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## Book Reviews

Mira L. Siegelberg. ***Statelessness: A Modern History***. Cambridge, MA: Harvard University Press, 2020. Pp. 318. \$36.00. ISBN: 9780674976313.

In a review of *The Oxford Handbook of the History of International Law*, Will Hanley praised the volume's achievement in signalling a shift away from the Eurocentric narrative of international law, but he went on to lament the handbook's shortcomings in challenging the centrality of states in conventional accounts of the discipline.<sup>1</sup> He proposed that thinking about international law through statelessness, an issue largely overlooked in the handbook, could be a way of achieving this goal. Mira Siegelberg takes up this call in *Statelessness: A Modern History*. Through meticulous research, she uncovers the debates surrounding the construction of legal and institutional responses to the emergence of mass statelessness in the 20th century. In doing so, she not only expands the traditional narrative of the history of statelessness but also reveals how statelessness has challenged fundamental ideas about the state and the relationship between states and individuals in international law.

Most histories of statelessness locate the starting point for international interest in the issue in the years following World War I.<sup>2</sup> In these accounts, international responses to statelessness peaked after World War II<sup>3</sup> with the conclusion of two treaties: the 1954 Convention Relating to the Status of Stateless Persons<sup>4</sup> and the 1961 Convention on the Reduction of Statelessness.<sup>5</sup> The treaties fell into neglect until the early 1990s, when the dissolution of Yugoslavia and the Soviet Union left tens of thousands without a nationality or with uncertain status and brought statelessness back onto the international agenda.<sup>6</sup> The traditional account concludes that the issue

<sup>1</sup> Hanley, 'Statelessness: An Invisible Theme in the History of International Law', 25 *European Journal of International Law* (2014), 321.

<sup>2</sup> Deirdre Brennan traces this traditional account in her article 'Feminist Foresight in Statelessness: Century-Old Citizenship Equality Campaigns', itself a corrective to the claim that international campaigns against gender discriminatory nationality laws only emerged in the 2010s. Brennan, 'Feminist Foresight in Statelessness: Century-Old Citizenship Equality Campaigns', 2 *Statelessness and Citizenship Review* (2020) 43, at 45.

<sup>3</sup> Rürup, 'Lives in Limbo: Statelessness after the Two World Wars', 49 *Bulletin of the German Historical Institute Washington* (2011) 113, at 130.

<sup>4</sup> Convention Relating to the Status of Stateless Persons 1954, 360 UNTS 117.

<sup>5</sup> Convention on the Reduction of Statelessness 1961, 989 UNTS 175; L. van Waas, *Nationality Matters: Statelessness under International Law* (2008), at 15.

<sup>6</sup> Van Krieken, 'Disintegration and Statelessness', 12 *Netherlands Quarterly of Human Rights (NQHR)* (1994) 23. In Kristy Belton's view, with the exception of the post-World War II period and the early 1990s, 'statelessness has barely appeared on the international community's radar'. Belton, 'Ending Statelessness through Belonging: A Transformative Agenda?', 28(4) *International Journal of Refugee Law* (2016) 419, at 420.

fell out of fashion again until the launch of the United Nations High Commissioner for Refugees' (UNHCR) Global Action Plan to End Statelessness in 2014.<sup>7</sup> Siegelberg expands this narrative in two ways. First, she reveals that scholars first contemplated statelessness in the late 18th century. At this time, political theorists such as Edmund Burke posited that the stateless must be able to rely on 'common humanity' or the law of nations for protection (at 25). By the late 19th century, the subject of statelessness and the possibility of its regulation by international law was being addressed in international legal treatises (at 35). While some argued the existence of stateless persons was an 'embarrassment' for the state in which they were living, which should grant them nationality, others proposed that, if a person did not qualify for a nationality through existing channels, they should be recognized as a stateless person in international law (at 35).

Second – and a key contribution of the book – is to illustrate that, far from being the mere starting point of interest in the issue, and a period largely neglected by scholars in favour of a focus on the issue's 'heyday' after World War II,<sup>8</sup> the interwar years were a period of intense debate about how to address statelessness. Siegelberg explores how, at a time of deep political disruption, amid collapsing empires and emerging novel forms of international governance, the phenomenon of mass statelessness triggered reflections about the basis for states' authority and the status of individuals in international law. During this period, officials of the League of Nations grappled with how to respond to the problem of the politically homeless. They feared that recognizing large populations as stateless would hamper the League of Nations' larger project of re-establishing international order based on the sovereign authority of states. Ultimately, League officials opted to frame statelessness as the product of conflicting nationality laws and proposed that states should conclude a convention to regulate their laws (the poorly ratified and ineffectual Convention on Certain Questions Relating to the Conflict of Nationality Law).<sup>9</sup>

However, Siegelberg reveals that a parallel response to the statelessness crisis generated calls to recognize the stateless as international legal persons, contrary to the dominant position that individuals only gained a status in international law through their membership of states. The League provided an international travel document (known as the Nansen passport, named after intrepid Arctic explorer turned High Commissioner Fridtjof Nansen) to former Russian and Armenian nationals, granting them the right to travel and work and a legal status emanating from the League of Nations. Some stateless populations called for the expansion of the passport regime, while others pointed to the passports to bolster their calls for the League to recognize them as world citizens. M.K. Gandhi, observing the growing class of the stateless in Europe and the efforts to protect them, suggested that westerners were awakening to

<sup>7</sup> Van Waas, "Are We There Yet?": The Emergence of Statelessness on the International Human Rights Agenda', 32 *NQHR* (2014) 342; cf. Kingston, "A Forgotten Human Rights Crisis": Statelessness and Issue (Non)Emergence', 14 *Human Rights Review* (*HRR*) (2013) 73.

<sup>8</sup> Rürup, *supra* note 3.

<sup>9</sup> Convention on Certain Questions Relating to the Conflict of Nationality Law 1930, 179 *LNTS* 89.

‘this very grave limitation of their civilization and are making a serious effort to overcome it’ (at 78). For a moment during the interwar years, statelessness was viewed as more than a humanitarian crisis; it was a conceptual tool for rethinking the state model of governance and the question of the ultimate subjects of international law.

Siegelberg goes on to detail how, by the 1930s, in the context of rising fascism and a growing practice of states stripping individuals of their citizenship on political and/or racial grounds, legal theorists moved away from viewing statelessness as a tool for challenging the dominance of states and instead searched for constraints in international law on the power to denationalize. When no constraints could be found, they sought a pragmatic solution to the problem of denationalization and displacement. An international agreement on refugees concluded at this time – the 1933 Convention Relating to the International Status of Refugees<sup>10</sup> – typified this approach; it afforded protection in place of the state, but it did not challenge the fact of the exclusion of individuals from the state in the first place. The inclusion of a right to a nationality in the Universal Declaration of Human Rights<sup>11</sup> affirmed the state as the protector of individuals’ rights and sovereign equality as the basis of the post-war world order. As Siegelberg writes, ‘[s]tatelessness transformed from a central theoretical resource for those arguing for political and legal order beyond the state to a touchstone for those trying to establish the normative legitimacy of sovereign statehood, and the primacy of states for international politics’ (at 194).

A particularly noteworthy aspect of *Statelessness* is the breadth of the sources it draws upon. Siegelberg has combed the archives of the League of Nations and the United Nations, revealing a range of views among officials about how best to respond to statelessness. Other sources include the writings of legal scholars from the 18th century to the present day, attempting to understand the significance of statelessness; decisions of domestic courts confronted with the question of whether to recognize that individuals could be neither citizen nor foreigner but a person of no nationality; and portrayals of what it means to be a person without a country in works of fiction. Importantly, Siegelberg also includes the accounts of stateless persons themselves, including through letters addressed to the League and the United Nations petitioning the agency to intervene to end their statelessness. Additionally, many of the scholars, lawyers and advocates to whom Siegelberg refers, such as Mark Vishniak, Paul Weis and Hannah Arendt, were themselves denationalized and/or displaced. In drawing on these voices, *Statelessness* heeds the call to recognize that ‘[s]tateless activists are [also] authors, academic writers, political thinkers [and] changemakers’.<sup>12</sup> However, as others have noted,<sup>13</sup> the views of women and non-Europeans could be better represented.

<sup>10</sup> Convention Relating to the International Status of Refugees 1933, 159 LNTS, no. 3663.

<sup>11</sup> Universal Declaration of Human Rights, GA Res. 217 A(III), 10 December 1948, Art. 15.

<sup>12</sup> H. Bahram, *On Stateless Activism and True Engagement* (2020), available at <https://law.unimelb.edu.au/centres/statelessness/resources/critical-statelessness-studies-blog/on-stateless-activism-and-true-engagement>.

<sup>13</sup> A. Schult, *H-Diplo Roundtable XXII-51 on Siegelberg, Statelessness: A Modern History*, 19 July 2021, available at <https://networks.h-net.org/node/28443/discussions/7937655/h-diplo-roundtable-xxii-51-siegelberg%C2%A0-statelessness-modern>; B. Lehman, *Statelessness: A Modern History by Mira L. Siegelberg*, available at [www.europenowjournal.org/2021/10/18/statelessness-a-modern-history-by-mira-l-siegelberg/](http://www.europenowjournal.org/2021/10/18/statelessness-a-modern-history-by-mira-l-siegelberg/).

An important contribution of the book is its discussion of statelessness and legal personality. Despite statelessness being the ideal case for interrogating the status of individuals in international law, the link between statelessness and legal personality has been underexplored. When it is raised in the context of statelessness, legal personhood is often treated as synonymous with nationality<sup>14</sup> or linked with the nebulous concept of legal identity.<sup>15</sup> Even Anne Peters' comprehensive survey of the international legal norms directed towards individuals omits a discussion of statelessness.<sup>16</sup> By illuminating the interwar debates about whether the stateless could have rights and duties directly in international law, *Statelessness* adds nuance to the traditional narrative that individuals became subjects of international law after World War II with the establishment of individual criminal responsibility and the elaboration of international human rights law. Siegelberg confirms Hanley's suggestion that thinking about the history of international law through statelessness challenges the centrality of states, even if those seeking solutions to the rights deprivations of statelessness ultimately turned to states to ensure those rights.

As a work straddling both international law and political theory, Siegelberg's focus is not the conventions that dominate international legal analyses of statelessness. Yet as the aim was 'to reconstruct and clarify the arguments that shaped the eventual stabilization of shared understandings of citizenship and noncitizenship in the decades following the Second World War' (at 3), the book would have benefited from further discussion of how the debates it canvasses shaped these key responses to statelessness. Elements of the 1954 and 1961 conventions on statelessness that have their origins in the interwar debates could have been analysed. For example, Siegelberg does not discuss whether Article 11 of the 1961 convention, which promised the establishment of a body within the United Nations to which a stateless person seeking a grant of nationality under the terms of the treaty could apply, reflects the interwar calls for an international authority with the power to settle disputes about nationality. Although it is evident that 'the provisions contained within the agreements do not fully capture the wider framing of the problem of statelessness in postwar international thought' (at 227), where a link exists between the treaties and the history discussed, it could have been more clearly drawn.

Overall, Siegelberg's book is an immensely valuable contribution to the growing literature on statelessness. It is also timely. The UNHCR's current strategy on statelessness, which relies on states to end statelessness through the grant of nationality,

<sup>14</sup> The conflation of legal personhood and nationality features in Principle 9.5.2 of the Principles on Deprivation of Nationality as a National Security Measure: Institute on Statelessness and Inclusion, *Draft Commentary to the Principles on Deprivation of Nationality as a Security Measure* (2020), available at [www.refworld.org/docid/5f3bf2d24.html](http://www.refworld.org/docid/5f3bf2d24.html). Discussing how the right to legal personhood supports the right to a nationality, see W.E. Conklin, *Statelessness: The Enigma of the International Community* (2014), at 150.

<sup>15</sup> K. Staples, *Rethorising Statelessness: A Background Theory of Membership in World Politics* (2012), at 5.

<sup>16</sup> A. Peters, *Beyond Human Rights: The Legal Status of the Individual in International Law*, translated by J. Huston (2016).

expires in 2024.<sup>17</sup> The goal of eradicating statelessness by 2024 will not be met. Instead, new risks of statelessness are emerging. In the Indian state of Assam, a citizenship verification process threatens to exclude 1.9 million residents from citizenship – a process described by the UN special rapporteur on minority issues as potentially the biggest exercise in forced statelessness since World War II.<sup>18</sup> And across the globe, states are adding citizenship-stripping measures to their counterterrorism arsenal, potentially rendering those individuals that are targeted stateless. These trends highlight the difficulty of relying on states – the same actors responsible for the often-deliberate production of statelessness<sup>19</sup> – to resolve it. At the same time, a changing climate brings uncertainty about the legal status of those who will lose their territory through sea-level rise. As the UNHCR finalizes a post-2024 strategy that encompasses these risks, *Statelessness* alerts us to what alternative solutions to the rights deprivations of statelessness were proposed and lost. The reintroduction of Nansen passports has been raised as one alternative response, in particular for those facing ‘climatic statelessness’ (who, along with other environmentally displaced persons, likely will not qualify for refugee protection).<sup>20</sup> Siegelberg’s book may inform these calls; for one thing, the mixed views of Nansen passport recipients about its value should give pause for thought. Or, consistent with other recent interventions in this field,<sup>21</sup> the book may help reframe the ‘problem’ of statelessness as a problem of citizenship, governance and inequality and, in doing so, prepare the ground for better solutions. Like all good histories, *Statelessness* not only tells us about the past but also better equips us for the future.

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<sup>17</sup> United Nations High Commissioner for Refugees, *Global Action Plan to End Statelessness 2014–2024*, available at [www.unhcr.org/ibelong/global-action-plan-2014-2024/](http://www.unhcr.org/ibelong/global-action-plan-2014-2024/).

<sup>18</sup> R. Ratcliffe, “A Nightmarish Mess”: Millions in Assam Brace for Loss of Citizenship’, *The Guardian* (30 August 2019), available at [www.theguardian.com/global-development/2019/aug/30/nightmarish-mess-millions-assam-brace-for-loss-of-citizenship-india](http://www.theguardian.com/global-development/2019/aug/30/nightmarish-mess-millions-assam-brace-for-loss-of-citizenship-india).

<sup>19</sup> Jain, ‘Manufacturing Statelessness’, 116(2) *American Journal of International Law* (2022) 237.

<sup>20</sup> G. Merritt, *Statelessness Is a Big Problem, So Let’s Revive “Nansen” Passports* (2021), available at [www.friendsofeurope.org/insights/statelessness-is-a-big-problem-so-lets-revive-nansen-passports](http://www.friendsofeurope.org/insights/statelessness-is-a-big-problem-so-lets-revive-nansen-passports).

<sup>21</sup> Bloom and Kingston, ‘Introduction: Opening a Conversation about Statelessness, Governance, and the Problem of Citizenship’, in T. Bloom and L.N. Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (2021) 1; L.N. Kingston, *Fully Human: Personhood, Citizenship, and Rights* (2019).