

RESPONDING TO NETFLIX’S STATELESS SERIES: MISRECOGNITION AND MISSED OPPORTUNITIES

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The six episode Netflix series, Stateless, represents a missed opportunity to engage in vital public framing of statelessness. Rather than focusing on the lack of legal nationality, the series falsely equates statelessness with other rights issues central to migration detention. In this collaborative work between a stateless activist and an academic researcher, the authors use Stateless as a starting point for a broader conversation about words, definitions and representation. First, statelessness has partially emerged on the international human rights agenda, yet film and television attention could further foster mainstream understanding of this oft-ignored issue. Second, a critical assessment of the Stateless series highlights how it does (and mostly does not) engage with the issue of statelessness. Third, reflections and recommendations relate to why the series’ title is so problematic, what the media can learn from stateless people and what this conversation means for advocacy.

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I INTRODUCTION

‘Words have meaning. They matter.’

‘It’s hard not to take it personally. It is personal. It’s so personal.’

‘We didn’t choose the word “stateless”. How do we re-take that word?’

These words were voiced by the co-authors of this article after watching the Netflix series, *Stateless*,¹ produced by Hollywood star and United Nations High Commissioner for Refugees (‘UNHCR’) Goodwill Ambassador, Cate Blanchett. The co-authors’ conversation covered everything from international law and political theory to personal emotions and frustrations. To be clear, the impetus for this article was talking about a television series; but a television series with profound human rights implications. Statelessness is a core identity for one of us.²

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† The authors gratefully acknowledge Karina Ambartsoumian-Clough and Tendayi Bloom for their thoughtful comments on this piece.

¹ *Stateless* (Matchbox Productions 2020).

² The legal definition of a ‘stateless’ person is an individual ‘who is not considered as a national by any State under the operation of its law’. That is, a person who does not have legal nationality anywhere in the world. See *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’).

For the other, it's the central focus of a research career. Our problem with the Netflix series? It's not about statelessness, for starters.

'One of our greatest challenges has always been the fact that most people have no idea what the word "stateless" actually means,' Ekaterina E wrote after viewing the series,³ noting that she had anxiously awaited its release and held 'high hopes' because executive producer, Blanchett,⁴ was perceived as a 'knowledgeable ally'.⁵ 'As the closing credits rolled on the final of the series' six episodes, I felt no elation,' she admitted.⁶

Rather than a series about statelessness, it could have instead been entitled *Racial Injustice*; a worthy issue, but not the same as statelessness. As Ekaterina E noted: 'In truth, the series never once mentions statelessness except in its title. It does next to nothing to clarify the term's definition. In fact, it further deepens the false and confusing notion that statelessness is some obscure subset of the refugee or a displaced person's status.'⁷ Ekaterina E began the work of responding to *Stateless* in her 2020 blog post ('the Blog Post'),⁸ and in this project we continue this critical reflection of why and how the Netflix series missed a pivotal opportunity to garner attention to the cause of eradicating statelessness.

This article is a collaborative work between an activist and an academic researcher. Ekaterina E is a founding member of the organisation, United Stateless, a United States-based national organisation led by stateless people. Its mission 'is to build and inspire community among those affected by statelessness, and to advocate for their human rights'.⁹ She is also a stateless person living in the United States ('US').¹⁰ Lindsey Kingston is a human rights scholar who began researching the issue of statelessness in 2005, motivated by her interactions with stateless children in northern Thailand. Some of her work explores the concept of issue emergence — the twin steps of constructing and accepting a specific problem as an international issue¹¹ — and analyses advocacy, specifically advocacy

³ Ekaterina E, 'A Stateless Person's Take on "Stateless"', *United Stateless* (Blog Post, 2 August 2020) <<https://unitedstateless.medium.com/a-stateless-persons-take-on-stateless-13a838daabc7>>, archived at <perma.cc/2UBE-9E4A>.

⁴ Cate Blanchett has served as a United Nations High Commissioner for Refugees ('UNHCR') Goodwill Ambassador since 2016. She was featured in a 2020 informational video entitled 'Statelessness Exists Everywhere': 'Statelessness Exists Everywhere', *UNHCR* (Web Page, 8 July 2020) <www.unhcr.org/en-us/news/videos/2020/7/5f0599ca4/cate-blanchett-statelessness-exists-everywhere-ibelong.html>, archived at <perma.cc/99BC-HL4C>.

⁵ Ekaterina E (n 3).

⁶ *ibid.*

⁷ *ibid.*

⁸ *ibid.*

⁹ 'Our Organization', *United Stateless* (Web Page) <www.unitedstateless.org/organization>, archived at <perma.cc/P6KH-LNK5>.

¹⁰ Ekaterina E's personal story of statelessness began when she travelled to the United States ('US') as a high school foreign exchange student from Soviet Central Asia in 1994. The Soviet Union had just collapsed and, amid economic and social instabilities at home, her family urged her to continue her education overseas. Yet at the age of 17, she ended up on her own without legal status. 'As the Soviet Union disappeared, so did my nationality,' she notes. As a stateless person living in the US, Ekaterina E is a business owner and taxpayer. She was nominated for a 'citizen of the year' award in her town in recognition of her volunteer work. Yet, she has never been able to vote in the US, nor is she able to travel abroad to see her family or legally work. Much like undocumented migrants in the US, she lives in fear of being detained by immigration authorities. Yet unlike most migrants, Ekaterina E cannot be deported; she has no home country to which she may be 'sent back'.

¹¹ R Charli Carpenter, 'Setting the Advocacy Agenda: Theorizing Issue Emergence and Nonemergence in Transnational Advocacy Networks' (2007) 51 *International Studies Quarterly* 99, 101.

focused on eradicating statelessness. This collaboration centres on the assertion that stateless individuals are issue experts and ought to be consulted — not only by researchers, but also by media, policy makers and other relevant actors. Building on calls for meaningful participation by affected groups,¹² this work combines scholarly literature with expert/lived experience. While academic literature emphasises the value of ‘blind’ peer review, the usual disconnect between authors’ identity and research is unhelpful here; personal experiences are central to this critical analysis of the *Stateless* series, drawing upon the method of analytic autoethnography.¹³ Indeed, we argue that the perspectives of stateless people must play a central role in advocacy and research related to statelessness.

Given Ekaterina E’s vital perspective as a stateless activist, some of her reflections are offered as direct speech or, for longer reflections, as italicised text. While this style differs from traditional approaches to scholarly writing, the authors believe the unique circumstances of this research collaboration warrant an innovative deviation from the norm. ‘Mine is one story among millions,’ Ekaterina E notes. ‘I am well aware that the opportunity to be able to share my story and to speak in the public sphere demonstrates a privilege that most stateless persons do not have.’

With the aim of offering positive recommendations and reflections, this article uses the Netflix series, *Stateless*, as a starting point for a broader conversation about words, definitions and representation. First, we consider how statelessness has slowly, partially emerged as an issue on the international human rights agenda. Relatedly, we outline the potential impacts of film and television by highlighting how other issues have benefitted from media attention. While mainstream film and television have not accurately told the story of statelessness *yet*, the possibility exists for future collaboration between the media and stateless activists. Second, we critically assess the Netflix series to better understand the human rights issues it presents, including how it does (and mostly does not) engage with the issue of statelessness. Third, Part IV offers reflections and recommendations moving forward. These include a discussion of why the series’ title is so problematic, what the media can learn from stateless people and what this conversation means for advocacy.

II ISSUE EMERGENCE AND THE (POTENTIAL) IMPACTS OF FILM AND TELEVISION

In the face of global conflict and human suffering, some issues or events prompt outrage while others are ignored; some causes ‘go viral’ while others fail to attract even passing public notice. The issue of statelessness has struggled for many years to emerge onto the international human rights agenda and despite growing interest in some elite circles, it still has not garnered widespread public recognition. Indeed, statelessness has achieved only ‘partial emergence’,¹⁴ prompting activists

¹² See Tristan Harley and Harry Hobbs, ‘The Meaningful Participation of Refugees in Decision Making Processes: Questions of Law and Policy’ (2020) 32(2) *International Journal of Refugee Law* 200.

¹³ Autoethnography is an approach that allows researchers to narrate, position and analyse their own experiences as participants of the subject being studied: Faith Wambura Ngunjiri, Kathy-Ann C Hernandez, and Heewon Chan, ‘Living Autoethnography: Connecting Life and Research’ (2010) 6(1) *Journal of Research Practice* 1. See Leon Anderson, ‘Analytic Autoethnography’ (2006) 35(4) *Journal of Contemporary Ethnography* 373.

¹⁴ Lindsey N Kingston, ‘Conceptualizing Statelessness as a Human Rights Challenge: Framing, Visual Representation, and (Partial) Issue Emergence’ (2019) 11(1) *Journal of Human Rights Practice* 52, 68 (‘Conceptualizing Statelessness as a Human Rights Challenge’).

to question what more can be done to gain public attention and support for their cause. Some human rights advocates are deeply aware of the imperative laid out by Didier Fassin who argues that people must witness human suffering for human rights violations to resonate.¹⁵ One possibility for facilitating this act of witnessing is through 'entertainment', and existing research supports the claim that films and television can share compelling narratives and propel issues into the public imagination. Researchers hoping to improve public health and advance 'the right to health', for instance, have emphasised the role of the media — entertainment, news and social media — in generating awareness and spurring positive health actions.¹⁶ Educators at the University of California, Los Angeles, went so far as to establish a centre, the Global Media Center for Social Impact, to help writers and producers find accurate information on health and social justice topics that could be woven into storylines.¹⁷

Statelessness is an issue that has struggled to successfully emerge onto the international human rights agenda, often being framed as an 'invisible' rights issue.¹⁸ Despite the ratification of 1954 *Convention Relating to the Status of Stateless Persons*¹⁹ and 1961 *Convention on the Reduction of Statelessness*²⁰ (together 'Statelessness Conventions') and some forward movement within the United Nations ('UN') system, the problem had not garnered widespread attention or been the focus of a targeted non-governmental organisation ('NGO') campaign in the first decade of the 21st century.²¹ Notably, its non-emergence cannot be adequately explained by the existing literature. To uncover the challenges facing statelessness' emergence, Kingston conducted 21 semi-structured interviews in 2009 with decision-makers at leading US human rights and humanitarian NGOs.²² Interview data showed that statelessness encountered obstacles related to strategic characteristics, including absence of a clear problem, misunderstood issue basics,

¹⁵ Didier Fassin, *Humanitarian Reason: A Moral History of the Present* (University of California Press 2012) 25.

¹⁶ Darla Thompson and Ellen Bayer, *Communicating to Advance the Public's Health: Workshop Summary* (The National Academies Press 2015).

¹⁷ See Rebecca Kendall, 'UCLA Helps Hollywood Tell Stories about Social Justice, Health' *UCLA Newsroom* (Web Page, 14 November 2013) <<https://newsroom.ucla.edu/stories/hollywood-partners-with-ucla-to-249383>>, archived at <perma.cc/ZB69-LWE4>.

¹⁸ Issue emergence is the step in the process of mobilisation when a pre-existing grievance is transformed from a problem into an issue, thereby attracting the attention and funding necessary to appear onto the international agenda. Charli Carpenter writes that this emergence 'is the conceptual link between the myriad of bad things out there and the persuasive machinery of advocacy politics in world affairs': Carpenter (n 11) 102. Existing literature related to this concept is organised around four key themes: issue characteristics, organisational characteristics, strategic characteristics and environmental characteristics: Lindsey N Kingston, "'A Forgotten Human Rights Crisis': Statelessness and Issue (Non)emergence' (2013) 14 *Human Rights Review* 73 ('A Forgotten Human Rights Crisis'). While a 'rash of literature' in recent decades acknowledges the impact of transnational advocacy networks in norm development and governance, much less attention centres on why those networks 'gravitate toward certain issues and reject or dismiss others at any particular time': Charli Carpenter, *"Lost" Causes: Agenda Vetting in Global Issue Networks and the Shaping of Human Security* (Cornell University Press 2014) 2. Indeed, existing explanations cannot always predict which issues will emerge onto the international agenda or explain why others fail to do so.

¹⁹ *1954 Convention* (n 2).

²⁰ *Convention on the Reduction of Statelessness*, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December 1975).

²¹ Lindsey N Kingston, 'Statelessness and Issue (Non)emergence' (2012) 40 *Forced Migration Review* 50.

²² Kingston, 'A Forgotten Human Rights Crisis' (n 18) 75.

unclear consequences and a lack of data, lack of compelling images and a missing ‘CNN factor’ to allow the issue to be easily translated for mass media consumption.²³ Statelessness also struggled because it lacked widely recognised global solutions and because there was a lack of overall political will to address the problem.

Several years later, statelessness’ status as an emergence failure has changed significantly, but the issue still faces serious obstacles. Findings from Kingston’s research follow-up at the 2014 First Global Forum on Statelessness in the Hague, Netherlands, highlights how the issue of statelessness confronts very real challenges.²⁴ Difficulties include the ability to frame problems in understandable and relatable ways, how to raise awareness among the public and policymakers, and overcoming the discrimination and political hostilities that often facilitate rights violations in the first place. As part of the study, more than 40 statelessness experts expressed frustration regarding how statelessness is currently framed by the media, for instance, noting that journalists force the issue into ready-made narratives about refugees or immigrants. While certainly some refugees and immigrants are stateless, most have legal nationality somewhere. Indeed, many stateless people are struggling for legal recognition in their country of origin.

Stateless activists also expressed frustration with the framing of stateless people as powerless. For instance, Karina Gareginovna Ambartsoumian-Clough noted: ‘A lot of the framing of statelessness is as a victim ... We don’t want people to feel sorry for us. We want to be empowered.’²⁵ At the policy and implementation levels, many noted that anti-refugee and anti-migrant sentiments created problems for the issue of statelessness. Consider, for instance, that UNHCR launched its ten-year Campaign to End Statelessness in 2014.²⁶ A negative consequence of the UNHCR campaign, according to some respondents, is that statelessness is conflated with forced migration. Keep in mind, however, that many people are unaware of statelessness to begin with. When a human rights lawyer was interviewed by Kingston and asked if the immigration debate influenced discussions of statelessness, they responded: ‘I think it would if people knew what statelessness was.’²⁷

Research offers evidence that films and television series can help an issue emerge in the public discourse by garnering public attention and pressuring policymakers to enact change. An examination of Home Box Office’s (‘HBO’) programming related to HIV/AIDS beginning in 1987 highlights how HBO’s films are embedded within a cultural response to AIDS, for example, serving as a ‘barometer for America’s engagement with the global AIDS pandemic’.²⁸ Shayne Pepper argues that HBO’s engagement with HIV/AIDS and a broader set of social issues illustrates how public service is increasingly privatised, leaving media

²³ *ibid* 81–2.

²⁴ Kingston, ‘Conceptualizing Statelessness as a Human Rights Challenge’ (n 14) 57–60. See also Lindsey N Kingston, *Fully Human: Personhood, Citizenship, and Rights* (Oxford University Press 2019) (‘*Fully Human*’).

²⁵ Personal communication (27 December 2019), quoted in Tendayi Bloom, ‘The Problem of Citizenship in Global Governance’ in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 20, 28–9.

²⁶ ‘#IBELONG: Global Action Plan to End Statelessness 2014–2024’ (Plan, UNHCR, 20 June 2014).

²⁷ Kingston, ‘Conceptualizing Statelessness as a Human Rights Challenge’ (n 14) 53.

²⁸ Shayne Pepper, ‘Subscribing to Governmental Rationality: HBO and the AIDS Epidemic’ (2014) 11(2) *Communication and Critical/Cultural Studies* 120, 135.

corporations and others to undertake seemingly governmental work on issues of vital public importance: 'From global efforts to fight disease, poverty, and human rights violations, it appears that private industries and non-profit/NGOs have taken the lead in many of these causes.'²⁹ More recently, a study of three social issue documentaries (*Sin by Silence*,³⁰ *Playground*,³¹ and *Semper Fi*³²) finds that such films are influential for US policy engagement, particularly when they are perceived as unemotional, factual and non-partisan. Researchers contend that 'human-centered social-issue documentary film can unveil an unseen story to US policy-making audiences' and foster policy change 'by spotlighting the experiences of real people in emotionally engaging ways'.³³ Another study found that nature documentaries such as the Netflix series, *Our Planet*,³⁴ may positively impact conservation, prompting viewers to elicit change such as making personal lifestyle changes or changing their attitudes about environmental policy.³⁵ Relatedly, strategic impact documentaries ('SIDs') increasingly combine online and offline strategies to engage audiences on social issues. SIDs have a documentary at their core but utilise face-to-face events (such as film screenings and discussion forums) and/or social media campaigns to facilitate deliberation.³⁶

Film and television also respond to the emergence of human rights issues, widening the scope of debates and increasing public attention to issues. In the US, a reinvigorated Black Lives Matter movement has prompted a variety of programming changes. Problematic shows such as *Cops*³⁷ and *Live PD*³⁸ (both criticised for glorifying the police and exploiting Black suffering) were dropped, while other programs such as *Law & Order* were re-evaluated.³⁹ Recent programming has explored the US's racial divide, including the two-part special, *Where Do We Go From Here*,⁴⁰ hosted by US television personality, Oprah, that aired on all 19 Discovery network channels in 2020.⁴¹ Other programming appeared on networks ranging from A+E (*The Time Is Now: Race and Resolution*)⁴² to Juneteenth 2020 line-ups on FX, HBO and others.⁴³ Judy Berman writes that US television is experiencing a 'singular moment' when 'standard

²⁹ *ibid.*

³⁰ *Sin by Silence* (Quiet Little Place Productions 2008).

³¹ *Playground* (Dragons Films 2021).

³² *Semper Fi* (Rumble Films 2019).

³³ Caty Borum Chattoo and Will Jenkins, 'From Reel Life to Real Social Change: The Role of Contemporary Social-Issue Documentary in US Public Policy' (2019) 41(8) *Media, Culture & Society* 1107, 1122.

³⁴ *Our Planet* (Silverback Films 2019).

³⁵ Julia PG Jones and others, 'Nature Documentaries and Saving Nature: Reflections on the New Netflix Series *Our Planet*' (2019) 1(4) *People and Nature* 420.

³⁶ Virginia H Balfour, 'Likes, Comments, Action! An Examination of Facebook Audience Engagement Strategies Used by Strategic Impact Documentary' (2020) 176 *Media International Australia* 34.

³⁷ *Cops* (Barbour Langley Productions 1989).

³⁸ *Live PD* (Big Fish Entertainment 2016).

³⁹ *Law & Order* (Wolf Entertainment 1990).

⁴⁰ *OWN Spotlight: Where Do We Go From Here?* (Oprah Winfrey Network 2020).

⁴¹ Judy Berman, 'As Black Lives Matter Gains Momentum, Can TV Keep up With the Rapid Pace of Social Change?', *Time* (online, 12 June 2020) <<https://time.com/5852894/black-lives-matter-tv-streaming-services>>, archived at <perma.cc/H7YZ-VL97>.

⁴² *The Time is Now: Race and Resolution* (A+E Networks 2020).

⁴³ See, eg, Tom Tapp, 'Juneteenth Programming Schedules from TV Networks, Streaming Services, Film Festivals, Broadway and More', *Deadline* (online, 17 June 2021) <<https://deadline.com/2021/06/juneteenth-programming-schedules-tv-streaming-specials-1234771642>>, archived at <perma.cc/TK8P-RTED>.

coverage strategies have given way to the kind of candid discussions that used to be rare outside of activist circles'.⁴⁴ Although statelessness has faced challenges related to mainstream issue emergence, research highlights how creative expressions such as film and television offer immense opportunities for garnering public attention and support.⁴⁵

Indeed, statelessness appears in various recent creative endeavours, ranging from film and theatre to children's books. It is likely that many people recently became aware of statelessness by watching the film, *Thirteen Lives*,⁴⁶ for instance. Directed by US director, Ron Howard, the film depicts the 2018 rescue of a youth soccer team in northern Thailand. Although the film focuses mainly on the dramatic rescue, statelessness was part of the story. In one scene, a mother worries that her son's statelessness will impact rescue efforts to save him. Pattrakorn 'Ploy' Tungsupakul, an actress in *Thirteen Lives*, said: 'In my opinion, the stateless position is related to access to the fundamental human rights ... When this movie tries to [draw attention to] this issue, it's a great chance for the government or the people involved to relook into this issue and try to address the issue correctly.'⁴⁷

Beyond Hollywood, recent international films explore issues such as childhood statelessness in Lebanon (*Capharnaüm*)⁴⁸ and denationalisation in the Dominican Republic (*Hasta la Raíz* [Down to the Root]⁴⁹ and *Apátrida* [Stateless]⁵⁰). Playwright Christina Masciotti's new play, *Liberty Scrap*,⁵¹ was in production at the time of writing this article. Created in close collaboration with stateless persons in the United States, the play is set in New York City and offers a glimpse into the life of a young woman from the former Soviet Union who discovers her statelessness when attempting to self-deport to be with her terminally ill father. The graphic novel, *Shapeless Shapes*,⁵² created by advocates Hanna Kim and Amal de Chickera, centres on themes of identity, belonging, citizenship and statelessness. It draws upon 'a world in which every shape has its rightful place, fits in and conforms. Until they don't'.⁵³

The Netflix series, *Stateless*, unfortunately missed the opportunity to meaningfully engage with this issue, as highlighted in the following section, but

⁴⁴ Judy Berman, 'TV Scrambles to Keep up with Social Change' *Time* (New York, 6 July 2020) 106.

⁴⁵ Some advocates wondered in 2004 if the film, *The Terminal*, starring Tom Hanks, could serve as such a catalyst: *The Terminal* (DreamWorks Pictures 2004). The film is about man stuck in New York's John F Kennedy Airport and denied entry to the US, while also being unable to return to his home country in Eastern Europe following a military coup. Unfortunately, the term 'stateless' was not used to describe his situation in the film, or in associated media coverage.

⁴⁶ *Thirteen Lives* (Metro-Goldwyn-Mayer 2018).

⁴⁷ Reuben Baron, 'Thirteen Lives' Ploy Tungsupakul Hopes The Film Can Help Stateless People — Exclusive', *Looper* (online, 4 August 2022) <<https://www.looper.com/952812/thirteen-lives-ploy-tungsupakul-hopes-the-film-can-help-stateless-people-exclusive/>>, archived at <perma.cc/Q6KN-9YAG>.

⁴⁸ *Capharnaüm* (Mooz Films 2018).

⁴⁹ *Hasta la Raíz* (Elefante 2016).

⁵⁰ *Apátrida* (Hispaniola Productions, 2020).

⁵¹ Christina Masciotti, *Liberty Scrap* (Play, forthcoming).

⁵² Hanna Kim and Amal de Chickera, *Shapeless Shapes* (Institute on Statelessness and Inclusion 2020).

⁵³ 'Shapeless Shapes', *Institute on Statelessness and Inclusion* (Web Page, 8 April 2020) <<https://www.institutesi.org/year-of-action-resources/shapeless-shapes/>>, archived at <perma.cc/HL3S-A8JY>.

that doesn't mean the chance is lost forever. Rather, critical analysis of this series may offer lessons for future collaborations between the media and stateless advocates.

III THE NETFLIX SERIES, *STATELESS*

The six episode series, *Stateless*, was inspired by true stories of Australian immigration detention, including the real-life case of Cornelia Rau, a white Australian national whose ten month imprisonment sparked national debate. The series' interpretation of Rau is the character Sofie Werner, a flight attendant who joins a cult led by sexually abusive Gordon and his wife, Pat (played by Cate Blanchett). While there are various aspects of the series that warrant critical analysis,⁵⁴ our attention in this article centres on a fact that most critics missed entirely: the characters in *Stateless* are not actually stateless at all. Indeed, the use of the word 'stateless' — an international legal term that identifies millions of people worldwide — was seemingly used for dramatic effect, rather than to shed light on how the lack of legal nationality violates fundamental human rights.

Statelessness is a violation of the fundamental 'right to a nationality', and stateless persons are defined as 'individuals who are not considered citizens or nationals under the operation of the laws of any country'.⁵⁵ From the inability to secure a birth certificate and public education, to blocked access to legal employment and health care, to vulnerabilities to police brutality and human trafficking, to risks of sexual violence and ethnic cleansing, statelessness constitutes a violation of 'the right to have rights' worldwide.⁵⁶ The characters in *Stateless* certainly faced grave human rights abuses, both at home and in Australian detention, but most held legal nationality *somewhere* and did not qualify as stateless individuals.⁵⁷ Jessica P George, a US attorney and advocate for stateless people, questioned if 'the show's title [was] an attempt to use the less well-known word "stateless" to grab the attention of viewers?'⁵⁸ She critiqued that '[s]uch a ploy would be more forgivable if the show were not produced by a United

⁵⁴ For instance, some critics questioned why the issue of immigration detention needed a white/Australian/citizen protagonist to be 'compelling' to viewers. Film reviewer, Ben Travers, contends that the series' focus on Sofie 'tries to use a white woman's true story as a Trojan Horse into Australia's brutish detention centers': Ben Travers, "'Stateless' Review: Cate Blanchett's Detainee Netflix Drama Gets Distracted by its Wild Truths", *IndieWire* (Web Page, 8 July 2020) <www.indiewire.com/2020/07/stateless-netflix-review-cate-blanchett-show-1234571579>, archived at <perma.cc/2EF4-PPPP>. As a result, '*Stateless* is consumed by an extraordinary exception instead of confronting the ongoing disenfranchisement toward displaced detainees': *ibid.* This reliance on white characters to tell stories so often ignored when they affect people of colour is a familiar problem within TV and film. Jane Caputi, for instance, notes that the first season of HBO's, *Orange Is the New Black*, 'covertly privileges' the character of Piper Kerman, 'a white, blonde, upper-middleclass Smith graduate who got involved in the drug trade via a lesbian lover': Jane Caputi, 'The Color Orange? Social Justice Issues in the First Season of *Orange is the New Black* (2015) 48(6) *Journal of Popular Culture* 1130, 1136. While the series has been lauded for uncovering the grim realities of the prison industrial complex, Caputi notes that 'Piper remains the centerpiece' against a backdrop of women of colour, thus mediating their stories through Piper's whiteness: at 1135.

⁵⁵ *1954 Convention* (n 2) art 1.

⁵⁶ Hannah Arendt, *The Origins of Totalitarianism* (Harcourt Brace Jovanovich 1973) 296.

⁵⁷ Granted, that nationality usually did not represent a rights-protective and fully functioning relationship with their own government — a term that Kingston refers to as 'functioning citizenship': Kingston, *Fully Human* (n 24) 199.

⁵⁸ Jessica P George, 'Watching "Stateless" With Stateless People', *United Stateless* (Web Page, 2 August 2020) <<https://unitedstateless.medium.com/watching-stateless-with-stateless-people-4f18616c596b>>, archived at <perma.cc/Z8E5-HRN7>.

Nations High Commissioner for Refugees' (UNHCR) Goodwill Ambassador, actor Cate Blanchett, who has spoken publicly about stateless people and even created a short educational video about statelessness'.⁵⁹ Indeed, Blanchett admitted during a July 2020 webinar that 'the show is not about statelessness' in the technical sense of the word, but rather it was meant to encapsulate the notion of 'invisibility, estrangement, and inability to forge an identity'.⁶⁰

To be fair, the issue of statelessness — or at least issues closely related to statelessness — are often lurking in the background, as *Stateless* focuses squarely on immigration detention. In Episode 1, Ameer (a desperate father and Afghan national) pays human smugglers, with the hope of taking his family to Australia and saving his two daughters from oppressive Taliban rule. On their way to meet a boat in the middle of the night, a smuggler collects everyone's passports and tells their group:

You are all starting a new life. You must have no identity papers on you or they will send you back. Everybody must hand up their passports, c'mon c'mon. You cannot hold on to the past. As soon as you reach your destination, you must declare yourself a refugee and ask for a protection visa.⁶¹

In this scene, displaced persons are encouraged to abandon their passports — identity documents that stateless individuals cannot access — to avoid deportation, thereby presenting themselves as stateless.

Characters also experience denials of human dignity that are central to statelessness. For instance, in an Episode 3 conversation with an immigration official, Javad (from Iraq) says that his battle is a mental one:

To hold on to who I am — Javad, not an unlawful non-citizen. Not PEL-139, but Javad.⁶²

In Episode 5, confronted by an immigration official with a discrepancy in his story, Ameer says:

I am a schoolteacher. I am a father, a man of faith. Why can't you see all of that when you look at me?⁶³

Such dehumanisation is mirrored in Sofie's flashbacks from her time with the cult, GOPA (which stands for 'Growing One's Potential Achievement'). In Episode 3, Sofie begs Pat to let her back in. Pat replies with language that is strikingly similar to anti-migrant rhetoric:

How could I let you in, with your dirty, negative energy? It's like a virus. Now, if I let you in, everyone could be infected with your inadequacy and your deformity. I'm not going to let you destroy our way of life. You need to go home ... No, it's our home, Sofie! You're not welcome here!⁶⁴

⁵⁹ *ibid.*

⁶⁰ Quoting a webinar with the creators and cast of 'Stateless': 'Losing our Humanity: An Evening with Cate Blanchett and the STATELESS Team' (Webinar, Temple Emanu-el Streicker Center, 23 July 2020).

⁶¹ 'The Circumstance in which they Come', *Stateless* (Netflix/Matchbox Productions 2020).

⁶² 'The Right Thing', *Stateless* (Netflix/Matchbox Productions 2020).

⁶³ 'Panis Angelicus', *Stateless* (Netflix/Matchbox Productions 2020).

⁶⁴ 'The Right Thing', *Stateless* (Netflix/Matchbox Productions 2020).

Nikolai Levasov, a founding member of United Stateless, notes that 'experiencing statelessness is very traumatic' and that watching the *Stateless* series can be triggering.⁶⁵ He wrote:

I have received messages from those held in immigration detention describing being treated as animals, as less than human. I've read descriptions of detainees who cannot read or understand English needing to navigate this traumatic experience away from their families. And I've read messages that underscore the fact that these are not bad people, yet our system criminalizes them.⁶⁶

Furthermore, some characters may be stateless, but their nationality statuses remain unclear. In Episode 2, we meet a man with grey hair who sits in the yard at the detention centre, staring straight ahead without speaking to anyone. He wears a suit despite the heat, a packed suitcase on the ground beside him. Farid (from Iraq) says to Ameer:

See this man here? This man has been here for seven years. He wants to leave but no country will have him.⁶⁷

In the Blog Post, Ekaterina E notes that '[t]his solitary character's screen time adds up to no more than 10 seconds over the course of the entire show. The gut-wrenching reality of hopelessness and invisibility while waiting to claim our basic human right to belong somewhere on this earth is reduced to a fraction of a token'.⁶⁸ In Episode 4, Javad — a Kurdish man from Iraq — escapes detention to rejoin his family and tells Sofie:

Now I have nothing. No papers, no rights.⁶⁹

While it is likely that Javad would hold Iraqi nationality, his status is not clarified.

These points are not merely criticisms of a television series; they matter because *Stateless* perpetuates the misrecognition of stateless people and misses an invaluable opportunity to bring attention to this issue. Produced by a member of the Hollywood elite with specialised knowledge of statelessness, this series doesn't just 'miss the mark' — its creators knowingly misconstrue statelessness for dramatic effect and reinforce existing challenges for issue emergence as a result. 'Statelessness is, in fact, a unique experience with profound implications, and it demands interrogation of this series' misuse of the term,' notes Ekaterina E.⁷⁰ As a direct response to the *Stateless* series, the following section offers reflections and recommendations for the media and broader international community.

⁶⁵ Nikolai Levasov, 'Three Reasons Why I Am Not Watching the "Stateless" Series, and Why You Ought To', *United Stateless* (Blog Post, 2 August 2020) <<https://unitedstateless.medium.com/three-reasons-why-i-am-not-watching-the-stateless-series-and-why-you-ought-to-eeae5eab83e1>>, archived at <perma.cc/JA3X-HT9C>.

⁶⁶ *ibid.* In the August 2020 blog post, Levasov argues that a television series about statelessness 'raises awareness and reaches an audience no other vehicle could possibly provide'. He encourages others to watch the series. While we appreciate that stateless people may have differing perspectives on *Stateless*, it is notable that Levasov had not watched the series (due to its potentially triggering effects) when he wrote the piece.

⁶⁷ 'Incognita', *Stateless* (Netflix/Matchbox Productions 2020).

⁶⁸ Ekaterina E (n 3).

⁶⁹ 'Run Sofie Run' *Stateless* (Netflix/Matchbox Productions 2020).

⁷⁰ Ekaterina E (n 3).

IV REFLECTIONS AND RECOMMENDATIONS

Recommendations for the international community — including the media — centre on two core assertions: 1) words (and Netflix titles) matter; and 2) listen to stateless individuals. These reflections consider academic scholarship as well as the lived experiences of stateless persons.

A *Words (and Netflix Titles) Matter*

The term ‘stateless’ in international law refers to a specific circumstance — when someone ‘is not considered as a national by any State under the operation of its law’⁷¹ — and this word comes with state obligations under the *Statelessness Conventions*. Ekaterina E contends:

These are not just words; they have weight and impact that should not be misused. We need to see accurate representations of stateless persons, and that includes honouring the definition of statelessness under international law. The fact that this series is called Stateless but isn’t about stateless people is unacceptable.

Furthermore, she argues:

Misuse of the word ‘stateless’ dilutes that definition in the public imagination and may lead to negative consequences for stateless individuals, who are already struggling to build public support and political will to enact change. Blurring or misusing the definition also risks distorting its meaning with other potential negative impacts; for instance, associating the word with sensationalised or romanticised anti-state narratives or ideologies. These associations are counterproductive and further complicate the work of stateless advocates and their allies working tirelessly resolve gaps in nationality provision. These examples underscore the need for a consistent, universal definition — which already exists in international law — as a starting point for advocacy, as well as for representations in media. Holding people accountable to this standard helps us avoid arbitrary, discriminatory practices that can result from accidental, and sometimes intentional, misinterpretation of this term.

Just as the term ‘stateless’ comes with specific obligations under international law, many other human rights-related words come with profound legal and political consequences. These better known examples highlight the power of language which should be considered in the context of statelessness advocacy. In the migration context, for instance, a binary between the words ‘refugee’ and ‘migrant’ often means that some people on the move are afforded rights and protections under international refugee law, while others are criminalised and viewed as less ‘deserving’ of assistance. Rebecca Hamlin notes that such ‘binary logic makes a very clear distinction between those to whom an obligation is owed and those who are less deserving of an international response’.⁷² While the authors agree with Hamlin, who argues that the migrant/refugee binary is a harmful legal fiction,⁷³ the point here is that word choice may have deep consequences.

⁷¹ 1954 Convention (n 2).

⁷² Rebecca Hamlin, *Crossing: How we Label and React to People on the Move* (Stanford University Press 2021) 2.

⁷³ *ibid* 4.

Similarly, during times of conflict there is often much discussion of the term 'genocide' — a word basically created by international law with the 1951 UN *Convention on the Prevention and Punishment of the Crime of Genocide*⁷⁴ — and how violence needs to fit specific criteria related to the 'intent to destroy' to qualify as genocide. The term 'genocide' has power for human rights protection and for advocacy, just like the term 'stateless' does. Notably, these issues sometimes intersect. In March 2022, US Secretary of State, Antony Blinken, formally recognised Myanmar's violence against stateless Rohingya people as genocide.⁷⁵ Refugees International's Deputy Director for Africa, Asia and the Middle East, Daniel Sullivan (2022), calls the US genocide declaration 'a welcome and profoundly meaningful step', arguing that the 'momentum of this genocide determination' should be used to spur concrete actions.⁷⁶ By acknowledging Myanmar's violence as genocidal by evoking that specific word, the US Government opened political space for advocacy.

To be clear, not everyone experiencing a lack of legal nationality embraces the term 'stateless'. Brinham's research illustrates how the Rohingya negotiate, resist and problematise the labelling process, and uncovers the ways in which legal definitions and social labels are intertwined.⁷⁷ Her interviewees noted that being stripped of their citizenship should be viewed within the broader context of state crime, and that the term 'stateless' will remain contested until it can deliver tangible human rights and protection benefits.⁷⁸ In their work with stateless Palestinian refugees from Syria, Jason Tucker and Haqqi Bahram highlight how the labelling process can be largely non-participatory, but that individuals can utilise multiple strategies to accept, reject, resist or negotiate the labels used to describe them.⁷⁹

The complexities surrounding how to talk about statelessness is part of why this story is so difficult to tell. As already noted, data shows that the lack of compelling images and a missing 'CNN factor' create challenges for issue framing and media representation. When communicating statelessness as a concept, it may be tempting to merge it with another more familiar idea. In this Netflix series, statelessness becomes equated with forced displacement — except statelessness is not a subset of the refugee experience. It is true that some stateless people (such as members of the Rohingya community from Myanmar) are both stateless and refugees, but that is not always (or even usually) the case. This is an important distinction since many people from the global refugee community are not stateless.

⁷⁴ *Convention on the Prevention and Punishment of the Crime of Genocide*, opened for signature 9 December 1948, 78 UNTS 277 (entered into force 12 January 1951).

⁷⁵ Antony J Blinken, 'Secretary Antony J Blinken on the Genocide and Crimes Against Humanity in Burma' (Press Release, US Department of State, 21 March 2022) <www.state.gov/secretary-antony-j-blinken-at-the-united-states-holocaust-memorial-museum>, archived at <perma.cc/KK67-CJPN>.

⁷⁶ Daniel Sullivan, 'US Genocide Designation for Rohingya a "Profoundly Meaningful Step" Toward Justice', *Refugees International* (Statement, 20 March 2022) <<https://www.refugeesinternational.org/statements-and-news/u-s-genocide-designation-for-rohingya-a-profoundly-meaningful-step-toward-justice>>, archived at <perma.cc/S2E2-KXRY>.

⁷⁷ Natalie Brinham, "'We Are Not Stateless! You Can Call Us What You Like, but We Are Citizens of Myanmar!'" Rohingya Resistance and the Stateless Label' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 342.

⁷⁸ *ibid* 342.

⁷⁹ Jason Tucker and Haqqi Bahram, "'I Must Be from Somewhere. I'm Not from the Moon": Navigating the Politics of Labelling for Stateless Palestinian Refugees from Syria' (2021) 3(2) *Statelessness & Citizenship Review* 330.

Statelessness *in situ*, for instance, describes people who have considerable ties to the country where they reside, in contrast to statelessness within a migratory context. Caia Vlieks defines *in situ* statelessness as ‘encompassing persons who are stateless in their “own country”, who have meaningful and long-established ties to the country they live in’.⁸⁰ Interviews with issue experts highlight their frustration with how statelessness is forced into ready-made narratives by the media, often related to forced migration and immigration.⁸¹ Ekaterina E further explains:

Statelessness can be a challenge to communicate because we can't be so easily boxed in. There are stateless people all over the world. We come from nearly every religion, race, ethnicity, gender or age group. This isn't an easy story to tell or picture to paint. That is why having a universal standard — a precise definition of statelessness — is so important. We must honour the meaning of the term so that we have a starting point for advocacy and for change. Stateless told an important story of the dehumanising experience of the immigration detention system, yet it failed miserably to take advantage of the opportunity to communicate the human experience of statelessness because the meaning of the term was diluted and misrepresented.

Our plight, as stateless people, differs from refugees in fundamental ways — certainly in the context of US immigration law, which we both have direct experience with. While the US legal system offers a pathway to asylum for the displaced, as fragile as that path is, we don't have that measure of protection and hope. There is currently no pathway to protection and citizenship for stateless people in the United States. The media, including television and film, can help the public understand these key differences — and that's a big part of why this series was such a disappointment.

B Listen to Stateless Individuals

Statelessness is often called the most ‘invisible’ human rights violation. UNHCR contends that ‘millions of people around the world are invisible’ due to their lack of legal nationality;⁸² their lack of passports and other documentation meaning ‘they officially don’t exist’.⁸³ Indeed, documentation associated with legal nationality is frequently equated with ‘legal identity’, and those without such documentation are often considered legally ‘invisible’ by state governments and the broader international community.⁸⁴ In a world where passports serve as a ‘formal representation of an individual’s verifiable identity’ and legal nationality

⁸⁰ Caia Vlieks, ‘Contexts of Statelessness: The Concepts of “Statelessness in Situ” and “Statelessness in the Migratory Context”’ in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Routledge 2017) 35, 36.

⁸¹ Kingston, ‘Conceptualizing Statelessness as a Human Rights Challenge’ (n 14) 57.

⁸² UNHCR, ‘What Does It Mean to Be Stateless?’, *YouTube* (Video, 18 October 2019) <www.youtube.com/watch?v=U8xZpNG39oc&t=42s>, archived at <perma.cc/JQ97-V254>.

⁸³ *ibid.*

⁸⁴ Laura van Waas, Zahra Albarazi and Amal de Chickera, *Sustainable Development Goal 16.9: ‘Legal Identity’, Nationality & Statelessness* (Booklet, Institute on Statelessness and Inclusion 2018) 4 <<https://files.institutesi.org/Legal-identity.pdf>>, archived at <perma.cc/3PXX-JFNR>.

somewhere is presumed, stateless people represent a frustrating dilemma for wary governments; they are people who can't be deported or expelled.⁸⁵

Yet Ekaterina E argues that 'to us, the stateless', statelessness is anything but invisible and that stateless people should be consulted by the media, as well as the rest of the international community, when engaging with this issue. She writes:

We live and breathe it every day of our lives. We are not invisible; it is the law that is blind to our existence and to the circumstances that rendered us stateless. The media has an opportunity to help shift the burden to the powers that be, which are governments. Since statelessness largely results from discrimination and protection gaps, those need to be addressed by the international community — and this is a responsibility that is and should be shared by the media, including television and film. Stateless people are here, we need to be seen and paid attention to, and our stories should be told accurately. For the media to meaningfully engage with statelessness, they need to adhere to precise terms and strive to center the voices of people who have been directly impacted. Stateless people are the experts on what it means to be without legal nationality.

Human rights advocacy work has historically involved a more or less 'top down' approach centred on decision-makers and major institutions, UN agencies, donors, academia, the media and other powerful key agents who orchestrate solutions with little to no direct involvement or input from impacted individuals or communities. Stateless people and those directly impacted by the lack of legal nationality have long been denied a seat at the table, and that must change. In the past, we have rarely been consulted and we've been tokenised, which is highlighted by the fact that the term 'stateless' was used for dramatic effect in this Netflix series. Fortunately, things are starting to change as global human rights advocacy shifts from 'pity humanitarianism' to 'solidarity' — and that includes recognition that stateless people are not passive victims, but rather we are agents of change. We have valuable lived experience. We know the gaps in laws and policies that directly affect us. Acknowledging this requires recentering stateless individuals as advocacy leaders.

Calls to engage and consult with affected peoples are being taken more seriously, thanks, in part, to shifts in international law and advocacy. For instance, there has been a significant push for greater and more meaningful participation with refugees when it comes to decision-making processes that affect them. International instruments such as the 2016 *New York Declaration for Refugees and Migrants*⁸⁶ and the 2018 *Global Compact for Refugees*⁸⁷ serve as examples of forward progress.⁸⁸ The work of United Stateless, including a March 2022 listening session to prepare recommendations for the US Citizenship and Immigration Services, exemplifies how affected individuals can collaborate on

⁸⁵ Kelly Staples, *Rethorising Statelessness: A Background Theory of Membership in World Politics* (Edinburgh University Press 2012) 100, 107.

⁸⁶ *New York Declaration for Refugees and Migrants*, GA Res 71/1, UN Doc A/RES/71/1 (3 October 2016).

⁸⁷ *Report of the United Nations High Commissioner for Refugees: Global Compact on Refugees*, UN Doc A/73/12 (Part II) (2 August 2018). The Compact was affirmed by the United Nations in GA Res 73/151, UN Doc A/RES/73/151 (10 January 2019).

⁸⁸ Harley and Hobbs (n 12).

policy initiatives.⁸⁹ Such partnerships are necessary for good policymaking; theoretical or legal approaches that fail to incorporate human experience can lead to flawed solution seeking, as noted by scholars in relation to migration and detention. Hindpal Singh Bhui warns of the dangers associated with ‘becoming so immersed in the evidence of objectification and systemic disempowerment’ that a ‘damaging parallel process of objectification occurs’.⁹⁰ Recognising and engaging with ‘evidence of agency’ helps avoid the simplistic assumption that a victim of human rights abuse cannot engage politically, and is particularly powerful when issues require legislative solutions, as is often the case with statelessness.⁹¹

More broadly, stateless activists have an interesting and important role to play in other global movements. They have a unique voice in the human rights advocacy sphere because statelessness intersects with many other social justice issues. For example, statelessness intersects with gender discrimination. Women cannot equally confer their nationality to their children in 25 countries.⁹² Ekaterina E notes that:

Many members of our community in the United States are women who continue to experience human rights violations as a result of the gender discrimination that rendered them stateless. Among us are women with stateless children. Citizenship and nationality rights are routinely weaponised to serve agendas driven by racism and discrimination, thus giving rise to the conditions in which groups are expelled and stripped of their basic human dignity — and in some cases, their lives.

Stateless people also have important reflections to share related to the value of legal nationality, including how and whether it is enough to protect fundamental rights. Kingston also addresses the question of how the international community recognises rights claimants, or those who are ‘fully human’ and stresses the need to sometimes look beyond citizenship status.⁹³ Ekaterina E explains:

The discourse around nationality and citizenship is often based on the premise that being connected to a government and having a meaningful relationship with a state is a highly valuable thing — arguably one of the most valuable things that a society can offer a person. Statelessness, as a word, implies that something is ‘less’ or lacking, that something is missing. The provision of legal nationality is lauded as the ultimate solution to a stateless person’s plight. And it’s true, I do long for this, without a doubt; having nationality would end my exile, my fear of detention, and restore my right to travel to finally reunite with my family. Yet, it may be important to remember that legal nationality does not always guarantee the protection of human rights, especially if you belong to an identity group that faces pervasive discrimination. It is my hope that as we continue to advocate for the rights of stateless people and learn and grow together through this process,

⁸⁹ *Together We Did! A Reflection on the Impact of the COVID-19 Emergency Statelessness Fund (CESF) Consortium* (Report, 8 February 2023) 32 <https://files.institutesi.org/Together_We_Did_CESF_Report.pdf>, archived at <perma.cc/58MU-A38F>.

⁹⁰ Hindpal Singh Bhui, ‘Introduction: Humanizing Migration Control and Detention’ in Katja Franko Aas and Mary Bosworth (eds), *The Borders of Punishment: Migration, Citizenship, and Social Exclusion* (Oxford University Press 2013) 11.

⁹¹ *ibid.*

⁹² UNHCR, *Background Note on Gender Equality, Nationality and Statelessness 2022* (Report, 4 March 2022) 2.

⁹³ Kingston, *Fully Human* (n 24) 5–6.

Responding to Netflix's Stateless Series

we will discover ways to deepen our understanding of how to make those very rights better understood, and more secure for all people.

V CONCLUSION

Ultimately, the Netflix series, *Stateless*, missed an incredible opportunity to engage in public framing related to the lack of legal nationality. While this frustrating error may have created further confusion about the situation of statelessness, film and television still represent important tools for advancing messaging related to social justice and human rights. By collaborating with stateless individuals, the media might one day tell this story in a powerful, thoughtful and accessible way, thereby building mainstream support for eliminating statelessness. This requires careful attention to words and definitions, as well as active participation by affected individuals. We look forward to watching.