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The Hidden Child: Analyzing the Cyclical Nature of Statelessness and Violations of Reproductive Autonomy

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THE HIDDEN CHILD: ANALYZING THE CYCLICAL NATURE OF STATELESSNESS AND VIOLATIONS OF REPRODUCTIVE AUTONOMY

By Simone Lieban Levine* & Kelsey J. Peden⁺

Statelessness is a reproductive justice issue. When states explicitly or implicitly regulate or restrict reproduction, it results in children being born into statelessness. When there is a risk that a child will be born into statelessness, it both impacts the parents' ability to parent with dignity and can have a chilling effect on the parents' decision to have a child in the first place. In this way, statelessness results both in and from violations of reproductive autonomy. To combat statelessness, the international human rights community must use a reproductive justice lens to examine the ways that policies related to regulating nationality result in reproductive oppression. And, to combat reproductive oppression, the international human rights legal community must reckon with the national and international policies (and lack thereof) that cause statelessness. This paper aims to begin this process by examining statelessness through a reproductive justice framework, in particular the ways that national laws related to reproductive decision-making (including child limitation, surrogacy, and marriage regulations) result in statelessness and create reproductive oppression.

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INTRODUCTION

“We all need somewhere to belong, for those of us born belonging, it can be incredibly hard to comprehend what it is like to live, not having somewhere to call home.”¹

Being born a second child comes with its consequence: hand-me-downs, lack of parental attention, a constant feeling of being in your siblings’ shadows. However, for some, they must also live in the shadow of the state, existing without recognition or citizenship as if they were never born. This is the case for Li Xue, a 22-year-old second daughter born under China’s one child policy. Her parents, unable to pay the fines imposed by the state, could not register Li Xue’s birth.² For her entire life, she has been denied to right to education, healthcare, the ability to travel, and, in many cases, safe and meaningful employment. Like her DNA, this status will eventually be passed on to her own children – continuing the cycle of statelessness long past her own undocumented death.

Li Xue’s story is not unique, nor is it uncommon. Across the world, statelessness continues to grow as nations fail to protect the most vulnerable among us. By regulating the circumstances under which individuals can have children and raise them, states engage in a form of reproductive coercion and oppression that forces families between a rock and a variety of hard places. Does a family under China’s one child policy abort subsequent pregnancies, pay fines to the government, or hide their subsequent children? Do parents prohibited from bringing their child born in the Ukraine via surrogate back into their home country of France attempt to bring their child illegally across the border, attempt to emigrate to a country more accepting of the surrogacy arrangement, or leave their child behind in the Ukraine? Does a couple whose inter-faith marriage is not recognized by their government in Tunisia have children who will not be given citizenship, attempt to avoid becoming pregnant for the

¹ Ben Doherty, ‘*Somewhere to Call Home*’: *Helping Stateless Children Realize Their Right to Australian Citizenship* (Mar. 24, 2021) <https://www.theguardian.com/australia-news/2021/mar/25/somewhere-to-call-home-helping-stateless-children-realise-their-right-to-australian-citizenship>.

² Chris Buckley, *In One-Child China, Second Children Often Live in Limbo*, N. Y. TIMES (Oct. 31, 2015), <https://www.nytimes.com/2015/11/01/world/asia/in-one-child-china-second-children-often-live-in-limbo.html>.

entirety of their reproductive lives, or attempt to emigrate to a nation that allows inter-faith marriages? These forms of reproductive oppression cause statelessness, which in turn is a form of reproductive oppression through its chilling effect on the reproductive decision-making of individuals who would otherwise decide to have children.

The goal of this article is to provide a first glimpse into this intersection of reproductive justice and statelessness. Section I of this article defines statelessness and its consequences, while Section II frames the issue of statelessness within the realm of reproductive rights and justice. In Section III, this article then examines the policies related to reproductive decision-making that can result in statelessness, and the ways these laws and the resulting statelessness violate the rights to have a child and to parent with dignity. Ultimately, this article theorizes that these rights are inseparable, and efforts to prevent statelessness in line with international goals must include an analysis of reproductive autonomy and family planning. This article ends with recommendations directed at the international community, and a call for further aggregated research into statelessness as a reproductive justice issue.

DEFINING STATELESSNESS

A stateless person is defined as an individual “not considered as a national of any State under the operation of its law.”³ Statelessness can occur in two forms: *de jure*, when no government recognizes the citizenship of an individual, or *de facto*, when a person is effectively stateless even if they have a claim to citizenship under the laws of a nation.⁴ Since stateless individuals do not hold citizenship or nationality rights of any state, they cannot benefit from the rights conferred by a state to its citizens. This extends beyond the scope of simply having a passport; stateless individuals often are denied access to critical institutions, including healthcare, vaccination regimes, formal employment,

³ UN Secretary-General (UNSG), Guidance Note of the Secretary General: The United Nations and Statelessness, November 2018, <https://www.refworld.org/docid/5c580e507.html>.

⁴ *Statelessness*, U.S. DEPARTMENT OF STATE BUREAU OF POPULATION, REFUGEES, AND MIGRATION, <https://www.state.gov/other-policy-issues/statelessness/> (last visited March 25, 2020).

and educational services.⁵ Moreover, stateless status increases vulnerabilities for already at-risk populations, including women, children, migrants and displaced peoples, members of the LGBTQ+ community, and those from lower socioeconomic classes. Without a nationality, members of these groups face higher risks of violence, human trafficking, child marriage, arbitrary detention, discriminatory treatment, and persistent exploitation.⁶ Currently, an estimated ten million people are stateless worldwide,⁷ with some researchers suggesting an accurate count would be drastically higher.⁸

International efforts focus primarily on preventing statelessness, noting that “[o]nce statelessness occurs it is generally more difficult to resolve and raises additional protection needs.”⁹ The existence of stateless individuals is, in itself, a violation of international human rights norms. The Universal Declaration of Human Rights affirms that “no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.”¹⁰ The seminal document on statelessness, the Convention Relating to the Status of Stateless Persons, outlines the rights of stateless peoples, and builds upon the notion that stateless prevention is an international priority.¹¹ Other international conventions condemning statelessness include the Convention on the Reduction of Statelessness, the International Covenant on Civil and Political Rights (Art. 24), the Convention on the Rights of the Child (Art. 7), and the Convention on the Rights of Persons with Disabilities (Art 18).

⁵ *Protecting the Rights of Stateless Persons*, UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES 2 (Jan. 2014), <https://www.refworld.org/pdfid/4cad88292.pdf>.

⁶ *Ibid*; UN Secretary-General (UNSG), Guidance Note of the Secretary General: The United Nations and Statelessness, November 2018, 12, <https://www.refworld.org/docid/5c580e507.html>.

⁷ UNHCR, *What is Statelessness?*, iBELONG CAMPAIGN, <https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR-Statelessness-2pager-ENG.pdf>.

⁸ UNHCR Australia, Mapping Statelessness in Australia, 3.15 (Jan. 2017), <https://www.refworld.org/pdfid/58b6e5b14.pdf>.

⁹ UN Secretary-General (UNSG), Guidance Note of the Secretary General: The United Nations and Statelessness, November 2018, 12, available at: <https://www.refworld.org/docid/5c580e507.html>.

¹⁰ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), Art. 15, <https://www.refworld.org/docid/3ae6b3712c.html>.

¹¹ Convention Relating to the Status of Stateless Persons, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960) at Art 1.

According to the United Nations, statelessness can be caused by a variety of factors, including but not limited to discriminatory laws (including racial, religious, ethnic, or gender discrimination), lack of proper documentation such as birth registration, a gap in coverage between the laws of two nations, and situations of displacement.¹² However, while directly limiting the right to a nationality can cause statelessness, non-direct constraints of personal rights can inadvertently increase statelessness as well. This article suggests that national laws that limit an individual's rights to family planning may also indirectly increase statelessness. The next section examines the reproductive justice movement, its history, and its associated rights, before contextualizing the overlap in the following sections.

REPRODUCTIVE JUSTICE: HAVING CHILDREN, NOT HAVING CHILDREN, AND PARENTING WITH DIGNITY

Reproductive justice is a social justice framework that contextualizes the intersections of race, gender, class, and other forms of oppression as they relate to reproductive freedom.¹³ By emphasizing “not only the human right not to have a child, but also the right to have children and to raise them with dignity in safe, healthy, and supportive environments[.]” the group of Black women who coined the term in 1994 moved beyond the terminology and legal strategies of the so-called “right to choose,” which had historically solely centered the experiences and fought for the legal rights of middle class white women seeking abortion care, birth control, and voluntary sterilizations.¹⁴ This shift was vital in order to undertake the needs of women without race and class privilege. In line with international human rights terminology and conceptualizations regarding positive and negative rights, “reproductive rights, . . . can be seen as based on the principle of negative rights (i.e., the right to resist being told by

¹² European Network on Statelessness: World Conference on Statelessness Report 2019: Building a Global Movement (Report, Institute on Statelessness and Inclusion 10 December 2019), https://files.institutesi.org/World_Conference_on_Statelessness_Report_2019.pdf.

¹³ DOROTHY ROBERTS, KILLING THE BLACK BODY xx.

¹⁴ *Idib.* at xix.

authorities what one can and cannot do with one's own body), [while] reproductive justice is based on the principle of positive rights (i.e., the role of authorities is to support one's pursuit of a good quality of life)."¹⁵

To address these rights to have a child, not have a child, and parent with dignity, the reproductive justice framework is inherently linked to social justice organizing and human rights notions of inherent human dignity as methods of acknowledging and addressing reproductive oppression in all its forms, including within political, economic, and social structures. From state-sponsored violence (such as forced hysterectomies of Latin American women in U.S. Immigration and Customs Enforcement, or ICE, detention centers in the United States) to social pressures (such as the societal ostracization and demonization of motherhood without marriage) to environmental hardships (such as air pollutants or lead in drinking water causing miscarriages or infant sickness), there are countless overt and covert, forceful and coercive manifestations of oppression. Through a reproductive justice lens, scholars and activists can begin to, first, understand the way these methods of oppression disparately effect different communities and individuals with particular intersecting identities and, second, work to dismantle them.

Reproductive justice is intrinsically linked to international human rights law and implicates a variety of enumerated and implied civil, political, economic, social, and cultural rights, such as the rights to health, life, equality, non-discrimination, privacy, information, and freedom from torture and cruel and inhumane or degrading treatment.¹⁶ These rights “are enshrined in a constellation of rights expressed in human rights treaties[,]” including in the United Nations’ International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights

¹⁵ Joan C. Chrisler, *Introduction: A Global Approach to Reproductive Justice—Psychosocial and Legal Aspects and Implications*, 20 WM. & MARY J. WOMEN & L. 1, 4 (2013)

<https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1367&context=wmjowl>.

¹⁶ See *Breaking Ground: Treaty Monitoring Bodies on Reproductive Rights*, CENTER FOR REPRODUCTIVE RIGHTS (2020) <https://reproductiverights.org/wp-content/uploads/2020/12/Breaking-Ground-2020.pdf>.

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(ICESCR); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention on the Rights of the Child (CRC); Convention on the Rights of Persons with Disabilities (CRPD); International Convention on the Elimination of All Forms of Racial Discrimination (CERD); and Convention against Torture (CAT).¹⁷ The ICESCR is an excellent example of international human rights obligations with regards to both positive and negative rights that are linked to reproductive justice.

In their General Comment No. 22, the Committee on Economic, Social, and Cultural Rights (the ICESCR’s interpretation and enforcement body) explicitly stated, “[t]he right to sexual and reproductive health is an integral part of the right to health enshrined in article 12 of the International Covenant on Economic, Social and Cultural Rights.”¹⁸ The Committee acknowledged the “numerous legal, procedural, practical and social barriers [to the] access [of] the full range of sexual and reproductive health facilities, services, goods and information” and the way that “[c]ertain individuals and population groups . . . experience multiple and intersecting forms of discrimination that exacerbate exclusion in both law and practice[.]”¹⁹ In addressing states’ obligations, the Committee considered underlying and social determinants and interdependence with other human rights, as well as availability, accessibility, physical accessibility, affordability, information accessibility, acceptability, and quality of health services.

More broadly, however, the ICESCR itself provides for the realization of a variety of reproductive justice values. Article 7 addresses the right to work and prohibits gender discrimination; Article 10 provides protections for families, mothers, and children; Article 11 recognizes the right to

¹⁷ See *ibid.*

¹⁸ United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 22, UN Doc. E/C.12/GC/22 (May 2, 2016)

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1a0Szab0oXTdImnsJZZVQfQejF41Tob4CvIjeTiAP6sGFQktiae1vlbbOAekmaOwDOWsUe7N8TLm%2BP3HJPzjHySkUoHMavD%2Fpyfcp3YlZg>

¹⁹ CESCR General Comment No. 22.

an adequate standard of living; Article 12 provides for the “highest attainable standard of physical and mental health”; and Article 13 recognizes “the right of everyone to education” and requires states to attempt to achieve full realization of the right, including through free and compulsory primary education.

By addressing economic (e.g. ICESCR), race (e.g. CERD), and sex (e.g. CEDAW) discrimination (as well as discrimination related to disability, sexual orientation, gender identity, and so on) and obliging states to respect, protect, and fulfill positive and negative rights related to dismantling these systems of oppression, the broad network of international human rights laws and norms promotes reproductive justice. Although the “right to not have a child” focus of reproductive rights still dominates many policy discussions and decisions,²⁰ the reproductive justice framework is beginning to gain recognition on the international stage. This paper aims to further acquaint international human rights scholars with reproductive justice methodology by examining the way statelessness violates the rights to have a child and to parent with dignity.

POLICIES IN ACTION

“Mine was the third generation of statelessness in my family. My father didn’t want that for me. If you don’t have a state, you don’t have a home.”²¹

The right to a nationality is life changing; access to healthcare, housing, education, legally recognized employment, and sometimes the very guarantee of safety for an individual and their family exists due to citizenship status. Yet, in practice, statelessness continues to exist worldwide. This section examines the practical, but often overlooked, overlap between constraints on autonomy and

²⁰ This focus is not always positive, and many anti-choice governments take opportunities on the international stage to grandstand against the right to abortion in international law. *See, i.e.* Geneva Consensus Declaration, <https://www.hhs.gov/sites/default/files/geneva-consensus-declaration-english.pdf>. The right to not have a child is an uncompromisable right to ensure equality on the basis of sex, particularly in societies like the United States where there is no paid maternity leave and where sex discrimination runs rampant.

²¹ Ben Doherty, ‘Somewhere to Call Home’: *Helping Stateless Children Realize Their Right to Australian Citizenship*, THE GUARDIAN (Mar. 24, 2021) <https://www.theguardian.com/australia-news/2021/mar/25/somewhere-to-call-home-helping-stateless-children-realise-their-right-to-australian-citizenship>.

statelessness. These include child limitation policies, surrogacy restrictions, and marriage recognition rights. Ultimately, these sections highlight how denial of reproductive autonomy can create and encourage statelessness, continuing the denial of citizenship status indefinitely.

Child Limitation Policies

Child limitation policies are not new. Since the 1960s, international concerns around ‘overpopulation’ have triggered national action limiting reproductive rights in the name of community constraint.²² This Malthusian approach to ‘overcrowding,’ bolstered by novels like Ehrlich’s *The Population Bomb*, predicted that, without population controls, nations would eventually run out of resources to support humankind, leading to mass famine, disease, and war. Public governance theory supported birth regulation as the path forward, focusing on the global south as the source of resource drain. While commenting on the lack of validity of the overcrowding narrative is beyond the scope of this paper, this idea still inspired widespread national limitation policies, using positive and negative reinforcement mechanisms as leverage to reduce population size. Yet these very mechanisms created a motivation for, and a need to be, stateless that is visible still today. This section examines the overlap between the rights to have a child and parent with dignity, the limitation of those rights in both China and India, and the de facto statelessness caused when parents must choose between government policy and their child’s nationality.

²² Discussing the validity of the “overpopulation” concept is beyond the scope of this paper. However, it is important to recognize that prior dialog around overpopulation has supported the resource hoarding of global north nations, while condemning population growth in the global south. In recent years, overpopulation has been tied in with notions of colonialism, and the priorities of dominating capitalist nations. Moreover, even within nations, concerns of ‘overpopulation’ can and have been based in eugenics; China, for example, has been accused of encouraging control only among certain ethnic groups. British Hong Kong has a more direct tie, as their Family Planning Association changed its name in 1950 from the Eugenics League. For more on the overpopulation debate see The Opinion Pages, *Is Overcrowding a Legitimate Threat?*, N.Y. TIMES, <https://www.nytimes.com/roomfordebate/2015/06/08/is-overpopulation-a-legitimate-threat-to-humanity-and-the-planet/overconsumption-is-a-grave-threat-to-humanity> (last visited Jan. 10, 2021); for more on the eugenics associations with overpopulation see Chelsea Follett, *Neo-Malthusianism and Coercive Population Control in China and India: Overpopulation Concerns Often Result in Coercion*, CATO INSTITUTE (July 21, 2020), <https://www.cato.org/policy-analysis/neo-malthusianism-coercive-population-control-china-india-overpopulation-concerns>.

Case Study: China

“For 22 years, Li Xue has lived as a phantom, banished from mainstream life by China’s ‘one child’ policy. And even now that the Communist Party has declared an end to that policy, she said, there appears to be no quick end to the limbo of many children born, like her, ‘outside the plan.’”²³

The most well-known child limitation law is the Chinese “One Child Policy,” first implemented in 1979. Based in concerns about population growth on the backs of the 1959- 1961 famine, and the rapid population growth under the leadership of Chairman Mao Zedong, the Communist party put in place a marriage law requiring couples to “practice family planning” and placed “a de facto limit of one child for each family.”²⁴ The goal was to keep the nation’s total population to below 1.2 billion over the span of the following 30 years, with the slogan “late, long, and few” guiding the way to encourage families to delay marriage, wait longer periods of time between having children, and having fewer children.²⁵ The one child policy has been criticized heavily in international human rights for its effects on gender discrimination, selected sex abortions, and increased female infanticide,²⁶ as well as the socio economic loopholes that benefited wealthy families’ reproductive autonomy.²⁷ Less discussed, however, is the interplay between these family planning laws and statelessness within the nation.

²³ Chris Buckley, *In One-Child China, Second Children Often Live in Limbo*, N. Y. TIMES (Oct. 31, 2015), <https://www.nytimes.com/2015/11/01/world/asia/in-one-child-china-second-children-often-live-in-limbo.html>.

²⁴ Associated Press, *China’s one-child policy - timeline*, THE GUARDIAN (Oct. 29, 2015), <https://www.theguardian.com/world/2013/nov/15/china-one-child-family-policy-timeline#:~:text=1970%20China's%20population%20exceeds%20800,no%20more%20than%20one%20child..>

²⁵ Yuting Jia, *The Impacts of Ending China’s One-Child Policy*, CORNELL POL’Y R., <http://www.cornellpolicyreview.com/the-impacts-of-ending-chinas-one-child-policy/?pdf=2390>.

²⁶ This is in part accredited to the cultural prioritization of male children, which meant that daughters were undesirable as a first and only child. In addition to government regulation, cultural devaluation of women played a role in the disparate impact on women. For more on this, see Wei Xing Zhu et al., *China’s excess males, sex selective abortion, and one child policy: analysis of data from 2005 national intercensus survey*, BMJ (Apr. 09, 2009), <https://www.bmj.com/content/338/bmj.b1211.full>; Erwin Bulte et al., *China’s One-Child Policy and ‘the Mystery of Missing Women’: Ethnic Minorities and Male-Biased Sex Ratios*, OXFORD BULLETIN OF ECON. AND STAT. (Aug. 17, 2010), <https://doi.org/10.1111/j.1468-0084.2010.00601.x>.

²⁷ Jia, *supra* note 25.

China's one child policy was supported through a complex system of rewards, penalties, and exceptions to induce compliance. The National Population and Family Planning Commission controlled when and where the policy applied, with large variations across times and locations in China. Local-level family planning committees dealt with enforcement and exceptions, including the exception for families where both parents were single children, in high-risk jobs, or where the first-born child was female.²⁸ The rule, however, was clear: families without a government exception were limited to one child per household. Those who complied were benefited with state sanctioned rewards, receiving a "one child certificate" which provided parents with higher wages, retirement funds, and prioritization in housing, healthcare, and school enrollment. For those who did not comply, strict penalties were imposed. The most common penalty included substantive fines for subsequent children – ranging from “\$370 to \$12,800,” an amount many times the average annual income of many Chinese.” Those unable to pay the fine reported having their land confiscated, homes destroyed, or children taken away.²⁹ Those with government jobs reported job loss. For women, however, punishments could extend to physical violations of their reproductive autonomy, with local governments undertaking forced abortions and forced sterilization for those without second child ‘birth permits.’³⁰ As one woman testified in front of the U.S. House of Representatives, “when discovered, pregnant women would be dragged to undergo forced abortions. There was simply no other choice. We had no dignity as potential child-bearers.”³¹

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ Mei Fung, *Sterilization abortion, fines: How China Brutally enforced its 1- child policy*, N. Y. Post (Jan 3, 2016), <https://nypost.com/2016/01/03/how-chinas-pregnancy-police-brutally-enforced-the-one-child-policy/>; MEI FUNG, ONE CHILD: THE STORY OF CHINA'S MOST RADICAL EXPERIMENT (2016); U.S. CONGRESSIONAL HEARING, HOUSE 112 COMMITTEE ON FOREIGN AFFAIRS (Sept. 22, 2011), <https://www.govinfo.gov/content/pkg/CHRG-112hrg68446/html/CHRG-112hrg68446.htm>.

³¹ U.S. CONGRESSIONAL HEARING, HOUSE 112 COMMITTEE ON FOREIGN AFFAIRS (Sept. 22, 2011), <https://www.govinfo.gov/content/pkg/CHRG-112hrg68446/html/CHRG-112hrg68446.htm>.

In 2015, China revoked the one-child policy, implementing a two-child policy instead. However, the one child policy, and subsequent two child policy, directly interferes with the right to have a child (by coercing, threatening, and physically preventing individuals from having another child) and to parent with dignity (by preventing parents from openly and safely raising their subsequent children). The effects of this law – while not directly denying groups the right to a nationality – increased the number of stateless children in China by forcing parents to keep their children hidden. Often, parents of second children unable to afford the fines establish an “illicit household,” thereby keeping their child secret from their own government.³² Failing to comply with the policy, and the strict and inhumane consequences of having a second child, has driven families underground. The 2010 census in China recorded at least 13 million children who lacked *hukou* – birth registration documents – critical to proving nationality.³³ Effectively stateless out of fear of the consequences of registration, these children are denied education, medical care, and access to safe legally recognized work, and are put at higher risks of exploitation commonly seen within the stateless community. The second and third children of Chinese families are *de facto* stateless, left with the choice between harsh punishment or lack of government recognition of their existence, stemming from the denial of their parents’ reproductive autonomy.

Case Study: India

“With 1, 2 or 3 kids, you will have a happy house. Fewer kids means more food for each. Greater the number, more the hunger.” - Translation of posters extolling family planning in India during “The Emergency.”³⁴

³² Chris Buckley, *In One-Child China, Second Children Often Live in Limbo*, N. Y. Times (Oct. 31, 2015), <https://www.nytimes.com/2015/11/01/world/asia/in-one-child-china-second-children-often-live-in-limbo.html>.

³³ *Ibid.*

³⁴ Ashwaq Masoodi, *When Sterilization Wasn't a Matter of Choice*, LIVE MINT (June 22, 2015 at 2:56 AM) <https://www.livemint.com/Politics/VPJHHyhQm3t8Rd1YcOfeRO/When-sterilization-wasnt-a-matter-of-choice.html>.

In the same decade the Communist Party in China was limiting birth numbers, India entered into a 21-month period known as “The Emergency” which included a mandatory sterilization program designed to curb population growth.³⁵ The campaign made sterilization mandatory for all fathers who had already produced two or more children. As individuals resisted, and quotas were not met, widespread reports of violence and death from these forced sterilizations garnered media attention. While “The Emergency,” and the associated forced sterilization program, ended in 1977, India’s focus on population control through restricting the right to have a child remains a pillar of society today. The largest example of this can be seen in the increase of states in India adopting a “two-child norm” (2CN) policy, starting in 1990.

India’s two-child norm is less forceful than the Chinese one-child policy but can still result in statelessness. At one point, twelve states in India have implemented some form of child limitation policy: Assam, Bihar, Himachal Pradesh, Madhya Pradesh, Rajasthan, Haryana, Andhra Pradesh, Odisha, Chhattisgarh, Gujarat, Maharashtra, and Uttarakhand, with four of these states later revoking the policy.³⁶ These policies are two-fold in approach: rewarding households with desirable reproductive outcomes through welfare schemes, and punishing parents of more than two children by denying them access to state jobs and benefits. Conditional cash transfers are the main source of rewards, with nation-wide distribution of funds for mothers who give birth at a hospital (1,400 Rupees) or at home (500 Rupees) – only for the first two children.³⁷ In 2005, Maharashtra, which is

³⁵ Prajakta R. Gupte, *India: “The Emergency” and the Politics of Mass Sterilization*, 22 DEMOGRAPHICS, SOCIAL POLICY, & ASIA 1 (2017).

³⁶ *Assam becomes 12th state to implement 2-child policy for govt employees* (Sept. 19, 2017), <https://www.moneycontrol.com/news/india/assam-becomes-12th-state-to-implement-2-child-policy-for-govt-employees-2391351.html>.

³⁷ *Warding off Danger: Money with Strings Attached*, THE ECONOMIST (Nov. 10, 2012), <https://www-economist-com.libproxy.berkeley.edu/asia/2012/11/10/warding-off-danger>.

known for both the city of Mumbai and the state's sugarcane production, implemented a law limiting farm irrigation subsidies to farmers with two or less children.³⁸

The punishment side of the equation is perhaps a more overt form of reproductive oppression. A few states, such as Assam, have implemented laws effectively banning parents of more than two children from holding government jobs. Under Assam's policy, "anyone who has more than two children cannot be elected or nominated to Panchayat and other local bodies' elections or government jobs."³⁹ Similar to issues identified under the Chinese one-child policy, the financial strains implemented by India's two child norm may encourage parents, especially those who seek financial assistance or government jobs, to not register or recognize third, fourth, or subsequent children. The conversation around these laws is more recent, and data on the laws' effects are therefore limited. However, regulation of reproductive autonomy in this capacity, through financial encouragement or restrictions, creates a potential path to statelessness especially among poor and rural populations who are unable to bear the burden of the financial consequences associated with subsequent childbirth.

Surrogacy

"We guarantee that the legal department of our center will prepare all essential documents for your baby in the proper manner prescribed by our active laws, as we normally do for our clients from France. We guarantee that you will be able to take your child home without any legal problems." -Claim from a Ukrainian reproductive clinic despite the fact that France has outlawed surrogacy and bars children born in surrogacy arrangements from being brought into the country.⁴⁰

A child born as the result of sexual reproduction between members of a married, cisgender, heterosexual couple generally will not have concerns about their legal parentage. There is essentially a

³⁸ *Ibid.*

³⁹ Assam becomes 12th state to implement 2-child policy for govt employees (Sept. 19, 2017), <https://www.moneycontrol.com/news/india/assam-becomes-12th-state-to-implement-2-child-policy-for-govt-employees-2391351.html>.

⁴⁰ Kateryna Grushenko, *French Couple's Desire for Child Brings Trouble*, KYIV POST (Apr. 15, 2011) <https://www.kyivpost.com/article/content/ukraine-politics/french-couples-desire-for-child-brings-trouble-102433.html>.

universal assumption that a child born under such circumstances is the couple's child both biologically and legally. However, for a child born outside of the context of a nuclear family (for example a pregnancy that is the result of non-marital sex, artificial insemination, surrogacy, polyamory, or other non-traditional methods of reproduction), establishing legal parentage requires extra steps. Most relevant to this paper are surrogacy arrangements in which there are multiple candidates for legal parents, including any combination of a sperm provider (sometimes referred to as a "genetic parent"), egg provider (also sometimes referred to as a "genetic parent"), gestational carrier, and any individuals who intend to raise the child (sometimes referred to as an "intended parent"). In the last few decades, international regulation of intercountry adoptions has tightened, and the number of intercountry adoptions has drastically fallen, while instances of international surrogacy have rapidly increased.⁴¹ This increase in international surrogacy arrangements has led to a vital question: which of the above individuals are legally considered "the parent" in such a situation? And, further, what happens when the laws of the countries where the contract, conception, gestation, birth, and/or intended location of raising the child take place are at odds with each other? The lack of international consensus is particularly unclear with regard to inherited legal statuses, such as nationality.

Although there is no international policy or consensus for inherited citizenship in surrogacy arrangements, several international human rights and obligations are implicated.⁴² For example, Art. 1 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography prohibits the sale of children, defined in Art. 2(a) as "any act of

⁴¹ Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, Report for the 37th Session (15 Jan. 2018), UN Doc. A/HRC/37/60 ¶ 13, <https://undocs.org/A/HRC/37/60>.

⁴² "There are significant differences between adoption and surrogacy, and not all rules applicable to adoption apply to surrogacy. Nonetheless, certain human rights principles are applicable to both, including the prohibition of the sale of children, the best interests of the child as a paramount consideration, the lack of a right to a child, strict regulations and limitations regarding financial transactions, rights to identity and access to origins, and protections against exploitation." Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, Report for the 37th Session (15 Jan. 2018), UN Doc. A/HRC/37/60 ¶ 28, <https://undocs.org/A/HRC/37/60>.

transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.”⁴³ This prohibition could implicate any financial remuneration for gestational surrogacy. Due to the risks in the surrogacy context of both reproductive coercion of the gestational carrier and the sale and/or trafficking of the child, some countries prohibit commercial surrogacy to prevent the sale of children and to attempt to protect individuals who have the capacity to become pregnant.⁴⁴ The Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material wrote a report in 2018 for the Human Rights Council that noted “the international regulatory vacuum that persists in relation to international commercial surrogacy arrangements leaves children born through this method vulnerable to breaches of their rights, and the practice often amounts to the sale of children.”⁴⁵ Along with finding a spectrum of national surrogacy regulations ranging from prohibitionist to permissive laws, the Special Rapporteur acknowledged that surrogacy comes in many forms that can be distinguished and regulated based on these varying conditions: “international and national surrogacy, traditional and gestational surrogacy, and commercial and altruistic surrogacy.”⁴⁶

In the United States, the State Department has declared that a child must have a biological connection (through sperm, egg, or gestational parentage) to a U.S. citizen parent in order to be considered a citizen at birth.⁴⁷ Even if local laws in the country where the conception, gestation, and/or birth occurs recognize surrogacy agreements and consider the U.S. citizens to be the legal parents of

⁴³ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, UN Doc. A/RES/54/263 Art. 1, 2(a), <https://www.ohchr.org/en/professionalinterest/pages/opscrcr.aspx>.

⁴⁴ United Nations Human Rights Office of the High Commissioner, Surrogacy <https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx> (last visited 9 Apr. 2021).

⁴⁵ Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, Report for the 37th Session (15 Jan. 2018), UN Doc. A/HRC/37/60 ¶ 8, <https://undocs.org/A/HRC/37/60>.

⁴⁶ *Idib.* at ¶ 15, 11.

⁴⁷ Bureau of Consular Affairs, Assisted Reproductive Technology (ART) and Surrogacy Abroad, U.S. Dep’t of State <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/us-citizenship/Assisted-Reproductive-Technology-ART-Surrogacy-Abroad.html> (last visited 9 Apr. 2021).

the child, the child will not be a U.S. citizen without this biological connection or limited exceptions.⁴⁸ This potential misalignment between the countries’ policies on inherited nationality creates a distinct possibility that children will be born into statelessness. Lack of United States citizenship for the child also creates difficulties with regard to bringing said child into the country when they are born abroad. Conversely, individual states within the United States have begun to recognize intended parents without biological ties to the child as the legal parents in surrogacy (gestational) arrangements.⁴⁹ While this acknowledgement of legal parentage does not result in United States citizenship (for which it is the responsibility of the federal government to develop policies), it indicates a shifting and inconsistent standard with regard to this area of law and public life.

Regulation of international surrogacy arrangements requires multiple levels of consideration. Without an international consensus regarding the inherited nationality of children born out of surrogacy arrangements, international surrogacies will continue to create a risk of children born into statelessness. Additionally, the failure to monitor and regulate against exploitative gestational surrogacies indicates states’ failure to protect against horrific violations of coerced or forced surrogates’ reproductive autonomy, particularly surrogates who live their lives at the intersection of economic, racial, and gendered oppression and are not given meaningful choices with regard to accepting or declining terms of the contract. At the same time, however, prohibiting all forms of surrogacy can be seen as a violation of reproductive justice values related to the intended parents’ right to have a child and ability to fulfill that right through a safe and consensual reproductive method (particularly for intended parents who are unable to reproduce through traditional means, such as

⁴⁸ *Ibid.*

⁴⁹ Ark. Code Ann. § 9-10-201 (providing for legal parentage under circumstances of artificial insemination and surrogacy); Nev. Rev. Stat. Ann. § 126.590 (defining “Intended parent” as “a person, married or unmarried, who manifests the intent . . . to be legally bound as the parent of a child resulting from assisted reproduction.”); Va. Code Ann. § 20-158 (establishing under which circumstances the gestational, genetic, and intended parents are the legal parent of the child); Tex. Code Ann. § 160.754 (providing requirements for written gestational agreements, including that intended parents must be married to each other); *see generally* Uniform Law Commission, Uniform Parentage Act (2017) <https://www.uniformlaws.org/committees/community-home?CommunityKey=c4f37d2d-4d20-4be0-8256-22dd73af068f>.

Reid Hall | 4 Rue de Chevreuse | 75006 Paris | France Tel: +33(0)1 47 20 00 94 – Fax: +33 (0)1 47 20 81 89 Website: <https://scholarworks.arcadia.edu/agsjournal/> (Please cite this paper as the following: Simone Lieban Levine & Kelsey J. Peden (2021). The Hidden Child: Analyzing the Cyclical Nature of Statelessness and Violations of Reproductive Autonomy. *The Journal of International Relations, Peace and Development Studies*. Volume 6. Issue 2

couples experiencing biological infertility, LGBTQ couples, and single parents). As the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material wrote:

States that prohibit all surrogacies, or commercial surrogacies, often face a situation where their nationals evade their laws by conducting a surrogacy abroad and then seek to bring the child home. Cross-border surrogacies are mostly commercial surrogacies mediated by for-profit intermediaries, and are usually conducted in jurisdictions that permit commercial surrogacy. The State of the intending parents should not assume that such surrogacies are altruistic. Given the risk of sale of children in both regulated and unregulated commercial surrogacies, States generally should not automatically recognize parentage orders or birth records from foreign States in respect of commercial surrogacies, but should review carefully the proceedings abroad. The State of the intending parents is responsible for conducting post-birth best interests determinations, protecting the child's identity rights and access to origins, and making independent assessments as to parentage, and also for inquiring into the treatment and post-birth consent of the surrogate mother. The State of the intending parents should only grant parentage and parental responsibility to intending parents after such evaluations, based on the best interests of the child. The child must not be punished or discriminated against due to the circumstances of his or her birth, and the rights of surrogate born children must be protected. The States concerned, namely the State(s) of the intending parents and the State in which the child is born, are responsible for ensuring that statelessness does not occur.⁵⁰

Along with concerns about exploitative and illegal practices related to the surrogacy itself, the international human rights community must invoke harm reduction models to ensure that children born from surrogacy arrangements are not stateless and are given full realization of their own rights. Even when children are born from exploitative gestational surrogacy arrangements or forced or coerced genetic matter “donations,” those children must not be left stateless out of a misguided attempt to punish their intended parents or the countries that allowed for the exploitation to occur.

Marriage Regulations

⁵⁰ Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, Report for the 37th Session (15 Jan. 2018), UN Doc. A/HRC/37/60 ¶ 70, <https://undocs.org/A/HRC/37/60>.

“The first day we went to the immigration office to submit the [marriage] application there was a sign on a door saying, ‘The marriage of an Iranian woman and an Afghan man is forbidden.’”⁵¹

Finally, marriage recognition laws that do not match modern family structures create statelessness, deny individuals the right to have a child, and infringe the right to parent with dignity by forming a family of their own choosing. Along with violating the right to parent safely and freely from discrimination or other state-sanctioned harms, marriage regulations can coerce individuals into not having children out of fear for their and/or their child’s well-being, broadly meant to include, *inter alia*, physical safety, economic security, and societal acceptance. Any act a state undertakes to encourage or discourage specific reproductive behaviors must be critically examined through a reproductive justice lens to ensure that said act does not arbitrarily oppress individuals’ reproductive autonomy and ability to freely make decisions related to having and raising a child.

Yet, in many countries, citizenship is denied to children of inter-faith or inter-ethnicity parents, or LGBTQ+ households. Tunisia for example, prior to 2017, denied marriage certificates of interfaith couples until the non-Muslim partner converted to Islam. While governments have moved away from more blatant religious limitations, restrictions around forming a family remain. Data collected on international marriage rights label forty-five different nations as “severely restricted” when it comes to forming a family.⁵² This section examines practical examples of this in both inter-ethnicity and LGBTQ+ laws, building on the connection between statelessness and denial of reproductive rights. Limiting the family structure directly impacts the right to parent with dignity, indirectly/coercively impacts the right to have a child, and in many cases can increase vulnerabilities to statelessness when nations voluntarily let children fall through the cracks.

⁵¹ Miriam Berger, *Breaking with Some Mideast Neighbors, Iran Now Lets Mothers Give Their Citizenship to Their Children*, WASH. POST (Dec. 26, 2020 at 8:00 AM EST) https://www.washingtonpost.com/world/middle_east/iran-women-refugees-rights-citizenship/2020/12/24/0b5f74b0-445d-11eb-ac2a-3ac0f2b8ceeb_story.html.

⁵² Freedom of Marriage World Table, HIDDUSH, <https://marriage.hiddush.org/table>.

One example of this can be seen in India, as its recent Citizenship Amendment Act (CAA) of 2019 has been criticized for creating statelessness through marriage regulations. The act specifies that children born after December 3, 2004 are entitled to Indian citizenship by birth only if “both parents are citizens, or one parent is a citizen and the other is not an illegal migrant.”⁵³ While nationality through parentage is common, prohibiting citizenship of a child because of the identity of one parent is both rare and problematic. Children unable to get Indian citizenship under this CAA rule may become stateless if citizenship from the “illegal migrant” parent is not guaranteed.

This becomes even more convoluted when the targeted population is identified; one aspect of the CAA is the creation of a National Register of Citizens, which compiled a list of Assam’s “citizens” over the last several years, purposefully discriminating against and excluding the states’ Muslim population of Bangladesh dissent. Moreover, the law “bars undocumented Muslims from Pakistan, Bangladesh and Afghanistan from seeking citizenship but allows undocumented Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from these regions to do so.”⁵⁴ Some studies estimate more than a million people were left on the National Register of Citizens – denying both them, and their children, the right to Indian nationality and the right to parent with dignity.⁵⁵

Similar issues with marriage recognition and statelessness can be seen around the world as national recognition of same-sex marriage increases. Currently, twenty-nine nations in the world allow same-sex marriage,⁵⁶ with LGBTQ+ rights expanding every day, yet gaps in nationality coverage prevent many LGBTQ+ couples from passing their nationality on to their children. While

⁵³ Legal Correspondent, *CAA will leave many children stateless: Plea*, THE HINDU (Jan. 03, 2020, 9:25 PM), <https://www.thehindu.com/news/national/caa-will-leave-many-children-stateless-plea/article30472699.ece>; See also India: The Citizenship (Amendment) Act, 2019 [India] (Dec. 12, 2019), <https://www.refworld.org/docid/5e2579274.html>.

⁵⁴ Chaudhary et al., *India Protests Spread as Anger Against Citizenship Law Grows*, BLOOMBERG (Dec. 16, 2019)

⁵⁵ Dixit, Pratik, *The Citizenship Debate in India: Securing Citizenship for the Stateless* (April 4, 2021), <https://ssrn.com/abstract=3819159>

⁵⁶ Argentina, Australia, Austria, Belgium, Brazil, Canada, Colombia, Costa Rica, Denmark, Ecuador, Finland, France, Germany, Iceland, Ireland, Luxembourg, Malta, Mexico, the Netherlands, New Zealand, Norway, Portugal, South Africa, Spain, Sweden, Switzerland, Taiwan, the United Kingdom, the United States of America and Uruguay.

discussing the full overlap of LGBTQ+ rights and nationality laws is beyond the scope of this paper, there are two examples of this type of marriage limitation that directly impacts the right to parent with dignity. First is gender discrimination in nationality laws, second is recognition of marriage rights beyond national borders.

Currently there are twenty-five nations in the world that, in some form, prohibit mothers from passing on their nationality to their children.⁵⁷ This list includes Mauritania, the Bahamas, Bahrain, Barbados, Burundi, Iran, Iraq, Jordan, Kiribati, Liberia, Libya, Malaysia, Nepal, Oman, Saudi Arabia, Sudan, Syria, Togo, United Arab Emirates, Brunei Darussalam, Kuwait, Lebanon, Qatar, Somalia, and eSwatini. These laws create a situation whereby a child can become legally “stateless” if they are unable or unwilling to take their father’s nationality. This form of de jure statelessness – explicitly prohibited by the state for a variety of policy reasons – can have a unique effect on two-female household. Queer mothers who cannot or do not want to address the paternal rights of the child’s biological donor run into potential statelessness for their children. This is especially visible in countries like Nepal, where same-sex marriage is legalized but material nationality rights are limited.

Moreover, same-sex parentage recognized in one nation may not be recognized abroad, creating statelessness in children of LGBTQ+ couples not protected from this gap. This issue has recently been brought to light in Europe in a case regarding “Baby S,” where two LGBTQ+ mothers have been unable to acquire citizenship for their daughter in part due to non-recognition of same-sex marriage across the EU.⁵⁸ In that case, the two mothers were listed as parents on their child’s birth certificate, born in Spain, without specifying biological motherhood for one.⁵⁹ Since neither mother was a Spanish citizen, and Spain does not apply Jus Solis citizenship rights, the child could not acquire

⁵⁷ See Kelsey Peden, *Stateless by Sex: An Evaluation of Sex Discrimination in Nationality Laws and Their Effects on Statelessness*, BERKELEY J. OF INT’L LAW (Forthcoming 2022).

⁵⁸ Court of Justice of the European Union (CJEU) V.M.A. v Stolichna Obsthina, Rayon ‘Pancharevo’ (C-490/20)

⁵⁹ This is a good practice when it comes to LGBTQ+ parentage – recognizing the parental role and relationship of both parents.

Spanish nationality. However, the baby’s inherited nationality rights were also denied. One mother could not provide her British nationality, since current laws prohibit the conveyance of British citizenship for Gibraltarians when they acquired it by descent.⁶⁰ The second mother, a Bulgarian national, appealed for citizenship for Baby S in Bulgaria, which was denied since the couple refused to connect biological parentage to the Bulgarian mother.⁶¹ The Sofia Municipality in Bulgaria ultimately concluded they could not provide citizenship for Baby S, “citing the fact that two mothers cannot have a biological child and that issuing such a birth certificate would be contrary to public order, as Bulgaria does not recognize same-sex marriages concluded abroad.”⁶² The case, brought against the Sofia Municipality in the European Court of Justice, stated that this denial of citizenship, among other things, “violate[s] the right to free movement of a European citizen, violate[s] the right to private and family life and *the right to start a family* on the grounds of sexual orientation, which violates the fundamental principles on which the European Union is built.”⁶³ This indicates progress in recognizing the intersection between restrictions on a child’s nationality and violations of their parents’ reproductive autonomy.

RECOMMENDATIONS

Based on this research, a few recommendations would affirm not only reproductive autonomy but protect the right to a nationality. **First, nations should be encouraged to adopt jus soli nationality rights**, guaranteeing citizenship to children born within their territory, with few exceptions. More than thirty countries currently offer this path to citizenship, notably including the

⁶⁰ *British Nationality Act 1981* [], 1981 Chapter 61, 30 October 1981, <https://www.refworld.org/docid/3ae6b5b08.html>; See also Anjelica Jarrett, *Child of Lesbian Mothers Has Right to Bulgaria Citizenship*, HUMAN RIGHTS WATCH (Feb. 11, 2021, 12:00 AM), <https://www.hrw.org/news/2021/02/11/child-lesbian-mothers-has-right-bulgaria-citizenship>.

⁶¹ Anjelica Jarrett, *supra* note 60.

⁶² *Baby Sara left by Bulgaria at risk of statelessness due to discrimination based on her parents’ sexual orientation*, DEYSTVIE (2021), <https://en.deystvie.org/baby-sara-court-of-justice-eu>.

⁶³ *Ibid* (emphasis added)

United States, Canada, Argentina, and Brazil. This combats statelessness by providing an alternative for parents when inherent statehood is limited. The Baby S. case, for example, discussed in Section III.C, would have prevented childhood statelessness if Spain had provided jus soli rights to the child born within its borders. Encouraging nations to adopt jus soli, or even limited jus soli for when children would otherwise be stateless, is the first major step in statelessness prevention.

Expanding jus soli rights, however, does not completely solve statelessness in isolation.

Second, nations should expand access to free birth registration. This has been labelled by the United Nations as one of the most effective ways to prevent childhood statelessness, as access to documentation recognizing either a jus soli claim to citizenship, or parentage, is crucial for government recognition of the right to a nationality. Free and widespread registration programs should be encouraged in every nation.

Third, any policy which attempts to restrict reproductive autonomy and/or encourages parents to not register their children – such as child limitation policies – must immediately be removed. While nations have the sovereignty to encourage resource restraint in any form they prefer, forced or coercive methods of restricting births are an act of reproductive oppression. Additionally, the reality is that many families will inevitably still have children (by choice or due to lack of physiological control over their reproductive capacities), but children born under these policies are kept hidden. Family limitation policies both violate reproductive autonomy and increase statelessness; these policies must end, and child registration must be encouraged.

While the above recommendations are built around ending childhood statelessness, a path must be created to give stateless adults status as well. Accordingly, **fourth, ex post facto registration must occur**, granting nationality to individuals and families who were not previously registered as a result of these limitation policies. For example, in China, a period of blanket registration for families who

can prove residency would be needed to solve the aftereffects of the one-child policy. While “[s]uch an exception to China’s nationality law would require a massive public relations campaign to inform families of their rights” this would be crucial to not only resolve statelessness in adults but prevent their own future children’s statelessness by granting parental nationality.⁶⁴

With regard to surrogacy, **the fifth recommendation is to engage in a harm reduction approach to regulating both gestational and genetic surrogacy in national and international law** with an emphasis on preserving the reproductive autonomy of the gestational surrogate and the best interests of the child even when they are born under prohibited or less-than-ideal conditions. Instead of creating bright-line rules that risk leaving children stateless, without legal parentage, or without knowledge of their biological parents or birth culture, nations should exercise discretion to ensure that children are not harmed based on the circumstances of their birth. Further, it is vital to create some form of international consensus to ensure that children do not slip through the cracks and become stateless due to mismatched national laws and assumptions.

For children denied nationality by states not recognizing marriage rights, **the recommendations are threefold: encourage the recognition of marriage rights conferred in other nations, end policies banning statehood based on a singular parent’s dissent, and remove gender discrimination in nationality laws.** These recommendations are, by their nature, incredibly difficult to encourage and enforce, since they require recognition of rights beyond the scope of those agreed to in international conventions to end statelessness (such as LGBTQ+ rights, women's rights, and the right to interfaith marriage). However, punishing children for their parents’ marital status or background must end. Nations should be encouraged to move away from discriminatory marriage laws which result in statelessness.

⁶⁴ Alex Jean, Ending China’s One Child Policy Is Only the First of Many Steps to End Statelessness in China, Alex Jean Blog (Jun. 14, 2018), <https://halexander5555.medium.com/ending-chinas-one-child-policy-is-only-the-first-of-many-steps-to-end-statelessness-in-china-990dd17a157d>.

Finally, there is a need for more data on statelessness, specifically aggregated by population. While conversations on statelessness revolve around theoretical overlaps in law and policy, little data currently exist on the actual number of stateless individuals and the causes of their statelessness. International efforts to combat statelessness must gather anonymous, yet aggregated data, taking into account, among other things, sex, gender identity, sexuality, marriage status, religion, and ethnicity of groups denied nationality. Until such data are gathered, conversations around statelessness cannot fully capture every possible cause and cannot offer adequate solutions.