

CHAPTER I

INTRODUCTION

“There is one after another organization came to talk to us regarding nationality problem in our village. They went back and left us hope. We kept waiting for them with the hope that they would come back to help. However, there has been nothing happened. We realized that they did not have enough data to help us claim for our rights. Nationality problem remains hard-to-solve. I don't understand why it is hard and who made it so hard.” (Anonymous, 2006 available at <http://www.hilltribe.org>)

According to Article 15 of the Universal Declaration of Human Rights, “1) *Everyone has the right to a nationality*” and “2) *No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality*”(United Nations [UN], 1948). In contrast, under various circumstances, a lot of people worldwide are not able to claim for the right to nationality. People who are not accepted as nationals or citizens of the country where they reside or of any other countries in the world are the so-called “stateless” and/or “nationality-less” people.

Without nationality and/or citizenship, a stateless person's legal status is non-citizen in every country. A stateless person is restricted from basic human rights, unable to access the state's public welfare such as education and health care, limited in freedom to travel and the right to property ownership, and not fully protected by the state's laws. These kinds of life conditions do not only result in great difficulties in every aspect of life, but also leads to vulnerability to all forms of abuse and exploitation such as human trafficking and child labor. It is said that stateless people are “among the most vulnerable segments of humanity” (Goldston, 2006: 4).

Thailand is reported to be among those countries that have a distinctive number of stateless populations. Most of Them are minorities: indigenous people, hill tribes, long-term immigrants and migrant workers (United Nations High Commissioner for Refugees [UNHCR], 2007: 6). Among them, there are those who

are actually entitled to Thai nationality by law and those who are not. While temporary migrants and illegal migrants are not eligible to acquire Thai nationality, minorities such as indigenous hill people and long-term immigrants actually are eligible. However, many of the eligible minorities have remained stateless until now because they have failed to obtain nationality. The problem of statelessness in minority people, then, becomes more complicated when it is passed on to their offspring. This research aims to study the problems in obtaining Thai nationality on the side of the stateless people who are eligible to acquire Thai nationality according to Thai nationality laws. It will also try to determine the needs of the stateless people regarding obtaining nationality.

1.1 Statement of the research problem

Nationality is the best condition for a person to access human rights (Saisoonthorn, 2006: 4). As soon a stateless person becomes a national or citizen of a country, the person's legal status is no longer 'stateless'. This person will be able to access public services and will be protected under the state's laws, which means that his/her life is less vulnerable. Thus, it is ideal to solve the problem of statelessness in persons by granting stateless people nationality or citizenship of a state. However, this is impossible since it seems states do not accept this. A national has an absolute right to access all kinds of resources in a state's particular territory. In such a time when global resources are limited, states usually reserve the right to their resources for nationals only. As a result, nationality is usually reserved by the state of territory. Policies are developed to grant nationality to a person who has a genuine link to the state only (Ibid.). Nationality laws, then, usually require people to prove their links to the state of territory in order to acquire nationality. However, even though stateless persons may have genuine links to a state -- meaning they are eligible to acquire nationality according to the law -- they often fail in obtaining nationality.

Problems in obtaining nationality among the stateless obviously exist in Thailand. Regardless of the fact that the problem of nationality is a complicated and sensitive issue itself, the complexity of nationality laws and citizenship application

legislation, as well as corruption that is usually involved in the process, have multiplied the challenges in nationality obtaining (Somboon, 2005: 4-5, Archawanichakul and Kerdsawang, 1997: 34-41). Besides, achievement in nationality obtaining greatly depends on state officials' jurisdiction, legal insight, as well as personal attitude and ethical justice. At the same time, Thai language ability and knowledge of nationality laws and bureaucratic processes are basically needed among stateless people throughout the process of obtaining nationality (Ibid.). Therefore, it is almost impossible for stateless people to obtain nationality, especially for minority people who have limited knowledge of the process, laws and even Thai language. Assistance from related parties such as non-governmental organizations (NGOs), government officials and community leaders is the key to success in obtaining nationality for stateless persons.

In this regard, this research aims to broaden the understanding of the problems that took place in obtaining nationality and to determine stateless persons' needs in the nationality obtaining process in Thailand from the beginning to the end.

1.2 Research objectives

- 1) To clarify the problems and conditions that create problems in obtaining Thai nationality among stateless people.
- 2) To determine the needs of stateless people in obtaining Thai nationality from stateless people's perspectives.

1.3 Research Questions

- 1) What are stateless people's problems in the process of obtaining Thai nationality and what conditions create these problems?
- 2) What are stateless people's needs in obtaining Thai nationality and why do they need particular assistance?

1.4 Conceptual framework

This research will study problems the stateless people encountered during the Thai nationality obtaining process as well as study the needs of stateless people in order to overcome the problems. In order to determine the problems and needs of stateless people during in the process, the research will study the process itself as well as the role of involved parties such as stateless people, NGOs, village chiefs and district officers, as such parties may contribute to problems in nationality obtaining.

1.5 Hypothesis

Since each case of statelessness is diverse and complex due to each individual's situation, stateless persons may need legal assistance the most. Then assistance in dealing with government officials might be another kind of essential support. However, it is hard and impossible for organizations to assist everyone since there are a large number of stateless people in Thailand. Stateless persons would need to rely on themselves in obtaining nationality. In order for stateless persons to cope with the problems that occur along the processes by themselves, access to complete information on nationality laws and the process in obtaining nationality is necessary.

1.6 Research Methodologies

The research relies on a combination of documentary research and field research. For documentary research, both primary and secondary data were used. Research reports, books, articles, journal articles, conference papers and proceedings, and relevant documents were also reviewed.

Field research techniques included participant observation, semi-structured in-depth interviews and focus group discussions with former stateless persons who have received Thai nationality, and selected key informants, such as government officials, non-governmental organizations, and international organizations. Data

collection was carried out during January and February 2009. Interviews were conducted in Thai and later translated to English.

Access to stateless people was made through the Mirror Foundation (MF) as well as district offices. Twelve case studies are hill tribe people who are former stateless persons from three districts of Chiang Rai Province. The interviewees were selected by the researcher as well as by using the snowball technique. Selection also depended upon the availability and voluntary consent of the interviewees.

1.7 Research Scope

The research studied the problems in obtaining Thai nationality and the needs of the stateless in obtaining nationality in Thailand. The findings of the research only represent the particular group of former stateless persons with whom interviews were conducted. The selected target area was three districts (“Amphoe”) in Chiang Rai Province, namely Mueang Chiang Rai, Mae Chan and Mae Fa Luang, Thailand.

1.8 Ethical Issues

The objectives of the research and the fact that information collected would be used for academic purposes only were explained to all interviewees. Consent was obtained from interviewees.

1.9 Significance of the Research

Since there is a lack of research on the problems and needs of stateless persons during their process of obtaining nationality, the research findings will contribute to a better understanding of the problems and assistance that meets the needs of stateless persons. This research will be useful to all organizations working with stateless persons in Thailand.

1.10 Limitations of the research

This research only focuses on the problems and needs of stateless people in Thai nationality obtaining on a practical level and from the stateless people's perspectives. Moreover, this research only studies implementation of the law on the ground level. In fact, the problems in obtaining Thai nationality are complex and involve many factors as well as certain parties who also have problems and needs. To improve the system of obtaining and granting Thai nationality, it is necessary to study the problems in a wider and more diverse perspective.