

## รายการอ้างอิง

### ภาษาไทย

- กมล สนธิเกษตริน. คำอธิบายกฎหมายระหว่างประเทศแผนกคดีบุคคล. พิมพ์ครั้งที่ 6 กรุงเทพฯ : สำนักพิมพ์นิติบรรณาการ , 2535.
- การปกครอง, กรม. คู่มือปฏิบัติงาน เล่ม 1 : รวมกฎหมายและระเบียบเกี่ยวกับการดำเนินงานด้านสัญชาติ คนเข้าเมือง การทะเบียนราษฎรและคนต่างด้าว. กรุงเทพมหานคร : โรงพิมพ์อาสา รักษาตินแดน, 2548.
- การปกครอง, กรม. คู่มือปฏิบัติงานเล่ม 2 : มติคณะรัฐมนตรี หนังสือสั่งการ และเรื่องที่ควรรู้เกี่ยวกับการกำหนดสถานะตามกฎหมายของกลุ่มชาติพันธุ์ในประเทศไทย. กรุงเทพมหานคร : โรงพิมพ์อาสา รักษาตินแดน , 2548.
- โกศล โสภาคย์วิจิตร. การคุ้มครองสิทธิมนุษยชนตามกฎหมายระหว่างประเทศ. กรุงเทพมหานคร : คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย , 2520.
- ขจักษ์ บุรุษพัฒน์. ปัญหาชนกลุ่มน้อยในประเทศไทย. กรุงเทพมหานคร : แพรวพิทยา , 2515.
- คณะกรรมการสิทธิมนุษยชนแห่งชาติ. รายงานประเมินสถานการณ์สิทธิมนุษยชนในประเทศไทย ปี 2544 – 2546, 2547.
- คณิง ฉาไชย. คำบรรยายกฎหมายระหว่างประเทศแผนกคดีบุคคล. กรุงเทพมหานคร : สำนักอบรมศึกษากฎหมายแห่งเนติบัณฑิตยสภา , 2520.
- จตุรนต์ ธีระวัฒน์. กฎหมายระหว่างประเทศ. กรุงเทพฯ : สำนักพิมพ์มหาวิทยาลัยธรรมศาสตร์ , 2547.
- จรัญ ภักดีธนากุล. “ความไม่เป็นธรรมในกฎหมายสัญชาติของไทย” บทบัญญัติ. ตอน 2 ปี 2534.
- จุมพต สายสุนทร. กฎหมายระหว่างประเทศ เล่ม 2. พิมพ์ครั้งที่ 3 กรุงเทพฯ : โรงพิมพ์เดือนตุลา , 2549.
- จุมพต สายสุนทร. กฎหมายระหว่างประเทศ เล่ม 3. พิมพ์ครั้งที่ 3 กรุงเทพฯ : โรงพิมพ์เดือนตุลา , 2545.
- จุมพต สายสุนทร. กฎหมายระหว่างประเทศ ว่าด้วยเขตอำนาจของรัฐและความคุ้มกันจากเขตอำนาจของรัฐ. พิมพ์ครั้งที่ 1 กรุงเทพฯ : โรงพิมพ์เดือนตุลา, 2538
- ฉัตรทิพย์ นาถสุภา. กฎหมายระหว่างประเทศ. พระนคร : ไทยวัฒนาพานิช , 2511.
- ฉัตรทิพย์ นาถสุภา, สมศักดิ์ ชูโต, มาลัย หุวะนันท. งานแปลของสภาวิจัย อันดับที่ 26 กฎหมายระหว่างประเทศปัจจุบัน. พิมพ์ครั้งที่ 2 กรุงเทพฯ : องค์การค้ำของครุสภา , 2516.

- ชุมพร ปิจจุสานนท์. กฎหมายระหว่างประเทศแผนกคดีบุคคล เล่ม 1. พิมพ์ครั้งที่ 2 กรุงเทพฯ : สำนักพิมพ์วิญญูชน , 2549.
- บวรศักดิ์ อุวรรณโณ. เอกสารการสอนชุดวิชาระบบกฎหมายไทยและต่างประเทศ. หน่วยที่ 2 พิมพ์ครั้งที่ 1 กรุงเทพมหานคร : มหาวิทยาลัยสุโขทัยธรรมมาธิราช, 2528.
- ประกอบ ประพันธ์เนติวุฒิ. กฎหมายระหว่างประเทศแผนกคดีบุคคลและคดีอาญา ตอนที่ 1 แผนกคดีบุคคล. พิมพ์ครั้งที่ 2 กรุงเทพฯ : อรุณการพิมพ์, 2527.
- ปิ่นแก้ว อุ่นแก้ว. คนไร้รัฐ ไร้สัญชาติในรัฐไทย. กรุงเทพฯ: โรงพิมพ์เดือนตุลา , 2550.
- พันธุ์ทิพย์ กาญจนาจิตรา. คำอธิบายกฎหมายระหว่างประเทศแผนกคดีบุคคล ภาคที่ 1 การจัดสรรเอกชนในระหว่างประเทศ. พิมพ์ครั้งที่ 1 กรุงเทพฯ : สำนักพิมพ์วิญญูชน , 2538.
- พันธุ์ทิพย์ กาญจนาจิตรา. คำอธิบายกฎหมายระหว่างประเทศแผนกคดีบุคคล ภาคนำ : แนวความคิดทั่วไปเกี่ยวกับนิติสัมพันธ์ของเอกชนที่มีลักษณะระหว่างประเทศ. พิมพ์ครั้งที่ 4 กรุงเทพฯ : โรงพิมพ์เดือนตุลา, 2544
- วรรณที รุ่งเรืองสภาคุล. สถานะบุคคลตามกฎหมายไทยของคนเชื้อชาติไทยจากเกาะกง. วิทยานิพนธ์ปริญญานิติศาสตร์มหาบัณฑิต มหาวิทยาลัยธรรมศาสตร์, 2545.
- วิเชียร วัฒนคุณ. กฎหมายระหว่างประเทศแผนกคดีบุคคล. พระนคร : โรงพิมพ์มหาวิทยาลัยธรรมศาสตร์, 2505.
- วิลาวัณย์ ปิตาวารานนท์. การพิสูจน์สัญชาติไทยของบุคคลธรรมดา. วิทยานิพนธ์ปริญญา มหาบัณฑิต สาขากฎหมายระหว่างประเทศ คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย, 2549.
- วีระ โลจายะ, พันโท. เอกสารการสอนชุดวิชากฎหมายระหว่างประเทศ. หน่วยที่ 12 พิมพ์ครั้งที่ 13 กรุงเทพมหานคร : มหาวิทยาลัยสุโขทัยธรรมมาธิราช, 2528.
- สุข ปุเรนาวิน, พลโท. กฎหมายระหว่างประเทศ (เล่มหนึ่ง). คำสอนชั้นปริญญาตรี มหาวิทยาลัยธรรมศาสตร์ พิมพ์ครั้งที่ 7 กรุงเทพมหานคร , 2513.
- สมปอง สุจริตกุล. สัญชาติของบุคคลตามกฎหมายระหว่างประเทศ, สราญรมย์. (ปีที่ 23)
- หยุด แสงอุทัย. คำอธิบายกฎหมายระหว่างประเทศแผนกคดีบุคคล ว่าด้วยการขัดกันแห่งกฎหมายสัญชาติ. พิมพ์ครั้งที่ 11 กรุงเทพฯ : สำนักพิมพ์มหาวิทยาลัยธรรมศาสตร์, 2527.
- อภิญา เลื่อนฉวี. กฎหมายระหว่างประเทศแผนกคดีเมือง. พิมพ์ครั้งที่ 1 กรุงเทพฯ : วิจิตรอักษรการพิมพ์, 2538.
- อุดม โตสงวน. กฎหมายระหว่างประเทศแผนกคดีบุคคล. พิมพ์ครั้งที่ 2. (น.ป.ท.). 2503.

ภาษาต่างประเทศ

Brierly, J.L. The Law OF Nations , London, Oxford : The  
Clarendon Press, 1963.

Brierly, J.L. The Law of Nations : On Introduction TO The International Law OF Peace. 6 th  
Edition. Oxford : Oxford University Press , 1998.

Ian Brownlie, Principles of Public International Law. 11 th London, Oxford : Oxford University  
Press , 1998.

ภาคผนวก

Convention on the Reduction of Statelessness

1961

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Convention on the Reduction of Statelessness

Done at New York on 30 August 1961

The Contracting States,

Acting in pursuance of resolution 896 (IX), adopted by the General Assembly of the United Nations on 4 December 1954,

Considering it desirable to reduce statelessness by international agreement,

Have agreed as follows:

Article 1

1. A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless. Such nationality shall be granted:

(a) at birth, by operation of law, or

(b) upon an application being lodged with the appropriate authority, by or on behalf of the person concerned, in the manner prescribed by the national law. Subject to the provisions of paragraph 2 of this article, no such application may be rejected.

A Contracting State which provides for the grant of its nationality in accordance with subparagraph (b)

of this paragraph may also provide for the grant of its nationality by operation of law at such age and subject to such conditions as may be prescribed by the national law.

2. A Contracting State may make the grant of its nationality in accordance with subparagraph (b) of paragraph 1 of this article subject to one or more of the following conditions:

(a) that the application is lodged during a period, fixed by the Contracting State, beginning not later than at the age of eighteen years and ending not earlier than at the age of twenty-one years, so, however, that the person concerned shall be allowed at least one year during which he may himself make the application without having to obtain legal authorization to do so;

(b) that the person concerned has habitually resided in the territory of the Contracting State for such period as may be fixed by that State, not exceeding five years immediately preceding the lodging of the application nor ten years in all;

(c) that the person concerned has neither been convicted of an offence against national security nor has been sentenced to imprisonment for a term of five years or more on a criminal charge;

(d) that the person concerned has always been stateless.

3. Notwithstanding the provisions of paragraphs 1 (b) and 2 of this article, a child born in wedlock in the territory of a Contracting State, whose mother has the nationality of that State, shall acquire at birth that nationality if it otherwise would be stateless.

4. A Contracting State shall grant its nationality to a person who would otherwise be stateless and who is unable to acquire the nationality of the Contracting State in whose territory he was born because he had passed the age for lodging his application or has not fulfilled the required residence conditions, if the nationality of one of his parents at the time of the person's birth was that of the Contracting State first above mentioned. If his parents did not possess the same nationality at the time of his birth, the question whether the nationality of the person concerned should follow that of the father or that of the mother shall be determined by the national law of such Contracting State. If application for such nationality is required, the application shall be made to the appropriate authority by or on behalf of the applicant in the manner prescribed by the national law. Subject to the provisions of paragraph 5 of this article, such application shall not be refused. 5. The Contracting State may make the grant of its nationality in accordance with the provisions of paragraph 4 of this article subject to one or more of the following conditions:

(a) that the application is lodged before the applicant reaches an age, being not less than twenty-three years, fixed by the Contracting State;

(b) that the person concerned has habitually resided in the territory of the Contracting State for such period immediately preceding the lodging of the application, not exceeding three years, as may be fixed by that State;

(c) that the person concerned has always been stateless.

## Article 2

A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State.

### Article 3

For the purpose of determining the obligations of Contracting States under this Convention, birth on a ship or in an aircraft shall be deemed to have taken place in the territory of the State whose flag the ship flies or in the territory of the State in which the aircraft is registered, as the case may be.

### Article 4

1.A Contracting State shall grant its nationality to a person, not born in the territory of a Contracting State, who would otherwise be stateless, if the nationality of one of his parents at the time of the person's birth was that of that State. If his parents did not possess the same nationality at the time of his birth, the question whether the nationality of the person concerned should follow that of the father or that of the mother shall be determined by the national law of such Contracting State. Nationality granted in accordance with the provisions of this paragraph shall be granted:

(a) at birth, by operation of law, or  
(b) upon an application being lodged with the appropriate authority, by or on behalf of the person concerned, in the manner prescribed by the national law. Subject to the provisions of paragraph 2 of this article, no such application may be rejected.

2.A Contracting State may make the grant of its nationality in accordance with the provisions of paragraph 1 of this article subject to one or more of the following conditions:

- (a) that the application is lodged before the applicant reaches an age, being not less than twenty-three years, fixed by the Contracting State;
- (b) that the person concerned has habitually resided in the territory of the Contracting State for such period immediately preceding the lodging of the application, not exceeding three years, as may be fixed by that State;
- (c) that the person concerned has not been convicted of an offence against national security;
- (d) that the person concerned has always been stateless.

### Article 5

1. If the law of a Contracting State entails loss of nationality as a consequence of any change in

the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality.

2. If, under the law of a Contracting State, a child born out of wedlock loses the nationality of that State in consequence of a recognition of affiliation, he shall be given an opportunity to recover that nationality by written application to the appropriate authority, and the conditions governing such application shall not be more rigorous than those laid down in paragraph 2 of article 1 of this Convention.

#### Article 6

If the law of a Contracting State provides for loss of its nationality by a person's spouse or children as a consequence of that person losing or being deprived of that nationality, such loss shall be conditional upon their possession or acquisition of another nationality.

#### Article 7

1. (a) If the law of a Contracting State permits renunciation of nationality, such renunciation shall not result in loss of nationality unless the person concerned possesses or acquires another nationality.

(b) The provisions of subparagraph (a) of this paragraph shall not apply where their application would be inconsistent with the principles stated in articles 13 and 14 of the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly of the United Nations.

2. A national of a Contracting State who seeks naturalization in a foreign country shall not lose his nationality unless he acquires or has been accorded assurance of acquiring the nationality of that foreign country.

3. Subject to the provisions of paragraphs 4 and 5 of this article, a national of a Contracting State shall not lose his nationality, so as to become stateless, on the ground of departure, residence abroad, failure to register or on any similar ground.

4. A naturalized person may lose his nationality on account of residence abroad for a period, not less than seven consecutive years, specified by the law of the Contracting State concerned if he fails to declare to the appropriate authority his intention to retain his nationality.

5. In the case of a national of a Contracting State, born outside its territory, the law of that State



may make the retention of its nationality after the expiry of one year from his attaining his majority conditional upon residence at that time in the territory of the State or registration with the appropriate authority.

6. Except in the circumstances mentioned in this article, a person shall not lose the nationality of a Contracting State, if such loss would render him stateless, notwithstanding that such loss is not expressly prohibited by any other provision of this Convention.

#### Article 8

1. A Contracting State shall not deprive a person of its nationality if such deprivation would render him stateless.

2. Notwithstanding the provisions of paragraph 1 of this article, a person may be deprived of the nationality of a Contracting State:

- (a) in the circumstances in which, under paragraphs 4 and 5 of article 7, it is permissible that a person should lose his nationality;
- (b) where the nationality has been obtained by misrepresentation or fraud.

3. Notwithstanding the provisions of paragraph 1 of this article, a Contracting State may retain the right to deprive a person of his nationality, if at the time of signature, ratification or accession it specifies its retention of such right on one or more of the following grounds, being grounds existing in its national law at that time:

- (a) that, inconsistently with his duty of loyalty to the Contracting State, the person
  - (i) has, in disregard of an express prohibition by the Contracting State rendered or continued to render services to, or received or continued to receive emoluments from, another State, or
  - (ii) has conducted himself in a manner seriously prejudicial to the vital interests of the State;
- (b) that the person has taken an oath, or made a formal declaration, of allegiance to another State, or given definite evidence of his determination to repudiate his allegiance to the Contracting State.

4. A Contracting State shall not exercise a power of deprivation permitted by paragraphs 2 or 3 of this article except in accordance with law, which shall provide for the person concerned the right to a fair hearing by a court or other independent body.

#### Article 9

A Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.

#### Article 10

1. Every treaty between Contracting States providing for the transfer of territory shall include provisions designed to secure that no person shall become stateless as a result of the transfer. A Contracting State shall use its best endeavours to secure that any such treaty made by it with a State which is not a party to this Convention includes such provisions.

2. In the absence of such provisions a Contracting State to which territory is transferred or which otherwise acquires territory shall confer its nationality on such persons as would otherwise become stateless as a result of the transfer or acquisition.

#### Article 11

The Contracting States shall promote the establishment within the framework of the United Nations, as soon as may be after the deposit of the sixth instrument of ratification or accession, of a body to which a person claiming the benefit of this Convention may apply for the examination of his claim and for assistance in presenting it to the appropriate authority.

#### Article 12

1. In relation to a Contracting State which does not, in accordance with the provisions of paragraph 1 of article 1 or of article 4 of this Convention, grant its nationality at birth by operation of law, the provisions of paragraph 1 of article 1 or of article 4, as the case may be, shall apply to persons born before as well as to persons born after the entry into force of this Convention.

2. The provisions of paragraph 4 of article 1 of this Convention shall apply to persons born before as well as to persons born after its entry into force.

3. The provisions of article 2 of this Convention shall apply only to foundlings found in the territory of a Contracting State after the entry into force of the Convention for that State.

#### Article 13

This Convention shall not be construed as affecting any provisions more conducive to the

reduction of statelessness which may be contained in the law of any Contracting State now or hereafter in force, or may be contained in any other convention, treaty or agreement now or hereafter in force between two or more Contracting States.

#### Article 14

Any dispute between Contracting States concerning the interpretation or application of this Convention which cannot be settled by other means shall be submitted to the International Court of Justice at the request of any one of the parties to the dispute.

#### Article 15

1. This Convention shall apply in all non-self-governing, trust, colonial and other nonmetropolitan territories for the international relations of which any Contracting State is responsible; the Contracting State concerned shall, subject to the provisions of paragraph 2 of this article, at the time of signature, ratification or accession, declare the non-metropolitan territory or territories to which the Convention shall apply ipso facto as a result of such signature, ratification or accession.

2. In any case in which, for the purpose of nationality, a non-metropolitan territory is not treated as one with the metropolitan territory, or in any case in which the previous consent of a nonmetropolitan territory is required by the constitutional laws or practices of the Contracting State or of the non-metropolitan territory for the application of the Convention to that territory, that Contracting State shall endeavour to secure the needed consent of the non-metropolitan territory within the period of twelve months from the date of signature of the Convention by that Contracting State, and when such consent has been obtained the Contracting State shall notify the Secretary-General of the United Nations. This Convention shall apply to the territory or territories named in such notification from the date of its receipt by the Secretary-General.

3. After the expiry of the twelve-month period mentioned in paragraph 2 of this article, the Contracting States concerned shall inform the Secretary-General of the results of the consultations with those non-metropolitan territories for whose international relations they are responsible and whose consent to the application of this Convention may have been withheld.

#### Article 16

1. This Convention shall be open for signature at the Headquarters of the United Nations from 30 August 1961 to 31 May 1962.

2. This Convention shall be open for signature on behalf of: 8

- (a) any State Member of the United Nations;
- (b) any other State invited to attend the United Nations Conference on the Elimination or Reduction of Future Statelessness;
- (c) any State to which an invitation to sign or to accede may be addressed by the General Assembly of the United Nations.

3. This Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

4. This Convention shall be open for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

#### Article 17

1. At the time of signature, ratification or accession any State may make a reservation in respect of articles 11, 14 or 15.

2. No other reservations to this Convention shall be admissible.

#### Article 18

1. This Convention shall enter into force two years after the date of the deposit of the sixth instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the sixth instrument of ratification or accession, it shall enter into force on the ninetieth day after the deposit by such State of its instrument of ratification or accession or on the date on which this Convention enters into force in accordance with the provisions of paragraph 1 of this article, whichever is the later.

#### Article 19

1. Any Contracting State may denounce this Convention at any time by a written notification addressed to the Secretary-General of the United Nations. Such denunciation shall take effect for the Contracting State concerned one year after the date of its receipt by the Secretary-General.

2. In cases where, in accordance with the provisions of article 15, this Convention has become

applicable to a non-metropolitan territory of a Contracting State, that State may at any time thereafter, with the consent of the territory concerned, give notice to the Secretary-General of the United Nations denouncing this Convention separately in respect of that territory. The denunciation shall take effect one year after the date of the receipt of such notice by the Secretary-General, who shall notify all other Contracting States of such notice and the date of receipt thereof. 9

#### Article 20

1. The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States referred to in article 16 of the following particulars:

- (a) signatures, ratifications and accessions under article 16;
- (b) reservations under article 17;
- (c) the date upon which this Convention enters into force in pursuance of article 18;
- (d) denunciations under article 19.

2. The Secretary-General of the United Nations shall, after the deposit of the sixth instrument of ratification or accession at the latest, bring to the attention of the General Assembly the question of the establishment, in accordance with article 11, of such a body as therein mentioned.

#### Article 21

This Convention shall be registered by the Secretary-General of the United Nations on the date of its entry into force.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Convention.

DONE at New York, this thirtieth day of August, one thousand nine hundred and sixty-one, in a single copy, of which the Chinese, English, French, Russian and Spanish texts are equally authentic and which shall be deposited in the archives of the United Nations, and certified copies of which shall be delivered by the Secretary-General of the United Nations to all Members of the United Nations and to the non-member States referred to in article 16 of this Convention.

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AVSL, PO Box 4013; Ainslie, ACT 2602 Australia  
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Law on Nationality of Vietnam

Passed by the National Assembly on June 28, 1988

Chapter 1

General Provisions

Article 1. Persons holding Vietnamese nationality

The Socialist Republic of Vietnam is a unified State of all nationals living on Vietnamese territory. All members of all ethnic groups hold Vietnamese nationality.

Persons holding Vietnamese nationality include those who hold Vietnamese nationality up to the day this Law comes into force and those who will be granted Vietnamese nationality in accordance with the provisions of this Law.

Article 2. Relationship between the State and citizens

Vietnamese citizens shall be guaranteed all rights as citizens by the State of the Socialist Republic of Vietnam, and must fulfil their obligations towards the State and society as provided by law.

The State shall protect the legitimate rights of Vietnamese citizens living abroad.

### Article 3. Recognition of a single nationality for Vietnamese citizens

The State of the Socialist Republic of Vietnam recognizes Vietnamese citizens as having only one nationality: Vietnamese.

Article 4. Retention of nationality in cases of marriage, divorce, annulment of unlawful marriage, and change of nationality by a husband or wife

Marriage, divorce or annulment of unlawful marriage between a Vietnamese citizen and a foreigner or a stateless person, shall not change their respective nationality.

Where a husband or wife is granted or loses Vietnamese nationality, there shall be no change to the nationality of the partner.

## Chapter 2

### Determination of Vietnamese Nationality

#### Article 5. Persons holding Vietnamese nationality

A person shall hold Vietnamese nationality if one of the following circumstances applies:

1. By birth;
2. Being granted Vietnamese nationality;
3. Having Vietnamese nationality restored;
4. Holding Vietnamese nationality in accordance with international treaties to which Vietnam is a party;

5. Holding Vietnamese nationality in other cases as provided for by this Law.

#### Article 6. Nationality of a child

1. Any child born to parents who are Vietnamese citizens shall hold Vietnamese nationality regardless of whether that child was born inside or outside the territory of Vietnam.

2. Any child born to parents, one of whom is a Vietnamese citizen and the other a stateless person or person unknown, shall hold Vietnamese nationality regardless of whether that child was born inside or outside the territory of Vietnam.

3. Any child born to parents, one of whom is a Vietnamese citizen and the other a foreign national, if born inside Vietnamese territory or at a time when the parents have permanent residence in Vietnam shall hold Vietnamese nationality unless both parents decide otherwise. Where that child is born outside Vietnamese territory, and at a time when the parents have no permanent residence in Vietnam, the child's nationality shall be decided by the parents.

4. Any child born on Vietnamese territory and whose parents are both stateless persons but have permanent residence in Vietnam, shall hold Vietnamese nationality.

5. Any child found on Vietnamese territory and whose parents are unknown shall hold Vietnamese nationality.

#### Article 7. Granting of Vietnamese nationality

1. A foreign national or stateless person who is residing in Vietnam and voluntarily observes the Constitution and laws of Vietnam, may be granted Vietnamese nationality if satisfying the following conditions:

a- Being 18 years of age or over;



b- Speaking Vietnamese;

c- Having been residing in Vietnam for at least five years.

2. A foreign national or stateless person may, on legitimate grounds, be granted Vietnamese nationality without having to satisfy the conditions set out in points a, b and c of paragraph 1 of this Article.

3. Where persons have been granted Vietnamese nationality in accordance with the provisions of this Article, but have made inaccurate statements when applying for Vietnamese nationality, the decision to grant Vietnamese nationality may be revoked.

### Chapter 3

#### Loss of Nationality, Restoration of Vietnamese Nationality

##### Article 8. Loss of Vietnamese nationality

A Vietnamese citizen shall lose Vietnamese nationality in the following circumstances:

1. Being permitted to relinquish Vietnamese nationality;
2. Being deprived of Vietnamese nationality;
3. Losing Vietnamese nationality in accordance with international treaties to which Vietnam is one of the signatories;
4. Losing Vietnamese nationality in other cases as provided for in this Law.

##### Article 9. Relinquishing of Vietnamese nationality

1. A Vietnamese citizen may be permitted to relinquish Vietnamese nationality, if there are legitimate grounds.
  
2. Where a person requests permission to relinquish Vietnamese nationality, the relinquishing may not be permitted if any of the following circumstances applies:
  - a- If performing military service;
  
  - b- If tax due or other property obligations to the State;
  
  - c- Being prosecuted for criminal offences;
  
  - d- Executing a court's verdict.
  
3. If the relinquishing of Vietnamese nationality endangers national security, permission to relinquish Vietnamese nationality will not be granted.

#### Article 10. Deprivation of Vietnamese nationality

1. A Vietnamese citizen resident outside the territory of Vietnam may be deprived of Vietnamese nationality when carrying out activities that seriously endanger national independence and the cause of building and defending the Socialist Republic of Vietnam, or to the interests and prestige of the Socialist Republic of Vietnam.
  
2. Persons having been granted Vietnamese nationality in accordance with Article 7 of this Law wherever residing may also be deprived of their Vietnamese nationality if they commit such acts as stipulated in paragraph 1 of this Article.

#### Article 11. Restoration of Vietnamese nationality

Persons who have lost their Vietnamese nationality may, on legitimate grounds, be granted the restoration of Vietnamese nationality.

## Chapter 4

### Nationality of Children in the Case of changes to Parent's nationality-Nationality of Adopted Children

#### Article 12. Nationality of children in the case of changes to parents' nationality

1. Where there is a change to the nationality of parents (granting, relinquishing or restoration of Vietnamese nationality) the nationality of the child shall be changed accordingly.
2. Where there is a change to the nationality of one of the parents, the nationality of the child shall be decided by the parents.
3. Any change to the nationality of persons aged over 15 and less than 18, in accordance with the provisions of paragraphs 1 and 2 of this Article, must be subject to the consent of that person.

Article 13. Nationality of children whose parents are deprived of Vietnamese nationality or where a decision to grant Vietnamese nationality is revoked.

Where one or both parents are deprived of Vietnamese nationality in accordance with Article 10, or where a decision to grant Vietnamese nationality is revoked in accordance with paragraph 3, Article 7, the nationality of any children shall not be subject to change.

#### Article 14. Nationality of adopted children

1. Where a child is a foreign national or a stateless person, and if either or both of the adoptive parents is Vietnamese citizen, that child shall be granted Vietnamese nationality in accordance with the request from the adoptive parents and be exempt from the conditions set out in paragraph 1 of Article 7 of this Law.

2. Where a child is a Vietnamese citizen, and either or both of the adoptive parents is a foreign national and the natural parents or legal guardian so agree, the child may relinquish Vietnamese nationality in accordance with request by the adoptive parents for the granting of a different nationality.

3. A change in the nationality of a person aged over 15 and less than 18, as stipulated in paragraphs 1 and 2 of this Article, must be subject to the consent of that person.

## Chapter 5

### Power to Decide Questions of Nationality

#### Article 15

1. The council of Ministers shall determine in all cases the granting, relinquishing, restoration, depriving and revoking of decisions to grant Vietnamese nationality.

2. Procedures for deciding all questions of nationality shall be determined by the Council of Ministers.

## Chapter 6

### Final Provisions

#### Article 16

Where an international treaty to which Vietnam is one of the signatories contains provisions which differ from those of this law, the provisions set out in that international treaty shall be applied.

#### Article 17

This law comes into force on 15 July 1988, and the decrees listed hereunder are simultaneously repealed:

1. Decree No 53/SL of October 20th, 1945;
2. Decree No 73/SI of December 7th, 1945;
3. Article 6 of Decree No 251/SL of August 20th, 1948;
4. Decree No 51/SL of December 14th, 1959;
5. Resolution No 1043 NQ/TVQH of February 8th, 1971 of the Standing Committee of the National Assembly.

#### Article 18

The Council of Ministers shall determine the details of implementation of this Law.

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## THE NATIONALITY LAW

The Nationality Law (Law No.147 of 1950, as amended by Law No.268 of 1952, Law No.45 of 1984, Law No.89 of 1993 and Law.No.147 of 2004,Law No.88 of 2008)

(Purpose of this Law)

Article 1.

The conditions necessary for being a Japanese national shall be determined by the provisions of this Law.

(Acquisition of nationality by birth)

Article 2.

A child shall, in any of the following cases, be a Japanese national:

- (1) When, at the time of its birth, the father or the mother is a Japanese national;
- (2) When the father who died prior to the birth of the child was a Japanese national at the time of his death;
- (3) When both parents are unknown or have no nationality in a case where the child is born in Japan.

(Acquisition of nationality by an Acknowledged Child)

Article 3.

A child (excluding a child who was once a Japanese national) under twenty years of age whose father or mother has acknowledged paternity or maternity respectively , may acquire Japanese nationality through a notification to the Minister of Justice, if the father or mother who made the acknowledgement was a Japanese national at the time of the child's birth, and such father or mother is presently a Japanese national or was a Japanese national at the time of his or her death.

2. A child who makes notification in accordance with the preceding paragraph shall acquire Japanese nationality at the time of the notification.

(Naturalization)

Article 4.

A person who is not a Japanese national (hereinafter referred to as "an alien") may acquire Japanese nationality by naturalization.

2. The permission of the Minister of Justice shall be obtained for naturalization.

Article 5.

The Minister of Justice shall not permit the naturalization of an alien unless he or she fulfills all of the following conditions:

- (1) that he or she has domiciled in Japan for five years or more consecutively;
- (2) that he or she is twenty years of age or more and of full capacity to act according to the law of his or her home country;
- (3) that he or she is of upright conduct;
- (4) that he or she is able to secure a livelihood by one's own property or ability, or those of one's spouse or other relatives with whom one lives on common living expenses;
- (5) that he or she has no nationality, or the acquisition of Japanese nationality will result in the loss of foreign nationality;
- (6) that he or she has never plotted or advocated, or formed or belonged to a political party or other organization which has plotted or advocated the overthrow of the Constitution of Japan or the Government existing thereunder, since the enforcement of the Constitution of Japan.

2. When an alien is, regardless of his or her intention, unable to deprive himself or herself of his or her current nationality, the Minister of Justice may permit the naturalization of the alien, notwithstanding that the alien does not fulfill the conditions set forth in item (5) of the preceding paragraph, if the Minister of Justice finds exceptional circumstances in his or her family relationship with a Japanese national, or other circumstances.

Article 6.

The Minister of Justice may permit the naturalization of an alien notwithstanding that the alien does not fulfill the condition set forth in item (1) of paragraph 1 of the last preceding Article,

provided that the said alien falls under any one of the following items, and is presently domiciled in Japan:

- (1) One who has had a domicile or residence in Japan for three consecutive years or more and who is the child of a person who was a Japanese national (excluding a child by adoption);
- (2) One who was born in Japan and who has had a domicile or residence in Japan for three consecutive years or more, or whose father or mother (excluding father and mother by adoption) was born in Japan;
- (3) One who has had a residence in Japan for ten consecutive years or more.

#### Article 7.

The Minister of Justice may permit the naturalization of an alien who is the spouse of a Japanese national notwithstanding that the said alien does not fulfill the conditions set forth in items (1) and (2) of paragraph 1 of Article 5, if the said alien has had a domicile or residence in Japan for three consecutive years or more and is presently domiciled in Japan. The same rule shall apply in the case where an alien who is the spouse of a Japanese national has been married with the Japanese national for three years or more and has had a domicile in Japan for one consecutive year or more.

#### Article 8.

The Minister of Justice may permit the naturalization of an alien notwithstanding that the alien does not fulfill the conditions set forth in items (1), (2) and (4) of paragraph 1 of Article 5, provided that the alien falls under any one of the following items:

- (1) One who is a child (excluding a child by adoption) of a Japanese national and has a domicile in Japan;
- (2) One who is a child by adoption of a Japanese national and has had a domicile in Japan for one consecutive year or more and was a minor according to the law of its native country at the time of the adoption;
- (3) One who has lost Japanese nationality (excluding one who has lost Japanese nationality after naturalization in Japan) and has a domicile in Japan;
- (4) One who was born in Japan and has had no nationality since the time of birth, and has had a domicile in Japan for three consecutive years or more since then.



Article 9.

With respect to an alien who has rendered especially meritorious service to Japan, the Minister of Justice may, notwithstanding the provision of Article 5, paragraph 1, permit the naturalization of the alien with the approval of the Diet.

Article 10.

The Minister of Justice shall, when permitting naturalization, make an announcement to that effect by public notice in the Official Gazette.

2. The naturalization shall come into effect as from the date of the public notice under the preceding paragraph.

(Loss of nationality)

Article 11.

A Japanese national shall lose Japanese nationality when he or she acquires a foreign nationality by his or her own choice.

2. A Japanese national having a foreign nationality shall lose Japanese nationality if he or she chooses the foreign nationality in accordance with the laws of the foreign country concerned.

Article 12.

A Japanese national who was born in a foreign country and has acquired a foreign nationality by birth shall lose Japanese nationality retroactively as from the time of birth, unless the Japanese national clearly indicates his or her volition to reserve Japanese nationality according to the provisions of the Family Registration Law (Law No.224 of 1947).

Article 13.

A Japanese national having a foreign nationality may renounce Japanese nationality by making notification to the Minister of Justice.

2. The person who made notification in accordance with the preceding paragraph shall lose Japanese nationality at the time of the notification.

(Choice of nationalities)

Article 14.

A Japanese national having a foreign nationality shall choose either of the nationalities before he or she reaches twenty two years of age if he or she has acquired both nationalities on and before the day when he or she reaches twenty years of age or, within two years after the day when he or she acquired the second nationality if he or she acquired such nationality after the day when he or she reached twenty years of age.

2. Choice of Japanese nationality shall be made either by depriving himself or herself of the foreign nationality or by the declaration provided for in the Family Registration Law in which he or she swears that he or she chooses to be a Japanese national and that he or she renounces the foreign nationality (hereinafter referred to as “declaration of choice”).

Article 15.

The Minister of Justice may, by written notice, require a Japanese national having a foreign nationality who fails to choose Japanese nationality within the period prescribed in paragraph 1 of the last preceding Article to choose one of the nationalities he or she possesses.

2. The notice provided for in the preceding paragraph may be made by means of announcement thereof in the Official Gazette, in the case where the person who is to receive the notice is missing or in any other circumstances where it is impossible to send the notice to the person concerned. In this case, the notice shall be deemed to reach the person concerned on the day following the day when the announcement is made in the Official Gazette.

3. The person to whom the notice has been sent in accordance with the preceding two paragraphs shall lose Japanese nationality at the expiration of one month after the day he or she receives the notice, unless he or she chooses Japanese nationality within such period. This shall not, however, apply in the case where the person concerned is unable to choose Japanese nationality within such

period due to a natural calamity or any other cause not imputable to him or her and he or she has made such choice within two weeks after he or she has become able to do so.

Article 16.

A Japanese national who has made the declaration of choice shall endeavour to deprive himself or herself of the foreign nationality.

2. In the case where a Japanese national who has made the declaration of choice but still possesses a foreign nationality has voluntarily taken public office in the foreign country (excluding an office which a person not having the nationality of such country is able to take), the Minister of Justice may declare that he or she shall lose Japanese nationality if the Minister finds that taking such public office would substantially contradict his or her choice of Japanese nationality.

3. The hearing concerning the declaration under the last preceding paragraph shall be conducted publicly.

4. The declaration provided for in paragraph 2 of this Article shall be made by public notice in the Official Gazette.

5. The person against whom the declaration has been made under paragraph 2 of this Article shall lose Japanese nationality on the day of the public notice under the last preceding paragraph.

(Reacquisition of nationality)

Article 17.

A person under twenty years of age who has lost Japanese nationality in accordance with Article 12 may reacquire Japanese nationality by making notification to the Minister of Justice if he or she has a domicile in Japan.

2. A person who has received a notice under paragraph 2 of Article 15 and has lost Japanese nationality under paragraph 3 of the said Article may reacquire Japanese nationality by making notification to the Minister of Justice within one year after he or she has become aware of the fact

that he or she has lost Japanese nationality, if he or she fulfills the condition set forth in item (5) of paragraph 1 of Article 5. However, in the case where he or she is unable to make notification within the period due to natural calamity or any other cause not imputable to him or her, such period shall be one month after he or she becomes able to do so.

3. The person who has made notification in accordance with the preceding two paragraphs shall acquire Japanese nationality at the time of the notification.

(Notification, etc., by legal representative)

Article 18.

In the case where the person who intends to acquire, choose or renounce nationality is under fifteen years of age, notification of the acquisition of nationality under Article 3, paragraph 1 or Article 17, paragraph 1, the application for naturalization permission, the declaration of choice or the notification of renunciation of nationality shall be made by the person's legal representative on his or her behalf.

(Ministerial ordinance)

Article 19.

Except as provided for in this Law, the procedures concerning the acquisition or renunciation of nationality as well as other rules necessary to enforce this Law shall be prescribed in the Ordinance of the Ministry of Justice.

(Penal provisions)

Article 20.

Any person who has made a false notification when filing a notification pursuant to the provision of Article 3, paragraph 1 shall be punished by imprisonment with work for not more than one year or a fine of not more than 200,000 yen.

2. The crime set forth in the preceding paragraph shall be governed by the provision of Article 2 of the Penal Code (Act No. 45 of 1907).

## ประวัติผู้เขียนวิทยานิพนธ์

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นิติศาสตรบัณฑิต มหาวิทยาลัยธรรมศาสตร์ ปีการศึกษา 2527

ประกาศนียบัตร

สำนักอบรมศึกษากฎหมายแห่งเนติบัณฑิตยสภา สมัยที่ 39

เข้าศึกษา หลักสูตรนิติศาสตรมหาบัณฑิต จุฬาลงกรณ์มหาวิทยาลัย เมื่อปี 2549

การรับราชการ

ปี 2529

นิติกร กองรายได้ สำนักการคลัง กรุงเทพมหานคร

ผู้ช่วยผู้พิพากษา รุ่นที่ 29

ปัจจุบัน ผู้ช่วยผู้พิพากษาศาลฎีกา แผนกคดีอาญาของผู้ดำรงตำแหน่งทางการเมือง

