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Review of Mira L. Siegelberg, *Statelessness: A Modern History*

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MIRA L. SIEGELBERG, *Statelessness: A Modern History* (Cambridge, MA: Harvard University Press, 2020), 328 pp. ISBN 978 0 674 97631 3. £30.95

Mira L. Siegelberg's study of statelessness as a newly emerging political and legal category of international politics in the twentieth century comes at a moment when refugees are again in the focus of public debates. As the author herself writes in the introduction, unpredictable levels of forced mass migration and the foreseeable, yet still denied consequences of climate change – namely, the vanishing of island states due to rising sea levels – have brought statelessness back to the international agenda. The study aims to analyse why statelessness remained a rather 'hidden' category of international law, politics, and also history, though it was, as Siegelberg seeks to show, a major category around which the architecture of the present international order evolved. To do so, she takes up fresh insights from the historiography of empire, decolonization, and international organizations, which argues that the global triumph of the nation state as the dominant and seemingly non-negotiable form of political organization was not foreseeable until the 1960s. In this way, Siegelberg turns against established readings of contemporary international history that present statelessness as the downside of nationalism and sovereignty. Instead of asking why the international agreements of the post-war years to protect refugees, stateless persons, and human rights in general did not achieve their intended aim, she investigates how these conventions contributed to the creation of the international order after the Second World War.

Siegelberg's approach opens up a set of interesting and productive questions that put the gradual emergence of the relationship between individuals, states, and international law centre stage. She does so by focusing on international organizations and legal scholars. Accordingly, the book is an intellectual history of statelessness dealing with legal theory and scholarly debates, with particular emphasis on Hannah Arendt and Hans Kelsen. The overall argument is that statelessness entered national and international politics only after the First World War, and soon became a contested battleground in efforts to rebalance the relationship between national sovereignty, global governance, and international law. Siegelberg presents the post-1945 era

as the most important period in which these conflicts took legal and political shape. It is therefore surprising that five out of six chapters deal with the decades until 1945, while only the last chapter delves into what she presents as the core development.

Chapters one to three trace how statelessness entered international law and politics. The first chapter analyses a major court decision in 1921 in the UK that established statelessness as a novel legal category. The High Court of Justice ruled in favour of a formerly interned German 'enemy alien' who had sued the UK for failing to acknowledge that he had been stateless before war broke out. As Siegelberg argues, although this case is not representative for several reasons, it was nevertheless decisive, as it introduced a third legal category next to alien and citizen. Moreover, it rejected the previous imperial practice of deciding independently about people's citizenship in favour of the principle that only the country in question can rule whether someone is a national or not. This meant that foreign law was acknowledged as a relevant foundational principle which had to be respected by other states.

As the following chapters show, however, this landmark decision remained vague in important respects. Though it established the sovereign state as the basic unit of international politics, it neglected the variegated practices of imperial governance and remained silent about the relationship between domestic rule and international law. This became the main concern of the League of Nations. Taking the Nansen International Office for Refugees and the break-up of the Habsburg empire as case studies, Siegelberg shows how the need to solve political problems led to differentiation between categories: statelessness, humanitarian intervention on behalf of refugees, and the emergence of new collectives as subjects of international law, such as minorities, mandatories, refugees, and stateless persons. It is interesting to read here how League officials thought of international law as a proper jurisdiction that could take care of stateless persons beyond national law, but at the same time they remained hesitant to infringe upon national sovereignty and thus endanger attempts to establish new principles of international governance.

Chapters four and five deal with the deteriorating international situation from the 1930s onwards, with denationalized Jewish people

as the largest group in need of some kind of national or international protection. In these chapters it is instructive to read how contemporaries struggled to differentiate between refugees and stateless persons. Whereas today this distinction seems to be natural, Siegelberg argues that nationality as a legal and political concept was far from being unequivocally established at the time. Consequently, determining statelessness and the role of international law in regulating nationality became key issues in dealing with forced migration. Siegelberg focuses on The Hague Codification Conference, held in 1930 under the patronage of the League of Nations, which strengthened national sovereignty as the sole instance able to determine nationality and citizenship. Moreover, she demonstrates how legal experts from the US and Great Britain attempted to legally justify Nazi denationalization acts by referring to precedents in late nineteenth and early twentieth centuries. They thus not only confirmed the priority of state practices over international law, but also set out to establish the distinctions between refugees and stateless persons and between national and international competences: refugees had a nationality and thus fell under national jurisdiction, while stateless persons were assigned to international regulation.

Chapter five ties this discussion to human rights. Here, Siegelberg argues that the shift in legal theory to the primacy of national sovereignty was reflected in the limited political effectiveness of the Universal Declaration of Human Rights. Ironically, European émigré scholars and exile politicians were the main proponents of centring the state in legal theory. They thus supported a legal approach to which they had themselves fallen victim. In practice, the contested meaning of statelessness became relevant when the United Nations Relief and Rehabilitation Administration and the International Refugee Organization began to support displaced persons, posing the question of what kind of authority would be tasked with adjudicating conflicts over nationality. Here again, the international protection of stateless persons depended on the question of whether state sovereignty was subject to limits.

The last chapter delves into what Siegelberg presents as the main focus of the book: the nationalization of legal subjecthood, that is, the granting of national and international rights to individuals on the basis

of their having a nationality recognized by a sovereign state. Moreover, she points to the transformation of nationality from a formal, legal political membership to a robust social bond. The author argues that a case before the International Court of Justice in 1955 was crucial in establishing the social quality of nationality as decisive for granting or denying citizenship. She explains the significance of the judgement by turning to decolonization and the fierce debates about the right to self-determination that took place in the same year within the United Nations. For Siegelberg, the ruling was of major importance, as it accepted the creation of stateless persons as collateral damage alongside the higher aim of substantiating national sovereignty as a core principle of international law.

All in all, my opinions of the book are mixed. On the one hand, Siegelberg presents intriguing arguments, and her overall approach of linking statelessness to the development of the relationship between national and international law and the settling of the legal status of individuals, states, and international authorities makes a lot of sense and is illuminating in many respects. On the other hand, the book is a taxing read. This begins with the accessibility of the material used: there is no bibliography or list of archival sources, and the latter are cited in the footnotes in a way that does not facilitate further research. Moreover, the introductory description of the subchapters does not correspond with the actual structure of the book, as for example in chapter five. This opaqueness also extends to the content: contested terms such as 'international society' or 'non-state political order' are used without defining what they mean. More importantly, the main thesis is repeated continuously, while important supporting arguments are not provided. For example, the link to decolonization, presented as a main explanatory feature, remains vague and not sufficiently elaborated. The rise of social bonds as the main criteria for nationality in the post-war period is repeated time and again, but Siegelberg does not attempt to explain why the social became so tremendously important and what stood behind this shift. The same holds true for the turn to national sovereignty in chapter five; this is described, but no arguments are provided beyond the writings of legal scholars, which are unsatisfactorily left to the reader to puzzle out. The book makes a major contribution to the history of international

law and politics in the twentieth century. Yet the argument is exaggerated and it would have been desirable to better contextualize the writings of the legal scholars at the centre of the book and critically assess their impact.

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