BOOK REVIEW

STATELESSNESS, GOVERNANCE, AND THE PROBLEM OF CITIZENSHIP, EDITED BY TENDAYI BLOOM AND LINDSEY N KINGSTON (MANCHESTER UNIVERSITY PRESS 2021) 400 PAGES. PRICE £90.00. ISBN 9781526156419

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Bloom and Kingston's edited volume *Statelessness, Governance, and the Problem of Citizenship* opens with the striking remark: 'For too long, the study of "statelessness" has focused on technical legal issues'.[1]

Citizenship is commonly understood to operate as an 'international sorting system';[2] a system based on the nation-state as the 'sole legitimate organizing unit of global politics'.[3] It is the lack of citizenship — statelessness — that is usually considered to be the problem.[4] This is because it is understood to put at risk the rights, protection and emancipation that citizenship offers, or to deny them outright. Within the logic of the liberal state-based international legal order, statelessness is like a bug in the system, an anomaly; stateless persons are persons who have not been appropriately 'sorted'. Logically, then, the conferral of citizenship offers a remedy to this problem. Reflecting this state-centric logic, much important work on statelessness has focused on identifying, quantifying and ending legal statelessness, while in the meantime, seeking better treatment and protection of stateless persons.[5]

Statelessness, Governance, and the Problem of Citizenship challenges this orthodox understanding of statelessness as the problem and citizenship as the solution. It demands that we re-think these assumptions by redefining citizenship as the problem.

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1   Tendayi Bloom and Lindsey N Kingston, 'Introduction: Opening a Conversation about Statelessness, Governance, and the Problem of Citizenship' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 1.
2   ibid 2.
3   Mira L Siegelberg*, Statelessness: A Modern History* (Harvard University Press 2020) 6.
4   Pursuant to the *Convention Relating to the Status of Stateless Persons*, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960) art 1, statelessness occurs when a person 'is not considered as a national by any State under the operation of its law'.
5   See, for example, Lindsey N Kingston, 'Worthy of Rights: Statelessness as a Cause and Symptom of Marginalisation' in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 17; Bloom and Kingston (n 1) 2–3.

'It becomes clear that the underlying problem is not statelessness itself, but rather it is citizenship — including both the ways in which citizenship is governed and how it is used as a governance tool'.[6]

This builds on earlier calls for greater understanding of the 'subtle realities' underlying statelessness.[7] It includes understanding that the conferral of nationality will not necessarily resolve systemic issues of marginalisation and, therefore, that citizenship status ought to be decoupled from effective protection of an individual's rights.[8] We can also consider that the 'model of statehood which underpins many contemporary accounts of nationality and statelessness is still at odds with the reality in much of the world'.[9]

The legal approaches referred to in the opening of the book are not being rejected as wrong or always unhelpful. Rather, by flipping the question underlying the problem, this volume is offering something more exciting and complex. This volume challenges the reader, and perhaps international lawyers in particular, not only to broaden their viewpoint, but to reconceptualise critically the issue on which they are working; to recognise that 'technical legal approaches' risk blinkering practitioners and scholars from better understanding people's lived experiences, including the role of international law in producing those experiences. It also challenges the reader to interrogate other forms of relationship between people and states, or entities other than internationally recognised states. In this way, understanding statelessness as a negative — the lack of citizenship — becomes insufficient for conceptualising the web of noncitizenism in the world that Tendayi Bloom has previously described. In her earlier book, *Noncitizenism: Recognising Noncitizen Capabilities in a World of Citizens*, Bloom discussed how even those lacking citizenship have an important relationship with the state in question, even if this might be a relationship of vulnerability or impairment of rights and capabilities. Likewise, the state in question has a relationship with them.[10]

Reflecting this, and importantly, the volume necessarily understands statelessness not as an exceptional or temporary problem, like a waiting room where 'illegal' people are suspended from their ongoing lives, lives they will be able to get on with again as soon as they manage to obtain legal citizenship. Rather, statelessness can be a permanent, normalised, systemic situation of the international legal order, predicated upon the sorting of people into state nationalities, and therefore with the power to include and exclude. The liminal space between non-legal recognition and legal recognition — the 'not yet' — also has an 'in the meantime', a lived experience and historical and ongoing context to

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6   Bloom and Kingston (n 1) 1.
7   Kingston, 'Worthy of Rights' (n 5) 17.
8   ibid; Jo Shaw, *The People in Question: Citizens and Constitutions in Uncertain Times* (Bristol University Press 2020), 190: 'citizenship is always likely to disappoint those who invest in it the hopes that it will deliver equality and inclusion', cited in Natalie Baird, 'Constitutions, Citizenship and the Shadow of Statelessness' (2020) 2(2) *Statelessness & Citizenship Review* 377, 382; Katja Swider, 'Why End Statelessness?' in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 191.
9   Kelly Staples, 'Recognition, Nationality, and Statelessness: State-Based Challenges for UNHCR's Plan to End Statelessness' in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 174.
10   Tendayi Bloom, *Noncitizenism: Recognising Noncitizen Capabilities in a World of Citizens* (Routledge 2017). For a good summary of the book's arguments, see also Katherine Tonkiss' review of Bloom's book, Katherine Tonkiss, 'Noncitizenism: Recognising Noncitizen Capabilities in a World of Citizens by Tendayi Bloom' (2020) 8(1) *Migration Studies* 135.

which we must pay attention and seek to better understand. 'Solving' statelessness by ensuring citizenship does not help us address the underlying history and context that produced and maintained the statelessness, nor to better understand the problems faced by those affected.[11] Seen in lived context, there are much messier realities with which to grapple.

The novel and significant contribution of *Statelessness, Governance, and the Problem of Citizenship* is precisely its consideration of both the past, the ongoing 'meantime' and the future, post-conferral of citizenship. To do so, the volume reflects specifically upon citizenship's *governance* — how citizenship has been/is governed and how it has been/is used as a governance tool. We are forced to consider the function of citizenship and whether it does what it promises. Governance is described in this volume as 'the activity of institutions, policies, and norms that maintain order, stability, and well-functioning societies'.[12] Within the contributions, it is viewed broadly and on multiple levels — from the seemingly mundane day-to-day interactions with local administrative functionaries who process paperwork, to the state and citizenship-centric foundations of United Nations governance structures.[13]

Once we accept the call to shift our gaze from statelessness to citizenship and its governance, we see that as well as citizenship and legal identity documentation more broadly being emancipatory, their governance can also sort, order, control, threaten, relegate, ignore and punish. Citizenship might therefore be considered undesirable, unhelpful, insincere or insulting. It might degrade an individual's rights further or entrench discrimination and abuse. Seeking a broader view both temporally and phenomenologically becomes particularly important because part of the histories and discourses surrounding citizenship and statelessness are 'tied to larger logics of colonialism, decolonisation, security, and migration control'.[14]

In consideration of these ambitious questions, this volume offers 28 chapters, a poem and seven artworks from 42 contributors from around the world, including academics, practitioners and artists, several with experience of statelessness. Although there are many chapters, they are often relatively short and focused. Structurally, the volume is organised into three parts. Part I: 'Producing and Maintaining Statelessness' explores the problem of citizenship as an underlying cause of statelessness and considers how governance structures at various levels can facilitate statelessness. Part II: 'Living with the Problem of Citizenship' turns to lived experiences of statelessness and governance, from conception to birth, youth and old age, and of persons with different ways of life, such as so-called 'nomadic' populations. Documents that mark, prove or regulate these life moments, such as a birth certificate, become central objects. Part III: 'Governance', considers today's efforts to solve the problem of statelessness, reminding the reader once again of the importance of 'new directions' for the 'overlooked problem of citizenship'.[15] Contributions raise, for example, the

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11 Bloom and Kingston (n 1) 6.
12 ibid 4.
13 See Jamie Chai Yun Liew, 'Statelessness and the Administrative State: The Legal Prowess of the First-Line Bureaucrat in Malaysia' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 76; Tendayi Bloom, 'The Problem of Citizenship in Global Governance' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 19.
14 Bloom and Kingston (n 1) 2.
15 Bloom and Kingston (n 1) 6, 10.

potential risks of coercion or violence by the state when stateless members of the population are registered,[16] barriers to such registration in the first place,[17] and how the allocation of citizenship can create or maintain divisions,[18] or remain a legal fiction eliminating legal statelessness but creating other problems.[19] This Part also demonstrates the diversity of views and experiences amongst stateless persons. For example, Natalie Brinham's contribution discusses the perspective of some Rohingya activists against being labelled 'stateless' because it is seen to reconfirm the state's denial of their citizenship: 'We are not stateless! … Why are [international lawyers] calling us stateless?'[20] Other contributions in this Part explore different organisations' approaches to promoting the rights of stateless persons.[21]

In this review, I focus on three chapters that stood out to me as an international lawyer working in the areas of armed conflict and counterterrorism.

Lindsey N Kingston's chapter 'The Weaponisation of Citizenship: Punishment, Erasure, and Social Control'[22] discusses how states can use citizenship as a means of repression, exclusion, punishment or an erasure of other identities. The offer of citizenship can also be used as a reward for good deeds. Observing the shifts in how certain states view citizenship, from a legal right to a privilege that can be taken away, challenges the assumption that legal nationality always offers a form of protection. The point is that this shift regarding legal nationality chips away at citizenship's security and reliability, at the protection it offers, when it becomes something contingent on one's good or bad behaviour as determined by state interests. Citizenship becomes more fragile and forfeitable. Of note in Kingston's chapter is that the problem is not only denationalisation as a form of punishment or control — Kingston uses the examples of laws allowing citizenship-stripping of terrorism suspects, as punishments for the commission of domestic crimes, as well as mass denationalisations and discriminatory citizenship laws which have been relied upon throughout the 20th Century and still today. Rather, she points

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[16]   Heather Alexander, 'The Ethics of Quantifying Statelessness' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 238.

[17]   Edwin O Abuya, 'Registering Persons at Risk of Statelessness in Kenya: Solutions or Further Problems?' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 251.

[18]   Haqqi Bahram, 'Too Little Too Late? Naturalisation of Stateless Kurds and Transitional Justice in Syria' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 264.

[19]   Yoana Kuzmova, 'Statelessness Elimination through Legal Fiction: The United Arab Emirates' Comorian Minority' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 276.

[20]   Natalie Brinham, '"We Are Not Stateless! You Can Call Us What You Like, But We Are Citizens of Myanmar!": Rohingya Resistance and the Stateless Label' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 342.

[21]   See, for example, Melissa Schnyder, 'Civil Society Advocacy to Address Statelessness: Using Norms to Promote Progress on the Global Action Plan to End Statelessness' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 306; Ekaterina E, 'United Stateless in the United States: Reflections from an Activist' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 356.

[22]   Lindsey N Kingston, 'The Weaponisation of Citizenship: Punishment, Erasure, and Social Control' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 99.

out that the *conferral* of citizenship can likewise contribute to problematic social control and erasure. Kingston gives the example of citizenship in a colonised state that effectively forces Indigenous peoples to operate within a system within which their own identity, status and sovereignty may not fit.[23] Historically, citizenship has also been imposed on certain foreign populations to consolidate colonialism and aid governance.[24] In another chapter, Haqqi Bahram similarly explains, regarding the conferral of nationality to certain Syrian Kurds, that 'once a person is able to change legal status from stateless to national, a long-lasting legacy of statelessness unfolds'.[25] Overall, as Kingston argues, these observations mean that careful attention must be given to any assumption that '[posits] legal nationality alone as a solution to the rights abuses associated with statelessness'.[26]

In their chapter, 'Legal Identity and Rebel Governance',[27] Katherine Fortin, Bart Klem and Marika Sosnowski provide an interdisciplinary 'comparative perspective on lived consequence of contested sovereignty'. This chapter complicates looking at citizenship/legal identity and governance in an important way: it acknowledges armed rebel groups challenging the state as actors with a potentially significant role regarding legal identity in practice. Armed conflict can create great challenges or even impossibilities for affected populations to access civil status documentation.[28] This chapter explores how certain insurgent groups, usually when they are in de facto control of some territory and parts of a population, *do* in fact issue documentation concerning life events such as births, marriages and educational achievements and confer legal identity documents of certain kinds. As the authors explain, these assertions of governance can exist alongside those of the state in question. The comparative aspect of the chapter is a consideration of the key similarities and differences in how insurgent groups instil legal identity compared to states. This, the authors base around a typology of three broad factors affecting the conferral or not of legal identity or related documentation to populations living under a non-state group's de facto control. These factors are the nature of the insurgency (eg does the group have sovereign ambitions? To what extent is it trying to establish or 'mimic' state structures and geographic control?), the nature of the state against which they are fighting (eg to what extent is state bureaucracy well-instituted, or weak and intermittent, within the society?) and the temporal stage or trajectory of the conflict (eg this includes thinking about the consequences for the holders of rebel-conferred legal identity documents once an insurgency ends). The chapter then reflects upon how legal identity in relation to rebel governance can be conceptualised, once again setting out three strands of fruitful future thought: rebel governance and de facto sovereignty, state performance and mimicry, and legal scholarship in relation to non-state armed groups. For me, given also that the authors explain that 'there is

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23   Kingston, 'The Weaponisation of Citizenship' (n 23) 101. See also Tendayi Bloom, 'Members of Colonised Groups, Statelessness and the Right to Have Rights' in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 153.

24   ibid 102.

25   Bahram (n 19) 266.

26   Kingston, 'The Weaponisation of Citizenship' (n 23) 107.

27   Katherine Fortin, Bart Klem and Marika Sosnowski, 'Legal Identify and Rebel Governance: A Comparative Perspective on Lived Consequence of Contested Sovereignty' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 125.

28   Katharine Fortin, 'To Be or Not to Be?: Legal Identity in Crisis in Non-International Armed Conflicts' (2021) 43(1) *Human Rights Quarterly* 29.

hardly any social and political science scholarship focusing explicitly on this phenomenon',[29] what becomes key is continued engagement between academics, humanitarian and other practitioners working on such issues in areas of armed conflict or contested sovereignty where there *is* significant knowledge and experience (as the authors do as part of their wider project, which seeks to document people's lives and the 'lives' of documents to see how they are affected by rebel governance[30]) as well as, of course, with affected people to the extent possible, and probably also between international lawyers and political scientists. Overall, given that such divided and parallel governance structures are part of many people's lived experiences, this chapter makes the practical point that rather than simply rejecting such conferrals of legal identity as improper/illegal or unrecognised, states, global elites and civil society need to better understand the messy realities of governance, legal identity and also statelessness that can be produced and which have to be relied upon in various ways during armed conflict.

Finally, Natalia Kasianenko's 'Statelessness and Governance in the Absence of Recognition: The Case of the "Donetsk People's Republic"'[31] provides a contextual example of the issues discussed in the two above-mentioned chapters linked to the political power and social control inherent in citizenship governance, and the multiple levels of legality and recognition involved when sovereign governance is contested. Kasianenko highlights tools of governance relied upon as a strategy for strengthening internal legitimacy in the self-proclaimed Donetsk People's Republic in the Donbas region of Ukraine. Residents of Donbas have been able to obtain passports from the Donetsk and Luhansk People's Republics, although these passports are not recognised internationally. This chapter explores how the situation can translate into one akin to statelessness, for example, in relation to people who cannot easily renew their Ukrainian passport, or for children born in the Donetsk or Luhansk People's Republics since the beginning of the conflict. Ukraine, in turn, has had to work out how to formally recognise birth and death certificates issued in the Donbas region. This chapter illustrates how citizenship governance can become another form of 'lawfare' in armed conflict and its aftermath.

Stepping back to view the volume as a whole, one of its strengths is precisely the global range of different authors, backgrounds, perspectives and lived experiences that it brings together. The broad range of topics means that the book can appear at first glance somewhat unfocused or unruly. The topics range from cultural statelessness linked to the effects of climate change in Pacific states, to transnational surrogacy, sex and gender norms in birth certificates, and armed conflict. I see this 'unruliness', however, as the editors seeking to demonstrate in practice the approach for which the book is arguing. I see it as courageously starting the necessary and somewhat messy work of exploring the governance of citizenship through the complexities of sociolegal context, paying attention to histories, lived experience and differing perspectives.

As an international lawyer, I take away from this volume that although lawyers might understand statelessness primarily as an issue of legal and political

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[29]   Fortin, Klem and Sosnowski (n 35) 130.
[30]   ibid 134 n 1.
[31]   Natalia Kasianenko, 'Statelessness and Governance in the Absence of Recognition: The Case of the 'Donetsk People's Republic' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 112.

exclusion of the stateless — and certainly the issue of statelessness has enjoyed significant advocacy because of efforts made to bring it into the international human rights regime[32] — readers are encouraged to look beyond the law and beyond legal documents, beyond which authority is recognised as a state and which is not, to investigate a context as it really is and as it is experienced by those affected. At the same time, the law remains a vital foundation, underlying everything. Indeed, throughout the contributions in this volume, the authors continually return to law as a vital part of understanding and addressing statelessness. And that is the point. The important critique is not only that a strictly legal approach might not deliver on its promises, but that it is an inherent element or mode of the governance of citizenship, one with real effect and consequence over and above form and legality. Rather than statelessness being (only) an error or bug in the international legal system meaning that the international legal system needs improvement or tweaking, we can see how the international state-based legal order, and international law, have (also) worked to produce statelessness ie that the exclusion of people from the system is structural.[33] The point is that to seek critical distance from the international legal order, we cannot reject or refuse to deal with it. Rather, we need to pay close attention to its histories, operation and effect in context. That can help us to disrupt orthodox thinking, to stretch out beyond the binaries of legal or illegal, citizen or non-citizen, states and non-state actors. We can also see statelessness in a different temporal light. Rather than simply being 'a human rights issue that landed on the doorstep of international law requiring legal remedy',[34] we could start to see that statelessness has been 'produced in the collisions between empire, sovereignty, self-determination and internationalism';[35] that statelessness is a symptom of historic discrimination within the practices of governance of citizenship and migration.

Future legal responses inspired by the contributions within this book therefore need to grapple with that real, messy and subtle reality. This book makes clear that those future efforts need to rely on the multiple perspectives and voices of people affected by statelessness. Those future efforts need to be interdisciplinary, intersectional,[36] and seeking comprehension of context not only in legal terms, but historically, socially, emotionally and politically, local, transnational and international. In this sense, the individual chapters will be fascinating and useful for students, scholars and practitioners to dip into. Most importantly, seen as a whole, the volume can be commended for starting the hard work of inserting tiny fragments of coloured glass, worn smooth by the sea of lived experiences, into what will eventually become a far larger mosaic helping us to understand and think differently about the complexities of the governance of citizenship — including the role of law — in relation to the question of statelessness.

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32 See Kingston, 'Conceptualizing Statelessness as a Human Rights Challenge: Framing, Visual Representation, and (Partial) Issue Emergence' (2019) 11 *Journal of Human Rights Practice* 52, 68; Michelle Foster and Hélène Lambert, 'Statelessness as a Human Rights Issue: A Concept Whose Time Has Come' (2016) 28(4) *International Journal of Refugee Law* 564.

33 Phillip Cole, 'Insider Theory and the Construction of Statelessness' in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 255.

34 Natalie Brinham, 'Statelessness: A Modern History by Mira L Siegelberg (Harvard University Press)' (2021) 3(1) *Statelessness & Citizenship Review* 163.

35 ibid.

36 Deirdre Brennan, Nina Murray and Allison J Petrozziello, 'Asking the "Other Questions": Applying Intersectionality to Understand Statelessness in Europe' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 222, 230–31.