

PREFACE TO THE FIRST EDITION

The subject dealt with in this book is that of the nationality of individuals. The term "nationality" is also used with reference to corporate bodies such as companies, and objects such as ships and aircraft. This use of the term "nationality" may, however—as is done by some writers—be regarded as a figure of speech. The term "nationality", derived from "nasci", "to be born", is obviously meant to refer to animate beings. The acquisition, change and loss of what is styled the "nationality" of corporate or inanimate entities is governed by rules which are unrelated to the matters with which this book is concerned.

The subject of nationality has been presented from the point of view of international law. According to the unanimously accepted view, the determination of nationality is a matter which falls within the domestic jurisdiction of each State and is regulated by its municipal law. How, then, does international law come into the picture? As will be seen, nationality, though determined by municipal law, is itself a concept of international law. The co-existence of States and the existence of international relations constitute—at least in modern times—a prerequisite of the concept of nationality. The very reason why States are anxious to determine who are their nationals is their desire to distinguish and delimit them from those who are not their nationals, who as a rule are nationals of other States. As Professor Scelle says in his *Précis de Droit des gens* (at p. 66):

Déterminer la nationalité des individus c'est, non seulement déterminer quels sont les nationaux, mais aussi quels sont les non-nationaux ou les étrangers. C'est donc indirectement fixer le statut international des non-nationaux et, par conséquent, la compétence à l'égard des sujets de droit de la communauté internationale des autorités gouvernementales étrangères.

If, then, nationality is a notion of international law, the question of its functions in international law arises and is examined in this book. It follows, further, from the relevance of nationality according to international law that the way in which nationality is determined by the municipal law of States is not immaterial from the point of view of international law. The question of the relationship between municipal law and international law in this field is also, therefore, investigated. The nature of nationality as a matter of domestic jurisdiction does not preclude the existence of rules of international law relating to nationality. As in any other field, the sovereign jurisdiction of the State in matters of nationality may be restricted by the conclusion of treaties concerning nationality, which, to that extent, make the law of

nationality a question of conventional international law and, so far as multilateral treaties are concerned, a question of "international legislation".

The most important multilateral agreement in the field of nationality, namely, the Hague Convention of 1930 concerning Certain Questions relating to the Conflict of Nationality Laws, lays down in its first Article the rule of the exclusive jurisdiction of States in matters of nationality, with the following qualification: "This law shall be recognised by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognised with regard to nationality." These three elements are analysed in this book.

The subject of nationality has been treated by writers mainly from the aspect of municipal law, or, as for instance by Dicey, as a question of conflict of laws or "private international law." The question of the existence and the nature of rules of international law, *i.e.*, of "public international law", relating to nationality has, so far as is known to the writer, not yet been thoroughly examined by publicists. While specific problems in this field have been treated by writers, the subject does not seem to have been investigated in its entirety. This work is an attempt at such an investigation.

Lack of nationality, "statelessness", is the result of the domestic character of nationality law, of "negative conflicts of nationality laws". It is, therefore, closely linked with the problem of nationality, and a part of this book is devoted to it. Recent international efforts for the regulation of the status of stateless persons and the elimination or reduction of statelessness are reviewed in this connection.

The views expressed in this book, which is based on a thesis entitled *Nationality in Public International Law* approved by the University of London for the degree of Doctor of Philosophy in Laws, are solely the personal views of the author, and they do not reflect in any way the opinion of any organisation with which he is connected.

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Geneva,

P. Weis

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While this book was going to press the Judgment of the International Court of Justice in the *Nottebohm Case* (*I.C.J. Reports*, 1955, p. 4) was published, in which the Court dealt with certain questions of nationality law. References to this case have wherever possible been inserted in appropriate places by means of additional notes.

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