Chapter 5

Principles of International Law that Govern Nationality and Areas of International Law Influenced by Multiple Nationality

Until they know the outcome of the succession in China and Indonesia, overseas Chinese want to remain highly mobile intermediaries, whose personal wealth stays safely salted away, earning high interest. . . . They shed no tears for nationalism. Mobility is everything. . . . ‘When you reach this stage,’ one said, ‘craving US citizenship becomes pointless. I spend so little time in any one place that citizenship no longer matters.’ To them nationalism is a vanity and a prejudice, like racism, which they cannot afford.1

Seagrave’s characterization of the importance of nationality for a number of overseas Chinese may indeed reflect a certain reality. It does not seem representative, however, in terms of the value of nationality to the individual and the state, issues explored in the following chapters. It illustrates, however, that the value of nationality is a subjective issue. Any legal study in relation to it must thus attempt to divorce issues of

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vanity and prejudice’ from its parameters, or deal with them in a way that does not prejudice the outcome.

Drawing conclusions as to the effects of state practice on rules of international law may be seen as a precarious affair. In this sense the author has taken into account, but was not discouraged by, the admonition contained in the preface to a survey of US-Mexican relations in relation to diplomatic protection from 1825 until the 1920s:

Single diplomatic statements or arbitral awards may suggest the existence of an orderly, purely logical system. Viewed collectively, however, over the course of a century, they seem to indicate that one cannot divorce the reign of law from the reign of man.2

While this caution can easily be distinguished from the present study, it is apt to recall here that current state practice toward multiple nationality cannot be divorced from the historical development of nationality, and the historical treatment of multiple nationality. Both are important in order to draw conclusions.

A. OUTLINE OF CONCLUSIONS IN THIS AND THE FOLLOWING CHAPTER

Other than canvassing related opinion, this study has avoided assumptions as to the relative desirability of multiple nationality. This and the following chapter outline conclusions drawn from the survey contained in the Appendix. It is argued that current state practice in many respects favours multiple nationality, in the sense that states’ legislation contributes to its production, and evinces in most cases a direct acceptance of its existence. Although these general results may be expressed in terms that states “accept” or “contribute to” the “existence” or “production” of multiple nationality, or “tolerate” it, what is meant is really that multiple nationality is not viewed as an anomaly, and that it can be regarded as a “normal” function of international relations and law in state practice. Importantly, however, the “acceptance” in terms of tolerance of multiple nationality by states does not amount to an incorporation of multiple nationality as such into international law. These two general conclusions in turn have particular consequences for international law. The results of the survey of state practice herein are summarised below. As a consequence of the general conclusion that multiple nationality is not only a reality, but accepted in practice, it might be tempting to conclude that states themselves view multiple nationality as a desirable thing. This is neither an argument submitted by the author, nor a conclusion that can be drawn from the underlying enquiry.

As illustrated from the survey in the foregoing chapters, possessing the nationality of more than one state may indeed be a desirable status for those individuals for