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Undocumented Nationals: Between Statelessness and Citizenship

Alexandra Mirowski Rabelo de Souza

BOOK REVIEW


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Undocumented Nationals: Between Statelessness and Citizenship contributes to the interdisciplinary field of citizenship and migration studies by problematizing the binary distinction between statelessness and full citizenship. Published in Cambridge University Press's Elements in the Politics of Development series, this Cambridge "Element" takes the form of a peer-reviewed research guide that reads like a journal article in the length of a short book. It provides a nuanced examination of an in-between status less often addressed in political science research on undocumented migration. Hunter sheds light on structural issues that lead to conditions of what is equally termed "undocumented citizenship," "undocumented nationality," and "evidentiary statelessness" (p. 4) for millions of people around the world. While national dis-

course on issues concerning legal status or ability to provide national documentation tends to focus on the individual, **Undocumented Nationals** recentres the discussion of undocumented nationality on the role of the state. Hunter considers how policy decisions and political practices shape the production of undocumented nationality and raise possible solutions that go beyond pointing to individual responsibility. Facilitating access to birth registration and access to national documentation are key steps in this direction. Readers can appreciate this shift in focus to a much-needed state-centred conceptualization of responsibility for undocumented nationality and its consequences, many of which affect both individuals and the state. One example of such "collective costs" (pp. 2, 47) is that incomplete population data due to non-registration limit the development and

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overall scope of state-led vaccination programs. At the same time, an unregistered person is neither eligible nor counted among the number of individuals entitled to access such vaccination programs.

Undocumented Nationals is organized into five parts. In the book's introduction, Hunter highlights birth registration as a strong determinant of one's future status as a documented or undocumented national. If a child's birth is not registered within the first five years of their life, the child is predisposed to experiencing a loss of social benefits across the life course. This analysis holds true regardless of the citizenship regime and form of governance in the country of residence. Non-registration anywhere thus produces a type of "functional statelessness" (p. 3). In many nation-states, this presents challenges to enrolling in public school, registering for public health programs (e.g., vaccinations and immunizations) or social benefits programs (e.g., unemployment insurance, pension plans), accessing social assistance (e.g., welfare programs), obtaining legal employment, and participating in various aspects of civic and social daily life (e.g., voting, obtaining a public library card, opening a bank account). Indeed, in the current era of a global pandemic, the significance of recognizing and addressing the consequences of non-registration discussed in this research becomes all the more salient.

Part 2 begins with a conceptual distinction between the "legal denial" and the "administrative denial" of national status by the state (p. 5). Legal denial involves denying national status to individuals who are long-term residents of the state and/or who do not have legal membership in another state; this results in people becoming stateless (p. 14). Administrative denial involves the active or passive non-facilitation of access to national documentation, which results in people with

a plausible claim to legal membership being unable to prove their nationality with documentation (p. 8). **Undocumented Nationals** focuses on the latter. Hunter argues that omission (neglecting to facilitate access) and commission (actively preventing access as a means of intentional discrimination) are two ways in which access to national documentation is restricted by the state (p. 5). Unsurprisingly, a key issue stemming from a lack of documentation is the absence of sufficient data. Drawing on UNICEF data on birth registration rates by country, Hunter notes that regional averages for unregistered births overlook cross-country variation, and country averages further mask internal variation (p. 9). Factors that affect birth registration include socio-economic status, ethnicity, gender, and time between birth and registration. Despite the proposal and implementation of several reforms discussed in Part 3, state concern over the financial and logistical barriers to birth registration is still insufficient in several Global South regions (pp. 10–11)—particularly countries in Africa and South and East Asia, as well as parts of Latin America and the Caribbean.

Part 3 focuses on the administrative denial of access to documentation through state omission. Hunter highlights the demand-supply function to birth registration (p. 27). Specifically, "birth registration is a joint function of societal incentives, on the one hand, and state interests and capabilities, on the other" (p. 24). On the demand side (which includes a large proportion of rural, low-income, and/or Indigenous populations), registration is seen as costly, inaccessible, and unlikely to bring significant benefits, and accompanied by shaming the mothers forced to register their children as "illegitimate" (p. 35). On the supply side, an absence of notary publics in remote communities and a lack of registrar fluency in

Indigenous languages present barriers to registration. Hunter reasons that the development of neoliberal reforms and pressure towards democratization in Latin America and the Caribbean in the 1990s led to a state push for social policy that was more inclusive of all members of the population and that better addressed ongoing poverty and social inequality (pp. 29–30). Establishing a new floor of social support for the poor and reintegrating populations into the state's social and political fabric following internal conflict became key policy objectives (p. 30). Suggested administrative reforms include increasing communication, simplifying procedures, reducing costs, facilitating delayed registration and logistical access, reducing sexism and the stigma of unrecognized paternity, eliminating intergenerational barriers (such as requiring parents to be registered before their children), and training registrars to facilitate language diversity (pp. 33–35). Although there has been an increase in benefits resulting from birth registration, thus leading to increased demand, Hunter maintains that greater policy changes were and are still needed.

Part 4 examines the exclusion of Haitian descendants in the Dominican Republic and of Nubians in Kenya as two case studies that exemplify the intentional denial of access to documentation as a form of discrimination. Since the 1930s, there has been an "official [Dominican] state policy" of "**antihaitianismo**" (p. 39). First, all Dominican Constitutions from 1929 to 2010 defined a **jus solis** citizenship regime that included a clause that excluded the children of foreign residents deemed "in transit." Without a clear definition of "in transit" (p. 39), the Dominican state routinely denied citizenship to children of Haitian descent (pp. 40–41). Although a new migration law in 2014 technically provided a pathway to citizenship

for all residents, "the costs, evidence, and legal assistance necessary to [apply]" (pp. 45–46) were beyond the reach of many Haitian descendants. Second, a shift in citizenship regime from **jus solis** to **jus sanguinis** in the early 2000s rendered approximately 200,000 individuals, primarily Haitian descendants, instantly stateless (p. 38). In Kenya, a **jus sanguinis** regime similarly serves to exclude Nubians, an Islamic group with a colonial history of allegiance to the British. Despite most Nubians self-identifying as Kenyan (p. 48), their exclusion by the state is evident in their inability to access social funds, national documentation, and the imposition of a "vetting" process (p. 49), which illogically depends on the provision of national documents for a successful outcome. In both cases, the denial faced by Haitian descendants in the Dominican Republic and Nubians in Kenya stems from active social and political processes that uphold open state discrimination and deliberately maintain the vulnerability of populations who are ideologically conceptualized as "other" and lesser-than. Such exclusion and marginalization are further upheld when discriminatory laws exist within loopholes of international frameworks, as seen with the 2014 Dominican migration law.

Part 5, the conclusion, brings the analyses in this Element together with the assertion that by addressing barriers to registration on both the demand and supply sides of the issue of evidentiary statelessness, productive state measures can be implemented. While modernization has facilitated an increase in birth registration, Hunter proposes political will as key to enabling and ensuring birth registration, as well as the receipt of documentary proof of registration and thus national status. It is a powerful proposition that places the onus on state actors, a well-supported position by the arguments throughout this Element.

Overall, **Undocumented Nationals** is clear, focused in scope, and accessible, and it achieves what it sets out to do: it provides a snapshot and analysis of a more commonly overlooked facet of undocumented status, namely, evidentiary statelessness, with the aim of raising awareness, problematizing the role of the state, and offering solutions through a call for institutional measures. An informative and compelling piece, this Element makes a valuable contribution to the field of migration and border studies more broadly, with particular significance to political science research and scholarship on (non-) citizenship, legal status and documentation, nationalism and state exclusion, and statelessness. Migration scholars, students, policy-makers, state actors, and community service providers—particularly those examining

issues of statelessness in the Global South—are sure to find this Element a relevant read in equal measure.

About the author

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