STATELESSNESS IN CANADA:
SOCIO-POLITICAL EXCLUSION AND THE NEGATION OF STATELESS PERSONS’
HUMAN RIGHTS

by

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ABSTRACT

Given their lack of recognised citizenship and their inability to obtain travel and identification documentation, stateless persons are at high risk for both social and political exclusion. Consequentially, stateless people experience human rights violations in the forms of; the inability to move freely, the use of arbitrary detention, and the denial of access to services that grant fundamental rights outlined in the Universal Declaration of Human Rights (1948). Canada does not currently have a stateless determination process for identifying statelessness within its law, an issue that likely reinforces why statelessness is a highly under-researched issue within Canadian academia. This body of work provides an overview of the current state of affairs in Canadian literature, in the form of a literature review. By outlining gaps within Canadian academia, this paper provides recommendations for areas of additional research. Doing so ultimately highlights the importance of ensuring all persons are afforded citizenship rights.

Keywords:
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INTRODUCTION

The United Nations High Commissioner of Refugees (UNHCR) defines a person to be 'stateless' when they are not recognized as a citizen under the operation of any country's law (United Nations High Commission of Refugees [UNHCR], 1954). Simply put, a person is classified as stateless under international law when they do not hold citizenship rights in any nation-state, including their birth country. UNHCR research reports highlight the severity of this issue and estimate that as of 2019, there were approximately 3.9 million documented stateless individuals globally (UNHCR, 2019). However, given the lack of official statistical data collected on statelessness internationally, it is believed that this figure is closer to 15 million (ISI, 2014).

A person's right to citizenship and the enforcement of human rights laws are intrinsically linked. Nation-states are responsible for creating policies and laws that determine who can obtain citizenship, as well as who is permitted to access certain services and rights within society. Having citizenship to a state affords a person with the right to certain services and protections that non-citizens are denied, such as the right to be politically represented and right to vote. Stateless people make up small, dispersed parts of a state's population and are denied political representation as a result of not being afforded the right to vote. This inability to vote means stateless people lack political power, making the protection of their rights appear less important than citizens' rights who can change which political party is in power. The protections that citizens are afforded through their citizenship status help to ensure that their rights are upheld and protected. However, for stateless persons, this lack of citizenship excludes them from such protections, therefore creating a dependence on international human rights laws to step in.
One of the most extensive human rights violations stateless people experience is the denial of their right to a nationality. This lack of a nationality forces stateless persons to live their lives in the shadows due to the fear and uncertainty being stateless creates. The primary source of this fear is often the fear of deportation to unfamiliar and highly dangerous nation-states where they often have no family, no valid status, and very few recognised rights.

Stateless people are at risk of spending extended periods of time in immigration detention centers while officials negotiate the complexities surrounding their deportation. Their inability to obtain a passport, along with their lack of citizenship rights, are root causes of why stateless populations are at such a high risk of encountering human rights violations. Passports are the only form of documentation that allows a person to both travel internationally and access social and financial services within nation-states. Examples of these services include; government-subsidized healthcare, affordable education, and the ability to open a bank account. These are all services that stateless persons can be denied access to as a result of not having access to a passport that validates their identity. Additionally, without any recognized status in Canada, foreign nationals can meet the identification requirements needed to access such services by using foreign passports. For stateless persons however, this inability to obtain a passport remains at the crux of why it is imperative statelessness be recognized as human rights issue first and a legal issue second.

The right to Citizenship is at the heart of societal membership and inclusion, as it allows a person to vote, access subsidized healthcare and gain an affordable education. Given their lack of citizenship, stateless persons experience both a lack of societal membership and human rights protections. This paper therefore seeks to understand and analyze the connection between citizenship and human rights. In doing so, this paper will unpack what it means to be stateless
from both a socio-legal and political standpoint in the Canadian context. This discussion will begin with a focus on the politicization of human rights, emphasizing the way politics shape who can obtain citizenship, and, in turn, who is given political membership to a state. Secondly, an overview will be provided of how the Canadian legal system positions the rights of stateless people within its practice. To do this, a discussion of the relevant international treaties Canada has ratified pertaining to statelessness will be had, in conjunction with an outline of Canada's domestic policies on immigration, Citizenship, and rights. By recognizing that Canada is a sovereign state with the right to create laws, this section will explore whether failing to create a legal framework on statelessness has jeopardized Canada's ability to comply with international obligations to reduce statelessness. It will also explore whether this failure has reduced Canada's ability to enforce and uphold international human rights laws. This paper will then explore how statelessness in Canada is a human rights issue by discussing the implications of statelessness on a person's ability to access goods and services such as healthcare, education, and employment. This section will also provide insight into several different forms of social exclusion that stateless persons experience, including; deportation and detention, lack of affordable healthcare, lack of education, and inability to find employment. Lastly, this paper will conclude with a discussion on how Canada does not provide accessible pathways to legal status for stateless people residing in Canada. It will also outline the additional human rights violations this may result in for people trying to find legitimate pathways out of statelessness in Canada.

Interestingly, despite the concerning implications of statelessness, Canada keeps little official data on its stateless population. The little data that is collected mostly comes from self-report surveys, such as the Canadian census. According to the 2016 Canadian census, 3,790 people residing in Canada self-identified as stateless (Statistics Canada, 2016). Given that the
census relies on self-reporting, the actual figure is likely much higher, especially given the challenges and fear stateless persons may experience when completing official surveys like the census. This leads to a fear of authority and subsequently to fear of deportation, something that in turn may prevent self-identify surveys such as the census from providing an accurate picture when it comes to quantifying Canada's stateless population.

Despite some 3,000+ persons in Canada identifying as stateless, along with Canada's international obligations to protect, Canada does not have a legal stateless determination (SDP) framework. Stateless individuals face unique sets of circumstances that are distinct from the challenges faced by other groups of non-citizens. These challenges specifically affect stateless people's ability to access fundamental human rights, political membership, and their ability to integrate and participate in society. As a result of Canada's lack of SDP’s, this population is often not granted protections that meet their unique needs under Canadian law.

**RESEARCH PROBLEM**

**Research Issue:**

By conducting a scholarly qualitative literature review on existing bodies of work as they pertain to statelessness in Canada, this paper attempts to provide an analysis of the current state of affairs in Canada. This review will highlight critical concerns regarding Canada's lack of SDP’s while discussing how this impacts Canada's ability to uphold its international obligations to protect all persons' human rights. Further, this paper will explore literature that discusses what rights look like for individuals without Citizenship as a tool for examining the connection between citizenship, political, and socio-legal inclusion.
Definitions and Distinctions:

The 1954 United Nations (UN) Convention on the *Status of Stateless Persons* outlines two distinct types of statelessness. The first is *de jure statelessness*, which is when a state's law does not recognize a person as a citizen (UNHCR, 1954). The second being *de facto statelessness*, which defines a person who should be legally entitled to Citizenship but is not recognized as a citizen under the state's law (UNHCR, 1954). *De facto* statelessness occurs when an individual cannot obtain verifiable documents that prove they are a citizen due to things like administrative barriers that make it impossible to access such documents (Brouwer, 2012).

Additionally, *de facto statelessness* can occur due to human trafficking as documentation is often stolen from victims by traffickers (Rijken, VanWaas, Gramatikov, & Brennan, 2015). In contrast, examples of *de jure* statelessness include; state succession where new laws fail to recognize an individual as a citizen, lack of registration at birth, and discrimination against racial or ethnic minorities (Brouwer, 2012). In Canada, stateless people are made up of several different and diverse populations with many different statuses (CSS, 2017). One example of a group that makes up Canada’s stateless population is ‘Lost Canadians'. These are people who see themselves as Canadian citizens, even though they either fell through legislative gaps or failed to apply for citizenship status (CSS, 2017). In addition to ‘Lost Canadians’, stateless people in Canada are made up of; migrants, Canadian born indigenous persons, refugee claimants, protected persons and some permanent residents (CSS, 2017, p. 1)

The UN outlined the rights and obligations of states to protect stateless persons in two main conventions; the 1954 Convention on the *Status of Stateless Persons* and the 1961 Convention on the *Status of Stateless Persons* (UNHCR, 1954; UNHCR 1961). The 1954 convention details what statelessness is, how a person can be rendered stateless, and how states
can protect stateless persons rights. (UNHCR, 1954). Canada is not a signatory of the 1954 convention; however, it did sign the 1961 Convention which highlights in further detail the duties of signatory states to protect the rights of stateless persons (UNHCR 1961). The Canadian government justified not initially signing the 1954 convention as many of the provisions within it are also present in the 1951 Refugee Convention that Canada ratified in 1969 (Erauw, 2015). Similar provisions that exists in both treaties include the right to; non-discrimination, religious freedom, and Canada's obligation to "facilitate assimilation and naturalization" (Brouwer, 2012; UN Refugee Convention, 1951). In addition, Canada is also a party to several other treaties and conventions that seek to protect the human rights of stateless persons, including but not limited to; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), the Convention on the Rights of the Child (CRC, 1989) and the Convention on the Rights of Persons with Disabilities (CRPD, 2010).

Likewise, the rights of all persons are outlined in the Canadian Charter of Rights and Freedoms (Charter, 1982), the Canadian Citizenship Act (1946) and the Canadian Immigration and Refugee Protection Act (IRPA, 2001). These documents include provisions that seek to provide fundamental human rights to all persons, including the right to nationality and the right not to be arbitrarily detained. Despite these international and domestic provisions exiting, given that Canada does not have SDP’s, stateless persons in Canada often do not receive the legal rights-based protections that they require.

Significance of the Research Topic:

Stateless persons in Canada are forced to live in the shadows where they spend most of their lives in fear and uncertainty due to not receiving the protections they need. In addition, stateless persons cannot legally work in Canada, nor can they obtain driver's licenses or
passports. As a result, travel out of the country is not possible for this population without the risk of deportation upon return. These challenges are directly associated with stateless people's lack of citizenship, emphasizing the complexities surrounding the relationship between a person's ability to access both human rights and citizenship rights. Although other undocumented migrants experience similar challenges, it is essential to recognize that because stateless persons hold no citizenship to any country, this population faces exacerbated and unique challenges.

Stateless people in Canada are often excluded from many of the legal protections that the Immigration and Refugee Protection Act (IRPA) and Canadian Charter of Rights and Freedoms seek to provide (IRPA, 2001; Charter, 1982). Specifically, under the IRPA, stateless persons are defined as 'foreign-nationals' (IRPA, 2001). This definition fails to distinguish between people who are not Canadian citizens or permanent residents (PR's) but do hold nationality in a different country, and those who are stateless (IRPA, 2001). The needs of stateless persons are distinct from those of foreign nationals, therefore grouping these two populations together under the IRPA allows for these unique needs to fall through the cracks. Likewise, foreign nationals are protected under their own nation-state's laws outside of Canada, whereas stateless persons are not protected by any country's laws. This further distinguishes these two groups from one another. As a result, stateless populations are forced to rely on the protections afforded to them under international human rights laws. However, although the rights provided under international law protect all persons regardless of immigration status, these rights are not governed by any state's court system in the same ways constitutional rights are. As a result, these international human rights are harder to enforce and protect compared to the rights outlined in a nation-state's constitution.
In failing to recognize the unique vulnerabilities stateless people face, Canada's legal system and immigration policies risk further perpetuating harm to an already at-risk group. Given that stateless people are a severely vulnerable and invisible population, combined with the lack of extensive research on statelessness in Canada, this paper seeks to draw attention to statelessness as a human rights issue in Canada. To do this, the exclusion of undocumented migrants at the legal, political, and societal levels be discussed. This literature review's primary goal is to draw attention to the complicated relationship between citizenship and human rights. In doing so this review aims to emphasize the lack of human rights protections stateless persons in Canada are given. Additionally, this review was conducted in the hope that Canada will recognize the gaps within its current legal policy and will adopt a distinct SDP that provides adequate human rights protections until citizenship can be acquired.

**METHODOLOGY**

Literature reviews are critical components of all forms of research as they allow researchers to form a methodological analysis of current knowledge on a given topic (Neuman, 2014). Literature reviews also enable researchers to become familiar with the existing knowledge on their subject matter, allowing them to present compelling evidence and highlight gaps in research that need to be explored further (Neuman, 2014). Before a researcher can highlight potential flaws within the existing literature, they must present a well-rounded overview of the current state of affairs in academia. Literature reviews can take several forms; for this research paper, a thematic literature review was chosen to best show the research topic's complexity. There are many aspects of rights, citizenship and statelessness that are interconnected; this is particularly important to note when examining the relationship between political membership and citizenship rights. Thematic literature reviews allow researchers to
connect different bodies of work together by organizing findings into chosen themes rather than by author or literature type (Neuman, 2014). The themes explored within this literature review are representative of the most prevalent and re-occurring issues mentioned in the literature examined. By researching a vast number of non-profit institutional publications, Canadian scholarly journal publications, and international scholarly works, the parameters and scope of this review were identified.

For text to be referenced in this review, it had to make explicit reference to; statelessness, human rights or the relationship between citizenship and membership. Texts that provided a loose reference to ‘undocumented migrants’ and their rights instead of differentiating between sub-groups of undocumented migrants, such as, stateless persons, were incorporated; however, failure to make this distinction was mentioned. The themes identified at the center of this literature review include; Canada's lacking framework on statelessness, Canada's International obligations and right to state sovereignty, the connection between citizenship and membership, the implications of statelessness, and pathways to legal status for stateless persons in Canada. These themes are addressed predominantly from the Canadian perspective. By organizing this review into these overarching themes, paper seeks to provide a clear understanding of how statelessness creates reduced access to human rights protections in Canada.

Canada was chosen as the primary lens these issues will be explored through because of its lack of SDP’s and the gaps that exist within Canadian literature on this topic. Specifically, there is a distinct lack of research in Canada on the connection between the act of stripping a person of their citizenship and the harm this has on a person's social, legal, and political rights. Many of the rights a person holds exist because of their right to citizenship. When citizenship is revoked or not recognized by the state, it can lead to the exclusion of individuals within a
society. This exclusion exists on both the socio-legal and political levels, impacting all aspects of a person's life. Canada's lacking SDP likely explains, at least in part, why there is less research on statelessness in Canada than in countries that have SDP’s. These factors influenced the decision to approach this research from the Canadian perspective rather than the European one, even though more literature exists on these issues in European literature.

Given that this is not a subject that has been highly discussed within Canadian literature, focusing solely on Canadian bodies of work was not feasible and required the literature review parameters to be expanded accordingly. Scholarly bodies of work from international perspectives were incorporated to highlight further the gaps within Canadian literature. International literature was also used to infer the correlation between challenge's stateless persons in Europe face and challenges that are yet to be discussed in the limited Canadian research. This literature review will incorporate a combination of Canadian policy documents, international and Canadian scholarly academic research, and 'grey' literature findings from prevalent human rights and advocacy institutions. The decision to include reputable reports from institutions was made to ensure the most current research was presented in this literature review. Given that the peer-review process to publish academic work is lengthy, combined with this research issue's complexity, it was deemed essential to include reports from organizations doing work at the ground level. As this review aims to provide a detailed overview surrounding the state-citizenship relationship as it pertains to human rights, narrowing the scope of the literature review to only scholarly publications would be counterproductive.

Mapping out the current literature pertaining to this matter will provide a clear outline of what has been done, what is missing, and what ought to be further examined in academia regarding the accessibility of human rights and statelessness in Canada. This paper seeks to
provide a meaningful contribution to the existing literature on statelessness through its recommendations for additional research on this matter within the Canadian context.

**LITERATURE REVIEW**

It is vital to understand how the rights conferred with membership to a nation-state in the form of Citizenship provide people with the fundamental protections they require for a fulfilling existence (Arendt, 1951). Specifically, when discussing the relationship between states, citizenship, and human rights, it is imperative to understand how stateless persons' rights are defined and protected by international and domestic state-based laws. By understanding this relationship, along with the current positioning of non-citizen’s rights within the Canadian legal framework we can further examine how the state controls the ways a person's rights are protected or denied. This section will explore three things: the relationship between citizenship rights and political membership, the current standing of Canadian legal frameworks; and, how statelessness is a human rights issue. By highlighting literature that discusses these issues from both the Canadian perspective and the international perspective, this section aims to provide an overview of the current literature's standing before highlighting gaps within it.

**CITIZENSHIP AND MEMBERSHIP: THE POLITICIZATION OF RIGHTS**

To understand statelessness through the lens of Citizenship, it is vital to highlight critical bodies of work that show how the possession of citizenship is the key to all societal and political membership within a state. Arendt's work focused on the relationship between human rights and Citizenship, whereby she argued that citizenship is the only way a person can be afforded proper 'human rights' (Arendt, 1951). Arendt's work is at the forefront of much of the literature surrounding the contentious relationship between human rights and citizenship, given that she coined the phrase 'the right to have rights' (Arendt, 1951). This section will explore what this
relationship means from the context of statelessness, while also providing an overview of the literature that asks whether we can have human rights without citizenship. This section will also examine what these rights look like if they exist without citizenship.

**Citizenship, Rights and Membership:**

It is important to note for this review that, when referring to ‘citizenship’, the term is intended to be understood in the traditional legal sense. Although there are bodies of work that discuss 'second-class' citizenship and 'informal' citizenship, this literature review defines citizenship from the legal viewpoint. This definition understands citizenship as being the status one obtains through birth or naturalization which grants persons full political membership to a nation-state (Benhabib, 2004; Nash, 2009). The notion of citizenship has several layering dimensions that must be outlined before it is possible to understand the way citizenship status shapes a person's ability to access human rights. Ultimately, citizenship refers to one's ability to belong to a nation-state whilst also being given access to the rights which that nation-state governs. These rights are attained through integration and membership within society and include; political, social, cultural, and economic rights (Veldhuis, 1997). They are widely recognized within the literature as the foundation of modern legal citizenship (Veldhuis, 1997). People with citizenship are, therefore, able to connect through their mutual understanding of political participation and shared sense of societal inclusion. Stateless people are denied these membership rights, making this population's ability to be politically represented and participate in society impossible.

Literature suggests that a deep level of analysis is needed to fully understand the relationship between human rights and citizenship rights (Biparva & Zamani, 2016). How we define and understand citizenship in the traditional sense is mostly political, given that it is the
politics of a nation-state that determine who is eligible for citizenship and the ways they can obtain it (Nash, 2009). Marshall (1992) suggests that from the Liberal perspective, citizenship is just the legal status that a person obtains through birth or naturalization, which provides them with rights and protections conferred by the state (Marshall, 1992; Nash, 2009). However, from a Republican viewpoint, citizenship is more than just a form of legal status. Republicans argue citizenship provides people within a nation-state the opportunity to participate socially and politically by granting them rights, including the right to vote (Isin, 2008; Nash, 2009). In his work, Bellemy (2008) argues that the notion of membership is at the heart of citizenship (Bellemy, p. 52, 53). When a person becomes a citizen, they are granted access to a political community that only certain people are given an exclusive membership to, while others are excluded (Bellemy, 2008).

Citizenship plays an integral part in how a person shapes their identity. It affords a person the opportunity to fully participate and enjoy a sense of belonging to their community (Nash, 2009). A person with citizenship is also granted the right to political participation within the state (Nash, 2009, p. 1068). Stateless people are denied this right political participation, as are persons who hold temporary status. However, the critical distinction is that people with temporary status do have the right to vote in their home country where they have citizenship, a right that stateless persons are not afforded (Nash, 2009). Literature shows that politics impact how we conceptualize citizenship, along with the rights a person is granted. This occurs because politics influence citizenship laws and policies, further attesting that human rights and citizenship are intertwined.

States determine who can obtain citizenship based on criteria determined by the political party in power at the time, meaning that citizenship laws and policies often reflect the views of
the governing political party (Marshall, 1992; Nash, 2009). As a result, it is imperative to note the ways politics impact the way people and states conceptualize and react to those without status. In today's post 9/11 era of securitization, it is essential to recognize that unidentifiable migrants are often portrayed in political discourse as being ‘dangerous’ and ‘undesirable’ (Jaskulowski, 2018). This creates a rhetoric of fear, which, in today's era of surveillance and securitization further alienates stateless people within society. Simultaneously, we must not disregard the valid security concerns that may arise from being unable to identify who is entering a nation-state. What remains problematic however is the automatic assumption that all unidentifiable people are ‘dangerous’.

Often, stateless people are forced to spend extensive periods of time in immigration detention due to not being able to prove their identity. This is mostly a side-effect of them not being able to obtain documents such as a passport. The time this population spends in immigration detention is often arbitrary in length, while states attempt to verify the identity of the individual (De Chickera & Murray, 2017). Concerningly, despite the Charter supposedly granting all persons in Canada, regardless of status, the right to not be arbitrarily detained, unidentifiable migrants often experience indefinite periods of immigration detention (Bloom, 2013; De Chickera & Murray, 2017). Political parties’ ability to control both societal and political rhetoric by drawing false parallels between national-security and unidentifiable migrants is another example of how the politicization of rights impacts stateless populations ability to receive rights protections.

Given that all people, regardless of status, must reside in a nation-state, the power nation-states have when it comes to excluding and denying fundamental rights can be extremely problematic (Bellemey, 2008). This is not to suggest states should be denied the ability to control
immigration within their borders, but instead highlights that political desires should not lead to the unfair exclusion of persons from accessing citizenship. This remains especially true, given the extent to which citizenship provides a person with exclusive access to political representation and societal membership (Bellemy, 2008).

The right to vote is not the only right stateless persons without citizenship are denied. In Canada, stateless persons struggle to access affordable healthcare, social housing, education, and other services that require proof of citizenship and identification (Kane, 2019). Given the complexities that surround citizenship, it is imperative to note how politics impacts stateless populations abilities to access rights. Benhabib (2004) discusses the politicization of how states create laws that decide which of its residents can access citizenship and the rights this status confers. His work argues that people who are not citizens within a state are often viewed as political outsiders because of their inability to obtain full membership to the state (Benhabib, 2004). Benhabib, like Arendt, agreed that human rights cam only be truly obtained through citizenship, stating that persons without citizenship can do nothing other than ‘hope’ the state will grant them fundamental human rights protections (Arendt, 1951; Benhabib, 2004). Also, Arendt highlighted that when it comes to identifying rights, a right is only a right when there is a remedy (Arendt, 1951). By this, Arendt is referring to the fact that international human rights are distinct from constitutional rights as a state's court system does not uphold them in the same manner (Arendt, 1951). Unlike citizens who have their rights protected by their country of citizenship's legal system, the international rights of stateless persons are just moral rights, until a state chooses to enforce them (Arendt, 1951). For Arendt, this means that a person cannot access human rights unless they first have citizenship rights (Arendt, 1951).
Without Citizenship, stateless persons cannot access many services that are needed to protect their human rights. As a result, they cannot obtain the fundamental human rights protections that citizens can achieve. Further, Benhabib argues that for people without citizenship, their status exists in "a murky space defined by respect for international human rights on the one hand and international customary law on the other" (Benhabib, 2004, p. 47). It is this question regarding how states prescribe membership through citizenship that raises the debate of what rights look like for persons without citizenship.

**Human Rights Without Citizenship:**

According to the UNHCR, all persons, regardless of status, should be afforded fundamental human rights (UNHCR, 2006). This view resulted in the UNHCR creating guidelines that sought to protect all person's fundamental human rights. The guidelines determined that while states have the power to decide criteria for who can obtain citizenship, they must ensure that all persons, regardless of status, are not discriminated against under the *International Covenant on Civil and Political Rights* (ICCPR) (UNHCR, 2006; ICCPR, 1966). Canada ratified the ICCPR agreement in 1976, requiring Canada to ensure each state party:

"...undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or another opinion, national or social origin, property, birth or other status." (ICCPR, 1966).

Additionally, under the *Universal Declaration Of Human Rights* (1948), *The International Covenant on Civil and Political Rights* (ICCPR), and *The International Covenant on Economic, Social and Cultural Rights*, states are obligated to ensure equality between citizens and non-citizens alike regarding the enjoyment of "civil, political, economic, social and cultural rights to the extent recognized under international law." (UNHCR, 2006 p.7). Article 26 of the
ICCPR states that all persons are equal before the law and should be granted protection under the law without discrimination on the grounds of “race, colour, nationality or social origin” (ICCPR, 1966). The UNHCR Human Rights Committee expanded on article 26 of the ICCPR to make direct reference to statelessness. They stated that the ICCPR applies to everyone, "irrespective of his or her nationality or statelessness..." (UNHCR, 2006). These conventions, along with the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on The Reduction of Statelessness, provide states distinct clarity regarding their obligations to address the question of what rights look for non-citizens. These rights ought to ensure that states provide stateless people with the same human rights protections as citizens (UNHCR, 2006).

However, the reality of what rights look like for stateless people differs significantly from what international frameworks require. As highlighted, Arendt's work centers around the notion of 'the right to have rights': a term used to argue that the supposed universal nature of human rights can only be achieved through obtaining citizenship (Arendt, 1951). When examining how human rights are achieved, Arendt argued that despite their name suggesting otherwise, they are not something that people automatically receive because they are human (Arendt, 1951). For Arendt, rights cannot exist until states enforce them (Arendt, 1951). Arendt questioned how human rights are guaranteed by highlighting the ways the impermanent nature of stateless people’s lives creates uncertainty and a subsequent inability for them to obtain human rights (Arendt, 1951). Her work introduced the idea that human rights differ from constitutional ones because human rights are essentially just moral rights until a state enforces them (Arendt, 1951). Whereby a state's legal system enforces constitution rights, human rights are not governed in the same way, making them much harder to uphold (Arendt, 1951). Unless states provide remedies for these human rights, according to Arendt, such rights do not exist (Arendt, 1951). States are
responsible for not only complying with international rights obligations but for also ensuring that there are direct pathways in place so people can legitimately access the rights and services these obligations outline (Arendt, 1951). Much of Arendt's work focuses on unpacking the phrase 'the right to have rights' by exploring the skepticism that surrounds the question of whether human rights can exist without citizenship (Arendt, 951; DeGooyer, Hunt, Maxwell & Moyn, 2018).

Literature suggests that although stateless persons should be granted human rights protections under several UN Conventions and treaties, nation-states freedom to implement and shape state citizenship laws often results in the rights of stateless persons falling through legislative cracks (Kane, 2019). In the Canadian context, the lack of integration of many of the recommended protections presented in these international conventions into domestic Canadian immigration law often creates a disconnect. As a result, stateless persons that are not also refugees do not achieve the same rights protections that persons with status in Canada achieve (Brouwer, 2012). This suggests that even states who have ratified these UN conventions are failing to successfully implement measurable protections that uphold the rights of undocumented migrants (Brouwer, 2012). Additionally, this suggests that despite international human rights laws stating that a person should have human rights without citizenship, this is not the case for most stateless persons.

Likewise, DeGooyer et al. (2018) expand on Arendt's earlier work by fostering a discussion around the nature of human rights through a contemporary lens. They argue all persons have a right to belong to and participate within a community (DeGooyer et. al, 2018). However, this is not always possible as stateless people's rights are often enforced by states, therefore limiting their ability to belong and participate within society. This highlights the
disparity between who states are obligated to protect versus whom they actually do protect (Kane, 2019).

**LEGAL DUTIES AND LEGAL FRAMEWORK**

**Canada: A Lack of Legal Framework on Statelessness:**

Although a signatory of several human rights treaties that outline its international obligations towards stateless persons, Canada does not have SDP’s in place. SDP's would allow Canadian immigration officials and Canadian immigration law to identify and protect stateless persons and their rights. Consequently, there is currently no 'stateless person' status in Canada (ISI & CSS, 2017). This means that unlike individuals with citizenship who belong to a recognised status group, stateless persons do not belong to a recognised status group under Canadian law (ISI & CSS, 2017). Often, this results in stateless persons not being able to access certain rights such as healthcare or education, as they are not viewed as belonging to a recognized status group (ISI & CSS, 2017). Not having the option to legally identify as being stateless increases this population’s risk for societal exclusion and human rights violations.

Additionally, there is no distinct category or option for identifying stateless persons in the IRPA (2001). Instead, under the IRPA, stateless persons fall into the category of 'foreign nationals' which refers to "a person who is not a Canadian citizen or a permanent resident and includes a stateless person." (IRPA, 2001). Much of the Canadian based literature on this subject emphasizes this as problematic, given that stateless persons rights are therefore not identified and protected under Canadian policies and immigration law (Erauw, 2015). Erauw (2015) and Kane (2015) both argue that including stateless persons in this generalized category of 'foreign nationals' is harmful as it further erases the complexities of statelessness. How states grant access to fundamental rights when you are a foreign national versus if you are stateless differs
significantly. Given that these rights are enforced by states, concerning questions arise regarding how states have the power to create an informal hierarchy of who *should* and *should not* be granted access to services. In addition, grouping stateless people in this overly broad definition of "foreign nationals" may further jeopardize the protection of stateless persons rights in Canada (Kane, 2019).

Unlike stateless persons, foreign nationals can use their international passports, ID cards and credentials to apply for temporary or permanent Canadian status that affords them access to many services. Financial services, healthcare, and education in Canada all require foreign nationals to present some form of government-issued ID and this ID is often a passport. However, stateless individuals cannot obtain passports and are therefore unable to verify their identities, resulting in their inability to access these services (Kane, 2019). Additionally, in Canada, stateless persons inability to obtain passports jeopardizes their s.6 Charter 'right to mobility' as a passport is required for crossing international borders. In the case of Abdelrazik v. Canada (2009), Canadian citizen Mr. Abousfian Abdelrazik was denied access to a temporary passport by the Canadian government after being wrongly accused of being an Al-Qaida associate (Abdelrazik v. Canada, 2009). Despite the sanctions prescribed to Mr. Abdelrazik not restricting his right to return to Canada, the Canadian government effectively prevented his ability to return home to Canada by refusing to provide him with a temporary passport. Later, Mr. Abdelrazik filed a claim against the Canadian government under s.6 of the Charter stated the government denied him of his Charter prescribed 'right to mobility' by not providing him access to a temporary passport (Abdelrazik v. Canada, 2009).

Passports are the only form of documentation that enables international travel freedoms, yet only citizens of a nation-state can obtain a passport. For stateless persons, the inability to
carry a passport is central to the debate on how citizenship rights can shape statelessness. Historically, passports were created as a tool of control, seeking to limit or allow a person’s global mobility in a regulated and controlled manner. Passports provide individuals with proof of their national identity and citizenship to a state by granting them the political and legal freedoms agreed upon between the traveler’s country of citizenship and the country in which they are entering. The control of migration and travel that passports create provides freedoms to some individuals while simultaneously restricting others freedom of movement. Given that passports are the main piece of documentation that proves both a person's identity and citizenship status, they are used as more than just travel documents. Foreign nationals in Canada can use their international passports when they do not have Canadian ID to both verify their identity and access many good and services.

Discussing the connection between passports and citizenship is crucial as passports were created as a tool for international control over mobility and citizenship. When denied the right to mobility, people are often perceived by the state as ‘undesirable’ and ‘problematic’, particularly in today’s securitization era. Therefore, it is not surprising that for stateless persons, the denial of the right to mobility presents as a core reason as to why this population faces exclusion and is denied access to many services and rights.

**Importance of Stateless Determination Procedures:**

Although there are only a few countries that have implemented SDP's, many of these countries are based in Europe (Gyulai, 2012). Literature also shows there should not be a 'one size fits all’ approach to implementing SDP's, therefore allowing countries approaches to differ from each other slightly (Gyulai, 2012; UNHCR, n.d). One thing that all SDP models do have in common however is the primary goal of affording stateless people temporary protections through
granting them the option to apply for a recognized 'stateless person' status (Gyulai, 2012). In his work, Gyulai (2012) discusses the difference between 'stateless person' status and citizenship. He also discusses the importance of a stateless person status being viewed not as a remedy for statelessness, but instead as a temporary protection measure until citizenship can be acquired (Gyulai, 2012). When it comes to rights and protections, citizenship provides far greater access to rights than a ‘stateless person status’ ever could. Gyulai’s work shows that the implementation of SDP's should not be used for all stateless populations as obtaining citizenship and nationality should remain the focus of states when seeking to end statelessness (Gyulai, 2012). Gyulai suggests that SDP's should only be used when stateless persons cannot show their attachment to a nation-state clearly and therefore, they have little chance of being granted citizenship (Gyulai, 2012, p. 279). Likewise, the UNHCR suggests that stateless persons with long-term connections to the country they reside in, such as their place of birth, should not be encouraged to formally identify through SDP's as being stateless (UNHCR, 2014). Instead, the UNHCR recommends that nation-states focus on helping persons in this situation acquire the citizenship of these states rather than the 'stateless person' status (UNHCR, 2014). SDP's allow persons to be recognized as stateless, however, such status does not grant them the same protections or access to services as citizens. Therefore, the UNHCR calls for states to make changes to existing legislation to make it possible for citizenship to be obtained where possible (UNHCR, 2014, p. 4).

In cases where stateless persons are not presently able to obtain citizenship, the implementation of SDP's may provide this vulnerable population with additional protections and fundamental human rights (UNHCR, n.d). To be effective, the UNHCR states that SDP's must be able to be invoked independently of the applicant by authorities when they believe a person may be stateless (UNHCR, n.d, p. 5). Given that many stateless persons, such as youth, may not be
aware that they are stateless, the UNHCR argues that countries who implement SDP's must ensure such procedures recognize the complexities surrounding identifying statelessness. The UNHCR also states that nation-states must provide the option for state actors to apply for the status on behalf of applicants. The importance of having a 'duty to inform' is also acknowledged by the UNHCR, particularly in the case of persons who are stateless but unaware of option to apply for ‘stateless person status’ through the SDP’s (UNHCR, n.d). The UNHCR argues that this 'duty to inform' would be particularly beneficial when protecting the rights of vulnerable stateless persons, such as youth, who may not understand that they are stateless (UNHCR, n.d). Examples from Spain and Hungary show that enforcing a 'duty to inform' provides further opportunity for those who do not know that SDP’s exist to be granted recognizable ‘stateless person status’. These SDP's "provide a shared burden of proof between applicants and examiners..." to lessen the burden of proof on individuals when trying to prove they are stateless (UNHCR, n.d, p. 6). By doing this, applicants with little to no understanding of how to obtain the required documentation that shows their citizenship status to a country can receive valuable assistance from caseworkers (UNHCR, n.d).

The Institute on Statelessness and Inclusion (ISI), along with the Canadian Centre on Statelessness (CCS), addressed the importance of the implementation of SDP's within Canada in 2017. Their joint report submitted to the Human Rights Council's emphasized Canada's need to adopt SDP's to ensure Canada's international obligations were met (ISI & CCS, 2017). Their submission also called for the implementation of a ‘dual-burden process’, like those used across Europe, along with a call for additional safeguards that protect youth applicants (ISI & CCS, 2017). These youth applicant protections included the use of suitable legal representatives that can assist youth with their applications (ISI & CCS, 2017). Given that statelessness is a complex
and under-researched issue in Canada, government officials that may interact with stateless individuals must also be trained on stateless persons rights to ensure they are fully upheld (UNHCR, 2014; ISI & CCS, 2017). The ISI and CCS report suggested that implementing SDP's in Canada would allow for "... the most effective means to protect the human life of stateless persons..." (ISI & CCS, 2017, p. 5). The implementation of SDP's in Canada could allow stateless persons to identify themselves as stateless, while subsequently granting them access to many social services (ISI & CCS, 2017). To truly uphold Canada's international obligations that are outlined in the 1964 UN Convention on the reduction of statelessness, the ISI and CCS also recommend that Canada implements SDP's that provide "...expedited access to permanent resident status and ultimately Canadian citizenship" (2017, p. 10).

**International Obligations to Protect Stateless Populations:**

To understand the duties and obligations that nation-states have regarding protecting stateless persons rights, the treaties and laws that guide states must be examined. These obligations are met by a balance between countries maintaining their right to self-governance whilst ensuring they are also upholding legally binding international treaties and declarations such as the 1948 Universal Declaration of Human Rights (Lomo, 2019; Universal Declaration of Human Rights, 1948). A nation-state’s right to exclusive authority to govern within its territory is part of what defines state sovereignty (Lomo, 2019.) However, it should be recognized that this sovereignty is not without governance and is thereby limited in Liberal democratic societies by constitutional laws and international human rights protections. These binding international human rights laws restrict the extent by which democratic states can implement laws and policies in the name of state sovereignty. Understanding how states balance their right to sovereignty with their international obligations is critical when seeking to understand how stateless persons
rights are protected, given the complex connections between the state, citizenship, and rights. Before we can fully explore how Canada positions stateless individuals' rights within its domestic laws, it is essential to discuss precisely how international law is legally binding in Canada.

The Role of International Rights in Canadian Law:

Canada's international responsibilities encompass a multitude of topic areas such as war, peace, and human rights, the specifics of these responsibilities are outlined in several treaties and conventions. Treaties that reflect international law are legally binding, meaning that signatories must adhere to the provisions outlined within said treaties. For Canada, this includes the 1954 Convention Relating to the Status of Stateless Persons and the 1961 convention on the Reduction of Statelessness. Significantly, by ratifying these treaties amongst others, Canada agreed that it must provide equality between citizens and non-citizens regarding human rights protections. By electing to sign an international treaty, a country expresses its intention to ratify and enforce the provisions that treaty includes (Armanyous & Hudson, 2019). Section 3(f) of the IRPA is one example that highlights the importance of compliance with international human rights law. Section 3(f) of the IRPA states that the IRPA must be constructed "in a manner that…compiles with international human rights instruments to which Canada is a signatory" (IRPA, 2001, c.27, s.3). This, along with the legally binding nature of international law, signifies Canada's responsibilities to protect human rights and uphold international law (Armanyous & Hudson, 2019). Research shows that courts may use these international laws to interpret the rights granted in the Canadian Charter of Rights and Freedoms (Armanyous & Hudson, 2019). As discussed in Rado (2018) and Armanyous & Hudson (2019), although it is the responsibility of the federal government to ensure international treaties are enforced, municipal governments can also take
action to ensure enforcement at local levels (Armanyous & Hudson, 2019). In her work, Davis (2019) expands on this by highlighting the importance of giving local governments the right to enforce these protections at the provincial and municipal scales. As a result, all government levels are responsible for ensuring Canada enforces the protections they are legally obligated to provide under international treaties and law.

It is essential to acknowledge that although ratified treaties are legally binding under international law, the state must enforce said treaties through legislation if these they are to hold force within that countries domestic law. In Canada, there is no evidence that the 1961 convention on the Reduction of Statelessness has been expressly incorporated into Canadian law through legislation. However, there are four specific parts of Canadian law where international human rights laws can still be impactful. Firstly, common-law judges and tribunals may apply international human rights on their own accord unless doing so goes against clearly worded legislation that states otherwise. Additionally, judges may also use international human rights laws to interpret ambiguous legislation, as shown in Baker v. Canada (Baker v Canada, 1999). Thirdly, courts and tribunals may use international human rights to interpret the provisions outlined in the Charter (Reference Re Public Service Employee Relations Act [Alta], 1987). Lastly, s.3(f) of the IRPA states the act is to be constructed and applied consistently with the international human rights that Canada is a signatory to. Given that the 1961 convention on the Reduction of Statelessness fits this, it is thereby plausible that courts and tribunals in Canada can, at least passively, incorporate and use it when deciding matters of law in Canada (IRPA, 2001, c.27, s.3).

In addition, Van Ert's report on how Canadian law responds to international law highlights three federal statutes that require Canadian courts to recognize international treaties
He highlights one-way Canadian courts recognize the legally binding nature of international norms is by "the vast jurisprudence in which courts look to and rely upon international law norms without first requiring that they be proved in evidence" (Van Ert, 2018. p.2). Secondly, Van Ert's report highlights that unless there is a valid argument on the grounds of sovereignty that denies this, Canada's common-law system is "justified on the basis that international customs, as the law of nations, is also the law of Canada…” (Van Ert, 2018. p.2). Thirdly, Van Ert's report recognizes that although international laws require domestic enactment if they are to be implemented, the Canadian Charter should be assumed to provide similar provisions to the ones outlined in international human rights agreements (Van Ert, 2018).

Because of this, it is reasonable to suggest that under the Canadian Charter and Canada's numerous ratified international treaties highlighted above, stateless people in Canada should be afforded protections comparable to those outlined in international human rights laws. However, this is not the case given that it is not enough for Canada to just ratify treaties that prescribe international human rights. Instead, Canada must also ensure the implementation and enforcement of these rights at the domestic level. As Canada operates under a common-law legal system, ratifying international treaties is the first step of the implementation process. It is equally imperative that these provisions be incorporated into domestic legislation if Canada wishes to fully enforce international treaties at the domestic level. This next chapter focuses on this dual process and how state sovereignty complicates the implementation process of human rights laws into domestic Canadian legislation.

Canadian International Obligations vs. State Sovereignty:

To explore how Canada meets its international legal obligations while balancing state sovereignty, we must first explore how Canada's international obligations are defined in law.
More broadly, Charvet (1997) discussed the idea that state sovereignty and international human rights laws do not conflict. He argued that international human rights laws do not restrict state sovereignty, but instead compliment it (Charvet, 1997). Charvet's paper discusses how a state's ability to hold authority over its members only exists when states recognize the need for members to have equal access to fundamental rights (Charvet, 1997). According to Charvet, international laws, in their broad definition, embody the "general wills of the members of those states," stating that sovereign policies also embody (1997, p. 47). Rather than seeing this as an 'either-or' debate, Charvet highlights that fundamentally the two are intertwined and therefore must both be upheld (1997).

The Canadian Charter of Rights and Freedoms outlines all person’s rights in Canada, regardless of their status (Charter, 1982). The Charter provides fundamental human rights protections to all, including the right to "life, liberty and security of the person..." (Charter, s.7, 1982). While these protections ought to apply to every person in Canada, the degree by which stateless persons are granted these rights is minimal (ISI & CCS, 2018). Research by the ISI and the CCS (2018) has shown that stateless individuals are not afforded the same access to services and rights as citizens, even under the Charter. Literature also shows that stateless persons are more likely than citizens to be arbitrarily detained, because of their lack of citizenship status (ISI, CCS, 2018).

While in 2017, the Canadian Citizenship Act was scheduled to revert measures including "the revocation of citizenship for dual citizens who commit crimes related to national security..." (ISIS & CCS, 2018), these changes never came into effect and Justin Trudeau's government has since abandoned them. However, this measure is still in force in the U.K. where it protects British citizens' right to Citizenship by ensuring those with dual Citizenship are not treated as
'second class citizens.' Although the 2017 amendment was not enforced under Trudeau's government, the fact that it remains the law in the U.K may suggest that if the conservative government is reinstated in Canada, this amendment to the Canadian Citizenship Act may be implemented. In Canada, under Bill-C24, dual citizens and Canadian immigrants can have their Canadian Citizenship revoked for serious criminality, while other Canadian citizens cannot (ISIS & CCS, 2018). Interestingly, changes to the Canadian Citizenship Act made in 2017 provided the minister of immigration the ability to grant citizenship as a tool for ending statelessness (S.5(4). Citizenship Act, R.S.C., 1985, c. C-2). This amendment highlights that citizenship is a right that ought to be protected and that Canada recognizes, at least to some extent, its international and humanitarian obligation to reduce statelessness.

The 1961 Convention on the Reduction of Statelessness outlines the ways Canada has an international duty to not deprive persons of fundamental human rights, including the right to a nationality. Literature shows however that stateless persons are this fundamental right to a nationality (Erauw, 2015). The 1961 treaty recognizes that while nation-states have a right to "elaborate on the content of their nationality laws, they must do so in compliance with international norms related to nationality, including the principle that statelessness should be avoided" (UN Convention on the Reduction of Statelessness, 1961, p.3). This highlights that while signatories of this Convention can formulate citizenship laws, they have a greater legally binding international obligation not to create laws that render people stateless.

Despite these conventions, people in Canada that are stateless and not classified as refugees or protected persons cannot access many rights and services, making them extremely vulnerable (Brouwer, 2018). People in this position have no authorization to remain in Canada, therefore, they are often forced into a 'legal limbo' as they cannot stay in Canada if caught, yet
they have nowhere else to go (Brouwer, 2012). In addition, this population cannot voluntarily leave Canada as they do not have travel documents such as passports (Kane, 2019). This state of limbo forces this population into precarious work, health and living situations as they are ineligible for social assistance programs and healthcare (Brouwer, 2012; Kane, 2019). These challenges are the direct result of Canada's lack of SDP's along with its lack of legal protections that recognize the complexities that arise as a result of being stateless. Given that stateless individuals rights are identified inadvertently within many international treaties, it is concerning that non-refugee status stateless persons still fall through legislative cracks in Canada's legal and political systems (ISI & CCS, 2018).

There is not much Canadian literature that discusses the relationship between a nation-state’s international obligations and its right to state sovereignty through the lens of statelessness. However, international research suggests that it is vital for nation-states to recognize stateless people's rights as necessary and not something they can choose to ignore (Foster & Lambert, 2016; Coomaraswamy, 2019). Foster and Lambert (2016) argue that states ought to recognize the importance of protecting all people's fundamental human rights, including the rights of those who do not have citizenship status. Literature shows that to change how nation-states view some populations rights as more important than others, we must first understand how the 'nation-state' is socially constructed (Coomaraswamy, 2019). Today, nation-states are given the power to choose who 'belongs' and who is 'excluded' not only geographically but also socially by determining who can access services within society (Benhabib, 2004). This power comes through a country’s right to state sovereignty and the construction that residents of a nation-state 'belong' to a state through Citizenship. According to Coomaraswamy (2019) and Foster & Lambert (2016), these factors give states the power to both
intentionally and unintentionally perpetuate statelessness through their powers of exclusion and inclusion. When states fail to protect persons on the grounds of non-citizenship, they are furthering notions of inequality and exclusion against vulnerable peoples most in need of state protection (Coomaraswamy, 2019). Literature argues that states must go further than just being aware of policies and laws that can render persons stateless and instead must strengthen their protections of this population access to rights and services (Universal Declaration of Human Rights, 1948; Coomaraswamy, 2019). Given that it is down to individual nation-states to apply international human rights, they must take pro-active measures that actively enforce these rights (Coomaraswamy, 2019).

Nash's work expands on this by highlighting the ways human rights have become increasingly legalized since 1948 and the creation of the *Universal Declaration of Human Rights*. The *Universal Declaration of Human Rights* provides states with an outline of what they ought to do when it comes to protecting all person’s rights despite their immigration status (Nash, 2009, p. 1070; Universal Declaration of Human Rights, 1948). During this process of legalization, human rights treaties such as the 1961 UN *Convention on the Reduction of Statelessness* were created to provide a more specific and legally binding obligatory outline of nation-states international obligations (Nash, 2009).

Additionally, the literature suggests that given nation-states abilities to include and exclude, more needs to be done to protect stateless person's rights at the domestic level (Foster & Lambert, 2016). Foster & Lambert (2016) suggest there may be a need for states to implement a designated protective body that ensures that states do not use state sovereignty as a tool for rejecting stateless persons rights. While much of the literature acknowledges the importance of the work that the UNHCR continues to do in this area, research suggests there needs to be more
independent accountability at the domestic levels. Foster & Lambert (2016) recommend that states implement independent governing bodies to ensure that stateless persons are not arbitrarily being denied many of the fundamental human rights they are entitled to through the *Universal Declaration of Human Rights* (Foster & Lambert, 2016; Universal Declaration of Human Rights, 1948). It is crucial that states recognize their international obligations to protect all person’s rights and do not use sovereignty as a tool by which they can ignore the rights of undocumented migrants. Although their paper does not refer to Canada specifically, Foster & Lambert's piece speaks to the need for nation-states to each take accountability for how they recognize the rights of specific individuals over others based on citizenship status. This is something that the Canadian literature would do well to explore further from the Canadian context.

**IMPLICATIONS OF STATELESSNESS**

After highlighting issues pertaining to stateless person’s inability to access membership and rights from the legal perspective, it is important to also recognize the challenges statelessness poses from the perspective of stateless persons. Doing so presents a deeper overview of how the legal ramifications of not having citizenship directly impact the daily lives of stateless persons. In countries like Canada, where there are no SPD’s, stateless people do not hold a recognized legal status of any kind. This, coupled with the failure of many nation-states to protect the rights of stateless persons, often results in the social exclusion of stateless persons on the societal level, as well as the legal one (Kane, 2019). This section will provide an overview of what this societal exclusion looks like and will outline in further detail why examining issues pertinent to statelessness from the lens of citizenship is crucial.

**Social Constructions of Statelessness in Canada:**

While the political construction of statelessness is explored in several pieces of literature
there is little that discusses how this political discourse shapes the social construction of statelessness (Blitz & Lynch, 2011). The social construction of statelessness refers to the ways individuals and institutions interact to create shared dynamic and open-ended understandings of political identity, including statelessness (Blitz & Lynch, 2011). Blitz & Lynch (2011) argue that before we can produce meaningful literature that advocates for the rights of stateless persons, we must first examine how societies construct and understand statelessness (Blitz & Lynch, 2011). In doing this, only then can we identify the ways political rhetoric interact and influence perceptions of statelessness (Blitz & Lynch, 2011).

Like Kane (2019), Blitz & Lynch discussed the way a person’s social identity is erased when they are rendered stateless (Blitz & Lynch, 2011). Political bias, legal frameworks and education combine to form a collective societal view on any given matter (Blitz & Lynch, 2011). It is important to recognize the inter-connectivity that exists within different structures of society when it comes to shaping the way social constructions are formed (Blitz & Lynch, 2011). Media is a tool often used to spread political bias, particularly when it comes to the formation of narratives on issues pertaining to migrant societal inclusion and exclusion (Blitz & Lynch, 2011). Blitz & Lynch’s work argues that the political influence embedded in mass media often leads to groups of people being labelled as ‘undesirable’ and therefore as ‘less’ than other groups, in turn creating populations of people that are isolated both legally and socially (Blitz & Lynch, 2011). This is particularly relevant when considering the ways in which the media portrays securitization and surveillance and how this impacts the way unidentifiable migrants, like stateless people, are conceptualized as ‘dangerous’ (Jaskulowski, 2018).

In her work, Kane (2019) discusses how stateless persons are often forced to live in the shadows due to their fear of authority. Their invisibility furthers beliefs within society that
stateless people must be ‘bad’ if they live in fear. This assumption often results in the creation of negative social constructions of statelessness within society. When a group is labeled as being harmful it becomes increasingly challenging for them to foster a sense of belonging within society. This is something that stateless people experience twofold given that the legal system excludes them from obtaining full membership through citizenship and societal rhetoric prevents them from being able to integrate socially (Kane, 2019).

Statelessness and Social Exclusion:

Politics and media create the belief that persons with citizenship are the ‘us’ and those without are the less desirable ‘other’. The way that citizenship can be used as a tool to exclude specific groups of people within society forms a sense of ‘othering’ often deeply harms a stateless person’s ability to participate within society. Problematically, the lack of SDP’s in Canada makes statelessness an under-researched and under-discussed issue, something that risks further negatively impacting how people in Canada understand statelessness. Much of the Canadian literature fails to recognize the extensive ways stateless persons encounter exclusion at the individual level, instead only referring to more generalized forms of social exclusion that stateless people as an overall population experience. Kane’s 2019 UNHCR mapping study is one of the most prominent bodies of work that incorporates the voices of stateless persons and their stories from the Canadian perspective. In this piece, Kane (2019) highlights how social exclusion can foster a sense of hopelessness and isolation within stateless populations in Canada. Like the views of Arendt, these observations are largely grounded in the belief that one cannot have a high quality of life without citizenship, as citizenship is the only way one’s human rights will be upheld (Kane, 2019; Arendt, 1951).
Both Kane (2019) and Brouwer (2012) highlight the implications of being stateless from the Canadian perspective and recommend that these challenges be recognized in more detail within the literature at the individual personal level. Likewise, Brouwer highlights that experiences of statelessness differ from person to person, suggesting that to fully understand the extent by which stateless persons rights are violated we must first understand how experiences of statelessness and exclusion differ from person to person (Brouwer, 2012). Despite the value they provide, very few pieces of literature that examine issues of statelessness and exclusion use interviews or primary research. As a result, there is truly little Canadian literature that incorporate the voices of stateless people and their experiences. This next section incorporates two bodies of work that do voice the experiences of stateless people, to highlight the enriching value primary interviews can bring to research on this matter.

**Canada: Employment and Statelessness**

Article 3 of the 1954 *Convention Relating to the Status of Stateless Persons* (UNHCR, 1954) declared that the ability to secure employment is a crucial part of maintaining a livelihood. Further, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR, 1966) which Canada is a signatory of legally obligates states to take steps to safeguard everyone’s right to work and earn a living. However, given that stateless people often come to Canada with little to no documentation, obtaining a Social Insurance Number (SIN) can be challenging (Kane, 2019). Participants in Kane’s study spoke about their inability to obtain employment as a result of not having the legal documentation required to show they can work in Canada (Kane, 2019)

One participant stated:

“If I had a status I would have been getting paid more for sure. One girl I was working for, when she kind of realized my situation, she immediately dropped my wage down, which I had no choice but to be okay with that because I had nowhere else to work.”

[Katerina] (Kane, 2019, p. 21).
This suggests that for many stateless persons in Canada, their right to access regulated minimum wage jobs and subsequent employment protections is not guaranteed in the way the ICESCR and 1954 UN convention require. Furthermore, another participant highlighted that people who are unable to prove their status but have lived in Canada for most of their lives face the same challenges, often causing them to take precarious and/or informal jobs (Kane, 2019). Given that employment is the backbone of financial security, stateless persons who are in a state of limbo and unable to prove their status are often forced into further uncertainty which causes additional stress and problems regarding financial stability. When denied the tools they need to survive, i.e. employment, people are forced to either go without or turn to illegal means to obtain the goods they need (Kane, 2019). Often this inability to obtain a ‘regular’ job causes stateless persons in Canada to be further excluded from the society in which they live, once again highlighting the societal and legal ramifications of Canada’s failure to implement SDP’s. If given the option to obtain a ‘stateless person status’, access to the regulated workforce would likely become easier, in turn deterring the use of under the table cash in hand jobs that exploit workers. The implications of long-term precarious work can have severe physical and psychological consequences on this population’s mental and physical health.

**Canada: Healthcare and Statelessness**

Like the right to equal employment, the ICESCR recognizes all persons have the right to the highest attainable standard of health, obliging states to ensure this right is fully upheld (ICESCR, 1966). However, persons without status in Canada often find themselves unable to access publicly insured healthcare (Kane, 2019). When visiting a doctor’s office, to receive partially funded healthcare treatment you are asked to provide a provincial health insurance card. This is something requires residents to provide ID and proof of status in Canada when applying.
In Ontario, this provincial health card grants holders’ access to a government-subsidized health insurance service called OHIP, which provides holders with free or partially paid for medical care.

People who are undocumented in Canada are not only excluded from provincial healthcare coverage such as OHIP, they are also unable to purchase private healthcare as a result of not having valid identification documents (City of Toronto, 2013). This is because no health insurance company will allow a person to take out an insurance policy without first verifying their identity. In addition, despite often needing it, undocumented people in Canada are not eligible to receive social and income support such as Ontario Works; a program that provides financial assistance to those in need within Ontario (City of Toronto, 2013). Despite not qualifying, these services are critical as if they were granted access, they could help this population afford the healthcare costs associated with being uninsured. As a result, undocumented people including stateless people often struggle financially as they are unable to access employment and social assistance programs. Given that healthcare is expensive for uninsured people in Canada, many undocumented people go without the care they require as they cannot afford to pay for treatment. Further, given that undocumented people reside in Canada without legal status, combined with the fact many did not report to the Canada Border Service Agency (CBSA) when entering Canada this population lives in fear of deportation. As a result, undocumented migrants often avoid going to places where their information may be passed to federal authorities because they fear the repercussions this may bring (City of Toronto, 2013).

Kane’s study further highlights the physical, financial and emotional burdens that can be created when one does not have access to public health insurance in Canada (Kane, 2019). For stateless persons, providing the documentation needed to obtain a health card is impossible given
their lack of identity documentation and proof of status in both Canada and any other country.

One participant in Kane’s 2019 study stated:

“...I found myself in the hospital and I ask the nurse. She said - I don’t have insurance, so I have to pay, I was afraid because how much am I going to pay so I told them I want to go. They gave me something for the panic attack, just to calm down and I wanted to go, I didn’t want to do any other test because it’s so expensive. So luckily, I stopped all the tests, but I had to pay CAD 650.” [Farah] (Kane, 2019, p. 29).

As a result of unaffordable healthcare, stateless people often have to find ‘back alley’ remedies or go without treatment (Kane, 2019). Although the ICESCR implores states to ensure residents have access to care that promotes the ‘best healthcare outcomes possible’, it does not provide clear guidelines as to how and what state’s responsibilities are in providing these affordable pathways to healthcare (ICESCR, 1966). Problematically, this lack of clarity leaves nation-states with the ability to exclude stateless persons from accessing subsidized healthcare and provides yet another example of how statelessness results in wide-spread exclusion.

**Canada: Education and Statelessness**

The IRPA states “every minor child in Canada, other than a child of a temporary resident not authorized to work or study, is authorized to study at the pre-school, primary or secondary level (IRPA. s.30(2), 2001). Despite this, provinces are granted the power to determine who is allowed to attend primary and secondary education under their jurisdiction by often charging fees or requiring proof of lawful residence of the child and their guardian (Kane, 2019, p. 24, 25; Armanyous & Hudson, 2019). As a result, many cities in Canada have implemented policies that allow youth with no legal status to enroll in primary and secondary education (Kane, 2019, p. 25). Issues arise however when stateless persons try to access secondary and post-secondary education, as without the ability to prove status in Canada, they are at risk of being charged international fees that are often 2-3 times higher than domestic fees.
In their paper, Armanyous and Hudson (2019) also discuss the barriers undocumented migrants in Canada experience when trying to access education. Their paper emphasizes two main barriers that his population often face’s when trying to access post-secondary education; procedural and financial barriers. Firstly, when applying to post-secondary schools in Ontario, applicants use the Ontario Universities Application Centre (OUAC) and the Ontario College Application Service (OCAS). This creates procedural barriers for many undocumented applicants as these services require students to prove their immigration status as a requirement for completing and submitting their application (Aberman & Ackerman, 2017; Armanyous & Hudson, 2019). Despite OUAC centers claiming that they ensure this information remains private, the OUAC’s Declaration and Notice of Collections states “We and/or the universities notify universities and colleges across Canada and/or other regulatory authorities e.g. Canadian Border Services Agency [CBSA], at out absolute discretion…” (OUAC, 2010; Armanyous & Hudson, 2019). In their work, Armanyous & Hudson discuss how this could act as a severe deterrent for undocumented individuals across Canada, thereby further preventing them from accessing post-secondary education (Armanyous & Hudson, 2019).

Secondly, Armanyous & Hudson’s work, like Kane’s mapping study, discusses the financial burden of post-secondary education for undocumented populations such as stateless persons (Armanyous & Hudson, 2019; Kane, 2019). When assessing if students qualify for domestic tuition, schools often require them to provide their Social Insurance Number (SIN) (Armanyous & Hudson, 2019). Wilson highlights that although students are not legally required to provide schools with their SIN, failure to do so will result in the school charging the student international fees, as well as asking for proof of a valid Canadian study visa (Wilson, 2009, p. 39).
To obtain a SIN in Canada, a person must provide identification documents along with proof of their valid status in Canada, two things that stateless people are not able to provide. Consequentially, stateless individuals are not only required to pay international fees, but they face being denied access to education as they do not have the required study visas needed for a person to study in Canada (Kane, 2019).

Given the challenges stateless persons experience accessing employment, many believe that studying and gaining Canadian certifications will help them find stable employment. However, as stated stateless persons are often unable to attend school to get these qualifications given that cost of international fees for postsecondary education are largely unattainable for people that are often unable to find work (Kane, 2019). Many participants in Kane’s study expressed their frustration with not being able to access further their education, highlighting that they already face huge disadvantages compared to citizens when trying to enter the workforce (Kane, 2019). One participant highlighted “Daycare needs money. Other schools have daycare but that is not allowed for us because still in Canada we do not get residence.” [Khaled] (Kane, 2019, p. 25). ‘Khaled’ highlighted that the financial barriers to education are just one element of the challenges stateless persons experience (Kane, 2019, p. 25). In addition to tuition expenses, childcare and time away from what little precarious work they can find makes the idea of attending school virtually impossible for this population. It should be highlighted that although the Canadian provinces of Ontario and Quebec have pledged to ensure access to education for all residents despite their status. However, outside of this provincial legislation remains relatively silent or requires students prove their official status in Canada if they wish to enroll without being charged international fee’s. For stateless people, their lack of official status in Canada and their inability to provide identification documentation often means they do not
qualify for domestic tuition rates. However, more concerning, once labelled as an international student, stateless people must provide their school with a study visa, something this population is not eligible for, given their lack of valid Canadian legal status (Armanyous & Hudson, 2019).

Stateless people in Canada are therefore trapped in a perpetuating cycle of harm as they are unable to obtain work because they do not have the required skills. Nevertheless, they are unable to gain these skills as they cannot access affordable education services due to their inability to be recognized as a status-bearing member of society. These barriers highlight the importance, yet again, of Canada implementing SDP’s so that stateless people can obtain a valid status in Canada. Doing so would potentially make stateless populations eligible for domestic tuition rates, thus also removing both the procedural barrier of needing a study permit and the financial barrier of paying international fees.

**STATELESSNESS: A ROUTE TO LEGAL STATUS IN CANADA?**

As shown previously, stateless persons face little protection as minimal rights protections are enforced under the Canadian legal system to uphold their rights. Given this, it is important to conclude this review of the literature with an overview of whether stateless persons in Canada can access legal status. Related to this, it is imperative that the implications of the deportation of stateless populations in Canada are also discussed.

**No Pathway to Legal Status in Canada:**

Kane’s paper discusses the process of how stateless persons can apply for ‘discretionary grants of citizenship’ under section 5(4) of the citizenship Act (Kane, 2019, p. 13). However, although statelessness was listed as a viable basis for a discretionary grant of citizenship as of June 2017, of the three applications IRCC received, two were refused and one remains pending
as of 2019 (Kane, p. 13, 2019). As a result of this, literature shows that acquiring a permanent and protected status in Canada, such as PR or Canadian citizenship is not an option for most stateless persons in Canada.

Kane furthers this by highlighting that the burden of proof for stateless persons applying under the category of discretionary measures is extremely high, thus qualifying for citizenship through this category is very unlikely (Kane, 2019). Her work highlights this is especially true for stateless persons who are not familiar with the process or high burden of proof (Kane, 2019). This, combined with the high cost associated with the application process, highlights the state of limbo stateless persons perpetually forced to live (Brouwer 2012). Even when trying to take up a permanent status in Canada, stateless populations face severe barriers and limitations that make the transition from ‘stateless’ to ‘status holder’ in Canada virtually impossible (Kane, 2019; Brouwer 2012).

In short, statelessness very rarely leads to a pathway for legal status within Canada. Further research on the lack of legal status pathways available to stateless persons is needed in Canada if we are to successfully bridge these gaps and reduce the perpetuation of harm inflicted on this population as a result of being forced to remain stateless.

Statelessness, Securitization and Immigration Detention

One of the most complex and severe human rights violations stateless persons face is being indefinitely detained in immigration detention centres whilst awaiting deportation (Gauvreau & Williams, 2002). Immigration detention centres are used as temporary holding centres that house people that are not admissible to a state. Every person within Canada that does not hold legal status to Canada is, under the IRPA, required to leave immediately or be subject to a state removal order (IRPA, 2001). However, for stateless people who cannot obtain passports
and do not have citizenship to any other state, their ability to leave voluntarily is limited often resulting in them facing legal removal orders (Brouwer, 2012). When this happens, individuals with removal orders issued against them are detained in immigration detention centres that restrict their freedoms and rights, including their right to not be arbitrarily detained. The legal grounds under which the CBSA can lawfully detain are outlined under s. 55(2) (a)(b) that enable CBSA officers to detain persons when a) there is reasonable grounds to believe the person is inadmissible and a danger to the public or b) their identity is in question (IRPA, 2001, s.55. c.2). Immigration detention is therefore ultimately a form of state control that is used against people that are seen as a threat to the security of the state; often this includes unidentifiable persons such as stateless people.

Section 9 of the *Universal Declaration of Human Rights* states that “No-one shall be subjected to arbitrary arrest, detention or exile.” (Universal Declaration of Human Rights, 1948). In addition, Section 7 of the Canadian *Charter of Rights and Freedoms* provides everyone the right to “life, liberty and security of the person, and the right to not be deprived thereof except in accordance with the principles of fundamental justice” (Charter, 1982). Despite these constitutional and international rights protections that seek to prevent the indefinite detention of stateless persons, the complexities surrounding the deportation of stateless persons often result in them spending lengthy periods of time in immigration detention. Literature suggests concerns around indefinite detention are not unique to stateless people, however, it does recognise that this population is at an increased risk of spending long periods of time in detention because of the complex deportation procedures that couple deporting a person with no citizenship (Stasiulis, 2017; Gauvreau & Williams, 2002). To arrange deportation, states have to negotiate and ensure the country that they deport the individual to will accept them (Gauvreau & Williams, 2002).
When someone has no citizenship, this is challenging as they are often seen as undesirable because no state claims legal ‘ownership’ over the stateless individual (De Chickera & Murray, 2017).

Given the complexities that arise when deporting a stateless person, the time it takes to negotiate said deportation is lengthy (Stasiulis, 2017). As a result, this population is often forced to spend additional time in detention centres whilst the CBSA negotiate deportation proceedings with other states (Stasiulis, 2017). Literature highlights several concerns pertaining to indefinite detention including; concerns for physical and mental health implications, as well as the human rights violation concerns that spending indefinite periods of time in detention create (Brouwer, 2012; Gauvreau & Williams, 2002).

Concerningly, legal rights protections that defend a person from indefinite detention presented in the Canadian Charter often fail to protect the rights of stateless persons- a theme highlighted persistently throughout this review. This is largely because of exceptions that enable the CBSA to detain individuals when their identity is in question or if they are seen as a threat to Canada’s security (IRPA, s.55 c.2, 2001). However, the challenges faced by states when securing a place to deport people without citizenship can result in slower deportation proceedings and because of this provision, lengthy periods of time in detention.

In addition, it should be highlighted that immigration itself is not a crime, however persons in immigration detention centres are viewed to have broken international immigration laws. This distinction is key, especially when many detainees in immigration detention centres report feeling a sense of criminalization for not having identification documents or passports (Aliverti, 2012; Gros & Van Groll, 2015). In today’s era of securitization in particular, political rhetoric often draws parallels between immigration detention centres and prisons in the eyes of
the general public (Ackerman & Furman, 2012). Given that both forms of detention restrict a person’s liberties and right to freedom of mobility, it is clear to see why society often views unidentifiable migrants as criminals or ‘illegal’ migrants (Aliverti, 2012). In their work, Ackerman and Furman discuss the harm that viewing those in immigration detention in the same way as we view criminals has on the psyche of detainees, particularly when it comes to furthering their exclusion within society (2012). Feelings of wrong-doing, fear of authority and a belief that they must be criminals if they are locked up are all findings reported throughout literature that discusses the psychological harm that the criminalization of migration can have (Ackerman & Furman, 2012). Given this, the European Network on Statelessness (ENS) published a report entitled ‘Protecting Stateless Persons from Arbitrary Detention’ outlining the human rights concerns with the deportation of stateless persons to countries they have no connection or status to (ENS). Their report also documented how conflicting international definitions and protocols for addressing statelessness further complicate the deportation process of stateless persons, resulting in the increased use of arbitrary detention on a global scale.

Deportation: The Cases of Deepan Budlakoti and Jama Warsame

It is essential to highlight that one of the most significant implications of there being no legal pathway to permanent status for stateless people is the complexity of this population's deportation process. As highlighted in the previous section, stateless individuals' deportation process is complex and risks persons being sent from potentially the only country they have ever known to one they have no rights or connections in.

The Case of Deepan Budlakoti

The case of 22-year-old Deepan Budlakoti provides a distinct example of how issues of citizenship and statelessness intertwine with national security to perpetuate cycles of harm for
stateless individuals (Budlakoti v. Canada, 2018). Stasiulis uses the case of Budlakoti to highlight further the issues that arise regarding statelessness and securitization from the Canadian perspective (Stasiulis, 2017). Mr. Budlakoti was born in Canada to Indian national parents, and he was issued Canadian PR status as a child. It is important to note that persons with PR status can still be subjected to deportation as a result of serious criminality under Canadian law (Budlakoti v. Canada, 2018). As Mr. Budlakoti did not hold citizenship status within Canada, he was threatened with a removal order after being charged with drug trafficking and firearms offences (Stasiulis, 2017; Budlakoti v. Canada, 2018). Authorities argued that as Mr. Budlakoti was not a Canadian citizen, he was therefore inadmissible to Canada as a result of serious criminality (Stasiulis, 2017; Budlakoti v. Canada, 2018). Consequentially, they stated because of this inadmissibility he was eligible to be subject to a removal order under section 36(1) the IRPA (Budlakoti v. Canada, 2018).

Additionally, despite not holding citizenship to any country, including India where his parents were born, the Canadian courts argued that Mr. Budlakoti failed to meet the 1954 UN conventional definition of ‘stateless’ as he had not exhausted all plausible options open to him to apply for citizenship to India or Canada (Budlakoti v. Canada, 2018). Consequentially, as Mr. Budlakoti was not legally classified as stateless, Canadian courts argued that Canada was justifiable in issuing a removal order as doing so would not legally render him ‘stateless’ under international human rights laws (Stasiulis, 2017). The Federal Court dismissed Mr. Budlakoti’s appeal that was filed on the basis that the deportation order violated his s.7 Canadian Charter rights to “life, liberty, and security of the person ...” (Stasiulis, 2017; Budlakoti v. Canada, 2018). The courts denied this claim by arguing “the denial of citizenship is not synonymous with deportation” (Stasiulis, 2017). The Federal Court of Appeal further argued that by issuing this
removal order, Canada was not breaching its international obligations to reduce statelessness in the 1961 UN Convention because Mr. Budlakoti was not legally classified as stateless (Budlakoti v. Canada, 2018). The Federal court of Appeal stated that Mr. Budlakoti had not exhausted all options in his attempts to obtain Canadian or Indian citizenship, therefore the deportation order did not violate international treaties such as the 1961 Convention on the Reduction of Statelessness that was ratified by Canada (Stasiulis, 2017; Budlakoti v. Canada, 2018).

This case brings attention to many legal puzzles regarding how statelessness and securitization intersect. Mr. Budlakoti’s inability to obtain status as a citizen or as a stateless person emphasizes the extreme legislative gaps within Canadian law and international law regarding statelessness (Budlakoti v. Canada, 2018). Stasiulis (2017) discussed how given that Mr. Budlakoti’s parents were foreign diplomats along with the fact he had been given Canadian passports and a Canadian birth certificate, his inability to obtain citizenship raises concerns around the gaps within the Canadian Citizenship Act (Stasiulis, 2017). Stasiulis also highlighted how the inability to obtain citizenship or be defined as stateless presented Mr. Budlakoti with severe social exclusion in the form of many human rights violations (2017).

Further, in 2018 the UN committee told Canada that Budlakoti should remain in Canada as although Canada is not his country through citizenship, it is his ‘own country’ through the ties and connections he has made (Budlakoti v. Canada, 2018). This draws attention to the fact that there is a level of refusal from within the international community when it comes to allowing Canada to violate international human rights laws in such severe manners.

**The Case of Jama Warsame**

In addition to the case of Deepan Budlakoti, the case of Jama Warsame provides another example of the complications that arise when deporting people to countries they hold no
citizenship or ties to (Budlakoti v. Canada, 2018). Mr. Warsame came to Canada in 1984 from Saudi Arabia, however he never obtained Saudi citizenship (Warsame v Canada, 2010). Although of Somali decent, Mr. Warsame never visited or lived in Somalia. Although he was not a Canadian citizen or recognised as a Conventional Refugee, Mr. Warsame did hold PR status in Canada. After two sentences of imprisonment, Mr. Warsame was sent a deportation order in 2006 on the grounds of “serious criminality” (Warsame v Canada, 2010). Mr. Warsame’s Pre-Removal Assessment (PPRA) highlighted he would face a high risk to life and ill-treatment should he be deported to Somalia given his lack of; family, previous residence in Somalia, ability to speak the language and his age (Warsame v Canada, 2010). Concerningly, the Ministry of Public Safety in Canada determined that Mr. Warsame presented a risk to the security of Canada and that these “humanitarian and compassionate hardships did not outweigh the danger to the public” (Warsame v Canada, 2010).

The main arguments presented throughout this case highlight that Canada remained the sole country by which Mr. Warsame had family connections within. This case also saw arguments made to the UN Human Rights Committee that stated although Canada was not Mr. Warsame’s country through the traditional legal sense, it was his “own country” in a way that was broader than citizenship and nationality (Warsame v Canada, 2010). Mr. Warsame’s appeal to the UN Human Rights Committee was denied, once again making him deportable to Somalia, a country that Canada identified as unsafe. The main concern outlined in this case is that Canadian law allows for deportations that put deportees' lives in danger to occur under the rouse of ‘national security’ trumping human rights. Similarly, the ongoing case of Abdilahi Elmi presents similar rights violation concerns and provides another example of a case by which the Canadian courts ruled a threat to life can be overlooked when there is a threat to national
security. In this ongoing case, Mr. Elmi was set to be deported back to Somalia in August 2020 where it was evident that he would face serious risks of persecution (CBC, 2019). Despite this, it was determined that these severe concerns for Mr. Elmi’s safety should be justifiably overlooked because it was believed his severe criminal background meant he posed a threat to the safety of Canadians. Currently Mr. Elmi’s case has been granted a stay, allowing him to remain in Canada whilst the outcome of the case is determined (CBC, 2019).

For persons without citizenship, the complications that deportation brings about and prioritization of securitization over the rights and safety of stateless persons must be further researched within Canadian literature. As the cases of Budlakoti and Warsame emphasize, the rights violations that the deportation of stateless persons create are severe. The fact that all three of these individuals were detained and/or subjected to deportation orders under the grounds of serious criminality further perpetuates the connection between securitization and the deportation of undocumented migrants. If we hope to bridge the legislative gaps that stateless persons fall through, it is imperative that literature emphasizes the importance of furthering research that highlights these lived experiences within the Canadian perspective.

**Humanitarian & Compassionate Grounds for Appeals:**

If an application for permanent status is rejected, stateless persons may appeal on humanitarian and compassionate grounds. However, these grounds are by nature highly discretionary, meaning this process can be extremely challenging for stateless persons (IRCC, 2017). Due to this discretionary nature, humanitarian and compassionate grounds require applicants provide extremely specific documentation and have a deep understanding of the process. Given that statelessness is a complex issue, these applications often require legal
assistance, however the cost of such assistance presents further challenges when seeking pathways to legal status (Kane, 2019, p. 12; Brouwer, 2012).

Additionally, the processing times for humanitarian and compassionate ground applications can be extensive, and currently, people are not given rights to remain in Canada whilst they await a decision (Kane, 2019). This can cause stateless persons to be detained and or deported until verdicts are made. Given the complexity surrounding the deportation of stateless persons, indefinite detention is likely (Field & Edwards, 2006). This factor is something that often deters stateless persons from applying under this category (DeChickera & Murray, 2017). In addition, because stateless persons are unable to prove their identify, CBSA officers can lawfully detain them under s.55 (2) of the IRPA that grants the legally detain persons whose identity is in question (IRPA, 2001, s.55, c.2). Fear of deportation to unknown countries they have no ties to, combined with the fear of indefinite immigration detention often causes stateless persons to remain in the shadows and not appeal under humanitarian and compassionate grounds (DeChickera & Murray, 2017).

Canada’s Citizenship Act: Section’s 5(4) and 5(5):

In addition to humanitarian and compassionate grounds for appeal, stateless individuals in Canada can also find legal pathways out of statelessness through s. 5(4) and S.5(5) of the Canadian Citizenship Act (Citizenship Act, s.5, c.4, c.5, 2009). Section 5(4) of the Citizenship Act states that stateless persons within Canada can apply for a ‘Ministerial discretionary grant of citizenship’ to alleviate special and unusual hardship (Citizenship Act, s.5, c.4, 2009). Statelessness was included as a ground by which this pathway to citizenship can occur, thus enabling the Minister of Immigration and Refugee’s Canada to discretionarily grant Canadian citizenship. In addition, s. 5(5) of the Citizenship Act allows second generation
Canadians who were born outside of Canada on or after April 17th 2009 the ability to apply for citizenship to prevent them being rendered stateless, if they meet the following criteria (Citizenship Act, s.5, c.5, 2009). The criteria states they must; have a birth parent that was a Canadian citizen at the time of their birth; be less than 23 years old; have been physically in Canada for 1,095 days immediately before the date of their application; have always been stateless; and have not been convicted of specific criminal offences (Citizenship Act, s.5, c.5, 2009). While these routes provide additional pathways for stateless persons to gain legal status, it is critical to note that there remains strict criteria and a largely discretionary element to these options. As a result, the chances that these pathways enable many stateless Canadians accessible pathways out of statelessness remains very slim.

Although it seems an obvious connection, very few pieces of literature connect the fear of authority and detention that being statelessness generates with why humanitarian and compassionate grounds are not accessible grounds for appeal for most stateless persons. This connection remains crucial as it stems from the fear of authority stateless persons have, due to the way authorities treat them regarding their lack of rights and protections. This is an issue the literature needs to expand on if we can hope to formulate positive and significant change that enables stateless persons to obtain permanent Canada status.

**RESEARCH RECOMMENDATIONS**

After carrying out an analysis of current literature, it is evident that statelessness is an under-researched issue within the Canadian context. Although the bodies of work used within this review all provide unique and critical insights into the current state of affairs in Canada, this section will highlight two of the most significant gaps found in this literature review. The main gap found is that much of the literature groups the experiences of all precarious and
undocumented migrants together. The second gap found is that more primary research which highlights the voices of stateless persons in Canada is needed. This would allow for a greater understanding of how stateless persons experience daily exclusion at the legal, social, and political levels. This is especially true given that there is a tendency within the literature to fail to disentangle statelessness from other types of precarious migration.

**Statelessness in Relation to Undocumented and Precarious Status Migrants**

Although precarious and undocumented groups of migrants are distinct from each other because they have several differing needs, they do share many core fundamental experiences. Many of these shared experiences are the result of migration policies and practices that seek to create blanket exclusions against those without permanent status in Canada. The core shared component of these policies is the way in which they deny all undocumented and precarious migrants the right to access many social services. As highlighted prior, the inability to access healthcare and education remains two of the key shared experiences that all undocumented migrants face within Canada, due to socially and geographically exclusionary policies. In Canada, provincial healthcare policies like OHIP provide a blanket denial of access to affordable healthcare for all undocumented migrants (Kane, 2019). As a result, the inability to access affordable healthcare is an experience that is shared within sub-populations of undocumented migrants, including stateless persons. It is essential for literature to highlight that these experiences are shared, while also not failing to make direct reference to stateless persons in the same way they do other sub-groups of undocumented and precarious status migrants.

Irregular migration is a highly researched and discussed topic within Canadian literature, therefore, it is crucial to examine where statelessness fits within this framework. Doing so would allow for a deeper understanding of the shared experiences that stateless and other
undocumented migrants have due to exclusionary policies and laws. In addition, this allows for more attention to be drawn to the importance of promoting additional research on statelessness in Canada. Understanding how these groups share experiences also allows for an analysis of whether broader movements in support of providing accessible rights to undocumented migrant groups, such as sanctuary city movements, would benefit from greater direct incorporation and understanding of statelessness in their work.

The term ‘sanctuary city’ refers to jurisdictions with implemented policies that limit cooperation with governments and immigration enforcement (Hudson, Atak, Manocchi & Hannah, 2017). These jurisdictions seek to create an inclusive space for all persons, including undocumented migrants (Hudson et al., 2017). Sanctuary Cities are safe areas where everyone can securely access city services without fear of their data being shared with federal authorities (Hudson et al., 2017). Sanctuary city movements are growing in popularity and implementation across Canada after being prevalent in the United States for many years. Providing all persons with access to services, including education and healthcare are core components of sanctuary city policies (Hudson et al., 2017). It is essential to recognize that while sanctuary city policies such as “don’t ask don’t tell” are not tailored directly to stateless people, they do enable this population to access services such as healthcare without having to disclose their lack of status to doctors clinics (Hudson et al., 2017). By not requiring its residents to declare their legal status when visiting clinics and healthcare centers, sanctuary cities such as Toronto offer a safe and inclusive pathway for accessible healthcare for its residents (Hudson et al., 2017).

In addition, the inclusive nature of sanctuary city policies enables stateless people that reside in declared sanctuary cities to benefit from accessing much-needed services that they would not be given the right to access elsewhere. The protection these policies provide mitigates
the fear that undocumented and precarious status migrants experience when disclosing personal information to service centers. While this literature review's findings have emphasized the unique challenges stateless people face, it is also vital that shared experiences between stateless persons and other groups of undocumented migrants are also recognized as valuable. It is evident that to better understand the needs of stateless persons when it comes to ensuring their rights are protected, there does need to be a greater emphasis on how stateless persons fit within this broader group of undocumented migrants.

Although the ‘citizen/non-citizen’ dichotomy is useful in some discussions surrounding the accessibility of rights undocumented migrants, much of the Canadian literature failed to highlight the ways stateless persons experience unique challenges. This often make the literature appear vague and confusing in parts. Many of the bodies of work excluded from this review failed to distinguish between stateless persons, refugees, and asylum seekers. Conducting this review highlighted that literature tends to reinforce statelessness into broader categories of undocumented migrants. It also showed why literature must carefully distinguish between these sub-groups of undocumented and precarious migrants when appropriate. Doing so will ensure that literature does not make blanket assumptions around the different needs within these sub-groups.

**Elevation of Stateless Voices in Canadian Literature:**

It is also important to note that when conducting research, the voices of the persons being researched offer unique perspectives that outsiders often cannot unearth on their own. The complex nature of statelessness, combined with the fact that individual experiences of statelessness differ from one another, makes the elevation of stateless experiences in literature vital. As shown in this literature review, much of the published work on statelessness positions
itself from a legal framework rather than a socio-legal standpoint. Consequently, there are prevalent gaps within Canadian literature surrounding how stateless people experience statelessness in different ways. Failing to recognize that not all experiences of statelessness are the same risks perpetuating notions of exclusion as only 'stereo-typical' experiences of statelessness will be voiced.

Within the broader context of migration, there has been much discussion around the importance of incorporating migrants’ voices into research, so as to enrich the research findings (British Journal of General Practice, 2016). Despite the legal and social challenges researchers may experience when trying to perform research with undocumented migrants instead of on them, a multitude of research from broader disciplines highlights the benefits of incorporating these often-forgotten voices (British Journal of General Practice, 2016). By including the voices of those most affected by the issues under examination, researchers can develop a more in-depth and often more accurate understanding of their topic. Being aware of the language, access, and legal barriers that may occur before carrying out research can enable researchers to find viable and practice solutions to these challenges in advance (British Journal of General Practice, 2016). This increases the likelihood of researchers successfully incorporating primary research into their work (British Journal of General Practice, 2016).

In addition, there is evidence that when researching vulnerable and under-researched populations, researchers can provide more compelling and intricate arguments when they incorporate the voice said population (Neuman, 2014). Giving these populations a voice in research goes further than simply allowing them the opportunity to tell their stories. Doing so provides agency and power to populations that are often forced to remain in the shadows. Fedyuk and Zentai (2018) discuss the importance of including migrant voices within research,
specifically recognizing how interviews can provide rich and unique perspectives that would otherwise be missed (Fedyuk and Zentai, 2018). Their work shows that interviews can provide researchers with the tools needed to decipher the multi-dimensional elements of global connectivity that make up a person’s experience of migration (Castles, 2012; Fedyuk and Zentai, 2018).

These work bodies emphasize the importance of ensuring researchers include the voices of undocumented migrants if we are to fully understand the complexities they face. If Canada is to become a pioneer in advocating for stateless person’s ability to access legal status and human rights, Canadian literature must promote the voices of this population.

CONCLUDING REMARKS

This paper aims to present an overarching and comprehensive overview of the current state of affairs in the literature pertaining to statelessness from the lens of human rights and citizenship. Further, by primarily examining this issue from the Canadian perspective, it sought to highlight gaps within the literature and make recommendations for further research. A qualitative thematic literature review was chosen to ensure that the findings were well organized and structured. Additionally, the themes discussed represent the most prevalent findings in the literature. Choosing a thematic literature review allowed for a variety of different themes and perspectives to be voiced and connected in a logical manner. Given the parameters provided to this research paper, conducting primary research was not feasible, therefore a literature review was chosen as the next best way to provide an overview of this issue from the Canadian perspective. Instead of conducting primary research existing work that incorporated stateless persons voices was used to ensure the importance of providing a voice to stateless persons was highlighted. This research paper touched upon several different elements of
statelessness including non-citizenship and human rights to provide an overview of the complexities that intersect to make statelessness a human rights issue.

This paper made several critical observations on how stateless persons face disparity compared to citizens when accessing human rights protections. Namely, it also recognized that while the concept of statelessness is not as prominent in Canadian migration discourse as other forms of undocumented migrants, it remains a prevalent issue within the sphere of Canadian migration.

Although exact figures are not available, it is likely given the findings of this paper, that Canada’s population of stateless people is likely much higher than initially assumed. This paper found that given the extent by which stateless persons in Canada cannot access healthcare, education, and employment, there is a dire need for more research to be done on the implications of statelessness and social exclusion within Canada. This study recognizes the changes the Canadian government has made to several policies to enforce the promotion of stateless persons rights. However, findings suggest that it is also imperative we highlight the ever-present gaps that still exist within Canadian immigration policy along with the harmful repercussions these have on stateless person’s ability to access human rights.

This paper found that Canada’s lack of SDP’s presents at the forefront of arguably the most significant legislative gap to date. The inability to access legal status is one of the most significant issues the literature shows within current Canadian immigration laws. The negative implications that the inability to obtain a legal ‘stateless person status’ in Canada present was further highlighted through international literature that showed the benefits of implementing SDP’s in Europe. These benefits included; the ability to access several social services that require proof of status, and the ability to be recognized under the state's law.
The complicated relationship between politics, law and citizenship influenced many of the findings within this literature review. A vast amount of discussion was conducted on the intricacies of these relationships to show how human rights protection enforcement is both political and legal. This discussion produced several of the literature review's critical findings, including how the politicization of citizenship perpetuates the social exclusion of non-citizens within a nation-state. In addition to this finding, debates around the tumultuous relationship between rights and state sovereignty led to a deeper understanding of how citizenship and non-citizenship shape how states exclude and include persons based on status. Given that this paper spent a vast amount of time discussing human rights framework from an Arendtian perspective, it is reasonable to believe that Stateless persons in Canada will not be exposed to full state-membership until viable pathways to legal status are given.

This paper calls on both academics and policymakers to conduct additional research on the findings of this review. Doing so is the first step to ensuring Canada successfully enforces human rights protections for all persons regardless of status, in the ways is it legally obligated to do so under international human rights law.
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