

BOOK REVIEW

STATELESSNESS DETERMINATION PROCEDURES AND THE RIGHT TO A NATIONALITY: NIGERIA IN COMPARATIVE PERSPECTIVE BY SOLOMON OSEGHLE MOMOH (ROUTLEDGE, 2022). 260 PAGES. PRICE £120. ISBN 9781032244730

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The identification of individual cases of statelessness through Statelessness Determination Procedures, or SDPs, is a crucial first step to understanding the problem of statelessness in a particular country and to identifying individuals in need. Many countries around the world are considering enacting SDPs, which makes the analysis of best practices particularly timely. Solomon Oseghale Momoh's excellent new book, *Statelessness Determination Procedures and the Right to a Nationality: Nigeria in Comparative Perspective*,¹ provides a crucial addition to the growing literature on guidance on SDPs. This includes the United Nations High Commissioner for Refugees ('UNHCR') guidelines in the *Handbook on the Protection of Stateless Persons*² and *Good Practices Paper*,³ *Statelessness Determination and the Protection of Stateless Persons*⁴ by the European Network on Statelessness, and country-specific evaluations of SDPs, such as *Statelessness Determination in the UK*,⁵ as well as a growing body of academic literature.⁶ This book provides both a summary and critique of existing SDPs around the world, as well as specific recommendations to the Federal Government of Nigeria ('the Nigerian Government'). It also summarises what is known of the problem of statelessness in Nigeria. The book is a welcome addition to the literature on best practices for SDPs, while its focus on Nigeria also makes an important contribution to post-colonial legal studies in Africa, and the localisation and decolonisation of citizenship and nationality studies. The first three chapters introduce the topic of statelessness determination procedures and provide a background on the concept of, and laws relating to, nationality and statelessness, including in Nigeria. Chapter Four articulates the best practices for

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¹ Solomon Oseghale Momoh, *Statelessness Determination Procedures and the Right to a Nationality: Nigeria in Comparative Perspective* (Routledge 2022).

² United Nations High Commissioner for Refugees ('UNHCR'), *Handbook on Protection of Stateless Persons* (2014).

³ UNHCR, *Good Practices Paper — Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons* (Good Practices Action Paper, 6 July 2020).

⁴ European Network on Statelessness, *Statelessness Determination and the Protection Status of Stateless Persons* (2013).

⁵ UNHCR, *Statelessness Determination in the UK* (Audit Report, 2020).

⁶ See, eg, Katia Bianchini, 'A Comparative Analysis of Statelessness Determination Procedures in 10 EU States' (2017) 29(1) *International Journal of Refugee Law* 42; Katja Swider, 'Statelessness Determination in the Netherlands' (Research Paper No 2014-33, Amsterdam Law School, May 2014); Karen Hamann, 'Statelessness Determination: The Swiss Experience' (2017) 54 *Forced Migration Review* 96.

determining statelessness, while Chapter Five analyses the use of SDPs in five countries. Chapter Six is devoted to the concept of legal transplantation, including an analysis of how SDP best practices drawn from international standards and other states might be adopted in Nigeria. Chapter Seven serves as a conclusion.

One of the book's main strengths is its extensive overview and analysis of SDPs worldwide and their place within the policies and procedures of statelessness identification and elimination. While only a handful of countries have enacted SDPs, this book provides a crucial function by compiling, documenting and analysing their experiences with the aim of not only documenting best practices, but also addressing mistakes and wrong turns. Such mistakes include the use of the default category for persons without a nationality as 'nationality unknown' by the Government of the Netherlands, rather than the more limited use of the category of 'stateless', when the difference between the two categories is somewhat arbitrary and the former category does not guarantee any legal protection.⁷ This use of language also guides international and regional debate on what is proving to be a critical time in the fight against statelessness. SDPs are an emerging practice and, as such, there is still much room for countries to learn from each other's experiences and improve on the process. This book is a timely addition to the literature on SDP best practices. The book also provides a very thorough and helpful summary and analysis of the legal and policy framework on statelessness at the international level, and in the Americas, Africa and the Arab world, including the role and policies of regional organisations like the Organization of American States, the Arab League and the African Union and the Economic Community of West African States ('ECOWAS'). At the same time, the book identifies important gaps, such as the requirement that stateless people be present in the territory of the state to access SDPs and the lack of standards for naturalisation.⁸

The book is very well written and, as well as an important work of scholarship with a policy focus, would serve admirably as a textbook on SDPs in a field that often lacks specialised teaching materials. It is clearly organised, with each chapter introducing the norms and background of the relevant facet of statelessness determination, followed by a few paragraphs on how these developments in other parts of the world relate to Nigeria. The book contains a flowchart on recommended procedures for SDPs in Nigeria.⁹ The analysis is also organised by country and summarised into a helpful, comparative table.¹⁰ The book ends by providing important and timely recommendations on SDPs in Nigeria, including which Nigerian ministry should house the SDP process, drawing on the comparative analysis in the first part of the book. The background sections on the place of SDPs within statelessness identification provide a wonderful introduction to the topic.¹¹ A bit more background on the role and mandate of UNHCR might be a good addition for a future edition of the book, to help readers who are new to the topic understand the agency's role and importance in the adoption of SDPs by countries.

⁷ Momoh (n 1) 158.

⁸ *ibid* 105.

⁹ *ibid* 197.

¹⁰ *ibid* 164–65. The countries are the United Kingdom ('UK'), Moldova, France, the Ivory Coast (also known as the Côte d'Ivoire), the Netherlands and Nigeria.

¹¹ *ibid* 107.

The book also presents a welcome perspective on SDPs in a non-European context, but it could have gone even further in centring the role of Africa in the development of SDPs. There is perhaps more information than needed on the European context and on the history of the drafting of the 1954 *Convention relating to the Status of Stateless Persons* and the 1961 *Convention on the Reduction of Statelessness* (collectively, the ‘*Statelessness Conventions*’),¹² given that the focus of the book is on the African context, and Nigeria specifically. More time could have been spent on the development of SDPs in other African countries like Côte d’Ivoire — a fellow African nation that has enacted SDPs — where it would have been interesting to hear more detail on the process of legal reforms in that country, including the role of UNHCR.¹³ While Côte d’Ivoire is an obvious model for Nigeria in some ways, as it is located in Africa and has a similar statelessness profile in some respects to Nigeria, the significant differences between the two countries are also worth noting and could have been a topic of analysis.¹⁴ It also might have been interesting to include African countries that do not have formal SDPs but have nevertheless moved to identify and eradicate the statelessness of particular groups, as in Kenya,¹⁵ as well as other African countries that may be considering the adoption of SDPs and are therefore in the process of considering their own reforms. This would place the Nigerian experience within the broader evolution towards SDPs throughout Africa and bring a welcome regional perspective.

The end of the book contains a rather long chapter on the concept of legal transplantation in order to explain how the laws and standards around SDPs used in other countries might be formally adopted into Nigerian law.¹⁶ This will be interesting to scholars of that field, but perhaps less so to many statelessness researchers, as legal transplantation is a highly technical and specialised area of law. This material could have been reduced to make room for other topics, such as the importance of the difference between civil law and common law systems to statelessness determination in Africa, or the relevance of Nigerian federalism and if this should impact statelessness determination in Nigeria in any way. It would have also been interesting to hear more about the process of the ascension of Nigeria to the *Statelessness Conventions* and the politics around the subject of statelessness in Nigeria more generally. There also could have been more

¹² *Convention relating to the Status of Stateless Persons*, opened for signature 28 September 1954, 30 UNTS 117 (entered into force 6 June 1960); *Convention on the Reduction of Statelessness*, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December 1975).

¹³ ‘Côte d’Ivoire Adopts Africa’s First Legal Process to Identify and Protect Stateless People’, *UNHCR* (Press Release, 4 September 2020) <<https://www.unhcr.org/news/news-releases/cote-divoire-adopts-africas-first-legal-process-identify-and-protect-stateless>>, archived at <perma.cc/LE56-85G4>. See also *Arrête Interministériel No 836/MAE/MJDH du 02 Septembre 2020 Portant Création, Organisation et Fonctionnement de la Commission Nationale d’Eligibilité au Statut d’Apatride* [Inter-ministerial Order No 836/MAE/MJDH of 2 September 2020, Establishing the Creation, Organisation and Operation of the National Commission on Eligibility for Stateless Status] (Republic of Côte d’Ivoire).

¹⁴ For example, the fact that Nigeria and the Côte d’Ivoire were influenced by two different legal traditions, that of the common law and that of civil law, could have been discussed, or the differences resulting from the fact that Nigeria is a federation of states, while the Côte d’Ivoire is organised into regions.

¹⁵ ‘UNHCR Applauds Kenya’s Efforts to Resolve Stateless Situation of Pemba Community’, *UNHCR* (Press Release, 28 July 2023) <<https://www.unhcr.org/news/press-releases/unhcr-applauds-kenya-s-efforts-resolve-stateless-situation-pemba-community>>, archived at <perma.cc/P8RF-S4HJ>.

¹⁶ Momoh (n 1) 167–98.

discussion on the role of gender in causing statelessness in Nigeria, as well as the emerging role of technology. These topics are mentioned but could be more fleshed out.

The book also provides a profile of statelessness in Nigeria; a country that is a great case study on statelessness identification due to the multiplicity of intersecting risk factors for, and causes of, statelessness. Examples of risk factors for statelessness in Nigeria include the *Almajiri* system of education,¹⁷ which in other countries is sometimes called the *talibé* system,¹⁸ as well as the practice of nomadism and pastoralism.¹⁹ The book also provides a good introduction to the legal structure and context of Nigeria as a postcolonial country, including the ways in which colonisation influenced Nigeria's legal development. More information on Nigerian institutions and politics would have been welcome and interesting background to those less familiar with the country. At one point, the book states that it is easier to get Nigerian lawmakers to adopt European legal reforms than legal reforms adopted in Asia and the Americas.²⁰ This is an important point justifying a European focus in the book that could have been better fleshed out and explained, particularly as part of a larger discussion on Nigeria's postcolonial context, the relevance of United Kingdom ('UK') law and the concept of UK legal 'prestige', which is raised in the book, but could have been discussed more.²¹

The book brought to mind several interesting questions related to the particular concerns of in situ stateless populations, or persons who are stateless within their own country. It would have been interesting to hear if the author recommended any changes to the SDP procedures that have been enacted in other countries or are recommended by UNHCR, given the specific profiles of stateless groups in Nigeria, including a sizeable in situ population who likely consider Nigeria to be their home country, such as the Fulani and nomadic populations, foundlings, returned refugees and the internally displaced.²² Many of the SDPs profiled in the book are used in countries where the stateless population consists mostly of immigrants, presenting a very different profile from the stateless population in Nigeria.²³ It would also have been interesting to hear the author's opinions as to the critical role played by civil documentation and registration in the identification of statelessness, given that Africa is a region where civil documentation is often lacking,²⁴ or whether an SDP procedure in Nigeria should differ in any procedural way for a rural, nomadic population lacking documents. There is likewise no discussion of the possible risks to in situ populations resulting from SDPs. Examples from countries where in situ populations have resisted the label

¹⁷ *ibid* 39–41.

¹⁸ Bronwen Manby, *Nationality, Migration and Statelessness in West Africa: A Study for UNHCR and IOM* (Report, June 2015) 78.

¹⁹ Momoh (n 1) 41–42.

²⁰ *ibid* 127.

²¹ See, eg, *ibid* 172–73.

²² *ibid* 38–45.

²³ *ibid* 127. For example: the UK, France, Moldova, the Ivory Coast and the Netherlands. For an overview of stateless populations in the relevant countries, see 'Statelessness Index', *Statelessness Index*, (Web Page, European Network on Statelessness) <<https://index.statelessness.eu>>, archived at <perma.cc/K4JB-EV8Q>.

²⁴ Momoh (n 1) 5.

‘stateless’ or found it to be harmful might be relevant to the Nigerian context and could be part of a broader conversation on SDPs and ethics in a future project.²⁵

Overall, *Statelessness Determination Procedures and the Right to a Nationality: Nigeria in Comparative Perspective* is an excellent addition to the literature on statelessness identification and SDPs, with an important focus on Nigeria, as well as a comprehensive comparison of countries with statelessness identification policies and procedures in place, and shows the importance of emerging scholars and localised voices to the field of statelessness studies. It proposes critical recommendations for the Federal Government of Nigeria, as well as serving as a reference for UNHCR and other actors eager to see the Nigerian Government move forwards on statelessness eradication. The book is clearly written and argued and would also make an excellent textbook on SDPs and best practices, both within Nigeria and internationally.

²⁵ A good example of this is Natalie Brinham’s work on the Rohingya in Myanmar and the use of the statelessness label. See, eg, Natalie Brinham, “‘We are *not* Stateless! You can call us what you like, but we are Citizens of Myanmar!’: Rohingya Resistance and the Stateless Label’ in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 342.