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Discrimination in migration and citizenship

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ABSTRACT

After decades of scholarly optimism that the immigration reforms that swept across the Global North in the postwar era had ushered in a new age of non-discriminatory migration policy, recent scholarship has challenged this narrative. This Special Issue offers an empirical and normative contribution to this critical turn in migration studies by examining the multiple ways in which immigration and citizenship policy continues to create hierarchies among migrants that mirror the intersection of non-meritocratic attributes of social group membership. We show that access to territory and citizenship is governed by highly differentiated legal distinctions that closely map onto social identities such as gender, race/ethnicity, nationality, religion, and class. This introduction maps two important and interrelated developments in the literature which this issue engages. First, the ‘politics of belonging’ remains shaped by the intersection of multiple axes of inclusion and exclusion that are (re)produced by immigration and citizenship policy. Second, whereas legal precarity has long been associated with undocumented and temporary immigration status, over the past two decades precarity has penetrated all immigration status, including those that have long been understood as secure. The article concludes with an overview of the Special Issue’s individual contributions and identifies some remaining research needs.

KEYWORDS

Discrimination; stratification; precarity/precariousness; race; ethnicity; nationality; class; gender; religion; immigration policy; citizenship; exclusion; inclusion

Migration and citizenship scholarship for many years celebrated the expansion of rights to immigrant groups previously excluded from access to territory and citizenship. This scholarly optimism was largely inspired by two historic policy developments. First, in the 1960s and 1970s, the settler colonial states of North America and Australasia dismantled their racially-stratified immigration systems and substituted family ties and skills for race, national origin, and religion. This prompted many scholars to pronounce the era of discriminatory immigration policy to be over. From now on, immigrant selection in liberal democracies would rest on the principles of universalism, liberalism, and non-discrimination (Fuchs 1990; Hawkins 1991; Garcia y Griego et al. 1994; Cornelius, Martin, and Hollifield 2004; Kelley and Trebilcock 1998; Joppke 2005; Reitz 1998; Borjas 1999). As the rise of skill-based immigrant selection came to be hailed as the epitome of non-discrimination, inclusion and exclusion were seen to operate solely on the basis of individualist, rather than collectivist, criteria. To quote Christian Joppke, ‘the state may consider

the individual only for what she does, not for what she is. ... The individual is selected according to “achievement,” not “ascription,” that is, according to her agency rather than according to what she is immutably born with’ (2005, 2–3).

The second set of developments that fuelled optimism about the trajectory of immigrant rights was the attainment of residence and family unification rights for Europe’s guest workers. Thomas Hammar’s (1985) seminal work on denizenship is testament to these developments. Whereas previously scholars had distinguished between temporary guest workers and citizens, the concept of the denizen captures the emergence of a qualitatively new status held by non-citizen permanent residents who enjoy civil, social, and economic rights largely on a par with citizens. Discussions of denizenship in the 1990s thus had a hopeful undertone, in line with the rise of postnationalist perspectives that posited that the progressive grounding of immigrant rights in human rights and universal personhood had rendered the nation-state and, thus, national citizenship, largely obsolete (Soysal 1994; Jacobson 1996; Feldblum 1998).

Today, most will agree that the scholarly optimism of 1980s and 1990s was misplaced. Without denying the import of the policy developments that inspired these arguments, the feminist, critical race, and critical legal scholarship that has emerged since the 2000s has made it clear that we have good reason to doubt that we live in an era of non-discriminatory immigration, integration, and citizenship policy. In a similar vein, the growing literature on precariousness draws attention to the increasing legal stratification of immigration status. Far from reflecting a linear progression from alien to denizen to citizen, status can travel along downward trajectories that – even for permanent residents and certain citizens – can result in legal precarity and loss of status.

The articles in this Special Issue engage with these debates by examining the multiple ways in which immigration and citizenship law continues to create hierarchies among migrants that mirror the intersection of non-meritocratic attributes of social group membership such as gender, race/ethnicity, nationality, religion, and class. We show that access to territory and citizenship is governed by highly differentiated legal distinctions that, far from being meritocratic, closely map onto social group membership. This Special Issue provides an empirical and normative contribution to the critical turn in migration studies at a time when populist anti-immigration mobilisation across Europe and the United States no longer shies away from breaking anti-populist norms of non-discrimination (Freeman 1995). As group-based arguments against immigrant admission and inclusion are once again becoming naturalised in public debate, migration scholars need to take seriously the claim that group-based discrimination remains an integral part of migration and citizenship policy.

Far from providing a comprehensive overview of what has become a vast interdisciplinary literature, this article maps two important and interrelated developments in the study of migration and citizenship with which this Special Issue engages. First, the ‘politics of belonging’ in the Global North remains shaped by the intersection of multiple axes of inclusion and exclusion that are (re)produced by immigration and citizenship policy. Second, status precarity is on the rise. Whereas legal precarity has long been associated with undocumented and temporary immigration status, over the past two decades precarity has penetrated all immigration status, including those that have long been understood as secure and ‘permanently permanent’ (Rajkumar et al. 2012). The introduction

concludes with an overview of the Special Issue's individual contributions and identifies some remaining research needs.

Intersecting social hierarchies and the politics of belonging

Immigration and citizenship policy has always been an exercise in boundary drawing. By regulating access to territory and membership in a world populated by nation-states, immigration policy remains one of the most consequential tools for the demarcation of social inclusion and exclusion. There is no question that the postwar shift in admissions criteria from race and national origin, on the one hand, to skill and family ties, on the other, signified a historic shift in the normative and legal basis of inclusion in the Global North (Fitzgerald and Cook-Martin 2014). Yet, to conclude that 'if the contemporary Western nation-state still excludes, then in an individualistic and non-discriminatory way' (Joppke 2005, 54), is too categorical a claim to be able to capture the complexities of immigration and citizenship policy. Not only does this claim ignore the possibility that immigration policy may not be internally coherent, but, as the present-day populist turn across Europe and the United States reminds us, we have little reason to assume that immigration policy will necessarily follow an upward trajectory toward ever greater inclusion.

The recent interest in a critical re-examination of immigration and citizenship law has shown the persistence of group bias in immigrant selection (Jasso 1988; Legomsky 1993–1994; Law 1996; Fitzpatrick 1997; Abu-Laban 1998; Johnson 1998; Dauvergne 2000; Boucher 2007; Orgad and Ruthizer 2010; Tannock 2011; Walsh 2011; El-Lahib and Wehbi 2012; Block 2016; Boucher 2016; Bonjour and Duyvendak 2018; Elrick and Winter 2018). Unlike earlier accounts of immigration and citizenship policy which limited the scope of exclusion to race, ethnicity, and national origin, contemporary analyses routinely bring an intersectional approach to the study of inclusion and exclusion. This body of scholarship starts from the premise that marginalisation and discrimination reflect the intersecting nature of various axes of social stratification – such as race and gender – which are created and maintained by the dynamic interaction of individual and institutional factors (Crenshaw 1989; Brah and Phoenix 2004; Hancock 2007; Bassel 2010; Dhamoon 2011).

While most intersectional analyses interrogate contemporary policy developments, some intersectional studies have also shed new light on the race-based immigration systems of old. These studies show that the intersection of race, gender, and class sometimes created openings for policy exemptions from exclusion. High class status in particular could supersede race-based exclusion and facilitate the admission of wealthy and well-educated non-white immigrants. In fact, as Natalie Masuoka points out in her study of racial identity in the United States, during the early settlement period class and servitude were stronger determinants of social hierarchy than race (2017, 22). Similarly, focusing on late nineteenth century U.S. immigration law, Daniel Tichenor (2014) shows that the intersection of class and race allowed for the inclusion of non-white members of certain occupational and professional groups. The Chinese Exclusion Act of 1882, for instance, exempted Chinese merchants and their wives from exclusion, and, in the years following the Act, additional exemptions were passed for certain skilled workers, artists, singers, professors, and religious ministers. In this issue, Tichenor and Jacobson (2020) continue this

line of inquiry and examine the intersection of race and class in the territorial incorporation of New Mexico and Arizona. In late 19th and early twentieth century New Mexico, relations between Anglos and Hispanos were marked by a high degree of ethnic, racial, and linguistic inclusion, reflecting the fact that the territory's large population of Hispanos included many wealthy and well-educated upper-class families who had established close business relations with white settlers. In order to overcome Congressional opposition to the incorporation of territories with large non-white populations, New Mexico's elites successfully reframed Hispanos as 'Hispano-americanos' – Americans of Spanish ethnic descent – whose 'pure' racial, cultural, and linguistic identities were argued to be akin to those of other Americans of European descent. Thus, even in the heyday of scientific racism, the upper class status of New Mexico's Hispanos allowed for a 'whitening' of this group to demonstrate their 'racial fitness' for self-government.

Recent scholarship on the contemporary 'politics of belonging' (Gedalof 2007; Brubaker 2010; Rytter 2010; Schmidt 2011) has examined ways in which immigration and citizenship policy continue to include and exclude on the basis of social group membership. The politics of belonging is grounded in the idea that 'we are who we are by virtue of who we are not' (Zolberg 1999, 85). This literature pays close attention to the ways in which the continued anchoring of identity in social group membership maps onto the construction of national identity and, by extension, immigration and citizenship policy. Conceptions of membership, however, are more complex than the binary of 'us' and 'them.' As Laura Block asserts, belonging should not be 'conceptualized as a fixed entity which is either present or absent, but rather imagined along a continuum from strong to weak membership' (2016, 1439). Thus, 'rather than thinking of an "us/them" dichotomy, individuals can be considered "more part of us" or "less part of us"' (2016, 1435).

The multifacetedness of membership is a reflection of the intersectional nature of identity, which allows for different identity markers to function as convertible forms of capital (Bourdieu 1986). Until recently, studies of inclusion and exclusion tended to separate the economic from the cultural (e.g. Hollifield 2004; Joppke 2005; Boswell 2007). As a result, scholars of the politics of belonging routinely ignored economic factors, as states' concerns with identity were argued to be limited to the 'potential threat ... posed by groups defined by cultural attributes, including race, religion and language' (Zolberg 1999, 84). However, as Elrick and Winter have pointed out, such differentiation between economic and identity factors hinders 'our understanding of the links between immigration policy and immigrant inclusion/exclusion, because it overlooks how social stratification plays out at the intersection of economic and identity related classification' (2018, 21).

The lack of analytical integration of cultural attributes and economic factors in the politics of belonging is indicative of a broader reluctance within migration scholarship to recognise the significance of class as an axis of stratification. After the 'culturalist turn' of the 1990s, the study of socioeconomic differentiation fell into disfavour as scholarly work focused on ethnicity, gender, and, most recently, religion, instead (Van Hear 2014). There are some notable exceptions to this pattern, however, that suggest that migration scholars – like social scientists more broadly – are beginning to recognise their mistake of '[drowning] the class baby ... in the identity bathwater' (Van Hear 2014, S103).

Recent analyses thus have begun to recognise the role of class in the politics of belonging. Writing in the U.S. context, Kevin Johnson demonstrates how 'race and class interact

synergistically in the U.S. immigration laws and their enforcement' (2009, 3). In this issue, Erin Chung's analysis of visa hierarchies in South Korea demonstrates the importance of class status in stratifying ethnic Koreans' access to citizenship (2020). Whereas South Korea provides economic visas for overseas Koreans regardless of nationality, it is only 'cosmopolitan professionals from wealthy countries' (i.e. Japan and the United States) who are given access to citizenship, by contrast to 'poor, backwards colonial era labor migrants' from lesser developed countries (i.e. China and the former Soviet Union). Likewise, in Europe, the turn to 'civic integration' in the 2000s has served as a fruitful focal point for the study of discrimination – in particular class bias – in immigration and integration policy. As many European governments have adopted civic integration policies, access to entry, permanent residence, and citizenship has become conditional on foreign nationals' demonstrated willingness and capacity for integration. Policy makers have framed civic integration as a 'civic performance' (Chauvin, Garcés-Mascareñas et al. 2013) to be realised through individual self-determination and agency. Through the acquisition of language skills, civic knowledge, financial savings, and full-time employment, immigrants can increase their human capital and demonstrate their capacity for socioeconomic and cultural integration and, thus, their deservingness of membership. Yet, civic integration's purported individualistic logic of inclusion/exclusion is born out by neither policy intent, design, nor impact. As studies of civic integration discourses, requirements, and outcomes have shown, the 'configurations of individual-level traits specified in immigration policy interact with the group-level national capital, creating nuanced and intersectional patterns of inclusion/exclusion' (Elrick and Winter 2018, 23).

Studies of European family immigration policies in particular (Groenendijk 2011; Wray 2011; Staver 2015; Block 2016; Ellermann and Goenaga *In Press*) have shown that, with the selective imposition of financial and linguistic admission conditionalities, 'class has become the main determinant of access to family migration' (Kofman 2018, 43). While some have gone as far as to argue that 'class ... "trumps" race or ethnicity' (Staver 2015, 295), most analyses emphasise the intersection of class and race/ethnicity. In their study of Dutch integration policy, Saskia Bonjour and Jan Willem Duyvendak examine how classed and racialized constructions of immigrants intersect to give rise to the policy objective to bar 'migrants with poor [economic] prospects' (2018, 882). Likewise, Jennifer Elrick and Elke Winter's (2018) analysis of the intersection of class status, ethnicity, and gender in German immigration policy conceives of immigration policy making as a means of 'building the middle-class national status group,' bringing together considerations of economic utility and identity maintenance. Antje Ellermann (this issue) develops the concept of human-capital citizenship to capture the cultural significance of economic attributes such as education, skill, and self-sufficiency as markers of belonging (2020). Analyzing immigration policy in Germany and Canada, her analysis demonstrates how the upper-middle-class bias inherent in the pursuit of the 'best and brightest' has also engendered class-based stratification in immigrants' access to family unification and permanent residence more broadly. In contexts such as Germany, where class status closely maps onto ethnic and religious group membership, immigration policy thus also functions as a means of *de facto* ethnic and religious (de)selection.

It is certainly not the case that group-level discriminations arising from Europe's civic integration policies simply constitute unintended consequences of neutral, individual-level traits interacting with structural inequality. In Germany, the proponents of pre-entry

language tests for spouses explicitly justified the targeting of lesser educated Muslim immigrants with reference to their supposed ‘cultural backwardness’ (Deutscher Bundestag 2007, 8). Similarly, Dutch legislators acknowledged that pre-entry tests were designed to limit family immigration by targeting those with ‘entry problems.’ Family migrants from Turkey and Morocco in particular were seen to bear ‘characteristics that are unfavorable for good integration into Dutch society.’ Pre-entry tests thus served the ‘postponement or even cancellation of the intended settlement in the Netherlands’ (Goodman 2011, 244). Studies of the impact of pre-entry language and income requirements for family migration have demonstrated that these policy hurdles can be insurmountable, regardless of self-determination (Groenendijk 2011; Gutekunst 2015; Ellermann and Goenaga *In Press*). The case of civic integration policy thus not only challenges the argument that the logic of inclusion/exclusion in immigration and citizenship policy has ceased to be collectivist, but also refutes the assumption that inclusion is within the reach of all who exercise individual agency and self-determination.

While most analyses of class and immigration are nested within nation-states, David Owen (this issue) moves the normative discussions of exclusion and inclusion to the global level where ‘[t]ransnational social stratification in terms of income is not primarily a function of “national class position” but of “state of residence”’ (2020, 2587). Owen points to the role of unilateral border policies in maintaining the racialized nature of global income inequality. As long as legal immigration pathways from the Global South to the Global North will remain closed off, transnational patterns of racialized exclusion will continue to be reproduced.

Not long after the embrace of civic integration prompted a return to the investigation of group bias and discrimination, the study of religion – more precisely, of Islam – (re)emerged on social science research agendas. Whilst the study of religion had virtually disappeared from migration and citizenship studies (particularly in Europe), the resurgence of Islamophobia in the wake of rising Islamist terrorism prompted migration and citizenship scholars to focus their attention on the relationship between Islam and the West, largely within the context of immigration from Muslim-majority countries to Europe (Laurence 2012). These studies of Islam in immigrant-receiving societies have paid close attention ‘to the relationship between religion and power, to the ways in which religion marks the contours of inequality, and to the ways in which attributions of belonging and non-belonging are still coded through religion even within post-secular societies’ (Permosé 2014). Migration and citizenship scholars have exposed the ways in which religion serves as an axis of inclusion and exclusion in societies that, even when purportedly ‘secular,’ remain shaped by Christianity (Rottmann and Ferree 2008; Korteweg and Yurdakul 2009; Adamson, Triadafilopoulos, and Zolberg 2011; Korteweg and Triadafilopoulos 2013). In this issue, Catherine Dauvergne (2020) moves the discussion of the relationship between Islam and the West beyond Europe by examining the gendered ways in which immigration law has responded to two threats commonly associated with fundamentalist Islam: terrorism and forced marriage. She argues that the ‘westernized-quasi-universalism’ inherent in human rights arguments that have been relied upon in negotiating these challenges not only has failed to provide for a nuanced understanding of Islam, but also has disempowered women and exacerbated gender inequality. In a highly masculinised security context, policy makers have assumed ‘knowability’ of terrorist threats, thereby moving the issue out of reach of human rights arguments. By

contrast, in the feminised forced marriage context, human rights arguments have rendered the practice of forced marriage acultural, allowing for their heavy-handed criminalisation.

Also in this issue, Matthew Gibney (2020) shifts our attention from discrimination in immigration law to the acquisition and loss of citizenship. Citizenship, far from being a mere legal status, is intimately tied to the ‘boundaries of belonging:’ ‘it is about demarcating who “we” are, who is part of “us,” and who is not’ (Bonjour and Block 2016, 779). However, being a citizen of a state does not necessarily equal ‘belonging’ to such state. Individuals and groups who are considered as ‘others,’ that is, as belonging to different ethnic, national or racial groups, are usually not considered as belonging to a host country’s community (Yuval-Davis 2007). Gibney’s historical analysis of the involuntary loss of citizenship through denationalisation shows that, while legal norms surrounding the prohibition of statelessness have curtailed the states’ denationalisation power, this has not erased discrimination from its use. On the contrary, enforcement practices in Britain demonstrate that the use of denationalisation has become effectively reserved for naturalised citizens from Muslim-majority countries. In other words, ‘it seems that the imaginative leap required to justify turning a citizen into an alien still requires that the individual in question be part of a group already viewed as less than full citizens’ (2020, 2566).

Status diversification and the rise of legal precariousness

Until recently, studies of legal status differentiation focused on four basic, vertically and hierarchically ordered, status groups: undocumented residents, temporary residents, permanent residents, and citizen residents. Whereas undocumented and temporary status was marked by legal precarity, permanent residence and citizenship were associated with ‘security of presence’ (Rajkumar et al. 2012). The recently emerging literature on the ‘precarity of place’ (Banki 2013) within migration studies, however, has moved beyond the binaries of illegal-legal (Kubal 2013) and citizen-noncitizen (Bosniak 2000; Menjivar 2006) in favour of a more fluid and non-linear understanding of precarity/precariousness.¹ Goldring et al. emphasise the many pathways that can result in precarity as a ‘less-than-full immigration status’ that ‘conveys a combination of ongoing risk and uncertainty’ (2009, 239, 245). Precarity thus is no longer limited to formally illegal or temporary immigration status. On the contrary, “[c]itizenship and rights associated with legal immigration status are becoming increasingly precarious and conditional on requirements that are often difficult to meet or maintain. ... The concept of precarious status reflects insecurities associated with policies designed to ... curb the overall number of permanent immigrants on the part of states of immigration, and the tendency to make citizens increasingly individually responsible for their existence” (Goldring, Berinstein, and Bernhard 2009, 245). In other words, immigration tracks may follow a non-linear movement which includes the possibility of downward mobility, and, thus, the experience of legal precarity and loss of status even for certain permanent residents and citizens.

As precarity has come to pervade every immigration status, the meaning of permanence and temporariness has shifted. Rajkumar et al.’s study of the production of temporariness in Canada (2012) advances a multidimensional conception of temporariness that, instead of conceiving of residence status as a temporary-permanent binary, distinguishes between ‘temporarily temporary,’ ‘permanently temporary,’ and ‘temporarily permanent’ status.

The vanishing of ‘permanent permanence’ is also at the heart of *The New Politics of Immigration and the End of Settler Societies*, where Dauvergne makes the claim that, even in settler colonial states, immigration politics has come to be defined by the ‘loss of settlement.’ At a time when states ‘no longer need people, but rather widgets’ (2016, 176) settlement and nation-building have ceased to serve as core immigration values and the idea of permanent status has become eroded. As economic considerations have moved to the centre of immigration policy making, post-settler states now ‘embrace ... the idea that temporary workers are preferred economic actors.’ While admissions policies are clearly stacked against the settlement of low-skilled workers and asylum seekers, even high-skilled workers are increasingly recruited on a trial basis and hence face greater barrier to settlement. This temporary and precarious nature of immigration marks ‘[t]he firm end of the settler society era’ (2016, 184), and the beginning of a ‘meaner’ and market-driven age of immigration.

The spread of legal precarity and temporariness has been facilitated by the proliferation of new immigration categories. The rapidly growing literature on superdiversity has captured new forms of diversity that are historically unprecedented in their scale, speed, and complexity (Vertovec 2007). As the frequency and complexity of policy change has increased over time (Meissner 2018), the regulation of immigration itself has come to serve as a driver of diversity through the diversification of status tracks (Beine et al. 2013). As Anna Boucher shows in this issue, even tracks such as high-skilled immigration that are commonly referred to in unitary terms, upon further disaggregation reveal a startling variety of definitions of skill and attached conditionalities (2020). Status differentiation functions to ‘channel migrants by defining conditionalities of entry and delineating categories of migrants’ (Meissner 2018, 293). In doing so, status multiplication not only diversifies immigration tracks but also produces ‘a multiplicity of relationally configured social and economic dynamics’ (Meissner 2018, 291). In other words, status diversification engenders new immigrant hierarchies that stratify on the basis of differing ‘parameters of presence’ (Meissner 2018).

This Special Issue builds on these debates by examining the intersection of status differentiation, legal precarity, and immigrant hierarchies. For many decades, status differentiation operated in a largely vertical manner based on distinctions between undocumented, temporary, permanent, and citizen residents. More recently, however, status multiplication has engendered *horizontal* stratification. Erin Chung’s study of South Korean visa categories (2020) shows how the proliferation of visa categories in response to labour shortages has introduced new hierarchies *within* the category of temporary foreign workers by distinguishing between the ‘temporarily temporary’ (Rajkumar et al. 2012) who are able to transition to permanent residence and the ‘permanently temporary’ who are not (Chung 2020). In a similar vein, Ellermann (this issue) argues that the shift from social citizenship to human-capital citizenship has resulted in the stratification of the core rights of economic immigrants in Canada and Germany – most importantly, their access to residence and family unification – on the basis of occupational skill, independent of actual labour market demand (2020). Matthew Gibney (in this issue) shifts our attention to the stratification of permanent residence and citizenship. While citizenship has long been regarded as an inviolable and ‘permanently permanent’ status, Gibney shows how the fight against terrorism has resulted in status diversification even among citizens (2020). In states with the provision of denationalisation, the stripping of citizenship has

mostly focused on citizens with dual nationality, and, within this group, on naturalised citizens from Muslim-majority countries. For these immigrants, then, even citizenship status remains precarious and potentially temporary.

Overview of contributions

The articles in this Special Issue all hold in common an engagement with questions of discrimination, stratification, and precarity in varying migration contexts. Daniel Tichenor and Robin Jacobson's (2020) comparative historical study of New Mexico's and Arizona's territorial incorporation in the late 19th and twentieth century reveals the impact of racial hierarchies on nation-building in the United States. Rather than asserting a universal pattern of race relations, Tichenor and Jacobson identify distinct models of racial inclusion and exclusion, shaped by the intersection of race and class. Because New Mexico's large population of Hispanos of Mexican descent included many economically successful upper-class families, race relations were marked by interethnic power sharing and linguistic inclusion. In Arizona, by contrast, Anglo settlers encountered few influential Hispanos and were able to put into place a regime of racial subjugation that resulted in the shrinking of the territory's non-white population and the development of an English-only language policy. When the two territories aspired to statehood – a status that connoted membership, rather than mere territorial domination – elites had to satisfy federal demands about ethno-racial control and persuade Congress of each territory's worthiness of membership based on its ethno-racial composition. Faced with Congressional opposition to the incorporation of territories with large non-white populations, the two territories pursued different strategies of incorporation. Given its track record of racial subjugation, Arizona faced weaker opposition and its elites were able to reassure bipartisan Congressional majorities that Mexican descendants would either remain under the control of white elites or leave the territory. New Mexico's regime of ethnic power-sharing, by contrast, elicited more Congressional suspicion and it was only after its elites successfully reframed Hispanos as Americans of Spanish ethnic descent with 'pure' racial, cultural, and linguistic identities akin to those of other ethnically European Americans, that Congress decided in favour of incorporation. Thus, while both territories were eventually successful in their quest for incorporation, their differing incorporation strategies reflected the intersection of Hispanos' varying class positions with deeply entrenched racism.

Erin Chung's (2020) analysis of South Korean visa categories shifts the study of migration, racial politics, and social hierarchies into the present. Drawing on Charles Tilly's theory of categorical inequalities which posits that the pairing of social categories with organisational hierarchies creates categorical inequalities 'so pervasive and decisive that "ordinary observers" will mistake the "consequences of categorical organization" as "results of variation in individual talent or effort"' (2499), Chung challenges liberal conception of contemporary visa categories as race- and gender-neutral. Instead, she shows how the proliferation of visa categories created to accommodate labour shortages in South Korea has led to development of noncitizen hierarchies in relation to residency status, prospects for citizenship acquisition as well as access to rights, services, and geographic mobility. Based on interview data and government documents, Chung's analysis exposes the intersection of race, gender, and class in shaping the meaning of visas for co-ethnic immigrants and so-called marriage migrants. These group-specific meanings reflect

the ways in which visa categories ‘[correlate] emigration histories and countries of origin with legal status, employment opportunities, rights, and eligibility for permanent settlement and citizenship acquisition’ (2020, 2504) – correlations with far-reaching implications for status precarity and immigrant integration. Rather than being indicative of a non-discriminatory, universal admissions regime, these visa categories – through their structural effects of categorical differentiation – become the basis for ‘what observers ordinarily interpret as inequality-creating individual differences’ (Tilly 2001, 366) which mask structural inequality and discrimination on the basis of race, gender, and class.

Antje Ellermann’s (2020) article develops the concept of human-capital citizenship to capture the increasing importance of class as an axis of inclusion and exclusion. By tracing developments in Canadian and German immigration policy over time, she shows that, as policy makers have come to conceive of individuals as the bearers of human capital, economic and family immigrant admissions have undergone profound change. Ellermann argues that states’ preference for high-skilled immigrants is not simply a reflection of changing labour market needs but, rather, is indicative of a new conception of citizenship. Under human-capital citizenship, economic attributes such as education, skill, and self-sufficiency hold profound cultural significance and serve as markers of social status. As the desirability of immigrants has come to correspond to their rank in the human-capital hierarchy, policies that (de)select immigrants on the basis of skill and education do not necessarily require actual labour shortages to be adopted. Instead, with the rise of human-capital citizenship, the core rights of economic migrants – most importantly, access to residence and family unification – have become stratified by skill level, rather than by economic contribution. Ellermann’s analysis further shows that human-capital citizenship’s upper-class bias has stratified not only economic, but also non-economic admissions. In the area of family unification, family ties – while necessary – oftentimes no longer suffice for admission as governments have imposed human-capital based conditionalities on family sponsorship. To the extent that class status closely maps onto ethnic and religious group membership, these conditionalities have resulted in intersecting patterns of class-based, ethnic, and religious inclusion and exclusion.

Whereas Ellermann examines broad cross-national policy developments, Anna Boucher (2020) disaggregates high-skilled immigration policies to uncover cross-national differences in the ways in which skill is defined and operationalised. Using administrative datasets from Australia, Canada, Britain, the U.S. and the European Union, her analysis refutes the widespread assumption that ‘skill’ in ‘skilled immigration’ is something that is clearly identifiable and easily differentiated from ‘unskilled’ and ‘semi-skilled’ immigration. Instead, the operationalisation of skill ranges from education, occupation, and wage to linguistic fluency – differences that have far-reaching implications in terms of who is selected. It also matters *who* selects as government-driven selection produces different admission patterns from that performed by employers. Boucher’s use of country-level visa data presents a more deeply gendered and racialized reality of skilled immigrant selection than is generally provided for by global studies which rely on imposed definitions of skill. Not only is the reality of skilled immigration more gendered than is commonly assumed, but Boucher’s analysis also reveals significant ethnic origin bias. While many studies have adopted tertiary education as the central measure of skill, the use of ethnicity-disaggregated flow data reveals continued ethnic stratification across skilled and unskilled visas. Boucher finds that the widespread reliance on aggregated flow data

significantly underestimates the degree of ethnic-origin bias, ‘thereby render[ing] an inaccurate sense of the extent of equalization that is occurring across countries of origin in skilled immigration selection’ (2020, 2535).

Matthew Gibney (2020) examines discrimination and precarity in the least likely of places: citizenship. In his historical analysis of denationalisation – the state’s revocation of citizenship – he asks whether recent denationalisation provisions have managed to break free from their discriminatory past. Tracing the use of denationalisation from the early twentieth century until its falling into disuse after World War II, Gibney shows that, historically, citizenship revocation has been used in ways that select (and deselect) on the basis of national origin, gender, and mode of citizenship acquisition (i.e. naturalisation). Turning to the present-day return of citizenship-stripping, Gibney’s investigation of denationalisation enforcement in Britain finds that ‘contemporary denationalization power is still a powerful tracer of groups within the polity who, despite holding formal citizenship, are viewed as foreign’ (2020, 2551). With the single exception of citizenship no longer being revoked from women after marriage, citizenship revocation continues to operate on the basis of group-based exclusion, applying only to certain categories of citizens (naturalised immigrants with dual nationality) and, through the use of anti-terrorist provisions, targets citizens originating from Muslim-majority countries, in marked contrast to the treatment of non-Jihadist terrorist suspects who are not swept up under denationalisation enforcement. Denationalisation thus singles out religion as an axis of exclusion and inclusion, as Muslims are seen as ‘suspect holders of British citizenship’ (2020, 27). Present-day denationalisation thus not only perpetuates its discriminatory past, but also stratifies citizenship by creating a class of citizens whose citizenship can never be fully secure. Because the prohibition of statelessness limits denationalisation to dual nationals, its is virtually always applied to naturalised citizens as individuals who still bear the taint of their immigration.

Catherine Dauvergne’s (2020) article grapples with the ways in which liberal human rights norms interact with immigration law as it regulates Muslim minorities in areas of national security and forced marriage. What is the impact of human rights arguments on immigration law in these deeply gendered and Islamophobic settings? Dauvergne employs the concepts of ‘unknowability’ and ‘unintelligibility’ as a lens through which to examine how Western law has responded to Islam. She conceives of terrorism as a challenge of knowability: as long as it is framed as unknowable, terrorism remains impervious to human rights arguments. Because ‘[i]mmigration law needs less precision than criminal law and thus unknowability flourishes here’ (2020, 2573–2574). This can be seen in the context of the indefinite detention of (always male) terrorist suspects, which, because it is based on secret evidence, has remained largely unchallenged by human rights law. While terrorism has been framed in terms of unknowability, Dauvergne understands forced marriage as a challenge of intelligibility. Whereas arranged marriage is considered unintelligible, and viewed through the lens of cultural relativism, forced marriage is rendered intelligible through human rights arguments that ‘assimilate it into a familiar framework’ (2020, 2580). The rendering of forced marriage as intelligible, however, comes at the cost of a nuanced engagement with gender and culture, and, ultimately, entrenches Western representations of Islam that (re)produce gender stereotypes and Islamophobia.

David Owen (2020) moves the normative discussions of inclusion and exclusion from the national to the global level. He employs a normative frame of structural injustice to

expose the role of border policy in maintaining global income inequality. He reminds us that, today, a historically unprecedented 80 percent of global income inequality can be attributed to interstate inequality alone. In other words, '[t]ransnational social stratification in terms of income is not primarily a function of "national class position" but of "state of residence"' (2020, 2587). The deeply racialized nature of global income inequality, itself the legacy of colonialism and imperialism, is maintained through migration controls that close off legal immigration pathways from the Global South to the Global North to all but a select few. In order to disrupt the social reproduction of racialized transnational patterns of exclusion, then, Owen calls for structural changes that pattern access to migration opportunities and equality of access more broadly on principles of global justice. Global justice, he argues, will always remain out of reach as long as migration governance remains anchored in unilateral border controls. To address social injustice requires the creation of a cooperative regime of global migration governance that corrects global inequalities in political power among states, and that provides fair access to migration opportunities by requiring states in the Global North to adopt migration policies that prioritise access for those who are most disadvantaged. In drawing our attention to racialized exclusion at the global level, Owen provides an important complement to those contributions that focus their critiques of exclusion and discrimination at the national and subnational level.

The contributions to this Special Issue also draw our attention to questions that have yet to attract sustained scholarly attention. Most of its articles – with the exception of Owen and Tichenor and Jacobson – focus their analyses on the nation state. While studies of the local politics of immigration and citizenship have recently gained a foothold in the literature (in particular in the United States and Canada), few analyses have examined the group-specific effects of subnational policies and local enforcement practices. Even fewer scholars have examined ways in which patterns of discrimination may both vary and intersect across vertical levels of jurisdiction. Are patterns of group bias found at the national level replicated or altered at subnational and supranational levels? A second line of inquiry absent from this issue is the study of the border and of migratory journeys—a focus which would require the use of 'mobile methodologies' to capture 'processes of en-route diversity making' (Hall 2017). What happens to patterns of discrimination and spaces of exclusion as migrants cross *multiple* national borders – each with their distinct control regime – on their way to their intended destination? How does the *enforcement* of exclusionary measures at the border produce biases that are not discernable by looking at immigration law alone? Finally, and perhaps most obviously, the analyses of this Special Issue are limited to the study of migration and citizenship in advanced democracies. Whilst this focus was intentional—after all, we have sought to challenge the notion that the immigration and citizenship regimes of 'liberal states' are relatively free of group bias—we realise that our insights will not fully carry beyond the Global North. Now that the much overdue study of migration and citizenship in the Global South has finally gathered steam, it is time for scholars of illiberal regimes and economically developing regions to examine patterns of discrimination and group bias in these understudied contexts, and to compare their findings to those evident in the Global North. It is our hope that, despite its limitations, this Special Issue will play a role in facilitating further empiricist and normative research into these and other questions of 'discrimination in migration and citizenship.'

Note

1. I am using these terms interchangeably.

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