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Intersectionality as method for human rights research: Identifying who is made stateless and how through UN treaty body reviews

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ABSTRACT

Few theories have generated the kind of international and interdisciplinary engagement as intersectionality. Nevertheless, intersectionality as a research paradigm has yet to gain ground in human rights research. People can experience the same rights violation on multiple grounds, yet human rights research design and methods—like rights frameworks and treaty bodies themselves—tend to examine each form of discrimination separately or additively. This article demonstrates the value of intersectionality as a methodological approach for human rights research by discussing feminist methodological insights developed through a global qualitative study of exclusionary birth registration practices that lead to statelessness. The discussion highlights three intersections that block access to birth certificates: gender, religious, and ethnic discrimination at the civil registrar; disability and ethnic discrimination in contexts of mobility; and discrimination based on gender, race, and migration status in reproductive healthcare. The conclusion offers human rights researchers an intersectional method for analyzing observations from all human rights mechanisms on a particular issue, to gain a more fulsome understanding of the operations of power that violate rights.

Introduction

Few theories have generated the kind of international and interdisciplinary engagement as intersectionality. First coined by Crenshaw (1989), the idea of intersectionality seeks to capture the multiplicity of structural causes of discriminatory treatment and the consequences in people's lives. Intersectionality can be used as both theory and method for unpacking the complex causal factors of human rights violations, such as statelessness, as well as the specific ways in which diverse people who are stateless experience this condition (Brennan et al., 2021). Many social sciences have begun elaborating intersectional analytical and methodological approaches (Bailey et al., 2019; Grabe, 2020; Haynes et al., 2020; Lutz, 2015; MacKinnon, 2013). Nevertheless, intersectionality as a research paradigm has yet to gain ground in human rights research, with a few notable exceptions (discussed in the next section).

People can experience the same rights violation on multiple grounds, yet human rights research design and methods—like rights frameworks and treaty bodies themselves—tend to examine each form of discrimination separately or additively. Similarly, rights violations are often studied

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as individual harms, even when the situation producing the violation is experienced relationally. This article demonstrates the value of intersectionality as a methodological approach for human rights research by discussing feminist methodological insights developed through the construction of a global inventory of UN treaty body recommendations on exclusionary birth registration practices that lead to statelessness (Petrozziello, 2023).

An estimated 150 million children under the age of five (around two in 10) remain unregistered (UN Children's Fund [UNICEF], 2024), and roughly 15 million people are stateless (Institute on Statelessness & Inclusion, 2014). Intersectionality provides a framework for asking fundamental questions about *who* (which groups of people) are being blocked from registering births and potentially produced as stateless, *by whom* (who is wielding this power, how, and in what institutional and social locations), and *in what ways* diverse individuals experience and resist different forms and combinations of oppressions. The study shows how a relational perspective—in this instance, the mother–child dyad¹—enables linked-up thinking about connections between different types of rights violations, and how an intersectional approach can reveal patterns and mechanisms of exclusion of multiple marginalized population groups.

The article opens with a brief review of the human rights literature on intersectionality, followed by a discussion of the limited ways intersectionality has been used to study statelessness. The bulk of the article focuses on how intersectionality was mobilized methodologically in a global qualitative study on exclusion from birth registration. Because the article is primarily focused on methods rather than empirics, it does not present the full range of findings.² Rather, the penultimate section discusses three intersectional insights that emerged, around gender, religious and ethnic discrimination at the civil registrar; disability and ethnic discrimination in mobility contexts; and gender, racial, and migration status discrimination in reproductive health-care. The article concludes by offering human rights researchers an intersectional method for analyzing concluding observations from all relevant human rights mechanisms on a particular issue, to gain a more fulsome understanding of the operations of power that violate rights. A theoretical focus on intersectionality and relationality prompts new, linked-up thinking and methods for human rights research.

Intersectionality in human rights research

Intersectionality is considered one of the most important theoretical contributions of women and gender studies, in conjunction with critical race theory and related fields (McCall, 2005, p. 1771). First proposed by US Black feminist scholars Crenshaw (1989) and Hill Collins (2008) and long practiced by feminists and women of color in new social movements in the Global North and South (Hill Collins & Bilge, 2016), intersectional feminist theory can be used to understand multiple kinds of power relations and rights violations as they manifest within global politics. Taking an intersectional feminist approach places power at the center of the analysis, and then examines the axes along which those power relations turn—race, gender, and social class being the triumvirate—and building out from there to account for other factors as relevant, such as migration status, nationality, ethnicity, religion, sexual orientation, and/or gender identity. Although it has become somewhat of a buzzword in recent years (Davis, 2008) and has been critiqued for its vagueness (Hancock, 2016), intersectionality remains useful because of its potential for capturing complexity (Hill Collins & Bilge, 2016; McCall, 2005). As Davis put it, “Intersectionality initiates a process of discovery, alerting us to the fact that the world around us is always more complicated and contradictory than we ever could have anticipated” (2008, p. 79).

Despite its widespread and interdisciplinary uptake, in the human rights field, scholars, activists, and the UN system itself have been slow to embrace the insights of intersectionality (Bond, 2021). This means that the protection offered to women experiencing intersecting forms of discrimination is inadequate under current international law (Bond, 2021; Celorio, 2022, 2024; Davis, 2015; Xanthaki, 2019). In the limited human rights literature that does take an intersectional approach, it is mostly used as an analytical tool to unpack some of the complexities

surrounding human rights violations (Chow, 2016; Davis, 2015; de Beco, 2017; Ghanea, 2013; Handl et al., 2022; Holzer, 2020; Kuokkanen, 2012; Sifris & Tanyag, 2019; Wadsworth, 2011; Xanthaki, 2019). Handl et al. (2022), for example, engaged with intersectionality as an analytical tool to expose inequality in business, thereby enriching scholarship on business and human rights. Holzer (2020) used intersectionality to analyze gender and racial discrimination among women in sport, as evident in jurisprudence of the Court of Arbitration for Sport. For her part, Tapias Torrado (2022) used it to interpret not only the intersecting forms of oppression faced by Indigenous women human rights defenders in Colombia but also their strategies and agency in addressing it. Still others have noted the power and potential of intersectionality in the international human rights system to recognize complexity, overcome siloed thinking, and better address human rights violations affecting people whose identities fall within more than one marginalized group (Davis, 2015).

Some UN treaty bodies have increased attention to intersecting forms of discrimination. This can be seen in the work of the Committee on the Elimination of Discrimination Against Women (CEDAW), whose General Recommendation 28 recognizes that:

Intersectionality is a basic concept for understanding the scope of the general obligations of States parties. ... The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity. (CEDAW, 2010, art. 18)

To some extent, the Committee on the Elimination of Racial Discrimination (CERD; see Ghanea, 2013) and the Committee on the Rights of Persons with Disabilities (CRPD; see de Beco, 2017) have also acknowledged intersectionality. The CERD's General Recommendations on Gender, Descent, Roma, Health, and Xenophobia against Migrants (GR 25, 28, 29, 37, 38, and 39) provide specific examples of intersectionality and encourage states to adopt an intersectional approach to preventing and addressing resultant harms.³ Yet, for the most part, the human rights mechanisms are still figuring out how to implement intersectionality in a system based on single treaties (Chow, 2016; Xanthaki, 2019). In part, this can be attributed to the structure of the international human rights system, which has specific treaties for discrimination affecting different population groups (e.g., women, migrant workers, persons with disabilities), rights categories (e.g., civil and political vs. economic, social, and cultural), and phenomena (e.g., racial discrimination, torture). If human rights researchers recognize the structural limitations of the system itself but remain committed to intersectional thinking and practice, then we must design methodologies to overcome these constraints. The next section considers the usefulness of intersectionality for studying statelessness.

Studying statelessness from an intersectional perspective

Since 2014, a growing interdisciplinary body of scholarship on statelessness has emerged, which can benefit from adopting an intersectional approach. Traditionally a topic of study for scholars of international law, a new generation of emerging scholars from various disciplines is committed to investigating the causal mechanisms of statelessness as well as the multiple forms of exclusion and violence that can result (Baluarte, 2019; Bloom & Kingston, 2021; Brennan et al., 2023; Kingston, 2019a; Petrozziello, 2019). If multiple forms of discrimination can be both cause and consequence of statelessness (Kingston, 2017, 2019b), then intersectionality is a useful framework for understanding states' production of statelessness.

Nevertheless, the main international organizations working on these issues (e.g., the UN High Commissioner for Refugees [UNHCR] and UNICEF) tend to consider gender and racial discrimination as separate causal factors of statelessness. Regarding gender discrimination, the prevailing approach focuses on reforming gender discriminatory nationality laws (GDNL, hereafter), which prevent women from passing on their nationality to their children or spouse on

an equal basis with men. This can be seen in the Global Campaign on Equal Nationality Rights (GCENR), the UNHCR #IBelong Campaign to End Statelessness (UNHCR, 2022), and a recent World Bank Group (2019).

Efforts to eradicate racial and ethnic discrimination retain a similar, single-issue focus. They also emphasize legal reform, as well as ensuring universal birth registration for people belonging to minority groups. This is because the majority of the world's stateless populations belong to minority groups (UNHCR, 2017). Rather than considering gender and racial forms of discrimination in isolation, intersectional analysis helps us to see how multiple forms of discrimination converge to expulse people from the very systems that should establish their legal existence.

The limited way intersectionality has been used to study statelessness to date has focused on lived experiences of multiply marginalized stateless persons, such as Romani women and children of same-sex parents in Europe (Brennan et al., 2021). As Brennan (2019) demonstrated, intersectional theory can aid in understanding the interactions between multiple identities and experiences of subordination, and help to avoid the pitfall of assuming stateless people to be a coherent group with identical problems and needs. Intersectionality can be not only an analytical perspective but also a method for studying outcomes and differences in lived experiences, or what Yuval-Davis has called “situated intersectionality” (2015).

Building on these insights, Sabhapandit and Baruah (2021) examined the structural forms of discrimination impacting rural, low-income women of Bengali Muslim ancestry in the Indian state of Assam, as they navigate a state-led documentation process that is making millions stateless. Their intersectional feminist ethnographic research revealed, “The entire process of applying for documentation and paperwork reflect relations of production and domination, with women and ethnic minorities, *inter alia*, at a significant disadvantage. Moreover, the gendered nature of how women interact with the bureaucracy intersects with other aspects of one's identity” (Sabhapandit & Baruah, 2021, p. 244).

Despite these advances in intersectional statelessness scholarship, there is scope to use intersectionality to understand not only the consequences in stateless people's lives but also the structural causes of this condition. One way people can be made stateless is through blocked access to birth registration.

Intersectionality as method for building a global inventory of exclusionary birth registration practices

Extant research on which population groups tend to be excluded from birth registration confirms the relevance of paying particular attention to the experiences of parents who are women migrant workers (especially when lacking status), asylum-seekers or refugees, ethnic minority groups, and stateless persons.⁴ Within the universe of the nonregistered, intersecting identity factors have proven to be relevant, such as the mother's age, ethnicity, and social class and the location of the birth (rural vs. urban, home vs. health facility), as to whether and when a birth can be registered. The fact that patterns of exclusion from birth registration reflect existing social inequalities based on migration status, citizenship, ethnicity, age, and class underscores the importance of taking an intersectional approach. Nevertheless, most human rights research on birth registration has examined the matter solely as a matter of children's rights (Bhabha, 2011; Stein, 2016; Vandenabeele, 2011).

This project sought to identify the patterns of exclusion from birth registration that can make children of migrants, refugees, and other multiply marginalized people stateless. Despite extensive legal recognition in various human rights treaties,⁵ in practice, the right to birth registration is routinely violated. Where this right is not fulfilled becomes visible through the periodic reviews conducted by the treaty bodies that examine states' compliance with the human rights conventions to which they are party. The issue shows up most consistently in the Committee on the Rights of the Child (CRC) reviews, as well as the Universal Period Review (UPR), as a matter of children's rights. However, it is also a major concern for the CEDAW and CERD committees.

Whereas some human rights studies have examined the potential of individual treaty bodies for upholding the right to birth registration—especially the CRC (Stein, 2016) and the Human Rights Committee (Castan et al., 2011)—this study adopted an intersectional methodological approach in order to overcome the prevailing siloed approach to the issue of birth registration. This entailed an examination of the concluding observations issued on the matter from *all* the relevant human rights mechanisms.

The study design was influenced by Bhabha's (2011) edited volume, *Children Without a State: A Global Human Rights Challenge*, in two ways. That study demonstrated the usefulness of tracing a particular human rights challenge—in her case, child statelessness—across a range of contexts in order to elevate the visibility of the problem and conceptualize how it is produced from a global perspective. Second, Bhabha's conceptualization of the scope of child statelessness brings together distinct categories of people—the *de jure* (or legally) stateless people and the *de facto* stateless (who may have a nationality but lack legal status where they reside, such as migrants with irregular status or asylum seekers). This study adopts a similar approach—except instead of taking the child as the starting point, it brings into view the experiences of diverse groups of parents on the move, and the ways their precarious status and intersecting forms of discrimination can impact their children's access to the right to birth registration. This is an important corrective to much of the literature on children's rights. Children do not emerge from nowhere; in particular, the birth mother's access to her own legal status and related rights are linked to the child's. It also demonstrates the value of relationality, a point taken up in the following section and the conclusion.

To operationalize intersectionality as method, the research design examined relevant recommendations from all of the treaty bodies. The main dataset used to construct the Global Inventory of Exclusionary Birth Registration Practices (hereafter Global Inventory) was the Institute on Statelessness and Inclusion's Database on Statelessness and Human Rights (ISI, 2020). The database includes recommendations issued to states within the UN human rights system that are related to stateless persons, nationality, children, discrimination, and implementing measures. At the time the queries for this project were performed (June 2022), the database contained recommendations from all the available sessions of the UPR and the Committee on Migrant Workers (CMW), as well as recommendations issued since 2010 by the CRC; the CEDAW; the CERD; the Committee Against Torture (CAT); and the Human Rights Committee, which monitors implementation of the International Covenant on Civil and Political Rights by its State parties (ICCPR).

The results—which are discussed more fully in Petrozziello (2023; forthcoming)—establish the global scope of the problem: a total of 756 recommendations issued to a total of 143 UN member states on discriminatory birth registration practices. The sample was narrowed further to the 230 issued to a total of 143 UN member states that mention birth registration in relation to the prevention or reduction of statelessness. Among these, 58 countries were prioritized for qualitative content analysis because they mention migrants, refugees, or asylum seekers and/or they received more than one recommendation.

Once the sample had been drawn, brief summaries were prepared for each country in which “practices of concern” were identified, based on secondary sources. The country summaries list all the recommendations issued by the different human rights mechanisms and describe the practice of concern that led the committee to issue the recommendation in the first place. So, the research strategy was to work backward from the concluding observations of the treaty body, by examining secondary sources available on the relevant treaty body website, including state party reports and replies to the lists of issues, committee documents (e.g., report of the working group, concluding observations, requests for information), alternative reports and stakeholder submissions by nongovernmental organizations (NGOs), academics, UN entities, and other observers.

Content analysis (Hermann, 2008; Krippendorff, 2013) via qualitative coding was carried out in two phases. In the first, UN treaty body recommendations were compiled in an Excel sheet

and coded according to whether they mentioned people in mobility using key term searches: “foreigner,” “migrant,” “refugee,” and “asylum seeker.” This helped to identify which UN recommendations referred explicitly to removing obstacles to birth registration for children born to people on the move. In the second phase, I added depth by analyzing the context and significance of each mention.

Informed by feminist content analysis (Hesse-Biber et al., 2007; Reinharz & Davidman, 1992), which pays attention to what is and what is not present, I printed and coded by hand the country summaries of the relevant recommendations and background information. The goal was to identify civil registration strengthening efforts under way in a given country, patterns in the type(s) of discrimination, and affected groups. Coding was informed by the theoretical framework of intersectionality, as well as feminist scholarship on women’s human rights discussed in the second section of this article.

A second round of ISI database queries was conducted to identify patterns regarding gender discrimination in both citizenship conferral and birth registration. The coding strategy was both deductive and inductive (Pierce, 2008). Initially, findings were coded deductively as either direct or indirect forms of gender discrimination. Subsequent inductive codes identified the types of gender-based discrimination or violence that contributed to nonregistration of birth (marital status, sexual violence, child marriage, etc.). The countries that received the highest number of UN recommendations can be found in Table 1.

Table 1. Top 10 countries by number of UN Recommendations received on birth registration for people in mobility* by human rights mechanism** and year.

	CCPR	CEDAW	CERD	CESCR	CMW	CRC	CRPD	UPR
Azerbaijan			2016		2013 2021	2012		2013
Bosnia and Herzegovina	2012 2017	2019	2018		2012 2019	2012 2019		2010 2014 2019
Cambodia		2013 2019	2020		N/A	2011		2010 2014
Chile		2012 2018	2013		2011 2021	2015 2021		2014
Dominican Republic	2012 2017	2013 2022	2008 2013	2016	N/A	2008 2015	2015	2010 2014 2019
Ethiopia	2019				N/A	2015	2016	2010 2014 2019
Mauritania	2013 2019				2016	2010 2018		2015 2021
Myanmar	N/A	2019 2016	N/A		N/A	2012	2019	2021 2015 2011
South Africa		2021		2018		2016		2012 2017
South Korea	2015	2018	2019		N/A	2019 2012		2017 2012

Source: This table was compiled by the author using the recommendations included in the ISI Database on Statelessness and Nationality as of June 2022. *People in mobility” includes migrants, emigrants, refugees, asylum seekers, and return migrants. **The human rights mechanisms included here are the UN Human Rights Committee, which monitors the International Covenant on Civil and Political Rights (CCPR); Committee on the Elimination of Discrimination against Women (CEDAW); Committee on the Elimination of Racial Discrimination (CERD); Committee on Economic, Social and Cultural Rights (CESCR); Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW); Committee on the Rights of the Child (CRC); Committee on the Rights of Persons with Disabilities (CRPD); and the Universal Periodic Review (UPR), which is a mechanism of the UN Human Rights Council. Blue shading=recommendations related to birth registration for children of people in mobility. Grey shading=Not applicable (N/A) because the state is not party to the Convention. Gold shading=general recommendations on improving birth registration and/or recommendations on addressing obstacles for minority groups not necessarily in mobility.

The value of taking an intersectional approach is underscored by the multiple and intersecting forms of discrimination that are present, as evidenced in the reviews of eight different treaty bodies. Consider the example of the Dominican Republic (DR), which has received the highest number of UN recommendations on the matter in the world (as seen in [Table 1](#)). When blocked access to birth registration for children of Haitian ancestry born in the DR has been brought before the committees, these have recognized it as (1) *gender discrimination*, because it violates women's equal right to confer nationality on their children (CEDAW, art. 9); (2) *structural racial discrimination* (CERD); (3) *a violation of children's human right to a name and a nationality* (CRC, art. 8); and (4) *a violation of fundamental human rights, including the right to a nationality*, which generates statelessness (UPR, ICCPR). Were the country signatory to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), it also might have been called out for *discrimination based on migratory status*, because issuance of birth certificates is made contingent on the parents' status. This contravenes jurisprudence of the Inter-American Court of Human Rights, whose landmark 2005 judgment against the DR stated: "The migratory status of a person ... can never constitute a justification for depriving a person of the right to nationality. ... The migratory status of a person is not transmitted to the children" (*Case of the Girls Yean and Bosico v. The Dominican Republic*, 2005, para. 156).

In sum, taking an intersectional methodological approach entailed looking across all the treaty bodies' recommendations on the same issue, in order to reveal the patterns of exclusion affecting multiply marginalized population groups. Where a country has received UN observations from multiple committees on the same issue, this is an indicator that multiple structures of power are interlocking to produce statelessness.

Intersectional insights on blocked access to birth registration

To demonstrate the value of intersectionality as a methodological approach for human rights research, this section offers three insights about blocked access to birth certificates which were only possible to identify because of this approach.

Gender + religious + ethnic discrimination at the civil registrar

Whereas the mainstream understanding of the relationship between gender discrimination and statelessness focuses on GDNL (van Waas et al., 2019), an intersectional approach broadens current understanding of the relationship between gender inequality and statelessness by demonstrating how different iterations of gendered power relations block access to birth certificates. It also demonstrates the importance of going beyond legal reform to address the multiple root causes of exclusion. In many locations, gender discrimination combines with discrimination on the grounds of religion or ethnicity to administratively (but not necessarily legally) block access to birth certificates for children born to women from religious and ethnic minority groups. This can perpetuate the systematic denial of citizenship and disenfranchisement for a certain population group, but it is operationalized through the birth mother's status and documentation.

Consider the example of Madagascar, a country that reformed its nationality laws to eliminate gender discrimination but in which intersecting forms of discrimination continue to block certain groups of women from registering and/or obtaining citizenship for their children. Madagascar updated its 1960 Nationality Code in 2017 to allow Malagasy mothers to transmit their nationality to their children on an equal basis with Malagasy men, regardless of their marital status (Equality Now, 2022). Having received observations from five different human rights mechanisms starting in 2008, the government was quick to announce it had eliminated gender discrimination from its nationality policy in its 2018 state report to the CMW (Government of Madagascar, 2018). Previously, the Nationality Code was found to create a narrower set of circumstances in

which women could confer citizenship and to discriminate significantly between children born in and out of wedlock (Equal Rights Trust & Focus Development Association, 2016). The reform in Madagascar is considered an advocacy campaign success of the GCENR, whose coalition members contributed many alternative reports to the treaty bodies over the years (GCENR, 2017). As gender and statelessness experts van Waas et al. noted, “all of these pushes within the UN human rights framework came in parallel to a concerted national movement against this discrimination. Civil society in the country campaigned actively for reform; worked with artists, the affected population, and journalists; lobbied parliamentarians; and brought in international technical experts where needed” (2019, p. 204).

Although the legal reform is a significant step forward in the elimination of GDNL in Madagascar, close attention must be paid to the intersections of gender with religion/ethnicity as it affects access to legal citizenship. Although direct gender discrimination may have been reformed, indirect and intersecting forms of discrimination may remain firmly intact, as the majority Karana have been systematically denied Malagasy citizenship since independence.⁶ A civil society submission to the Human Rights Committee noted the difficulties women with foreign-sounding names faced when seeking identity documentation or birth registration for their children:

In those limited circumstances where Malagasy women are able to pass on their nationality, evidence suggests that women still face difficulties in practice. Many of those interviewed by the Trust discussed problems in acquiring nationality even where they were eligible. In order to apply for a national identity card, a birth and residency certificate must be provided, however, officers may request further documentation. This discretion is often exercised where an individual is perceived as possessing a “foreign” name, or where individuals are suspected of not being a national, they have been refused documentation. In particular, children with Arab, Muslim or Comorian sounding names encounter difficulties in the application process (Equal Rights Trust & Focus Development Association, 2016, p. 5).

A worst-case scenario would be that the provisions in the reformed Nationality Code shore up nationalist and exclusionary notions of who counts as Malagasy (read: ethnic majority of Malagasy) and who does not (stateless, migrant-descended Muslims) based on both the mother’s and father’s ethnicity and citizenship status. Documentation efforts currently under way run the risk of widening the divide—shoring up the political power of the Malagasy and reinforcing the structural and systematic exclusion of the Karana from citizenship, as a means of limiting their economic and political power. Without proper oversight, gender and ethnic discriminatory birth registration may be the very site where this disenfranchisement occurs.

Disability + ethnic discrimination in contexts of mobility

When a disability is detected at birth, this is sometimes marked on the birth certificate issued to a child, ostensibly to facilitate their access to support services. Where state services exist, this may create a disincentive for registering the births of children who are politically deemed not to belong so as to limit the state’s liability for upholding their right to social protection. Returning to Madagascar, the nationality law specifically states that those acquiring naturalized citizenship or filing a citizenship application must be of sound body and mind, which is tantamount to discrimination against persons with disabilities. Again, gender intersects with ethnicity, ability, and other identity markers in the discriminatory legal interpretation of who counts as a citizen, and the administrative practice of bureaucratically branding as foreign those deemed not to belong.

In contexts of mobility, social identities that would otherwise trigger social protection benefits—like being born with a disability—become a liability for migrants and ethnic minority groups with precarious status. The Global Inventory identified relevant observations issued by the CRPD to Iraq, Kuwait, and the United Arab Emirates (UAE). For example, the CRPD issued a recommendation to Iraq to continue efforts to register all children with disabilities to prevent their statelessness (CRPD, 2019, para. 34). The government of Iraq claims to register the births of all children born with a disability (Government of Iraq, 2017, para. 105). However, the CRPD

noted the intersections of disability with mobility and ethnicity when it lamented the “absence of systematic, disaggregated data on persons with disabilities across all sectors of the State party, including persons with disabilities who have been subjected to violence and persons with disabilities who are internally displaced, migrants, refugees, stateless and/or belong to minority groups” (2019, para. 59). Such data are needed as a planning input for social protection of persons with disabilities. If unregistered, disabled children cannot receive identity cards, which are needed to access support services and other forms of social protection.

Kuwait and the UAE have also received recommendations on birth registration from the CRPD, with interesting intersections between disability and ethnic discrimination affecting the stateless Bidoon. The Bidoon are a formerly nomadic Arab minority group living primarily in Kuwait who have been made stateless as part of the ideological governance of citizen and noncitizen others (Alexander, 2020; Alshammiry, 2021; Lori, 2019). Within this context, the nonissuance of birth certificates for stateless Bidoon not only perpetuates their political condition intergenerationally; it also blocks access to social protection for children born with a disability. Finally, it shows how the “good practice” touted by development agencies of linking birth registration to social protection can create a disincentive for registering children who are multiply marginalized—in this case, people whose disability intersects with their ethnicity or assigned migration status.

Gender + racial discrimination + migration status in access to reproductive healthcare

The final example demonstrates the importance of both intersectionality and relationality, in this case between mother and child. The violation of a pregnant woman’s right to reproductive health-care can lead to the violation of her child’s right to an identity and a nationality. When births take place outside institutional settings, they often remain unregistered either because there is no official birth notification establishing mother–child filiation or because of the nonexistence or complexity of procedures. The process for registering a baby born at home and/or with a midwife—especially if the birth attendant is not registered herself—is not straightforward in many places.⁷ The demographic literature had already established this correlation in places such as Kenya and Malaysia (Cheong & Baltazar, 2021; Juma et al., 2016), as had public health studies that recognize noninstitutional or unattended home birth as an obstacle to birth registration (Dake & Fuseini, 2018; Garenne et al., 2016; Nomura et al., 2018). It has been well documented by UN Women and others that migrant and refugee women face challenges accessing sexual and reproductive health and rights (Hennebry et al., 2017; Piper, 2008). Yet nothing had been written in the human rights literature on how this affects access to birth registration and citizenship for their children.

The Global Inventory—whose intersectional methodology looked across the treaty bodies to establish correlations between different types of discrimination—revealed many examples in which racialized migrant and minority women face obstacles to care, including mistreatment, intersecting forms of discrimination, fear of deportation, militarized maternity wards, and lack of insurance.⁸ This was the case for women whose bodies were marked by gender and ethnicity, such as Dominican women of Haitian descent in the DR, Indigenous women in the Republic of the Congo, Roma women in Bosnia & Herzegovina and Montenegro, as well as racialized migrant women who could not access care. This affects refugee and asylum-seeking women and girls who gave birth while transiting through the Balkans, Sub-Saharan migrant women in Algeria and Morocco, and Syrian refugee women in Lebanon. It confirms with evidence the correlation statelessness scholar van Waas (2007) raised about how the relatively low rate of hospital births for the children of migrants with irregular status can contribute to child statelessness.

Even when reproductive healthcare is provided to migrant women regardless of their status, in line with international human rights obligations,⁹ discriminatory documentation practices by healthcare personnel can affect their ability to establish the baby’s legal identity and citizenship. As state concerns about irregular migration mount, border enforcement is creeping into other areas of life, such as healthcare. The Global Inventory identified an extralegal practice in which

some states are inventing *ad hoc* documentation for children born to nonresident mothers, as can be seen in Namibia and Israel.

In Namibia, concerns about Angolan women crossing the border to give birth to putative citizen children led to the creation of an extra-legal “foreigner” birth certificate. According to Dianne Hubbard, who coordinates the Gender Research & Advocacy Project at the Legal Assistance Center in Windhoek,

The most common reason given by Ministry [of Home Affairs] staff for denying a birth certificate to both children and adults is concern that the person seeking registration is not a Namibian citizen. There are, for instance, fears that Angolan children (whose mothers may have crossed the border to give birth in Namibian health facilities) may be registered as Namibian citizens, or that Namibian women may be paid to register a foreign child as their own so that the child can be identified as a Namibian citizen and claim social benefits reserved for Namibian citizens. There are also fears that false claims to Namibian citizenship might influence election outcomes (2021, p. 27).

Such concerns have led Namibian civil registrars to create an extra-legal foreigner birth certificate for those they determine not to be “ordinarily resident,” even though they apparently have no legal authority to do so. Such *ad hoc* documentation practices are often dead ends for the families involved, leaving children at risk of statelessness.

In Israel, hospitals began issuing hand-written birth notifications in Hebrew without the father’s name in lieu of a birth certificate for children of migrants. This came as a migration control response to the increasing presence of children born to African asylum seekers, who began arriving *en masse*—mostly from Sudan and Eritrea, via the Sinai desert—between 2007 and 2012 (Harpaz & Herzog, 2018). Birth registration practices intersect with Israeli migration enforcement in several ways. Israel’s restrictions on issuance of birth certificates for children of foreigners born on its territory can be read as part of state efforts to securitize migration management, limit access to asylum, and make people deportable.¹⁰ In 2013 the CRC expressed the following concerns:

Children of migrants born in the State party often do not receive an official birth certificate but a hand-written official notification without the father’s name being indicated. The Committee is also concerned about information that migrant families who are unable to cover the cost of hospitalization might be *denied birth notification*, and about reported cases of migrant families who have to pay exorbitant costs for a *DNA test in order to have the father’s name included in the birth notification*. The Committee is further concerned about reported cases of families *forced to sign voluntary return declarations to be able to obtain official birth certificates* (2013, para. 29b; emphasis added).

For its part, the Israeli government has claimed in court documents that it does not have a legal obligation to issue official birth certificates to foreigners, and that it would no longer be doing so as a way of preventing them from claiming the right to stay (Sherwood, 2013). This compounded an existing discriminatory practice of the Israeli Population and Immigration Authority of refusing to include the father’s name on foreigners’ birth certificates. Government authorities are also reportedly forcing migrant parents to sign “voluntary” return declarations to obtain official birth certificates. The CRC has made it clear that birth certificates should include the names of both parents, as is done for Israeli children, and that the “issuance of birth certificates should in no way be made conditional on the signing of ‘voluntary’ return declarations” (2013, para. 30). Without a birth certificate, parents cannot obtain identity documents or confirmation of citizenship from their consulates, either. They will remain stateless—but that does not mean they can or will leave. They may remain indefinitely in Israel, joining the generations of “*sabra* ghost” children born to women migrant workers.¹¹

Conclusion

This article has argued for the usefulness of intersectionality as a human rights research methodology by demonstrating how it was used in a global study on birth registration and

statelessness. Although progress has been made in increasing birth registration coverage (UNICEF, 2024), reaching the 150 million children under five who remain unregistered may require concerted efforts to reach the multiply marginalized. An intersectional approach helps to overcome the prevailing siloed, single-issue approach to the study of birth registration as a matter of children's rights, revealing patterns and mechanisms of exclusion affecting multiply marginalized population groups. Whereas exclusion from birth registration has been studied primarily as a matter of children's rights, the fact that recommendations on the matter have been issued by practically all the treaty bodies reveals the interlinkages between multiple (1) types of discrimination and (2) types of rights violations. Yet, the outcome is the same: child statelessness.

Using intersectionality as method starts from a rather simple premise. As Matsuda once suggested, this entails "asking the other question" (1996, p. 123). That is, if something at first glance seems racist, one can ask, "Where is the patriarchy in this?" Methodologically, one could look to both the CERD and the CEDAW to examine those intersections. Or when something at first glance seems like a good practice—like linking birth registration to social protection for children with disabilities—methodologically, one might look to the CRPD, CMW and CERD to ask, "Is this true for all newborns?"

If, as the intersectional human rights literature on treaty bodies suggests, intersectionality as it is currently applied in the UN human rights treaty bodies is quite limited (Bond, 2021; Chow, 2016; Xanthaki, 2019), then one method by which researchers can overcome the structural constraints of the system is to choose one issue and examine the related recommendations issued by all of the treaty bodies. This can be done for a single country or, where recommendations have already been compiled thematically, as in the ISI's Database on Statelessness and Human Rights (ISI, 2020), it can be done at the regional or global level, working backward from the recommendation to examine the documentation submitted as part of each review cycle through feminist content analysis.

Intersectionality may also be useful for human rights practice by establishing links and collaboration among the various UN committees. In recent years, dialogues and joint general comments by multiple committees have clarified the rights obligations for children born to parents on the move.¹² The CEDAW Committee has engaged in intersectional dialogues with other treaty bodies. In an interview for this project, vice-chairperson Nahla Haidar remarked that they had "broken the silo[ed approach] in the last few years"¹³ by issuing jurisprudence on women *and girls*, and engaging in dialogue with the CRC and the CMW on the issues of birth registration and nationality. Similarly, the CERD's forthcoming joint General Recommendations 38 and 39, together with the CMW, recommend that states take an intersectional approach when developing public policies for addressing xenophobia and its impact on the human rights of migrants—including nondiscrimination in the issuance of birth certificates. In sum, intersectionality enables linked-up thinking among the committees, which helps both to diagnose human rights harms affecting the multiply marginalized and to prescribe proactive measures to combat intersectional discrimination.

These links demonstrate the value not only of intersectionality but also of relationality. Adopting a relational perspective on the mother-child dyad enables linked-up thinking about the connections between rights violations, *inter alia* the mother's access to sexual and reproductive health and the newborn child's access to the right to identity and a nationality. The relationship between under-registration of birth and impediments that multiply marginalized groups face in accessing maternal and child healthcare is well documented but under-theorized. Although feminists have critiqued the constant bundling of "women-and-children" (Enloe, 1991; Rosen & Twamley, 2018), in this instance it is necessary to make the mother-child dyad central to the analysis. Babies do not emerge from nowhere; biologically, their bodies are linked to their mothers, and sociopolitically, their status and ability to come into legal being remain linked to their birth parents as well. Following Rosen and Twamley (2018), it may be necessary to move beyond the binary of elision of "motherandchild" vs. antagonism between the two, by adopting a relational and intersectional approach.

When women's reproduction is interpreted as marking the boundaries of the nation (Mayer, 2004), mothers whose maternity is protected and desired by the state will not necessarily face obstacles to the registration of their newborn—quite the contrary (Hill Collins, 1999). But racialized migrant women—whose maternity has been discursively, socially, and/or politically cast as a threat—may find that the multiple forms of discrimination they face hinder access to a birth certificate for their babies. This is why it is important to bring the birthing body (intertwined, relational mother–unborn child subject) into view, in relation to the spaces and institutions that would register the newborn child and recognize legal personhood upon birth—or not.

Intersectional feminist scholars refer to the multiplicative effects of these intersecting forms of discrimination as “multiple jeopardy” (King, 1988). The patterns of exclusion from birth registration confirm the relevance of paying attention to discrimination based on ability, race, ethnicity, gender, religion, class, citizenship, migratory status, sexual orientation, and/or gender identity. The findings on the particular intersections at which these combine and multiply elucidate the risk of intergenerational statelessness and rightlessness for the humans they bring into the world.

In this project, intersectionality has provided a framework for identifying those who are affected (which groups of people); by whom; and in what ways they experience exclusionary violence in their very flesh. Casting an intersectional lens on how this happens through bureaucratic practices of (non)birth registration reveals the larger geopolitical operations of power, the global as experienced at the level of the intimate (Pratt & Rosner, 2012). For a woman giving birth is powerful, and so too are the power relations that determine whether her newborn will be registered and recognized as a legal person.

Notes

1. This article uses binary language around mothers and fathers, women and men, as these are still in common use in the CEDAW convention and UN system more broadly, which are the primary sources of information used to develop the analysis. Nevertheless, I would like to acknowledge the trans and gender nonconforming community and the fact that not all people who give birth identify as women.
2. The full range of findings from the global inventory is discussed in Petrozziello (Forthcoming).
3. See also the guidance note on intersectionality published by the UN Network on Racial Discrimination and Protection of Minorities (2022).
4. On women migrant workers, see *inter alia* Constable (2014), Fernandez et al. (2023), and Mahdavi (2016); on the experiences of Syrian asylum seekers and refugees with birth registration in Lebanon and Turkey, see Çavlin and Keskin (2020) and Elmolla (2019).
5. Birth registration is a fundamental human right. It is also the procedure for realizing the right of every human being to recognition as a person before the law, also known as legal personhood (“Registration of Birth,” 2015). These rights were first articulated in the Universal Declaration of Human Rights (UDHR), and further enumerated in the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the International Convention on the Rights of All Migrant Workers and Members of Their Families (ICRMW), and the Convention on the Rights of Persons with Disabilities (CRPD). The human right to a nationality is linked to the rights to birth registration and legal personhood, which is why advocates taking a rights-based approach make use of the above-mentioned instruments together with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD). In addition to human rights law, birth registration is also protected by humanitarian and refugee law.
6. The Karana belong to the Muslim community, whose ancestors migrated to present-day Madagascar from India and Pakistan prior to independence.
7. In the United States, border states, such as Texas, have begun questioning the validity of birth certificates issued to those born in border areas whose births were certified by a midwife. This practice has even led to the nationality stripping of US citizen adults of Mexican–American ancestry who were born with the aid of midwives who are on a government black list of midwives (Open Society Justice Initiative, 2019). This shows how racialized presumptions of national origin are used to determine eligibility and validity of birth registration, and how nonhospital births are subjected to greater scrutiny, surveillance, and migration enforcement by the administrative state.
8. In the Dominican Republic, for example, authorities began conducting migration raids on maternity hospitals

and deporting pregnant and postpartum women to Haiti. Not only is this a flagrant violation of human rights that has been denounced by various UN special procedures mandate holders (OHCHR, 2023), it also prevents parents from obtaining a birth certificate for their baby.

9. Several international human rights treaties protect the right to sexual and reproductive health and impose obligations on states parties to respect and guarantee this right without discrimination, including on grounds of race, color, sex, language, religion, national or social origin, birth, or other status. See International Covenant on Economic, Social and Cultural Rights, (1966), Article 12 read with Article 2(1); Convention on the Elimination of all Forms of Discrimination Against Women (1979), Article 12 read with Article 1; International Convention on the Elimination of Racial Discrimination (1965), Article 5(e)(iv) read with Article 1; Convention on the Rights of the Child (1989), Article 24 read with Article 2.
10. Tactics for making people deportable include the use of so-called voluntary return declarations, issuance of Israeli travel documents to undocumented and *de facto* stateless Africans to facilitate their deportation (Kanfi, 2019), and the arrest and deportation of Israeli-born school-age children of migrants (Kraft, 2019).
11. The colloquial term “*sabra* ghost” is used to refer to the thousands of Israeli-raised, Hebrew-speaking children of migrant workers from the Philippines, Romania, Thailand, and elsewhere who began arriving in the 1990s. *Sabra*, or prickly pear, is a slang term for native Israelis, and “ghost” refers to their invisibility or nonrecognition by the Israeli state (Willen, 2005). Under pressure from civil society, in 2005 and 2010 Israel enacted one-off naturalization schemes with stringent selection criteria to provide a humanitarian solution for about 1,000 of these children (Government of Israel, 2012). Such options have not been available for children born to more recent African asylum seekers.
12. See the Joint General Comments No. 3 and No. 4 of the CMW and CRC (United Nations, 2017a, 2012, 2017b).
13. Interview with Nahla Haidar, vice-chairperson of the CEDAW Committee, December 14, 2021.

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