

CHAPTER 15

STATUS NON-CITIZENS

LINDA BOSNIAK

Introduction: Citizenship's Forms and Norms	314
Many Non-Citizenships	316
The Enclosure Concept	320
What Is Status Non-Citizenship?	323
Elemental Features: Territoriality and (In)Security	326
Political Voice and Non-Citizens: Ambiguities	328
Non-Citizenship and the Right to Have Rights	330
Conclusion: Non-Citizens in Liberal Democratic Citizenship Regimes	333

INTRODUCTION: CITIZENSHIP'S FORMS AND NORMS

THIS chapter focuses on the condition of persons inhabiting liberal democratic political communities in which they lack the legal status of citizenship. Notwithstanding the great variations among categories and across states, it is possible to distill a profile of the rights and liabilities of status non-citizens in broad terms. This chapter offers one such profile. To frame the discussion, however, it begins by considering what status non-citizenship consists in analytically, and how this status relates to other forms and understandings of 'not being a citizen.'

The place to start in any discussion of status non-citizenship is with the international regime of bordered states. The category of status non-citizen is both product and precondition of the operation of these borders. Access to citizenship status in any given state is always to some degree restricted. Yet the state borders grounding that status are not impermeable—neither in policy terms nor in fact. Contra Rawls' famous 'closed society' thought experiment, actual states are not sealed and self-contained entities into which 'all are born' and 'no one enters from without.'¹ Instead, it is precisely because borders are neither permanently fixed nor impermeable and because the polity is therefore not a 'complete and closed system' that millions of people do, in fact, reside within the territories of national states in a variety of status situations short of citizenship, with or without those states' explicit consent. These people are, in a word, a state's status non-citizens.

At issue in this chapter is their condition and standing within liberal-democratic states. These states hold themselves out to be membership communities within which the rights of 'everyone' are to be protected and represented. Put another way, liberal states purport to adhere to norms of internal universality. Even though the scope of this universality has always been contested and the actual degree of its fulfillment incomplete, universality is the official ethos. What is more, political actors and analysts often express these universalist norms in the language of 'citizenship,' through use of such aspirational terms as 'equal citizenship,' 'democratic citizenship,' 'constitutional citizenship,' 'cultural citizenship,' and so forth.

What, then, of the condition and treatment of status non-citizens? To be among those deemed entitled to enjoy or demand equal citizenship or democratic citizenship in this universalistic sense, must a person possess the legal status of citizenship? The answer is ambiguous. At some moments and in some settings, universalist norms of citizenship are understood to extend only to those persons who possess status citizenship in the state in question. From this perspective, substantive citizenship is for status citizens only. Yet in most liberal states, this status condition for inclusion is not always observed. Instead, from liberalism's inception and ever increasingly, some inclusionary norms have been treated as territorially based and grounded, thereby extending to 'everyone' or to 'all persons within the jurisdiction,'² formal legal status notwithstanding. From this vantage point, the treatment of some territorially present persons as non-members or less-than-full members is unjust precisely *in light of* substantive citizenship's universalist aspirations.³

Even when this is the case, however, territorially present status non-citizens remain outsiders in respect to the state's constitutive border regime. Although geographically

¹ John Rawls, 'Kantian Constructivism in Moral Theory,' in John Rawls, *Collected Papers*, edited by S. Freeman (Cambridge: Harvard University Press, 1999), pp. 303–358; John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971).

² United States Constitution, Amendment XIV.

³ See, e.g., Linda Bosniak, *The Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton: Princeton University Press, 2006) (especially chapter 4).

present, they are defined at least to some degree as strangers, and as such, are subject to attendant legal consequences, including, most significantly, vulnerability to expulsion from the territory. State border imperatives, that is, often defeat the general individual rights non-citizens otherwise enjoy, and in practical terms, function often to trump them.

The condition of status non-citizens in liberal states, therefore, is constituted by distinct and internally complex normative orders governing edges and interior—*thresholds to membership*, and *dynamics of membership*, simultaneously. Non-citizens stand at the intersection of these regimes. Sometimes, this overlapping governance system works relatively smoothly. At other times, the relationship between the border and other internal jurisdictions becomes conflicted and confused.⁴

As we map these ambiguities, one puzzle that arises is the insistent presence of the concept of ‘citizenship’ in the conversation. This puzzle has at least two aspects, one analytical and one normative. First, how do we make sense of the fact that the term *citizenship* is used descriptively to reference both the constitutive edges and the internal dynamics of community membership? Second, how are we to understand the fact that the citizenship concept is widely deployed in normative terms to convey both closure/exclusivity and belonging/inclusion?

One account—the dominant one in citizenship studies and in liberal political and social theory generally—answers these questions by conceptualizing citizenship as a kind of packaged enclosure. It treats citizenship’s dual facets as complementary parts of a citizenship whole. In this conception, citizenship designates membership in a political community; and membership, in turn, possesses both externally constitutive and internally substantive dimensions. Each of these dimensions embodies a distinct normative ethos: boundedness governs at the edges and inclusiveness within. On this account, citizenship is, more or less, ‘hard on the outside and soft on the inside.’⁵

Familiar though this framing of citizenship is one might want to ask whether it actually satisfies analytically or empirically. Is citizenship, in fact, a single though segmented legal and political phenomenon? Or might it be more accurate to regard usages of the term as invoking analytically distinct and sometimes conflicting discourses?⁶

MANY NON-CITIZENSHIPS

Generally speaking, to understand the meaning of a concept, it is instructive to try to specify its converse—what it is not, or what we understand it not to be. Since the concept of citizenship conventionally signifies diverse modes of social

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

being and status, the ‘*non-ness*’ of non-citizenship likewise reflects this diversity. To characterize someone as a non-citizen can mean a variety of things.

Let’s begin by applying an internal gaze, one through which we survey the nature of social and political relations within the polity in which we find ourselves. From this vantage, non-citizenships or sub-citizenships may take different forms.

We might, first of all, be talking about a deficit in rights. Where we—in contemporary liberal societies—understand the citizen to be one who theoretically enjoys full equality of rights and standing in a particular polity (approximating the *citoyen* in classical political theory), the *non-citizen* is a lesser-grade member or non-member—whether subject or peon, or outlaw or slave. We might, alternatively, be addressing the question of deficits in or obstacles to democratic engagement. Where we—via a longstanding inheritance from the Greeks—regard the citizen as one who is actively engaged as a participant in the project of democratic self-rule (*politeuma*⁷), the *non-citizen* is the ‘free-rider,’ the passive or apathetic consumer, the oikos-confined laboring body. We might, finally, be referencing failures of mutual recognition and identification in civic terms. Where we—by way of social transformations that have come to emphasize intersubjective aspects of community⁸—understand the citizen as someone who is recognized and self-recognizes as a constituent of a particular societal community, then the *non-citizen* will be, variously, the unassimilating other(s), the felon, the deviant, the traitor, the terrorist.

Notice that despite their substantive variations, the different non-citizenships described here all plainly evoke negative associations, including deficiency, incongruity, danger, exclusion, abjectness, or suffering. Why? The answer begins with the unfailingly favorable normative valence attending citizenship in each of these modes. When ‘citizenship’ is a term used to characterize rights or participation or recognition, it not merely describes states of affairs but expresses their value. Its appraisive meaning is consummately positive. The *absence* of citizenship, therefore, would seem to entail the normative converse, such that to describe someone as a *non-citizen* or a *sub-citizen* is to describe them as experiencing an adverse condition.

But acknowledging this evaluative binary only deepens the question. *Why* is citizenship—as equality of rights, as democratic participation, and/or as mutual recognition—deemed so valuable that its absence or denial or incompleteness is regarded in detrimental terms? Part of the answer is that these three conceptions of citizenship are, in contemporary liberal democratic societies, decisively

⁷ Adriel M. Trott, *Aristotle on the Nature of Community* (Cambridge: Cambridge University Press, 2014), p. 163. See also Balot in this volume.

⁸ See, e.g., Charles Taylor, *Sources of the Self: The Making of the Modern Identity* (Cambridge: Harvard University Press, 1989).

associated with an ethos of internal universality.⁹ Citizenship is meant to extend to ‘everybody’ in a society, at least in nominal or aspirational terms. This is the ‘ideal of universal citizenship’ to which, in many domains and in much public discourse, we have become accustomed.¹⁰ However short of that ideal a given society falls in practice—however much actual inequality of rights, underrepresentation of persons, alienation and non-recognition of individuals or groups may characterize it at a particular moment—these notions of citizenship are discursively meant to convey a commitment to the inclusion of all persons in and of the society at issue.

Therefore, if someone in the society is treated as a *non-citizen* or *sub-citizen* in one of these modes, something has arguably gone wrong.¹¹ Often the claim is that the polity failed to fulfill its avowed promise of universal inclusion. The fact that some persons are treated as non-citizens or lesser citizens in some settings bespeaks a failure of the state to make good on its political and social commitments.¹² This nonfulfillment, in turn, provides the basis for political protest, critique, and resistance by those maintaining that their exclusion from citizenship, in one or all of these aspects, is an *injustice*. Such claims of injustice may take different forms: they may be claims about formal exclusion of some classes of beings from recognition as citizens (e.g., currently, nonhuman animals¹³) or, more commonly, claims about social or political conditions that result in de facto denial to some populations of meaningful or effective citizenship (e.g., voter ID and felon disenfranchisement laws in the United States; endemic structural poverty; religious attire laws).¹⁴ Either way, the complaint is that the liberal state has fallen short of its acknowledged responsibilities to ensure citizenship’s universal reach.

The state, in turn, will usually dispute the claim, but *not* by negating the salience and bindingness of the universality norm. Instead, it will profess adherence to the norm, but will either deny that the scope of citizenship’s inclusionary ethos extends as far as challengers claim *or* will assert that the treatment of someone as a non-citizen or sub-citizen represents a justifiable exception to the universality

⁹ The scope of this posited universality is hardly fixed. ‘Universality for whom?’ has always been subject to contestation.

¹⁰ Iris Marion Young, ‘Polity and Group Difference: A Critique of the Ideal of Universal Citizenship,’ *Ethics* 99, no. 2 (January, 1989): pp. 250–274.

¹¹ Elizabeth Cohen has argued that citizenship in its internal mode is more accurately described as a ‘gradient’ than ‘binary’ category in that a variety of statuses ‘exist between full and non-citizenship.’ (Elizabeth Cohen, *Semi-Citizenship in Democratic Politics* (Cambridge: Cambridge University Press, 2009), pp. 4–5). For my purposes, I distinguish between full citizenship and everything short of this, but I recognize that in many settings gradients of citizenship matter significantly.

¹² Sometimes, the failure is attributed by certain social sectors and/or the state to particular groups in society. A recent example is claims by some that Muslim immigrants in Western states fail to sufficiently address terrorist extremism in their own communities.

¹³ See Donaldson and Kymlicka in this volume.

¹⁴ See, e.g., Volpp in this volume.

norm, as in cases of national security, terrorism, treason, or criminality.¹⁵ The very idea of an *exception* presupposes the otherwise authoritative force of the norm from which it deviates.

In short, when speaking of citizenship in its rights, participation, and recognition modes, the attendant ethos is nominally universalist, and the treatment of persons as non-citizens generally entails a presumptive wrong—whether or not such wrong is eventually deemed justified.

But once again, these modes together constitute only part of citizenship's semantic domain. Many chapters in this volume foreground a fourth, and distinct, understanding of citizenship—one denoting a particular formal membership status in a national polity or state. Its correlative *non-citizen*, it follows, is one who lacks such status.

I will characterize in some detail in later sections the situation(s) of non-citizens produced through this understanding of citizenship. But to set the stage, I must highlight some preliminary points, beginning with the following core observation: For status-based citizenship, the normative commitment to universality does not hold. In fact, citizenship's normative underpinnings here are precisely the converse of the universalist ethos attending citizenship in its other senses. In its legal status mode, citizenship both *presupposes* exclusion of some persons by others and *produces* exclusion via legal status boundaries drawn and defended between groups of persons of different states. Possession of status citizenship in a given state is understood to be properly and justifiably restricted to the state's members, and to rightfully distinguish members from those persons designated as the state's outsiders. Exclusion here, in short, is understood to be not wrong at all, at least not in principle.

Another way of putting this is to say that the 'ideal of universal citizenship' is inapplicable in citizenship's status mode. *Not* everyone must be recognized as a status citizen by and in a given state as a matter of justice. Indeed the vast majority of persons in the world will not be citizens of that particular state, and those excluded will be prevented from joining it as citizens in all but limited circumstances. In this setting, the boundaries that divide the some from the rest are deemed constitutive of, and foundational for, the institution itself. In short, our overwhelming common-sense understanding of status citizenship is that it is a rightfully and necessarily bounded legal condition. For this reason, status non-citizenship is, in principle, a non-wrong.

But why is this the case? How do we explain the inversion here of the universalist ethos attending citizenship in its other modes?

One initial response might dispute the premise and contend that liberal thought does, indeed, contemplate a universalist ethos for status citizenship—one expressed in the aspirational precept that all persons on earth should

¹⁵ See Gibney in this volume; Costello in this volume.

be ensured of possessing one.¹⁶ This is an anti-statelessness stance that appeals to a norm of universality at the global level. But it is distinct from requiring a person to be granted citizenship status in this or that particular polity. Consequently, and, in contrast to citizenship as rights, participation, and recognition for which anything less than extension to all within the state is deemed presumptively unjust, citizenship-as-status *in that same state* is understood to be permissibly and justifiably bounded.

Furthermore, and decisively for the discussion here, status citizenship is bounded not only with respect to persons located outside the state's territory but also with respect to a great number of people present or residing within that territory. Many millions of people inhabit the territories of states of which they are not citizens.¹⁷ To them, as well, assignment of the lesser status of non-citizen or alien is regarded as perfectly acceptable in principle, at least for some period.¹⁸ Again, the question is: why?

THE ENCLOSURE CONCEPT

Here is the crux of the answer. In conventional liberal democratic thought, the boundaries of status citizenship are taken to be a necessary condition for the constitution and maintenance of the political community *within which* the pursuit of citizenship's otherwise aspirational universalism is to be pursued. In brief: (1) the institution of status citizenship is presumed to establish the political and social worlds or entities within which people conduct their core political lives, and (2) it is only within such bounded worlds that citizenship's nominally inclusionary aspects can even be pursued and possibly realized.

These tenets presume both a political ontology and an ethics of enclosure. On this conception, a basically exclusionary frame surrounds an interior nation-state-world

¹⁶ See UN, Universal Declaration of Human Rights, 1948, Article 15: 'everyone has the right to a nationality.'

¹⁷ The term 'inhabit' is useful here, as it may denote either 'to dwell or reside,' or 'to be present' (Merriam Webster, <http://www.merriam-webster.com/dictionary/inhabit>.) The denial of access to citizenship through naturalization for long-term lawfully present residents has been widely criticized, however, as violating liberal and democratic norms. See Michael Walzer, *Sphere of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), chapter 3; Joseph H. Carens, *The Ethics of Immigration* (Oxford: Oxford University Press 2013).

¹⁸ This is prevailingly true, though not always in particular cases or with respect to particular categories. Some states face criticism for failing to extend *jus soli* citizenship to children born in territory.

within which liberal democratic politics takes place.¹⁹ This enclosure model of citizenship²⁰ continues to undergird the great share of contemporary legal and political theory, even today. Most often, these tenets operate subliminally, serving as the unstated theoretical baseline. Many political and social theorists—even those of progressive or critical inclination—still start by assuming the functional existence of, and practical need for, exclusionary state borders, and proceed directly to consideration of some set of political or social relations occurring within—or sometimes across—already constituted and bounded polities populated with pre-designated members.²¹ This statist framing largely functions as *doxa*²² with anterior or concurrent questions about the constitution and maintenance of the state's borders and its membership bypassed.²³

As ever, the result is an unreflective methodological nationalism, which both distorts analytically and works to naturalize, and thereby normativize, state borders. Rawls' strategy in *Theory of Justice* of analytically bracketing borders—a strategy subsequently taken up by many strands of political and legal philosophy—produces the same naturalizing effect: where the fundamental justice conversation is posited to occur among a closed and pre-given group of status citizens—where discussion of the hows and whys of the political community's constitution and boundaries are not only ignored but analytically foreclosed—this bracketing arguably functions as a pronouncement that borders—usually actually existing borders—are indispensable for contemporary political life and for pursuit of justice therein.

Certainly, some critical and liberal theorists have criticized this methodological endogenism and have insisted that questions of immigration and territoriality

¹⁹ For one characterization of the concept of political ontology, see Charles Tilly and Robert Goodin, 'It Depends,' in Robert E. Goodin and Charles Tilly, eds., *The Oxford Handbook of Contextual Political Analysis* (Oxford: Oxford University Press, 2006), pp. 3–32 ('ontological choices concern the sorts of social entities whose consistent existence analysts can reasonably assume' p. 10).

²⁰ Bosniak (n 3).

²¹ For a notable recent example of ethical/ontological statism in progressive liberal thought in which the concept of 'citizenship' figures centrally, see Elizabeth Anderson, *The Imperative of Integration* (Princeton: Princeton University Press, 2010), pp. 183–184 ('The idea of integration ... requires the construction of a superordinate group identity, a "we," from the perspective of which cooperative goals are framed ... In a democratic society, this 'we' is most importantly a shared identity as citizens.'). Some critical theorists have highlighted both the hold and limitations of statism in political and social thought. See, e.g., Nancy Fraser, 'Reframing Justice in a Globalizing World,' *New Left Review* 36 (November–December 2005): pp. 69–88.

²² Pierre Bourdieu, *Outline of a Theory of Practice*, translated by Richard Nice (Cambridge: Cambridge University Press, 1977) [1972]; Zygmunt Bauman, *Liquid Modernity* (Cambridge: Polity Press, 2000), p. 30 (*doxa* is the 'unexamined frame for all further cognition.').

²³ Perhaps this disregard represents a version of what Charles Mills has called an 'epistemology of ignorance' or of erasure—in this case, ignorance or erasure as to exclusionary state borders and the way these borders frame and delimit the liberal democratic project. See Charles W. Mills, 'White Ignorance,' in Sharon Sullivan and Nancy Tuana, eds., *Race and Epistemologies of Ignorance* (Albany: SUNY Press, 2007).

cannot be purposefully ‘ignored’ or made to ‘disappear’²⁴ in political theory. Yet even among those theorists who *do* attend to such questions, most go on to conclude that status citizenship and the exclusionary borders it capacitates are normatively defensible because they serve as an enabling framework for liberal democratic projects within—and are, perhaps, desirable for more affirmative reasons of identity and solidarity as well.²⁵

Of course, some commentators have criticized the exclusionary effects of state borders: Ethical cosmopolitans have long contended that national borders should be subject to some of the same kinds of egalitarian and democratic critiques that have been applied to various forms of social and political exclusion within the national society.²⁶ More recently, various streams of No-Borders activists and academics have challenged the legitimacy of status citizenship’s exclusionary boundaries, and in some cases, the justice of the institution of national citizenship altogether.²⁷ Compelling though these modes of critique may be, they so far remain distinctly subordinate discourses.²⁸ Our dominant common sense continues to regard the status of citizenship as properly rationed by states and, moreover, as legitimately employed by them as an ‘instrument of social closure’ in the national space (Brubaker, 1998).

And now we are in view of this chapter’s main target. The fact that citizenship operates as an instrument of social closure means it functions not only as a barrier

²⁴ David Miller, *Strangers in Our Midst* (Cambridge: Harvard University Press, 2016), p. 14; Carens (n 17), p. 298, respectively.

²⁵ See, e.g., Christopher Heath Wellman, ‘Immigration and Freedom of Association,’ *Ethics* 119, no. 1 (October 2008): pp. 109–141; Miller (n 24); Michael Blake, ‘Immigration, Jurisdiction and Exclusion,’ *Philosophy and Public Affairs* 41, no. 2 (2013): pp. 103–130; Ryan Pevnick, *Immigration and Constraints of Justice* (Cambridge: Cambridge University Press, 2011). Joseph Carens is an ambiguous case: his early and continued articulation of a cosmopolitan, open borders project is counterposed with a feasilist, statist frame in his recent book. For discussion of his attempted straddling of positions, see Linda Bosniak, ‘Book Review: Joseph H. Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2013),’ *Ethics* 125, no. 2 (2015): pp. 571–576.

²⁶ Among cosmopolitan scholars of various stripes, see Chandran Kukathas, ‘The Case for Open Immigration,’ in Andrew I. Cohen and Christopher Heath Wellman, eds., *Contemporary Debates in Applied Ethics* (Malden, Oxford: Blackwell Publishing, 2005), pp. 207–220; Arash Abizadeh, ‘Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders,’ *Political Theory* 36, no. 1 (2008): pp. 37–65. Liberal cosmopolitan activists include promoters of the ‘World Passport.’ Critiques of state exclusionary policies are often brought in the name of ‘universal citizenship.’

²⁷ Scholars include Bridget Anderson, *Us and Them? The Dangerous Politics of Immigration Controls* (Oxford: Oxford University Press, 2013); Phil Cole, ‘Beyond Borders: Towards a Right to International Movement,’ *The Critique*, 6 January 2016, online <http://www.thecritique.com/articles/beyond-borders-towards-a-right-to-international-movement-2/>. Organizations include: No One Is Illegal; Beyond Borders Networks; #NotOneMoreDeportation.

²⁸ David Miller maintains that most liberal political philosophers who address the immigration question challenge the legitimacy of national borders. My reading of the field is different.

vis-à-vis territorial outsiders but also as a mechanism that marginalizes persons residing *within* a democratic state as ‘its’ non-citizens. It is to the features and experience of this latter group—persons who inhabit a liberal democratic state of which they are not status citizens—that the chapter now turns.

WHAT IS STATUS NON-CITIZENSHIP?

Citizenship status represents formal membership in a given state. Citizenship laws are defined and regulated by each state, but are enforced in interaction with the citizenship status laws of other states. The result is a complex legal architecture of citizenship law at the global level, one which is generally recognized and defended by international law.²⁹ Citizenship-as-legal-status is frequently expressed in the language of nationality, with citizens of a state referred to as its nationals. At times, the interchangeability of terms is seamless because citizenship in this mode usually references membership status in the political community of the nation-state. However, citizenship status sometimes takes supra- and sub-national forms as well, extending it beyond the nationality concept in some settings.³⁰

In many languages, the status citizen’s antipode is the stranger, the foreign national, the alien³¹ (estranjero/étranger/Ausländer/gaijin). What is conveyed by these terms is an otherness in relation to the polity and its members—an otherness produced by law which specifically denotes coming from—and perhaps properly belonging—without. The status citizen’s ‘other’ is, in some defining respect, an outsider in relation to the community—whether or not she is geographically inside.

Importantly, though, the community’s response to individual non-citizens or groups thereof present within the state is by no means always negative. The notions of ‘guests,’ ‘visitors,’ ‘exchange students,’ or ‘permanent residents’ can certainly sound favorable or innocuous, and people so designated will often find themselves welcomed by the destination state. This stands in contrast to states’ responses to groups designated as ‘illegal immigrants,’ ‘criminal aliens,’ and so on.

²⁹ Peter J. Spiro, ‘A New International Law of Citizenship,’ *American Journal of International Law* 105, no. 4 (2011): pp. 694–746.

³⁰ See Bauböck in this volume; Maas in this volume.

³¹ The term ‘alien’ is used to designate a person lacking status citizenship in the laws of the United States, the UK, and Australia, among others.

Moreover, non-citizenship is by no means a monolithic status. Persons in different non-citizenship status categories—usually, persons occupying different immigration statuses—have dramatically divergent experiences. Some non-citizens, whatever their particular legal status, intend their stay to be brief and casual, while others seek to remain, or in fact, find themselves remaining, longer term. Having limited rights and recognition in the destination state is likely to bear less significantly on those passing through than on those who have relocated more permanently or wish to do so.

Finally, substantial variations exist among non-citizenship groups regarding the extent to which the status is fixed, and in particular, regarding the conditions prevailing for promotion to citizenship status within the state. Rules governing transition by non-citizens to citizenship status via naturalization vary greatly among polities.³² In most cases, only an extremely limited and privileged group of non-citizens has the opportunity to accede to that state's citizenship or nationality (though not all those eligible will choose to do so, for any number of reasons).³³

Still, despite these many divergences, all status non-citizens—so long as they are non-citizens—remain foreigners or aliens within the framework of the state's citizenship laws.³⁴ They thereby represent, in status form, an internalized part of the national community's outside. True, legal basis of this outsidersness can vary. In a given case or class of cases, it may be grounded in geography—i.e., the individual came physically from without; s/he is not 'of the soil' or the state's territory; or it may turn on consanguinity—i.e., the individual was born in a state where territorial birthright citizenship is not recognized to parents designated as outsiders according to blood-based or descent-based rules of citizenship. Either way, though, the status foreigner is, at least in some formal respect, a being legally classified as distinct and separate from an already-constituted interior political 'we.'

That said, keep in mind that the vast majority of people designated as a state's non-citizens in this sense are not non-citizens everywhere. Today, most people are born as citizens of somewhere, sometimes of more than one place, by virtue of the transnationally overlapping rules of citizenship attribution via blood and soil (*jus sanguinis* and *jus soli*) together with post-birth citizenship attribution rules tolerating multiple citizenship. Only the stateless—estimated by the UNHCR to number approximately 10 million among the estimated 7 billion persons on earth³⁵—are non-citizens everywhere. In this respect, describing a person as a status non-citizen

³² See Vink in this volume.

³³ Additional bases for variation among experiences of non-citizens turn on variables shaping the experiences all persons present in the state such as race, ethnicity, gender, social class.

³⁴ On the other hand, some polities consider nationals of certain other states more as 'quasi-citizens' than foreigners, e.g. EU citizens residing in other Member States, Irish and Commonwealth citizens in the UK, Australian and NZ citizens in the respective other country.

³⁵ UNHCR, 'Ending Statelessness,' online <http://www.unhcr.org/en-us/>.

is, in most settings, a *relative* term; it is only in relation to a specific state's citizenship setting that that person is a non-citizen in the sense discussed here.

Note that the increasing pervasiveness of citizenship attribution at birth via *jus soli* rules means that a great many non-citizens now acquire non-citizenship status only after having physically crossed a border from their country of citizenship into another citizenship jurisdiction. However, some people become non-citizens without moving at all; non-citizenship occurs, that is, *in situ*. They may have been born as non-citizens in a place where they are not accorded automatic *jus soli* citizenship (though once again, they may well hold citizenship elsewhere, by descent). Alternatively, and significantly in some regions (e.g., the former Soviet Union), they may become non-citizens post-natally, after imposed loss of citizenship in cases when borders move following conflict, secession, or state/empire dissolution, or in cases of outright citizenship stripping. In short, though most non-citizens become such because of cross-border movement of either themselves or their parents, some become non-citizens by dint of geopolitical transformations around them.

Other chapters in this volume³⁶ address the complexities of status citizenship's attribution, acquisition, and loss, as well as the ensuing disjunctures between the geographic location, degree of legal protection, and citizenship status of persons produced via these intersecting regimes. Certain international trends—not only the expanding worldwide recognition of *jus soli* citizenship but also greater state toleration of multiple citizenships held by their members and increasing pursuit by individuals of the same—might mean that, on a net global basis, there are now fewer long-term international migrants residing as non-citizens in their states of inhabitation than in times past. Cutting in the converse direction, however, increasing cross-border mobilities of persons in various regular and irregular forms produce new categories of non-citizens in destination states. States vary greatly in their willingness to incorporate classes of resident (and non-resident) non-citizens into their national body of citizens, whether via naturalization or ancestral recognition. Some formerly incorporative states have become more restrictive in recent years.³⁷ All told, therefore, the incidence of non-citizenship status in each state must be understood to vary according to interacting legal, political, and demographic factors that operate at the individual state, international, and global levels simultaneously.

All of these variations notwithstanding, however, the point at present is that many persons across the globe inhabit bounded liberal political communities in which they lack the legal status of citizenship. And so we ask: What does occupying such a position entail?

Before beginning to answer, notice that consideration of this question inevitably brings us back into conversation with citizenship in its other senses. Because to inquire about the standing and experiences, the rights and disabilities, of

³⁶ See Gibney in this volume; Lori in this volume.

³⁷ See Joppke in this volume; Orgad in this volume; Vink in this volume.

status-non-citizens in a given state is, in part, to ask about their treatment under the state's norms pertaining to (what we now know is sometimes denominated) 'citizenship' in its rights, participation, and recognition senses.³⁸

Of course, bringing these citizenship conversations together may appear to lead us to seemingly gratuitous inquiries about the extent to which non-citizens can be said to enjoy or lack . . . citizenship. No doubt, contemplating the 'citizenship of non-citizens' may appear to be a paradoxical exercise; yet doing so is necessary in light of the prevailing 'enclosure' conception of citizenship discussed above. In this conception, the nationally bordered institutions comprising citizenship-as-status are presumed to represent the preconditional frame for pursuit of practices of liberal democratic citizenship within. Thus, we need to ask: what does the condition of status non-citizenship look like in an avowedly liberal democratic citizenship regime?

ELEMENTAL FEATURES: TERRITORIALITY AND (IN)SECURITY

To begin to identify specific characteristics of status non-citizenship, one might first want to try to designate some features—rights, capacities, duties—that exclusively attend status citizenship. After all, by definition, non-citizens will not possess them. Speaking in general terms, however, there are not so many of these. In international law, citizens have the right to territorial security in the state of their citizenship; they may not be expelled. And if they do exit, they have the right to re-enter those states. International law arguably constrains states in stripping citizenship from its holders (though in recent years, liberal states have implemented policies to forcibly expatriate their citizens on national security grounds).³⁹ When traveling abroad, their country of citizenship is bound to protect them in some way—though dual nationality may complicate the operation of this norm.⁴⁰

This strikingly short list enumerates the principal attributes dividing citizens from non-citizens en masse. Non-citizens are deemed to be subject to the state's

³⁸ For non-citizens located outside of that state's borders, the ideals of 'universal citizenship' would, *ex ante*, be inapplicable since citizenship's universality is ordinarily conceived in nationally bounded terms.

³⁹ Audrey Macklin, 'The Return of Banishment: Do the New Denationalisation Policies Weaken Citizenship?,' online <http://eudo-citizenship.eu/commentaries/citizenship-forum/1268-the-return-of-banishment-do-the-new-denationalisation-policies-weaken-citizenship>.

⁴⁰ See Spiro in this volume.

exclusion power and, in most circumstances,⁴¹ its expulsion power as well. They may be precluded from entering, whether initially or upon seeking return, and they may be removed when already present. Ordinarily, they cannot claim the diplomatic protection of a state of which they are not citizens when not within that state's territory.⁴²

Of these, it is territorial access and security that is the distinction of greatest practical importance. The consequences of non-citizens' conditionality of presence are manifold and significant. Whatever other rights and protections they possess in that state, these are held contingent on the state's non-exercise of its expulsion power. Possible deportability, and the fact that the non-citizen may be excluded from re-entry after departing the territory, will have a constraining effect on mobility.

Keep in mind that in a world of bordered polities, the fact that only status citizens possess the right to enter the territory of a particular state means that the pool of persons who constitute that state's non-citizens are persons who are *not* present by right.⁴³ Except in those cases in which aliens are born as such in the territory or are rendered foreigners by dint of secession or conflict (in either case, call them 'autochthonous aliens'), non-citizens come to the state from without. Either such persons have been permitted to enter the territory in some capacity or they are territorially present in some unauthorized status in spite of, and contra to, border constraints. Either way, and whether born there or having arrived post-natally, all non-citizens are subject to potential removal. It is the contingency and conditionality of their territorial presence that is thus integral to—and in fact, usually constitutive of—the legal status of alienage.

On the other hand, these rules about citizenship and territoriality don't always apply in practice, nor do they always apply literally. For example, some people find themselves territorially banished from states of which they are status citizens, whether via extradition, rendition, passport revocation, or even mistaken deportation.⁴⁴ Inversely, states sometimes find themselves unable to expel some territorially-present status non-citizens, whether for geo-political reasons (e.g., the

⁴¹ The principal exception to this otherwise extensive power is the norm of nonrefoulement. See Costello in this volume; Gibney in this volume.

⁴² This last feature is clearest in practice, and draws a relatively sharp divide between citizen and alien. If a person who is a non-citizen in state A is outside of state A, she cannot count on State A to specifically protect her against the action of other states or non-state actors. This may matter in only limited circumstances since (i) many non-citizens in relation to state A possess citizenship in state B, and that latter state is in theory responsible for their diplomatic protection, (ii) all states are required under international law to provide basic protections to all territorially present persons, so the state of presence maintains obligations to the non-citizen, and (iii) in cases where state A's citizen possesses another nationality, state A may not regard itself as diplomatically responsible for that citizen in any case.

⁴³ This is the general rule but there are particular exceptions as a matter of bilateral agreement. See, e.g., Australian Government, Department of Immigration and Border Protection, 'Facesheet: New Zealanders in Australia,' online <https://www.border.gov.au/about/corporate/information/fact-sheets/17nz>.

⁴⁴ See, e.g., Jacqueline Stevens, 'U.S. Government Unlawfully Detaining and Deporting U.S. Citizens as Aliens,' *Virginia Journal of Social Policy & The Law* 18, no. 3 (2011): pp. 606–720.

state of citizenship refuses to accept their citizen-deportees or there is no state/a failed state to send to) or due to other legal constraints (e.g., demands of nonrefoulement).

Moreover, the extent and nature of territorial conditionality varies enormously among classes of aliens. Status non-citizenship is everywhere a tiered institution: some categories have greater territorial access and greater territorial security than others. Non-citizens who are lawful permanent residents can, in principle, remain indefinitely; visitors of various kinds may stay only briefly; and the presence of others is *ex ante* and ongoingly unauthorized. Some categories of non-citizens may travel freely in and out of the state/supra-state territory, whereas others will lose their residence permission upon traveling away. Non-citizens qualifying as refugees or related categories may enjoy legal protections against state removal that others do not have.

Still, with all of these variations and qualifications, it is this conditionality-of-territorial-presence in a given citizenship state that most significantly defines what being a status non-citizen entails. Significantly, many of a state's own citizens will not be present in that state's territory at a given moment for any variety of reasons, but in ordinary circumstances, those citizens cannot be precluded by their state of nationality from being present, nor may they be forced to depart when they are there. This stands in contrast to status non-citizens, for whom both exclusion and deportation from that state are possible and routine.

POLITICAL VOICE AND NON-CITIZENS: AMBIGUITIES

It is a commonplace in some liberal democracies, including the United States, to say that citizenship's greatest significance for its holders is that it guarantees the right to vote. Access to the franchise, according to many accounts, is the feature that most meaningfully distinguishes citizens from foreigners.⁴⁵ Empirically, in most public elections in most polities, only citizens may vote.⁴⁶ Nevertheless, voting and citizenship are hardly synonymous, nor are they mutually entailed. As much scholarly literature has now documented, voters and status citizens are only partially convergent categories.

⁴⁵ The right to vote is listed as the first 'benefit of citizenship' by the United States Citizenship and Immigration Services (online <https://www.uscis.gov/sites/default/files/files/article/chapter2.pdf>).

⁴⁶ There is, however, a significant number of European and Latin American countries where non-citizens can vote in local elections. See Shaw in this volume.

For one thing, throughout the history of liberal democratic states, many persons possessing the status of citizenship have nonetheless suffered disenfranchisement. The propertyless and women were denied the vote well into the twentieth century in some countries. In the United States and elsewhere, voting rights were routinely denied to racial minorities until the 1960s, and de facto racial exclusions continue today, whether in the form of voter identification laws or felon disenfranchisement policies.⁴⁷ Moreover, systemic structures of inequality and cultural nonrecognition effectively disenfranchise extensive populations of status citizens who are, in consequence, disinclined to vote.

Conversely, and more to the point in this chapter, lack of status citizenship has not always meant lack of democratic voice. In some elections in some democratic states, certain non-citizens (usually permanent residents) are entitled—or were at one time entitled—to cast a vote. The United States has extensive histories of non-citizen ('alien') voting,⁴⁸ and in a handful of U.S. localities today, non-citizens may vote on local matters. Within the EU system, citizens of other member states enjoy the local franchise, and twelve states extend this right to all non-citizen residents.⁴⁹ Furthermore, scholars have noted that actual political voice in some electoral systems derives far more significantly from financial investments, social capital networks, and even campaign contributions than from the franchise. Under the law of many states, non-citizens, or some categories thereof, are at no disadvantage in these arenas.⁵⁰

Lastly, and significantly, voting and campaign contributions do not exhaust political efficacy. Political influence is delivered through grassroots action including local and national civic participation, protest, and organizing. Non-citizens (including, sometimes, undocumented non-citizens) have engaged as grassroots political actors across a range of settings, from labor disputes to local 'quality of life' battles, religious freedom manifestations, and anti-racism initiatives. In recent years, non-citizens have weighed in publicly on matters of immigration, refugee, and naturalization policy.

⁴⁷ In parts of the United States and in limited cases elsewhere, hundreds of thousands of convicted felons are formally precluded from voting in perpetuity. Given the hugely disproportionate number of convicted felons who are minority males, this exclusion functions as a racial (and gendered) bar on voting. See Ali Rickart, 'Disenfranchisement: A Comparative Look at the Right of the Prisoner to Vote' (6 February 2015), online *Ius Gentium*, <https://ubaltciclfellows.wordpress.com/2015/02/06/disenfranchisement-a-comparative-look-at-the-right-of-the-prisoner-to-vote/>.

⁴⁸ Jamin B. Raskin, 'Legal Aliens, Local Citizens: The Historical, Constitutional and Theoretical Meanings of Alien Suffrage,' *University of Pennsylvania Law Review* 141, no. 4 (1993): pp. 1391–1470; Ron Hayduk, *Democracy for All: Restoring Immigrant Voting in the United States* (New York: Routledge, 2006).

⁴⁹ See Bloemraad in this volume; Shaw in this volume.

⁵⁰ Bruce D. Brown, 'Alien Donors: The Participation of Non-Citizens in the U.S. Campaign Finance System,' *Yale Law and Policy Review* 15, no. 2 (1997): pp. 503–552. For an overview of states' laws on contributions to campaigns by non-nationals, including resident non-citizens, see IDEA (International Institute for Democracy and Electoral Assistance), 'Is There a Ban on Donations from Foreign Interests to Candidates?', online <http://www.idea.int/political-finance/question.cfm?id=247>.

This means that citizenship-as-status and citizenship-as-democratic-participation are significantly overlapping but partially nonconvergent in both directions. Not only have many disadvantaged status citizens been denied ‘citizenship rights’—in response to which various social movements have specifically called for the ‘restoration of citizenship,’⁵¹ but status non-citizens have found ways, both formal and informal, to exercise democratic voice in such a way as to permit analysts to speak coherently of the citizenship practices of non-citizens. Strange coinage, perhaps, but also useful in its paradoxical clarity.

NON-CITIZENSHIP AND THE RIGHT TO HAVE RIGHTS

Beyond territorial insecurity and political dis- or under-enfranchisement, there is not a great deal that non-citizens, as such, have in common. As indicated already, alienage categories are highly differentiated, not merely across states, but also within them. The effect of being a status non-citizen on a person’s experience turns fundamentally on the particular legal status category she occupies as well as the kind of right or liability in question. In any given state, some categories of non-citizens will be authorized to work; others will not. Some will be eligible for certain forms of social support, and some will not. Some non-citizens in some categories will be criminally liable for their presence and some will not. Some are permitted to be present for a short period, some indefinitely. Some will owe the state income taxes and some will not. Some will have the opportunity to apply for citizenship via naturalization and some will not. In this regard, it is difficult to generalize about what non-citizenship status entails *tout court*.

Still, in liberal democracies, differentiation among classes of non-citizens only goes so far. This is because liberal legalism provides a floor. At least as a matter of formal law, all non-citizens, whatever their immigration status, enjoy recognition as legal subjects by the state they inhabit (so long as they are recognized by the state as being ‘inside’).⁵² In fact, when it comes to many of the most basic rights under law—what some states call ‘fundamental rights’—territorially-present non-citizens of all categories are, at least formally, indistinguishable from citizens.

⁵¹ See, e.g., Laurene Kelley, ‘Public Defender Helps Reframe Memphis History,’ The Shelby County Public Defender, 3 May 2016, online <http://defendshelbyco.org/>.

⁵² States often deploy legal fictions through which they deny that certain persons who are physically inside the borders are in fact territorially present as a legal matter. This allows states to evade responsibility for affording the legal protections that would otherwise be required. Linda Bosniak, ‘Being Here: Ethical Territoriality and the Rights of Immigrants,’ *Theoretical Inquiries in Law* 8, no. 2 (2007): pp. 389–410.

How do we account for this leveling effect, not merely among different classes of non-citizens, but also as between non-citizens and citizens? The answer lies in a core feature of liberal constitutional states. In liberal constitutionalism, many basic rights, including the rights to sue and be sued, to make and enforce contracts, to marry and divorce, and to invoke basic government protections including due process rights in the criminal justice setting—are contingent on the facts of personhood and territorial presence rather than on any particular legal status.⁵³ The commitment to personhood protection is expressly embedded in the fundamental law of the individual states, as well as the European Union. Some constitutions extend basic rights to ‘everyone;’ others to ‘any person’ or ‘all persons.’ Some constitutions provide that ‘no one’ shall be subject to certain indignities or abuses. As for the territorial element, while in some cases it is only implicit, in others, it is made plain. For example, the U.S. Constitution provides that no government entity shall ‘deny to any person within its jurisdiction the equal protection of the laws.’⁵⁴ Although the scope of the term ‘within its jurisdiction’ has a long history of contest and manipulation (one implicating the nation’s colonial and military histories),⁵⁵ it is, like analogous concepts elsewhere, generally read to limit government responsibility to protection of persons who are ‘present’ from the state’s point of view.⁵⁶

This means that in most democratic settings, it is territorially present individuals—both citizens and non-citizens—who are the state’s basic legal subjects.⁵⁷ That this should be so is striking. Among other things, it means that to characterize citizenship status as ‘the right to have rights,’ as Hannah Arendt did decades ago,⁵⁸ is simply not accurate today. A great many core rights extend to individuals present in the territory, independent of their status under the state’s border rules.⁵⁹ Strikingly,

⁵³ Linda Bosniak, ‘Persons and Citizens in Constitutional Thought,’ *International Journal of Constitutional Law* 8, no. 1 (2010): pp. 9–29.

⁵⁴ Amendment 14, Sec. 1, in relevant part: ‘nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.’ These ‘equal protection’ and ‘due process’ clauses have been judicially interpreted to constrain national and local government action as well as that of the states. For further discussion, see Bosniak (n 3).

⁵⁵ These are histories of territorial ambiguity that implicate a state’s past and ongoing colonial and military engagements. For legal territoriality in United States law, see, e.g., Kal Raustiala, *Does the Constitution Follow the Flag?: The Evolution of Territoriality in American Law* (New York: Oxford University Press, 2010). For the French case, see Emmanuel Saada, *Empire’s Children: Race, Filiation, and Citizenship in the French Colonies*, translated by Arthur Goldhammer (Chicago: University of Chicago Press, 2012).

⁵⁶ See footnote 52.

⁵⁷ Although other structural and identity variables, including race, perceived national origin, gender, and class, will affect the application and experience of these protections in practice.

⁵⁸ Hannah Arendt, *The Origins of Totalitarianism* (San Diego, New York, London: Harcourt, 1968), p. 296.

⁵⁹ Such extension has been incorporated into, and backed up by, international human rights law. Human rights law, in turn, serves in some cases to render national constitutional rights law more robust. Speaking genealogically, however, the individual rights commitments embedded in the international human rights regime were first developed in the liberal constitutionalist setting.

these are precisely the rights that liberal democratic discourse often characterizes in the language of ‘citizenship.’

This is not to say, however, that non-citizens’ actual experience of basic rights protection is identical to that of citizens. The reason, once again, is that the borders associated with citizenship status and immigration regulation are enforced inside the state as well as at its edges. When they are applied internally, they sometimes serve to undermine exercise of the personhood rights non-citizens formally enjoy. Such undermining can occur both directly and indirectly.

To start with the direct effect: While a territorially present non-citizen is entitled to personhood rights, these may often be trumped by the concurrent fact of their subjection to the government’s immigration control authority. As one example, a non-citizen in criminal proceedings is entitled to the same full due process rights as any citizen. Yet if resulting in a conviction, these same criminal proceedings, will often thereafter trigger deportation proceedings. There, the right to remain territorially present itself now becomes the issue. And in the deportation setting, procedural protections are typically far more limited because such decisions are regarded as part of the state’s legitimate border authority. Indeed, if the non-citizen is deported after criminal conviction and punishment, she arguably faces a double penalty that no criminally convicted citizen encounters.⁶⁰ And once deported, she is now outside the scope of that state’s territorially grounded basic rights altogether.

The border law’s undermining effect on the rights of non-citizens works indirectly as well. Some non-citizens—especially, but not only, those present on an unauthorized basis—often avoid invoking the basic rights they formally possess for fear of triggering the attention of the immigration authorities. To give an example: in most liberal democratic states, all employees, irrespective of status, are entitled to some state-managed workers compensation protection if injured on the job. But an irregularly employed non-citizen might choose to avoid claiming the benefit for fear of exposure to immigration authorities. Perhaps the employer will report her; perhaps the workers compensation office will share information with the immigration office in a system permitting information-sharing between government entities.⁶¹

Finally, in some moments designated as emergencies, the ordinary rules protecting territorially present persons are eclipsed. Non-citizens classified as enemies during states of exception may be subject to treatment that amounts, in Agamben’s now-iconic phrase, to that of ‘bare life.’⁶² In those states with a strong commitment to constitutional territoriality, the state might (re)locate the individual to a space

⁶⁰ For general discussion of the double punishment issue, see Juliet Stumpf, ‘The Process is the Punishment in Crimmigration Law,’ in Katja Franco Aas, ed., *The Borders of Punishment: Migration, Citizenship and Social Exclusion* (Oxford: Oxford University Press, 2013), pp. 58–75.

⁶¹ See generally Bosniak (n 3).

⁶² See Muneer I. Ahmed, ‘Resisting Guantanamo: Rights at the Brink of Dehumanization,’ *Northwestern University Law Review* 103, no. 4 (2009): pp. 1683–1763.

outside the formal territory of the state—as, for example, to Guantanamo in the U.S. case, in order to claim exemption from basic rights conferral. Or, once again, the state may seek to deny territorial recognition to physically present non-citizens—treating them as still, and always, at the border.⁶³

In sum, non-citizenship statuses are highly differentiated in many respects, making it difficult to generalize about the character of the non-citizen experience. Still, one can make two broad points about non-citizens as a class. First, liberal democratic states' formally recognize persons who are territorially present—including non-citizens—as liberal legal subjects. This represents a striking leveling, not only between non-citizens and citizens but among categories of status non-citizens as well. Second, because liberal democratic states claim the authority to regulate the border in the interior, the protections of territorial personhood that status non-citizens formally enjoy are often undercut in practice. It is their common subjection to the state's border authority that constitutes status non-citizens' principal structural vulnerability.

CONCLUSION: NON-CITIZENS IN LIBERAL DEMOCRATIC CITIZENSHIP REGIMES

This chapter has addressed the condition of persons inhabiting liberal democratic political communities in which they lack the legal status of citizenship. It has sought to distill a profile of the status non-citizen in broad terms, notwithstanding the great variations among categories and across states. The chapter's focus, however, is equally theoretical. It is motivated by the questions: What *is* status-non-citizenship? And: How are we to understand the relationship between lack of citizenship in the status sense and other modes of non-citizenship, or non-possession of (full) citizenship?

We have seen that status non-citizenship is both product and precondition of the operation of state borders. Millions of people designated as status non-citizens under the state's border rules reside within the territory of democratic states in a variety of situations. Once inside, status non-citizens remain governed by the regime of state border control as it is internally applied and enforced. And yet, that regime shares jurisdictional space with another set of internal norms—basic liberal democratic norms which (formally) deem the treatment of persons as less-than-full-members

⁶³ In cases such as Guantanamo, the constitutional argument may shift to the question whether the individual held is, in fact, still within the state's constitutional territory such that basic protections must continue to apply (Bosniak (n 52)).

to be unjust. Significantly, these latter, ethically universalist norms are often articulated via the language of 'citizenship.'

The experiences of territorially present status non-citizens are, in consequence, produced conjointly by these overlapping but often dissonant governing logics. At times, these logics concord without great event. At others, the tensions between citizenship's borderism and its egalitarianism are fraught and unremitting.

BIBLIOGRAPHY

- Abizadeh, Arash, 'Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders,' *Political Theory* 36, no. 1 (2008): pp. 37–65.
- Ahmed, Muneer I., 'Resisting Guantanamo: Rights at the Brink of Dehumanization,' *Northwestern University Law Review* 103, no. 4 (2009): pp. 1683–1763.
- Anderson, Bridget, *Us and Them? The Dangerous Politics of Immigration Controls* (Oxford: Oxford University Press, 2013).
- Anderson, Elizabeth, *The Imperative of Integration* (Princeton: Princeton University Press, 2010).
- Arendt, Hannah, *The Origins of Totalitarianism* (San Diego, New York, London: Harcourt, 1968).
- Bauman, Zygmunt, *Liquid Modernity* (Cambridge: Polity Press, 2000).
- Blake, Michael, 'Immigration, Jurisdiction and Exclusion,' *Philosophy and Public Affairs* 41, no. 2 (2013): pp. 103–130.
- Bosniak, Linda, *The Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton: Princeton University Press, 2006).
- Bosniak, Linda, 'Being Here: Ethical Territoriality and the Rights of Immigrants,' *Theoretical Inquiries in Law* 8, no. 2 (2007): pp. 389–410.
- Bosniak, Linda, 'Persons and Citizens in Constitutional Thought,' *International Journal of Constitutional Law* 8, no. 1 (2010): pp. 9–29.
- Bosniak, Linda, 'Book Review: Joseph H. Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2013),' *Ethics* 125, no. 2 (2015): pp. 571–576.
- Bourdieu, Pierre, *Outline of a Theory of Practice*, translated by Richard Nice (Cambridge: Cambridge University Press, 1977) [1972].
- Brown, Bruce D., 'Alien Donors: The Participation of Non-Citizens in the U.S. Campaign Finance System,' *Yale Law and Policy Review* 15, no. 2 (1997): pp. 503–552.
- Brubaker, Rogers, *Citizenship and Nationhood in France and Germany* (Cambridge: Harvard University Press, 1998).
- Carens, Joseph H., *The Ethics of Immigration* (Oxford: Oxford University Press, 2013).
- Cohen, Elizabeth, *Semi-Citizenship in Democratic Politics* (Cambridge: Cambridge University Press, 2009).
- Cole, Phil, 'Beyond Borders: Towards a Right to International Movement,' *The Critique*, 6 January 2016, online <http://www.thecritique.com/articles/beyond-borders-towards-a-right-to-international-movement-2/>.

- Fraser, Nancy, 'Reframing Justice in a Globalizing World,' *New Left Review* 36 (November–December 2005): pp. 69–88.
- Hayduk, Ron, *Democracy for All: Restoring Immigrant Voting in the United States* (New York: Routledge, 2006)
- <https://ubaltciclfellows.wordpress.com/2015/02/06/disenfranchisement-a-comparative-look-at-the-right-of-the-prisoner-to-vote/>.
- IDEA (International Institute for Democracy and Electoral Assistance), 'Is There a Ban on Donations from Foreign Interests to Candidates?', online <http://www.idea.int/political-finance/question.cfm?id=247>.
- Kelley, Laurene, 'Public Defender Helps Reframe Memphis History,' The Shelby County Public Defender, 3 May 2016, online <http://defendshelbyco.org/>.
- Kukathas, Chandran, 'The Case for Open Immigration,' in Andrew I. Cohen and Christopher Heath Wellman, eds., *Contemporary Debates in Applied Ethics* (Malden, Oxford: Blackwell Publishing, 2005), pp. 207–220.
- Macklin, Audrey, 'The Return of Banishment: Do the New Denationalisation Policies Weaken Citizenship?', online <http://eudo-citizenship.eu/commentaries/citizenship-forum/1268-the-return-of-banishment-do-the-new-denationalisation-policies-weaken-citizenship>.
- Miller, David, *Strangers in Our Midst* (Cambridge: Harvard University Press, 2016).
- Mills, Charles W., 'White Ignorance,' in Sharon Sullivan and Nancy Tuana, eds., *Race and Epistemologies of Ignorance* (Albany: SUNY Press, 2007).
- Pevnick, Ryan, *Immigration and Constraints of Justice* (Cambridge: Cambridge University Press, 2011)
- Raskin, Jamin B., 'Legal Aliens, Local Citizens: The Historical, Constitutional and Theoretical Meanings of Alien Suffrage,' *University of Pennsylvania Law Review* 141, no. 4 (1993): pp. 1391–1470
- Raustiala, Kal, *Does the Constitution Follow the Flag?: The Evolution of Territoriality in American Law* (New York: Oxford University Press, 2010).
- Rawls, John, 'Kantian Constructivism in Moral Theory,' in John Rawls, *Collected Papers*, edited by S. Freeman (Cambridge: Harvard University Press, 1999), pp. 303–358.
- Rawls, John, *A Theory of Justice* (Cambridge, Harvard University Press, 1971).
- Rickart, Ali, 'Disenfranchisement: A Comparative Look at the Right of the Prisoner to Vote' (6 February 2015), online *Ius Gentium*, <https://ubaltciclfellows.wordpress.com/2015/02/06/disenfranchisement-a-comparative-look-at-the-right-of-the-prisoner-to-vote/>.
- Saada, Emannelle, *Empire's Children: Race, Filiation, and Citizenship in the French Colonies*, translated by Arthur Goldhammer (Chicago: University of Chicago Press, 2012).
- Spiro, Peter J., 'A New International Law of Citizenship,' *American Journal of International Law* 105, no. 4 (2011): pp. 694–746.
- Stevens, Jacqueline, 'U.S. Government Unlawfully Detaining and Deporting U.S. Citizens as Aliens,' *Virginia Journal of Social Policy & The Law* 18, no. 3 (2011): pp. 606–720.
- Stumpf, Juliet, 'The Process is the Punishment in Crimmigration Law,' in Katja Franco Aas, ed., *The Borders of Punishment: Migration, Citizenship and Social Exclusion* (Oxford: Oxford University Press, 2013), pp. 58–75.
- Taylor, Charles, *Sources of the Self: The Making of the Modern Identity* (Cambridge: Harvard University Press, 1989).
- Tilly, Charles and Robert Goodin, 'It Depends,' in Robert E. Goodin and Charles Tilly, eds., *The Oxford Handbook of Contextual Political Analysis* (Oxford: Oxford University Press, 2006), pp. 3–32.

- Trott, Adriel M., *Aristotle on the Nature of Community* (Cambridge: Cambridge University Press, 2014).
- UNHCR, 'Ending Statelessness,' online <http://www.unhcr.org/en-us/>.
- UN, Universal Declaration of Human Rights, 1948.
- Walzer, Michael, *Sphere of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983).
- Wellman, Christopher Heath, 'Immigration and Freedom of Association,' *Ethics* 119, no. 1 (October 2008): pp. 109–141.
- Young, Iris Marion, 'Polity and Group Difference: A Critique of the Ideal of Universal Citizenship,' *Ethics* 99, no. 2 (January 1989): pp. 250–274.