

**Nagoya University Center for Asian Legal Exchange (CALE)
and Graduate School of Law (GSL)
2021 CALE Annual Conference**

**Citizenship (Nationality) Struggles in the 21 Century
and its Social Costs: Asian and Global Trends.
Including Reflections of COVID-19 impact on Vulnerable
Groups**

Guest Speakers' Bio/Topic/Abstracts



1) Azizbek Ashurov (*Nansen Refugee Award Winner 2019, Human Rights Lawyer, FVLWB, Coordinator, Central Asian Network on Statelessness*)

Bio:

Azizbek Ashurov is a human rights lawyer by training with expertise in matters of statelessness, asylum, and migration. He is the Director and founding member of Ferghana Valley Lawyers Without Borders based in Kyrgyzstan and coordinator of the Central Asian Network on Statelessness (CANS). CANS is a network of 11 organizations within the Central Asia region, that collectively work towards direct and effective dialogue for the exchange of information and experience in order to prevent and reduce statelessness, as well as working towards the development of the institution of citizenship in the region. Azizbek Ashurov is winner of the prestigious UNHCR 2019 Nansen Refugee Award for his work to support the efforts of the Kyrgyz Republic in becoming the first country in the world to end statelessness. He, through his organization Ferghana Valley Lawyers Without Borders, has helped over 10,000 people to gain Kyrgyz nationality after they became stateless following the dissolution of the Soviet Union, including 2,000 children.



2) Kaoru Obata (*Professor, Graduate School of Law, Nagoya University*)

Bio:

Obata Kaoru is a professor at Nagoya University, Japan. He studied law at the Kyoto University (LL.B. and LL.M.) and was conferred LL.D. (Kyoto) in 2016. He published several books and many academic articles relating to international law and international human rights. His recent publication includes: "Modern Nationality as a Mixture of Economic and Political Memberships in the Revolutionary Political Culture", (2020) 31 Kokusai Jinken 26 (in Japanese); "The Emerging Principle of Functional Complementarity for Coordination among National and International Jurisdictions", in: Takao SUAMI et al.(eds.), Global Constitutionalism from European and East Asian Perspective (Cambridge UP, 2018); "The European Human Rights System beyond Europe: Interaction with Asia" (2015) 23 Journal für Rechtspolitik 36; The Constitutionalization of the European Human Rights Law (in Japanese, Shinzansha, 2014); "Historical Functions of Monism with Primacy of International Law", (2006) 49 Japanese Annual of International Law 1.



3) Vanessa Ruget (*Professor, Salem State University*)

Bio:


Vanessa Ruget is Professor of political science at Salem State University. Her research focuses on citizenship and migration in Kyrgyzstan. It has appeared in *Problems of Post-Communism*, *Citizenship Studies*, *Communist and Post-Communist Studies*, *Central Asian Survey* and the *Nationalities Papers*. She was recently awarded a Fulbright Flex Research Award to Kyrgyzstan.

Topic:

Labor Migration, Transnationalism and Citizenship: the case of Kyrgyz labor migrants to Russia

Abstract:

Labor migration flows between Central Asia and Russia offer a fascinating case study to the study of transnationalism-migrants' propensity to live their lives beyond borders and to be active economically, socially, and politically in different countries simultaneously, including through dual citizenship (Bauböck 2003; Lyons and Mandaville 2008; Martiniello and Lafleur 2008; Østergaard-nielsen 2003; Portes, Guarnizo, and Lanolt 1999 and 2017; Urinboyev 2018; Vertovec 1999 and 2001). My contribution relies on empirical evidence collected over the past ten years among Kyrgyz labor migrants to Russia on topics ranging from social and political transnationalism, the use of smartphones during migration, and views on dual citizenship. I argue that Central Asia highlights the limitations of transnational theory and the ability of migrants in non-democratic settings to impact their home country through diaspora engagement or the transfer of norms.



4) Susan Kneebone (*Professorial Fellow, and Senior Associate, Asian Law Centre, and Affiliate of the McMullin Statelessness Centre, Melbourne Law School, University of Melbourne*)

Bio:

Susan Kneebone is a Professorial Fellow, and Senior Associate, Asian Law Centre, and Affiliate of the McMullin Statelessness Centre, Melbourne Law School, University of Melbourne. Susan supervises a number of PhD students on refugee law, statelessness and forced migration in South East and East Asia and has written widely on issues around law, governance, and forced migration in those regions. She is currently working on two Australia Research Council funded projects: 'Towards Development of a Legal Framework for Regulation of International Marriage Migration' and 'Indonesia's refugee policies: responsibility, security and regionalism'. Her full CV and list of publications can be viewed at: <https://law.unimelb.edu.au/about/staff/susan-kneebone>

Topic:

Instrumental nationality and marriage migration to Taiwan: a gendered and hierarchal approach

Abstract:

Nationality is used globally as a tool to manage marriage migration, often based on suspicion about the motives of 'foreign brides' who are envied for their privileged access to citizenship. On the other hand, the process of obtaining nationality often discriminates based on gender, resulting in substantial social costs to the wife and children of the marriage. Although the 1957 Convention on the Status of Married Women (CSMW) abolished the practice of a foreign wife's dependent nationality, in East Asia

patriarchal and ethnic concepts of nationality prevail. Such concepts have been challenged by marriage migration, resulting in different responses.

The experience of Taiwan (Republic of China) with nationality and marriage migration is an example of this trend. It offers a multi-layered example of how nationality is used instrumentally to hierarchise foreign brides, and to manage political and economic transnational relationships. Although Taiwan ratified the 1957 CSMW when it was a member of the UN, its policy on nationality of foreign brides discriminates between the People's Republic of China and those originating from Southeast Asia. Each category is used instrumentally to further Taiwan's interests, and further, to hierarchise local and foreign wives.

In this paper I will focus on Taiwan's nationality policies on foreign brides from Southeast Asia to demonstrate, that despite modifications, a patriarchal and ethnic concept of nationality persists, and its social costs. At the same time foreign brides from Southeast Asia have shown resilience and determination in the face of such policies. Marriage migration to Taiwan thus highlights the conflicted and instrumental nature of nationality.



5) Nyi Nyi Kyaw (*Independent researcher/Associate with the Inter-Asia Engagements cluster at the Asia Research Institute at the National University of Singapore and with the Sydney Southeast Asia Centre at Sydney*)

Bio:

Nyi Nyi Kyaw is an independent researcher, and an associate with the Inter-Asia Engagements cluster at the Asia Research Institute at the National University of Singapore and with the Sydney Southeast Asia Centre at Sydney University. He was Visiting Fellow in the Myanmar Studies Programme, ISEAS – Yusof Ishak Institute in 2019 and 2020. He was also Assistant Professor (adjunct) in the Department of Southeast Asian Studies, National University of Singapore in 2020. He obtained his PhD in international and political studies from the University of New South Wales in 2015. Before joining the ISEAS – Yusof Ishak Institute in 2019, he was a postdoctoral fellow at the Centre for Asian Legal Studies at the National University of Singapore from 2016 until 2018. He will join the Center for Southeast Asian Studies, Kyoto University as a visiting researcher in 2021. His thematic interests include religion, ethnicity, citizenship, human rights, legal mobilization, social movements, democratization, constitutional politics and China-Myanmar relations. His research has appeared or is going to appear in the Journal of Immigrant and Refugee Studies, the Review of Faith & International Affairs, the Chinese Journal of Comparative Law, the Asian Journal of Law and Society and Southeast Asian Affairs. He has also contributed several chapters to edited volumes.

Topic:

Illegal migrants and reckless citizens across porous borders securitizing the COVID-19 pandemic in Myanmar

Abstract:

Reporting the first case of infection with the coronavirus on 23 March 2020, the COVID-19 pandemic arrived relatively late in Myanmar. The second wave of the pandemic has severely struck Myanmar since August, with no end in sight yet as of late October. Myanmar borders China, India, Bangladesh, Laos and Thailand. Most if not all of the first cases of infection in both the first and second waves were

imported, and Myanmar does not have a water-tight surveillance and control system in place on its borders with China, Thailand and Bangladesh. Therefore, Myanmar responds to the pandemic by securitizing the three borders. Myanmar has targeted Chinese nationals legally or illegally working in Myanmar in the first case, Myanmar nationals returning home from Thailand in the second and Rohingyas allegedly sneaking into northern Rakhine State in the third. Questions that have arisen out of these attempts to securitize the borders and the pandemic in all the three instances are who is a Myanmar citizen, who deserves the protection of the Myanmar state and who should be excluded. While the Myanmar government does not explicitly and publicly distinguish between national and non-national in its protection policies and practices, the popular discourse was framed in a naming-and-shaming language of us-versus-them, a language of reckless citizens and illegal/legal migrants importing COVID-19 from Thailand and China and illegal Rohingya migrants importing COVID-19 from Bangladesh crossing the borders versus innocent, vulnerable Myanmar citizens at home.



6) Chau Xuan Hoang (*Rector of Northern College of Law under MoJ of Vietnam*)

Bio:

Dr. Chau Xuan Hoang is now the rector of Northern College of Law under Ministry of Justice. He used to be a Lecturer of Criminology and Criminal Justice at Hanoi Law University. Dr. Hoang has over 20-year experience in teaching and conducting research in the field of criminal justice. His doctoral research was conducted in Bristol, UK in 2011 on comparative approach to youth sentencing. He is also interested in comparative approach to criminal law/criminology in relation to criminal law reform progress in Vietnam. He has written many scholarly articles and book chapters in English and/or Vietnamese on criminal law, criminology and comparative law. Recently, Dr. Hoang has been leading the College to provide a series of capacity development programs for justice and civil status officers at commune/district level, dealing with various issues including citizenship and the rights of foreigners.

Topic:

Situation of stateless persons in Vietnam during COVID-19 pandemic

Abstract:

The provisions of Article 22 of the Law on Nationality 2008 have created a legal basis for resolving the naturalization of Vietnamese citizenship for thousands of stateless people who have been residing in the territory of Vietnam for 20 years or more, making an important contribution to the historic settlement of the status of stateless people in our country. However, in reality, there are still tens of thousands of stateless people who are not eligible to join Vietnamese citizenship due to their residence period of less than 20 years. This 15-minute presentation will analyze legal status of stateless persons in Vietnam to see what makes them stateless and vulnerable. It will also address how Covid-19 pandemic affects their lives and whether there has been any specific policy for this group of people during the pandemic period. It will then make some suggestions to improve stateless people's lives in Vietnam both during and after COVID-19 pandemic.



7) Giorgio Fabio Colombo (*Professor, Graduate School of Law, Nagoya University*)

Bio:

Giorgio Fabio Colombo is Full Professor of Law at Nagoya University Graduate School of Law, where he teaches International Commercial Arbitration and Comparative Law. He is the Director of the Research Unit “Decolonizing Arbitration.”



8) Deirdre Brennan (*Research Assistant, PhD Candidate, the McMullin Statelessness Centre, Melbourne Law School, University of Melbourne*)

Bio:

Deirdre Brennan (BSc University College Cork and MA Utrecht University) is a PhD candidate at the Peter McMullin Centre on Statelessness where she also co-organizes the Critical Statelessness Studies Project. Her doctoral thesis focuses on activism against gender discriminatory nationality laws in Nepal. Prior to joining the Centre, Deirdre worked in a variety of research roles on statelessness, including with the Statelessness Programme’s 2014 Thailand Project on the nexus between statelessness and human trafficking, on the 2015 Equal Rights Trust publication on gender discrimination in nationality laws, and as a research fellow with the Institute on Statelessness and Inclusion where she co-authored the children’s book, ‘The Girl Who Lost Her Country’.

Topic:

Campaigning against gender discriminatory laws in Nepal: Feminist care ethics of activism

Abstract:

The child of a Nepali father automatically acquires citizenship, while the child of a Nepali mother must apply for citizenship by naturalisation. This procedure is reported to be largely ineffective, with applications pending for years at a time without response. Nepal, with an estimated stateless population of between 800,000 and 5 million, is one of 50 countries worldwide that refuse women equal rights with men in terms of their nationality. “Citizenship in the Name of Mother” is the Nepali activist movement, largely comprising young women affected by statelessness, formed in 2014 in resistance to gender discriminatory nationality laws. This presentation will first provide the historical background to the issue of gender discriminatory nationality laws in Nepal and discuss the on-going activism against these laws. Drawing on preliminary research findings from Nepal, this presentation then interrogates the feminist ethics of care of voluntary activism, situating this unpaid labour in the work of the wider international statelessness sector.



9) Shuvro Sarker (*Assistant Professor, Maharashtra National Law University, Nagpur*)

Bio:

Dr. Shuvro Sarker is an Assistant Professor in the Maharashtra National Law University, Nagpur, India. He teaches international public law, refugee law and humanitarian law. He is the author of *Refugee Law in India: The Road from Ambiguity to Protection*, Springer, Singapore, 2017.

Topic:

Vulnerable Chakma refugees in India and their quest for Indian citizenship

Abstract:

The Chakmas are one of the vulnerable ethnic and religious minority from the Chittagong Hill Tracts Districts of former East Pakistan (present day Bangladesh). The first time they took refuge in a large number in independent India was in the year 1965. Some of these people amounting to around 4012 were settled in the areas under the North East Frontier Agency (present day Arunachal Pradesh, a north eastern State/province of India), and this was the beginning of the Chakma's quest for Indian citizenship that is unfulfilled till this day. The matter of life, liberty and safety vis-à-vis citizenship of Chakma refugees were the subject matter of litigation in three prominent legal battles those were fought in the Supreme Court of India along with several interventions of the National Human Rights Commission of India in this regard. This report will be exploring the legal issues as well as the historical and political issues related to the citizenship of Chakmas in India.

**10) Dai Yokomizo** (*Professor, Graduate School of Law, Nagoya University*)**Bio:**

Dai Yokomizo is Professor of Law at Nagoya University, Graduate School of Law, Nagoya, Japan, where he has taught since 2008. A graduate of The University of Tokyo Graduate School for Law and Politics (LL.B., LL.M.), Professor Yokomizo's main research and teaching interests include Private International Law, Comparative Law and Private Law Theory. He is a member at the Committee on Intellectual Property and Private International Law of International Law Association, Associate Editor of the Japanese Yearbook of International Law, member of the Advisory Board of the Italian Law Journal, and Member of the International Committee of Rivista di Diritto Sportivo. His research is exploring the transformation of conflict of laws (private international law) in the era of globalization and the appropriate relation between states and non-state actors in emerging normative spaces such as internet law and sports law. His recent articles include "Japan", in Catherine Kessedjian/Humberto Cantú Rivera (eds.), *Private International Law Aspects of Corporate Social Responsibility* (Springer, 2020), pp. 469-493, "Droit des affaires internationales" in Pascale Bloch/Naoki Kanayama/Ayako Kanezuka/Isabelle Giraudou (eds.), *Droit japonais des affaires* (Larcier, 2019), pp. 319-332, "FDI and Investment Arbitration in Japan", in Carlos Esplunges (ed.), *Foreign Investment and Investment Arbitration in Asia* (intersentia, 2019), pp. 125-138, and "Recent Development of the Japanese Nationality Act – Acquisition of Japanese Natonality through Acknowledgement after Birth-“, *Nagoya University Journal of Law and Politics*, No. 255 (2014), pp. 1-15.


Topic:

Stateless persons in Japan: what makes them stateless and vulnerable?

Abstract:

Although it cannot be said that the social and academic interest in the problem of statelessness is high in Japan, the research on stateless persons residing in Japan has been lively since 2010. What makes them stateless and vulnerable? There are several decisive factors in law and practice with regard to nationality, including law on nationality and private international law (conflict of laws). This

presentation will analyze these institutional factors and try to make some suggestions in order to improve the situation concerning stateless persons.



11) Aziz Ismatov (*Assistant Professor, Center for Asian Legal Exchange, Nagoya University*)

Bio:

Dr. Aziz Ismatov holds the position of Assistant Professor at the Center for Asian Legal Exchange (CALE)/ Nagoya University. He obtained doctoral degree in International Human Rights Law from the Graduate School of Law at Nagoya University (Japan) in October 2014. In present position, Dr. Ismatov is engaged in legal cooperation and research in Asia. Simultaneously, he lectures a course on Legal Systems in Asia for undergraduate students. Dr. Ismatov's research centers on countries in transition from socialism to a market economy. In his recent publications as a sole author or co-author (for ex.) "Equal Citizenship, Language, and Ethnicity Dilemmas in the Context of the Post-socialist Legal Reforms in Central Asia." In 30 Years since the Fall of the Berlin Wall - Turns and Twists in Economies, Politics, and Societies in the Post-Communist Countries, edited by Akimov, Palgrave Macmillan, 2019., and "Historical Discourse of Mahalla Functions in Uzbekistan" [Yearbook of East-European Law] Jahrbuch fur Östrecht, Vol 59. (1), 2018, Dr. Ismatov focuses on human rights, democracy, and the rule of law dilemmas in the post-socialist command type states. Dr. Ismatov is a member of the Asian Law and Society Association, and Australasian Association for Communist and Post-Communist Studies. He was a Visiting Scholar at the Melbourne Law School. He has made numerous academic reports in the international conferences on topics related to the legal problems of transition societies.

Topic:

Clumsy border demarcation, undocumented mixed marriage, and stateless trans-border spouses in Central Asian enclaves

Abstract:

One of the most widespread statelessness issues for spouses, particularly for women, in Central Asia stemmed from mixed marriages between inhabitants of border areas and enclaves of Tajikistan, Uzbekistan, and Kyrgyzstan. This category of persons, known as stateless trans-border spouses, fall into the 'grey area' because of their unclear legal status and latent unreliable statistics. These people habitually lost their citizenship on trans-border marriage, followed by long-term residence in the territory of the neighboring country, and failed to take citizenship of their spouses due to multiple reasons. One may assert that a mere legal carelessness, including informal marriage, unregistered illegal residence, and unawareness of critical deadlines became the main factor for many spouse's loss of citizenship in Central Asia. However, the state succession followed after the break-up of the Soviet Union became the principal factor of statelessness of trans-border spouses in Central Asia, even though the persons concerned otherwise had links of birth, habitual residence or descent with the given republics. It is also a complicated case that involves mixed categorization and broad aspects of legal – administrative gaps. This presentation will take a closer look at the historical background, causes, and steps taken towards resolution of this protracted statelessness problem in Central Asia.

