



# Migration and Citizenship

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## Letter from the Co-Presidents

### Citizenship, Authoritarianism, and the Paradox of Liberal Democracy



**Alexandra Filindra,**  
University of Illinois  
at Chicago

**Sara Wallace Goodman,**  
University of California,  
Irvine



Today, once again, we are witnessing the great paradox of liberal democracy, one that Carl Popper was keenly aware of: the threat to open societies does not always come from outside the gates, it often comes from within. Western liberal democracies rose out of the ashes of World War II and led to the longest period of peace that the modern world has known. It was those war experiences and the knowledge that millions of people died in the name of ethnic nationalism, communism, and fascism, that led to the establishment of open societies striving to be inclusive of the other and supportive of the weak.

These days, we live in an era when more and more immigrants from all over the world are seeking to share into the material and moral riches of the West, embracing the political, social, and cultural values of liberal democracy. Often required by law, they shed headscarves and native tongues along with other cultural and social practices and beliefs. Data from multiple countries tell us that immigrants are net contributors to Western economies (the story for refugees is more complicated given the conditions under which they are admitted), they display lower levels of criminality, they are patriotic (in the U.S. thousands have served in the military and have been welcomed to do so, until recent efforts by the Trump administration to purge the ranks), and they are the strongest hope for stemming the Western demographic crisis and the associated crisis of the welfare state.

At the same time, a portion of the native-born population, those raised in the context of liberal ideals and institutions, feel so threatened by Spanish or Turkish or Arabic spoken on the train platform and the supermarket line, by the chanting call of the muezzin, and the different color of skin of the people in their midst, that they become willing to sacrifice liberal norms and institutions built with great sacrifice and over many decades. Ultra-nationalist, authoritarian leaders and parties have cropped up in almost every Western democracy attacking liberal values and institutions, but promising protection of cultural homogeneity.

Many of these leaders are making a Faustian bargain: stop the entry of immigrants but also muzzle the opposition by controlling media and courts, while targeting opposing elites and their supporters for investigation and prosecution. Turkey's Erdogan jailed journalists and academics who resisted his efforts to consolidate power. Hungary's Orban mocked the idea that citizens are "free to do anything that does not violate another person's freedom," and forced through constitutional changes to centralize power in the executive. Poland's Law & Justice party claiming "politicization of courts," enacted sweeping reforms of the judiciary designed to bring judges under government control. In France, Austria, the Netherlands, the UK, and elsewhere parties that promise to prevent and even reverse immigration, close the borders to outsiders, and "de-islamize" and restore ethnoreligious homogeneity to their societies.

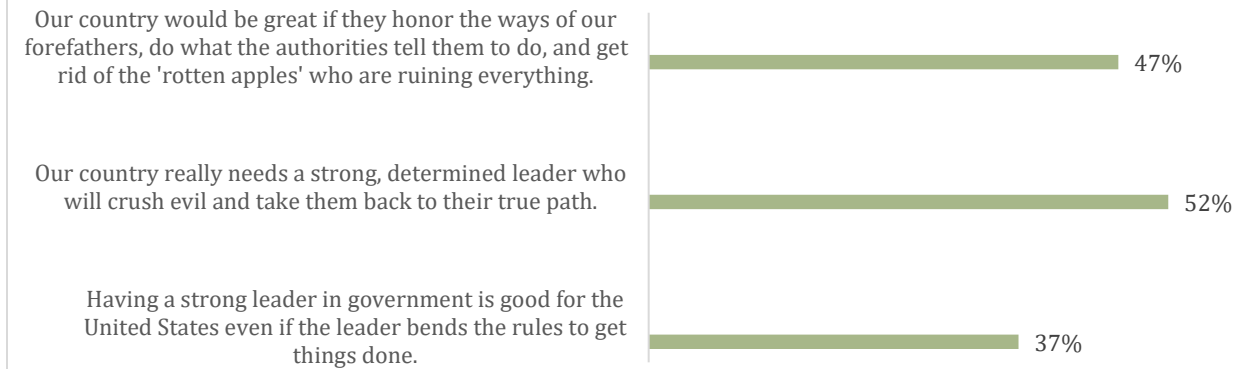
The story is the same across the Atlantic. The rise of Donald Trump in the United States has been accompanied by the blatant disregard if not contempt for the country's egalitarian social norms, the politicization of the administrative state, and efforts to change electoral rules to cement party advantages and prevent the opposition from

“Recent data from the United States paint an alarming picture...significant proportions of white Americans...have embraced authoritarian populism”

gaining ground. From extreme gerrymandering, to voter-ID laws, to proposed constitutional amendments to exclude non-citizens from the official population count, to calls for the impeachment, replacement, or “packing” of state high court justices issuing decisions that political leaders dislike, the U.S. has witnessed it all in the span of a decade.

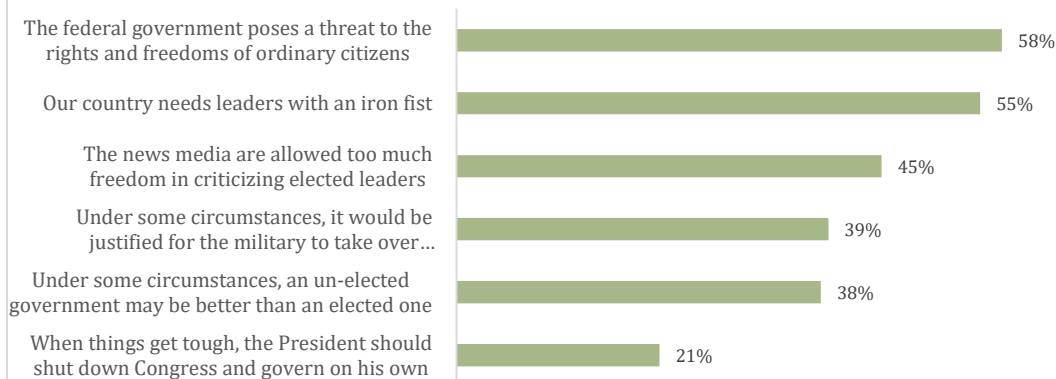
Recent data from the United States paint an alarming picture. The 2016 ANES suggests that significant proportions of white Americans—the political majority group—have embraced authoritarian populism. More than a third of whites endorse having a strong leader even if he bends the rules; half want a leader who will “crush evil” and take us back to the “true path”; and just shy of a majority want the authorities to get rid of “rotten apples” who are ruining everything (Figure 1).

Figure 1. Support for non-democratic norms (2016 ANES, whites only)



An online survey of white Americans conducted in March 2018 confirms the troubling trends with some additional very disconcerting insights. The best news is that only a fifth of our white compatriots think that the President should shut down Congress and govern alone but twice as many (38%) believe that under some circumstances, an unelected government is preferred to an elected one. A similar proportion (39%) think that there are circumstances that would justify a military takeover of the American government. Almost half (45%) of white Americans believe that the media have too much freedom in expressing political views, and more than half (55%) would like a leader with an iron fist. Finally, 58% of our white compatriots think that the federal government poses a threat to the rights and freedoms of citizens.

Figure 2. Support for Anti-democratic Institutions & Norms (March 2018 Qualtrics Survey)



Across the West, the activation of social identities based on race, ethnicity, language, or religion and the politics that surround them threaten to upend liberal democratic polities. In the context of increased social diversity, portions of the public are willing to support calls for an exclusionary moral community of virtue at the expense of norms and institu-

tions of democracy. Several recent studies suggest that high support for anti-democratic leaders, ideas, and institutions is not the result of the economic dislocations produced by globalization. Rather, we can find the source of this anti-democratic shift in anxieties related to the presence and political empowerment of racial and ethnic out-groups in our midst. Hence the paradox of liberal democracy: many of our fellow citizens, raised with access to the privileges afforded by liberal democratic institutions, are willing to give up hard-won rights and guarantees, in exchange for assurances that their cultural and social primacy will be respected and maintained.

“The challenge for our section today is to look at the relationship between citizenship, immigration, identity, and democracy through fresh eyes”

The challenge for our section today is to look at the relationship between citizenship, immigration, identity, and democracy through fresh eyes. All regimes, but more so democratic regime, require public support for their legitimacy and survival. As scholars from Aristotle to Machiavelli to modern day civic republicans have warned, republics collapse when the people give up on them and are lured by the promises of power-hungry leaders. This is the time to ask ourselves if we know enough about what the average Jane and Joe think when presented with terms such as democracy, citizenship, or rights. Contrary to our idealistic normative assumptions, citizens do not have a principled or ideologically constrained approach to democracy any more than they have a principled approach to governance and policy. Rather, they may be prone to understand democracy through the lens of group memberships. When the social position of cherished groups is perceived as threatened, and when trusted in-group elites use narratives of group threat and out-group dehumanization to justify anti-democratic actions, group members may become more vulnerable to authoritarian leaders and parties that promise protection or restoration of the group's status but at the cost of institutional democracy. Developing theories as well as empirical analyses that explain the likely contingent relationship between citizens their value systems and their institutions, and thus address the paradox of liberal democracy in a substantive way, should be a top priority for us as scholars and as citizens.

To contact the Co-Presidents, email Alexandra Filindra ([aleka@uic.edu](mailto:aleka@uic.edu)) and Sara Wallace Goodman ([s.goodman@uci.edu](mailto:s.goodman@uci.edu)).

## Letter from the Co-Editors



**Marc Helbling**  
University of  
Bamberg



**Kristy A. Belton**  
International Studies  
Association

The main focus of this issue is the symposium on statelessness organized by Kristy. This topic allows us to pursue one of the central aims of our section, namely to bring together migration and citizenship research. While there are many research questions that are specific to these two fields, it is often difficult to understand developments in one field without investigating related aspects in the other field. “Statelessness” is an excellent example for the close connection between migration and citizenship issues: it is about people who have no citizenship, a situation that is created, not exclusively but often, after people have migrated to another country.

The symposium also fulfills another aim this newsletter has been pursuing over the last years: while there is an abundance of research in our fields on North America and Western Europe, other world regions have been neglected to a large extent so far. The various contributions of the symposium cover such diverse places as the Dominican Republic, Bahrain, the Baltic States and South-East Asia. The policy piece by Bronwen Manby on biometric identities in Africa presents a topic tightly related to statelessness and covers yet another continent.

It appears in the various contributions of the symposium that data availability is a recurrent issue as it is often difficult to get a detailed picture of how many people are stateless, where and for which reasons. This is of course a problem many migration and citizenship scholars know. The Global Migration Data Analysis Centre (GDMAC) that was established by the UN Migration Agency (IOM) in Berlin in 2015 and that is pre-

sented in this issue aims at addressing this problem by supporting data-capacity building and more generally providing existing datasets through the Migration Data Portal.

This is our last issue before we hand over the editorship to our successors Fiona Barker and Ruxandra Paul. It has been a great time editing this newsletter over the last four years. It allowed us to get to know a lot of colleagues and learn about new topics and research institutions we did not yet know. We are most grateful to all authors who contributed to the various newsletter sections over the last four years. It goes without saying that there would be no newsletter without such an active Section. And these activities show that the Migration and Citizenship Section constitutes a vibrant community with a strong identity. Finally, we also like to thank our editorial assistants Andrea Pürckhauer, Helga Nützel and Jakob Biernath who helped us with various aspects over the last years.

All the best,  
Marc and Kristy

To contact the Newsletter Co-Editors, email Marc Helbling ([marc.helbling@uni-bamberg.de](mailto:marc.helbling@uni-bamberg.de)) and Kristy A. Belton ([kbelton@isanet.org](mailto:kbelton@isanet.org)).



## Symposium “Seeing Statelessness: at the interstices of sovereignty, self-determination and discrimination”

### Introduction

Symposium Coordinator & Introductory Essay Author, **Kristy A. Belton**, Director of Professional Development, International Studies Association & Senior Programme Officer, Institute on Statelessness and Inclusion

The world recently welcomed the rescue of the Wild Boars football team, a group of 12 youths and their coach, who had been stuck for over two weeks in an area of Sam Luang cave in Thailand, which had become flooded during a monsoon downpour. Among those children was Abdul Sam-on, a 14-year old boy who has been heralded as a hero for acting as an interpreter during the rescue. While the world got to know Sam-on and the rest of his team during these past few weeks, he was invisible to the eyes of the State. Sam-on, along with two of his teammates and his coach, is stateless. No country recognizes and claims them as its citizens.

While most are familiar with the stateless Rohingya of Burma—where more than 600,000 Rohingya have fled to Bangladesh and other neighboring countries because of persecution in Burma since August 2017—fewer are familiar with the other stateless groups in the region. Sam-on and the other stateless members of his soccer team are part of tribal groups, or ethnic minorities, who are not counted among the citizens of the States in the region (whether Thailand, Burma or Laos). They therefore present another face of statelessness,<sup>1</sup> illustrating the complexities that arise around who is allowed to formally belong to the body politic (the “State”) in a region where ethnic diversity is immense and where peoples have moved back and forth across State borders for centuries.

The case of Sam-on and his stateless teammates brings to the fore the difficulties in fulfilling each person’s human right to a nationality. Unlike many of the other human rights that we find articulated in the United Nations’ (UN) Universal Declaration of Human Rights (UDHR) and in UN human rights treaties, the human right to a nationality is not currently one that can be fulfilled by any other actor other than the State (through its authorized representative). International law is clear that it is up to each State to determine who should formally belong via citizenship, and States—while not allowed to “arbitrarily” deprive people of citizenship—are allowed to do so on a host of grounds

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<sup>1</sup> Nearly half a million people are registered as stateless within Thailand alone, but this figure is likely “understated” because many individuals have not undergone the statelessness registration process (Wongcha-um and Pearson 2018).

from reasons of “public order” and “public safety” to “national security.” In this highly securitized post-9/11 environment, these allegedly non-arbitrary reasons have taken on an amorphous shape such that a variety of citizen “actions” or “activities” are made to fall under these grounds. Several of the case studies addressed in this Symposium serve as cases in point.

In her article, “Stateless in the Dominican Republic: A New Turn in Anti-Haitianism,” **Bridget Wooding** explains how a 2013 constitutional court ruling in the Dominican Republic resulted in the creation of a permanent underclass who could be exploited for the Dominican State’s economic gain. Her article demonstrates how the creation of stateless persons can generate humanitarian problems across borders, and also shows the ways in which human migration can be intimately tied to statelessness. As her article demonstrates, however, the root of statelessness in the Dominican Republic is racism or its Dominican equivalent of “anti-Haitianism.”

Rendering people stateless because of perceived ethnic differences also lies at the heart of the case study that **Zeineb Alsabeehg** discusses in her article, “From citizen to stateless – the lost rights: Examples from Bahrain.” Alsabeehg’s article adds another layer to the citizenship deprivation tool wielded by States, as it shows that even those who are “natural born” (that is, they are not naturalized citizens) can have their citizenship revoked if the State deems that they are a national security threat and/or have committed an act of treason. Her piece illustrates how the use of denationalization is not simply a tool of authoritarian governments during the World Wars’ era, but remains a tactical tool in the present as well. While Alsabeehg’s piece demonstrates the impact of statelessness upon a person’s (and his/her family’s) ability to enjoy other human rights, it serves as a reminder that what the States give (citizenship), they can also take away.

Moving from the Caribbean and the Gulf States, **Julija Sardelić’s** article invites us to explore the case of Europe when it comes to statelessness. Her work reveals that statelessness is not a “one size fits all” condition as it is possible to enjoy some rights, even as a stateless person. In “Complex Realities of Minority Statelessness in Europe and Beyond,” Sardelić shows how stateless Russian speaking minorities in the Baltic States of Estonia and Latvia enjoy basic rights and a certain level of protection, but other minorities, such as the Roma, are less likely to enjoy such rights and protections in their respective European-country residences. Her piece thus demonstrates how individuals can still live and be treated “as if” they were stateless, even when they do not necessarily fall under the international legal definition of a stateless person.

Regardless of whether an individual is “de facto” (“as if” or “in practice”) stateless or whether she or he is “de jure” stateless (recognized as such under international law), a stateless person is always vulnerable to having any and all rights and protections negated. In many countries, the stateless can be denied marriage and birth certificates. They can be easily trafficked or indefinitely detained. They can be relegated to specific

geographical spaces within a country, eking out an existence on its fringes. They can be denied access to all government services and benefits of the country in which they were born. They can, in essence, be denied the ability to be a self-determining agent.<sup>2</sup>

The institution of citizenship is so vital to the way in which the world is ordered, and the way in which States manage people, no internationally recognized right to be voluntarily stateless exists. Even the human rights treaties that include the human right to a nationality are typically clear that a person cannot be deprived of citizenship unless she or he has another nationality first. In fact, citizenship is so important to our ability to *be* in the world that Eleanor Roosevelt, one of the drafters of the UDHR, stated that she considered the human right to a nationality to be one of three rights that were of “vital importance” (the other two being the right to freedom of conscience/religion and the right to take part in the government of her or his country without discrimination) (Roosevelt 1948). Despite the problems associated with statelessness, however, there are those who give up their citizenship and choose to become voluntarily stateless.

As **Jocelyn Kane** explains in her piece, “Voluntary Statelessness: Reflections on Implications for International Relations and Political Theory,” whether as an act of resistance against State policies they did not like, or because they were autonomous polities before being colonized by “the State,” individuals give up or reject citizenship. Kane examines the implications of voluntarily statelessness on our understanding of sovereignty, global governance, membership and the social contract, demonstrating how the existence of voluntarily stateless persons and groups challenges some of our key precepts of how the world is understood.

Moving from the realm of political theory to international law, **Tanya Faye Herring’s** piece on “Statelessness and the struggle to close the gap in human rights through legal empowerment,” investigates how we can use existing treaties, as well as domestic legal tools, to address statelessness. Moving beyond the law, her piece also shows us how statelessness and indigeneity intersect in the Southeast Asian context.

This Symposium thus includes a diversity of perspectives on statelessness, written both by practitioners and academics hailing from various countries. Although they come from different disciplinary and regional contexts, and do not necessarily approach statelessness in the same manner, they all share an important commonality— membership in the International Network of Statelessness Scholars (INOSS).<sup>3</sup> They are thus part of the budding community of individuals who are working to address statelessness in its various facets and who make up the larger global effort to end statelessness.

In 2014, the United Nations High Commissioner for Refugees (UNHCR), the body mandated with the identification and protection of stateless people, and the reduc-

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<sup>2</sup> For an in-depth argument on the relationship between citizenship and self-determination as it relates to statelessness, see Belton (2017).

<sup>3</sup> For further information on INOSS, or to become a member, please visit: <http://www.institutesi.org/forum/academic.php>.

tion of statelessness globally, launched the #IBelong campaign.<sup>4</sup> Its primary goal is to end statelessness by 2024. While we are no closer to ending global statelessness once and for all—there’s simply too many ways in which statelessness arises and the discrimination that underlies each of these paths means that statelessness cannot simply be removed via legal and technical means—positive momentum has been built, especially in the civil society and academic realms. Various regional networks have been created in the past half decade: from the European Network on Statelessness, the Americas Network on Nationality and Statelessness to the Statelessness Network Asia Pacific and the Central Asian Network on Statelessness. Even more human-rights and law-based NGO’s and practices are incorporating the stateless as a population of concern in their work, and the world’s first center dedicated to the study of statelessness became fully operational this year at the University of Melbourne.<sup>5</sup>

Furthermore, the Institute on Statelessness and Inclusion (ISI), which was launched in 2014 and which serves as the primary global convenor of statelessness experts and interested parties, is set to hold the first World Conference on Statelessness and Inclusion in June 2019<sup>6</sup> at the half-way point of UNCHR’s #IBelong campaign. We thus find ourselves at an opportune time to reflect upon the progress made in addressing statelessness and all of its challenges. We hope that you learn more about statelessness through reading this Symposium and that many of you will join the INOSS community, each acting in your own spheres of research and influence so that the stories of individuals like Sam-on, and others like him, do not go unheard or unaddressed.

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Please direct inquiries about the Symposium’s Introductory article to Kristy A. Belton ([kristy.belton@institutesi.org](mailto:kristy.belton@institutesi.org)).

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<sup>4</sup> For further information on the #IBelong Campaign, please visit: <http://www.unhcr.org/ibelong/>.

<sup>5</sup> To find out more about the Peter McMullin Centre on Statelessness, housed at the University of Melbourne’s Law School, please visit: <https://law.unimelb.edu.au/study/graduate-research-degrees/fees-and-scholarships/statelessness-phd-scholarship>.

<sup>6</sup> For more information on the June 2019 conference, please visit: <http://www.institutesi.org/forum/conference.php>.



## What does the position of Roma in Europe indicate about minority statelessness?

**Julija Sardelić**, Marie Skłodowska-Curie Postdoctoral Fellow, University of Leuven, Belgium

### Introduction

The 1954 Convention Relating to the Status of Stateless Persons defines a stateless person as an individual “who is not considered as a national by any state under the operation of its law” (1954 Convention). According to UNHCR data, there are approximately 10 million people around the globe who fall under this definition (UNHCR 2018) due to reasons such as: “conflicts of laws, discrimination, state succession, the legacy of colonization, arbitrary deprivation of nationality, administrative barriers and lack of documentation, inheritance of statelessness” (Institute for Statelessness and Inclusion, 2018). In 2017, UNHCR published a report according to which 75 % of stateless people around the globe belong to minorities (UNHCR 2017). This report also showed a recognition by UNHCR that the 1954 Convention was a product of its time. It addressed the challenges the world was facing due to the Second World War (WWII): the time when millions of refugees were wandering around Europe without any state to claim them as citizens, to paraphrase Hannah Arendt (1968). Since WWII, the geopolitical landscape has changed massively and it is not only those individuals falling under the 1954 Convention’s definition of statelessness who experience the “abstract nakedness of being nothing but a human” (Arendt 1968: 299-300). It also extends to the people who under the operation of state’s law were supposed be granted the protection of citizenship, yet they are unable to access it.

“75 % of stateless people around the globe belong to minorities”

As I argued in my previous work (Sardelić 2015), *de facto* stateless individuals find themselves in a legal limbo not protected by their own states, but also not falling under the protection of the 1954 Convention. UNHCR is increasingly recognizing this fact by including the position of Roma who have hindered access to citizenship as a part of its mission. As the 2011 UNHCR report on Statelessness in Southeast Europe showed, many more individuals do not in a strict sense fall into the category of *de jure* statelessness but are at “risk of becoming stateless” (UNHCR 2011). Yet at the same time they have more hindered access to basic human rights than those who were recognized as stateless (Swider 2018, Blitz 2018). This paper contextualizes the position of Roma who face statelessness with other occurrences of minority statelessness in Europe, and also draws examples from around the globe. It uses a socio-legal analysis to show that different domestic laws, as well as international conventions, can create dif-

ferent scales of legal realities surrounding the phenomenon of statelessness. The question that the paper aims to answer is whether there are any particular features of minority statelessness and whether/how is the statelessness that Romani minorities experience distinguishable from that which others experience?

## **Complex Realities of Minority Statelessness in Europe and Beyond**

In Europe, the largest number of recognized stateless minorities belongs to Russian speakers in two Post-Soviet Baltic countries, Latvia and Estonia. From around 600,000 recognized stateless people in Europe 240,000 are located in Latvia and 85,000 in Estonia (Minority Rights International 2017). In the Soviet period, there was a state-sponsored policy that encouraged Russian speakers to (then internally) migrate to the two Baltic countries in question. After the disintegration of the Soviet Union, the Latvian and Estonian states adopted citizenship policies and law that stated that they did not become independent states in 1991 (no state succession) but, instead, ended an occupation of the Soviet Union. Russian speakers were perceived as a part of the former dominant majority who ended up in Latvia and Estonia as a part of the occupation plan. Only those residents of Latvia and Estonia who were either born there before 16/17 June, 1940 or were their descendants, became citizens of the two respective countries (Kuczyńska-Zonik 2017). Most Russian speakers, who had settled there after these dates, had to go through the process of naturalization, which included a citizenship test and majority language proficiency. Therefore, a great number of them remained stateless.

Yet, as a number of scholars have argued (Kuczyńska-Zonik 2017, Swider 2018), their position does not resemble what Hannah Arendt described as statelessness; that is, a situation where a person lacks “the right to have rights”. While it is clear that they are stripped of political rights and face discrimination, they still enjoy a number of social, economic and cultural rights that extend beyond the scope provided in the 1954 Convention (Swider 2018). Since they have a broad scope of human rights already protected (for example, they also have a right to a non-citizen or alien’s passport) and also some additional rights (no visa requirements for Russia nor the EU), there is low interest to become naturalized Estonian or Latvian citizens, especially among the older generations (Kuczyńska-Zonik 2017).

The position of the Russian speaking non-citizens of Latvia and Estonia is a very well documented case of minority statelessness in Europe. It shows that despite being perceived as the Other in one’s own country (Mole 2012), these non-citizen groups do enjoy a level of protection that many stateless people around the world do not. Yet this is only one side of the coin about minority statelessness in Europe. The other side shows a much less clear, and nonetheless bleaker, picture of marginalized minorities and forced migrants who are vulnerable to statelessness. Besides Roma, who have been in Europe for centuries, there are other new cases of possible minority stateless-

ness emerging. Two examples are the so-called “Windrush generation” in the UK and some Syrian refugee children born in Europe.

The “Windrush affair” showed that some marginalized and even racialized minorities can be stripped of citizenship even if “according to the law” citizenship should be granted to them. The Windrush generations refer to migrants from the Caribbean who migrated to the UK between 1948 and 1971 as British subjects and who were granted leave to remain (Tonkiss 2018). After WWII, the British government invited people from its colonies to come to the UK since it lacked an adequate labour force. Due to different factors, many of them never regularized their citizenship status in the UK, although they had a right to do so (Sigona 2018). The leave to remain gave them a wide variety of rights from the right to reside to the right to work as well as access to education. However, in 2010 the Home Office decided to destroy the landing cards, which were the only solid proof that they had been granted the leave to remain. Thus, from legal citizens they were put into a category of ‘illegal immigrants’. This particularly affected their children, who could only prove citizenship on the basis of their parents’ passport and hence were at risk of becoming stateless (Valdez-Symonds and Valdez-Symonds 2018).

“Both the Windrush generation in the UK, as well as Syrian refugee children across Europe, belong to marginalized minorities. They are particularly vulnerable to statelessness because of discrimination, war, conflict, and the legacy of colonization, but also in many cases because of cultural racism”

Another conundrum connected to minority statelessness is the predicament that some Syrian refugee children born in Europe face. Syrian nationality law is still based on gender discrimination. This means that Syrian children born outside the territory of Syria can only inherit their citizenship from their Syrian Arab fathers. They cannot acquire citizenship if their father is unknown (for example, if he was killed in conflict). While gender discrimination in nationality law has been widely discussed (Maktabi 2010, Lim 2018), less attention has been paid to the right to a nationality of children who are not of Arab origin, like, for example, the Kurds. The exclusionary provisions of Syrian Nationality Law privileging Arabs have in the past rendered around 300,000 Kurds stateless. Ironically, the number of stateless Kurds has decreased in Syria, but not necessarily because of better implementation of mechanisms against statelessness. It is because the stateless population has been displaced from Syria (Institute for Statelessness and Inclusion 2016).

Both the Windrush generation in the UK as well as Syrian refugee children across Europe belong to marginalized minorities. They are particularly vulnerable to statelessness because of discrimination, war, conflict, and the legacy of colonization, but also in many cases because of cultural racism. Racism is not only symptomatic at-

tempts to deprive someone of citizenship as some examples around the globe show – such as the Rohingya minority in Myanmar (Lewa and de Chickera 2010) and those born to Haitian migrant parents in the Dominican Republic (Belton 2017). Racism is also connected to the carelessness of the state to regularize the position of the most vulnerable among its population. This was certainly the case for many Romani individuals in the former Yugoslav space and beyond.

## Stateless Roma and the Predicament of Marginalized Minorities

While there are clear numbers of how many people are stateless in the Baltic states, it is a lot less clear how many people are stateless in South East Europe, among other places, and how many of these people belong to marginalized minorities. As the Open Society Institute report entitled *No Data – No Progress* (2010) states, reliable data on the position of Roma, including how many Roma actually live in each country, are missing. When it comes to the number of Roma, there is a great mismatch “between the results of outgroup and ingroup categorization” (Csepeli and Simon 2004: 129). However, numerous studies have showed that Roma are both the most socio-economically deprived and ethnically discriminated minority in Europe. For example, the EU’s Fundamental Rights Agency report (2016) showed that 80 % Roma live below the country specific poverty line in the EU.

“many Romani individuals who have hindered access to citizenship do not fit the ‘ideal type’ of statelessness...However, they do suffer deprivations of human rights connected to those of stateless persons”

There are very little concise numbers of how many Roma in Europe are stateless as well as the reasons for their statelessness. Moreover, why they are at an increased risk of statelessness is not as straightforward as the case of non-citizens in the Baltic countries or even of other discriminated minorities, such as the Rohingya in Myanmar and the descendants of Haitian migrants in the Dominican Republic. There is no proof of direct targeting of Roma. Yet as Soraya Post, one of two Romani Members of the European Parliament (MEP) comments, “Roma statelessness is not an accident” (Post 2018).

As I have written before on several occasions (Sardelić 2015, 2017, 2017b), many Romani individuals who have hindered access to citizenship do not fit the ‘ideal type’ of statelessness definition from the 1954 Convention and are often not legally recognized as stateless. However, they do suffer deprivations of human rights connected to those of stateless persons. The reasons why Roma had, and still have, difficulties in accessing their citizenship range from the consequences of state disintegration and war to obstacles in bureaucratic procedures and indirectly exclusionary citizenship laws. All

these are without exception also coupled with their marginalized position and historical discriminatory treatment they have faced.

For instance, around 25,000 Romani individuals had difficulties in regularizing their Czech citizenship after the disintegration of the Czechoslovak Federation (Šiklova and Miklušakova 1998, Linde 2006, Kochenov 2007). To understand why they had difficulties in accessing their citizenship in the Czech part, we need to look at history. During WWII, many Roma who were previously living in the territory of today's Czechia were killed. Therefore, in Socialist Czechoslovakia most remaining Roma lived in the Slovak part. However, the Czechoslovak authorities decided to relocate many of them to the Czech part officially because of the factory employment available there. Unofficially, the reason for such relocation was for Roma not to be concentrated only in one part but dispersed around the whole country (Kochenov 2007).

With the end of socialism many factories closed down and Roma were among the first who found themselves unemployed and some had to resolve to petty crime in order to survive (Šiklova and Miklušakova 1998). However, this contributed to their new predicament: they could not naturalize to become Czech citizens because they did not have a clean criminal record or even more often they could not meet

“The reasons why Roma had, and still have, difficulties in accessing their citizenship range from the consequences of state disintegration and war to obstacles in bureaucratic procedures and indirectly exclusionary citizenship laws”

the residency condition as many lived in informal settlements (they were relocated by the state, but not necessarily also registered). Although they were relocated by the state, their official residence was never registered. The new provisions of citizenship laws seemed neutral: however, they disproportionally affected Roma. According to Miklušakova and Šiklova (1998), this was not an accident, but an intentional policy for the Roma who were first relocated to the Czech Republic, now to be expelled back to Slovakia. Many different NGO's did advocate for the position of *de facto* stateless Roma and the discriminatory provisions in law were eventually changed.

Another example, where state disintegration also plays a role, in addition to war, in many Roma having difficulties in accessing their own citizenship was in the former Yugoslav space. It has been established previously that both war and state disintegration can lead to statelessness. However, as I argued in my previous work (Sardelić 2015), it was not simply these two factors that led to Roma becoming *legally invisible* in many parts of the former Yugoslavia (Praxis 2011). Roma were not considered as the ultimate Other in the former Yugoslav space as they did not present a destabilizing territorial threat. However, they would find themselves in-between physical and symbolic conflict of ethnic majorities and more dominant minorities (Sigona 2012, Sardelić 2015).

They were not the first target of exclusionary citizenship laws, but because of their previous exclusion and forced migration they became one of the most affected populations. Due to their marginalized position many have difficulties in regaining their citizenship to the present day. In many instances, the problem has become intergenerational. As one of the representatives of a human rights NGO in the region commented during his interview with me, in many cases the grandparents need to be registered first in order to register a child.

For a long time, the position of Roma with difficulties in accessing citizenship were out of the international spotlight and they were not recognized as “real stateless” people. It was again highlighted by a #RomaBelong project of the European Roma

“For a long time, the position of Roma with difficulties in accessing citizenship were out of the international spotlight and they were not recognized as ‘real stateless’ people”

Rights Centre, the European Network on Statelessness and the Institute on Statelessness and Inclusion, in partnership with local human rights NGOs such as Tirana Legal Aid Society, Your Rights in BiH, the Centre for Legal Aid and Regional Development in Kosovo, the Macedonian Young Lawyers Association, Young Roma from Montenegro and Praxis from Serbia (ERRC 2017). With the advocacy and efforts of these NGOs, the European Court of Human Rights (ECtHR) recognized the applicant as a stateless person (Kochovski 2017) in the case Hasani vs. the former Yugoslav Republic of Macedonia (Application no. 4558/17).

Roma are also faced with statelessness in countries like Italy. As a report by Daniella Maccioni (2013) showed, they face statelessness because of spill-over effects due to the Yugoslav wars. Many Roma ended up as forced migrants in Italy. Romani children who were born in Italy to undocumented parents have difficulties naturalizing as Italian citizens due to particular legal obstacles in the Italian law because of living in informal settlements and hence not having legally registered residence. There are also places like Romania, Bulgaria and Albania (ERRC 2018), where Roma have difficulties accessing citizenship and their situation is not primarily connected to war or state disintegration at all. Instead, it is due to marginalization wherein many children who are not born in hospitals do not receive birth certificates in time to be registered as citizens of their own countries.

## Conclusion

Stateless Roma live in different European countries and become stateless due to the specific contexts of these countries. As in the case of Baltic non-citizens, Roma have not migrated to Europe in the last couple of decades but are a traditional minority in Europe. However, their stateless position is not as well recorded as the position of Baltic

non-citizens. Although they find their own alternative way how to access the rights (Sigona 2015, Sardelić 2017) that are taken away from them when they are deprived of citizenship, they do not enjoy the same level of protected rights as Baltic citizens. In that respect their position is more similar to those deprived of citizenship in the case of Windrush Scandal and some Syrian refugee children. On the other hand, it differs from the position of stateless in the Dominican Republic and Myanmar, where the minorities in question were targeted directly by discriminatory laws. In the case of Roma, due to Romaphobia (McGarry 2017), a form of anti-Roma racism, they were often perceived as less than human. Romaphobia, coupled with longstanding marginalization, contributed to their position as stateless people, which often resembles what Hannah Arendt described as the “abstract nakedness of being nothing but a human” (Arendt 1968: 299-300). The position of stateless Roma also shows that their statelessness is never a product of absence of state interventions and law-making or, to paraphrase Soraya Post, the Roma did not become stateless by accident (Post, 2017).

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Please direct inquiries about "What does the position of Roma say..." to Julija Sardelić ([julija.sardelic@kuleuven.be](mailto:julija.sardelic@kuleuven.be)).

## Statelessness in the Dominican Republic: A new turn in Anti-Haitianism

**Bridget Wooding**, Observatory Caribbean Migrants

The “*Sentencia 168*”—a ruling of the 23<sup>rd</sup> of September 2013, by the highest court of the Dominican Republic, the Tribunal Constitucional—has been commonly represented as a decree expelling all unauthorized Haitian residents from the Dominican Republic and stripping citizenship from Dominican-born Haitian descendants. However, the evidence is that the *Sentencia* does not seek the territorial exclusion of Haitians and Haitian descendants so much as their second-class inclusion into the Dominican political economy, cementing Haitian descendants for as long as is convenient within a hereditary underclass. Following the *Sentencia*, old-style “excesses” have continued, but there has been a newly legalistic and bureaucratically-enforced social exclusionism. The aims are incontestably anti-Haitian. Yet what is sought is neither to expel Haitian descendants nor to confine them visibly behind barbed wire fences, but to deter them invisibly from accumulating the human capital, economic credentials, and citizenship documents needed to aspire to middle class comforts and respect. These changes form part of a larger “securitization” of civil registry records and identity documents. In sum, this biopolitical mode of anti-Haitian exclusionism fits the neoliberal economy’s more varied and more flexible forms of incorporation of Haitian labor.



### The Context

In the decades before the 1990s, unknown thousands of Dominican-born people of Haitian ancestry gained official citizenship when Haitian fathers registered their children’s births using temporary identification cards issued to seasonal sugarcane workers. Obtaining Dominican citizenship has always been made difficult by anti-Black racism but was for decades facilitated by compliant civil registry officials. These local-level officials approved the issuance of tens of thousands of valid birth certificates to the Dominican-born children of Haitian nationals, even though the latter often bore no proof of identity other than the “temporary” identity cards (*carnets temporeros* or *fichas*) issued to seasonal workers by the sugar companies upon arrival from Haiti. Electoral politics and the creation of small pockets of grateful voters/political clients on the sugar plantations undoubtedly impinged. Beginning in the 1980s, prospects for sugar’s future went from buoyant to depressed, and official permissiveness was replaced by growing restrictiveness. By 1990, evidence had emerged that Dominican-born children of Haitian ancestry were being denied birth certificates under the pretext that the Dominican Constitution, from 1929 forward, exempted the children of persons “in transit” from the *jus soli* right to

Dominican nationality.

In 2004, Section VII, Article 10 of the *Ley General de Migración* (República Dominicana 2004: 22) made it official that anyone who is not a legal resident is, for the purposes of the law, “in transit,” and hence that person’s Dominican-born children excludable from birthright citizenship.

It is these Dominican-born people of Haitian ancestry who for a decade have been provisionally denied copies of their official documents when they request these at civil registry offices. While awaiting investigation of their parents’ immigration histories, the people thus affected are thrown into a legal limbo, their citizenship effectively revoked. This is by international law a form of statelessness: the relationship of belonging that the people so affected have had since birth with the state of their birth is being annulled, without consideration of whether it is possible even in principle, let alone in practice, to obtain their immigrant ancestors’ nationality.

Uncounted thousands have been thus thrown into citizenship limbo when seeking to renew their cédulas or obtain official replica documents for university enrolment or foreign travel, and their birth certificates are indicative of being the offspring of an undocumented immigrant. Nationality stripping began even before the Do-

“Nationality stripping began even before the Dominican Constitution’s amendments, blocking citizenship for children of foreigners not residing legally in the country, took effect in January 2010”

minican Constitution’s amendments, blocking citizenship for children of foreigners not residing legally in the country, took effect in January 2010. It is now the government’s contention that the “in transit” exclusion of the children of undocumented immigrants from *jus soli* has been its official policy all along, even though that policy lacked public legal content until 2007, the point at which the Central Electoral Board (JCE) announced, through administrative dispositions, that it could suspend any applicant’s citizenship pending forensic investigation of their parents’ immigration status at the time of birth.

## The Sentence

Even as the September 23<sup>rd</sup> ruling went well beyond simply confirming the validity of the dispositions, the ruling did not explicitly foresee massive deportations. The court ordered three massive tasks to be carried out within a year’s time by three other sectors of government, the Ministry of the Interior and National Police with its Migration authorities, the JCE and the Dominican Congress. The court ordered the Police and Migration authorities to compile a list of everyone living in the country that does not have a legal residency permit. Second, it tasked the JCE to gather a list of “foreigners” (meaning the Dominican-born children of non-legally-resident foreign nationals) whose birth certifi-

cates have been “irregularly” inscribed in the nation’s Civil Registry since 1929 (the year in which the Constitution’s “in transit” exception to eligibility for *jus soli* citizenship became effective).

A key indicator of irregular inscription is whether the child’s birth was registered by parents bearing a legally-issued cédula or some other kind of identity document, such as a carnet temporero. The JCE list was to be extended to include also people who have been fraudulently “cedulized,” by being registered as the child of a Dominican who was not in fact their mother or father, a last recourse strategy commonly used to obtain the cédula both by Haitian nationals and Dominican-born Haitian descendants. The Sentencia ordered that all these people be stripped of Dominican citizenship if their birth may be traced to immigrant(s) without a legal permanent residence.

Third and lastly, the Congress was asked by the high court to devise a National Plan of Regularization of Unauthorized Resident Foreigners, as already called for in the General Migration Law of 2004. That plan would aim at providing a path to legal residency for both out-of-status immigrants and all those Dominican-born people who were to be stripped of their Dominican citizenship following forensic analysis of their birth certificates by the JCE. All three pieces were envisioned to fit together in a unified legal/forensic/administrative scheme.

## Aftermath of the Sentence

The international spotlight was once more shone on the Dominican Republic in the middle of 2015 on migrant-related issues, as the registration period for the pioneer regularization program for irregular migrants expired. The first National Survey on all Immigrants, carried out in 2012, estimated in that year the volume of Haitian immigrants to be 458,233 persons. Although it did not take data on the migration status of those persons surveyed, the DGM registers for early 2013 show that only 11,000 Haitians had legal residence. The gap indicates the magnitude of those without a positive migration status prior to the Regularization Plan. In the event, and even taking into account that the sign-up for the plan was considerable by undocumented migrants, according to official figures only 53.3% who registered in the Survey had managed to avail themselves of the Plan.

The Dominican authorities faced three acute problems at this juncture. Firstly, a very small number of persons applying for the plan managed to complete their files and get residency status, probably because the bar was set too high in terms of criteria for the category of migrant concerned and the time period was very tight. The preliminary regularization (as non-residents and renewed, at the time of writing, up until mid-2018) affords the vast majority of those thus newly documented persons little advantage beyond, supposedly, being exempt from deportation and timid insertion in the Social Security system. However, some persons with this temporary documentation mistrusted the

authorities' final intentions towards them and, in some cases on the eve of renewed deportations, went into hiding or moved to be non-traceable to the authorities.

Secondly, the presidential decree in late 2013 unleashing the Regularization Plan had instructed the Dominican authorities to suspend deportations during the eighteen months when the Plan was established and operated. The Herculean task of now resuming these and deporting as many hundreds of thousands of persons as had managed to register was daunting and, in terms of logistics, a non-starter. It was against this background that the authorities hit on the idea of encouraging so-called "spontaneous returns" for irregular migrants who had not signed up to the Plan, before commencing official deportations two months later.

"A third conundrum was the need to face up to local and international concerns around the possible expatriation of some of the 133,000 Dominicans of Haitian ancestry who had been denationalized by a Constitutional Tribunal Sentence of 2013, most of whom did not have the papers in hand to prove Dominican citizenship"

A third conundrum was the need to face up to local and international concerns around the possible expatriation of some of the 133,000 Dominicans of Haitian ancestry who had been denationalized by a Constitutional Tribunal Sentence of 2013, most of whom did not have the papers in hand to prove Dominican citizenship.

According to the International Organization for Migration (IOM), between June 2015 and December 2016, 96, 476 families, equivalent to 160,452 persons crossed the border in these mixed flows. The bulk of the returns were so-called "spontaneous returns" (totaling some 97, 854 events), although many of those interviewed alleged that they moved because of heightened inter-ethnic tensions in the Dominican Republic observed from mid-2015 onwards.

Assisted returns (initially on offer by the Dominican authorities) totaled some 462 persons. Official deportations observed were 54,510 while 27,445 persons alleged that they had been deported extra-officially. Persons who returned, despite alleging they had signed up for the Regularization Plan, registered 11,193, most of whom moved spontaneously. Although the number of persons born in the Dominican Republic and deported to Haiti was relatively low at an estimated 4.8%, two worrying trends were observed. Most of those in this category of Haitian ancestry persons born in the Dominican Republic had moved spontaneously across the border; while of those deported in this category the biggest group was extra-official.

The humanitarian crisis derived from this intense cross-border movement is perhaps best exemplified by the camps established on the Haitian-Dominican border, the Parc Cadeau complex, especially as a result of the spontaneous movers not having necessarily anywhere to go in Haiti. Accordingly, many of these latter took root in one of

the six camps set up in the vicinity of Anse-a-Pitres, on the southern Haitian-Dominican border. By the middle of January 2016 the total population was 2,203, mainly young people under the age of 19 (58.3%) with a high percentage of persons claiming to have been born in the Dominican Republic (45.7%).

## Naturalization Law 169-14

Although these ignominious camps have been largely dismantled, the fact remains that, according to official Dominican figures (2018), only some 20,000 persons denationalized by the Sentence have managed to re-possess some documentation. Hence the potential for cross-border erroneous expatriations continues. For the route towards restitution of nationality for those persons denationalized by the Sentence has been tortuous, as signposted below.

“observers on both the xenophobic right and the liberal left had understood the constitutional court’s Sentencia 168/13 to be clear in confirming that citizenship would be retroactively taken from the offspring of unauthorized immigrants”

The Dominican Congress approved, in May 2014, Law 169-14, establishing a special protocol to affirm the Dominican citizenship of all those who have been granted official identity documents prior to 2007 on the basis of the registration of their birth on Dominican soil (República Dominicana, Congreso Nacional 2014). For those Dominican-born people of foreign ancestry whose names do not appear in the Civil Registry, the law also provides a path to legal residency and then citizenship, two years later. There is much that is surprisingly liberal in Law 169-14, even as it affirms a basic exclusionary principle, established in a 2009 amendment to the Dominican Constitution, that the Dominican-born children of unauthorized immigrants will henceforth be denied birthright citizenship. Concerning Haitian descendants’ right to *jus soli* nationality—the matter effectively dealt with by Law 169-14—observers on both the xenophobic right and the liberal left had understood the constitutional court’s Sentencia 168/13 to be clear in confirming that citizenship would be retroactively taken from the offspring of unauthorized immigrants.

Law 169-14 provides measures that run contrary to that aim, reasoning in its preamble that even people improperly registered were at no fault if others committed the “error” of registering them at birth as Dominicans. The Law’s preamble also cites the interest of the state in protecting a range of individual rights, including equality, human development, and nationality, as a rationale for setting down procedures for granting Dominican nationality to the Dominican-born. That this concession is characterized as exceptional, with a 2007 end date attached to eligibility, both set important boundaries that permitted the Law’s authors to juggle at least three political desiderata: first, re-

maintaining true to the letter of the Sentencia 168/13; second, mitigating the Sentencia's massive potential for social disruption and legal conflict; while, third, drawing a bright line in time past by which no further children of Haitians without legal right of residence will be accepted into the Dominican nation.

As noted, Law 169-14 conceptualizes people born in-country to irregularly-resident foreign parents not as Dominicans but as foreign nationals. The Law divides these people into two groups. The first, Group A, are those who possessed official Dominican identity documents. They would be granted Dominican nationality, effectively because the state recognized a responsibility toward them for having committed the administrative error of registering them, and not because they are Dominicans by right of being born on Dominican soil. The second group, Group B comprises those who lack any kind of identity document. These people the Law classifies as foreigners in their own country of birth and obligates to follow a naturalization process in order to obtain Dominican citizenship, which many had previously assumed to be theirs all along.

The Law immediately burdened rights liberals in Dominican civil society with a difficult choice: cooperate, by helping the Dominicans who stood at risk of becoming stateless persons to present solid legal claims to citizenship; or keep the moral high ground by repudiating the whole process as blatantly anti-Haitian. Civil society organizations saw a valuable opportunity within the Law 169 for reducing the vulnerability of those people in Group B, who had no identity documents and hence were particularly at risk of statelessness. For these human rights defenders, the Law's silver lining was that it gave visibility to the plight of those tens of thousands of Dominican-born Haitian descendants whose birth had never been registered. Nevertheless, among both groups actual outcomes have been mixed, with human rights defenders pointing to inadequacies of the Law (especially for Group B) and the timid uneven application for Group A.

## What the future holds

Lastly, it could be argued that what is happening in the Dominican Republic is akin to the troubled distinction between Us and Them, Migrant and Citizen which migration and citizenship scholar Bridget Anderson theorizes in her acclaimed text *Us and Them? The Dangerous Politics of Immigration Controls* (OUP, 2013). Her work explores how borders create social, political and economic relations and argues that these are not solely the concern of migrants. The exclusion of migrants helps define the privileges and limitations of citizenship, and close attention to the border (physical and metaphorical) reveals as much about how we make sense of ourselves. Her book explores how the migrant is a normative as well as a legal construct which is deeply problematic for technocratic policies. Immigration status is not only about legal technicalities, but it is about the status in the sense of value, worth and honour, that is membership of, as she puts it, "a community of value". Thus *Us and Them* draws attention to the fact that the struggle for justice, inclusion and human rights cannot be won – or not exclusively – in the legal

sphere. This insight is one which affected persons and their advocates should take to heart in the Dominican Republic with a view to garnering a broader church of support for the cause of denationalized persons of Haitian ancestry in the Dominican Republic in order to better avail themselves of the small openings for policy dialogue which persist in country and turn these effectively to their advantage.

Please direct inquiries about “Statelessness in the Dominican Republic” to  
Bridget Wooding ([bridget.wooding@gmail.com](mailto:bridget.wooding@gmail.com)).



## From citizen to stateless – the lost rights: Examples from Bahrain

**Zeineb Alsabeehg**, University of Oslo

### Introduction

Increasingly more states in the world legalise or practice denaturalisation of citizens. Many have a restriction against citizens becoming stateless—allowing the deprivation of citizenship of only dual citizens. However, other states do not have any constraints on who may be deprived of their citizenship. In this way, citizenship revocations result in people becoming stateless when they do not possess any other citizenship than the one revoked. This includes those who obtained citizenship by naturalisation, but also native citizens of a state. They find themselves transferred from the position of citizens to stateless.

Citizenship includes a set of rights. Those who lose their citizenship thus lose the associated rights that are exclusive for citizens. This article will examine the lost rights as a result of citizenship revocations. The topic will be illustrated by examples from Bahrain. Although it is one of the tiniest countries in the Middle East, Bahrain has one of the highest numbers of citizenship revocations per capita in the region. More than 730 individuals have had their citizenship revoked since 2012 in a country of less than 1.5 million inhabitants, where less than half hold Bahraini citizenship and the rest are immigrants.<sup>1</sup> The most extensive incident of citizenship revocation occurred on May 15, 2018, when the fourth High Criminal Court in Manama revoked the citizenship of 115 individuals—all men—in a single case. They were accused of forming and running a terrorist group called “Zulfiqar Brigades” (Bahrain News Agency 2018). Most of those who have been stripped of their Bahraini citizenship do not have any other nationality. Thus, they end up stateless.

“Although it is one of the tiniest countries in the Middle East, Bahrain has one of the highest numbers of citizenship revocations per capita in the region”

Bahrain has amended its legislation during the last six years in order to extend the authorities’ power to denaturalise citizens. Today, citizenship can be revoked by the King, through a legal process by the Courts or by an administrative decision by the Ministry of Interior. Prior to 2014, this power was legally restricted to only the two first mentioned authorities. Bahraini law states that citizenship can be revoked “in case of trea-

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<sup>1</sup> Most immigrants are migrant workers from South Asia. Indians form the largest expatriate group, while a considerable amount also comes from Bangladesh, Pakistan, Philippines and other Arab countries.

son” (ref. the Constitution of Bahrain) and for “damaging the security of the state” (ref. the Citizenship Act).

Since 2013, the authorities have also extended the power to strip people of their citizenship based on terrorism-related charges. However, the anti-terrorism legislation has been internationally criticised for having a vague definition of terrorism that enables the government to criminalise activities of freedom of expression, assembly and association (McChrystal 2016). Due process is lacking and torture is widely used to extract confessions from the defendants, as have been documented in the case of the so-called “Zulfiqar Brigades” where 115 individuals had their citizenship revoked (Amnesty International 2018).

Two main groups of people have had their citizenship revoked by Bahraini authorities: Individuals affiliated with ISIS and dissidents from the Shia population in Bahrain. The overwhelming majority belong to the latter group. The increasing use of citizenship revocations during the last few years in Bahrain is associated with the governmental suppression of protestors following the Arab uprising that erupted in the country in 2011 (Alsabeehg 2018). Human rights groups have criticised the practice for being a tool by the Bahraini government “to crush all forms of opposition, dissent and activism” (Amnesty International 2018).

## The lost rights

What are the rights that citizens enjoy, which can no longer be enjoyed by those who have had their citizenship revoked? I discuss this question based on examples from the Bahraini case of citizenship revocations. Three main rights are highlighted. These are (1) the right of residence, (2) the right of employment and (3) the right of transferring citizenship to children. In the examination, (4) the right to movement and travel, (5) the right to state-subsidised social benefits and (6) the right to health care are also mentioned. This article illustrates the significant impact citizenship revocations have on people’s lives. The transition from the position of a citizen to a stateless person changes an individual’s life dramatically. It also affects the family of the individual whose citizenship has been revoked, as discussed in the last section of this article.

“The transition from the position of a citizen to a stateless person changes an individual’s life dramatically”

The Courts in Bahrain have issued the majority of citizenship revocations. The defendants are usually sentenced to imprisonment in addition to having their citizenship revoked. For instance, in the case of 115 defendants who had their citizenship revoked on May 15, 2018, almost half (53 persons) were sentenced to life in prison, while the rest received sentences ranging from 15 to 3 years in prison. Therefore, for most of those who have been stripped of their citizenship, they have not experienced life outside the

prison walls as stateless individuals (and those sentenced to life in prison will probably never do).

Consequently, the examination below is based mainly on the conditions reported by those who have been stripped of their citizenship by the King and the Ministry of Interior and who are not imprisoned. However, many of those who have been stripped of their citizenship by these two authorities were imprisoned earlier during the 2011 uprising in Bahrain. These are dissidents from the Shia Muslim community. The ISIS affiliates who have been stripped of their citizenship were largely already abroad and fighting for ISIS in Iraq or Syria when they had their citizenship revoked by the Ministry of Interior.

*“those who have felt the consequences of losing Bahraini citizenship the most are dissidents from the Shia population”*

Therefore, those who have felt the consequences of losing Bahraini citizenship the most are dissidents from the Shia population, including those who have fled the country. For instance, there are several political refugees in the United Kingdom (UK) who have had their Bahraini citizenship revoked. One of them is the founder of a UK-based human rights organisation that exposes human rights violations in Bahrain. He himself left Bahrain fleeing torture after having been imprisoned (Alwadaei 2017). In what follows I discuss some of the consequences that people face as a result of having their citizenship revoked.

### *Right of residence*

Citizens are entitled to reside in the country where they have their citizenship. They can travel to and from it without restrictions. If their country is a member of a union or a co-operation that has an agreement of freedom of movement between the member states, the citizens are also entitled to the same right of abode in the other member states. Bahrain is part of the Gulf Cooperation Council (GCC), which constitutes five other countries: Saudi Arabia, the United Arab Emirates (UAE), Kuwait, Oman and Qatar. Citizens have the right to freely travel and reside in the other GCC countries.<sup>2</sup>

A consequence of citizenship revocation is that those affected lose their right of residence in their country and the freedom of movement in any cooperating countries. Bahrainis who have had their citizenship revoked had to hand in their identification documents such as passports and other ID cards. From the moment a citizen turns into a non-citizen, he is looked upon as a foreigner by the state. He has to apply for a residency permit and is considered an “illegal resident” until he manages to get a residency

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<sup>2</sup> However, since June 2017, Qatar has been blockaded by Saudi Arabia, UAE and Bahrain. They accuse Qatar of intervening in their domestic affairs. Citizens from these three countries risk punishment if they travel to or stay in Qatar (Begum 2017).

permit (Amnesty International 2018). However, getting a residency permit is often difficult as the individual is left with almost no documents to identify himself in the application process. Moreover, the citizenship revocation is a tool by the authorities to deem people unwelcome as members of the state. Therefore, the authorities have not been willing to grant these people a permission to keep residing in the country, even when they were able to provide a sponsor as is required for the application (Bahrain Mirror 2016).

“Bahraini authorities grant these people passports with only a one-year validation and deport them to countries where Bahrainis can enter without a visa or where they can obtain visa on arrival”

A further result of citizenship revocation is therefore deportation from the country and displacement. People born and raised in Bahrain find themselves forced to leave their home country following a deportation order from the authorities after having their citizenship confiscated. Eight individuals were deported from Bahrain in January and February 2018 after an appeal's court upheld the decision by the Ministry of Interior, which revoked their citizenship back in November 2012. They were deported to Iraq (Human Rights Watch 2018). Dozens of

deportations of other stateless individuals took place in 2016 and 2017. Bahraini authorities grant these people passports with only a one-year validation and deport them to countries where Bahrainis can enter without a visa or where they can obtain visa on arrival. In the passport it is falsely stated that the individual is a Bahraini resident (Bahrain Mirror 2016).

Dr. Masoud Jahromi, an engineering professor with Shia Muslim background, is one of the individuals who have experienced this. His citizenship was revoked in 2015 by the Ministry of Interior. He was given three destination options when they were to banish him in 2016: Iraq, Lebanon and Turkey (ibid). As these countries already have a large immigrant and stateless population, such as Palestinians in Lebanon, deported Bahrainis are put in a critical position where they have to make a living as stateless in a new country that already faces challenges regarding immigrants. Human rights groups have criticised Bahraini authorities for this practice. “Turning citizens into stateless people and banishing them by forcing them to leave the country is a violation of international law,” as Amnesty International (2018) comments.

“Some of those who have had their citizenship revoked were already abroad, either they had fled Bahrain in advance or were on travel, when the decision of revocation was announced”

Furthermore, as those who have had their citizenship revoked are regarded as unwelcome by the state, they are often not allowed to travel back to Bahrain. In this way, those who are deported have no prospective of returning. They are forcibly separated from their families and friends in Bahrain. Some of those who have had their citizenship revoked were already abroad, either they had fled Bahrain in advance or were on travel, when the decision of revocation was announced. This includes brothers Jawad and Jalal Fairouz, two former parliamentarians from the opposition political association Al-Wefaq. They were on travel in the UK in November 2012 when the Ministry of Interior announced in the state news agency that their citizenship was revoked. They—along with 29 others—had allegedly “damaged the security of the state” with reference to the Citizenship Act. There was no further explanation of what each of them have done that required the deprivation of their citizenship. The brothers do not have the right to enter Bahrain again and are instead exiled in the UK (Raymond 2013). Human Rights Watch (2018) comments on this practice as follows:

“Article 12 of the [Universal Declaration of Human Rights] states that, “No one shall be arbitrarily deprived of the right to enter his own country.” In 1999, the Human Rights Committee, which interprets the International Covenant on Civil and Political Rights, which Bahrain has signed, stated that “The scope of ‘his own country’ is broader than the concept ‘country of his nationality,’” and that it would apply to people who have been stripped of their nationality in violation of international law.”

Thus, those who have had their citizenship revoked are deprived of the right of residency in their own homeland. They cannot keep their national identification documents, but instead they have to hand them in to the Immigration Office. They are looked upon as foreigners and are often summoned for “illegal residency.” The result has been expulsion from their country of origin with no right of return. They have to start a new life in a new country, often as stateless—as most of them do not have any other nationality—and without their families and friends who are residing in Bahrain. Those who continue to live in Bahrain under the status of “illegal residents” have to live with the fear of being forcibly deported from the country at any time.

## *Right of employment*

A person who has lost his citizenship faces challenges in making a living in Bahrain as long as he lives there. Non-citizens do not have the same access to the job market as citizens, and as an “illegal immigrant” an individual is prohibited from working. Turning from a citizen into a non-citizen—or worse, into a stateless person—leads to a loss of privileges to employment. The perception of this individual as a foreigner entails that he has to ask the authorities for permission to work. He needs a job licence. In order to get a job licence in Bahrain, someone has to sponsor you (Bahrain Center for Human Rights 2014). A sponsor has to be eligible and willing to take such responsibility for a person who the state has deemed unwanted. Nevertheless, as the person whose citizenship is confiscated is left without identification documents, it is practically impossible to apply for a job license.

Those who lose their citizenship are often met with a subsequent loss of workplace. They do not have a valid permit to continue working and are therefore in many cases fired or suspended by their employers. This was the case for Dr. Masoud Jahromi after his citizenship was revoked in 2015. He was suspended from the university where he worked as chairman of the department of telecom. According to Jahromi, the university’s president did not want to dismiss him initially, but was forced by the authorities as he was threatened that “measures will be taken against the university” if Jahromi was not dismissed (Bahrain Mirror 2016). So, the Bahraini government is stripping people of their citizenship and deliberately working to cut their livelihood in the country.

Without a job, those who have had their citizenship revoked are not able to keep a sufficient income level. As non-citizens, they are not entitled to state-subsidised social benefits. In this way, they have to depend on any savings they may have, in addition to support from family members, friends and their social network. However, if they have savings in their banks, they are not always able to take the money out and use it. This is due to the fact that many of those who have had their citizenship revoked have found their bank accounts closed following the citizenship revocation (McChrystal 2016). With all these obstacles, those affected often find themselves economically disabled. They have been deprived of their economic rights and are forced to depend on others’ help and support.

“many of those who have had their citizenship revoked have found their bank accounts closed following the citizenship revocation”

### *Right of transferring citizenship to children*

Citizens have the right to transfer their citizenship to their children. This is the right of citizenship by descent. However, in Bahrain, this applies to only male citizens. Bahraini citizenship is transferred by descent only through the father. Individuals are not eligible for citizenship by birth, as is the practice in some countries such as the United States. A child could have been born in the country and have a Bahraini mother, but as long as the child's father is not a Bahraini citizen, the child is not eligible for citizenship in Bahrain.<sup>3</sup>

As almost all of those who have had their citizenship revoked in Bahrain are men, this entails that they lose the right to transfer their Bahraini citizenship to their newborns—a right that they once enjoyed. This often results in the fact that their children are born into statelessness. Bahrainis who have had their citizenship revoked in exile are also affected. If the country they live in does not grant citizenship to children by birth, their children are born stateless. This has been the case for those exiled in the UK who have no other citizenship than the Bahraini they once had (Alwadaei 2017).

“If the country they live in does not grant citizenship to children by birth, their children are born stateless... In this way, citizenship revocation not only affects the one whose citizenship is revoked, but also his family”

In this way, citizenship revocation not only affects the one whose citizenship is revoked, but also his family. If the denaturalised person has children, he has to expect the same living conditions for his children as he experiences as a result of the citizenship revocation. This includes lack of identification documents. For example, parents have reported difficulties with even obtaining birth certificates for their children in Bahrain. Furthermore, these children are not eligible to receive free health services as citizens are. This has led to children not receiving the ordinary vaccinations provided to other children at the same age (Bahrain Center for Human Rights 2017). Stateless individuals do not have free access to public health and may also not afford private health care due to their economic situation.

It is also possible to obtain Bahraini citizenship by naturalisation. For this, there are some residency and language recruitments. There has nevertheless been a systematic discrimination in the naturalisation policy of the Bahraini government. The authorities have showed favour to people coming from Sunni-majority countries such as Pakistan and Yemen, whereas stateless groups with Shia Muslim background who have lived in Bahrain for a long time are often not provided citizenship (NGOs 2015). It is

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<sup>3</sup> Bahraini women can transfer citizenship to their children only when “the father is unknown or fatherhood is not substantiated,” according to the Citizenship Act. There is no safeguard for children whose father is stateless.

therefore unlikely that the government provides citizenship to children whose fathers are perceived as a threat to national security and who have been deprived of their citizenship.

Thus, a person who has lost his Bahraini citizenship loses it also for his children who are born after his citizenship was revoked. Consequently, all the rights that he is deprived of, his children are also deprived of. In this way, citizenship revocations result in statelessness not only on an individual level, but also familial level.

## Conclusion

Bahrain is an example of a country that denaturalise with no regard to that it may lead to statelessness for the affected individuals and their children. The authorities have instead expanded the legal frame to revoke citizenship of people and have increasingly deprived individuals of their citizenship since 2012. Opposition members, human rights activists and other dissidents have had their citizenship revoked. The increase is therefore largely seen in connection with the popular uprising that erupted in 2011 and the authorities' attempt to crush it.

People who are transferred from the position of citizens to stateless lose the basic rights of residence in their own homeland, of employment and of transferring citizenship to their own children. They also lose the right to movement and travel, to receive state-subsidised social benefits and to access free health care. These are the rights that were highlighted in this article, and there are certainly more that could be added. In sum, the examples from the Bahraini case of citizenship revocations reflect the significant decrease of rights that face denaturalised individuals along with their families.

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Please direct inquiries about "From citizen to stateless" to Zeineb Alsabeehg ([zeinebalsa@gmail.com](mailto:zeinebalsa@gmail.com)).



## Statelessness and the struggle to close the gap in human rights through legal empowerment: The Palermo Convention employed as a conduit

**Tanya Faye Herring**, Bangor University Law School Doctoral Researcher, Wales, UK; Research Fellow, International Communities Organization (ICO), London,

UK; Post-doctoral Researcher, The Wales Observatory on Human Rights of Children and Young People

This article focuses on the legal empowerment of the stateless. The first part addresses the concept of legal empowerment and, through the case of the Lumad, explains how the law can be used to close the gap in human rights fulfillment for the stateless and other vulnerable populations. It then describes how the universal application of the Palermo Convention can become a prevention and protection resource for stateless populations, concluding that there must be precise and determined implementation of international law into the domestic sphere to close the gaps between human rights and the rule of law.

### Legal Empowerment

Global legal empowerment has been described by Resolution 63/142 of the General Assembly's final report of the *Commission on Legal Empowerment of the Poor* as the process whereby the poor are protected and enabled to use the law to effect systematic change, especially in the realms of economic growth and sustainable development. One of the greatest global human rights challenges to legal empowerment is poverty. However, poverty remains the nucleus of discrimination, insecurity, and social exclusion. Middlesex University's Professor Blitz, who is a leading expert on statelessness, was commissioned to conduct one of the first economic studies that quantified the cost undertaken by a stateless person. The 2011 report investigated 980 stateless and former

“poverty continues to have an adverse impact on the stateless and their access to education and healthcare”

stateless from key regions in Bangladesh, Kenya, Slovenia, and Sri Lanka. The research outcomes indicated that a stateless person's household income is 34% lower than a person who is not stateless. A substantial difference was found in home ownership where a stateless person is 60% less likely to own a home than those who are non-stateless. Consequently, using 2017-2018 economies, poverty continues to have an adverse impact on the stateless and their access to education and healthcare.

A situational-case with the Lumad serves as an exemplar. The Lumad are a group of indigenous people that consists of 18 ethnolinguistic groups in the southern regions of the Philippines. The name, Lumad, is an abbreviation for Katawhang Lumad (literally “indigenous peoples”). Similar to many indigenous groups, the people are poor, disadvantaged and marginalized. Historically, the Lumad have a complex history in the Philippines with roots that extend to the 11<sup>th</sup> century. Oona Paredes’ work, entitled ‘A Mountain of Difference’, describes the regional oral traditions that may have possibly reconceptualized the political and cultural history of the islands. The author portrays Spanish archival sources providing a Catholic influence in Lumad customs. Despite political and cultural origins, the portrait of a marginalized indigenous group prevails. The circumstances of the Lumad mirror many other Southeast Asian groups and those across the globe in that they historically have struggled to maintain their rights to a nationality and self-determination. Contrary to two crucial covenants adopted in 1966– the

“The circumstances of the Lumad mirror many other Southeast Asian groups and those across the globe in that they historically have struggled to maintain their rights to a nationality and self-determination”

International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, which enshrined in the same terms the right of people to self-determination, indigenous people lack the freedom to choose their own social and cultural systems, among other contentious issues that revolve around education and native lands.

Furthermore, the Lumad battle statelessness. Mr. Rodolfo Stavenhagen, the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, presented at the permanent forum on indigenous issues in May 2007, at New York. The report outlined many of the foundational issues faced by the Lumad and other indigenous groups in the Southeast Asian region, to include civil war, unrest with governments over communal lands, and human rights violations. Mr. Stavenhagen cites the lack of citizen rights as a long-standing basis of human rights violations against the Lumad in the Philippines, as well as other indigenous groups in the region, and called for an international response to address the ongoing issues. For example, women still face problems, and exploitation for the purposes of international marriages continues despite the Philippines’ Anti-Trafficking in Persons Act of 2003 (CEDAW/C/PHI/Q/6 2006: 19). The Lumad women seeking a way out of poverty find themselves victims of trafficking as they are prostituted by their own husbands. Equally as critical, the women’s children are decreed ‘stateless’ by virtue of the laws of certain countries. Again, in many instances, women find themselves and their children victims regardless of the Philippines enacting

the Anti-Mail-Order Bride Law in 1990 (RA 6955), which prohibits entities from facilitating and organizing marriages.

The situation of the Lumad mirrors that of the Rohingya. Both groups have centuries of heritage in Southeast Asia and both face issues surrounding native lands, cultural systems, and economic conditions. The difference is that the Lumad's situation is not a highly publicized crisis, although they have been subjected to violence on a similar scale to the Rohingyas. A glimpse of the violence directed toward the Lumad is outlined in the US State Department's Bureau of Democracy, Human Rights, and Labor's *2015 Country Reports on Human Rights Practices* in the Philippines.<sup>4</sup> The report is just one of a sundry that encapsulates the long-standing forms of discrimination, among other human rights violations, that the Lumad have encountered.

Unlike the plight of the Rohingya, there are legal empowerment successes that are absent from other similarly-situated indigenous groups, which sets the Lumad apart. The Lumad communal land is well-known for its rich minerals of gold, nickel, and copper. These highly valued minerals are under constant encroachment by politically influential mining companies. The 1997 Indigenous Peoples' Rights Act was constructed to protect and secure rights to ancestral lands. Yet the Lumads are subjected to mounting pressure and violence from wealthy multinational corporations, logging and mining companies, and other companies with economic interest, that have influence with the military, government, and even some tribal leaders. For many years, these clashes have left thousands of Lumads displaced, violated and harmed after corporate plunder and militarization that includes wealthy Filipinos, who seized land for planting and exporting palm oil, rubber, pineapples, and bananas.

“Unlike the plight of the Rohingya, there are legal empowerment successes that are absent from other similarly-situated indigenous groups, which sets the Lumad apart”

In one instance, the Lumad faced removal from multiple sections of their ancestral land. The Lumand (under the name the Moro National Liberation Front [MNLF], which later splintered into the group Moro Islamic Liberation Front [MILF]), was formed in 1969 to resist heightening discrimination and marginalization. The group, along with other indigenous people, had been engaged in armed conflict with the Government of the Republic of the Philippines (GRP) since 1972. The conflict has reportedly killed tens of thousands of people and displaced over 3 million.

On 24 March 2001, at Kuala Lumpur, Malaysia, an Agreement on the General Framework for the Resumption of Peace between the GRP and the MILF occurred. The agreement extended safety and security guarantees to MILF members, who were di-

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<sup>4</sup> US State Department, '2015 Country Reports on Human Rights Practices, Philippines' available at <https://www.state.gov/j/drl/rls/hrrpt/2015/eap/252793.htm>.

rectly and principally involved in the GRP-MILF Peace talks. Through a document entitled, 'Memorandum of Agreement on Ancestral Domain' (MOA-AD), more commonly known as the GRP-MILF Tripoli Agreement on Peace (2001), a framework was proffered that intended to structure redress, resolve, and rectify a multitude of injustices that resulted from discrimination of indigenous groups. However, there was substantial disagreement on substantive facets of the MOA-AD, which included consensus contributions by all impacted indigenous stakeholders, as well discussion about the true intent of the document and its contents.

Dissatisfied with the MOA-AD, the Lumads exercised an atypical and unprecedented legal empowerment action as an indigenous group. The Lumad, who are characterized as uneducated and without political power, were able to abort the signing of the MOA-AD. On 4 August, 2008, just one day before the scheduled signing ceremonies planned at Putrajaya, Malaysia, the Lumads were successful in obtaining a Supreme Court restraining order. As a result, many international community ambassadors from Japan, the United States, Australia, and others were unable to fulfill what had been hailed as a monumental step forward in indigenous relations.

In yet another instance, the Lumad faced modernization projects, such as the hydroelectric project in Mount Apo. The mountain and volcano is one of the highest in the Philippines and one of the country's most popular destinations for climbing. This project, like so many others, threatened to displace the Lumads from their homelands. With support from the Coalition for Indigenous People's Rights and Ancestral Domains, more commonly referred to as the CIPRAD, and other advocates, Senate Bill 1728 was formulated. Sponsored by Juan Flavio Velasco, Senate Bill 1728 evolved, after much legal wrangling, to Republic Act No. 8371, Indigenous People's Rights Act of 1997. Act 8371's aim is to, "Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPS).

“legal practitioners, advocates, and concerned parties can make a difference in the lives of the stateless and the poor and, more importantly, how the stateless can use the justice system to achieve their own objectives”

Moreover, Act 8371 fulfills the four-pillars of legal empowerment outlined in the UN 2009 Assembly Report: 1) Access to justice and the “rule of law,” and the three-pillars that are essential to crucial livelihood rights, 2) property rights, 3) essential elements of labor rights, and 4) business rights. According to Act 8371, it provides, “a more comprehensive law... to stop prejudice against indigenous people through recognition of certain rights over their ancestral lands, and to live in accordance recognize and protect the rights of the indigenous people not only to their ancestral domain but to social justice and human rights, self-determination and empowerment, and their cultural

integrity.” Both of these instances of legal empowerment are indicators of how legal practitioners, advocates, and concerned parties can make a difference in the lives of the stateless and the poor and, more importantly, how the stateless can use the justice system to achieve their own objectives.

### The Palermo Convention

In order to address the gap between human rights fulfillment and the rule of law, especially as it pertains to the stateless, it is also necessary to examine the international legal sphere. This article’s focus on the Southeast Asian geographic region opens a discourse on prevention measures and protection mechanisms against multiple forms of exploitation in international law. Universal protections for many of the critical exploitations faced by the stateless, specifically in countries that have not ratified the 1951 Convention Relating to the Status of Refugees, the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the 1967 Protocol Relating to the Status of Refugees 31, are seldom discussed in relation to the stateless. I contend that this lack of analysis has caused scholars, policymakers and others who work on statelessness to overlook a crucial treaty, the provisions of which could assist in creating an environment of global legal empowerment for the stateless.

“the “Palermo” Convention...contains several provisions that could benefit the stateless, if implemented in the domestic sphere”

Specifically, the United Nations Convention against Transnational Organized Crime (the “Palermo” Convention), which was adopted by General Assembly resolution 55/25 of 15 November, 2000, contains several provisions that could benefit the stateless, if implemented in the domestic sphere. The UN Office on Drugs and Crime states that the Convention “is the main international instrument in the fight against transnational organized crime.” It is supplemented by three Protocols, which target specific areas and manifestations of organized crime: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea, and Air, and the third protocol, Protocol against the Illicit Manufacturing and Trafficking in Firearms, which is not included in this analysis.

While neither the Convention nor its protocols are specific to the issue of statelessness, in this socio-legal research article, I opine that Member States’ national integration, administration and enforcement of the Palermo Convention, and its Protocols could result in the following:

a) Article 1 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (also referred to as the Trafficking Protocol)

supplements the Convention and it 'shall' be interpreted together with the Convention, with a transnational requirement. Whereas, 'shall' denotes the mandatory obligation, it envelopes a stronger prevention and protection obligation than a singular presented human rights legal framework; whereas, the UN definition of legal empowerment published in the 2014(19) edition of the Tilburg Law Review is obtained: '... the poor are protected and enabled to use the law to advance their rights and their interests as citizens and economic actors'

b) The study proffers the Palermo Convention and its supplemental Protocols as a conduit for vulnerable populations, such as the Lumad, the Rohingya, and similarly-situated populations. The Convention and its supplemental Protocols allow populations to achieve the UN's concepts of global legal empowerment, defined earlier in this article. For example, several elements of the Convention and its supplementing Protocols support these populations in removing barriers to their citizenry by accessing resources that are both community-driven and rights-based, including:

1) Article 5 of the Trafficking Protocol requires that States Parties criminalize "trafficking in persons," as defined by the Protocol, whereas prosecution policies mainly target the perpetrators. Further, Article 5 requires governments to implement laws that are broken down into six areas: the adoption of the anti-trafficking law, the adoption of child trafficking law, the application of other relevant laws, the stringency of penalties, the level of law enforcement, and the collection of crime statistics. The UNHCR Evaluation and Policy Analysis Unit and the Institute for Statelessness has archived multiple publications identifying challenges in protecting displaced and stateless persons, as well as those who are subject to human trafficking. For example, the Institute for Statelessness authored "The nexus between statelessness and human trafficking in Thailand," which illustrates the consequences of statelessness and has a two-fold focus: to identify the nexus between statelessness and human trafficking, and second, to identify the nexus between statelessness and human trafficking among hill tribe people in the Northern part of Thailand.

2) Articles 6 and 7 call on States Parties to adopt specific measures for victim recovery and to consider adopting measures to allow victims to remain in the country's territory in appropriate cases.

3) Article 10 states, "Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in serious crimes involving an organized criminal group and for the offenses established in accordance with the Trafficking Protocol's Articles 5, 6, 8, and 23."

4) Article 11 applies to the provision of the Palermo Protocol *mutatis mutandi*, which requires that “State Parties ensure that criminal sanctions for trafficking in persons take into account the gravity of the exploitation offense.”

The Palermo Convention’s obligatory tenets, prevention, protection, and the promotion of prosecution, commonly referred to as the 3-P index of measures and mechanisms, serve as an intervention to human trafficking, smuggling, and exploitation of children on land, territorial waters, and the high seas (*mare liberum*—international waters).

The 3-P index serves as a globally evaluated government anti-trafficking system to evaluate three policy dimensions: prevention, protection, and prosecution. It is structured to identify and to provide protection for victims of human trafficking. The 3-P index suggests that the policy focus is on human rights and the actual implementation of written laws that are essential to achieving the policy objectives. Each of the 3P policy areas are evaluated on a 5-point scale. Each policy index is aggregated to the overall 3P Anti-trafficking Index as the sum (score 3-15). Under each policy index, one is an indicator of no-compliance and five represents full-compliance. As such, they have the capacity to avert and mitigate high-risk situations associated with vulnerable populations in forced migration, stateless refugee and stateless non-refugee status, when displaced due to human rights violations and support the essential elements of the four pillars of legal empowerment.

“the legal empowerment of the stateless can be achieved through multiple means”

This article has shown that the legal empowerment of the stateless can be achieved through multiple means, whether through the use of the law to prevent particular actions or

events from occurring; or by balancing global human rights concerns with criminal justice for vulnerable populations who have become displaced, stateless refugees, and stateless non-refugees. Member states can further enhance prevention and protection by promoting awareness-raising programmes for policymakers, criminal justice practitioners, authorities for border and immigration, field labour inspectors, legal and health practitioners, NGOs, advocates, and social workers, among others in the tireless efforts to address multiple forms of exploitation of vulnerable populations. The stateless, despite their general poverty and marginalization, can use domestic legal tools, as well as those found in the international legal sphere, to achieve legal empowerment and influence decisions that affect them.

Please direct inquiries about “Statelessness and the struggle to close the gap” to Tanya Faye Herring ([sop660@bangor.ac.uk](mailto:sop660@bangor.ac.uk)).



## Voluntary Statelessness: Reflections on Implications for International Relations and Political Theory

**Jocelyn Kane**<sup>1</sup>, Director, Canadian Centre on Statelessness

### Introduction

Statelessness has been described as a life of destitution, exploitation, and limbo (Asylum Aid 2017). Being stateless means that one generally does not possess identity documents or the capacity to obtain them. Because of this, stateless persons are ineligible to leave their country or enter another, unable to access health care or education, have difficulties in obtaining legal and legitimate employment, are often forced to live in sub-standard housing, and are often subject to lengthy detention and deportation orders that typically cannot be enforced (UNHCR 2017). However, it is because nationality<sup>2</sup> is required in order to access political and judicial processes and even basic human rights that statelessness is of such consequence.

Yet there are individuals and groups who choose to be stateless, to live “off the grid,” content with the inability to access the rights associated with citizenship. We do not know how many of these people exist, nor do we have an idea about how to “deal” with them, whether in the immediate term in the contexts of public policy and international law, or more fundamentally in terms of membership and belonging in today’s state-sovereign world. Below I present a brief overview of voluntary statelessness, demonstrating the diversity in individual and group cases. This is followed by reflections on possible implications on four key concepts in international relations and political theory: sovereignty, global governance, obligation, and membership. I conclude with considerations on areas of further research.

### Voluntary Statelessness

Despite bountiful experiences of the belonging and inclusion of non-residents at the sub-state level (Blitz and Lynch 2011, Landolt and Goldring 2015, Ní Mhurchú 2015), membership is still governed by national law. How individuals and states interact is for the most part straightforward; they adhere to the rights and responsibilities prescribed within set geographical boundaries. Modernised in liberal political theory this “social contract” is the prerogative of the state to define, meaning that obligations between indi-

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<sup>1</sup> With thanks to Patti Tamara Lenard, University of Ottawa, and Fiorella Rabafuetti, University of Ottawa for feedback on this idea.

<sup>2</sup> In this paper I use citizenship and nationality interchangeably, though I acknowledge the diversity in meanings for each concept, and the theoretical and practical implications of such.

viduals and their states differ from country to country.<sup>34</sup> An individual's responsibilities towards states are complicated when we consider those who reside outside of their state, and are further obscured for those who are not legal members of *any* state. However, the inclusion of the stateless is still conceptualized within the realm of the state system. It is the state that decides whether a person should be granted membership, and the state is the leading community into which non-members wish to be included. But what of those who *choose* to be stateless? How do we begin thinking of autonomy and obligation, for example, when our frame of reference is those who have decided to free themselves of the obligations toward their state?

The idea that people choose to live outside of formal membership

“Yet people continue to eschew citizenship: by renouncing it, refusing to engage with practices of citizenship, or not registering for it in the first place”

and “off the grid” is not new. For millennia people have chosen exile and many have fared well without formal membership. As the sovereign state system has evolved and citizenship has become institutionalized, however, formal membership has permeated the daily aspects of modern life. Yet people continue to eschew citizenship: by renouncing it, refusing to engage with practices of citizenship, or not registering for it in the first place. The following is a brief overview of some of the individuals and communities who choose statelessness.

#### *Identity, agency and activism: social and anthropological perspectives*

There are several individuals who have voluntarily become stateless in the name of humanitarianism. Mike Gogulski, Garry Davis, and Clark Hanjian have all renounced their respective citizenships and become stateless in resistance to what they believe are oppressive state practices in which citizenship renders them complicit. For these individuals voluntarily becoming stateless is an act of conscience, so as to live responsibly in the world (Hanjian 2017: 1, Abrahamian 2014, nostate.com n.d., Bhagavan 2012). These men are characterized as quirky and rebellious, but it is social and global justice that drives them. Renunciation of one's citizenship can also be understood as a measure to achieve personal goals with respect to financial gain and individual liberty. Glen L. Roberts states that in addition to perceiving allegiance to *any* state as an affront to his free will, his anti-government activities in the United States and his desire to free

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<sup>3</sup> There are several theoretical approaches to the ‘social contract’. These span centuries and categorise persons differently including subjects, citizens, members, and individuals, among others. For the purpose of this paper I use the term individuals and I refer to the parties of the ‘social contract’ generally as individuals and states.

<sup>4</sup> An attempt to define the rights and responsibilities of states can be seen in the 1933 *Montevideo Convention on the Rights and Duties of States*.

himself of the ‘burden’ of adhering to U.S. financial requirements (tax law) motivated him to become stateless (Berwick 2015, glr.com n.d.).

“Mike Gogulski, Garry Davis, and Clark Hanjian have all renounced their respective citizenships and become stateless in resistance to what they believe are oppressive state practices in which citizenship renders them complicit”

Then there is political activism against one’s own state. Some stateless Tibetans in India have chosen to apply for refugee status abroad (and therefore acquire a path to citizenship), while others have chosen to remain stateless in India. Both groups’ choices are influenced by the role citizenship can play in assisting them with their political quests. For those who remain stateless in India, foreign citizenship loses its value as they believe that they are better equipped to affect political change and the freedom of their people in Tibet without it (Hess 2006). Entire communities have also resisted the state. James C. Scott (2010) tells us about the Zomia peoples of Southeast Asia who have resisted the state system for centuries. These people have adapted their ways of life in active resistance to the state authorities, resulting in a distinct agro-culture characterized by living and migrating in the hills of South East Asia (Scott 2010).

#### *Resistance, and autonomy from the state: political and legal perspectives*

Bloom (2017) tells us of the Six Nations Iroquois Confederacy in Southeastern Canada and Northeastern United States who claim their own nation status complete with identity documents and systems of governance. The Confederacy rejects North American colonisation but has created its own parallel sovereign system that mandates its own membership practices. Resistance to membership and the state system cannot be understood here in absolute terms—it is resistance to the *colonial* state system that is of concern to the Confederacy, not the individual-state relationship itself.

The Freeman of the Land present an interesting case whereby this community uses state law to demonstrate that they are not, in fact, citizens of their respective states. They claim that the law and the practices that evidence it, such as registering one’s birth, paying taxes, or receiving a pension, are actually one side of a contract, and it is only when one *engages* with these practices that one consents to that contract and becomes a citizen (UCLUW 2017, FreeMan Society of Canada 2012). For the Freeman, it is the social contract itself that they challenge, though they do not reject the notion of membership in a community.<sup>5</sup> Despite being characterised as radicals and freeloaders,

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<sup>5</sup> Without empirical research it is difficult to know whether the Freeman of the Land are legally stateless or whether their chosen way of life is a statelessness of the figurative kind. *De jure* statelessness is unlikely given that for one to renounce United States citizenship they must be outside of the country (*Immigration*

this group brings to our attention the relationship between resistance and autonomy, and the legitimacy of the contract between the state and its peoples.

This rather fleeting overview presents a diverse group of legal statuses that exist both inside and outside of the boundaries of membership. All of these cases are united, however, in two predominant ways: firstly, by resistance to the “political” as an illegitimate occupier of one’s sense of justice; and secondly, through a claim to individual or community sovereignty. Each of these accounts highlights issues related to the “micro” and “macro” levels of individual-state relations including social, economic, political, and legal identities, and rationales concerning taking control of one’s relationship to the state. These cases raise several questions with respect to individual-society-state relations relating to membership, sovereignty, autonomy, oppression, radical politics, agency, self-determination, and acts of (non)citizenship.

## Implications for International Relations and Political Theory

The purpose of this piece is to reflect on how voluntary statelessness may interact with international relations and political theory. The term voluntary statelessness itself is an apt introduction to this phenomenon. How can we ensure one has truly volunteered to become stateless? How is such consent perceived through time and space, and between individuals and groups? What role does duress play in such decisions?<sup>6</sup> Furthermore, are these individuals and groups legally stateless? Should this be tested amongst those who desire to be ‘hidden’ and, if so, how? I set aside these concerns and turn to the ways in which these experiences encourage us to think about sovereignty, global governance, obligation, and membership.

### *Sovereignty*

Sovereignty is a long standing principle in international relations and is considered by some to be the building block of the modern state system (Krasner 2001: 230). The firm but delicate balance of power between states allows each to control their internal affairs, determine who is allowed to enter and remain in the country, and the obligations mem-

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and *Nationality Act* §. 349(a)(5)), and Canada requires one to have a second nationality before it will facilitate renunciation of its citizenship (§. 9(1)(a) *Citizenship Act*, R.S.C, 1985, c. C-29). Freeman also advocate retaining one’s birth certificate as it is “the only proof you are a live natural born human/person” (FreeMan Society of Canada 2012).

<sup>6</sup> For a look at the role duress plays in renouncing citizenship see Lauer 2006. Yaser Esam Hamdi was born in the United States but lived most of his life in Saudi Arabia, a citizen of both countries. He was captured in Afghanistan in 2001 and imprisoned in Guantanamo Bay for suspected terrorist activities against the United States. He was released from Guantanamo Bay in 2004 and repatriated to Saudi Arabia on the condition that he renounce his United States citizenship. Though Hamdi was not rendered stateless due to his renunciation of U.S. citizenship, this case raises concerns over the practice of demanding ‘voluntary’ renunciation in exchange for one’s freedom. This speaks to the broader themes of being caught between two places of ‘non-freedom’ and having to choose between the two.

bers have towards it. Yet, as the cases outlined above demonstrate, the voluntarily stateless are claiming their own sovereignty in a challenge to the state system. Rooted in liberal notions of self-ownership, individual sovereignty is linked to anarchist revolt against state power (Hoffman 1998), and generally implies autonomy from external authority.<sup>7</sup>

I would like to make an important distinction between autonomy *from* the state and autonomy *despite* the state. Whereas autonomy *despite* the state is demonstrated through critical acts of agency within the confines of state legitimacy, autonomy *from* the state is that which is exercised by those who reject the state system as an affront to their personal liberty. Perhaps an analogy will help clarify the difference. An undocumented person residing in a country irregularly is violating that country's law and is, therefore, subject to detention and removal. By participating in the underground economy, purchasing and paying taxes on goods, and participating in their communities,<sup>8</sup> these internal outsiders are autonomous in so far as they are able to avoid the detection of state authorities. Such autonomous acts of citizenship (Isin 2017) are exercised within the boundaries of the state, which are seen as legitimate, and typically these people desire formal membership in their host country. Autonomy *from* the state occurs when one renounces their citizenship in favor of statelessness, because they see the state as illegitimate.<sup>9</sup>

“Autonomy *from* the state occurs when one renounces their citizenship in favor of statelessness, because they see the state as illegitimate”

From this we can ask a number of questions that bridge international relations and political theory. How does individual sovereignty interact with the rights-responsibilities contract between the individual and the state? How can we understand the relationship between the individual and society if one prioritizes oneself over the collective? If resistance to belonging to a state and disregard of systems of law are a fact of life for some, what does this hold for the sovereign state system as we know it?

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<sup>7</sup> For a synthesis of the concepts of sovereignty and individual liberty and a subsequent conceptualisation of individual sovereignty, see Ilievski, 2015.

<sup>8</sup> Despite the 'hopelessness' of statelessness, it has been demonstrated that involuntarily stateless people are able to access, in some way, their 'life needs' in the face of not possessing formal rights (Redclift 2013). This typically occurs through the development of support networks both within and outside of national contexts (Baser and Swain 2010; Cons 2012; Mwangi 2017; Hess 2006).

<sup>9</sup> This distinction can be understood further if we turn our attention to postanarchist thought. Newman argues that central to postanarchism is the notion of a 'libertarian politics', "a politics that seeks autonomy from the state and rejects the idea of representation within the formal channels of political power" (Newman 2011: 314). Distinct from liberal individuality, this 'libertarian moment' is the "ultimate ethical and political expression of the twin imperatives of equality and liberty that constitute the very language of emancipation" (Ibid.), and which "cannot be fully realized within the framework of the state" (Newman 2011: 315). The state's restriction of liberty and equality through oppressing autonomy and self-determination through hierarchical principles of obedience demands a rethinking of politics outside of the state – a politics that is autonomous from the state (Ibid.).

## Global Governance

International and domestic advocacy efforts against statelessness are deeply rooted in the long-standing principle that everyone has the right to a nationality. Article 15 of the *Universal Declaration of Human Rights* has provided a foundation for states and advocates alike to resolve situations of statelessness (UN General Assembly 1948), and the right to a nationality has been incorporated in no less than seventeen international human rights instruments (CCS 2018). The right to a nationality, like the principle of sovereignty, is the status quo when it comes to, at the very least, individual-state relations and, notwithstanding gaps in the Declaration with respect to accessing nationality, it seems it is non-negotiable.

This raises an interesting question regarding the apparent rift between international law, which is designed to protect from the thorns of statelessness, and philosophical ideas of free will. If a consequence of sovereignty is the right to a nationality, would individual sovereignty not demand the right to non-nationality? What can the experiences of the voluntarily stateless tell us of the *claim* to statelessness? If we have a legitimate right to a nationality, what is preventing us from having a right to non-nationality? What would the right to non-nationality look like in practice? Could it be governed by international institutions and states given that all individuals live in some state, regardless of their desire to belong to none of them? How would rights be distributed and accessed given one's non-membership? There are plenty of contemporary examples that can speak to this, namely the "stateless person status," sanctuary city policies, and residency based rights. These rights, however, are granted under the assumption that full or partial membership is sought, certainly not rejected.

“If we have a legitimate right to a nationality, what is preventing us from having a right to non-nationality?”

## Obligation

Individual-state relations are governed by the ubiquitous social contract, wherein the individual obeys the laws of the land in exchange for state protection. In some way this includes all non-citizen residents. Undocumented and stateless persons, however, present a challenge to this relationship as, with some exceptions, they have not been granted permission to reside in the state. As non-status stateless persons do not enjoy at times even basic state protections, including access to legal assistance and freedom from arbitrary detention (ENS 2017), their experience highlights the disconnect between a state's duty to protect and the stateless person's inability to fully obey.

In this light, in what ways are the voluntarily stateless obliged to their host states? We can look at this in at least two ways. If a voluntarily stateless person has status, but not full membership in their host country, is there a line to be drawn relating to their ob-

ligation? Surely a voluntarily stateless person with residency in a given country would be expected to obey criminal law and pay taxes on goods and income, but can they be expected to participate in compulsory military service, or jury duty? And what of those voluntarily stateless individuals who do not hold legal residency? What are the expectations that can be reasonably placed upon them?

On the other side of the duty coin, what obligations does a state have towards voluntarily stateless persons who reside on their territory? Does a voluntarily stateless person renounce with their citizenship their 'human' rights to health care and education, for example? Does a state's moral duty, typically reserved for refugees, extend to those who choose to exist outside of the purview of the state? This dilemma has presented itself as it relates to undocumented people, but the difference here is that undocumented people are citizens of somewhere. It can be generally assumed that they have merely reprioritized the state which they choose to obey. They have not renounced the idea of obligation in totality. What can this tell us about how the state should interact with those residing in a polity which they at the same time reject?

### *Membership*

From republication values of public participation to liberal individuality to post-modern perspectives on belonging, membership is a deeply contested idea. But what unites these myriad positions is that there is value in belonging at some level.

Voluntary statelessness thus presents a unique challenge to what we know about how shared values are perceived. Choosing to disengage from the state system is not only an act of resistance against the state's omnipresence, but more importantly, for the individual it is a provocative statement against the notion of shared values, and for communities it can be seen as a challenge to the disconnect between their values and those of the state in which they reside.

“Voluntary statelessness, therefore, necessitates a rethinking of the foundations of political thought referring to, at the very least, participation, civic virtue, the common good, friendship, and social relations”

Shared values have guided community development for millennia. They sustain us in times of conflict, differentiate between cultures, and contribute to what some refer to as the strength of diversity. Voluntary statelessness, therefore, necessitates a rethinking of the foundations of political thought referring to, at the very least, participation, civic virtue, the common good, friendship, and social relations. Western systems of government are founded upon the notions of representation and equality. What is the value of political participation if people choose to disengage from systems of representation?

In this light it is prudent to consider the notion of ‘statefulness’ and whether statelessness is really that dreadful. De Chickera (2014) asks whether citizenship would be so desired if human rights were guaranteed to those without it. He writes that stateless persons and citizens alike should be afforded the opportunity to opt for a ‘stateless person status’ in the name of the democratic right to choose—a ‘statefulness’ as a non-citizenship form of membership. Here, choosing to be stateless turns on its head Arendt’s claim that statelessness renders man superfluous (Arendt, 1958: 296).

## Conclusion

The idea that people choose to be stateless is not unfamiliar (Muižnieks 2013, Ubaid 2015, Who Benefits from Statelessness n.d.), *but* what we know about voluntary statelessness comes largely from personal narratives and media stories. These accounts are valuable to introducing the phenomenon of voluntary statelessness but they leave us with several questions. There are numerous areas, for example, where voluntary statelessness can interact with public policy: social service provision and access, “mystery” populations, child welfare, tax revenue, and infrastructure development among other issues. What of the socio, political, and historical contexts that influence those who have chosen to be stateless? What are their lived experiences with respect to accessing their ‘life needs’<sup>10</sup> in the face of the inability to access citizenship-based social and political rights? How do gender and family dynamics interact with this phenomenon? The needs and possibilities for future research in this area are vast. I have attempted to show that a preliminary look at the literature demonstrates that people are disengaging from the state purposefully, and for reasons that see the state as illegitimate. Such a bold attempt to challenge the state system is one that surely demands further exploration.

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<sup>10</sup> Here “life needs” is defined broadly as access to health care, education, employment, housing, nutrition, justice, freedom from duress and undue influence, and the ability to participate in social political institutions, for example community involvement, marriage, and birth registration.

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Please direct inquiries about "Voluntary Statelessness" to Jocelyn Kane ([jkane@statelessness.ca](mailto:jkane@statelessness.ca)).

## Policy Brief

### “Legal Identity” and Biometric Identification in Africa

**Bronwen Manby**, Visiting Senior Fellow, LSE Human Rights, and research fellow Middle East Centre, London School of Economics

There is near-universal consensus on the importance of “legal identity” as a foundation for economic development and respect for rights. But insufficient attention is paid to the risks attendant on a drive to roll out biometric identification systems in fulfilment of this promise.



### “Legal identity” and the Sustainable Development Goals

In September 2015, the UN General Assembly adopted the Sustainable Development Goals (SDGs), an ambitious set of objectives for international development to replace and expand upon the fifteen-year-old Millennium Development Goals (MDGs) adopted in 2000. Goal 16 of the SDGs is one of the broadest: “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. Each Goal has a set of more detailed targets: Target 16.9 requires that states should, by 2030, “provide legal identity for all, including birth registration”. The consensus in development policy circles on the benefits of stronger identification systems appears now complete—certified by the World Bank’s decision to establish a program on “identification for development”.

This policy agenda is founded on solid scholarship investigating the importance of registration and identification for state consolidation and effectiveness (for example, Caplan and Torpey 2001, Szreter 2007, Breckenridge and Szreter 2012). State consolidation and effectiveness, of course, also has its downsides. Other scholars have emphasized the equal contribution that registers of people and property have made towards the enabling of authoritarian regimes (most influentially, Scott 1999), and the uses of identification for surveillance and control (Torpey 2000, Bennett and Lyon 2008).

There is still much confusion over the exact meaning of the SDG’s commitment; and thus still much at stake in the way it is interpreted. While birth registration is well-understood, and has been the subject of international agreements and technical assistance over some decades, “legal identity” has no definition in international law and there is no clarity on what its delivery would require (Gelb and Manby 2016, Manby 2017).

Perhaps most importantly, there is confusion as to whether the SDGs require the issue of some sort of government-backed national identity card, or if birth registration is

sufficient. While national identity cards are completely routine in many countries in the world, especially those belonging to the civil law tradition (including former French, Spanish and Portuguese territories), they are less likely to exist in countries where the common law heritage is dominant (former British territories—except those where passes were imposed on the “native” population). There remains strong resistance to the idea of such a requirement in the UK itself, as well as in the USA.

“While national identity cards are completely routine in many countries in the world... they are less likely to exist in countries where the common law heritage is dominant”

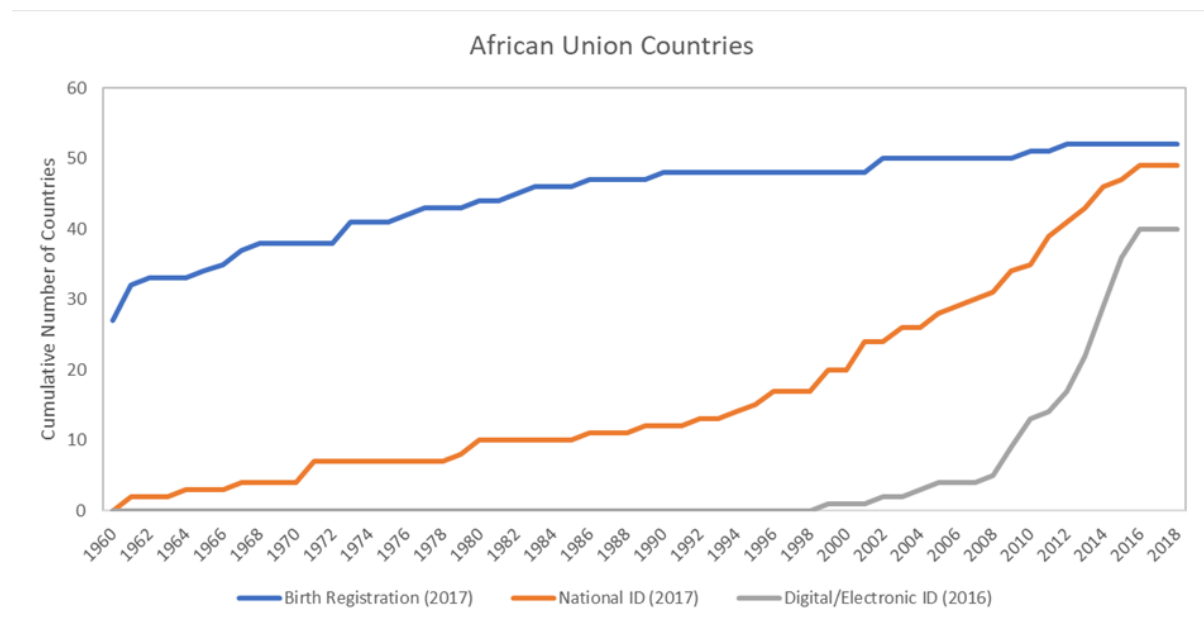
The discussion of these objectives and what they imply has been complicated by the sudden availability of relatively affordable digital and biometric technology, from electronically recorded fingerprints and iris scans, to the mysteries of the “blockchain” and the world of virtual online identities. Biometric features are rapidly being incorporated into government-backed identity cards, while private-sector-led initiatives are attracting public funds for decentralized identification not necessarily linked to government identity documents—such as the ID2020 Alliance (led by the private sector but involving UN agencies) “to empower individuals, enable economic opportunity and advance global development by increasing access to digital identity” (ID2020 Alliance 2017). These developments have fueled a wave of publications on the “identification revolution” and the role of digital identity in “leapfrogging” the legacy of paper-based systems (World Bank 2016; Gelb and Diofasi Metz 2018). The World Bank has led a process of adopting a set of “principles on identification” to serve as standards in order to “maximiz[e] the benefits of identification systems for sustainable development while mitigating many of the risks” (Desai et al. 2017)

## Trends in identification systems in Africa

Many, if not most, Africans do not currently hold any state-issued document that is official proof of their existence, or of their citizenship of the state to which they “belong”. An average of 56 percent of sub-Saharan African children under five years old did not have birth registration as of 2013 (85 million children), a critical step for the access of those children to many government services as well as the establishment of their rights as adults. In at least eight countries (Chad, Eritrea, Ethiopia, Liberia, Malawi, Somalia, Tanzania and Zambia), less than 20 percent of children had been registered (UNICEF 2013).

In line with the SDG agenda, a central part of recent efforts to strengthen state capacity in Africa has thus been to strengthen identification systems, including both civil registration of births and deaths (and significant civil status events in between: marriages, divorces, adoptions) and population registries backed by the issue of a national

identity card (as well as voter registration). Whereas only a minority of the 54 African states (55, including the Sahrawi Arab Democratic Republic) had in place a national identity card system at independence, this number has rapidly increased in recent years. At the same time, identity cards are being rolled out where they did not previously exist, and paper-based systems are being upgraded. Today, almost all countries in Africa have in place a formal requirement for national ID to complement a civil registration agency, and more than half of national ID cards are based on biometric technologies.



Countries with laws and institutions establishing requirements for birth registration and identification in Africa, 1960-2015

Source: World Bank Identification for Development Dataset, available at <http://data.worldbank.org/data-catalog/id4d-dataset>.

There have been some efforts to highlight the potential dangers posed by these new technologies in the absence of legal frameworks for data protection and privacy—even if the roll-out of new technologies largely proceeds regardless (see, for example, Privacy International 2018; World Bank 2017; for a listing of those countries with laws in place, see the Identification for Development (ID4D) Global Dataset 2018).

Less remarked, however, is the assumption underlying these initiatives that the effort to roll out a universal national identification system is mainly a technical one, dependent on resources, administrative effectiveness, and a regulatory framework to guide questions such as access to and interoperability of databases. Yet identification of citizens is above all a legal and political process, unrelated to the technology used; and the history of Africa creates particular reason to be cautious.

## Who belongs where?

The African continent's famously arbitrary borders, and history and current reality of migration, coupled with the weak administrative capacity that is equally the legacy of the colonial state, have made the management of “who belongs where” particularly challenging, even by comparison with other post-colonial regions of the world (see, for example, Bayart and Geschiere 2001, Geschiere and Jackson 2006, Dorman, Hammett, and Nugent 2007, Geschiere 2009, Bøås and Dunn 2013).

In this context, a push to upgrade and insist on the universal application of identification systems that definitively distinguishes citizens from foreigners—between those whose identity card gives them access to rights and those denied such documents—carries serious risks as well as possible rewards.

Whereas previously in Tanzania or Uganda, for example, access to health care or to schooling for children did not depend on official proof of identity, since 2016 a national ID card is needed for these and other purposes (Manby 2018a). Yet, thanks to citizenship laws that are interpreted to provide no rights based on birth in the territory but rather to be based on ethnicity, boxes of applications remain unprocessed, with no means of resolving doubts over entitlement—even if the applicants have no effective connection to any other state. In the absence of the civil law apparatus of court oversight of such decisions, legislation has established no effective mechanism to resolve these cases, leaving those affected likely in indefinite limbo. In other countries, such as Mauritania or Sudan, governments are deliberately using the introduction of new population registers—touted as major steps towards modernization and inclusion—as tools to denationalize those whose membership of the polity is unwelcome (Manby 2018b).

“If these underlying frameworks are not adapted to a context where most people have never had proof of their right to live in a country, the drive to provide and require identification documents can greatly exacerbate the exclusion of some even as it increases inclusion for others”

Those at risk of greater exclusion by the drive to identification encompass, in the African context, pre-independence and other long-term migrants and their descendants; members of ethnic groups living in border regions and found in more than one country, including nomads; vulnerable children in different categories, especially those separated from their parents; and other marginalized minorities that exist in any society.

We end up with a paradox: documentation of “legal identity” is supported as a route to economic empowerment and inclusion, framed almost as an additional public service that the state must deliver. Yet this process of providing official documentation is dependent on existing legal and institutional frameworks governing citizenship and im-

migration status. If these underlying frameworks are not adapted to a context where most people have never had proof of their right to live in a country, the drive to provide and require identification documents can greatly exacerbate the exclusion of some even as it increases inclusion for others. Even if some of the hyped identification initiatives are delinked from such frameworks, no virtual identity validated through decentralized digital means can substitute for government-issued proof of rights in the country where a person lives (Manby 2016).

There is increasing awareness of the dangers of surveillance and misuse of data in our digital world, but even less capacity to mitigate these risks in Africa than elsewhere. An equal focus is needed from scholars as well as policy-makers on the underlying laws and procedures that establish rights both to citizenship itself, and to fair adjudication where citizenship is in doubt. This need is not created by the use of biometric or digital records, but made more urgent by the seduction and power of the new technologies. While it has been common to argue that citizenship and immigration law has had limited influence on identity politics in Africa, the drive to create universal identification systems will greatly increase its force—for good or for ill.

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Please direct inquiries about the Policy Brief to Bronwen Manby  
([B.Manby@lse.ac.uk](mailto:B.Manby@lse.ac.uk)).



**Frank Laczko**, Director



**Jasper Dag Tjaden**,  
Survey & Data Officer

The Global Migration Data Analysis Centre (GDMAC) was established by the UN Migration Agency (IOM) in Germany, Berlin, in 2015 following the invitation from the German Government. Since its creation, the Centre quickly gained a key influence in the field of migration data through implementation of more than 14 projects, hosting of 2 global conferences, 33 workshops, 12 field trainings and 64 publications. More than 400.000 visitors downloaded GMDAC reports. The Centre has three strategic goals:

1. Inform global migration governance based on data and evidence
2. Support data capacity-building in IOM member states
3. Promote evidence-based IOM programming

The staff pursues these goals through three key areas of work:

### Knowledge management

GMDAC is promoting a better understanding of, access to, and use of global migration data. It attempts to help civil society, policy makers and academics to make sense of an increasingly complex and scattered migration data landscape. One of the Centre's flagship projects in this area is the [Global Migration Data Portal](http://community.apsanet.org/migrationcitizenship/home). In mid-2018, the Portal was referenced in objective 1 of the draft for the Global Compact on Migration, currently being negotiated at the UN level.



## MIGRATION DATA PORTAL

### The bigger picture

- 70 indicators from 15 sources
- 20+ briefings explaining pros and cons of available data
- 90+ guidance/handbook reports for NSOs
- Section for measuring migration-related SDGs
- Leading experts discussion of current issues (Blog)

The Portal aims to serve as a unique access point to timely, comprehensive migration statistics and reliable information about migration data globally. The site is designed to help policy makers, national statistics officers, journalists and the general public interested in the field of migration to navigate the increasingly complex landscape of international migration data, currently scattered across different organisations and agencies.

Especially in critical times, such as those faced today, it is essential to ensure that responses to migration are based on sound facts and accurate analysis. By making the evidence about migration issues accessible and easy to understand, the Portal aims to contribute to a more informed public debate.

The Portal was launched in December 2017 and is managed and developed by IOM's Global Migration Data Analysis Centre (GMDAC), with the guidance of its Advisory Board, and was supported in its conception by the Economist Intelligence Unit (EIU). The Portal is supported financially by the Governments of Germany, the United States of America and the UK Department for International Development (DFID).

### Capacity building

International migration data is often not available in low-income settings. Even if it is available, the resources are not always there to properly analyse and report the data. GMDAC is enhancing IOM's efforts to meet governments' requests for migration data capacity-building.

Working with IOM Missions across the globe, GMDAC's capacity building activities aim to support policy-makers, national ministries, regional bodies, NSOs and other stakeholders to improve migration data and the evidence base at national and regional levels. The approach taken is one of co-production and sustainability, and is informed by the broader sustainable development framework: developing action plans and materials with government buy-in; integrating recommendations into national strategies and legislation; improving communication and work-flow between data producers (ministries

and NSOs) and data users (policy-makers, journalists, academics); migration survey development; data analysis trainings; taking a practical approach to the what can be achieved for meaningful gains in the short- and longer-term by accounting for the local context. GMDAC's capacity building programming can be categorized under four inter-related priority-areas:

1. **Monitoring** - Developing systems and practices to improve migration data for policy, including monitoring progress towards the SDGs.
2. **Coordination and systems** – Bridging the distance between local practices and international standards, encouraging communication and data-sharing between the producers and users of migration data, whilst addressing bottle-necks and gaps in data, systems and policy, within and across ministries.
3. **Technical materials** – The production of materials for, and the facilitation of, training workshops and working groups, e.g., guidelines for collecting/analysing/sharing migration data, regional action plan.
4. **Knowledge-management** – Promoting the understanding of, access to, and use of migration data.

As one example, GMDAC worked with the Economic Community of West African States (ECOWAS) to develop regional guidelines for developing, sharing and using migration data.

## Data analysis

Lastly, GMDAC provides timely analysis of policy-relevant migration issues, including – for example - [missing migrants](#), [migration data infrastructures](#), [irregular migration](#), [vulnerable migrants](#), [Big data and migration](#), or [migration potential](#).

GMDAC also provides hands-on analytical support to IOM missions around the world in order to make most of the data that field missions collect, especially in the context of human trafficking or voluntary return projects. In addition, GMDAC conducts impact evaluations of IOM projects in the field including on the impact of information campaigns for potential migrants in West and East Africa.



Please direct inquiries about GMDAC to Frank Laczko ([gmdac@iom.int](mailto:gmdac@iom.int)) or Jasper Tjaden ([jtjaden@iom.int](mailto:jtjaden@iom.int)).

## Section News

### Member Achievements

**Alexandra Délano Alonso** (The New School)

- Published *"From Here and There: Diaspora Policies, Integration and Social Rights beyond Borders."* Oxford University Press, 2018
- Published with Harris Mylonas, "The Microfoundations of Diaspora Politics." *Journal of Ethnic and Migration Studies*, 2018

**Kristy A. Belton** (International Studies Association)

- Served as Co-Program Chair for the 2018 FLACSO-ISA conference held in Quito, Ecuador

**Erik Bleich** (Middlebury College)

- Published "Historical Institutionalism and Judicial Decision-Making: Ideas, Institutions, and Actors in French High Court Hate Speech Rulings." *World Politics* 70 (1): 53-85, 2018.
- Published with Hasher Nisar and Cara Vazquez. "Investigating Status Hierarchies with Media Analysis: Muslims, Jews, and Catholics in *The New York Times* and *The Guardian* Headlines, 1985-2014." *International Journal of Comparative Sociology* 59 (3): 239-57, 2018.

**Elizabeth F. Cohen** (Syracuse University)

- Published *"The Political Value of Time: Citizenship, Duration, and Democratic Justice."* New York: Cambridge University Press, 2018.

**Emmanuel Comte** (Vienna School of International Studies)

- Published *"The History of the European Migration Regime: Germany's Strategic Hegemony."* London & New York: Routledge, 2018.

**Ron Hayduk** (San Francisco State University)

- Published with Marcela García-Castañón. "Xenophobia, Belonging and Agency: Citizenship in Immigrant America," *New Political Science* 40 (2): 309-316, 2018.
- Published with Kathleen Coll "Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US." *New Political Science* 40 (2): 336-352, 2018.

**Audie Klotz** (Syracuse University)

- Published "Migration." In *Oxford Handbook of International Security*, ed. Alexandra Gheciu and William Wohlforth, 442-456 (Oxford University Press, 2018).
- Received the Eminent Scholar award from the ENMISA (Ethnicity, Nationalism and Migration) section of the ISA (International Studies Association) at the annual meeting in April.

**Willem Maas** (Glendon College, York University)

- Published "Boundaries of Political Community in Europe, the US, and Canada," in Richard Bellamy, Joseph Lacey, Kalypso Nicolaidis, eds., *European Boundaries in Question* (Routledge, 2018).

**Helen B. Marrow** (Tufts University)

- Published with Tropp, Linda R., Dina G. Okamoto, and Michael Jones-

Correa "How Contact Experiences Shape Welcoming: Perspectives from U.S.-Born and Immigrant Groups." *Social Psychology Quarterly* 81 (1): 29-47, 2018.

**Jeffrey Pugh** (University of Massachusetts)

- Was awarded the 2018 Harold Eugene Davis Prize for Best Article by the Middle Atlantic Council of Latin American Studies (MACLAS) for his article "Universal Citizenship through the Discourse and Policy of Rafael Correa." *Latin American Politics and Society* 59 (3): 98-121, 2017.

**Alex Sager** (Portland State University)

- Published "*Toward a Cosmopolitan Ethics of Mobility: The Migrant's-Eye View of the World*." New York, NY: Springer Science+Business Media, 2018.

**Caress Schenk** (Nazarbayev University)

- Published "*Why Control Immigration? Strategic Uses of Migration Management in Russia*." Toronto: University of Toronto Press, 2018.
- Has been promoted from Assistant to Associate Professor of Political Science at Nazarbayev University.

**Sarah Song** (University of California)

- Published "Political Theories of Migration." *Annual Review of Political Science* 21: 385-402, 2018.

**Gerasimos Tsourapas** (University of Birmingham)

- Published "Authoritarian Emigration States: Soft Power and Cross-Border Mobility in the Middle East." *International Political Science Review* 39(3): 400-416, 2018.

- Published with Maria Koinova "How Do Countries of Origin Engage Migrants and Diasporas? Multiple Actors and Comparative Perspectives." *International Political Science Review* 39(3): 311-321, 2018, as the Introduction to a special edited issue (with Maria Koinova) on "Diasporas and Sending States in World Politics."
- Published "The Peculiar Practices of 'Authoritarian Emigration States.'" *British Academy Review* 32: 22-24, 2018.
- Was awarded a 2018 Rising Star Engagement Award by the British Academy for a project on "The International Politics of Middle East Migration: Problems, Policy, Practice."
- Was awarded a 2018 Travel-Research-Engagement grant by George Washington University to study "The Politics of Migration Interdependence in Lebanon."

## Incoming Officers

Co-President: **Elizabeth Cohen**, Syracuse University (2019-2020)

Secretary: **Abigail Williamson**, Trinity College (2018-2020)

Council Members: **Osman Balkan**, Swarthmore College; **Loren Collingwood**, University of California, Riverside; **Rita Nassar**, Indiana University (2018-2020)

Newsletter Co-Editors: **Fiona Barker**, Victoria University of Wellington; **Ruxandra Paul**, Amherst College (2018-2020)

APSA 2019 Program Co-Chairs: **Amy Liu**, University of Texas, Austin; **Rahsaan Maxwell**, University of North Carolina, Chapel Hill.

## Recent Books and Articles

### Books

#### Colonialism/Postcolonialism

Åkesson, Lisa. 2018. *Postcolonial Portuguese Migration to Angola: Migrants or Masters? Migration, Diasporas and Citizenship*. Cham: Palgrave Macmillan.

Benson, Michaela, and Karen O'Reilly. 2018. *Lifestyle migration and colonial traces in Malaysia and Panama*. Migration, Diasporas and Citizenship. London: Palgrave Macmillan.

Ianniciello, Celeste. 2018. *Migrations, arts and postcoloniality in the Mediterranean*. Routledge focus on art history and visual studies. New York: Routledge.

#### Critical Theory

Ingram, David. 2018. *World crisis and underdevelopment: A critical theory of poverty, agency, and coercion*. Cambridge: Cambridge University Press.

#### Cultural Studies

Fraser, Robert. 2018. *Literature, music and cosmopolitanism: Culture as migration*. Basingstoke, Hampshire: Palgrave Macmillan.

#### Demography

Askola, Heli. 2018. *Demographic Transformations Of Citizenship*. Cambridge: Cambridge University Press.

Boucher, Anna, and Justin Gest. 2018. *Crossroads: Comparative immigration regimes in a world of demographic change*. Cambridge: Cambridge University Press.



#### Diplomacy

Kami, Hideaki. 2018. *Diplomacy meets migration: U.S. relations with Cuba during the Cold War*. Cambridge: Cambridge University Press.

#### Gender/LGBTQI

Amit, Hila. 2018. *A queer way out: The politics of queer emigration from Israel*. Albany, NY: State University of New York Press.

Amrith, Megha, and Nina Sahraoui. 2018. *Gender, work and migration: Agency in gendered labour settings*. Studies in migration and diaspora. Abingdon, Oxon, New York, NY: Routledge.

Ogawa, Reiko, Raymond K. H. Chan, Akiko S. Oishi, and Lillian Lih-rong Wang. 2018. *Gender, care and migration in East Asia*. Cham: Palgrave Macmillan.

Sharma, Jeevan Raj. 2018. *Crossing the border to India: Youth, migration, and masculinities in Nepal*. Philadelphia, PA: Temple University Press.

#### Identity Politics

Booker, Sparky. 2018. *Cultural exchange and identity in late medieval Ireland: The English and Irish of the four obedient shires*. Cambridge: Cambridge University Press.

Bosworth, Mary, Alpa Parmar, and Yolanda Vázquez. 2018. *Race, criminal justice, and migration control. Enforcing the boundaries of belonging*. Oxford: Oxford University Press.

Honeck, Mischa. 2018. *Our frontier is the world: The Boy Scouts in the age of American ascendancy*. Ithaca: Cornell University Press.

Karim, Karim H., and Ahmed K. Al-Rawi. 2018. *Diaspora and media in Europe: Migration, identity, and integration*. Cham: Palgrave Macmillan.

Welborne, Bozena C., Aubrey L. Westfall, Özge Çelik Russell, and Sarah A. Tobin. 2018. *The politics of the headscarf in the United States*. Ithaca: Cornell University Press.

### Indigenous Studies

Bunten, Alexis Celeste, and Nelson H. H. Graburn. 2018. *Indigenous tourism movements*. Toronto: University of Toronto Press.

### International Relations

Matlary, Janne Haaland. 2018. *Hard power in hard times: Can Europe act strategically?* Cham: Palgrave Macmillan.

### Law

Acosta, Diego. 2018. *The national versus the foreigner in South America: 200 years of migration and citizenship law*. Cambridge: Cambridge University Press.

Lester, Eve. 2018. *Making migration law: The foreigner, sovereignty, and the case of Australia*. Cambridge: Cambridge University Press.

### Migration

Barber, Pauline Gardiner, and Winnie Lem. 2018. *Migration, temporality, and capitalism: Entangled mobilities across global spaces*. Cham: Palgrave Macmillan.

Cornelissen, Scarlett, and Yōichi Mine. 2018. *Migration and agency in a globalizing world: Afro-Asian encounters*. London: Palgrave Macmillan.

Czaika, Mathias, ed. 2018. *High-skilled migration: Drivers and politics*. Oxford: Oxford University Press.

Germano, Roy. 2018. *Outsourcing welfare: How the money immigrants send home contributes to stability in developing countries*. Oxford: Oxford University Press.

Flores, Lori A. 2018. *Grounds for Dreaming: Mexican americans, mexican immigrants, and the california farmworker movement*. New Haven: Yale University Press.

Hayes, Matthew F. 2018. *Gringolandia: Lifestyle migration under late capitalism*. Minneapolis: University of Minnesota Press.

Schenk, Caress. 2018. *Why Control Immigration? Strategic Uses of Migration Management in Russia*. Toronto: University of Toronto Press.

Marschall, Sabine. 2018. *Memory, Migration and Travel*. Contemporary Geographies of Leisure, Tourism and Mobility. Oxon, New York, NY: Routledge.

Meeus, Bruno, Karel Arnaut, and Bas van Heur. 2018. *Arrival Infrastructures: Migration and Urban Social Mobilities*. Cham: Palgrave Macmillan.

Moffette, David. 2018. *Governing Irregular Migration: Bordering Culture, Labour, and Security in Spain*. Law and Society. Vancouver: UBC Press.

Rosenblum, Marc R., and Daniel J. Tichenor. 2012. *The Oxford handbook of the politics of international migration*. Oxford: Oxford University Press.

Schreiber, Rebecca Mina. 2018. *The undocumented everyday: Migrant lives and the politics of visibility*. Minneapolis: University of Minnesota Press.

Ugland, Trygve. 2018. *Policy learning from Canada: Reforming Scandinavian immigration and integration policies*. Toronto, Buffalo: University of Toronto Press.

### Refugees

Bihler, Lori Gemeiner. 2018. *Cities of refuge: German Jews in London and New York, 1935-1945*. Albany: State University of New York Press.

Ghezelbash, Daniel. 2018. *Refuge lost: Asylum law in an interdependent world*. Cambridge asylum and migration studies. Cambridge: Cambridge University Press.

### Regional Studies

Cheneval, Francis, and Mónica Ferrín, eds. 2018. *Citizenship in segmented societies: Lessons for the EU*. Cheltenham, UK, Northampton, MA, USA: Edward Elgar Publishing.

Chowdhury, Mehdi, and S. Irudaya Rajan, eds. 2018. *South Asian Migration in the Gulf: Causes and Consequences*. London: Palgrave Macmillan.

Frowd, Philippe M. 2018. *Security at the Borders: Transnational practices and technologies in West Africa*. Cambridge: Cambridge University Press.

Lagios, Thanasis, Vasia Lekka, and Grigoris Panoutsopoulos. 2018. *Borders, Bodies and Narratives of Crisis*

*in Europe*. Cham: Palgrave Macmillan.

Ngo, May. 2018. *Between humanitarianism and evangelism in faith-based organisations: A case from the African migration route*. Abingdon, Oxon, New York, NY: Routledge.

Oliver Bakewell and Loren B Landau (Eds.) 2018. *Forging African Communities: Mobilities, Integration, and Belonging*. Basingstoke: PalgraveMacmillan

Pennings, Frans, and Martin Seeleib-Kaiser, eds. 2018. *EU citizenship and social rights: Entitlements and impediments to accessing welfare*. Cheltenham, UK, Northampton, MA, USA: Edward Elgar Publishing.

### Security Studies

Bindenagel Šehović, Annamarie. 2018. *Reimagining State and Human Security Beyond Borders*. Cham: Palgrave Pivot.

### Transnationalism

Danielson, Michael S. 2018. *Emigrants get political: Mexican migrants engage their home towns*. Oxford: Oxford University Press.

Delano, Alexandra. 2018. *From here and there: Diaspora policies, integration, and social rights beyond borders*. Oxford: Oxford University Press.

Francisco-Menchavez, Valerie. 2018. *The labor of care: Filipina migrants and transnational families in the digital age*. Urbana: University of Illinois Press.

Gomes, Catherine. 2018. *Siloed Diversity: Transnational Migration, Digital Media and Social Networks*. Singapore: Springer Singapore.

## War

Auslander, Leora, Tara Zahra, and Alice Goff. 2018. *Objects of war: The material culture of conflict and displacement*. Ithaca: Cornell University Press.

## Journals

### American Behavioral Scientist

Dimitrova, Daniela V., Emel Ozdora-Aksak, and Colleen Connolly-Ahern. 2018. "On the Border of the Syrian Refugee Crisis: Views From Two Different Cultural Perspectives." *American Behavioral Scientist* 62 (4): 532–46. doi:10.1177/0002764218756920.

Glăveanu, Vlad Petre, Constance de Saint-Laurent, and Ioana Literat. 2018. "Making Sense of Refugees Online: Perspective Taking, Political Imagination, and Internet Memes." *American Behavioral Scientist* 62 (4): 440–57. doi:10.1177/0002764218765060.

Neumann, Rico, and Patricia Moy. 2018. "You're (Not) Welcome: The Impact of Symbolic Boundaries, Intergroup Contact, and Experiences With Discrimination on Immigration Attitudes." *American Behavioral Scientist* 62 (4): 458–77. doi:10.1177/0002764218760370.

Tirosh, Noam. 2018. "Dominant News Frames, Society's Memory, and the African Asylum Seekers' Protest in Israel." *American Behavioral Scientist* 62 (4): 405–20. doi:10.1177/0002764218759580.

### Ethics and International Affairs

Nuti, Alasia. 2018. "Temporary Labor Migration within the EU as Structural Injustice." *Ethics & International Affairs* 32 (2): 203–25. doi:10.1017/S089267941800031X.

Ypi, Lea. 2018. "Borders of Class: Migration and Citizenship in the Capitalist State." *Ethics & International Affairs* 32 (2): 141–52. doi:10.1017/S0892679418000278.

### International Studies Quarterly

Mavelli, Luca. 2018. "Citizenship for Sale and the Neoliberal Political Economy of Belonging." *International Studies Quarterly* 46 (3): 15. doi:10.1093/isq/sqy004.

Tsourapas, Gerasimos. 2018. "Labor Migrants as Political Leverage: Migration Interdependence and Coercion in the Mediterranean." *International Studies Quarterly* 44 (3): 3. doi:10.1093/isq/sqx088.

### Journal of Common Market Studies

Caporaso, James A. 2018. "Europe's Triple Crisis and the Uneven Role of Institutions: The Euro, Refugees and Brexit." *Journal of Common Market Studies* 53 (4): 699. doi:10.1111/jcms.12746.

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