an indefinite number of people who cannot secure a legal status. Usually citizenship laws of some post-Soviet republics retain serious barriers, motivated by political will, which make the naturalization process burdensome or heavily restrictive. Whether compatriots, de jure or de facto stateless or refugees, a large number of former Soviet citizens remain vulnerable and their interests are often ignored by the host states.

This empirically grounded research paper sheds light on citizenship concept in the context of dissolution of federative state. While focusing particularly on the former USSR, it provides an account of how and why the new citizenship laws emerged as arena of conflicts in certain post-Soviet republics. It examines new governments' strategies in designing citizenship laws in the complex international environment after the collapse of the USSR. By comparing three main former Soviet regions, namely; Russian Federation, Baltic States and Central Asia, this study provides an in-depth analysis of citizenship laws, naturalization processes and specific cases with one or several state-parties involved in. A separate attention is paid to the reactions from other states and various international human rights actors.

Simultaneously, present research aims to clarify how some Soviet successor states justify certain critical criteria (Language, legal residence period, non-dual citizenship principle, renouncement of old nationality prior to naturalization) in their citizenship laws? What legal collisions might appear between citizenship laws of states and how they transform into international-legal disputes? How international organizations react to such disputes? What could be the most optimal mechanism for states (International conventions, international legal-advisory opinion or inter-state agreements between post-USSR states) to address remaining or appearing citizenship problems?

The research also addresses the 2006 CoE Convention, presumably, as an ideal set of rules of predecessor state's responsibility to retain the old nationality, and on the other hand zero-option principle for successor states. However, in the viewpoint of present paper,

neither the 2006 CoE Convention nor the 1997 European Nationality Convention could prove adequate enough in present or similar cases. Practically, the application of the 2006 CoE Convention became maladaptive in case of dual nature of Russian statehood (continuing or a successor state). Similarly
it was not effective in Estonian and Latvian cases where severe tensions involving historical tragedy are coupled with the theory of continuity of statehood. Even in case of application of zero-option principle in Central Asia, elements such as; difference in critical dates, requirement of legal and actual residence still cause sporadic, but great number of, cases of statelessness.

Traditionally, international law posed no concrete limitations in respect to nationality, considering it to be an independent matter for each state. In turn, states are very reluctant to share their sovereignty with international law in terms of nationality. Those few existing limitations address mainly avoidance of *de jure* statelessness or undetermined status for spouses and children. Scholars and practitioners involved into the topic often question the effectiveness of such limitations. In fact, when one takes a closer look into actual situation, it is obvious that existing practice provides very few cases in which nationality related disputes have been successfully resolved by international rules. Furthermore, it is necessary to address a variety of sources in order to find out more about those rules, namely to answer the question; what are the existing international limitations?

The findings of this study suggest that citizenship - is a highly politicized concept which makes application of international norms substantially challenging. The research accordingly examines the opinion of scholars and practitioners in this respect. It also demonstrates the necessity of states' initiatives to address remaining citizenship problems through the prism of international dialog and negotiations with other states.

The scope of the present research is geographically and objectively limited. It focuses on the Russian Federation, the Baltic States and three of the Central Asian states - the territories which once formed a single federative state known as the USSR. The following work is based on the findings from national legislations and practices, cases and country reports specifically related to nationality matters, books and journal articles. After a brief description of the sources of public international law on nationality, separate chapters aim to discuss and analyze the domestic nationality laws in texts and states receptivity towards international norms. It will include a wide spectrum of issues which will be dealt with in separate sections or intersections.

The present paper includes a narrative and coherent discussion on historical, sub-regional and political preconditions which together with international reaction have shaped present and future perspectives of domestic laws and practices. The introductory part of each country study assesses objectively the historical stages each state had to undergo, and serves as a guide to the next section which is devoted to the nationality laws in texts. This layout will enable the reader to understand the initial character or attitude of new states towards the previous socialist order and the policy of multi-ethnicity, which was widely practiced in the former USSR. One of the main targets of the research is to demonstrate how states constituted the initial body of citizens after gaining independence, whether they did it by implying a zero-option or using other principles. The section also aims to define the principles states enabled for nationality determination, such as *jus soli* and *jus sanguinis.* Through several country studies in the present paper, it is also planned to demonstrate the practices of conferral of nationality upon a particular group by states' sovereign will. While discussing each actual situation it is planned to inquire into whether the states consulted existing particular international norms while crafting nationality laws or whether they implied other standards. Moreover, it is aimed to find out about existing legal distinctions between "insiders" and "outsiders".

While analyzing rules and policies which govern the naturalization process in each of the states, the research also focuses on such sensitive elements as language laws, ethnicity and residency in order to find out how applicants can satisfy them. As language laws exist in almost all states and usually raise questions about their legitimacy, their application, particularly in Russia and Central Asia, are still not well researched by academia. By addressing the relevant cases, it is planned to provide a general picture of the remaining problems and attitudes of states towards such issues. Further focus is paid to dual or multiple nationalities. In particular, the research aims to detect general, explicit provisions on dual citizenship or its prohibition. The research attempts to discover the instruments which help states to carry out and control dual nationality policies with other states.

In a separate section which deals with international treaties, the primary aim of the research is to demonstrate the essence and importance of such agreements in the regulation of nationality, statelessness or dual nationality matters. In addition, it is planned to examine the exceptionally effective role of such agreements in resolving remaining disputes between two or more states.

In essence, the overall thesis statement posed in this work in the following: Citizenship Regulation in the Republics of the Former USSR Territory; an International Legal Study in Nationality and Statelessness.

It is an empirical research paper based on legal comparison and related cases. By unifying several country studies into a single research, it is planned to take a closer and independent look at the present stage of nationality laws and policies. It is also planned to analyze English and Russian sources, in particular, west European approaches to the post-socialist developments in nationality legal policy in Baltic region, by addressing relevant researches, reports and conference papers. In the process of evaluation, it is aimed to discern any possible contrasts, if there are any, and explain their theoretical causes.

The sections of each particular chapter will eventually shed more light on such questions as; what was behind a particular development in a particular state, or, in other words, why did states adopt certain legal criteria into their citizenship laws? How did the politics of citizenship in post-Soviet states evolved over the time? Can national identity (ethnicity) be the source of citizenship policy? To what extent is there any influence from the former Soviet or European law? How efficient was their impact? Are there any other alternative measures to address contemporary problems?

As any state matures, the legal and political realities of that state may change as well.

Like many other issues, the laws on citizenship also evolve over the time, thus presenting a dynamic concept rather than static one. The question is how and why it keeps evolving? Research has additionally discovered two main circumstances which enable the development of nationality laws;

I) Practical problems raised by initial citizenship laws when lawmakers act virtually unable or unwilling to foresee further consequences (loss of nationality and statelessness, uncertain status, violation of constitutional rights, i.e. family rights, illegal holding of dual nationality, complicated renunciation of citizenship in favor of another)

II) International pressure. The post-USSR space is a unique case as international human rights watchdogs which engaged in citizenship issues, provided essential support in citizenship matters. Citizenship policies were supported by such organizations as the Council of Europe, the High Commissioner for National Minorities, the OSCE and the UNHCR.