

# REFUSING REFUSAL: THE STRUGGLES OF STATELESS PALESTINIANS IN THE SWEDISH MIGRATION REGIME

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*This article explores the ways in which contemporary Swedish migration politics are manifested and performed in relation to stateless Palestinians. A qualitative case study shows how the migration regime of Sweden aggravates conditions of statelessness through managerial aspects of categorisations, temporalities, passivisation and spatialities. The article illustrates how securitised migration politics are detrimental to how statelessness is lived and experienced but also that stateless migrants actively engage with this regime in order to resist, protest and achieve change. Using counter-conduct as a prism through which to analyse migrant resistance, the article further explores how stateless migrants do not passively submit themselves to the outcome of penalising regimes, but struggle for a right of presence.*

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## I INTRODUCTION AND AIMS

In late 2019, Ahmed, a stateless Palestinian man from Gaza in his 40s, was evicted from Restad Gård, the accommodation of the Swedish Migration Agency ('SMA') in the city of Vänersborg. His application for protection had been rejected and he was to be deported but found it impossible to return to Gaza. He saw no other solution than to spend his nights outside of the building. To keep warm, he wrapped himself in plastic and a tarpaulin as he lay on the asphalt outside of the imposing brick-layered building. Ahmed was on hunger strike during January and February 2020, with the intention of drawing attention to his situation. Later, a small blue tent bought by his friends became his only semblance of 'home'. By February 2021, there was no change to his situation and due to the freezing cold, he was briefly hospitalised with hypothermia. Ahmed's circumstances reflect how lives are made invisible and impossible through the governmentality of Sweden's

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migration regime, but also how precarious migrants struggle to search for dignity and rights.<sup>1</sup>

This article investigates the ways in which precarious migrants seek to resist the disciplinary mechanisms of migration regimes. More precisely, this article explores how stateless Palestinians in Sweden act in order to transform their future and resist the conduct and governmentality of Swedish migration politics. Although precarious migrants are often categorised as vulnerable and situated outside of politics as non-subjects (either as victims or threats), recent research within the field of *autonomy of migration* illuminates the agency and political struggles of vulnerable migrant groups.<sup>2</sup> Migrants engage with the governmentality of securitised and neo-liberal border regimes<sup>3</sup> of the Global North in their continuous movement for freedom.

The aim of this article is to contribute to both empirical and theoretical understandings of the strategies used by stateless migrants in order to alter their situation. It will do so through a case study that pays attention to stateless Palestinians seeking asylum in Sweden, with a particular focus on persons who have received decisions ordering deportation. Deportation and return-migration are particular features of migration regimes and affect stateless people in particular ways. The main question to be addressed is: *how do stateless refugees resist the governmentality of migration regimes?* Following theoretical and methodological considerations, the article is organised by the identification of stateless resistance to different aspects of governmentality: categorising, temporal and spatial mechanisms and the actual conducting of behaviour.

## II THEORETICAL CONSIDERATIONS: STATELESSNESS, DEPORTABILITY AND MIGRANT RESISTANCE AS COUNTER-CONDUCT

This article combines readings on the literature of statelessness with that of migrant resistance and draws inspiration from an emerging field within migration studies that considers how borders and governmentality are navigated and countered by ‘unwanted’ migrants. Migration, as such, is seen as a process towards autonomy (or freedom) and involves ‘migrant’ claims of rights to mobility and

<sup>1</sup> Conversation with Ahmed (Helena Lindholm, Vänersborg, 18 February 2020 and 20 March 2021).

<sup>2</sup> See Martina Tazzioli, ‘The Temporal Borders of Asylum: Temporality of Control in the EU Border Regime’ (2018) 64(1) *Political Geography* 13; Maurice Stierl, *Migrant Resistance in Contemporary Europe* (Routledge 2019); Fiorenza Picozza, *The Coloniality of Asylum: Mobility, Autonomy and Solidarity in the Wake of Europe’s Refugee Crisis* (Rowman International 2021).

<sup>3</sup> See, eg, Alice Bloch and Liza Schuster, ‘At the Extremes of Exclusion: Deportation, Detention and Dispersal’ (2005) 28(3) *Ethnic and Racial Studies* 491. See also Jef Huysmans, *The Politics of Insecurity: Fear, Migration and Asylum in the EU* (Routledge 2006); Philippe Bourbeau, *The Securitisation of Migration: A Study of Movement and Order* (Routledge 2015); Didier Fassin, ‘Policing Borders, Producing Boundaries: The Governmentality of Immigration in Dark Times’ [2011] 40 *Annual Review of Anthropology* 213; Jennifer Hyndman, ‘The Geopolitics of Migration and Mobility’ (2012) 17(2) *Geopolitics* 243; Bridget Anderson, *Us and Them?: The Dangerous Politics of Immigration Control* (Oxford University Press 2013); Alexandria J Innes, *Migration, Citizenship and the Challenge for Security: An Ethnographic Approach* (Palgrave Macmillan 2015); Vanessa Barker, *Nordic Nationalism and Penal Order: Walling the Welfare State* (Routledge 2017); Nicholas De Genova (ed), *The Borders of ‘Europe’: Autonomy of Migration: Tactics of Bordering* (Duke University Press 2017); Ruben Andersson, *No Go World: How Fear Is Redrawing Our Maps and Infecting Our Politics* (University of California Press 2019).

space.<sup>4</sup> This literature allows us to understand how rights-claims implicate a refusal to accept illegalisation<sup>5</sup> and criminalising designs of migratory regimes.<sup>6</sup> Such agency also challenges the construction of ‘the good, grateful and passive refugee’ and, thus, the ‘deserving’ one.<sup>7</sup> That is, the migrant who can prove their status as a legal ‘convention’ refugee, as opposed to the ‘undeserving’, or ‘illegal’ migrant.<sup>8</sup> Resistance strategies might then be enacted in the form of refusing to accept the ‘slow violence’ implicated in borders, governmentality and deportability,<sup>9</sup> refusing to accept a continued existence in limbo.

Asylum seekers, deportees, stateless people and other precarious migrants do not always passively accept bureaucratic mechanisms that implicate their continuous liminality and conduct, but instead engage with the state in their struggle for change.<sup>10</sup> Migrant resistance is often analysed using the Foucauldian notion *counter-conduct*,<sup>11</sup> through which governmentality’s disciplining powers to shape certain conduct and performance is resisted.<sup>12</sup> Conduct and counter-conduct are intertwined. It is suggested that the migration regime, through its coercive and disciplinary mechanisms, seeks to ‘conduct’ the asylum seeker into a specific type of obedient subject and counter-conduct is a way to transcend this. For Jacques Rancière, resistance represents efforts to destabilise an order and construct a space for those without a voice, acknowledging that ‘people are persistently engaged in efforts to alter their world’.<sup>13</sup>

Although migration regimes, understood as a set of rules, regulations, norms and practices that serve as the ‘governmental technologies’<sup>14</sup> of institutions, are not necessarily internally coherent nor intentionally malignant, the very state system and the international order that aims to provide protection is also a

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4 See Martina Tazzioli, *Spaces of Governmentality: Autonomous Migration and the Arab World* (Rowman & Littlefield 2015); De Genova (n 3); Bernd Kasperek, ‘Routes, Corridors, and Spaces of Exception, Governing Migration and Europe’ (2016) 1(1) *Near Futures Online* <<http://nearfuturesonline.org/routes-corridors-and-spaces-of-exception-governing-migration-and-europe/>>; Glenda Garelli and Martina Tazzioli, ‘Choucha Beyond the Camp: Challenging the Spatial and Temporal Boundaries of Migration Studies’ in De Genova (n 3).

5 See Anderson (n 3).

6 See De Genova (n 3).

7 See Christine Schwöbel-Patel and Deger Ozkaramanli, ‘The Construction of the “Grateful” Refugee in Law and Design’ (2017) 4(1) *Human Rights Law Review* 1.

8 Tazzioli, ‘The Temporal Borders of Asylum’ (n 2) 2.

9 See Dalia Adbelhady, Nina Gren and Martin Joormann (eds), *Refugees and the Violence of Welfare Bureaucracies in Northern Europe* (Manchester University Press 2020).

10 Tendayi Bloom, Katherine Tonkiss and Phillip Cole ‘Introduction: Providing a Framework for Understanding Statelessness’ in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 1, 3. See also Stierl (n 2).

11 Michel Foucault, *Security, Territory, Population: Lectures at the College de France* (Palgrave Macmillan 2007) 389–90. See also Deirdre Conlon, ‘The Nation as Embodied Practice: Women, Migration and the Social Production of Nationhood in Ireland’ (PhD Thesis, University of New York, 2007).

12 See Chriss Rossdale and Maurice Stierl, ‘Everything is Dangerous: Conduct and Counter-Conduct in the Occupy Movement’ (2016) 30(2) *Global Society* 157, 158.

13 Jacques Rancière, ‘Who Is the Subject of the Rights of Man?’ (2004) 103(2–3) *South Atlantic Quarterly* 297, discussed in Ilana Feldman, *Life Lived in Relief: Humanitarian Predicaments and Palestinian Refugee Politics* (University of California Press 2018) 24.

14 Nikolas Rose and Peter Miller, ‘Political Power beyond the State: Problematics of Governance’ (1992) 43(2) *The British Journal of Sociology* 173, 175.

mechanism and system through which refugees are *made*<sup>15</sup> and statelessness *constructed*.<sup>16</sup> The increased focus on deportability<sup>17</sup> is a form of ‘slow violence’<sup>18</sup> and implicates a constant threat of being forcibly evicted.<sup>19</sup> Even if a person is granted a temporary residence permit, deportation may linger in the future; this is especially so for people who cannot be ‘removed’ due to what are known as ‘practical impediments’ to removal. As migration regimes and their institutions rest on the assumption that migrants have a home country and are members of some nation-state,<sup>20</sup> stateless migrants represent an anomaly. They are, per definition, persons without nationality or citizenship in *any* country.<sup>21</sup> When claims for asylum or other forms of protection are declined, and return to the country of origin is supposed to occur, a position of ‘deportation techniques’<sup>22</sup> and *impossibility* often emerges as stateless people with pending deportation decisions are not allowed to stay, but are also unable to ‘return’ to anywhere. They are caught, or stranded, in a limbo situation<sup>23</sup> of neither-nor, as there is frequently no nation-state to which they can return. They are to be deported, but eviction cannot be executed. They are not allowed to stay but are forced to do so as it is not possible to return anywhere. Previous research has shown how this limbo-situation is experienced as a form of bureaucratic violence,<sup>24</sup> but in the literature on migrant resistance, there is a lack of studies on the agency of stateless people.

‘Statelessness’ has often been assumed to be a particular form of precarity or destitution,<sup>25</sup> a position outside of citizenship, and lacking ‘the right to have rights’, as Hannah Arendt declared in her seminal text in the aftermath of World

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- 15 See Matthew J Gibney, ‘Is Deportation a Form of Forced Migration?’ (2013) 32(2) *Refugee Survey Quarterly* 116; De Genova (n 3); Nell Gabiam, ‘Citizenship and Development: Palestinians in France and the Multiple Meanings of Statelessness’ (2015) 50(4) *Studies in Comparative International Development* 479, 496; Tendayi Bloom, *Noncitizenism: Recognizing Noncitizen Capabilities in a World of Citizens* (Routledge 2018); Martina Tazzioli, *The Making of Migration* (Sage 2020); Picozza (n 2).
- 16 See Nicole Stokes-Dupass, ‘Mass Migration, Tightening Borders and Emerging Forms of Statelessness in Denmark, Norway and Sweden’ (2017) 12(1) *Journal of Applied Security Research* 40, 43–44.
- 17 See Shahram Khosravi, ‘Sweden: Detention and Deportation of Asylum Seekers’ (2009) 50(4) *Race & Class* 38; De Genova (n 3); Leanne Weber, ‘Deciphering Deportation Practices across the Global North’ in Sharon Pickering et al (eds), *The Routledge Handbook in Crime and International Migration* (Routledge 2011) 155.
- 18 Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Harvard University Press 2014).
- 19 Karina Horsti and Päivi Pirkkalainen, ‘The Slow Violence of Deportability’, *Border Criminologies* (Blog Post, 2021) <<https://jyx.jyu.fi/handle/123456789/74831>> (‘The Slow Violence of Deportability’).
- 20 See Phillip Cole, ‘Insider Theory and the Construction of Statelessness’ in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 255, 263.
- 21 *Convention Relating to the Status of Stateless Persons*, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960) art 1 (‘1954 Convention’).
- 22 Giulia Fabini, ‘Internal Bordering in the Context of Undeportability: Border Performances in Italy’ (2019) 23(2) *Theoretical Criminology* 175, 176; Melanie Griffiths, ‘Anonymous Aliens? Questions of Identification in the Detention and Deportation of Failed Asylum Seekers’ (2012) 18(6) *Population, Space and Place* 715, 722.
- 23 See Anna Lundberg, ‘Pushed out in Limbo — The Every-day Decision-Making about “Practical Impediments to Enforcement” in the Swedish Management of Return Migration’ (2020) 3(3) *Retfærd* 13.
- 24 But see Khosravi (n 17); ‘The Slow Violence of Deportability’ (n 19).
- 25 See Michael Walzer, *Obligations: Essays on Disobedience, War and Citizenship* (Harvard University Press 1970).

War II.<sup>26</sup> More recently, this position has become somewhat nuanced and understood as intersecting with other forms of vulnerability and processes of marginalisation.<sup>27</sup> Statelessness might intersect with refugeeness, but at the same time, not all stateless people are refugees. Refugeeness often implies a condition of ‘noncitizenship’,<sup>28</sup> similar to, but not equal to, statelessness. Citizenship or nationality (not essentially the same thing) do not necessarily mean freedom from precariousness. Correspondingly, statelessness in itself does not automatically mean that a person is in need of protection.<sup>29</sup> Sometimes, a distinction is made between *de jure* and *de facto* statelessness, where *de facto* statelessness relates to ‘persons outside the country of their nationality who are unable or ... unwilling to avail themselves of the protection of that country’.<sup>30</sup> Thus, their citizenship is ‘ineffective’,<sup>31</sup> but is not protected under the *Convention Relating to the Status of Stateless Persons*’ definition of statelessness.<sup>32</sup>

Many scholars have acknowledged how citizenship (and thus, also, non-citizenship) is a category that is ‘gradient’, imbricating or differentiated<sup>33</sup> as citizenship is no guarantee for maintenance of rights.<sup>34</sup> Fluidity and hierarchies among different legal statuses are manifested through gradual rights related to residence status.<sup>35</sup> Noncitizens and rightless people are also political subjects.<sup>36</sup> As the Global North is turning its face away from stateless people and other precarious migrants,<sup>37</sup> the lived experiences of statelessness are transformed in interactions with refugeeness and migratory processes, creating a complicated ‘nexus’ between different vulnerabilities and identities.<sup>38</sup>

Most often, statelessness is treated as a problem to be solved through individual acquisition of citizenship<sup>39</sup> and only more rarely are the lived experiences of

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<sup>26</sup> Hannah Arendt, *The Origins of Totalitarianism* (Schocken Books 1951) 296–97.

<sup>27</sup> Lindsey Kingston, ‘Worthy of Rights: Statelessness as a Cause and Symptom of Marginalisation’ in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 17, 25; Caia Vliet, ‘Contexts of Statelessness: The Concepts “Statelessness in Situ” and “Statelessness in the Migratory Context”’ in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 35.

<sup>28</sup> Bloom (n 15) 11.

<sup>29</sup> Katja Swider, ‘Why End Statelessness?’ in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 191, 192.

<sup>30</sup> *The Concept of Stateless Persons under International Law* (Expert Meeting, UNHCR 27–28 May 2010) [2].

<sup>31</sup> Latif Tas, ‘How International Law Impacts on Statelessness and Citizenship: The Case of Kurdish Nationalism, Conflict and Peace’ (2016) 12(1) *International Journal of Law in Context* 42, 48.

<sup>32</sup> See 1954 *Convention* (n 21).

<sup>33</sup> Elizabeth F Cohen, *Semi-Citizenship in Democratic Politics* (Cambridge University Press 2009) 59. See also Bloom (n 15).

<sup>34</sup> Kingston (n 27) 20.

<sup>35</sup> Stokes-Dupass (n 16) 53.

<sup>36</sup> Bloom (n 15).

<sup>37</sup> See Caroline Sawyer and Brad Blitz, *Statelessness in the European Union: Displaced, Undocumented, Unwanted* (Cambridge University Press 2011).

<sup>38</sup> See Sophie Nonnemacher and Ryszard Cholewinski, ‘The Nexus between Stateless and Migration’ in Alice Edwards and Laura van Waas (eds), *Nationality and Statelessness* (Cambridge University Press 2014) 247; Laura Van Waas and Amal de Chickera, ‘Unpacking Statelessness’ in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 53, 64.

<sup>39</sup> See Laura Van Waas, *Nationality Matters: Statelessness under International Law* (School of Human Rights Research 2008); Brad Blitz and Maureen Lynch (eds), *Statelessness and the Benefits of Citizenship: A Comparative Study* (Report, Geneva Academy of International Humanitarian Law and Human Rights 2009).

stateless people or their collective identities placed in focus.<sup>40</sup> Some scholars question the liberal and individualist statelessness perspective and highlight the potential of a perspective based on collective experience, identity and belonging.<sup>41</sup> As such, the state also relates to issues of identity, nation, nationalism and ideas of a homeland.<sup>42</sup> Therefore, statelessness is imbricated with questions evolving around identity and belonging.<sup>43</sup>

Recently, research has acknowledged potential social aspects of statelessness.<sup>44</sup> Acquisition of (individual) citizenship in some states might not be the solution. Rather, statelessness may be a collective experience requiring political solutions. The term ‘social statelessness’ has been used to capture this predicament and the ‘complex interactions between statelessness, diaspora and nationalism’.<sup>45</sup> Statelessness (as for the Palestinians) may be connected to the absence of a state and not merely the absence of citizenship.<sup>46</sup>

Resistance to this protracted condition of oblivion include a repertoire of individual as well as collective actions, varying from using existing legal recourses, mobilising in protest actions or acts that include self-harm, such as hunger strikes or lip-sewing,<sup>47</sup> representing a potential self-sacrifice and a ‘weaponization of life’.<sup>48</sup> Banu Bargu argues that destruction of the body, and ultimately death, represents ‘counterconduct to the administration of life’ performed by the migration regime.<sup>49</sup> If migration politics and the governmentality of mobility implicate ‘slow violence’,<sup>50</sup> then controlling one’s body, life and death is to reverse power relations and defy the disciplining implications of the regime. Acts of resistance imply a refusal of passivisation and a struggle ‘to make life possible in a place that did not want them’.<sup>51</sup> Ilana Feldman stated that ‘refusal ... is a form of anticipation’ and involves an idea about future-making, of creating ‘liveable lives’.<sup>52</sup>

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<sup>40</sup> See Victoria Redclift, *Statelessness and Citizenship: Camps and the Creation of Political Space* (Routledge 2013); Barzoo Eliassi, ‘Statelessness in a World of Nation-States: The Cases of Kurdish Diasporas in Sweden and the UK’ (2016) 42(9) *Journal of Ethnic and Migration Studies* 1403.

<sup>41</sup> See eg, Tas (n 31); Gabiam (n 15); Bloom (n 15).

<sup>42</sup> Gabiam (n 15) 487.

<sup>43</sup> See Elena Fiddian-Qasmiyeh, ‘Invisible Refugees and/or Overlapping Refugeeedom? Protecting Sahrawis and Palestinians Displaced by the 2011 Libyan Uprising’ (2012) 24(2) *International Journal of Refugee Law* 26.

<sup>44</sup> See eg, Tas (n 31); Gabiam (n 15); Elena Fiddian-Qasmiyeh, ‘On the Threshold of Statelessness: Palestinian Narratives of loss and erasure’. *Ethnic and Racial Studies* (2016) 39(2).

<sup>45</sup> Tas (n 31) 43.

<sup>46</sup> Elena Fiddian-Qasmiyeh, ‘On the Threshold of Statelessness: Palestinian Narratives of loss and erasure’ (2016) 39(2) *Ethnic and Racial Studies* 301, 309.

<sup>47</sup> See JoAnn McGregor, ‘Contestations and Consequences of Deportability: Hunger Strikes and the Political Agency of Non-Citizens’ (2011) 15(1) *Citizenship Studies* 597; Griffiths, ‘Anonymous Aliens?’ (n 22) 723; Deirdre Conlon, ‘Hungering for Freedom: Asylum Seekers’ Hunger Strikes — Rethinking Resistance as Counter-Conduct’ in Nick Gill and Dominique Moran, *Carceral Spaces: Mobility and Agency in Imprisonment and Migrant Detention* (Routledge 2013) 130, 133; Stierl (n 2) 35.

<sup>48</sup> Banu Bargu, *Starve and Immolate* (Columbia University Press 2014) 1, 65.

<sup>49</sup> *ibid* 85.

<sup>50</sup> Nixon (n 18).

<sup>51</sup> Stierl (n 2) xi.

<sup>52</sup> Feldman (n 13) 222.

III MIXED METHODS

Palestinians are being focused on because they constitute the largest group of stateless people in Sweden. They represent complex realities of arriving from a variety of contexts and previous countries of residence. Sweden has been chosen as a case study because of its rapidly harshening migration politics in recent years.

The article has a multi-sided approach. A qualitative text analysis has been applied to investigate altogether 15 decisions on asylum in the first instance. These were sourced from: the SMA, which have been made available to me by claimants themselves,<sup>53</sup> the Swedish *Utlänningslagen* ('*Aliens Act*'),<sup>54</sup> official enquiries, temporary laws, five decisions of the Courts of Migration and legal decisions of the SMA.<sup>55</sup> The analysis has interpreted the formulation of different techniques of the regime and how those are manifested in the documents.

Interpretations of narratives<sup>56</sup> collected through conversations with stateless Palestinians primarily in Gothenburg, but also Malmö, Stockholm and smaller towns in the Western Region of Sweden, constitute a major part of the methodological design. Interviews are ethically sensitive and narrators have been given pseudonyms. As the asylum process is contingent on frequent questioning in official institutions resembling interrogation procedures, underlining vulnerabilities and that one's story is constantly disputed or challenged. The method used emphasises a story-focused avenue in order to let people communicate their stories and experiences in their own words rather than through me conducting 'interviews'. There is a hunt for migrant stories by different authorities, researchers, humanitarian organisations, NGOs and journalists and, most of the time, sharing those stories does not mean change for migrants. Therefore, ethical questions of risks of exploitation are at the fore. Individuals have told me their stories of the asylum process, how they actually managed different stages and aspects of the process and how they acted in order to influence their futures. Confidence has been important and has been built with the Palestinian community in Sweden through earlier studies and through personal networks. Throughout the article, some of these stories will be fleshed out in some detail. These stories were selected as they stand out as important contributions in the sense that they illustrate both conduct and counter-conduct.

The narratives are built on 12 deep interviews with men, arriving between 2007 and 2019. Men often arrive earlier than their families and wait for them to arrive later, as well as being more actively engaged in protest activities. Two have been interviewed through follow-ups with up to four years in-between. All interviewees have been offered the opportunity to read the transcripts of their interviews and have been able to revise those transcripts. 11 additional shorter conversations have been held with men and women alike, in family homes, at offices/workplaces or in relation to protest activities taking place in Gothenburg in the Spring of 2020. Those conversations provided additional information but were not organised as

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<sup>53</sup> In referring to documents, code initials have been given to the claimants who appear in the texts and dates have not been revealed.

<sup>54</sup> *Utlänningslagen* [*Aliens Act*] (29 September 2005) Svensk författningssamling 2005:716 (Sweden) ('*Aliens Act*').

<sup>55</sup> *Rättsliga ställningstaganden*. These do not have the status of legal decisions.

<sup>56</sup> See Marita Eastmond, 'Stories as Lived Experiences: Narratives in Forced Migration Research' (2007) 20(2) *Journal of Refugee Studies* 248; Catherine K Riessmann, *Narrative Methods for the Human Sciences* (Sage Publications 2008).

interviews. The interviewees previously resided in Syria, Lebanon, Iraq, the Gaza Strip, Libya and the Gulf states.

I have also observed processes related to resistance, such as protest activities and demonstrations that were carried out in 2014 and during the Spring of 2020 in Gothenburg. I have followed internet and Facebook communities, initiated in support of protest activities in Gothenburg starting in the Spring of 2020, called *Palestinian Refugees Rights in Sweden*, *Palestinian Asylum-Seekers Association* and *Palestinians' Asylum-Seeking, Manifestation and Sit-in Strike* and I have been involved in conversations over messenger and email. These methods used made up a combination of the qualitative text analysis, qualitative interviews, interpretation of narratives, observation and internet studies. Positionalities involve inevitable and strong asymmetries and hierarchies as I am safe and secure not only in my Swedish citizenship, but in my status and position, engaging with one of the most vulnerable groups at the margins of contemporary Swedish society. Particular ethical questions arise in relation to, for example, hunger strikes, when stateless people put their lives at risk. I have not seen myself as a 'neutral' bystander, but I sympathise with Maurice Stierl who writes about the position of an 'ethnography of struggle'.<sup>57</sup> In such research, positions may become blurred and it should be noted that I have assisted in providing contacts with legal authorities. I have also been involved in conversations trying to persuade individuals not to commit death by suicide or, simply, to comfort individuals in periods of distress.

#### IV STATE OF THE ART: STATELESSNESS AND SWEDEN'S MIGRATION POLITICS

Intense political polarisation on migration in Sweden has, during the last few years, resulted in a highly restricted politics. Due to the so-called 'refugee crisis' in 2015, temporary laws were introduced by the Swedish Government in 2016 and though, at least, withdrawn in 2019, they were to be applied to the above 2005 *Aliens Act*.<sup>58</sup> These laws reduced the number of grounds for protection, replaced permanent residence permits with temporary permits and restricted the possibility of family reunifications.<sup>59</sup> In effect, this has considerably weakened the prospects of ending statelessness. Previously, stateless people could be granted residence permits grounded in 'other needs of protection' (rather than reasons for asylum) and 'humanitarian reasons', but the possibility of this has become considerably limited.<sup>60</sup> A new *Aliens Act* became reality in July 2021,<sup>61</sup> confirming the changes already introduced through the temporary laws.<sup>62</sup> The situation of non-deportability for stateless people was discussed in a governmental report suggesting that statelessness could, in certain circumstances, be considered a ground for protection in itself,<sup>63</sup> but this was not included in the new law. Further,

<sup>57</sup> Stierl (n 2) 17.

<sup>58</sup> *Aliens Act* (n 54).

<sup>59</sup> *Lag No 2016:752 om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige* [Law No 2016:752 on Temporary Restrictions and the Possibility of Obtaining a Residence Permit in Sweden] (22 June 2016) Svensk författningssamling 2019:481 (Sweden).

<sup>60</sup> *ibid.*

<sup>61</sup> *Lag No 29:1211 om ändring i lagen; 2017:356 om ändring i lagen; 2005:716 om ändring i utlänningslagen* (1 July 2021) Svensk författningssamling 2021:766 (Sweden).

<sup>62</sup> *Aliens Act* (n 54).

<sup>63</sup> *Upphållstillstånd på grund av praktiska verkställighetshinder och preskription* (Report No 2017:84, Statens Offentliga Utredningar 2017) 84 ('Upphållstillstånd Report').



the Swedish government has been critiqued for not defining statelessness or creating a particular procedure for determining statelessness.<sup>64</sup> The United Nations High Commissioner for Refugees ('UNHCR') has recommended that Sweden implement changes in this regard. The UNHCR has also suggested that Sweden should introduce a residence permit specific for stateless persons 'who, due to their statelessness, have no country to return to, and who today receive residence permits not corresponding to their protection needs as stateless persons'.<sup>65</sup> The only relevant concern that has been taken on is the suggestion regarding relieving mechanisms in the naturalisation processes for stateless people born in Sweden.<sup>66</sup>

For persons whose asylum applications have been rejected and who are to be deported, but cannot for practical reasons be removed, temporary residence permits on the grounds of 'practical impediments to removal' may be the only source of hope.<sup>67</sup> This means that there are obstacles to implement a decision to deport someone. Those obstacles could relate to, for example, violent conditions in the receiving country or a refusal on the part of the receiving country to allow entry for the deported. However, residence permits due to such impediments are rarely granted.<sup>68</sup>

In Sweden, the majority of stateless claimants of asylum and protection are of Palestinian background<sup>69</sup> with a history of refugeeness ultimately originating in dispossession and displacement of the *nakba* (catastrophe) in 1948.<sup>70</sup> Many are 'multiple refugees',<sup>71</sup> as the Palestinian refugee situation is not only continuous but repeated in relation to various wars and insecurities in the Middle East. In addition, Palestinians represent a population involved in mixed migration patterns, as refugees from 1948 resettled in, for example, the Gulf countries, seeking their relative fortune in the oil economies<sup>72</sup> where statelessness was perpetuated and residence required sponsorship from employers. Although Palestinians may uphold a variety of citizenships, statelessness remain a feature of their collective predicament as a people.<sup>73</sup>

The number of stateless asylum claimants in Sweden during the 2012–20 period amounted to 29,351, with a high of 7,863 in 2014 and low of 376 in 2020.<sup>74</sup> The

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<sup>64</sup> *Mapping Statelessness in Sweden* (Report, UNHCR Regional Representation for Northern Europe December 2016) 33 ('*Mapping Statelessness*').

<sup>65</sup> *UNHCR Recommendations to Sweden on Strengthening Refugee Protection in Sweden, Europe and Globally* (Report, UNHCR 22 June 2020) 8 ('*UNHCR Recommendations*').

<sup>66</sup> *Ändrade regler i medborgarskapslagen* (Report No 2021:54, Statens Offentliga Utredningar 2 July 2021) 53–72.

<sup>67</sup> *Uppehållstillstånd Report* (n 63).

<sup>68</sup> Lundberg (n 23).

<sup>69</sup> *Mapping Statelessness* (n 63) 26. Note that as a signatory to the UN 1954 Convention (n 21), Sweden has a number of requirements to fulfil. Sweden has also signed the UNHCR *Global Action Plan to End Statelessness: 2014–2024* (Report, UNHCR 2013), which aims to 'eliminate statelessness' by 2024.

<sup>70</sup> See Ilan Pappé, *The Ethnic Cleansing of Palestine* (One World Oxford 2006).

<sup>71</sup> Fiddian-Quasmiyeh (n 43) 279

<sup>72</sup> See Ann M Lesch, 'Palestinians in Kuwait' (1991) 20(4) *Journal of Palestine Studies* 42, 42–43.

<sup>73</sup> Gabiam (n 15) 486.

<sup>74</sup> Statistiksservice, 'Asylsökande under året efter medborgarskapsland och kön. År 2002 – 2020', SCB (Web Page, 18 March 2021) <[https://www.statistikdatabasen.scb.se/pxweb/sv/ssd/START\\_BE\\_BE0101\\_BE0101P/A/sylsokande/#>](https://www.statistikdatabasen.scb.se/pxweb/sv/ssd/START_BE_BE0101_BE0101P/A/sylsokande/#>).

ratio asylum claim approvals to stateless people has dropped to 41% in 2020,<sup>75</sup> from 80% in 2015.<sup>76</sup> According to 2019 statistics, 14,435 stateless people in the population were registered,<sup>77</sup> that is, persons with a residence permit for at least 12 months. There are also asylum applicants with ‘undefined’ or ‘unknown’ identities,<sup>78</sup> potentially including stateless people who have been unable to prove their identity. Twenty-two thousand were granted residence permits between 2015 and 2020.<sup>79</sup> Prior to the implementation of the temporary laws, the pathway for stateless people to naturalisation was smoother and between 2013 and 2016,<sup>80</sup> most refugees from Syria, including stateless Palestinians, were granted permanent residence facilitating naturalisation.

## V CONDUCT AND COUNTER-CONDUCT

### A Categorisation and Identity

One of the mechanisms used in the governmentality of migration relates to the selection procedures. This includes categorisations, counting, registrations and statistics used to establish who belongs and who does not, and who will be granted the benefits of residence permits and who will not, thereby controlling or excluding migrants and refugees (the ‘undesirables’) and keeping them outside of nation-state borders.<sup>81</sup> The asylum procedure is a process of making credible claims of identity and as such infringes on identity processes, as failure to establish one’s identity may result in decisions of uncertain identities.

At this stage in the process, stateless Palestinians already experience particular challenges. As Sweden has recognised a Palestinian state, Palestinian citizenship is accepted for persons with passports registered in the West Bank or Gaza.<sup>82</sup> However, Palestinian citizens may, at times, be declared *de facto* stateless,<sup>83</sup> as

<sup>75</sup> *ibid.*

<sup>76</sup> *Avgjorda asylärenden beslutade av Migrationsverket 2015* (Report, Migrationsverket 1 January 2016) <<https://www.migrationsverket.se/download/18.7c00d8e6143101d166d1aad/1485556214929/Avgjorda%20asylärenden%202015%20-%20Asylum%20desicions%202015.pdf>>.

<sup>77</sup> Statistikservice, ‘Utländska medborgare i riket efter medborgarskapsland, ålder och kön. År 1973-2020’, SCB (Web Page, 18 March 2021) <[https://www.statistikdatabasen.scb.se/pxweb/sv/ssd/START\\_\\_BE\\_\\_BE0101\\_\\_BE0101F/UtlmedbR/table/tableViewLayout1/](https://www.statistikdatabasen.scb.se/pxweb/sv/ssd/START__BE__BE0101__BE0101F/UtlmedbR/table/tableViewLayout1/)>.

<sup>78</sup> *Mapping Statelessness* (n 63) 17.

<sup>79</sup> *UNHCR Recommendations* (n 65) 7.

<sup>80</sup> See, eg, *MIG 2013:19* (2013) Case No UM1590-13 (Migration Court of Appeal) (‘*MIG 2013*’); *Rättsligt ställningstagande angående säkerhetsläget i Syrien* (2013) Case No RCI 14/2013 (Swedish Migration Agency).

<sup>81</sup> See Mary Douglas, *Purity and Danger: An Analysis of Concepts of Pollution and Taboo* (Routledge 1966); Liisa Malkki, *Purity and Exile: Violence, Memory and National Cosmology among Hutu Refugees in Tanzania* (University of Chicago Press 1995); Zygmunt Baumann, *Wasted Lives: Modernity and Its Outcasts* (Polity Press 2004); Michel Agier, *Managing the Undesirables: Refugees and Humanitarian Government* (Polity Press 2011); Nick Gill, Javier Caletrio and Victoria Mason, ‘Introduction: Mobilities and Forced Migration’ (2011) 6(3) *Mobilities and Forced Migration* 301; Fassin (n 3); Griffiths, ‘Anonymous Aliens?’ (n 22); Elizabeth Mavroudi and Caroline Nagel, *Global Migration: Patterns, Processes and Politics* (Routledge 2016); Vanessa Barker, *Nordic Nationalism and Penal Order* (Routledge 2017).

<sup>82</sup> *Rättsligt kommentar angående bevisvärdet av palestinska 00-pass* (2020) Case No SR 07/2020 (Swedish Migration Agency).

<sup>83</sup> See Sawyer and Blitz (n 37).

Palestinian statehood and citizenship are considered weak. Further, a United Nations Relief and Works Agency for Palestine Refugees in the Near East ('UNRWA') registration as a 'Palestine refugee' is not sufficient for a person to be declared a 'Convention refugee', as the UN 1951 *Convention Relating to the Status of Refugees* precludes persons receiving assistance from any UN institution that is not the UNHCR from obtaining refugee status.<sup>84</sup> The claimant must prove that assistance from UNRWA has 'ceased'.<sup>85</sup> In fact, Palestinians are frequently excluded from refugee status, due to the fact that they are registered as 'Palestine refugees' and their actual status is that of *double* or *multiple* refugees.<sup>86</sup> There are also cases where the SMA maintains that asylum seekers are actually Palestinian citizens, although they only carry 00-passports, and thus deny their statelessness.<sup>87</sup>

My interlocutors have told me that their stateless conditions were *evoked* in the decisions and definitions by the SMA, rather than resolved.<sup>88</sup> Fadil, a man in his 50s, who served as a medical doctor for the Syrian authorities, as well as on international missions, and is seeking refuge in Sweden from the Syria war, explained: 'I had never thought of that before. That I am stateless. It was humiliating'.<sup>89</sup> Hamid, an engineer in his 40s, who previously lived in Syria said: 'I have always identified myself as Palestinian. But legally, I am stateless'.<sup>90</sup> Similarly, in a study on stateless Palestinians in France, Gabiam found that statelessness is not a term that is used or accepted.<sup>91</sup> For Palestinians, statelessness is connected to the fact that they, as a collective people/self, do not have a state, and that their statelessness is a collective experience<sup>92</sup> derived from the fact that they were displaced from their homeland in 1948.

Thus, the identities that stateless asylum seekers actively embrace (Palestinian, Palestinian refugee) are repressed and new categories are created (stateless, asylum seeker, uncertain identity, deportee, undocumented) in a bureaucratized subjectification from the outside.<sup>93</sup> To my interviewees, it was the *conditions of Palestinian refugeeness* and the protracted displacement<sup>94</sup> that should be default for their asylum claims. They interpreted the Swedish migration politics as denying their preferred narrative and identity of loss and erasure.<sup>95</sup> In resisting

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<sup>84</sup> *Convention Relating to the Status of Refugees*, opened for signature 28 July 1951, 189 UNTS 37 (entered into force 22 April 1954) art I(A).

<sup>85</sup> *MIG 2013* (n 80). This is based on the Court of Justice of the European Union case, *El Kott v Bevándorlási És Állampolgársági Hivatal [El Kott, A Radi and Ismail v Office of Immigration and Nationality]* (Court of Justice of the European Union, C-364/11, ECLI:EU:C:2012:826, 19 December 2012). According to praxis, the SMA considers protection to have 'ceased' when a person has been 'forced to leave the operational areas of UNRWA due to external conditions outside of this person's control' and then 'he or she shall instead automatically be provided the benefits of the Geneva convention'.

<sup>86</sup> Fiddian-Quasmiyeh (n 43) 279.

<sup>87</sup> According to interviews and conversations with stateless Palestinians participating in a sit-in strike in Gothenburg, January–February 2020.

<sup>88</sup> According to interviews and conversations held between 2018–20.

<sup>89</sup> Interview with Anonymous (Helena Lindholm, Abed, Småland, August 2018).

<sup>90</sup> Interview with Anonymous (Helena Lindholm, Firas, Halland, February 2019).

<sup>91</sup> Gabiam (n 15) 481.

<sup>92</sup> *ibid.*

<sup>93</sup> Stierl (n 2).

<sup>94</sup> According to interviews and conversations held between January 2018 – March 2020.

<sup>95</sup> See generally Rashid Khalidi, *Palestinian Identity: The Construction of Modern National Consciousness* (Columbia University Press 2010); Helena Lindholm Schulz, *The Reconstruction of Palestinian Nationalism: Between Revolution and Statehood* (Manchester University Press 1999); Gabiam (n 15).

those labels, stateless Palestinians seek to align with members of the Palestinian diaspora who arrived earlier and are now Swedish citizens and create communities of solidarity, emphasising the common Palestinian experience of displacement as an experience which is of importance. Palestinian statelessness is seen as the result of the displacement originating in 1948, and therefore, they should receive protection on that condition. Struggles are also entangled with solidarity movements within host societies.<sup>96</sup> Asylum seekers actively engage with different NGOs but have found it difficult to give voice to the particular Palestinian predicament through connecting with Swedish solidarity organisations. Many believe that empathy in Swedish civil society has been primarily directed towards unaccompanied minors from Afghanistan.<sup>97</sup> There is also engagement with Swedish political decision-making structures, through the presence of a Palestinian diaspora and, for example, Jamal al-Haj, a Member of Parliament who arrived in Sweden from Lebanon in the 1980s, who has used his position to raise awareness of the situation of stateless people.<sup>98</sup>

The struggles of stateless Palestinians are enmeshed with hopes of ending statelessness, but also with Palestinian nationalism, identity and struggle for independence/liberation.<sup>99</sup> At times, statelessness is emphasised as a way of accentuating how stateless Palestinians represent vulnerability throughout the (Arab) world, and a reason in itself why protection should be provided. Statelessness could also be used as a way to emphasise Palestinian-ness as such, and to indicate the ways in which Palestinian non-citizenship in Arab countries needs to be recognised. Thus, in resisting outside categorisations, stateless Palestinians highlight their collective national experience and emphasise different aspects of statelessness in different situations. In a letter to UNHCR, authored by Palestinian Refugee Rights, it is argued:

The Palestinian refugees constitute a vulnerable refugee community. Their status of refugees has lasted since 1948, which means sharp restrictions in their legal status, their freedom of mobility and their human rights. The Palestinian refugee community suffers from their long-time dispossession and displacement and the impossibility for them to return to Palestine.<sup>100</sup>

In not recognising Palestinian claims of selfhood and refugeeness, Swedish migration politics was interpreted as using a form of ‘collective punishment’ and the SMA was portrayed as ‘lying’, ‘hellish’ and as ‘inhuman’.<sup>101</sup> There was a widespread belief that the SMA routinely rejected Palestinian asylum claims.

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<sup>96</sup> Christine Straehle, ‘Associative Solidarity, Relational Goods and Autonomy for Refugees: What Does It Mean to Stand in Solidarity with Refugees’ (2020) 51(4) *Journal of Social Philosophy* 526.

<sup>97</sup> According to interviews and conversations held between 2019–20.

<sup>98</sup> Jamal El-Haj, *Statslösa palestiniers situation vid avslag på asylansökan* (Written Question to Morgan Johansson No 2019/20: 1020, 2019).

<sup>99</sup> Diana Allan, *Refugees of the Revolution: Experiences of Palestinian Exile* (Stanford University Press 2014); Gabiam (n 15); Feldman (n 13).

<sup>100</sup> Conversation with protesters at the Palestinian sit-in strike in Gothenburg, 2 March 2020.

<sup>101</sup> *ibid.*

B Temporal Conduct and Counter-Conduct: 'The Days I Lost'

The 'disciplining of mobility' through temporal management has been emphasised by numerous scholarly works.<sup>102</sup> The asylum process is fragmented into determined as well as unregulated time slots, limits, delays, deadlines to keep,<sup>103</sup> periods of waiting for interviews, decisions, new questions and restrictions for the duration of temporary permits. For those denied asylum, there is a four-year period before an application can be submitted again. During the protracted process as a whole, time freezes. Respondents in my research experience life in an unending limbo,<sup>104</sup> as 'hell' and as impossible, where time is stagnated and frozen;<sup>105</sup> how time is lost in situations outside of normal time.<sup>106</sup> Waiting for some kind of resolution has, for some, lasted as long as 17 years;<sup>107</sup> waiting represents governmentality through uncertainty.<sup>108</sup>

Hadi described the frustration during the process and how this time was 'hell'.

I waited one year and two months for the decision. We had an interview in January 2008; my mom had arrived in December 2007. In January, I met my lawyer ... . After that, from January to September, no one saw me. Then they called me in September. So those eight months, those were hell for real. Because you don't know and you begin to get a little used to live here. You are here.<sup>109</sup>

In Hadi's reflection, 'you are here' and you have become accustomed to 'being here', while at the same time you cannot know for how long that condition will last. Shahram Khosravi talks about the 'theft of time', as people come to lag behind in future making, planning, education, work and income.<sup>110</sup>

For those whose applications are rejected, but where eviction is not possible, time is pressingly indeterminate as well as punishing and incarcerating. Appeals are made and decisions awaited, referring to contextual hindrances of entering countries of deportation. Respondents who have been staying on in Sweden recall how they move between different categories as well as between different temporal

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<sup>102</sup> Tazzioli, *Spaces of Governmentality* (n 4) 16; Melanie B E Griffiths, 'Out of Time: The Temporal Uncertainties of Refused Asylum Seekers and Immigration Detainees' (2014) 40(12) *Journal of Ethnic and Migration Studies* 1991; Melanie Griffiths, 'The Changing Politics of Time in the UK's Immigration System' in Elizabeth Mavroudi, Ben Page, Anastasia Christou (eds), *Timespace and International Migration* (Edward Elgar Publishing 2017).

<sup>103</sup> Tazzioli, *The Making of Migration* (n 15).

<sup>104</sup> Deirdre Conlon, 'Waiting: Feminist Perspectives on the Spacings/Timings of Migrant (Im)mobility' (2011) 18(3) *Gender, Place & Culture* 353, 356.

<sup>105</sup> Helena Lindholm, 'Arrhythmic Mobilities and Fragmented Mobilities: Journeys of Palestinians Seeking Safety in Sweden' (2020) 24(2) *Journal of Refugee Studies* 1657, 1661.

<sup>106</sup> Griffiths (n 102); Jens Hainmueller, Dominik Hangartner and Duncan Lawrence, 'When Lives Are Put on Hold: Lengthy Asylum Processes Decrease Employment among Refugees' (2016) 2(6) *Science Advances* e1600432; Sutapa Chattopadhyay and James A Tyner, 'Lives in Waiting' (2020) *Geopolitics* <<https://doi.org/10.1080/14650045.2020.1819247>>.

<sup>107</sup> Conversation with protesters at the Palestinian sit-in strike in Gothenburg, 2 March 2020. Certainly, this is not limited to stateless asylum seekers; tedious bureaucratic management and investigations impact vulnerable asylum-seeking groups in general, but statelessness often implicates longer processes of verifying identities.

<sup>108</sup> See Martina Tazzioloi, 'The Temporal Borders of Asylum: Temporality of Control in the EU Border Regime' (2018) 64(1) *Political Geography* 13; Liza Schuster, 'Dublin II and Eurodac: Examining the (Un)intended(?) Consequences' (2011) 18(3) *Gender, Place and Culture* 401; Griffiths, 'The Changing Politics of Time' (n 102); Griffiths, 'Anonymous Aliens?' (n 22).

<sup>109</sup> Interview with Hadi (Helena Lindholm, Gothenburg, 23 January 2018).

<sup>110</sup> Shahram, Koshravi 'Stolen Time', *Radical Philosophy* (Blog Post, December 2018) 2.03 <<https://www.radicalphilosophy.com/article/stolen-time>>. But see Lindholm (n 105).

constructs. Khosravi calls this ‘circulation’; people are moved back and forth between localities, positions and categories as a form of control.<sup>111</sup> Many times, this circulation is experienced as having to start all over again. The ‘final’ temporal construct is the lingering on in the limbo that materialises when being denied a residence permit, but at the same time, being ‘undeportable’. Respondents recounted the fear that is connected to the uncertainties of the upbringing and future of their children, their schooling, housing, employment and income. Children up to the age of 14 have been born, socialised and educated in Sweden, and might be entering a phase after high school but their continuous life and future are put on hold.<sup>112</sup>

One particular story that I would like to highlight, which illustrates the slow violence of the temporal aspects of governmentality, is that of Khalil, a man in his 50s whose parents became refugees in 1948 and left Gaza for a country in the Gulf.<sup>113</sup> Citizenship has never been an option for foreign workers in the Gulf, but residence permits are always related to work and a guarantee by an employer/‘sponsor’ in the *kafala*-system, which regulates work migration in the Gulf. In 2011, Khalil was evicted for unclear reasons. He tried to find a job in Turkey but was also deported from there. He eventually arrived in Sweden but was denied asylum and the SMA’s decision was to deport him to the United Arab Emirates (‘UAE’). Khalil was still stateless even though he was in possession of UNRWA registration documents and an expired UAE identity document. I first met Khalil at a collective hunger strike held by stateless Palestinians in Gothenburg in autumn 2014, who were protesting both the lack of decisions in their asylum processes and the decisions to deport them to, for example, Gaza. He was still energetic, cheerful and hopeful, at the forefront of around 30 other men. In 2018, six years after his initial application, he received a temporary residence permit due to ‘practical impediments to enforcement’. At that time, he had not seen his family for seven years, and he described in excruciating detail how the waiting, the suspension of time and the slow violence of the state was experienced as a physical detention and he was now a broken person. Not knowing about the process, the outcome and being denied a proper (possible) life in the meantime, was a physical experience, as much as a temporal one. A few months later, he received contradictory information from the SMA about how to apply for a prolongation of the temporary permit. He became seriously ill and needed surgery as well as a long recovery.<sup>114</sup> In June 2020, he obtained another temporary residence permit for 13 months.<sup>115</sup> This time, the duration of his stay in Sweden was to his advantage, as this might eventually lead to a positive decision, since duration of the stay was interpreted in line with European regulations on the right to ‘private and family life’. This right has to do with the possibility of developing relationships with other people, which is assessed in relation to time:

The Migration Agency notes that you have now been in Sweden for soon eight years, you have also upheld a residence permit for 13 months, whereby you should be considered to have certain connection and adjustment to Sweden. The Migration Agency has further assessed that there is a consisting or at least a prolonged

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<sup>111</sup> *ibid.*

<sup>112</sup> Conversation with Mohammed (Helena Lindholm, Gothenburg, 28 March 2020).

<sup>113</sup> Conversation with Khalil (Helena Lindholm, Gothenburg, October 2014 and 18 August 2018).

<sup>114</sup> Email conversation with Khalil (Helena Lindholm, 2018).

<sup>115</sup> Swedish Migration Agency decision, Gothenburg (2020) (copy on hand with author).

practical impediment to enforcement to the UAE. It is therefore clear that Sweden is for now the country in which you have a possibility to establish and develop relationships with other people. ... A deportation of you to the UAE thus runs counter to European Convention on Human Rights article 8.<sup>116</sup>

If the SMA considers impediments to be present, then there are different alternatives: deportation may be postponed or a temporary residence may be provided whilst waiting for the impediment to be removed.

What alternative we choose depend on the duration of the impediment, personal considerations and process-economical balances. For example, it could be the case that a person resides in Sweden for such a long time that he or she has had time to adjust to life here.<sup>117</sup>

Time and waiting could then, in theory, at least, also be a source of relief and rescue, if a person waits ‘long enough’. No one could know, however, what term would be considered ‘long enough’. For Khalil, waiting paid off, in a sense. Still, he only received a 13-month permit and uncertainty lingered on.

As Bridget Anderson underscores, time is not only an incarcerating mechanism for asylum seekers, but is also utilised in an ‘anticipatory’ biding of time, hoping for change, waiting for the next opportunity to again apply for protection, waiting out the system to wear down or simply forget about them — it may be used as a strategy of resistance.<sup>118</sup> Such resistance may be represented by coping, navigating and mitigating detrimental decisions and temporalities,<sup>119</sup> in learning the language, trying to prepare for a future employment, engaging in the black labour market (to survive), evading being chased away from accommodations or deported, keeping in touch with relatives, getting involved in sports, trying to socialise and trying to understand the operative framework and the decisions of the SMA. *Temporal disobedience* may be a term that is appropriate for connecting to aspirations, hopes as resistance and future-making strategies. Waiting can nurture a productive capacity to navigate and mitigate detrimental temporalities.<sup>120</sup> Abed, who in 2021 had been staying in Sweden for 13 years without a residence permit, received a work permit with the help of the trade union and was employed as a sailor in the Summer of 2021. To him, this was a victory in the struggle against the exclusionary mechanisms pursued by the SMA and meant that he could change ‘track’ and apply for a work-related residence permit rather than one for protection.<sup>121</sup> However, Leila, a young woman who previously lived in Lebanon, did not consider it right to change track, although she had a permanent job contract. For her, the right decision would be to provide her with protection and she continued to struggle for that.<sup>122</sup>

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<sup>116</sup> Swedish Migration Agency decision, Gothenburg (March 2020) (copy on hand with author).

<sup>117</sup> *Rättsligt ställningstagande angående praktiska verkställighetshinder* (2016) Case No SR 25/2016 (Swedish Migration Agency).

<sup>118</sup> Anderson (n 3) 170; Shahram Khosravi, ‘Waiting’ in B Anderson et als (eds), *Migration: COMPAS Anthology* (COMPAS 2014) 170. Conlon (n 104); Griffiths, ‘The Changing Politics of Time’ (n 102); Rebecca Rotter, ‘Waiting in the Asylum Determination Process: Just an Empty Interlude?’ (2016) 25(1) *Time & Society* 80.

<sup>119</sup> See Rotter (n 118); Page, Christou and Mavroudi (n 80); Lindholm (n 101) 1668.

<sup>120</sup> See Conlon (n 102); Griffiths, ‘Out of Time’ (n 102); Page, Christou and Mavroudi (n 80).

<sup>121</sup> Conversation with Abed (Helena Lindholm, Messenger, 19 July 2021); Conversation with Abed (Helena Lindholm, Phone, 27 August 2021).

<sup>122</sup> Conversation with Leila (Helena Lindholm, Zoom, 10 February 2021).

### C Conduct through Co-optation: ‘You Have Not Cooperated’

International asylum regimes further require obedient behaviour. The procedures established by the SMA demand considerable efforts from the claimant to ‘collaborate’<sup>123</sup> and to present proof of their identity, as well as proof of non-deportability; to make one’s story worthy of belief.<sup>124</sup> There is a need for certain behaviour in order to be granted, for example, allowances and accommodation.<sup>125</sup> Such rules of conduct create hierarchies between those who obey and those who do not, as people are forced to cooperate in their own governmentality.<sup>126</sup>

For example, it is up to the claimant to present proof that he or she could not be deported,<sup>127</sup> and then to prove that practical impediments to removal exist,<sup>128</sup> and, further, that the individual has tried to remove those impediments.<sup>129</sup> Deportees are to cooperate in their own deportation procedure.<sup>130</sup> Claimants need to provide evidence that they would not be allowed to re-enter their previous countries of residence, which may, in practice, mean contacting embassies of Arab states to ask for evidence of a refusal of entry, which is rarely provided by Arab states. For Khalil (mentioned previously) to prove that he could not return to the UAE, he had to repeatedly contact the embassy in order to establish evidence for his claims. Like many others, Khalil explained how requests for such documents and evidence are systematically refused. ‘They told me that “we will not give that to you. The Swedish authorities need to contact us”’.<sup>131</sup> Leila, who was well established in Swedish society after seven years with work, friends and engagement with civil society, repeatedly visited the Lebanese embassy in order to acquire the documents that the SMA required. Although the Lebanese embassy told her that she would never be able to enter Lebanon, the SMA continued to request such documentation.<sup>132</sup> The disciplining thus appears meaningless.

In the undermentioned decision concerning Khalil, it is determined that the approval of a temporary permit was contingent on his previous cooperation with the Agency:

The Migration Agency finds ... that the reason why the decision of removal could not be executed is due to reasons beyond your control. ... Since you have cooperated in executing your previous decision of deportation, obstacles exist against announcing a new decision of removal.<sup>133</sup>

One reason behind the positive decision was thus that Khalil had ‘obeyed’ the regime and obedience is a mechanism through which deserving and undeserving migrants are categorised. On the other hand, Abed, who arrived in Sweden as a young adult from Gaza from what he described as a dysfunctional family life and

<sup>123</sup> *MIG 2009:13* (2013) Case No UM2819-08 (Swedish Migration Agency).

<sup>124</sup> Griffiths, ‘Anonymous Aliens?’ (n 22) 718. But see *Rättsligt ställningstagande angående praktiska verkställighetshinder m.m.* (2020) Case No SR 10/2020 (Swedish Migration Agency). (‘SMA 2020b’)

<sup>125</sup> Tazzioli, *The Making of Migration* (n 15).

<sup>126</sup> *ibid.*

<sup>127</sup> But see Griffiths, ‘Anonymous Aliens?’ (n 22).

<sup>128</sup> *Rättsligt ställningstagande: Praktiska verkställighetshinder m.m.* (2021) Case No RS/048/2021 (Swedish Migration Agency).

<sup>129</sup> *SMA 2020b* (n 124).

<sup>130</sup> Lundberg (n 23).

<sup>131</sup> Conversation with Khalil (Helena Lindholm, Gothenburg, August 2018).

<sup>132</sup> Conversation with Leila (Helena Lindholm, Zoom, May 2021).

<sup>133</sup> Swedish Migration Agency decision, Gothenburg (May 2020) (copy on hand with author).



socioeconomic hardships, recalled that he did not understand what was required of him in the process;<sup>134</sup> what he was to prove to the SMA. His application for asylum was denied, but he appealed. Twice during a 13 year period of waiting, he left Sweden for other EU countries in order to try to seek asylum there, actively trying to change his future. He was sent back both times, in accordance with the *Dublin Regulation*.<sup>135</sup> This was interpreted as a sign of non-‘cooperation’ with the authority. In the decision of the original case, it is stated:

You have not in any way cooperated in expediting the decision of deportation. ... Since you have not cooperated in executing the previous decision, you cannot obtain a residence permit as your previous decision on deportation has ceased to be valid.<sup>136</sup>

Thus, there are cases where the factual issues are glossed over and focus is instead placed on the behaviour of the claimant.

For Palestinians who arrive to Sweden from the Gulf countries, where they may have held temporary residence permits related to employment and a sponsor (*kafala*),<sup>137</sup> it is also a requirement that they repeatedly seek work and a new sponsor in the Gulf during the process of asylum. Thus, the SMA considers impediments to enforcement to exist only if the claimant can prove that a new sponsor and employment cannot be found.

Khalil, who had been deported and lost his sponsor in the UAE, told me how he had to repeatedly contact potential sponsors in the UAE and prove that they would not employ him. In a Court of Appeal decision concerning a man who previously lived in the UAE, it was concluded that since the applicant had not tried to return or show the SMA that he could not find a new sponsor, there were no impediments to enforcement.

No reason to why [AQ] should not have the possibility to obtain a new sponsor has been revealed and neither has it been invoked that he has made any attempts to obtain a new work and a new sponsor. He has not himself tried to return and neither have there been any concrete attempts to execute him to the UAE. Thereby, it has not been shown that any concrete impediment to enforcement exists due to a lack of sponsor.<sup>138</sup>

Surrendering yourself to cooperation and passivisation may thus be crucial to the final decisions of the Court of Appeal. Thus, managing the regime also includes creating or demanding a certain behaviour, that of the *compliant* and submissive asylum seeker, the ‘good’ and ‘well-behaved’ refugee, whose agency is only supposed to facilitate bureaucratic decisions against their own interests and will.

Although my interlocutors were exhausted and frustrated by the inconsistencies in the regime, many also actively sought to use the requirements on behaviour to

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<sup>134</sup> Interview with Abed (Helena Lindholm, Gothenburg, March 2020).

<sup>135</sup> *Regulation (EU) No604/2013 of the European Parliament and of the Council of 26 June 2013 Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Application for International Protection Lodged in One of the Member States by a Third-Country National or a Stateless Person* [2013] OJ L 180/31.

<sup>136</sup> Swedish Migration Agency decision, Gothenburg (March 2019) (copy on hand with author).

<sup>137</sup> *Palestinier i Mellanöstern uppehållsrätt och dokument* (Report, Lifos 31 October 2018) 99; *Rättslig kommentar angående prövningen av statslösa som tidigare haft sin vanliga vistelseort i Förenade Arabemiraten, Qatar och Saudiarabien* (2020) Case No SR 16/2020 (Swedish Migration Agency).

<sup>138</sup> Swedish Migration Agency decision, Gothenburg (2016) (copy on hand with author).

their advantage. Sometimes, resistance is actually performed through obeying, although such requests were considered wrongful. Leila visited the Lebanese embassy several times. She knew that Lebanon would not allow her to enter, but in accordance with the instructions from the SMA, she applied for an entry visa, at one time using her temporary residence permit, which she was given only for the reason that the SMA believed that that was required by Lebanon. The Lebanese embassy told her that Palestinian refugees would not be able to enter Lebanon and that they would not provide the required documents. At one point, she acquired a flight ticket but was not allowed to board the flight. The event was recorded by Leila's brother.<sup>139</sup> Thus, one way of resisting is to turn the mechanisms used by the SMA around and show that the requirements are contradictory and impossible to meet.

Engaging in hunger strikes and other modes of self-harm are rare tactics but nevertheless appear with a certain frequency in the Swedish context as a means of counter-conduct. Stateless Palestinians in Sweden have used hunger strikes as collective acts of resistance in Gothenburg in 2014 and in Malmö in 2015,<sup>140</sup> and individually, such as Ahmed's refusal to eat for two months in early 2020. Ahmed explained that he would rather die in dignity than be denied his rights. His hunger strike was a way to draw attention to his situation and show the actual consequences of migration politics.

## VI SPATIAL RESISTANCE: 'THIS IS A PRISON'

A part of governmentality is the spatial constraint and discipline enacted through the regulation of where asylum seekers are allowed to stay during the process<sup>141</sup> and where deportees are allowed to be localised.<sup>142</sup> In November 2019, a new judgment clarified that persons with temporary residence due to impediments to enforcement lack the right to stay in the accommodations organised by the SMA. This was a reason behind Ahmed's decision to conduct his hunger strike and sleep outside the accommodation in Vänersborg. Ahmed received a decision deporting him to Gaza, to where he did not consider it at all possible or realistic to return. Thus, he, and many others, lived *out of place*, in a spatial limbo, as present but absent at the same time. His hunger strike and tent stay outside of the building was a direct performance of a claim to a right to stay.

Territorial control of migrants rests on a number of mechanisms through which the state increasingly restricts and governs the mobility of migrants.<sup>143</sup> Migrants' mobility is also hampered through modes of choking, cramping, chasing away,

<sup>139</sup> The author was provided with personal communication and documents by the claimant (copy on hand with author).

<sup>140</sup> But see Helena Lindholm Schulz, 'Statslöst och skyddslöst i tälten på Järntorget', *Göteborgs-Posten* (online, 6 September 2014) <<https://www.pressreader.com/sweden/goteborgs-posten/20140906/281887296499254>>.

<sup>141</sup> Asylum seekers are either to stay in accommodation organised by the SMA or by themselves. In 2020, it was decided that municipalities could refuse funding allowances for asylum seekers organising their own accommodation in certain areas so as to avoid crowding in so-called exposed areas, which is believed to be an impediment for integration. For example, Gothenburg excluded the whole city for such accommodation in an attempt to completely exclude asylum seekers from the city.

<sup>142</sup> Bloch and Schuster (n 3) 493.

<sup>143</sup> But see David Scott Fitzgerald, 'Remote Control of Migration: Theorising Territoriality, Shared Coercion and Deterrence' (2019) 46(1) *Journal of Ethnic and Migration Studies* 4.

constricting and confining;<sup>144</sup> making migrants move and circulate, creating uncertainty and spatial confusion.<sup>145</sup>

For Martina Tazzioli, asylum seekers claim rights such as that of deciding where to stay and move<sup>146</sup> — ‘*place-rights*’ — and perform what Tazzioli calls ‘*spatial disobedience*’ or ‘resistance’.<sup>147</sup> Manifestations (primarily) organised by stateless Palestinians in different Swedish cities throughout the spring and summer of 2020 formulated these claims by having a public presence, actively seeking engagement and creating awareness. Showing their presence through visibility in public spaces, such acts represented a claiming of space,<sup>148</sup> a ‘right of presence’<sup>149</sup> and a refusal to accept the status of exclusion<sup>150</sup> or the construction of conduct implicated by and through the migration regime. Demonstrations were organised outside the SMA and Riksdagen, which claimed the right to stay and be present. Additionally, Ahmed’s individual strategy, to place his residence outside the SMA accommodation, was a means to illustrate his bodily presence. This was a refusal of passivisation and a struggle ‘to make life possible in a place that did not want them’.<sup>151</sup>

## VII CONCLUDING REMARKS: THE REFUSAL OF THE REFUSED

Mechanisms of governmentality and conduct shape the political agency of stateless people who use different resources and tactics to impact decision-making. Of course, not all stateless or precarious migrants engage in resistance. However, manifestations of migrant collective and individual struggles and rights-claims have become increasingly visible in the Swedish political arena in recent years and in relation to legal changes. Mechanisms of exclusion, requirements of submissiveness and temporal and spatial constraints contribute to a migratory regime that evokes statelessness, aggravates its precariousness and produces a new form of neglected statelessness on the margins. This article has highlighted how stateless Palestinians resist the constraining aspects of the migration regime. Stateless Palestinians assert their right to a self-acclaimed identity as Palestinian refugees. Using the presence of a larger Palestinian diaspora in Sweden, asylum-claimants place their stories of refuge in the larger narrative of Palestinian displacement.

Temporal strategies of resistance are related to how time is used in order to place oneself more firmly in the Swedish context. *Hoping and waiting* is a way to assume temporal control, rather than be passively waiting. Rather than accepting passiveness, stateless people use *protesting/disobeying* through demonstrations and manifestations of different forms and strategic alliances with primarily Palestinian communities in Sweden, but also through the more shocking action of

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<sup>144</sup> Tazzioli, *The Making of Migration* (n 15).

<sup>145</sup> *ibid.*

<sup>146</sup> Martina Tazzioli, ‘Containment through Mobility: Migrants’ Spatial Disobediences and the Reshaping of Control through the Hotspot System’ (2018) 44(16) *Journal of Ethnic and Migration Studies* 2764.

<sup>147</sup> *ibid.*

<sup>148</sup> But see Stierl (n 2).

<sup>149</sup> Cathy A Wilcock, ‘Hostile Immigration Policy and the Limits of Sanctuary as Resistance: Counter-Conduct as Constructive Critique’ (2019) 7(4) *Social Inclusion* 141, 141.

<sup>150</sup> But see Judith Butler, *Notes Towards a Performative Assembly* (Harvard University Press 2015).

<sup>151</sup> Stierl (n 2) 13.

self-harm. *Spatial claims* are made by showing a public presence in demonstrations and manifestations in larger cities. Thus, stateless people engage with the state that is denying them and request that the state be responsible for ensuring their rights.