

HIERARCHIES OF STATELESSNESS IN GERMANY

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This article argues that the categorisation practice of 'undetermined nationality' produces a hierarchy of statelessness that results in the inadequate fulfilment of Germany's international obligations to protect stateless people. This categorisation practice is maintained through the absence of a statelessness determination procedure, discriminatory legal frameworks and problematic discretionary administrative practices. The article draws on eight semi-structured, in-depth interviews conducted in March and April 2024 with people with lived experience of statelessness in Germany. It illustrates how different categories of statelessness affect individuals in their everyday self-realisation, career prospects, wellbeing and political participation. It offers testimonies from different generations of stateless individuals, evidencing how statelessness is not a static legal anomaly, but a dynamic, bureaucratically and legally manufactured spectrum of legal stratification and exclusion. These testimonies also show that if Germany does not implement a statelessness determination procedure it will continue to avoid its responsibilities, failing to comply with international obligations and contributing to human rights violations.

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† Ethics approval through a university of research institution was not sought. All participants provided written informed consent prior to the interview for the anonymous use of the information shared during the interview. The consent was obtained for this specific participatory action research, which includes the development of a statelessness determination procedure prototype. All names in the paper are pseudonyms. Responses were registered ensuring anonymity, privacy, confidentiality, and data protection according to *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation)* [2016] OJ L 116/1, art 6(1)(a).

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I INTRODUCTION

In recent years, the crisis of falling within the rifts of national restraints of identification has come to the fore as a pressing issue of legal and psychosocial significance. The predicament of neglecting cultural affiliation independent of ethnonational links as it arises in the global phenomenon of statelessness has attracted concern from scholars, international bodies and policymakers alike. Despite the implementation of international legal frameworks such as the 1954 *Convention relating to the Status of Stateless Persons* ('1954 Convention')¹ and the 1961 *Convention on the Reduction of Statelessness* ('1961 Convention')² that were historically enshrined to prevent mass statelessness as it occurred in the early 20th century, millions of individuals worldwide continue to live without a recognised nationality. The very lack of citizenship renders individuals as vulnerable to systematic exclusions, access to fundamental rights, and political participation. Beyond these tangible deprivations, statelessness inflicts profound psychological wounds that manifest in the form of post-traumatic stress disorder ('PTSD'), chronic stress and identity crisis.

Statelessness has been exacerbated by the global surge in geopolitical volatility and the intensification of armed conflicts, both of which contribute to the disintegration of state structures and trigger waves of forced migration, rendering many stateless. As borders shift and nationality laws grow exclusionary, stateless individuals are further burdened by a 'legal stratification'³ of non-citizenship. It determines their legal recognition and access to rights through racial, ethnic and gendered hierarchies embedded in legal frameworks and upheld through bureaucratic practices. This legal stratification creates a hierarchy of statelessness where some individuals are legally recognised as stateless, while others remain trapped in a state of legal limbo, marked by their undetermined nationality. While this stratification is legally codified, it is meted out through administrative practices of recognition, categorisation and exclusion. It is not a static hierarchy but a precarious system in which conceded rights and recognition may abruptly shift due to administrative officials' different interpretations, practices and

¹ *Convention relating to the Status of Stateless Persons*, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960) ('1954 Convention').

² *Convention on the Reduction of Statelessness*, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December 1975) ('1961 Convention').

³ Luke de Noronha, 'Hierarchies of Membership and the Management of Global Population: Reflections on Citizenship and Racial Ordering' (2022) 26(4–5) *Citizenship Studies* 426, 427.

discretionary decision-making. This cycle of state discriminatory measures only aggravates the marginalisation and deprivation of these populations.

Statelessness is historically known to have affected individuals from postcolonial, post-Soviet and conflict-affected regions. However, the absence of a consistent legal procedure for determining statelessness in Germany has reconfigured the issue into one that is no longer historical nor exclusively confined to foreign regions but rather an immediate domestic phenomenon. Far from being accidental, this phenomenon operates as a racialised, gendered and class-based technology of containment that is shaped and reinforced by state practices, and continues to subject stateless people to administrative arbitrariness and the discretionary power of immigration office caseworkers, who, in some cases, are influenced by racialised and gendered assumptions of ‘deservingness’. The persistence of this gap in legal recognition sustains intergenerational statelessness, affecting successive generations, in addition to in situ statelessness, wherein individuals are born stateless within their communities. Thus, as of 31 December 2024, 123,505 individuals in Germany were living without a recognised nationality, of whom 37,950 were born in Germany and 45,665 are minors.⁴ Despite being a signatory to the *1954* and *1961 Conventions*, Germany’s national laws and administrative procedures fall short of upholding these commitments, frequently relegating individuals to a legal and bureaucratic limbo.⁵ Accordingly, the categorisation of stateless individuals in Germany is not an outcome of an objective legal assessment or a standardised statelessness determination procedure (‘SDP’), but rather a stratifying hierarchy of recognition that produces different categorisations such as ‘recognised stateless’ and ‘undetermined nationality’. Each category is associated with a distinct set of legal rights and bureaucratic consequences, which serve as a barrier to the stateless’ naturalisation process, secure residence rights, acquisition of identification documents, education and access to public services.

This article thus argues that the legal framework in Germany coupled with the absence of a standardised SDP, in addition to the bureaucratic subjugation of yet unrecognised stateless individuals to opaque administrative practices of caseworkers, contributes to the creation of a hierarchy of legal categorisations that affect access to rights. It introduces the concept of hierarchies of statelessness, drawing the distinction between recognised stateless status and the administrative category of undetermined nationality, and elaborates on how the intersection of these categories with stratified residence rights, gendered racism, and the availability of social, cultural and financial capital, generates varying proximity to state violence and unequal access to rights. Furthermore, the article sheds light on how individuals navigate the legal intricacies of statelessness in their everyday lives and how this has affected their familial links, educational attainments, mobility rights and economic advancements. Ultimately, the article seeks to contribute to the understanding of statelessness not as a static legal anomaly, but a dynamic, bureaucratically and legally manufactured spectrum of legal stratification and exclusion.

⁴ Statistisches Bundesamt [Federal Statistics Bureau] (Germany), ‘Ausländer: Deutschland, Stichtag, Geschlecht, Altersjahre, Migrantengeneration, Ländergruppierungen/Staatsangehörigkeit’ (Dataset, 2026) <<https://www-genesis.destatis.de/datenbank/online/url/109405e1>>, archived at <perma.cc/NC7K-XSS4>.

⁵ Holger Hoffmann, ‘Staatenlosigkeit - Rechte und rechtliche Folgen’ [Statelessness - Rights and Legal Consequences] [2017] (9) *Asylmagazin* 325, 329.

For this purpose, three interdisciplinary researchers with current or previous experiences of statelessness from the fields of law, policy, and psychology conducted eight in-depth, semi-structured interviews on lived experiences of statelessness. Interview participants consisted of individuals with lived experiences of statelessness ranging from those that have now acquired citizenship, to individuals still stateless and in a legal limbo in Germany. After delineating the methodological and ethical context of the research, the article discusses the legal history of statelessness, before diving deeper into how statelessness manifests in the lives of people in Germany. These testimonies reveal the structural production and lived effects of hierarchies of statelessness. Finally, the experiences and arguments shared in this article help highlight the critical need for legal reform to avoid the perpetuation of social injustice and inequality embedded in the current German legal and bureaucratic system.

II PARTICIPATORY METHODOLOGY, POSITIONALITY AND ETHICS

The article is informed by eight in-depth, semi-structured interviews with people who have experienced statelessness in Germany, conducted in the context of an eight-month Statefree Fellowship in 2023–4. The Statefree Fellowship was initiated and facilitated by Statefree, a human rights organisation based in Germany that advocates for the rights of stateless people.⁶ The purpose of the Fellowship was to collaboratively shed light on the bureaucratic and legal barriers stateless people face in Germany. It brought together three research fellows with lived experience of statelessness and with expertise in law, policy and psychology, alongside the research lead at Statefree, forming an interdisciplinary research team committed to participatory knowledge production.⁷

The project drew inspiration from Participatory Action Research ('PAR'), with both research fellows and interview participants — each with lived experience of statelessness — shaping the design and focus of the research. While not fully constituting a PAR project as defined by Lewin in 1946 or Fals-Borda in 1987,⁸ the project adopted a hybrid cooperative model that accommodated different levels of participation depending on positionality, involvement and structural constraints.⁹ As such, interviewees contributed mainly to design and feedback, whereas fellows engaged extensively with the organisation to make inclusive decisions informed by lived experience across all stages of the project. Despite limitations on broader involvement, this participatory-inspired approach centred lived experience, questioned knowledge hierarchies and provided an ethical reflexive framework for analysing participants' testimonies with care, which ensured that findings respected participants' dignity and agency.

⁶ 'Home', *Statefree* (Web Page, 2026) <<https://statefree.world>>, archived at <<https://perma.cc/Z9HB-M2PW>>.

⁷ See Sara Kindon, Rachel Pain and Mike Kesby, 'Critically Engaging Participatory Action Research' in Sara Kindon, Rachel Pain and Mike Kesby (eds), *Critically Engaging Participatory Action Research* (Routledge, 1st ed, 2025).

⁸ Kurt Lewin, 'Action Research and Minority Problems' (1946) 2(4) *Journal of Social Issues* 34, 34; Orlando Fals-Borda, 'The Application of Participatory Action-Research in Latin America' (1987) 2(4) *International Sociology* 329, 329.

⁹ Peter Reason and Hilary Bradbury, 'Editorial' (2008) 6(1) *Action Research* 5; Philipp Lottholz and Karolina Kluczewska, 'Still Engaging, Not Avoiding, Contradictions: Conceptualizing Cooperative Research in Practical, Structural and Epistemic terms' (2024) 18(4) *International Political Sociology* 4, 4.

The research fellows' positionality and own lived experiences of statelessness and racism was central in destabilising 'citizenist' approaches to research on statelessness.¹⁰ It created more equitable and sensitive interview encounters, facilitating trust, openness and knowledge exchange. A reflexive and situated methodology grounded in feminist and decolonial approaches to knowledge production shaped both research design and implementation.¹¹ As such, research questions were drafted collectively through discussions with other people with lived experience of statelessness during a Statefree Community Lab in November 2023.¹² Interview participants were then contacted via the Statefree community platform.¹³ Prior to the interview, individuals were invited to identify topics of urgency and those to refrain from, ensuring that their priorities and boundaries set the context for the interview.¹⁴ The first draft was also shared with the interview participants making sure their feedback is reflected in this article.

While formal demographic data was not systematically collected, research participants represented different experiences of statelessness: some had experienced childhood statelessness and had already naturalised in Germany, others were still stateless. Some had a recognised stateless status, while others were categorised with an undetermined nationality. Some were born in Germany, others had moved there as children or later in life. Participants were based both in urban and semi-rural settings. There were two male and six female participants, all with ages ranging from early 20's to mid-50's. The interviews were conducted both online and in person, in both German and English as per the participants' preferences. All interview participants received a small monetary compensation for their time and contribution to the research. It was particularly important to uphold the values of safety and emotional wellbeing of participants. The semi-structured format of the interviews further accommodated space for more conversational moments to emphasise shared experience and knowledge exchange. Destabilising the power dynamics inherent to data collection in this way was especially important given the prevalence of traumatic experiences as a result of statelessness. That is why participants were reminded throughout the interview that all questions were optional and that they could withdraw from the interview at any point.

Since the research was not affiliated with any university or research institution, no institutional ethics board review was sought. However, ethical standards were upheld through peer-led ethical guidelines. Ethical safeguards included obtaining informed consent verbally and in writing, guaranteeing that participation was

¹⁰ Haqqi Bahram, 'Towards a Stateless Standpoint Epistemology' (2021) 3(1) *Statelessness and Citizenship Review* 113.

¹¹ Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (Routledge 2000); Linda Tuhiwai Smith, *Decolonising Methodologies: Research and Indigenous Peoples* (Zed Books, 3rd ed, 2021).

¹² The Statefree Community Labs provides a safe space for people with lived experience of statelessness, with the purpose of sharing experiences, connecting and working on solutions collectively.

¹³ 'Community', *Statefree* (Web Page, 2026) <<https://community.statefree.world/>>, archived at <perma.cc/3XU9-LWFP>.

¹⁴ Interview participants were asked to provide this information via the following sign-up form: Margarida Farinha, 'Forschung zu Staatenlosigkeit in Deutschland - Teile deine Erfahrung mit uns! // Research about statelessness in Germany - share your experience with us!' (Google Form, 21 February 2024) <https://docs.google.com/forms/d/e/1FAIpQLScw6AW7M_RoNCdK2KzfQ5I60i4Uq1mJSs7TSkZqWVE4tjXQAA/viewform>, archived at <perma.cc/KRB6-DT2L>.

entirely voluntary and maintaining strict anonymity. All identifying details were removed and pseudonyms were assigned to protect participants' privacy and safety. Pseudonyms were selected by the research team, prioritising culturally neutral names rather than numbers or initials to avoid depersonalisation. Participants then provided their consent to their assigned pseudonyms reflecting the study's participatory action research orientation. All data was stored securely with access limited to the research team. The transcripts were directly anonymised and recording files deleted. They were analysed collaboratively within the research team using a thematic approach, combining both deductive and inductive strategies. A priori codes were employed based on the interview guide and existing literature on statelessness. Emergent codes were then integrated in order to ensure sufficient space for participants' voices and unanticipated themes.

In addition to the interviews, the article is informed by ongoing conversations and encounters during the fellowship period. This includes the participation in the Statefree Innovation Lab in April 2024,¹⁵ where diverse experts on statelessness came together to discuss requirements for a fair and inclusive SDP. A workshop on collaboratively designing wireframes¹⁶ for a digital tool that assists in the application for statelessness determination brought the collected material in further conversation with more concrete means of responding to the challenges stateless people face.

While the article advocates for the implementation of an SDP as a mechanism to identify and protect stateless people, state procedures for status determination carry the danger of reproducing bureaucratic violence and excluding especially vulnerable groups.¹⁷ That is why this article focuses on the intersectional experiences of statelessness in order to expand our understanding of what statelessness is and how it manifests in Germany.

An intersectional analysis of statelessness discloses the violence of state categories and categorising practices.¹⁸ Being attentive to not reproducing its logics of exclusion means questioning, destabilising and offering alternatives to the state-produced differentiation between statelessness and undetermined nationality. That is why the article uses the term 'stateless' to mean the experience and status of non-citizenship, independent of formal recognition thereof. Before examining contemporary experiences of statelessness, the following section traces the legal history of statelessness to illuminate how it has historically functioned as a mechanism of exclusion in Germany.

¹⁵ The Statefree Innovation Labs brings together different experts and actors in order to develop innovative and sustainable solutions for resolving statelessness.

¹⁶ Wireframes are visual guides that outline the basic structure, layout, and functionality of a web page or app, used to plan and design the user interface before actual development begins.

¹⁷ See, eg, James C Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (Yale University Press 1998) 76–83.

¹⁸ On intersectionality, see Kimberlé Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Colour' (1991) 43(6) *Stanford Law Review* 1241, 1245; Nira Yuval-Davis, 'Intersectionality and Feminist Politics' (2006) 13(3) *European Journal of Women's Studies* 193, 194; Deirdre Brennan, Nina Murray and Allison J Petrozziello, 'Asking the "Other Questions": Applying Intersectionality to Understand Statelessness in Europe' in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021) 222.

III THE LEGAL HISTORY OF STATELESSNESS IN GERMANY

Statelessness can often be traced back to war, the dissolution of states, displacement, gender-discriminatory laws, ethnicity or religion, conflicting nationality laws or insufficient birth registration practices. However, in Germany, restrictive nationality laws and fragmented administrative practices not only fail to resolve these problems, but also often reproduce and institutionalise them.¹⁹ At the end of 2024, of the 123,505 people living in Germany without a recognised nationality, 37,950 had been born in Germany and 45,665 were minors.²⁰ With 31% of the stateless population being born in the country, and 37% under the age of 18, it is critical to understand how statelessness is produced and aggravated within and through Germany's legal and administrative apparatus. Importantly, this (re)production of statelessness does not take place in a historical vacuum, but can be traced throughout different moments in Germany's legal, political and bureaucratic infrastructure.

While the 2024 reform of the German nationality law facilitated access to German nationality in some regards, it did not do so for especially vulnerable groups.²¹ Even though recommendations to reduce statelessness were proposed in the public hearing on the nationality reform, these were not included within the reform.²² As a result, Germany missed its chance to structurally address statelessness, reduce childhood statelessness and fulfil its international obligations. Historically based on the *jus sanguinis* principle, German nationality law has largely been an instrument for exclusion, structuring access to rights, recognition and belonging along rigid lines of ethnocultural belonging and descent.²³ Situating intergenerational statelessness and the proliferation of statelessness within that history of legal exclusion provides an important contextualisation. Importantly, it shifts the discussion of statelessness as an issue of migration and turns the gaze towards how statelessness has historically been produced in Germany.

The history of legal exclusion of non-citizens goes hand in hand with the inception of the fundamental principles of international law, such as self-determination and state sovereignty and membership theory as debuted in the 1648 Conference of Westphalia. The *Treaty of Westphalia* introduced a feudal system of nation-state formation,²⁴ legalising the outsider/insider binary by creating the citizenship-stateless dichotomy. Historically, one was rendered stateless for acting in disloyalty to one's nation-state, which included taking up

¹⁹ Margarida Farinha, "What about It Is Unclear? I Mean I Was Born Here": *Ungeklärte Staatsangehörigkeit* and the (Re-)production of De Facto Statelessness in Germany" (2022) 26(6) *Citizenship Studies* 799, 801.

²⁰ Statistisches Bundesamt (n 4).

²¹ People receiving social benefits are excluded from naturalisation, which particularly affects poor single parents and their children, people with disabilities, carers, students as well as pensioners. See, eg, Pass(t) uns allen, 'Stellungnahme zum Inkrafttreten des reformierten Staatsangehörigkeitsgesetzes' [Statement on the Entry into Force of the Reform of the Nationality Act] (Media Release, 27 June 2024) 1.

²² *Staatsangehörigkeitsgesetz* [Nationality Act] BGBl III 102-1 (22 July 1913) (Germany). For recommendations, see, eg, Statefree, 'Stellungnahme: von Statefree e.V. zum Entwurf eines Gesetzes zur Modernisierung des Staatsangehörigkeitsrechts' [Public Statement: by Statefree on the Draft Law to Modernise the Nationality Act] (Media Release, 15 June 2023).

²³ See Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Harvard University Press 1992) 51.

²⁴ On Westphalian sovereignty, see Harald Bauder and Rebecca Mueller, 'Westphalian vs. Indigenous Sovereignty: Challenging Colonial Territorial Governance' (2023) 28(1) *Geopolitics* 156.

military service in another country or posing a serious security threat, which is still enshrined in Germany's nationality law.²⁵

Until January 2000, Germany's nationality law was based on the *Reichs- und Staatsangehörigkeitsgesetz* of 22 July 1913 ('1913 Nationality Law'),²⁶ which demanded a community-based model informed by *jus sanguinis* ideology.²⁷ *Jus sanguinis*, historically linked to patrilineal descent, demands citizenship by blood relations and inevitably stipulates that a people must be a coherent genetic, biological entity.²⁸ The debate over German citizenship during the late 19th and early 20th centuries reflected deeper societal tensions regarding national identity. Advocates of *jus soli* argued that citizenship should be determined by place of birth, emphasising residency as the primary criterion.²⁹ On the other hand, proponents of *jus sanguinis* emphasised ancestry or 'blood', asserting that belonging to the German nation was inherently tied to ethnic or familial heritage and whiteness.³⁰

This 'conjuncture of "race" and "blood"'³¹ was pronounced throughout the 20th Century in Germany and shaped access to German citizenship both during and after German colonialism.³² El-Tayeb describes how following the end of German colonialism in 1914, Africans living in Germany could not access German citizenship: 'instead, they were handed "foreigners' passports", leaving them – and their families – in effect without nationality'.³³ This codified the possibility of their expulsion from Germany and placed restrictions on their chances of employment, finding accommodation and possibilities of getting married.³⁴ Further, the restrictions of the 1913 *Nationality Law* meant that this lack of clear citizenship status was passed on to both wives and children.³⁵ Drawing a parallel to the currently employed administrative category of undetermined nationality, these liminal statuses (re)produce non-citizenship and intergenerational statelessness, and work as a technology of exclusion.

Denaturalisation and citizenship stripping was an integral instrument of the Nazi regime to persecute political opponents and those not deemed part of the German 'Volk'.³⁶ The 1933 *Law on the Revocation of Naturalisations and the Deprivation of German Citizenship* defined that naturalisations that had taken

²⁵ *Atlas of the Stateless: Facts and Figures about Exclusion and Displacement* (Report, Rosa-Luxemburg-Stiftung, October 2020) 12.

²⁶ *Reichs- und Staatsangehörigkeitgesetz* [Rights and Nationality Act] (22 July 1913) 583 Reichsgesetzblatt I (Germany).

²⁷ Fatima El-Tayeb, *Undeutsch: Die Konstruktion des Anderen in der postmigrantischen Gesellschaft* [Un-German: The Construction of the Other in Post-Migrant Society] (Transcript 2016) 149–50.

²⁸ Brubaker (n 23) 125.

²⁹ El-Tayeb (n 27) 147–51.

³⁰ *ibid.*

³¹ Fatima El-Tayeb, "'Blood Is a Very Special Juice": Racialised Bodies and Citizenship in Twentieth-Century Germany' (1999) 44 (Supplement 7) *International Review of Social History* 149, 149.

³² *ibid.*

³³ *ibid.* 162.

³⁴ See Robbie Aitken, 'Surviving in the Metropole: The Struggle for Work and Belonging Amongst African Colonial Migrants in Weimar Germany' (2010) 28(2–3) *Immigrants and Minorities* 203, 209.

³⁵ *ibid.*

³⁶ 'Volk' can be translated as 'people' or 'nation' but carries specific ethnocultural connotations. Historically, it has been employed for nationalist, racist and exclusionary discourses, especially during the Nazi era.

place between 1918 and 1933 could be revoked if considered ‘undesirable’.³⁷ Similarly, emigrated German citizens could be stripped of their citizenship if they ‘defied their loyalty to the *Reich* and *Volk* or harmed German interest’.³⁸ The 25 November 1941 *Eleventh Decree to the Law on the Citizenship of the Reich* automatically stripped all Jewish Germans who resided abroad of their German citizenship and legalised the confiscation of their property.³⁹ This represented the ‘legal framework for deportation and for stripping Jewish subjects of their German nationality, turning them into stateless subjects, once the deportation trains crossed the Reich frontier’.⁴⁰ It evidences how citizenship in practice is the ‘the right to have rights’,⁴¹ and that ‘only membership in a political community is a guarantee of basic security and moral personhood’.⁴²

Statelessness was not only produced through legislative acts but also through gendered citizenship laws. Until reforms in 1974, German women could not pass citizenship to children born out of wedlock and lost nationality upon marrying foreign nationals.⁴³ Even in the 21st Century, remnants of these exclusionary practices persisted. In the 2018 case of *2 BvR 2628/18*, a Jewish-American woman born out of wedlock to a German father could only acquire citizenship after the German Constitutional Court ruled in favour of her, demonstrating the hurdles of acquiring citizenship even centuries after its reform.⁴⁴

The Cold War era and reunification period further disclosed societal tensions around ethnonational belonging. Ethnic Germans from Eastern Europe were granted facilitated naturalisation under the expatriate law, even when they had no cultural, affective or linguistic ties to territorial Germany.⁴⁵ In contrast, descendants of Turkish guest workers who had lived, studied and worked in Germany for decades faced strict requirements and pressure to renounce their

³⁷ *Gesetz über den Widerruf von Einbürgerungen und die Aberkennung der deutschen Staatsangehörigkeit* [Law on the Revocation of Naturalisations and the Deprivation of German Citizenship] (14 July 1933) 480 Reichsgesetzblatt I s 1(1) (Germany).

³⁸ *ibid* s 2(1) [tr authors].

³⁹ *Elfte Verordnung zum Reichsbürgergesetz* [Eleventh Decree to the Law on the Citizenship of the Reich] (25 November 1941) 722 Reichsgesetzblatt (Germany).

⁴⁰ Mira Siegelberg, *Statelessness: A Modern History* (Harvard University Press 2020) 151.

⁴¹ Hannah Arendt, *The Origins of Totalitarianism* (Harcourt Brace Jovanovich 1973) 296.

⁴² Siegelberg (n 40) 95.

⁴³ *Gesetz zur Änderung des Reichs- und Staatsangehörigkeitsgesetzes* [Law Amending the Rights and Nationality Act] (20 December 1974) 3714 BGBl I art 1(1) (Germany), amending *Reichs- und Staatsangehörigkeitgesetz* (n 26) s 4; Lora Wildenthal, ‘Race, Gender, and Citizenship in the German Colonial Empire’ in Frederick Cooper and Ann Laura Stoler (eds), *Tensions of Empire: Colonial Cultures in a Bourgeois World* (University of California Press 1997) 265.

⁴⁴ *2 BvR 2628/18* (Bundesverfassungsgericht [German Constitutional Court], ECLI:DE:BVerfG:2020:rk20200520.2bvr262818, 20 May 2020). In this case, the citizenship applicant was facing difficulty in claiming a right to German citizenship as a direct ‘descendant’ (*Abkömmling*), as her father had lost his citizenship under the Nazi regime. The German Federal Office of Administration (*Bundesverfassungsamt*) had rejected her citizenship application because at [4]:

[t]he appellant was born out of wedlock in 1967 and could not have acquired German citizenship from her father at that time. Therefore, her father’s denaturalisation in 1938 had no legal effect on the appellant’s citizenship. Consequently, there is no entitlement to naturalisation under Article 116, Paragraph 2 of the Basic Law. No other legal avenues for naturalisation are apparent. [tr authors]

See *Gesetz über die Angelegenheiten der Vertriebenen und Flüchtlinge* [Law on the Affairs of Expellees and Refugees] (19 May 1953) (2007) 1902 BGBl I (Germany).

⁴⁵ Nergis Canefe, ‘Citizens versus Permanent Guests: Cultural Memory and Citizenship Laws in a Reunified Germany’ (1998) 2(3) *Citizenship Studies* 519, 526.

previous nationality,⁴⁶ underscoring a deeply racialised and hierarchical definition of ‘Germanness’. The 1999 reform of the *Nationality Act*⁴⁷ represented the first significant shift away from a purely *jus sanguinis* approach. The reform allowed children born in the country to non-citizen parents to automatically receive German nationality at birth if at least one parent had resided in Germany for at least eight years and possessed indefinite permission to remain.⁴⁸ In 2019, the requirement of a ‘clear identity and nationality’ was added as a prerequisite for naturalising in Germany.⁴⁹ This was already a requirement in administrative practice and often presented insurmountable hurdles, for instance, for people who had fled from the Yugoslav wars or minority groups such as Kurds, Palestinians, and Roma and Sinti, who often lacked the documentation required by German authorities. However, some naturalisation authorities did attempt to find pragmatic solutions for hardship cases.⁵⁰ Codifying the requirement for a ‘clear identity and nationality’ within nationality law meant that finding pragmatic solutions in cases where the identity and/or nationality could not be proven through official documents would become more difficult, if not completely impossible.⁵¹

The legal definition of antisemitism, guided by the International Holocaust Remembrance Alliance (‘IHRA’) working definition, has increasingly been used to target dissent voices and student activism,⁵² particularly in the context of the Gaza conflict since October 2023. In 2019, the naturalisation authority sought to revoke the citizenship of a German-Palestinian man born in Germany due to his alleged support of Hamas. Importantly, the court ruled against revocation due to insufficient and unreliable evidence to showcase that the individual had actively supported extremist activities at the time of naturalisation.⁵³ In yet another case, a Kurdish woman born in Germany was denied naturalisation due to her advocacy for Kurdish autonomy and alleged proximity to Kurdistan Workers’ Party (‘PKK’) activists, because it was deemed incompatible with ‘free democratic basic order’ by both the court and immigration authorities.⁵⁴ The judge ruled that she may reapply in a few years after proving that she has sufficiently distanced herself from any such political activism,⁵⁵ underlining the concept of ‘deservingness’ in citizenship adjudication.⁵⁶ Such examples illustrate the historical willingness to

⁴⁶ Susan Willis McFadden, ‘German Citizenship Law and the Turkish Diaspora’ (2019) 20(1) *German Law Journal* 72, 84.

⁴⁷ *Gesetz zur Reform des Staatsangehörigkeitsrechts* [Law on the Reform of the Nationality Act] (15 July 1999) 1618 BGBl I (Germany) (‘1999 Nationality Act’).

⁴⁸ *ibid* art 1(3).

⁴⁹ *Drittes Gesetz zur Änderung des Staatsangehörigkeitsgesetzes* [Third Law Amending the Nationality Act] (4 August 2019) 1124 BGBl I art 1(3) (Germany), amending 1999 *Nationality Act* (n 47) (‘2019 Amendment’).

⁵⁰ Tarik Tabbara, ‘Schriftliche Stellungnahme zu dem Entwurf eines Dritten Gesetzes zur Änderung des Staatsangehörigkeitsgesetzes (BT-Drs. 19/9736)’ (Media Release, 2019) 13 <<https://www.hwr-berlin.de/fileadmin/portal/Dokumente/Fachbereiche-Institute/FB5/Personen/A-Drs-19-4-315-C-Stellungnahme-Tarik-Tabbara.pdf>>, archived at <perma.cc/SYP4-ENQU>.

⁵¹ *ibid* 13–4.

⁵² See European Legal Support Centre, *The European Commission ‘Handbook’ Promoting the Controversial IHRA Working Definition of Antisemitism: A Legal Analysis* (Briefing Paper, 2023).

⁵³ *4 K 756/18.MZ* (Verwaltungsgericht Mainz [Mainz Administrative Court], 10 May 2019).

⁵⁴ *M 25 K 19.3159* (Verwaltungsgericht München [München Administrative Court], 28 July 2021) reported in (2021) BeckRS 23860, [4].

⁵⁵ *ibid* [39].

⁵⁶ Rosemary Sales, ‘The Deserving and the Undeserving? Refugees, Asylum Seekers and Welfare in Britain’ (2002) 22(3) *Critical Social Policy* 456, 459, 463–9, 473–4.

render de facto Germans non-citizens if affiliated with political motives deemed contrary to ‘German public interest’. It also demonstrates how statelessness is selectively maintained to discipline dissenting voices and identities.

Although the 2024 reform of the German nationality law reduced legal residency for citizenship from eight to five years and facilitated dual citizenship, references to ‘statelessness’ remains unmentioned.⁵⁷ Thereby the parents’ assumed nationality still plays a vital role in determining a child’s right to citizenship acquisition upon birth, granting stateless children born in Germany the right to naturalisation only after five years of legal residence in the country.⁵⁸ Moreover, the requirement of a ‘clear identity and nationality’ introduced in 2019 remains codified in nationality law, thereby excluding anyone registered with an undetermined nationality from naturalising in Germany.⁵⁹ This also applies to those born in Germany and registered with an undetermined nationality. In situ statelessness is thus not only produced in Germany, but its temporal persistence is also inscribed through legal means. Thus, as this brief history of statelessness in Germany shows, statelessness in Germany manifests as a complex stratification of legal exclusion. It produces a hierarchy that privileges certain identities, histories and affiliations, while suspending others in a prolonged legal limbo.

IV THE PRODUCTION OF HIERARCHIES OF STATELESSNESS IN GERMANY

Despite Germany’s commitments under international law to reduce and prevent statelessness, hierarchies of statelessness continue to be produced and maintained through legal and administrative practices. As a signatory to the *1954* and *1961 Conventions*, Germany is obliged to identify, protect and naturalise stateless people. Yet the government inserted reservations to arts 23 and 27 of the *1954 Convention*, weakening its international legal obligations.⁶⁰ Especially relevant is art 27, which addresses contracting states’ obligation to issue identity documents to stateless people who do not have valid travel documents. The lack of correct identification links directly to the risk of limited access and enjoyment of other rights, such as education, employment, healthcare and freedom of movement, as seen through the experiences shared in this article. These reservations reinforce administrative arbitrariness, prolonging situations of institutional invisibility and legal precarity.

Additionally, in this context, the absence of an SDP aggravates the consequences of the reservations, as no standardised mechanism is offered to stateless individuals to be recognised, documented, and consequently protected by law. The identification and recognition of people’s stateless status does not occur systematically through a dedicated SDP, but is instead relegated to the individual assessment of caseworkers, mainly those working at immigration offices.⁶¹ This

⁵⁷ *Gesetz zur Modernisierung des Staatsangehörigkeitsrechts* [Third Law Amending the Nationality Act] (22 March 2024) 104 BGBl I arts 1(2), 1(8) (Germany), amending *Staatsangehörigkeitsgesetz* (n 22).

⁵⁸ *Staatsangehörigkeitsgesetz* (n 22) s 4(3).

⁵⁹ *2019 Amendment* (n 49) art 1(3), cf *Staatsangehörigkeitsgesetz* (n 22) s 10.

⁶⁰ *Gesetz zu dem Übereinkommen vom 28. September 1954 über die Rechtsstellung der Staatenlosen* [Law Relating to the 28 September 1954 Convention relating to the Status of Stateless Persons] (12 April 1976) 473 BGBl II (Germany).

⁶¹ Maximilian Müller, *Kein Pass. Nirgends? Politische, rechtliche und verwaltungspraktische Ansätze im Umgang mit Staatenlosigkeit* [No Passport. Nowhere? Political, Legal and Administrative Approaches to Dealing with Statelessness] (SVR-Studie 2024-3, Sachverständigenrat für Integration und Migration, 2024) 39.

renders the correct identification to be strongly conditional on the caseworker's knowledge about statelessness, and their willingness to engage in a complex assessment procedure for which the administration has no clear instructions.⁶² As a result, statelessness largely remains unrecognised, with immigration offices instead assuming the existence of a nationality and resorting to the administrative category of undetermined nationality.⁶³ This practice reflects how statelessness is often marginalised in legal and political discourse due to the ascendancy of anti-discrimination laws, and how individual rights language masks the structural nature of statelessness by excluding the stateless from their protection.⁶⁴

Being categorised as having an undetermined nationality has far-reaching consequences. While supposedly representing a 'temporary working term',⁶⁵ many remain confined to this status for decades and across generations.⁶⁶ It leaves stateless people in a legal limbo, hindering naturalisation and conditioning access to residence permits and identification documents.⁶⁷ The absence of identification documents produces barriers to long-term residence rights, limited freedom of movement and constraints for educational and employment prospects. If 'citizenship works as an international "geography of containment"',⁶⁸ undetermined nationality functions as a specific technology of containment: both ascribing belonging outside of the nation and reinforcing the material conditions of territorial containment.⁶⁹

Statelessness is not a homogeneous condition, rather it manifests as a stratified system shaped by intersecting histories of ethno-nationalism, racialised bureaucratic discretion and selective recognition practices.⁷⁰ This stratification affects individuals differently based on their perceived racial, political and national affiliations. Shifting interpretations and precarious legal classifications expose stateless individuals to heightened risks of deportation, imprisonment and violence. This bureaucratic instability reinforces hierarchies of statelessness, making some individuals more vulnerable than others.

These hierarchies often persist within the same family, as reflected in the narratives that inform this article. Alina, who was born in Latvia and inherited her parent's post-Soviet non-citizen status, was first categorised with an undetermined nationality in Germany.⁷¹ She moved to Germany as a child with her family and is now a young adult. To date, she has not yet been able to resolve her statelessness.

⁶² *ibid.*

⁶³ Katia Bianchini, 'On the Protection of Stateless Persons in Germany' (2014) 19(1–2) *Tilburg Law Review* 35, 38.

⁶⁴ Linda Bosniak, *The Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton University Press 2006); Ayelet Shachar, *The Birthright Lottery: Citizenship and Global Inequality* (Harvard University Press 2009) 140; Czarina Wilpert, 'Racism, Discrimination, Citizenship and the Need for Anti-Discrimination Legislation in Germany' in Zig Layton-Henry and Czarina Wilpert (eds), *Challenging Racism in Britain and Germany* (Palgrave Macmillan 2003) 245, 258–62.

⁶⁵ Hoffmann (n 5) 331.

⁶⁶ Hoffmann (n 5) 334; Farinha (n 19) 800–1.

⁶⁷ Farinha (n 19) 800–1.

⁶⁸ Stephanie Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South* (University of North Carolina Press 2004), cited in Luke de Noronha, 'Hierarchies of Membership and the Management of Global Population: Reflections on Citizenship and Racial Ordering' (2022) 26(4–5) *Citizenship Studies* 426, 432.

⁶⁹ Farinha (n 19) 801.

⁷⁰ Neha Jain, 'Manufacturing Statelessness' (2022) 116(2) *American Journal of International Law* 237, 250–75.

⁷¹ Interview with Alina (Kauther Nour Alhusainy, online, 26 March 2024).

The immigration office asked her to provide a declaration from the Latvian embassy that she had been a Latvian citizen, which she could not do because she was ‘born into non-citizen status’.⁷² While her mother later managed to naturalise in Germany and Alina’s status was changed from undetermined nationality to stateless, this reclassification did not extend to her sister, who despite being born in Germany remains stuck in a legal limbo. In Alina’s words, ‘she is the worst stateless case I have seen in my life. She was born in Germany and her status is undetermined’.⁷³ This illustrates how the consequences of geopolitical transformations, in this case the dissolution of the Soviet Union, intersect with inadequate and fragmented administrative practices as well as restrictive German nationality laws to perpetuate statelessness across generations.

Salma’s experience further discloses the role of gendered and racialised logics of deservingness in the administration of statelessness. She arrived in Germany from Syria as a young teenaged Palestinian refugee. Now a young adult, she has a German passport, while the rest of her family remains stateless. Her brother, whose asylum application had been processed separately from the family’s, remains registered with an undetermined nationality and is at a risk of deportation. Salma herself attributes this to racialised and gendered conditions of deservingness. As the caseworker informed her, Salma — who passed her *Abitur*⁷⁴ with top marks and did volunteer work — ‘should have waited another three years [...] but we prioritised you because we thought you were so exemplary, and I have a daughter your age’.⁷⁵ Within such regimes of ‘deservingness’, categories themselves become malleable.⁷⁶ As Salma explains: ‘I was unrecognised, I wasn’t even stateless, I was XXX, that’s unrecognised. And then during the naturalisation process I was changed to stateless and then again to German citizen.’⁷⁷

While rights are conceded differently to stateless people depending on their status, these rights often remain revocable. It therefore not only governs differences between stateless people, it can also abruptly shift due to administrative officials’ different interpretations, practices and discretionary decision-making. Esma, who was born in Germany to parents who had fled from the Yugoslav wars, is now in her mid-20’s and is still registered with an undetermined nationality. When she moved to a different town and went to the Immigration Office to renew her travel document and settlement permit, she ‘experienced the biggest shock’.⁷⁸ The immigration official refused to renew the travel document and her settlement residence card asserting she would have to obtain an actual passport. After more than a year with an expired settlement permit and suffering the inability to travel, open a bank account, enrol at university or marry her partner, she concludes ‘[s]omehow everything in my life is connected

⁷² *ibid* [tr authors].

⁷³ *ibid* [tr authors].

⁷⁴ *Abitur* is the final examination in the German secondary school system and grants access to university education.

⁷⁵ Interview with Salma (Aleksandra Semeriak Gavrilienok, online, 27 March 2024) [tr authors].

⁷⁶ Antje Ellermann, ‘Discrimination in Migration and Citizenship’ (2019) 46(12) *Journal of Ethnic and Migration Studies* 2463, 2466–9; Luin Goldring and Patricia Landolt, ‘From Illegalised Migrant toward Permanent Resident: Assembling Precarious Legal Status Trajectories and Differential Inclusion in Canada’ (2021) 48(1) *Journal of Ethnic and Migration Studies* 33, 33.

⁷⁷ Interview with Esma (Aleksandra Semeriak Gavrilienok, online, 25 March 2024) [tr authors].

⁷⁸ *ibid* [tr authors].

to the identification card'.⁷⁹ Esma's example shows how statelessness interacts with a number of other rights and life choices. A settlement permit, which represents the legally strongest form of residence permit,⁸⁰ gave Esma the sensation of 'being safe'.⁸¹ However, it becomes conditional if its material proof in the form of a valid document is suspended.⁸² The legal stratification of statelessness is thus not merely a static hierarchy but a dynamic and precarious system, ruled by the interpretation of individual administrative officials and facilitated by the lack of an SDP and Germany's reservations to the *1954 Convention*. It therefore not only governs differences between stateless people, it can also abruptly shift due to administrative officials' different interpretations, practices and discretionary decision-making.

This revocability of rights underscores the conditionality of citizenship and legal identity, as Roza's case also highlights. Roza fled Nagorno-Karabakh⁸³ and arrived in Germany with her mother as a child. Contrary to her father and sibling who had arrived previously, her asylum application was denied, leaving her with only a *Duldung*⁸⁴ for a decade. She was then issued a Russian passport through her parent's Russian nationality. However, when she tried to renew her Russian passport during the COVID-19 pandemic, the Russian Consulate realised that they had 'made a mistake' about Roza's year of birth. Consequently, the law conferring Russian nationality after the dissolution of the Soviet Union no longer applied to her. The Consulate thus revoked her Russian nationality and rendered her stateless. As a result, Roza could no longer prove her identity, was not able to renew her residence permit and could no longer apply for German citizenship. Despite presenting legal evidence of her ineligibility for other nationalities, the German immigration office dismissed her claims until, in her own words, she got 'lucky at the immigration office because [she] met a new caseworker who finally said: "Sure, no problem!"'⁸⁵ The recognition of her statelessness 'just happened, even though I kept saying the same thing over and over again. So, it was just absurd and arbitrary.' Statelessness is thus not merely the lack of nationality, but constitutive of a legal and bureaucratic system that treats citizenship and legal identity as contingent and revocable.

The gendered production of statelessness is evident in Saad's and Raissa's cases, both of whom remained stateless throughout childhood due to an interplay

⁷⁹ *ibid* [tr authors].

⁸⁰ *Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet* [Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory] (30 July 2004) 2008(162) BGBl I s 9 (Germany) ('*Aufenthaltsgesetz*').

⁸¹ Interview with Esma (Aleksandra Semeriak Gavrilienok, online, 25 March 2024) [tr authors].

⁸² See, eg, Cecilia Menjivar and Sarah Lakhani, 'Transformative Effects of Immigration Law: Immigrants' Personal and Social Metamorphoses through Regularization' (2016) 121(6) *American Journal of Sociology* 1818, 1821, 1847–9.

⁸³ Nagorno-Karabakh is internationally recognised as a part of Azerbaijan but has been de facto controlled by ethnic Armenians since the 1990s, who govern it as the 'Republic of Artsakh', which is not recognised by any other state. This results in the local population being effectively stateless. The residents lack internationally recognised passports.

⁸⁴ A *Duldung* is a tolerated stay for individuals who are legally required to leave the country but whose deportation is temporarily suspended due to legal or factual reasons. The affected person has limited rights during the period of their *Duldung*, such as restricted work permits. See *Aufenthaltsgesetz* (n 80) s 60a.

⁸⁵ Interview with Roza (Aleksandra Semeriak Gavrilienok, online, 22 April 2024) [tr authors].

of patrilineal nationality regimes⁸⁶ and restrictive nationality and naturalisation requirements in Germany. Saad, for instance, was born in Germany to an Iraqi mother on a student visa in the 1960's. Born out of wedlock, his mother could not confer Iraqi nationality to him due to gender-discriminatory nationality laws.⁸⁷ Restrictive nationality laws in Germany meant Saad remained stateless throughout childhood. Similarly, Raissa, who was born in Lebanon and fled to Germany as a young child with her mother and siblings, remained stateless in Germany for two decades. She explains: 'because my father died [as a civilian] and we came to Germany with my mother, Lebanon refused to issue us citizenship'.⁸⁸ Growing up stateless, she shares: '[w]hen we arrived here, I have to be honest, [...] I didn't notice much about being stateless at the time.' Saad echoes Raissa in this experience. However, both describe a substantial shift beginning from high school where discrimination and institutional racism started to become more prominent.⁸⁹

Hierarchies of statelessness may also materialise through an assumed nationality that confines people in a situation of statelessness. Tariq, who is a stateless Kurdish person from Syria, has not been able to naturalise in Germany despite fulfilling all requirements except those related to his statelessness. In his words: 'I want to get citizenship. But the immigration office tells me: "No, we need papers from Syria." I am from Syria, yes, but I don't have any papers from Syria. I am stateless from Syria.'⁹⁰ Since his arrival in Germany, he and his family have been registered with an assumed Syrian nationality despite his own testimony in court: '[w]hen I was in court I said: "I am stateless", but when I got the residence permit, they wrote on my residence permit that I am Syrian'.⁹¹ Despite his efforts to correct this, he has been waiting for a response from the immigration office for a year to no avail.⁹² The institutional refusal to recognise his testimony renders Tariq's statelessness invisible,⁹³ which in turn excludes Tariq and his family from the possibility of naturalising in Germany, thus confining them to a condition of statelessness.

Similar to the geopolitical interests amplifying the discrimination of Kurdish people, Palestinians are particularly exposed to racism and state violence. Fadwa, who was born in Palestine and moved to Germany for her PhD studies, states clearly: 'ever since I stepped foot into Germany, my life ended'.⁹⁴ She shares experiences at the immigration office with caseworkers 'threatening me, calling me names sometimes'.⁹⁵ At the immigration office, her student visa was suspended and her status changed to a very precarious tolerated stay through the *Duldung*. When she later moved to a different city, the caseworker now handling

⁸⁶ See Miriam Rürup, 'Das Geschlecht der Staatenlosen: Staatenlosigkeit in der Bundesrepublik Deutschland nach 1945' [The Gender of Stateless Persons: Stateless in the Federal Republic of Germany after 1945] (2016) 14(3) *Journal of Modern European History* 411, 411–13.

⁸⁷ 1963 لسنة (43) لسنة 1963 قانون الجنسية العراقية رقم (43) [Law No 43 of 1963, Iraqi Nationality Law] art 4 (Iraq) [tr Refworld].

⁸⁸ Interview with Raissa (Kauther Nour Alhusainy, online, 25 March 2024) [tr authors].

⁸⁹ See Janepicha Cheva-Isarakul, 'Learning to Be Stateless: Life Stages and Childhood Statelessness in Northern Thailand' in Michelle Foster, Jaclyn Neo and Christopher Sperfeldt (eds), *Statelessness in Asia* (Cambridge University Press 2025) 157, 168–9.

⁹⁰ Interview with Tariq (Kauther Nour Alhusainy, online, 22 March 2024) [tr authors].

⁹¹ *ibid.*

⁹² *ibid.*

⁹³ Gayatri Chakravorty Spivak, 'Can the Subaltern Speak?' in Cary Nelson and Lawrence Grossberg (eds), *Marxism and the Interpretation of Culture* (University of Illinois Press 1988).

⁹⁴ Interview with Fadwa (Kauther Nour Alhusainy, online, 21 April 2024) [tr authors].

⁹⁵ *ibid* [tr authors].

her case admitted: “[t]here’s no reason for you to be on this status.” So he changed it immediately from *Duldung* to a regular student visa.’⁹⁶ This administrative arbitrariness extends to how Palestinians’ statelessness is registered. As Fadwa explains: ‘some of us [Palestinians] are categorised as stateless, others are categorised as “*ungeklärt*” [undetermined nationality]. And none of us actually understand why and how. I mean, we are supposed to be categorised in the same category, but it’s [...] very absurd.’⁹⁷ The extent of state violence Fadwa experienced as a result of her statelessness is immense: she was threatened with deportation, has been wrongfully imprisoned and was forced to take her clothes off in front of armed men in the Israeli embassy. Such violations leave an immense psychological toll and represent lasting traumatising experiences.

Together, these testimonies reveal that statelessness in Germany is not simply the absence of citizenship, but a stratified legal condition maintained through the lack of procedural safeguards, discretionary administrative practices and racialised and gendered norms of deservingness.⁹⁸ Within this system, undetermined nationality emerges as a ‘technolog[y] of differentiation’,⁹⁹ producing significantly different legal statuses with different proximity to threats of deportation, imprisonment and violence. Statelessness therefore manifests as a spectrum. Undetermined nationality is constitutive of that spectrum and does not, as often put, merely constitute a ‘risk of statelessness’.¹⁰⁰ A ‘risk’ assumes a potential concern or danger that has not yet manifested. However, as the testimonies disclose, undetermined nationality is already a manifestation of statelessness, with its own set of exclusions and harms. The ‘risk’ in the context of undetermined nationality, therefore, is not related to the person potentially being stateless, but rather the risk of omitting the recognition of the person’s statelessness and, consequently, the risk of human rights violations.

These experiences show that several mechanisms produce and maintain these hierarchies: the widespread categorisation practice of undetermined nationality, the revocability of rights due to institutional ‘mistakes’ and shifting administrative requirements, the absence of a dedicated SDP as well as restrictive nationality and naturalisation laws. They determine how statelessness manifests in people’s lives and the possibilities of resolving situations of statelessness. Addressing these structural conditions is indispensable for resolving intersectional forms of discrimination and exclusion, and paramount if Germany wants to meet its international commitments and obligation to protect stateless people and reduce statelessness.

V IMPACTS OF STATELESSNESS ON PEOPLE’S LIVES

As the interviews showcase, statelessness impacts nearly every aspect of a person’s life. While it may stay in the background during childhood, its impact is often heightened in early adulthood, when attempts of continuing education and choosing a career become incisive realisations of exclusion, discrimination and

⁹⁶ *ibid* [tr authors].

⁹⁷ *ibid* [tr authors].

⁹⁸ de Noronha (n 3).

⁹⁹ *ibid* 428.

¹⁰⁰ See, eg, Statelessness Index, *Statelessness Determination and Protection in Europe* (Thematic Briefing, ENS, September 2021).

othering rather than autonomous decisions or projects of self-realisation.¹⁰¹ The legal stratification of non-citizenship manifests in differentiated access to freedom of movement, educational opportunities and career prospects, housing stability, political participation and psychological safety. The following section takes a closer look at how statelessness impacts people's lives and the barriers it creates for political participation and the enjoyment of rights. Particular attention is placed on how statelessness produces legal precarity, how it shapes and directs different aspects of their lives and its psychological and emotional repercussions.

A *Encounters with the State and Legal Precarity*

'I think the big problem is that officials in Germany don't understand what stateless means.'¹⁰² This sentiment, expressed by Tariq, is shared by all interview participants. Alina describes her experience at the immigration office: '[t]hey didn't know exactly what to do with me. They passed me around at first. [...] I was in several rooms, on several floors [...] they couldn't really help'.¹⁰³ She concludes: 'I've never received support with statelessness. [...] I have the impression that it's perhaps too rare a topic for the authorities'.¹⁰⁴ Similarly, Roza shares: 'Well, I kept thinking that nobody had a clue. It was pure cluelessness every time I approached someone.'¹⁰⁵ They often encountered lack of expertise about how to deal with matters of statelessness, which has direct consequences on how stateless people are categorised and to what extent they are able to access their rights. As Fadwa reports: 'I've been put under so many different categories throughout the years. And whenever I used to ask: What do I do next? What are my rights? They didn't know.'¹⁰⁶

Esma, who was born in Germany and is still registered with an undetermined nationality in her mid-20's, elaborates: 'All [the immigration office] could tell me [...] was: "Yes, you'll just have to take care of it somehow" [...]. But without telling me how.'¹⁰⁷ She 'received instructions, but [...] never any kind of advice.'¹⁰⁸ She points out the paradox of the immigration office instructing her to travel to Kosovo to apply for citizenship there without issuing her a travel document to cross the border legally. There was one caseworker who 'had a bit of empathy and said: "I understand that this is stupid and I don't know how to solve it"', but suggested she could entrust a lawyer in Kosovo without going there in-person.¹⁰⁹ This legal-administrative dilemma points to how reasonableness (*Zumutbarkeit*) within the obligation to cooperate (*Mitwirkungspflicht*) in the clarification of one's identity and nationality is not sufficiently defined and therefore contested.¹¹⁰ Without an established legal definition of reasonableness and what constitutes its limitation,

¹⁰¹ Cheva-Isarakul (n 89) 167–70.

¹⁰² Interview with Tariq (Kauther Nour Alhusainy, online, 22 March 2024) [tr authors].

¹⁰³ Interview with Alina (Kauther Nour Alhusainy, online, 26 March 2024) [tr authors].

¹⁰⁴ *ibid* [tr authors].

¹⁰⁵ Interview with Roza (Aleksandra Semeriak Gavrilienok, online, 22 April 2024) [tr authors].

¹⁰⁶ Interview with Fadwa (Kauther Nour Alhusainy, online, 21 April 2024) [tr authors].

¹⁰⁷ Interview with Esma (Aleksandra Semeriak Gavrilienok, online, 25 March 2024) [tr authors].

¹⁰⁸ *ibid* [tr authors].

¹⁰⁹ *ibid* [tr authors].

¹¹⁰ Kerstin Becker and Nadja Saborowski, 'Die Unzumutbarkeit der Passbeschaffung: Hinweise für die Beratung von Geflüchteten' [The Unreasonableness of Obtaining a Passport: Guidelines for Advising Refugees] [2018] (1–2) *Asylmagazin* 16, 23; Müller (n 61) 32.

it is dependent on individual interpretation and often engenders legal uncertainty, as the practical interpretation of it tends to be rather restrictive.¹¹¹

Reflecting on the experience of changing her place of residence multiple times because of work, Esma noticed different approaches and outcomes depending on geographic location and town size: while in her small hometown, she ‘never really got any help’ but the interactions were more personal and her travel document had been renewed; in the bigger cities she moved to afterwards, such applications could only be done online and were ‘never answered until today’.¹¹² Here, the feeling that the ‘authorities are a bit overwhelmed’ prevailed.¹¹³ A high workload, dealing with complex legal matters and a high level of responsibility are characteristic for immigration offices.¹¹⁴ Whether expertise on statelessness can be developed in such conditions is also dependent on the administrative and organisational structure of each immigration office.¹¹⁵ Some immigration offices, for instance, have separate units for processing particularly complicated cases in order to ensure uniformity. Others, however, ascribe caseworker’s responsibility for several areas, which hinders more specialised expertise such as on matters of statelessness.¹¹⁶

While a few ethnographic studies of immigration offices in Germany exist,¹¹⁷ none specifically addresses how they handle statelessness.¹¹⁸ Müller’s 2024 research on how immigration officials deal with matters of statelessness is an important contribution in this regard. While the scope is limited to five qualitative interviews with caseworkers at the immigration office, it still proposes relevant insights.¹¹⁹ One caseworker acknowledges that immigration offices:

... rather make use of “undetermined” than to make a decision. That’s probably why there are so few recognised stateless people. [...] The immigration office first has to indicate something, like undetermined, and the immigration office gets on quite well with undetermined. They can also issue residence permits, and then there is only a travel document for foreigners and no stateless person’s passport. The need for immigration offices to fully clarify citizenship is not so high.¹²⁰

This is in line with Hoffmann’s observation in 2017 and Bianchini’s in 2014 observation that immigration offices tend to avoid establishing statelessness and instead assume an undetermined nationality.¹²¹ An appeal in court often becomes

¹¹¹ Matthias Lehnert, *Passbeschaffung im Aufenthaltsrecht: Rechtliche Verpflichtungen und Grenzen der Zumutbarkeit* [Passport Procurement in Immigration Law: Legal Obligations and Limits of What is Reasonable] (Factsheet, PRO ASYL, March 2024) 4.

¹¹² Interview with Esma (Aleksandra Semeriak Gavrilienok, online, 25 March 2024) [tr authors].

¹¹³ *ibid* [tr authors].

¹¹⁴ Thorsten Schlee, Hannes Schammann and Sybille Münch, *An den Grenzen?: Ausländerbehörden zwischen Anspruch und Alltag* [At the Borders?: Immigration Authorities between Aspiration and Reality] (Report, Bertelsmann Stiftung, October 2023) 29.

¹¹⁵ Müller (n 61) 39.

¹¹⁶ *ibid*.

¹¹⁷ See, eg, Tobias G Eule, *Inside Immigration Law: Migration Management and Policy Application in Germany* (Routledge 2016); Schlee, Schammann and Münch (n 114); Lisa Janotta et al, *Moral und Staatlichkeit: Fallgeschichten von Mitarbeitenden in Bundespolizei, Ausländerbehörden und Aufenthaltsberatungsstellen* [Morality and Statehood: Case Studies of Employees in the Federal Police, Immigration Offices and Residence Advice Centres] (Verlag Barbara Budrich 2020).

¹¹⁸ Müller (n 61) 21.

¹¹⁹ *ibid* 12.

¹²⁰ *ibid* 35 [tr authors].

¹²¹ Hoffmann (n 5) 329; Bianchini (n 63) 38.

the last solution for stateless people seeking legal recognition of their statelessness.¹²² In line with this, a caseworker in Müller's research remarks: '[t]here are of course cases that have been before the court where we authorities have said that we would rather say no, but the courts say that is sufficient for us [to establish statelessness].'¹²³ This is evidently problematic, as the cultural and financial capital necessary to go to court become another barrier regulating access to a recognised stateless status, thereby also representing another aspect structuring the stratification of statelessness.

The identification of stateless individuals is not just dependent on the caseworker's personal willingness to do so. Structural conditions, namely the amount of time and resources currently necessary to go through the steps of determining statelessness in an already strained system also need to be addressed.¹²⁴ Moreover, 'inadequate training and further education, a lack of interest in the topic in combination with a lack of opportunities for career progression can also lead to caseworkers not dealing with such cases or not dealing with them adequately'.¹²⁵ The length of procedures stateless people experience reflects this. Tariq, for instance, shares: 'the immigration authorities haven't answered for a year, and when I call, no answer. When I send an email, no answer. That's the way it is with the immigration office.'¹²⁶ It is not surprising that in such conditions many caseworkers wish for structural changes in how statelessness is currently dealt with administratively. All caseworkers Müller interviewed were in favour of centralising the process of determining statelessness.¹²⁷ The need for a coherent and systematised SDP would therefore not only benefit stateless individuals, but also substantially alleviate public officials and support them in doing their work more effectively.

While the call for structural reform reflects the challenges forced by overburdened caseworkers, it is stateless individuals who bear the consequences of the current fragmented system. Roza, who had a *Duldung* throughout her childhood, shares how statelessness rendered her life administratively suspended: 'the last citizenship I had was revoked and I was then in this suspended status [...] so I couldn't extend my passport, my title, residence permit and theoretically I couldn't cross the border with it either.'¹²⁸ Similarly, reflecting on the impact of statelessness on his legal status, Tariq shares: '[m]y cousin and my relatives all get citizenship, but I'm stateless. Like glue, with me. Always stateless, always stateless.'¹²⁹ The legal precarity statelessness produces seeps into other areas of stateless people's lives, such as education and life aspirations.

B *Impact on Education, Career Prospects and Self-Realisation*

'I knew that my ID said I wasn't allowed to leave Germany, but it didn't say that I wasn't allowed to become a civil servant, that I wouldn't get good career opportunities or fair career opportunities at all,' Raissa shared during the

¹²² Bianchini (n 63) 38–9.

¹²³ Müller (n 61) 33 [tr authors].

¹²⁴ *ibid* 35.

¹²⁵ *ibid* [tr authors].

¹²⁶ Interview with Tariq (Kauther Nour Alhusainy, online, 22 March 2024) [tr authors].

¹²⁷ Müller (n 61) 42.

¹²⁸ Interview with Roza (Aleksandra Semeriyak Gavrilienok, online, 22 April 2024) [tr authors].

¹²⁹ Interview with Tariq (Kauther Nour Alhusainy, online, 22 March 2024) [tr authors].

interview.¹³⁰ While it is habitual to analyse statelessness from a legal angle and address its impact on a person's residence rights and administrative situation, the lack of an effective nationality or a recognised stateless status goes beyond the framing of a legal anomaly.¹³¹ As Raissa's experience shows, the complexity and intersectionality of statelessness draw a deep connection between the status and numerous social and economic dimensions that have a pervasive impact on all aspects of life, including access to education, vocational training and employment.

Article 26(1) of the *Universal Declaration of Human Rights* ('UDHR') states that '[e]veryone has the right to education' and that '[t]echnical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit'.¹³² Article 26(2) also reminds that '[e]ducation shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms'.¹³³ Several other international and European treaties reaffirm Germany's responsibility to ensure the fundamental right to education.¹³⁴ Nonetheless, persons with lived experience of statelessness encounter significant barriers and bureaucratic hurdles in accessing and completing their education.

As stated, statelessness can encompass the lack of valid documentation, which exposes the person to substantial exclusions and challenges in accessing education. Salma shares that 'it was incredibly difficult for a school to accept me,'¹³⁵ while Raissa was not accepted into university due to her statelessness and instead had to opt for an apprenticeship.¹³⁶ Roza realised how the lack of a valid identification document meant 'trouble when I finished my degree and then wanted to get my certificate'.¹³⁷ Fadwa was enrolled at the university as a doctoral student when she received an ex-matriculation notification, and when she tried to resolve the situation, the university's international office responded that "'[w]e don't know how to actually deal with this'".¹³⁸ The unrealistic bureaucratic requirements, the unnecessary, time-consuming and frequently duplicated procedures and paperwork, alongside the inertia or unresponsiveness of the public administration in resolving cases or renewing identification documents, can impede educational and career aspirations. Esma, for instance, secured a scholarship but is unable to enrol at university because the immigration office has been unresponsive

¹³⁰ Interview with Raissa (Kauther Nour Alhusainy, online, 25 March 2024) [tr authors].

¹³¹ For analysis on statelessness primarily from a legal perspective, see, eg, Laura van Waas, 'Nationality Matters: Statelessness Under International Law' (PhD Thesis, Tilburg University, 2008); Katia Bianchini, 'Identifying the Stateless in Statelessness Determination Procedures and Immigration Detention in the United Kingdom' 32(3) *International Journal of Refugee Law* (2020) 440.

¹³² *Universal Declaration of Human Rights*, GA Res 217A (III), UN Doc A/810 (10 December 1948) art 26(1) ('UDHR').

¹³³ *ibid* art 26(2).

¹³⁴ See, eg, *Charter of Fundamental Rights of the European Union* [2012] OJ C 326/391, art 14; *Protocol No 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms*, opened for signature 20 March 1952, ETS No 9 (entered into force 18 May 1954) art 2, as amended by *Protocol No 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms*, opened for signature 11 May 1994, ETS No 155 (entered into force 1 November 1998); *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 28.

¹³⁵ Interview with Salma (Aleksandra Semeriak Gavrilienok, online, 27 March 2024) [tr authors].

¹³⁶ Interview with Raissa (Kauther Nour Alhusainy, online, 25 March 2024).

¹³⁷ Interview with Roza (Aleksandra Semeriak Gavrilienok, online, 22 April 2024) [tr authors].

¹³⁸ Interview with Fadwa (Kauther Nour Alhusainy, online, 21 April 2024) [tr authors].

regarding her request to renew her identification document.¹³⁹ Extraordinary effort, academic merit and awarded scholarships nevertheless do not grant access to preferred studies.¹⁴⁰ The interviews disclose that despite (over)achieving academic goals, the lack of (German) nationality and institutional racism leads to exclusion from many educational and professional opportunities.

The psychological impact of statelessness is also visible in this context, as the difficulties faced in accessing, continuing or completing studies impacts an individual's motivation. In Alina's words: '[i]t takes the air out, the desire to learn'.¹⁴¹ Moreover, the lack of capacity and specific resources to address statelessness within the classroom can lead to hostile environments for stateless children, particularly when their experience is used as a case study in an intrusive and humiliating manner. Salma shares:

[t]eachers using me in class as some kind of examination case [...] don't understand that [stateless] children are probably dependent on the job centre for school trips and that things work differently [...]. Maybe the child wants things to be discreet [...]. The teachers are very nice, but when they freak out or are angry with you, they suddenly use racist insults.¹⁴²

Even when positively intended, teachers may fail to understand the limitations on freedom of movement, the financial hardships or the bureaucratic hurdles faced by families affected by statelessness for otherwise simple activities, which adds to the othering, exclusion and isolation of stateless students.

Statelessness is not a standalone issue. The described limitations in accessing the right to education intersect with other forms of discrimination and prejudice, exacerbating the challenges and disadvantages confronted by stateless individuals who can also identify as asylum seekers, refugees, ethnic minorities or other marginalised and under-recognised groups. The evidence of an underlying bias in access to education, such as the denial of financial support to which Fadwa was entitled by her university,¹⁴³ is often complemented by a lack of understanding, a lack of support and a lack of willingness to adapt to the unique circumstances produced by statelessness. These challenges can also lead to a resurgence of underlying racism and discrimination.

Education is not only a fundamental right; it is a key component of breaking the cycle of exclusion and statelessness itself. The abovementioned impacts evidence the need for an SDP as a holistic approach to resolve this situation. Determining a person's statelessness is crucial to obtaining documentation that is administratively accepted, including the bureaucratic steps involved in enrolling for or completing education. Determining statelessness is also a first step towards acquiring a permanent residence status and/or a nationality, which has a major impact on education and career aspirations. Raissa, for instance, reflects: 'after I became German [...] I dared to start studying again and then tried to become a civil servant.'¹⁴⁴

Similarly to the right to access education, statelessness impacts deeply on employability and professional career development. The lack of valid

¹³⁹ Interview with Esma (Aleksandra Semeriak Gavrilienok, online, 25 March 2024).

¹⁴⁰ Interview with Salma (Aleksandra Semeriak Gavrilienok, online, 27 March 2024); Interview with Raissa (Kauther Nour Alhusainy, online, 25 March 2024).

¹⁴¹ Interview with Alina (Kauther Nour Alhusainy, online, 26 March 2024) [tr authors].

¹⁴² Interview with Salma (Aleksandra Semeriak Gavrilienok, online, 27 March 2024) [tr authors].

¹⁴³ Interview with Fadwa (Kauther Nour Alhusainy, online, 21 April 2024).

¹⁴⁴ Interview with Raissa (Kauther Nour Alhusainy, online, 25 March 2024) [tr authors].

documentation and the discrimination faced during the selection process restrict stateless individuals from pursuing specific vocational training and consequently from accessing desired professions, having to settle for jobs that are often low-paying, unstable and unfulfilling.¹⁴⁵ Some careers, such as civil service, explicitly require German or at least European nationality, turning citizenship into a gatekeeper for the stateless individual's career paths and aspirations while ignoring their merit, qualifications and capacities for the available positions.¹⁴⁶ In other cases, domestic candidates can be prioritised, even if non-nationals meet the eligibility criteria, following the discretion of the Federal Employment Agency to grant work permits,¹⁴⁷ adding to the frustration and demotivation of individuals in this position.¹⁴⁸

The lack of a determined nationality or statelessness status often means that the person is issued a *Duldung*, resulting in the inability to obtain a work permit and the forced need to search for opportunities within the informal labour market, disclosing once again the legally stratified system of statelessness. Even in cases where a work permit is granted, its temporariness and renewal requirements lead to insecurity, precariousness, exploitation, and deprivation of basic labour rights and protections. As Salma shares:

you are stateless, and then you have a tolerated stay, and you have to extend your tolerated stay every year. And this tolerated stay does not really allow you to work or to find a place to live. And that's why many of these young men enslave themselves to illegal labour because they don't have the proper papers to work properly.¹⁴⁹

The intersectionality of statelessness with multiple layers of discrimination, predominantly racial and ethnic, is acutely visible in accessing 'the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment', as enshrined in art 23 of the *UDHR*.¹⁵⁰ Recurrent rejections despite the possession of required qualifications,¹⁵¹ alongside employer's lack of information and understanding of statelessness and its consequences,¹⁵² perpetuates the systematic social and occupational exclusion of stateless persons, including barriers in accessing financial services, the housing market and in securing stable livelihoods.¹⁵³

These experiences and existing challenges underline the urgent need of a comprehensive solution. As many of the barriers arise from a lack of recognition or clarification of the person's status, an SDP is an essential first step towards effective inclusion and access to rights. An SDP, as a formal mechanism to establish standardised documentation requirements and a subsequent pathway

¹⁴⁵ *ibid.*

¹⁴⁶ *Beamtenstatusgesetz* [Civil Service Act] s 7 (Germany); Interview with Raissa (Kauther Nour Alhusainy, online, 25 March 2024).

¹⁴⁷ *Aufenthaltsgesetz* (n 80) s 39(3); Bundesagentur für Arbeit [Federal Employment Agency], *Beschäftigung ausländischer Arbeitnehmerinnen und Arbeitnehmer in Deutschland: Fragen, Antworten sowie Tipps für Arbeitnehmerinnen, Arbeitnehmer und Arbeitgeber* [Employment of Foreign Workers in Germany: Questions, Answers and Information for Employees and Employers] (Fact Sheet, March 2024) 22.

¹⁴⁸ Interview with Raissa (Kauther Nour Alhusainy, online, 25 March 2024).

¹⁴⁹ Interview with Salma (Aleksandra Semeriak Gavrilienok, online, 27 March 2024) [tr authors].

¹⁵⁰ *UDHR* (n 132) art 23.

¹⁵¹ Interview with Raissa (Kauther Nour Alhusainy, online, 25 March 2024).

¹⁵² Interview with Alina (Kauther Nour Alhusainy, online, 26 March 2024).

¹⁵³ Interview with Fadwa (Kauther Nour Alhusainy, online, 21 April 2024).

towards acquiring nationality, would open the possibility of fair, just and secure education and employment opportunities, equalling the rights of persons with lived experience of statelessness to those with a nationality.¹⁵⁴

C *Statelessness as an Experience Anchored in Pain*

In a world where dignity is tied to legal personhood and recognition conferred by documentation, the plight of the stateless and their deprivation of legal protection and basic rights has proven to have grave repercussions on their psychological wellbeing and social adaptation. The legal limbo and ceaselessly unsolvable nature of statelessness in Germany constitutes an ubiquitous stressor for its victims, and a concurrent reminder of past traumatic events and anticipatory future discriminatory encounters. Namely, the experience of statelessness is one that is temporally and spatially anchored in pain.

As the pathologist Rudolf Virchow said in 1849: '[f]or if medicine is really to accomplish its great task, it must intervene in political and social life. It must point out the hindrances that impede the normal social functioning of vital processes, and effect their removal'.¹⁵⁵ Regrettably, this research provides evidence that statelessness and its non-recognition in Germany account for the relationship between aversive social and political experiences, and adverse psychosomatic health outcomes among stateless people in Germany. The chronic stress statelessness imposes a profound psychological burden upon the victim's identity.

Statelessness, predominantly when brought about by violent conflict, displacement and loss of normal life, or even inherited discriminatory legal exclusion, is conducive to 'complex trauma'. In contrast with 'trauma', which is conventionally defined as a single extremely disruptive emotional response to overwhelmingly terrible events,¹⁵⁶ complex trauma results from repeated and prolonged exposure to an unavoidable threatening environment, and is correlated with a greater risk to victims' ability to navigate unconditional sociopolitical stimuli without excessive anxiety and distress.¹⁵⁷ This negative responsivity is understood as a consequence of impaired emotion regulation and an interruption in the coherent connection between identity and experience.¹⁵⁸ Put differently, the experience of ongoing statelessness, which for the most part goes hand in hand with pervasive discrimination, bureaucratic violence and social marginalisation, shatter the stateless' essential assumptions that the world is benevolent and meaningful and the self is worthy, which mars their self-perception with incompetence and inefficaciousness.¹⁵⁹ Furthermore, it serves as a reminder of the

¹⁵⁴ Interview with Raissa (Kauther Nour Alhusainy, online, 25 March 2024).

¹⁵⁵ Rudolf Virchow, 'Die Seuche' in *Die Einheitsbestrebungen in der wissenschaftlichen Medicin* (Georg Andreas Reimer Verlag 1849) 48, quoted in tr Paul Farmer, 'Notes' in *Pathologies of Power: Health, Human Rights, and the New War on the Poor* (University of California Press 2003) 323.

¹⁵⁶ Adam Blehm, 'What Is Trauma? A Critique and Definition' (2025) 45(3) *Journal of Theoretical and Philosophical Psychology* 296, 302; Rolf J Kleber, 'Trauma and Public Mental Health: A Focused Review', *Frontiers in Psychiatry* (online, 25 June 2019) 1–2 <<https://www.frontiersin.org/journals/psychiatry/articles/10.3389/fpsyt.2019.00451/full>>, archived at <perma.cc/M7DB-T98M>.

¹⁵⁷ Alexandra Cook et al, 'Complex Trauma in Children and Adolescents' (2005) 35(5) *Psychiatric Annals* 390, 393.

¹⁵⁸ Blehm (n 156) 310.

¹⁵⁹ Ronnie Janoff-Bulman, *Shattered Assumptions: Towards a New Psychology of Trauma* (Free Press 1992).

stigma associated with their low status within the hierarchy of society on the one hand, and the hierarchy of statelessness on the other. Consequently, it transforms their day-to-day life into a vicious, uninterrupted cycle of traumatic encounters.

In line with this grim reality, leading social psychology theories provide empirical evidence that stress is an identity-based process in which group membership serves adaptive functions through the provision of positive self-concept and esteem derived from affiliation and identification with a valued social group.¹⁶⁰ On that basis, the state of being stateless hinders individuals from developing an undistorted sense of self, a fact which has been clearly articulated by Salma, who thinks: '[w]ell, my self-perception is simply different because I'm stateless'.¹⁶¹ It has been made evident through the lived experiences of the interviewees that the stigma of diminished power embodied in the association with a gravely disadvantaged community, marks the stateless in a manner that evokes a sense of humiliation and embarrassment over their shattered status, as Saad expressed: 'the feeling of being different, of being marginalised, that is still relatively clear in my memory'.¹⁶²

Although longstanding psychological theses offer compelling evidence that members of disadvantaged groups grow closer under collective traumatic conditions as a way to mitigate the mental weight of adverse experiences,¹⁶³ findings from several cross-cultural comparative psychological studies on coping among refugees and stateless communities indicate that when negative and traumatic group conditions are protracted, with no foreseeable prospect for the future, closeness with and identification with a disadvantaged community correlates with group distress and not vice versa.¹⁶⁴ Additionally, the absence of an SDP only complicates the predicament for individuals of an undetermined nationality by stripping them of the educational and political agency to transform their lives through traditional and normative means of social change. This is a fact to which the majority of the interviewees attested: '[it] already takes away the educational path of many people who are stateless. It takes the air out, the desire to learn. Yes, if someone comes along and says: I want to be a policeman, I want to do something else, I want to be a teacher. Yes, well, stateless! How can that change?'¹⁶⁵ Moreover, and in accordance with the complex trauma theoretical framework,¹⁶⁶ participants also confirmed that the arbitrary imposition of shifting categorisations without a standardised governmental procedure to systematically resolve their legal limbo has engulfed their lives with sadness, anguish and distress: '[t]hat really took its toll on me, I'll tell you honestly'.¹⁶⁷ Even more alarmingly,

¹⁶⁰ Nyla R Branscombe, Michael T Schmitt and Richard D Harvey, 'Perceiving Pervasive Discrimination Among African Americans: Implications for Group Identification and Well-Being' (1999) 77(1) *Journal of Personality and Social Psychology* 135, 142, 144.

¹⁶¹ Interview with Salma (Aleksandra Semeriak Gavrilienok, online, 27 March 2024) [tr authors].

¹⁶² Interview with Saad (Aleksandra Semeriak Gavrilienok, online, 18 March 2024).

¹⁶³ Branscombe, Schmitt and Harvey (n 160) 142.

¹⁶⁴ Wala' Maaitah, Nicole Harth and Thomas Kessler, 'Wie Wasser und Öl, wir mischen uns nicht: Eine sozialpsychologische Analyse sozialer Diskriminierung anhand von Aussagen geflüchteter Menschen in Deutschland' [Like water and oil, we don't mix: A social psychological analysis of social discrimination based on statements from refugees in Germany] in Anette Rohmann and Stefan Stürmer (eds), *Die Flüchtlingsdebatte in Deutschland – Sozialpsychologische Perspektiven* [The Refugee Debate in Germany – Social Psychological Perspectives] (Peter Lang 2018) 127, 127, 135–6, 138–142.

¹⁶⁵ Interview with Alina (Kauther Nour Alhusainy, online, 26 March 2024) [tr authors].

¹⁶⁶ Cook et al (n 157) 392–5.

¹⁶⁷ Interview with Esma (Aleksandra Semeriak Gavrilienok, online, 25 March 2024) [tr authors].

this stress led to serious physical ailments that compounded their suffering and contributed to a decline in their already fragile mental health as in the case of Fadwa, who as a result of excessive stress developed an autoimmune disease: ‘[s]o I developed an autoimmune reaction and I lost almost half of my hair. It changed the way I looked. And so it really, really affected me because I thought, okay, now your own body is giving up on you.’¹⁶⁸

The in-depth analysis of the participants’ accounts revealed that the already complex trauma they endure is intricately layered and that the mental aftermath of statelessness is, by and in itself, traumatic. Inferences made by this research are consistent with the empirical observation in Germany; for instance, Borho et al highlighted the possibility that daily stressors may exert a more significant long-term influence on psychological wellbeing than past traumatic events, though this requires further empirical verification.¹⁶⁹ The studies likewise demonstrate that even with wide access to public health services in Germany, disadvantaged communities’ general health indicators are in decline. Within these communities, the situation of stateless people is even more dire, as access to healthcare services remains largely unattainable to some, as in the case of Fadwa: ‘the health insurance company wanted papers and I couldn’t provide them because I didn’t have them. So they cancelled my health insurance. So I was left without finances, without income, without insurance.’¹⁷⁰

Although these accounts shed light on how statelessness translates into this research’s participants’ social lives and mental health, it is important to remain mindful that the testimonies that inform this article do not fully represent the community’s overall reality, and do not fully capture the often horrifically appalling nature of their lived experiences. This limitation is understandably a side effect of accumulated fear and caution toward the slightest possibility that certain parties may misuse their information in ways that may jeopardise their safety and legal cases, especially since some of the eight interview participants have been physically assaulted by authorities: ‘I have been beaten sometimes. I have developed like severe, severe bruises... because of my statelessness’; strip searched: ‘I had to stand naked in front of, you know, I don’t know how many men in a room’; and either expect or have experienced arbitrary incarceration without official charges: ‘I was actually detained on borders. I was detained in Prague the first time and I was detained in the United States the second time’.¹⁷¹

When human stress responses are continuously activated beyond the typical range of ‘fight or flight’ situations, the persistent presence of stress hormones, particularly cortisol, surpasses the human body’s natural ability to manage stress. Consequently, this prolonged elevation in cortisol levels significantly contributes to the onset of countless mental health conditions and disorders, including but not limited to depression, anxiety, psychosis, negative self-soothing behaviours and high addiction rates. These effects are especially pronounced among disadvantaged populations worldwide, where they suffer sociopolitical invisibility, a lack of prospects and absence of supportive social circles, alongside minimal

¹⁶⁸ Interview with Fadwa (Kauther Nour Alhusainy, online, 21 April 2024) [tr authors].

¹⁶⁹ See, eg, Andrea Borho et al, ‘The Prevalence and Risk Factors for Mental Distress Among Syrian Refugees in Germany: A Register-Based Follow-Up Study’, *BMC Psychiatry* (online, 8 July 2020) 7, 9–11 <<https://link.springer.com/article/10.1186/s12888-020-02746-2>>, archived at <perma.cc/ACM9-DMXL>.

¹⁷⁰ Interview with Fadwa (Kauther Nour Alhusainy, online, 21 April 2024) [tr authors].

¹⁷¹ *ibid* [tr authors].

access to social and mental health services.¹⁷² This scarcity of resources unfortunately functions as structural violence against stateless people, intensifying their isolation and limiting opportunities for recovery and social integration.

This is why the work of stateless-led organisations, such as Statefree, is of great magnitude as it has created a safe space and a sense of community for these individuals where they exercise agency and support-based identification with one another in an empowering and psychologically restorative environment, while collaboratively navigating potential solutions to their legal cases whenever feasible.¹⁷³ For those who exhausted all other relevant avenues and faced a lack of alternatives, initiatives like the Statefree Community Labs provided a refuge for self-education and emotional support needed to cope with the ordeal of their statelessness. Roza, for instance, shared her experience, saying: ‘[t]he website Statefree also helped me in my desperation because I asked my question and it was answered, and then I felt a bit stronger and started doing my own research.’¹⁷⁴ She concludes that ‘it was also in the back of my mind that if I somehow got stuck, I could go back to the site and the forum and ask questions.’¹⁷⁵ These testimonies highlight the value of platforms, structures and encounters that alleviate the sense of social and psychological isolation resulting from navigating the bureaucratic and legal apparatus. As Esma reflects, when asked whether she knows other stateless people, ‘I’ve started to inform myself about [statelessness], and that’s why I came across Statefree, because it kind of helps me to see that there are people who also have the same problem, but otherwise I don’t have this exchange.’¹⁷⁶

VI CONCLUSION

The article set out to illuminate Germany’s legal and bureaucratic structure that actively reinforces intergenerational and in situ statelessness, particularly through the absence of an SDP and the use of discretionary administrative practices. Consequently, statelessness in Germany refers not only to the lack of a nationality but to a stratified system of exclusion. The narratives that inform this article evidence how the categorisation practice of ‘undetermined nationality’ works as a ‘technolog[y] of differentiation’¹⁷⁷ that produces a hierarchy of statelessness. Undetermined nationality does not merely constitute a ‘risk of statelessness’ but is constitutive of the spectrum in which statelessness manifests in Germany.

While the *1954 Convention* provides a definition for statelessness, it does not offer explicit instructions on how states should identify stateless persons. Nonetheless, an SDP becomes a *sine qua non* for a signatory state to understand who falls under its jurisdiction and who needs to be provided the protection and access to rights that are granted under this legal instrument. The Executive Committee of UNHCR has adopted numerous conclusions on the *Convention relating to the Status of Refugees*,¹⁷⁸ in which the clear need for a determination

¹⁷² See, eg, Gabor Maté, *When the Body Says No: The Cost of Hidden Stress* (Vintage Canada 2003); Borho et al (n 169) 11, 13.

¹⁷³ ‘Our Work’, *Statefree* (Web Page, 2026) <<https://statefree.world/our-work-preview/>>, archived at <perma.cc/C4TS-D24A>.

¹⁷⁴ Interview with Roza (Aleksandra Semeriak Gavrilienok, online, 22 April 2024) [tr authors].

¹⁷⁵ *ibid* [tr authors].

¹⁷⁶ Interview with Esma (Aleksandra Semeriak Gavrilienok, online, 25 March 2024) [tr authors].

¹⁷⁷ de Noronha (n 3) 428.

¹⁷⁸ *Convention relating to the Status of Refugees*, opened for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954).

procedure to identify beneficiaries of international protection was stated.¹⁷⁹ Considering the similarities between both *Conventions*, it must be understood that implicitly, a determination procedure is also required in the case of stateless persons. Yet the vague language of the *1954 Convention* and Germany's reservations allow the state to introduce institutional workarounds such as the undetermined nationality category to bypass its international obligations towards those impacted by statelessness.

Importantly, a comprehensive solution cannot be limited to a legislative procedure to introduce an SDP. Its implementation needs to take into account the intersectionalities outlined in this article. A fair and inclusive SDP must ensure, among other criteria, dignity, free legal assistance, interpretation services and psychological support to address the documented impact of statelessness and the consequent barriers in accessing education and employment on the affected person's mental health.¹⁸⁰ Additionally, while the interviews do not provide explicit insights on gender discrimination, it is important to highlight that the intersectionality between statelessness and gender compound the existing challenges in accessing education and employment, requiring solutions to target the specific needs of stateless women.¹⁸¹

Stateless people may be born into this category, confined in it over decades or whole lifetimes, or shift in and out of it. As the testimonies reveal, statelessness impacts the distribution of chances in sociopolitical and economic spheres of life. As a result, people affected by statelessness are often pushed into economic precarity and financial instability. Substantial barriers exist in accessing education, the labour market and certain career paths; the lack of a formal mechanism to obtain recognition exacerbates their exclusion. Unlike isolated incidents, pervasive discrimination is chronic and intersectional, systematically embedded within societal and institutional structures, and affects the stateless across all contexts and life domains. It is psychologically harmful and leads to fear, isolation and silencing, as Esma's reflection shows: 'I never share where I'm from or my problem with anyone because I'm simply afraid of being discriminated against'.¹⁸²

The non-recognition of statelessness through the proliferation of 'undetermined nationality' is maintained through opaque institutional responses, protected under the principle of bureaucratic discretion and is therefore difficult to challenge. The German Basic Law itself differentiates between ethnic and non-ethnic Germans,¹⁸³ and although it indicates that citizenship revocation is not permissible if it results in statelessness,¹⁸⁴ the biographies shared here illustrate that the assumptive access to another nationality often justifies the cycle of statelessness.

The status of statelessness furthermore determines one's social positioning within society. Those affected by recognised statelessness have access to healthcare, housing and education, as well as a more regulated pathway out of statelessness. Unrecognised statelessness, however, carries with it the weight of its inception: a transitory status marking those who were unable to clarify their

¹⁷⁹ See, eg, *Conclusions on International Protection*, HCR/IP/3/Eng/REV.2017 (October 2017) 20–1.

¹⁸⁰ Interview with Alina (Kauther Nour Alhusainy, online, 26 March 2024).

¹⁸¹ See, eg, Borho et al (n 169) 10–1.

¹⁸² Interview with Esma (Aleksandra Semeriak Gavrilienok, online, 25 March 2024) [tr authors].

¹⁸³ *Grundgesetz für die Bundesrepublik Deutschland* [Basic Law for the Federal Republic of Germany] art 116(1).

¹⁸⁴ *ibid* art 16(1).

ethnic origin through formal identification papers. It is clear that the very reason for displacement, being a minority group without access to identification documents in the country of origin, continues to push individuals into the margins, as the testimonies and interviews within this article illustrate. All interviewees fulfil the legal requirements for obtaining German citizenship, yet they are excluded from such access most frequently due to opaque bureaucratic decision-making.

The lack of political reform addressing such statuses hints at the old lore of those deemed ‘worthy’ of protection, underlying the academic discourse on ‘deserving’ and ‘underserving’ refugees.¹⁸⁵ This article, however, emphasises the positioning of long-term residents, often those born and raised in Germany, who are still excluded from access to citizenship. It therefore illustrates that the hierarchy of statelessness does not offer clear guidance to move from one status to another. National belonging is a subjective experience, often conditioned by territorial affiliation, familial bonds and the education system through which the subject has passed. The law therefore takes on the role of codifying and assessing a rather abstract and unique notion of familiarity. The denial of citizenship here does not suspend the very essence of belonging to Germany but merely obscures it.

In this context, initiatives like those provided by Statefree provide a crucial counterpoint. Stateless-led organisations, by centring lived experience, offer both practical and emotional support while also reframing statelessness as part of a broader structure of inequality, exclusion and racism. This model stands in stark contrast to the discretionary and opaque administrative practices. As Salma reflected, statelessness is a ‘symptom of something much bigger’.¹⁸⁶ Recognising and dismantling the hierarchies of statelessness is therefore essential not only to meet legal obligations but also to advance broader political and social justice.

¹⁸⁵ Sales (n 56) 456, 459, 463–9, 473–4.

¹⁸⁶ Interview with Salma (Aleksandra Semeriak Gavrilienok, online, 27 March 2024) [tr authors].