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Стаття надійшла до редакції: 20.05.2023

**УДК 342.92**

**DOI: 10.36550/2522-9230-2023-14-223-227**

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## **HOW STATELESS PERSON BECOMES A CHINESE CITIZEN**

This article is part of the aforementioned recent international interest in the issue of statelessness, more specifically as a result of a research project commissioned by the UNHCR office in China in 2016. As the most populous country and the second largest economy in the world. Does China have a statelessness problem? How does China feel about it? Is there a gap between China's actions and international law, especially human rights requirements? These questions have not been studied much. Therefore, it makes sense and even needs to be examined more closely.

The article is devoted to the protection of stateless persons in China, which has two levels of objectives: first, to examine whether China has a legal and policy framework to prevent and/or reduce statelessness; second, while there are stateless cases, to study how stateless persons are treated in China. For both missions, this study will examine China's actions in light of international law, particularly international human rights standards, including the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and all relevant international human rights treaties. and UN instruments.

This article analyzes the legal basis and requirements for obtaining Chinese citizenship and citizenship certificates, including the Constitution, the Nationality Law, the Law on the Management of Exit and Entry, the Law on the Resident Identity Card, the Household Registration Ordinance and Temporary Provision on Residence Permit and other relevant laws and regulations.

The article examines possible situations where people are de jure or de facto stateless in China and attempts to identify the main obstacles and challenges for possible resolution.

The article analyzes the problems of statelessness in China from the point of view of international law and indicates China's obligations regarding statelessness in accordance with the international human rights system.

**Key words:** statelessness, Chinese persons, citizens, nationality, international protection

**Formulation of the problem.** A stateless person is a person who does not have the nationality of any country or who is not considered to be a citizen under the law of any country. The emergence of stateless persons is mainly caused by the legislative conflicts in various countries, or it may be determined by their own will, or as the result of the deprivation of nationality. Stateless persons are not protected internationally under the diplomatic protection of any country.

**Analysis of recent research and publications.** Questions of determining statelessness in China are not always in the field of scientific research by domestic scientists. Among the latter, the works of such scientists as Liu Jiang Xizi, Yanfang Long, Cao imeng, Gao Yuanyuan and some others. The scientific works of these researchers definitely have theoretical and practical significance, however, taking into account the current conditions, it is

necessary to revise conceptual approaches to understanding the essence of statelessness, the peculiarities of its understanding.

**Statement of purpose of the article** is analysis causes and current situation and measures of Chinese stateless persons and giving further recommendations for improving Chinese laws and regulations on stateless persons.

**The main material of the research.** There are main causes such as:

Abandoned babies: Infants whose parents cannot be determined in the countries of origin are considered stateless if no one is adopted.

Birth: The child of a stateless person in a country of descent is also stateless.

Marriage: If a person of a country marries a foreigner, he loses his nationality. On the other hand, another country law requires the retrieval of the nationality for different nationals' marriages.

War: After the demise of a regime, there is no new regime in the country, this period will cause the phenomenon of statelessness.

Deprivation: Being deprived of his national nationality for some political reason is a stateless person.

Sometimes it may be after the nationality previously given them is terminated and no new nationality. If they were born in a disputed territory, if they were born in an area not ruled by an internationally recognized entity, or if they were born in a region under which no modern state claims. In addition, there is no legal passport, or an expired passport, and no new documents.

There are two million stateless people living in Thailand. Before the transfer of sovereignty in Hong Kong, people of South Asian descent had to become stateless because of their non-Chinese status. Later, the British United Kingdom extended the program to give these people so that they could acquire British citizenship. The plan also benefited a number of non-Chinese residents whose parents came from Indonesia and Iran [1].

The Bedouin tribe, living in Kuwait, has an estimated 120,000 people. Muslims living in Myanmar, about 5,100-8,000 people. He lived in India and was naturalized, but the Pakistani government did not take him in soon. More than 200,000 people still live in refugee camps in Bangladesh.

In 1992, the Slovenian government secretly erased many Gypsies from the list of permanent settlers to avoid giving national treatment to their newly established countries. These people thus become de facto stateless people. The government said it erased 29,064 records, but other independent agencies claimed around 80,000.

Article 15 of the Universal Declaration of Human Rights in 1948 provided that everyone is entitled to nationality.

The official figure for the refugee commissioner is that there are 5.8 million stateless people worldwide, but I believe the true figure is close to 15 million.

Nationality can be granted by having a birth record on the territory of a country, by being a descendant of another citizen, or by by marrying a citizen of that country. You may also be naturalized after staying in the country for the specified time or for other special reasons. The rules vary between countries.

Two separate United Nations conventions were directly focused on the issue of stateless: the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of stateless states, but only 62 countries ratified the former and 34 countries ratified the latter [2].

Some stateless persons are also refugees, but most are not. Some groups or individuals are often deprived of their nationality in the process of persecution, then become refugees while fleeing, or are punished deprived of their nationality. However, many stateless people were not persecuted (and never moved in), and some refugees retained their nationality while fleeing abroad.

Statelessness is not insoluble: significant political and legislative breakthroughs in Sri Lanka, Bangladesh and Nepal. Nepal, in particular, granted citizenship certificates to 2.6 million people in 2007 in just four months.

There are more than 12,000 stateless people in China, and the sixth census in December 2021 showed that as of December 2021, there were more than 12,000 stateless people nationwide. A stateless person is a person who does not have the nationality of any country, or who is not considered to be a citizen under the law of any country. The emergence of stateless persons is mainly caused by the legislative conflicts in various countries, or it may be determined by their own will, or as the result of the deprivation of nationality. Stateless persons are not protected internationally under the diplomatic protection of any country. In China, stateless people are in equal status with foreigners. Stateless persons do not enjoy the diplomatic protection of any country internationally.

The Chinese courts will accept the case. International law has a series of guarantees for stateless persons, which China also recognizes. Stateless persons are subject to both Chinese laws and protection by Chinese laws on Chinese territory. Chinese citizens are protected by Chinese laws and regulations. Economic crimes are criminal crimes recognized by humanity, and the fundamental task of the existence of the state and laws is to maintain the normal economic order of all members.

Legal Basis: Article 6 of the Criminal Law of the People's Republic of China This Law shall apply to any crime in the territory of the People's Republic of China, except as otherwise provided for by law. This Law shall also apply to a ship or aircraft of the People's Republic of China. Any act or result of a crime occurring in the territory of the People's Republic of China is considered to be a crime within the territory of the People's Republic of China [3].

After the deportation applies to a stateless person alone or separately, it shall be reported to the foreign affairs department or public security organ to identify the close contact place of the criminal through diplomatic channels and seek the country willing to receive him. At the same time, in view of the court can decide whether to apply deportation to foreign criminals according to the specific situation of the case, for foreigners and stateless persons who cannot be identified, the deportation punishment should be used with caution, in order to avoid the phenomenon of "empty sentence" and damage the authority and credibility of Chinese judicial organs;

It should be noted that deportation is not applicable to all foreigners who commit crimes, but according to the nature of the crime. Deportation may be applied to the circumstances and the circumstances of the criminal himself, in light of the needs of international relations and the needs of the fighting situation; deportation may be applied independently, or with additional deportation; .2.33 If a foreigner commits theft in China, he may be sentenced to deportation or fixed-term imprisonment. A foreigner who commits the crime of espionage in China may be sentenced to imprisonment, along with the additional application of expulsion, or without additional deportation.

The personal status of a stateless person shall be governed by the law of the country where he has his domicile and, if not, it shall be governed by the law of the country where he lives. The previous rights of a stateless person by virtue of his personal identity, especially with respect to marriage, shall be subject to the respect of the Contracting State and, if necessary, to observe the ceremonies required by the law of that State, provided that if he is not a stateless person he is also recognized by the law of that State. States shall grant the acquisition and other rights of movable and immovable property and their leases and other contracts to stateless persons, and in any case, be no less than that given to ordinary foreigners under the same circumstances.

With respect to the protection of industrial property, such as to inventions, designs or models, trademarks, trade names, and rights to literary, artistic, and scientific works, stateless persons shall enjoy the same protection in the country in which they often live. He shall, in the territory of any other Contracting State, give the same protection as the nationals in which he regularly lives.

With regard to non-political and non-profit societies and trade associations, the contracting States have stateless persons legally resident in their territory

Stateless persons have the right to appeal to the courts in the territory of all States. A stateless person in the Contracting Party where he regularly resides shall enjoy the same treatment as his nationals on matters appealed to the courts, including litigation relief and exemption from litigation guarantee. A stateless person, in a country other than the country in which he regularly lives, shall receive the treatment of the nationals of the country in which he regularly lives [4].

States shall give as preferential treatment as possible to the right of stateless persons who legally live in their territory to work in exchange for wages, which in any case shall be no less than that enjoyed by ordinary foreigners under the same circumstances. The Contracting States shall give sympathetic consideration to the right of all stateless persons to be paid for wages equal to that of their nationals, in particular to stateless persons entering their territory under a labor recruitment scheme or immigration scheme.

States shall give as much preferential treatment as possible to stateless persons legally in their territory for their own operation of agriculture, industry, handicrafts, commerce and the establishment of industrial and commercial companies. States have stateless persons legally resident in their territory who hold a diploma recognized by the competent authorities of that country and are willing to work themselves. States shall give stateless persons the same treatment as their nationals enjoy in primary education. Countries should be given preferential treatment to stateless persons with respect to education beyond primary education, especially academic opportunities, recognition of certificates, diplomas and degrees in foreign schools, reduction of tuition fees, and granting of scholarship.

According to the provisions of relevant Chinese laws, if a natural person has no nationality or an unknown nationality, the law of his habitual residence shall apply, so the laws of China shall apply to the stateless person living in China. The General Principles of the Civil Law of the People's Republic of China

Article 8 [Scope of Application] The laws of the People's Republic of China shall apply to the field of the People's Republic of China, except as otherwise provided by the laws. The provisions of this Law on citizens shall apply to foreigners or stateless persons within the territory of the People's Republic of China, except as otherwise provided for by law. Law of the People's Republic of China on the Application of Laws on Foreign-Related Civil Relations

Article 19 The law of the country of nationality applies according to this Law, and the law of the country of nationality with an habitual residence shall apply; in the country of nationality without a habitual residence, the law of the country of nationality having the most close connection with it shall apply. Where a natural person has no nationality or whose nationality is unknown, the law of his habitual residence shall apply.

If a stateless person exercises a right normally requiring assistance from a foreign authority where he cannot assist, the State party to the residence of the stateless person shall arrange for such assistance by the own authority. It shall be given to stateless persons normally by documents or certificates of the national authorities of the country or through their own authorities to foreigners, or for such documents or certificates to be given to stateless persons under their supervision. Documents or certificates so issued shall be in lieu of official documents

issued to foreigners by or through the local authorities of the person of the country, and the effect of proof shall be given in the absence of evidence to the contrary.

For the poor, it may be equal to the charge levied to the nationals for similar services. States shall grant to stateless persons lawfully within their territory the choice of residence and freedom of movement within their territory, subject to the regulations that apply to ordinary foreigners under the same circumstances. States shall issue identification documents to any stateless persons who do not hold valid travel documents in their territory. States shall issue travel documents to stateless persons legally resident in their territory, except for important reasons of national security or public order. The provisions of the annex to the Convention shall apply to the above documents. The Contracting States may issue any other stateless travel documents in their territory, and the Contracting States shall give sympathetic consideration in particular to the issuance of such travel documents to stateless persons in their territory who cannot obtain travel documents from the country of their lawful residence.

In the first 50 years of the 20th century, many stateless people were created. Therefore, on 20 September 1954, the United Nations formulated the Convention on the Status of stateless Persons in order to protect people from becoming or continue to remain stateless persons. On August 30, 1961, the United Nations enacted the Convention on the Reduction of stateless status to reduce stateless status because of the two world wars.

Article 1. A stateless person as defined in the Convention on the State of Stateless, born in his territory and not granted nationality, or stateless, shall be granted the nationality of that country.

Article 3. All States parties must observe that any person born on the ship shall be deemed as born in the territory of the country in which the national flag shall be deemed to be born in the territory of the registered country of the aircraft, and shall be deemed as born of the territory of the country.

Paragraph 4 of Article 1. A State Party shall grant the nationality of a person not born in the territory of a Contracting State and not granted nationality, to the nationality of the country at the birth of the person. If his parents are not of the same nationality at the birth of the person, the question of the nationality of the father shall be settled under the law of the Contracting State. To be granted by law at birth or by himself or by others in a manner prescribed by domestic law.

Paragraph 5 of Article 1. For parties to the Convention on the State of stateless nationality, the granting of nationality must be limited by one or more of the following conditions:

The applicant must propose before the age set by the Contracting State, which shall not be less than 23;

The applicant regularly resides in the territory of the Contracting State and has completed the period specified in that State.

The applicant is not judged to be detrimental to national security;

The applicant is a stateless person.

According to the Nationality Law of the People's Republic of China, there are several ways to obtain Chinese nationality

1. People of Chinese descent shall acquire Chinese nationality. Article 4 of the Nationality Law stipulates that: both or one of the parents are Chinese citizens, and they are born in China and have Chinese nationality.

Article 5: If both or one parents are Chinese citizens who are born in a foreign country and have Chinese nationality; but both or one parents are Chinese citizens and settled in a foreign country, he shall not have Chinese nationality.

2. There is no Chinese descent to obtain Chinese nationality. Article 6 of the Nationality Law stipulates that parents who are stateless or unknown nationality have settled in China. I were born in China and have Chinese nationality. Article 7: A foreigner or stateless person, who is willing to abide by the Constitution and laws of China and has the following conditions, may become a Chinese nationality upon application: 1. Close relatives of a Chinese person; 2. Settlement in China; 3. other justifiable reasons.

Stateless persons basically belong to the category without Chinese descent and can become Chinese nationality according to the provisions of the Nationality Law.

However, the conditions for Chinese nationality in the Nationality Law are very general. In practice, the approval of Chinese nationality is generally based on the Measures for the Examination and Approval of Foreigners' Permanent Residence of Foreigners in China jointly issued by the Ministry of Public Security on August 15, 2004. Article 6 stipulates:

Foreigners who apply for permanent residence in China shall abide by Chinese laws, be in good health, have no criminal record, and meet one of the following conditions:

Direct investment in China, stable investment for two consecutive years and good tax record;

In China, as deputy general manager, deputy general director or above, or as associate professor or associate researcher or above, and enjoy the same treatment, I have stayed in China for four consecutive years with a good tax record those who have made significant or outstanding contributions to China or to the special needs of the state; the spouses of the persons referred to in items 1, 2 and 3 of this paragraph and their unmarried children under the age of 18; the spouse of a Chinese citizen or a foreigner who has obtained permanent residence qualification in China, who has been married for at least five years, has lived in China for at least five consecutive years, has stayed in China for no less than nine months each year and has a stable living guarantee and residence; unmarried children under the age of 18 taking refuge with their parents; those who have no immediate family members outside China, have joined their immediate family members in China, and have reached the age of 60, have lived in China for five

consecutive years, have resided in China for no less than nine months per year, and have a stable living security and residence

Article 7: Article 6 has been supplemented. The registered capital actually paid by the foreigners referred to in paragraph 1 of Article 6 of these Measures for their investment in China shall meet the following conditions

(1) The total investment in the encouraged industries of the Foreign Investment Industry Guide Base promulgated by the state is more than US \$500,000

(2) Invest a total of more than us \$500,000 in the western region of China and key counties in the work of national support capital development,

(3) Total investment of more than US \$1 million in central China

(4) Total investment of more than US \$2 million in China

Article 8: The foreigner referred to in paragraph 1 of Article 6 of the Measures shall meet one of the following conditions:

(1) Departments under the State Council or institutions under the people's governments at the provincial level

(2) Key institutions of higher learning

(3) New and high technology enterprises of enterprises and institutions that implement key state engineering projects or major scientific research projects

(4) Encouraged foreign investment enterprises foreign-invested advanced technology enterprises or foreign-invested Guangzhou export enterprises [5].

**Conclusions and recommendations for further research.** To sum up, stateless people can join Chinese nationality, but the applicant needs to meet very strict conditions, so it is difficult for stateless people to join Chinese nationality.

A foreigner or a stateless person applying for Chinese citizenship must have two requirements and meet the requirements prescribed by law. These two premises are as follows: (1) the applicant must be willing to abide by the Constitution and laws of China; and (2) it must be on his own accord. The legal requirements are: (1) the applicant is a close relative of a Chinese citizen; (2) the applicant settles in China; (3) has other justifiable reasons, such as the right to political asylum in China. As long as they meet the above conditions and meet the above conditions, they can apply for Chinese nationality.

Stateless people may be deported at any time, because stateless people have in principle no right to stay in China, but China may also accept some stateless persons who may contribute to China. When China deports stateless persons, it will first find the country or region willing to take in, find them and then safely escort them, or send people from the country or region to pick them up. That is the answer to the question "How does China deal with stateless people".

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Стаття надійшла до редакції: 18.05.2023