

# THE NATURALIZATION OF THE VULNERABLE AN INTERNATIONAL RESPONSIBILITY WITH DEMANDING IMPLICATIONS

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SHAMIMA BEGUM is a British-born woman who in 2015 left the United Kingdom at the age of fifteen to join the Islamic State of Iraq and the Levant, a terrorist organization that at the time occupied significant territory in Iraq and Syria. In 2019, the United Kingdom revoked her British citizenship, invoking reasons of national security. The UK government insisted that the decision was lawful as international norms prohibit the denaturalization of only mononationals, and Shamima was thought to have a claim to Bangladeshi citizenship through her mother, should she apply before the age of twenty-one. Bangladeshi officials, however, denied this, and warned that the penalty for those found guilty of terrorism in Bangladesh is death.<sup>1</sup> Consequently, Shamima is now a stateless person and lives in a refugee camp in Syria. Yet this is at odds with international human rights law, which requires that no one be rendered a stateless person. So who should fulfill Shamima's claim not to be a stateless person? Is it the United Kingdom? Bangladesh? Or another state?<sup>2</sup> International human rights law and the literature on human rights offer little guidance: the former grants states wide latitude on whether and whom to naturalize; in the latter, the standard view is that states should primarily take care of their citizens' human rights, but Shamima has no citizenship.

In this article, I show that a neorepublican approach to political morality is uniquely placed to answer this question by providing a satisfying account of the human right to legal citizenship. On the republican view, I argue, individuals such as Shamima—namely, anyone who finds themselves in a stateless condition, regardless of the reason—are owed a quick path to citizenship, and this duty corresponding to their human right to legal citizenship falls primarily on the entire international community and on single states in a derivative sense only.

1 See Busby, "Shamima Begum Would Face Death Penalty in Bangladesh."

2 I set aside the question of whether the United Kingdom owes Shamima citizenship on reparative grounds. As becomes clear below, though, my account can accommodate such a reparative claim.

The gist of the argument is that if, on the republican view, human rights are owed primarily to citizens by their own states, then the claim to be a citizen to begin with is owed to noncitizens too—that is, to *anyone*. It thus grounds a shared responsibility that is international from the start. The human right to legal citizenship has, then, an international dimension, which has not been fully appreciated in the literature. And accounting for it requires some important reforms of the current state system, which I outline below.

On the republican view, the human right to legal citizenship has further unexpected implications. It requires naturalizing all those who meet what I call the *vulnerability condition*. According to the vulnerability condition, you are a vulnerable person and are thus owed citizenship as a matter of human rights if: you do not possess any citizenship status (from birth, because it has been stripped away from you, or for any other reason); you possess citizenship, but it is ineffective, and this will not change soon; you run the risk of persecution, and this is unlikely to change soon; or you possess citizenship of a state to which you are not minimally connected, in a sense that I clarify below. I show that, surprisingly, it is not only formally stateless people who meet this condition but also all those who *de facto* do not possess citizenship, such as refugees, some displaced people, and, arguably, some long-term migrants, too—and crucially, this is true no matter where they find themselves. The duty to naturalize the vulnerable is therefore not only an international responsibility but also a demanding one.

The article makes three contributions. First, it contributes to the literature on human-rights responsibilities. It shows that the standard view of states as primary duty bearers and international institutions as only secondary duty bearers needs improvement, for some duties correlated with human rights are primarily international—and they are not just negative duties.<sup>3</sup> Second, the article advances the debate within the political theory of migration on the duty to naturalize the formally and *de facto* stateless. For one, it better clarifies the nature, scope, and international dimension of this duty, especially when compared to the *state system legitimacy view*.<sup>4</sup> For if I am right, naturalizing such individuals is not just a secondary, remedial duty, nor are its beneficiaries only refugees. Instead, it is a *primary human right obligation* owed to a wider set of vulnerable migrants. The collective and international dimension of this duty, then, is not best explained by appealing to the conditions of legitimacy of the state system; rather, it stems directly from the structure and direction of the human right to legal citizenship. Furthermore, while also Seyla Benhabib

3 Cf. Pogge, *World Poverty and Human Rights*.

4 See Buxton, “The Duty to Naturalise Refugees,” who develops Owen, “*In Loco Civitatis*” and *What Do We Owe to Refugees?*

discusses the naturalization of certain vulnerable individuals as a human right obligation, I go further by showing that it is owed to all the vulnerable, regardless of where they are, not just those already admitted elsewhere—and it is not necessarily owed by the admitting states.<sup>5</sup> In showing this, the view here advanced more fully fleshes out the international implications of the duty to naturalize. Additionally, it improves the *social membership view* with regard to the reasons why the stateless are owed naturalization.<sup>6</sup> For as we see below, while the expectation that humans typically form social connections may matter when it comes to naturalizing ordinary migrants, vulnerability alone is sufficient for those without citizenship, and it better reflects the urgency of human rights claims. Finally, the article enriches the republican literature on the stateless and refugees by clarifying how the human right to citizenship is grounded in nondomination and, again, by underscoring that the obligation it generates is a human right obligation with a broad scope.<sup>7</sup>

The article unfolds as follows. Section 1 provides a republican rationale to the human right to legal citizenship, section 2 spells out the international dimension of the duty to naturalize, section 3 discusses the vulnerability condition, section 4 addresses objections, and section 5 concludes.

#### 1. THE HUMAN RIGHT TO LEGAL CITIZENSHIP

Article 15 of the Universal Declaration of Human Rights (1948) includes a human right to legal citizenship. It construes it in this way: “Everyone has the right to a nationality” (para. 1); “no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality” (para. 2).<sup>8</sup> We should start by investigating the justification of this composite claim, what confers upon it the status of human right, and its value. Below, I attend to these tasks by employing a republican perspective. I argue that, on the republican view, human rights are those entitlements whose fulfillment is necessary in order

5 See Benhabib, *The Rights of Others*.

6 On the social membership view, see Bauböck, “Stakeholder Citizenship and Transnational Political Participation”; Carens, *The Ethics of Immigration*; and Shachar, *The Birthright Lottery*.

7 For republican accounts, see Benton, “The Problem of Denizenship”; Fine, “Non-Domination and the Ethics of Migration”; and Owen, “Republicanism and the Constitution of Migrant Statuses.”

8 Universal Declaration of Human Rights, UN A/RES/217(III), December 10, 1948. A human right to legal citizenship is also included in: Convention Relating to the Status of Stateless Persons, UN A/RES/526(XVII), September 28, 1954; Convention on the Reduction of Statelessness, 989 UNTS 175, August 30, 1961; and International Covenant on Civil and Political Rights, UN A/RES/2200(XXI), 999 UNTS 171, December 16, 1966.

for individuals to function, at a minimal level, as citizens. Hence, the human right to legal citizenship is itself a human right. Moreover, since only citizenship can fully realize (human) rights, the human right to it turns out to be the most fundamental human right, or, in Hannah Arendt's phrase, "the right to have rights."<sup>9</sup> Let me expand on these claims by discussing republicanism's core idea of freedom as nondomination.

For republicans, freedom as nondomination is the core value of political morality. On this view, freedom is a property that pertains to persons in the first place and concerns their options in a secondary sense only. The opposite of nondomination is, after all, arbitrary dependence and servitude, not just the inability to perform some actions. More precisely, nondomination designates a status of guaranteed independence that individuals enjoy when they do not live at the mercy of others and institutions.<sup>10</sup> It thus refers to how individuals relate to one another and to whether they have on a par with others "the ability to command attention and respect and so of [their] standing among persons."<sup>11</sup> And for this to be the case, individuals should be protected from others' capacity to interfere arbitrarily.<sup>12</sup>

Two features characterize republican freedom and set it apart from liberal freedom. First, there is the *nonarbitrariness condition*. According to it, individuals do not lose their freedom even if they are exposed to extensive interferences—as maintained, on the contrary, by liberals. Only arbitrary interferences compromise freedom. Republicans disagree on what renders interferences arbitrary, but the core idea is that they are arbitrary when their source is a power that is not subject to appropriate checks and controls. On the republican view, therefore, it is possible to be free even if one is subject to state coercive laws. What matters is that each person has control over them, a condition that is best realized when individuals have a say in them.<sup>13</sup>

The second feature is the *robustness requirement*. The thought is that for individuals to be free, we should constrain others' capacity to interfere as such—as opposed to just *actual* interferences or, as contemporary liberals argue, the *probability* to interfere with them.<sup>14</sup> Differently said, individuals should be able

9 Arendt, *The Origins of Totalitarianism*, 275.

10 Pettit, "Agency-Freedom and Option-Freedom" and "Free Persons and Free Choices."

11 Pettit, "Keeping Republican Freedom Simple," 348, 351.

12 Pettit, *Republicanism*, 52.

13 See Pettit, *Republicanism*, 55–59, and *On the People's Terms*, chs. 3–5; and McCammon, "Domination." Cf. Lovett, who thinks that any procedure that institutes reliable and effective external constraints makes power nonarbitrary (*A General Theory of Domination and Justice*, 112).

14 See Pettit, *On the People's Terms*, 67–69. Cf. Carter, *A Measure of Freedom*.

to enjoy their options not just in the actual world but also in a variety of social scenarios accessible from the actual one. The example of a benevolent master illustrates this: slaves may enjoy many options if their masters benevolently decide not to interfere with them; alternatively, slaves might get what they want because they have learned how to sweeten their masters, thus reducing the probability of their interferences; either way, such individuals are unfree for republicans because the enjoyment of these options is dependent on their masters' continued goodwill.

Republicans have different views on the range of options over which individuals should enjoy nondomination. They agree, however, that some significant options should necessarily be included: these are individuals' *rights*—understood as moral claims that, as I will make clear, are acknowledged and protected by suitable institutions and laws. The idea is that if individuals do not have their options open and guaranteed in terms of rights, their claims will be addressed only thanks to others' goodwill or, alternatively, in virtue of some benign social rules that are deliberately isolated from individuals, thus reflecting and being accountable only to others' practical will, not to their own—think of, for example, some legal norms that restrain others' power but do not grant rights to individuals. Furthermore, rights capture what agents can do robustly or despite changes in others' preferences. For instance, if my freedom to voice my opinions is guaranteed as a right, I retain the ability to speak freely even if those around me come to believe that I ought not to.<sup>15</sup> As Pettit himself acknowledges, then, rights are essential to grant individuals some robust dominion on how they fare at others' hands, be these others those in power or their fellows.<sup>16</sup> To do so, though, rights' enjoyment must be delivered both nonarbitrarily and robustly. Failing either of these two requirements, rights would just be a nice but precarious concession of others or the product of some effective rules that escape individuals' control and are thus alien to them.

Given this, I now contend that both requirements can fully be met, and so rights can be fully realized, only if individuals enjoy the status of free citizen. Consider: whether you are a formally stateless person, a person with refugee status or asylum status, an immigrant, or a temporary or permanent resident, you have, in different ways and degrees, only a limited amount of control over the agents that protect your rights, and the protection you enjoy is circumscribed and precarious. Stateless people and those with refugee status or asylum status have to rely on the benevolence of states for the protection of their rights,

15 On the tight relationship between rights and nondomination, see Pala, "Non-Domination Without Rights?"; and Layman, "Republican Liberty as Liberty Within Rights."

16 Pettit, "The Consequentialist Can Recognise Rights," 52.

and this protection concerns only some of these—e.g., to shelter. Sure, international human rights law grants these individuals human rights and requires that states uphold them. Yet these norms are poorly enforced. And even if they were enforced as they should, rights would still be enjoyed in virtue of some norms over which individuals do not have control, for international human rights law is mainly formulated by states, and these individuals do not have control over any state, whether formally or *de facto*.<sup>17</sup> Many rights of immigrants, then, are available only *cum permissio* of the state and can in principle be revoked, often without incurring sanctions; and permanent residents do not control the political power that specifies and enforces their rights, and they can be deprived of some rights (notably, to stay) if found guilty of a felony. In contrast, individuals who are citizens of a free and minimally capable polity are publicly and fully acknowledged as authorities who have their rights protected as their own due, rather than as a favor of institutions and others. Moreover, through citizenship and the political rights that this status comprises, individuals are also provided with the *de jure* capacity to control the main institutions that protect their rights and to whose interferences they are subject.<sup>18</sup> They thus enjoy rights in virtue of their *standing*. Further, as citizens, individuals also enjoy protection of their rights that is, in principle, *secure*—i.e., in nondominating polities, it is hard to deprive citizens of the right to, say, a fair trial, and when this occurs, some secure channels for redress are available.

Two implications follow from this. First, for individuals to be free in the republican sense, they have to securely enjoy all the rights that enable them to function as free citizens. And this result is not surprising, for full freedom is “coterminous with citizenship” for republicans.<sup>19</sup> Second, it turns out that, in a world divided into states, the possession of at least one citizenship is constitutively necessary to enjoy any rights as rights proper—i.e., in virtue of one’s

17 Would this problem be solved if individuals were granted a *direct* say in the rules concerning asylum or the status of a human rights holder under international law, without any mediation by the state? No, for these statuses would still be administered by a state beyond individuals’ control.

18 One might argue that if the goal is to grant individuals control, they could be given political rights without adding the legal status of citizenship. (See Seglow, “Arguments for Naturalisation,” 793–94; and Sharp, “Immigration, Naturalisation, and the Purpose of Citizenship.”) My reply is that individuals’ rights would still not be in principle secure: without the status of citizenship, political rights can be more easily revoked; if convicted and if, as commonly happens, individuals’ political rights were suspended, individuals would just be subject to state authority; and individuals would not be entitled to state external protection.

19 Pettit, *Republicanism*, 108.

standing and securely.<sup>20</sup> For if rights are, in Shue's characterization, valid claims to the actual enjoyment of their object, which, in turn, presupposes social institutions for demanding the fulfillment of the correlative duties, then possessing at least one citizenship does not just facilitate the secure enjoyment of rights *qua* rights; it makes it possible.<sup>21</sup>

This leads me to discuss how republicans should look at human rights, the human right to legal citizenship specifically. The argument, which I have developed elsewhere, proceeds in three steps.<sup>22</sup> The first step introduces a distinction drawn by Laborde: that between optimal and basic nondomination.<sup>23</sup> *Optimal nondomination* designates the status of optimal citizenship, realized by republics that maximally protect citizens and their rights from arbitrary power. Individuals enjoy it when they: are subject to an impartial rule of law so as to replace the structural vulnerability to others' arbitrary will; have extensive democratic control through equal and fair political liberties; and have significant resources and opportunities to best avoid *dominium* in the society at large. *Basic nondomination* is, instead, a citizenship status enabling individuals "to set up a republic in the first place." It also requires the rule of law—yet only adequate opportunities for political influence and only sufficient socioeconomic resources and opportunities to ensure that the satisfaction of individuals' basic needs is not dependent on others' goodwill. Basic nondomination is thus consistent with some political and socioeconomic disparities as its aim is to guarantee that citizens enjoy a minimum, not a maximum, of republican freedom. Its point is twofold: first, to identify the minimal conditions for free and effective citizenship, the fulfillment of which is necessary to attain optimal nondomination; and second, to acknowledge that living according to one's own rather than others' will entails the right to experiment and make some mistakes and to diverge from the full republican agenda, as long as one is doing well enough.

The second move involves showing how this distinction maps onto another important distinction: that between *justice* (what is owed to individuals) and *legitimacy* (whether a political institution is entitled to rule). Seen in this light, optimal nondomination is a citizenship status realized by fully just societies, so its underfulfillment constitutes a case of injustice. In contrast, basic

20 This differentiates my view on the nexus between citizenship and rights from Buxton's view ("The Duty to Naturalise Refugees," 1127–30) and Kingston's view ("Statelessness as a Lack of Functioning Citizenship," 128, 133; and *Fully Human*, 72), which are *instrumental*. On Buxton's view, see section 3 below; on Kingston's view, see note 44 below.

21 See Shue, *Basic Rights*, 74–78.

22 See Pala, "Constitutional Democracy."

23 Laborde, "Republicanism and Global Justice." See also Laborde and Ronzoni, "What Is a Free State?"

nondomination is a citizenship status realized by minimally just societies, and so failing to provide it amounts to denying the minimal core of justice, which calls into question the very idea of legitimacy—whether a polity has a claim to rule.

The third and final step is centered on the notion of human rights. The observation now is that when these entitlements are violated or left unfulfilled on a systematic basis, this puts into question a society's legitimacy and raises international concern. This leads us to the conclusion that human rights capture and deliver the normative function of basic nondomination, and therefore, they are those claims the fulfillment of which is necessary to realize basic nondomination. Indeed, as nondomination is fully realized only when individuals are citizens whose citizenship rights are securely protected, realizing basic nondomination requires that individuals' human rights be acknowledged and protected.

From this, we can draw three lessons. First, on the republican view, human rights are claims advanced by citizens against institutions to begin with. Such entitlements presuppose institutions to be fully realized, and their point is to constrain the conduct of such institutions. Therefore, a republican approach to human rights overlaps with the political view of human rights.<sup>24</sup> For the latter, in effect, human rights are political constructs that put limits to political institutions—rather than, as argued by the naturalistic view, preinstitutional entitlements held by humans against one another in virtue of their nature.<sup>25</sup> Second, human rights are those entitlements enabling individuals to minimally function as free citizens.<sup>26</sup> Hence, a list of republican human rights at least includes, in line with the analysis of basic nondomination above, the human right to equality before the law; to a minimum of democratic control; and to basic socioeconomic resources and opportunities.<sup>27</sup> Crucially, third, individuals' claim to citizenship is itself a human right. Furthermore, if, as shown, only

24 See Ivison, "Republican Human Rights?"

25 See Rawls, *The Law of Peoples*; Pogge, *World Poverty and Human Rights*; and Beitz, *The Idea of Human Rights*. Cf. the naturalistic view of Griffin, *On Human Rights*.

26 What about those said to lack the capacity for citizenship (children, the severely disabled, and nonhuman animals)? Are they not human rights holders? No, let me suggest. Children are expected to become citizens, and as Donaldson and Kymlicka show, both the severely disabled and some nonhuman animals can function as citizens if the social environment finds innovative ways to foster their agency (*Zoopolis*).

27 When compared to the human rights set out in the 1948 Universal Declaration of Human Rights, a republican list of human rights is thus more demanding in some respects (individuals are entitled to a democratic minimum, not just to political participation) and less demanding in others (think of social rights). I cannot provide a full justification of the human right to a democratic minimum or spell out its content, but suffice it to say here that

citizenship can fully realize rights, the human right to citizenship turns out also to be the most *fundamental* human right, or, in Arendt's phrase, the "right to have rights," in the sense that only by fulfilling it can individuals enjoy any (human) rights as rights proper.<sup>28</sup> It is therefore of the utmost importance to guarantee that individuals have secure access to its object. To do so, though, we should know what duties the human right to legal citizenship grounds and which institutional agents should bear and discharge those duties. These are the topics of the next section.

## 2. A (PARTLY) INTERNATIONAL RESPONSIBILITY

To identify the duties that the human right to legal citizenship grounds, we need to spell out the demands that this entitlement advances. To this end, it is worth recalling how this human right is articulated in article 15 of the 1948 Universal Declaration of Human Rights: "Everyone has the right to a nationality" (para. 1); "no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality" (para. 2). Article 15, then, clarifies that the human right to legal citizenship comprises both a claim to have access to citizenship somewhere in the world and a claim to securely preserve this status once it has been conferred.<sup>29</sup> From this, we can infer the correlative duties: the former claim correlates with a primary duty to ensure that everyone has secure access to citizenship; and the latter correlates with a primary duty not to denaturalize individuals—at least those with just one citizenship—as well as secondary duties to make sure that denaturalization does not occur and to intervene in case of failure.<sup>30</sup>

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such a content is *ecumenical* (many diverse democratic regimes may deliver it) and *minimal* (it just requires sufficient resources and opportunities to influence common decisions).

- 28 Arendt, *The Origins of Totalitarianism*, 275. On the "right to have rights," see also Benhabib, *The Rights of Others*; Bellamy, "Rights as Democracy"; and Bohman, "Constituting Humanity."
- 29 I do not consider here the human right to change nationality. Suffice it to say that its denial is "a political form of servitude in that it leaves citizens exposed to the arbitrary power of the state" (Owen, "On the Right to Have Nationality Rights," 312).
- 30 Current international human rights law envisages these secondary duties but enforces them poorly, so mass and individual denaturalizations are not rare today. Authors such as Matthew Gibney, Christian Barry, and Laura Ferracioli thus support a blanket prohibition of denaturalization in order to best avert the risk of engendering statelessness. See Gibney, "A Very Transcendental Power"; and Barry and Ferracioli, "Can Withdrawing Citizenship Be Justified"? Although congenial to the proposed republican view, I do not discuss this thesis here.

Addressing the question of the bearers of these duties requires us to have a general scheme for the attribution of human rights responsibilities. For present purposes, the following criteria are conjunctively sufficient.

1. *Definiteness*: On the republican view, human rights are robust entitlements. This means that the bearers of the correlative duties should be precise and determinate. We cannot rely on a poorly specified set of agents, for human rights protection would be insecure.
2. *Security*: Given the robustness of republican human rights, we must also ensure that the duty bearers are *forced* to discharge their duties; otherwise, individuals would be insecure about their behavior and have to rely on their benevolence.
3. *Capacity*: The duty bearers should be able to discharge the duties assigned to them in line with the ought-implies-can proviso.
4. *Nonarbitrariness*: The discharge of the duties corresponding to human rights should be nonarbitrary. The duty bearers should then be suitably checked and controlled. Individuals should therefore have a say in how the duty bearers protect human rights.

If we employ these criteria and focus on individuals' claim not to be denaturalized—and as I stress below, all the other human rights needed to enjoy basic nondomination—it is natural to support the standard view on the attribution of human rights responsibilities and to conclude that states are the primary bearers of duties corresponding to human rights, and international institutions are secondary duty bearers only.<sup>31</sup> Take, then, the primary duty not to denaturalize mononationals. In our world, this duty cannot but be addressed toward states, and toward one's own state more specifically. Criterion 1 is easily met. States, moreover, are in principle able to discharge it given their sovereign powers and the fact that this duty is negative. They can therefore meet the capacity criterion (3). As international human rights law prohibits the denaturalization of mononationals, thus discouraging states from doing so, states also *partially* satisfy the security criterion (2). Finally, if legitimate (as they should be), states are able to discharge this duty in a nonarbitrary manner too (criterion 4).

Likewise, international institutions are relatively well placed to qualify as the bearers of the secondary duties to check that states do not denaturalize individuals and to intervene in case of failure. Not only are they discreet agents,

31 See, e.g., Beitz, *The Idea of Human Rights*. The standard scheme finds also some support in the naturalistic view. See Griffin, *On Human Rights*, 102: “ability provides a ground in the world as it is to distribute the burden to help along membership lines: ... a central government to its citizens.” “Who is to *promote* human rights?... Who is to *monitor* the observance of human rights?... Mainly the United Nations” (104).

but they are also backed up by state coercive powers and have some coercive powers of their own—thus meeting the definiteness criterion (1) and being in principle able to also partly satisfy the capacity criterion (3) and the security criterion (2). And even if international institutions have well-known problems in terms of their legitimacy, they abide by some public and commonly decided rules, and states are represented in them. They could therefore discharge the secondary duties under consideration in a nonarbitrary way (criterion 4).

Yet this standard scheme for the attribution of human rights responsibilities ceases to work when we consider the duty to make sure that individuals have secure access to citizenship somewhere in the world. This duty cannot fall primarily on states—neither one's own state nor those states whose borders happen to be crossed, for this, as I will further stress, would be *underinclusive* (What about those who do not possess citizenship but are unable to flee?) and *unfair* (Why should only neighboring states bear the burden?). Consider: if basic nondomination is a citizenship status made up of human rights, then, in line with current international human rights law and the literature on human rights, states should primarily take care of their own citizens' human rights. Thus, differently from all the other duties corresponding to human rights, the duty not to leave individuals in a stateless condition or to make them citizens in the first place is owed to *noncitizens* too—i.e., to *anyone*. As such, this duty cannot but fall primarily on the entire international community and be shared from the very start.<sup>32</sup> Said differently, there is a *fundamental asymmetry* between the human right to have a secure and quick path to citizenship and all the other human rights needed to enjoy basic nondomination: the latter are held by individuals *qua* citizens primarily against their own state, while the former is held by noncitizens too, and so it has as its primary addressee all the free and capable states that compose the international community.

There is, then, a primarily international dimension inherent in the human right to legal citizenship that the literature has not yet fully grasped or articulated—an important question that I further elaborate in the next section. There is thus an important crack in the standard attribution of human rights responsibilities, for the correct picture is more intricate than the simple scheme of

32 By 'international community', I mean primarily all (a) minimally capable and (b) free states that compose it. I clarify these restrictions in section 3 below. Now note that international institutions such as the European Union or United Nations also count as relevant addressees. Yet since they either do not provide citizenship (as with the UN) or provide it parasitically on member states' citizenship (as with the EU) and thus cannot realize the human right to citizenship on their own, their primary task, as I will explain, is to force states to grant citizenship to those lacking it—with the European Union additionally granting its own. On shared duties, see May, *Sharing Responsibility*, ch. 2.

states as primary duty bearers and international institutions as secondary duty bearers: some primary human rights–corresponding duties are international from the start—and they are not just negative duties, at that.<sup>33</sup>

One important consequence is that the current state system should be transformed to meet the demand for naturalization advanced by the human right to legal citizenship. For as noticed, current international human rights law leaves states with large discretion on whether to naturalize those who do not possess citizenship. It should, instead, acknowledge that the duty to naturalize such persons is a duty proper, which, being international, falls on states in a derivative sense only. That is, states should discharge it much as social services agencies discharge state duties, and as required by the robustness of republican human rights, they should be forced to discharge it so that individuals do not have to rely on the states' willingness to do so. Furthermore, as the responsibility under consideration is a shared one, there must also be a scheme for attributing to each state its quota of stateless people to naturalize—and as I show in section 3 below, also a system for rescuing those who do not possess citizenship but are unable to flee.

What reforms and institutions are needed to accomplish this? It is out of the scope of this article to give a full blueprint of them, but we can outline their main features.<sup>34</sup> Four features stand out. First, there must be some—and only some—*cosmopolitanism*. Two lessons can be drawn from the fact that the naturalization of the stateless cannot rely on states' willingness to carry it out but instead requires institutional arrangements that treat states as their municipalities. Negatively, intergovernmental agreements are insufficient: even when they are moralized (as is the case with the migration compacts often advocated in the literature on migration), whether they are made and upheld is still a function of states' goodwill. Positively, then, the needed institutions must be fully binding and hold superior authority over states. States should therefore unbundle sovereignty and cede upward the competences necessary to realize the human right to legal citizenship. But this is tantamount to saying that states are duty bound to form a federal union. Importantly, however, the union should remain very thin—endowed with only such competences, as shifting further competences upward would not respect states' claim to live on their own terms. Accordingly, as republicans usually recommend, a variety of checks and balances, including courts, charters, and institutions of control, will have to be set up to ensure that the supranational union does not exceed its mandate.

33 In different ways, both Pogge (*World Poverty and Human Rights*) and Montero (“International Human Rights Obligations Within the States System”) theorize a negative duty not to impose an international order that foreseeably puts at risk human rights.

34 For greater detail, see Pala, “Constitutional Democracy.”

This suggests a second feature: *democracy*. For the envisaged thin federal union not to dominate states, it must grant each people a say in its decisions concerning the stateless. The union should therefore be democratic. Though I cannot explore this fully here, note that what I advocate is not a full-blown cosmopolitan democracy leading to the formation of a global demos but rather an international *demoicracy*—namely, a democratic setting in which the demoi govern together but do not merge into one macro demos.<sup>35</sup> This is because, in a nutshell, effectively exercising control over a supranational apparatus and concretely realizing citizenship and human rights require certain resources—notably, an appreciable level of mutual concern and trust and a set of common reasons—that are uniquely available at the state level among citizens but are present to a considerably lesser degree at the global level among individuals. Equally important, all voices must be included in the union, as on the republican view no one can be just a rule taker. Hence, the stateless themselves should have a say within it. An assembly of the stateless with voting rights and a court granting contestatory powers could ensure this.<sup>36</sup>

A third key feature is *fairness*. A central task of the proposed union is to provide a forum where the demoi can decide how to distribute to each its fair quota of the stateless to naturalize and the mechanisms to do so. This would significantly improve the status quo, whereby responsibilities toward vulnerable migrants such as the stateless are governed by the “tyranny of geography.” Since reasonable disagreement will arise on these questions, the demoi should address them deliberatively. The resulting criteria and means should therefore not be alien to them. Criteria such as states’ integrative capacity—a function of their GDP, population size, and the number of the stateless—and their contribution to the plight of the stateless, as well as mechanisms distinguishing between the place and costs of naturalization, offer useful guidance.<sup>37</sup>

The final feature of the needed reforms and institutions concerns the *preferences* of the stateless. As I argue below, the human right to legal citizenship entitles individuals to a citizenship *worthy of the name*, not to a citizenship in a specific state. Nonetheless, there should be procedures to take into account and, when possible, accommodate the preferences of the stateless on where to be naturalized. After all, as Jamie Draper stresses, not having a right to  $x$  does not imply that one’s claim to  $x$  can justly be left unconsidered.<sup>38</sup> Taking into

35 Nicolaidis, “European Demoicracy and Its Crisis.”

36 See Owen, “Refugees and Responsibilities of Justice,” 42–43.

37 Gibney, “Refugees and Justice Between States”; Draper, “Domination and Misframing”; and Owen, *What Do We Owe to Refugees?*

38 Draper, “Domination and Misframing.”

account the preferences of stateless persons would acknowledge their agency and needs and, as we will see below, also allow them to better avail themselves of citizenship.<sup>39</sup>

### 3. THE VULNERABILITY CONDITION

I have argued that individuals such as Shamima Begun are owed naturalization as a matter of human rights; that the corresponding responsibility is primarily international; and that to discharge it, the current state system should be significantly modified. We should now ask who counts, exactly, as a stateless person. Below, I address this question and argue that stateless persons are all those who meet the *vulnerability condition*, or, in other words, do not possess a citizenship status worthy of the name—i.e., a citizenship that can be effectively acted upon and is delivered by a nondominating polity that is also able to provide individuals with opportunities for creating minimal connections, in a sense that I clarify below. Surprisingly, it turns out that not only formally stateless persons qualify as vulnerable but also those who have *de facto* lost citizenship, such as refugees, some displaced persons, and, arguably, some long-term migrants too. The duty to naturalize the vulnerable is then not only an international responsibility but also a demanding one. Let me show this.

According to the vulnerability condition, you count as vulnerable and should therefore be naturalized as soon as possible as a matter of human rights if you meet one or more of the following criteria.

1. *De jure or formal statelessness*: You do not possess any legal citizenship status either from birth or because it has been formally stripped away from you, or for any other reason.<sup>40</sup>
2. *Basic needs*: You formally possess a citizenship status, yet it is ineffective as your home country is unwilling or unable to fulfill your basic needs, and this will not change soon. Your human right to robustly enjoy a citizenship status is not met and cannot be met by your state.
3. *Persecution*: If you remain in or return to your home country, you will be persecuted on grounds of ethnicity, gender, or sexual orientation, or for political or any other reasons, thus having your human rights

39 For useful suggestions regarding the procedures to adopt and how best to balance this criterion with considerations of fairness, see Gibney, “Refugees and Justice Between States,” 460–62; Owen, “Refugees and Responsibilities of Justice,” 36–40; and Draper, “Domination and Misframing.”

40 This follows the 1954 Convention Relating to the Status of Stateless Persons, which states that stateless people are those “not considered as a national by any State under the operation of its law.”

violated. You cannot function as a citizen who enjoys basic nondomination, and this is unlikely to change soon.

4. *No connection*: You possess a legal citizenship status yet in a state to which you are not minimally connected. By minimal connection, I mean the link between an individual and a polity that obtains when the following conditions are *conjunctively* met.
  - a. *Cultural nonalienation*: The local language, core laws, and social norms of state *S* are not utterly alien to you, or you can become familiar with them in a reasonable amount of time if you are given robust opportunities to accomplish this.
  - b. *Social ties*: You have family and friends in *S*, work in *S*, or you are given robust opportunities to establish these ties.
  - c. *Nondisapproval*: You do not strongly oppose the idea of living in *S*.

Let us now expand on each criterion. Criterion 1 includes, uncontroversially, those who for diverse reasons do not formally possess any citizenship status, thus having their claim to have citizenship somewhere in the world unfulfilled. Such individuals are therefore owed naturalization by one suitable state of the international community.

Criteria 2 and 3 require the naturalization of refugees (whether political, economic, or environmental) and some (internally or externally) displaced people.<sup>41</sup> The justification for this inclusion is that if the conditions spelled out obtain, these individuals are *de facto* stateless people, defined as those who are unable to avail themselves of the protection of their countries with respect to their human rights.<sup>42</sup> That is, such individuals formally possess a citizenship status, but this status is delivered by a polity that is a dominating one and/or unable to provide individuals with a minimum to actually function as citizens, and this will not change in a near future—e.g., I can hardly act upon my citizenship status if my citizenship is, say, a Syrian one. Hence, such individuals are not able to enjoy their human rights as rights, and as only a citizenship status that is good enough can remedy this, it is such status that they are owed.<sup>43</sup> In

41 For a similar, broad definition of refugees that does not focus only on political persecution, see Shacknove, “Who Is a Refugee?”

42 This definition resembles the one provided in United Nations High Commissioner for Refugees (UNHCR), “Expert Meeting.” In the latter, however, individuals must be outside their country to qualify, and that is an unduly narrow restriction, as explained below.

43 One might ask why members of decent societies are not owed naturalization. (On such societies, see Rawls, *The Law of Peoples*, secs. 8 and 9.) The reply is that legitimacy is scalar, not binary, and decent societies, unlike persecuting ones, do not depart from it excessively. Thus, individuals’ citizenship is compromised but not lost. Moreover, decent societies guarantee many human rights crucial to enjoying basic citizenship—notably,

other words, from a republican perspective, the human right to legal citizenship entitles individuals not just to formal citizenship status but rather, in line with the robustness of republican human rights, to a citizenship status worthy of the name—i.e., a citizenship status that individuals can actually make use of and is conferred by a minimally free polity.<sup>44</sup>

Two further comments are needed on these criteria for the vulnerability condition. First, they improve the literature on refugees. In the latter, it is commonly maintained that refugees are owed admittance, *nonrefoulement* (not to be returned to their home country), and the protection of their basic needs, and so on safety grounds. That is the *humanitarian view* of David Miller, for instance.<sup>45</sup> In addition, for some authors political refugees are also owed asylum as a remedy to the fact that they have been deprived of any political connection to a political community. That is the *surrogate membership view* of Matthew Price, for instance.<sup>46</sup> Both views are unsatisfying: the former leaves refugees at the mercy of states with regard to their human rights; the latter fails because in our world asylum is still a relatively precarious and temporary status that can be revoked more or less easily by states, and an idealized, more secure version would not be sufficient either, for, as said, its rules would be alien to individuals. Only a straightforward path to citizenship could remedy these deficiencies, yet none of these views envisages it. This is not to deny, though, that, as David Owen stresses, it matters *how* individuals become refugees—it is one

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human rights to contest political power and to external protection. Yet this does not imply that the international community can be indifferent to such individuals. It should rather foster the gradual development of democratic institutions through financial assistance and soft measures such as diplomatic pressure.

44 Kingston similarly argues that individuals are owed a “functioning citizenship,” not just legal citizenship, to enjoy human rights (“Statelessness as a Lack of Functioning Citizenship” and *Fully Human*). Hence, also on Kingston’s view, all those lacking a citizenship of this kind count as *de facto* stateless persons. Yet our views depart from here. Kingston holds that in order to ensure stateless people can securely enjoy human rights, we need to break the exclusive dependence of human rights protection on the possession of legal citizenship and to establish new statuses (semicitizenship, noncitizenship), which, in an improved form, should approximate the ideal of functioning citizenship and so facilitate the enjoyment of various human rights. Differently, I argue that it is the human right to legal citizenship itself that entitles everyone to a citizenship of a certain quality, and the necessary reforms must accordingly fulfill this aim. Thus, my approach pays greater attention to this human right and the demands it advances, aiming to realize it for all. It also marks a shift from working around the limitations of citizenship to addressing them directly. Another key difference is that, as argued, from a republican perspective no status falling short of citizenship can, however improved, realize all other human rights in a way that is both robust and nonarbitrary.

45 Miller, *Strangers in Our Midst*.

46 Price, *Rethinking Asylum*.

thing to be persecuted and another to have an ineffective citizenship because of a civil war or poverty—and the judgment expressed by the international community should reflect this.<sup>47</sup> My view accommodates this thought: it will talk about human rights *violations* in the former case and of human rights *unfulfillment* in the latter; it will recommend *punishment* (for the persecutors) in the former case and *assistance* in the latter. Differently from Owen, though, I deny that this also changes what is owed to refugees:<sup>48</sup> even though it is for different reasons, their claim to enjoy a citizenship worthy of the name is equally unmet, and so there is a duty to naturalize them.

This leads me to a second remark that concerns another important general feature of the vulnerability condition: as anticipated, the vulnerability condition can be met by anyone *no matter where they find themselves*. This is because it is arbitrary to demand the naturalization of those who have been lucky enough to reach a safe haven or just happen to find themselves there but not of those who “have been left behind” and are often the neediest. In fact, the latter need a citizenship status worthy of the name as much as the former. This implies that the international community should modify or even dismantle the extra-territorial nonarrival measures erected in recent decades—such as carrier sanctions, highly restrictive visa regimes, migrant compacts with third states (which are often poor and authoritarian), and forced/prolonged encampment—and instead provide vulnerable individuals with secure exit from the vulnerable individuals’ territories (by, say, creating humanitarian corridors or programs of sea rescue), secure admission to another state, and, ultimately, naturalization.<sup>49</sup> Alternatively, the international community should reestablish both a safe environment and a citizenship status “there,” where they are.<sup>50</sup> Yet the latter option is not always viable—think of climate refugees whose island has been submerged. And even if viable, it might take decades to reestablish a safe environment and a citizenship status “there,” and the protection of human rights

47 See Owen, *What Do We Owe to Refugees?*

48 For Owen, persecuted individuals are owed *asylum*, those fleeing civil war are owed *sanctuary*, and those facing famine are owed *refuge* (*What Do We Owe to Refugees?* 44–65). The latter category is covered by the vulnerability condition only if their condition is not temporary and their state is not a capable agent anymore.

49 On the impact of such measures on migrants’ human rights, see Shachar, *The Shifting Border*. For a discussion of what granting migrants a robust right to exit would involve, see Lenard, “Exit and the Duty to Admit.” For a defense of the duty of states to directly provide sea rescue operations, see Cusumano and Pattison, “The Non-Governmental Provision of Search and Rescue in the Mediterranean and the Abdication of State Responsibility.”

50 The conferral of just “extraterritorial citizenship” (i.e., diplomatic protection by another state) would not suffice as it would hardly protect human rights securely and would be conferred by a state in which individuals have no say.

cannot wait that long—think how many years it will likely take to rebuild a decent political context in Syria. Arguably, then, relocation and naturalization elsewhere will be required in the majority of cases.

Importantly, this implication of the vulnerability condition is not excessively taxing on states or unfair to them. For sure, on the view advanced, states must help the vulnerable to leave and, regardless of how they reach their borders (through humanitarian corridors, NGOs, or on their own), must admit them—as a matter of a stringent duty, given that their human rights are in danger. Yet these duties must be discharged according to each state's different capacities, and the proviso is that the fulfillment of the duties should not impair their capacity to protect their citizens' human rights. Furthermore, admitting states are not necessarily those that should also host the vulnerable in the long run and then naturalize them. Indeed, admission and naturalization can and should be disentangled: after admittance, therefore, states should raise internationally, through the institutions outlined above, the distinct question of whether such individuals fall within their quota of those to naturalize; if not, resettlement should follow.

What about, finally, the no-connection criterion (4)? This is the most contentious criterion. I cannot fully defend it here but just suggest its plausibility. The thought is that minimal connections (criteria 4a–4c) have an *instrumental* value: they facilitate persons effectively standing upon their citizenship status and human rights. The lack of minimal connections is thus a disvalue, for it might produce a condition comparable to that of *de facto* stateless persons. Consider the following. Aisyah is a twenty-year-old citizen of East Malaysia who is denaturalized and deported to the Philippines. She has inherited Philippine nationality through *jus sanguinis*. Aisyah does not know anything about the Philippines. She has no family or friends there, has never been there, and does not want to live there. The Philippines is able to reasonably protect her human rights but, let us stipulate, is not able to help establish minimal connections—e.g., language courses are not provided, job centers work poorly there, etc. What is troublesome with Aisyah's story?

First, Aisyah's standing as an independent being who, much as an undominated person, commands attention and respect is not fully acknowledged. She is in fact considered as a good that can be more or less easily moved around. Second, if we recognize that one of the distinctive wrongs experienced by refugees is the imposed loss of a social world that gives them a horizon of meaning, then Aisyah lives a comparable experience.<sup>51</sup> Sure, she enjoys political rights and so can contribute to shaping her new social environment. However, third,

51 Gibney, "Refugees and Justice Between States," 460.

Aisyah finds herself in a country that is entirely alien to her and that will take several years to get known to her. Hence, she will likely connect with others and the state *qua* dispossessed and disempowered for a long time. Aisyah might then find it particularly hard to act upon her political agency and to avail herself of the protection of her state for (some of) her (human) rights, thereby being more exposed to arbitrary power. She might not know the specific (human) rights that her new state recognizes, what counts as a (human) right violation, or how to seek recourse in case an alleged violation has occurred. If so, Aisyah's condition turns out to be comparable in some respects to that of a *de facto* stateless person. If this is sound, then the no-connection condition (4) leaves room for the naturalization of some long-term migrants too—namely, those whose citizenship status is delivered by a country to which they are not minimally connected.

Two clarifications should prevent misunderstandings. First, criterion 4 does not imply that vulnerable persons must be naturalized in countries with linguistic or cultural similarities to their country of origin. What matters is that states are able to provide vulnerable individuals with robust opportunities to create these and similar connections—e.g., we should not be worried if someone vulnerable who does not speak German or is unfamiliar with German social norms is naturalized in Germany, for arguably, Germany is able to provide them with effective opportunities to learn German and the country's core social norms. Second, the no-connection criterion excludes any potential claim that minorities who feel alienated from their “good enough” country are owed citizenship somewhere else. Consider, for example, Indigenous peoples such as the Inuit or closed religious communities such as the Amish. Granting them citizenship elsewhere would not address the problem or their claims. Moreover, even if alienated, these minorities seem able to make use of the opportunities that their country offers when needed—e.g., they are able to avail themselves of legal protection when their rights are violated. Finally, the relevant duty on the state that is at stake here—in other words, the relevant duty on the “good enough” and capable state—is to find new inclusive ways to foster the political agency of such minorities.

That said, it is worth comparing the view advanced with three influential rival views. On a first view, the state system legitimacy view, formulated by authors such as David Owen and Gillian Brock, the legitimacy of the state system depends on its ensuring the protection of everyone's human rights. Failing this, as in the case of refugees, states must repair this legitimacy deficit, for their own legitimacy partly depends on this broader legitimacy.<sup>52</sup> Rele-

52 Owen, “*In Loco Civitatis*” and *What Do We Owe to Refugees?* 44–54; and Brock, *Justice for People on the Move*, chs. 2, 9.

vantly here, on Rebecca Buxton's development of this view, this requires that states naturalize those without citizenship who have crossed their borders, for citizenship is the most reliable means of securing human rights.<sup>53</sup> The duty to naturalize individuals such as refugees is thus, on this view, collective and grounded in a notion of legitimacy with an international dimension. A second view, advanced by Benhabib, draws on Arendt and argues that all should enjoy the "right to have rights"—the capacity to claim and enjoy all rights.<sup>54</sup> This entails, for one, realizing the "human right to membership," which involves ensuring an unblocked path to citizenship for admitted aliens who meet certain criteria (e.g., length of stay and possession of certain skills and/or material resources); and, for another, guaranteeing to all the enjoyment of the status of legal person under international human rights law and the inalienable rights attached to it.<sup>55</sup> A third view, the social membership view, while variously articulated, holds that the well-founded expectation that humans typically form social connections in their states of residence imposes on states the duty to naturalize them.<sup>56</sup> How is the account in this article different and superior to these?

Let us consider the state system legitimacy view. First, the republican view better clarifies the *nature*, *normative force*, and *international dimension* of the duty to naturalize. For if the argument advanced goes through, this duty is a *primary* obligation corresponding to a human right, not just a secondary, remedial responsibility. Hence, granted that primary duties are standardly understood as more binding than secondary, remedial ones, the duty to naturalize envisaged here is more stringent too.<sup>57</sup> Moreover, its collective and international character is not best explained by appealing to the conditions of legitimacy of the state system and states—not only because, as Daniel Sharp notes, it remains unclear whether the state system can be subject to distinct legitimacy requirements beyond those that apply to individual states and, if it can, how the failure of one state to assist vulnerable migrants can impugn the legitimacy

53 Buxton, "The Duty to Naturalise Refugees."

54 Arendt, *The Origins of Totalitarianism*, 275.

55 Benhabib, *The Rights of Others*, 139–40.

56 See Carens, *The Ethics of Immigration*, chs. 4, 8. For comparable views, see Bauböck, "Stakeholder Citizenship and Transnational Political Participation" (in which he advances his "stakeholder view"); Shachar, *The Birthright Lottery*, ch. 6 (in which the *jus nexi* principle is developed); and Owen, "On the Right to Have Nationality Rights."

57 See also Buxton, "Justice in Waiting." Buxton argues that states should offer certain vulnerable migrants permanent residence with an expedited path to citizenship since prolonged temporary protection needlessly exacerbates the harms of displacement, notably by disrupting the background conditions of migrants' lives, thus compounding such injustice. Overlooked here is that, again, in some cases, this is a primary human right obligation and so a more stringent one.

of all others.<sup>58</sup> Rather, it is also that such shared and international dimension directly stems from the very structure and direction of the human right to legal citizenship, which, as argued, differ from those of all the other human rights and make the international community its primary addressee. In short, then, states must naturalize vulnerable individuals first and foremost because their most fundamental entitlement addresses them directly and requires so, not simply to compensate for the failures of other states to protect human rights.<sup>59</sup> Second, the republican view shows that the duty to naturalize has a wider scope, for the category of the vulnerable to naturalize includes not only those who have been granted refugee status but also, as said, some displaced people and possibly some long-term migrants too. Third, while Buxton concentrates on the claim to citizenship of those who have already reached safe havens, the republican view pays equal attention to the human right to citizenship of the vulnerable “left behind.” As a result of the last two observations, it follows that the republican view advanced here better avoids the risk of underinclusion and more fully articulates the international implications of this entitlement.

This helps us see how the present view improves Benhabib’s view as well. The two views overlap as both understand the naturalization of certain vulnerable individuals as a primary human right obligation. Yet the republican view goes further by showing that, as just recalled, this obligation is owed not only to the vulnerable already admitted elsewhere and not necessarily by their admitting states. Instead, to reiterate, it is owed to all the vulnerable, no matter where they are, and it falls on the entire international community of states, with the state that ultimately discharges it to be determined in the ways outlined above.<sup>60</sup> Additionally, the republican view better reflects the urgency of human rights by positing vulnerability as a sufficient reason for granting stateless persons an expedited path to citizenship without requiring them to meet further criteria.

58 Sharp, “Immigration and State System Legitimacy.”

59 Sandven has improved the state system legitimacy view by arguing that states bear collective duties toward migrants, as they collectively enforce on them extraterritorial nonarrival measures that render their human rights *structurally* insecure, thus undermining the legitimacy of such measures (“The Practice and Legitimacy of Border Control”). Notice, however, that such collective duties do not comprise a duty to naturalize vulnerable migrants. Rather, they require adopting a standard of human rights *promotion* while enforcing borders, which involves taking reasonable efforts to prevent border controls from having adverse effects on migrants’ human rights.

60 This is not to say that Benhabib overlooks the human rights of those “left behind”—her insistence on recognizing everyone’s status as legal persons under international human rights law shows otherwise. It is to stress again, however, that on the republican view, no status short of a good enough citizenship can protect human rights both robustly and nonarbitrarily. See also note 44 above.

Similar remarks apply to the social membership view. The social membership principle has clear traction for those already residing in a minimally free and effective state, yet less for those who are “elsewhere.” Furthermore, although social ties might have special importance when it comes to naturalizing standard ordinary migrants who already possess a citizenship worth having, they should, as shown, have a more limited and instrumental role when we consider stateless persons, in regard to whom the relevant criterion is their vulnerability. In this way, my republican view enhances the social membership view with regard to the *reasons* why the vulnerable are owed naturalization.

If correct, all this also shows how the account provided here improves the existing republican literature.<sup>61</sup> It clarifies how the human right to legal citizenship is grounded in nondomination and demonstrates how the republican arguments in favor of the naturalization of stateless persons and refugees who already find themselves in safe countries ought to be developed by recognizing that this as a human right obligation with more demanding and prominently international implications.

#### 4. OBJECTIONS TO THE REPUBLICAN ACCOUNT

Before concluding, I want to address some objections to the republican account of the duty to naturalize. A caveat is, however, needed. Though I do not discuss directly or at length where my proposal stands in the ideal/nonideal theory debate, this should emerge in what follows. To anticipate, granted that the ideal/nonideal distinction is not categorical but lies on a continuum, with many theories exhibiting features of both in varying degrees, my republican view contains elements of each.<sup>62</sup> It is ideal insofar as it sets a long-term goal for institutional reform. Yet it is also nonideal in at least one important respect: it suggests how the human right to legal citizenship can also be claimed in our nonideal world while taking into account factual constraints such as noncompliance and real-world political dynamics so as to deliver a measure of practical effectiveness.

A first objection is that the claim to be a citizen to begin with cannot be a human right proper, for human rights proper are directed against some determinate duty bearers (that is the *claimability condition*), while the claim under consideration here addresses the entire international community, which is not an agent. Two replies are in order. First, even if the international community is not an agent, this community is composed of many capable and nondominating

61 See Benton, “The Problem of Denizenship,” 64–65; Fine, “Non-Domination and the Ethics of Migration,” 14–15; and Owen, “Republicanism and the Constitution of Migrant Statuses,” 102.

62 On the distinction between ideal and nonideal, see Valentini, “Ideal vs. Non-Ideal Theory.”

agents, such as wealthy states. In our nonideal world, it is against these determinate agents that the claim to be naturalized can be addressed. Yet, second, the claim to be naturalized cannot but function also as a demand for institution building. Indeed, republican human rights are robust entitlements, and so we cannot wait for states to raise their hands and say, "I am glad to naturalize you because I recognize my obligation." International institutions have to be set up so as to force each to do their part and thereby deliver truly secure and fairly distributed human rights protection.

A critic might rejoin: if the duty to naturalize the vulnerable can also be discharged, albeit suboptimally, in our nonideal world, it might give a perverse incentive to states, notably the wealthy ones, which might be tempted to restrict their policies on vulnerable entrant migrants so as not to have to naturalize them, thereby forcing states in the Global South, where most refugees of the world are already located, to host an increased number of individuals.<sup>63</sup>

This risk is real, but three remarks mitigate it. First, by restricting their policies on the vulnerable, states would violate the current norms of international human rights law that require that they admit individuals whose human rights are in peril such as stateless people and refugees. These violations, however, could expose states to costs such as economic sanctions and public criticism, which in turn should, at least in theory, act as disincentives. True, this is not the norm, and in fact such violations occur frequently, often with impunity. Still, these counterincentives ought to be factored in as their effects are not entirely negligible. Second, states, wealthy ones included, do not have to naturalize *all* vulnerable persons who are admitted, for, as argued above, admission and naturalization are not intertwined. And wealthy states especially have the power to raise at the international level the question whether they have to naturalize them or whether this rather falls on other states. Finally, even if this risk were as high as the objection assumes, it would not give us decisive reasons for not requiring states to do what political morality requires. Otherwise, we would remain hostage to the status quo. What this risk should do, then, is to prompt us to introduce some measures to minimize it. One example is the better enforcement of the norms of international human rights law mentioned above.

Another critic might point out that citizenship is not all that matters to individuals, and that they may care more about other valuable things, such as their life plans and social ties. Yet the former might clash with the latter, and so the duty to naturalize the vulnerable might not show enough respect for the agency of the vulnerable. Consider the following. Turkey hosts a community

63 They would not have to naturalize them too, for this would exceed their already strained capacities.

of Syrian refugees, and, let us stipulate, it protects their human rights securely. Individuals have many options to realize their life plans there, and they are, on the whole, happy about this condition. However, Turkey cannot naturalize all of them: this community is too large, and naturalizing all its members would be too costly and create serious political instability. Germany and France could help, though. Hence, on the republican view, many of them should be moved to these countries. But this would break apart a community that its members value, and it would disregard their agency and life plans—and so it would dominate them, given that nondomination is about deciding one's life on one's own terms.

My reply is that disrupting individuals' life plans and breaking their social ties would indeed be a serious loss. Yet that is a bullet that republicans have to bite. At stake, there is the most fundamental human right, i.e., the one that allows individuals to enjoy any (human) rights as rights. Individuals have therefore to enjoy it securely. Moreover, one of the most distinctive features of human rights is that their corresponding duties cannot be violated or left unfulfilled even in the presence of competing values. Furthermore, the current world sadly illustrates that domestic and international scenarios can change very quickly and put human rights at risk—what if Turkey starts neglecting Syrian refugees' human rights? Only a citizenship status that is good enough can robustly protect individuals and their basic entitlements from this possibility. Finally, Germany and France would provide individuals with a citizenship status worthy of the name. Those individuals would then have robust opportunities to establish new social ties in Germany and France and to maintain connections with the members of their community who live elsewhere.

A final objection is that the duty to naturalize the vulnerable would impinge on state self-determination—namely, the ability to govern oneself on one's own terms without others' interference. In effect, as Michael Walzer and others argue, the power to concede or deny membership is at the core of state self-determination.<sup>64</sup> Yet this would be problematic from a republican perspective, for it might impinge on basic nondomination itself, which is, recall, the ability to set up a republic in the first place, according to one's will rather than the will of another.

Three remarks counter this worry. First, states are not deprived altogether of the power to naturalize. They remain free to decide whether or not to naturalize most ordinary migrants and to do so according to their own rules—even faulty rules.<sup>65</sup> It is just the naturalization of vulnerable persons that is an international

64 See Walzer, *Spheres of Justice*, 31, 39; and Wellman, "Immigration and Freedom of Association."

65 Faulty rules might endanger domination though. See Benton, "The Problem of Denizenship." Yet they do not violate *basic* nondomination or human rights, for ordinary migrants already possess a citizenship status.

question. Second, self-determination is not the freedom to do whatever one wants; it is the freedom to do whatever one wants within the constraints set by human rights. Were it not so, it would be just a powerful way to dominate individuals. The duty to naturalize the vulnerable is just one of those constraints. Third, the international setting I envisage must be a nondominating one. Thus, as noted, states should retain democratic control over it. And republican freedom is compatible with extensive interferences if democratically controlled.

## 5. CONCLUSION

Who should address Shamima Begum's claim not to be a stateless person? International human rights law and the literature on human rights offer little guidance: the former leaves states entirely free regarding whether and whom to naturalize, while the latter holds that states are primarily responsible for protecting their citizens' human rights, but Shamima has no citizenship. In this article, I have answered this question by providing a novel republican account of the human right to legal citizenship.

I have first argued that such entitlement is the most fundamental on the republican view, as it is necessary to enjoy a minimum of republican freedom—basic nondomination—and all other human rights as rights proper. That is why the human right to legal citizenship turns out to be the “right to have rights.” I have further argued that this entitlement grounds a duty to naturalize all individuals like Shamima as soon as possible, and this duty falls primarily on the entire international community and only derivatively on single states. I have then shown that those owed citizenship as a matter of human rights are not only the formally stateless but also, surprisingly, refugees, some displaced persons, and, arguably, some long-term migrants too. The human right to legal citizenship has thus both an international dimension and demanding implications that have not been fully appreciated in the literature. Along the way, I have also outlined how the state system should be transformed to realize this human right.

The article makes three contributions. First, it improves the literature on human rights by showing that the standard view of states as primary duty bearers and international institutions as only secondary duty bearers needs improvement, for some duties correlated with human rights are primarily international. Second, it advances the debate in migration scholarship on the duty to naturalize formally and *de facto* stateless persons by clarifying this duty's nature, grounds, scope, international dimension, and implications. It finally enriches the republican literature on stateless persons and refugees by spelling out how the human right to citizenship is grounded in nondomination and again, by

underscoring that the obligation it generates is a human right obligation with a broad scope.<sup>66</sup>

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