



Statelessness and Colombia: Hannah Arendt and the Failure of Human Rights

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ABSTRACT – *One of the most significant consequences of the violence found in certain regions of Colombia has been the forced displacement of millions of people. According to international and domestic law, those displaced by the conflict are protected by a comprehensive set of human rights. However, these documents, based on the liberal ideals of equality, justice and universal rights have little force. Utilizing Hannah Arendt's concept of statelessness to examine the conflict in Colombia makes it clear that the rights provided for in international agreements and constitutions are in contradiction to the rights that the state is actually willing and/or able to protect. In practice, the stateless are thus without rights. This article acknowledges this situation as the first step in tackling the problems that the existence of the stateless create.*

RÉSUMÉ – *L'une des plus lourdes conséquences de la violence qui accable certaines régions de Colombie est le déplacement forcé de millions de personnes. Selon les lois internationales et domestiques, ces personnes déplacées à cause de conflits sont protégées sous l'ombrelle des droits humains. Cependant, ces documents basés sur les idées libérales d'égalité, de justice et de droits universels n'ont quasiment aucun effet. En nous basant sur le concept « d'apatridie » de Hannah Arendt, nous examinerons le conflit en Colombie et soulignerons comment les droits protégés par des ententes internationales contredisent en fait les droits que l'État est en mesure de/ désire en fait protéger. En application les « apatriés » sont en fait sans droits. Cet article a pour but de reconnaître la situation actuelle en Colombie et d'être le premier pas vers la résolution des problèmes que l'apatridie crée.*

⁹ This essay is a condensed version of a longer piece written for Prof. Chris Beyers at Trent University. It would not have been possible without his infinite patience, and excellent advice.

Cet essai se veut une version abrégée d'un travail plus volumineux rédigé pour le Prof. Chris Beyers de l'Université Trent. Il n'aurait été possible sans sa patience infini et ses excellents conseils.

No paradox of contemporary politics is filled with more poignant irony than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as 'inalienable' those human rights, which are enjoyed only by citizens of the most prosperous and civilized countries, and the situations of the rightless themselves (Arendt, 1985, p. 279).

Regions of Colombia are violent. It is a violence which dehumanizes and disrupts the lives of those it affects. One of the most significant consequences of this violence has been the forced displacement of millions of people. Those who have lost their homes within Colombia's borders are called 'internally displaced persons' (IDPs), and those who have been forced to leave are called 'refugees.' The situation of both groups can best be characterized using Hannah Arendt's concept of statelessness, which underlines a contradiction at the heart of domestic and international human rights law. In the context of Colombia, IDPs affected by violence are protected by Colombia's constitution. Refugees are protected by the Universal Declaration of Human Rights, the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, the 1969 American Convention on Human Rights and the 1984 Cartagena Declaration on Refugees (Gottwald, 2004, p. 517). On paper these documents provide those affected by violence a comprehensive Bill of Rights. However, the reality lived by many millions of people makes these documents, with their liberal ideals of equality, justice and universal human rights, seem hopelessly naive.

Many countries, since the French and American revolutions, have written a slew of rights into their constitutions to protect their citizens. In this respect, Colombia and its surrounding neighbours who house large numbers of refugees have been no exception. The region's independence wars were ideologically founded on the same liberal 'Rights of Man' as the American and French revolutions (Brooke, 2004). The situation in Colombia unravels these rights, to show how they are constructions with little possibility of realization. The 'Rights of Man' and the documents they have inspired are beautiful words, but for those most in need of protection they are little stronger than the paper on which they are written.

What follows is an examination of Human Rights theory, the descendent of the 'Rights of Man,' by looking at the conflicts in Colombia and the resulting disruption in the lives of millions of people through the lens of statelessness provided by Hannah Arendt. Arendt, a Jewish-American philosopher and survivor of the Holocaust, wrote an analysis of the non-state bound rights regime which failed to protect millions of people in Europe between the two wars (1985). In spite of the temporal distance between the present and the Second World War, Arendt's conclusions are still relevant in understanding the rights which are supposed to be enjoyed by those affected by Colombia's endemic violence. Rights guaranteed in constitutions and international agreements stand in contradiction to the rights that the state is actually willing and/or able to protect. The stateless are, in practice, truly without rights.

Arendt argued that 'rights' only exist within a sovereign nation-state, and that as a consequence the only universal human right should be membership in a nation-state. The denial of this right, in Arendt's view, meant the loss of access to a political community, which is that what makes a person human. It is from this perspective that the right to citizenship in a nation-state becomes the only true universal human right.

There are signs that some aspects of citizenship are expanding to encompass the denationalized territories of global civil society, and that "community" itself is best defined not as a pre-existing entity/nation (imagined or otherwise), but as the result of a temporal juncture in time and space. However, recognizing these weaknesses in Arendt's analysis fails to undermine her conclusion because denationalized spaces have no enforcement mechanism that could protect human rights. Neither internationalism nor localism are solutions to Arendt's basic paradox that human rights do not exist when they are most needed.

At the same time, as Colombia's case shows, legal citizenship does not go far enough when the state has little ability, or interest, in guaranteeing citizenship rights. The case is especially poignant when, as in some parts of Colombia, the state itself has become the rights violator. In this way, the failure of an international rights regime is mirrored in the failure of the state bound rights regime.

The purpose of what follows is to acknowledge of the existence of these situations. Neither Arendt's focus on the nation-state nor an optimistic championing on denationalization is unproblematic. Perhaps Arendt's interest in political community points towards a fruitful direction for further analysis, but prescriptive solutions to the manifold problems of human rights are beyond the scope of this paper which concludes in the awkward situation of providing more questions than answers. In order to side step the poignant irony of championing as 'inalienable' rights which so obviously aren't, I conclude by recognizing, as Arendt did, the existence of statelessness. This recognition is the most tenable conclusion in face of an abject failure of human rights.

HANNAH ARENDT AND THE 'RIGHTS OF MAN'

Hannah Arendt¹⁰ identifies the most fundamental of all human rights as the right to membership in a political community. The importance of this right became apparent when, between the two world wars, millions of stateless persons and national minorities found themselves wandering Europe without states willing to protect them (Arendt, 1985, p. 296). For all intents and purposes these groups ceased to have any value to the governments of Europe. They had no home to which they could return, they had lost a society to call their own and there were no states willing to take them. The internment camp, and worse, became the solution to Europe's 'problem' of displaced persons. In this context, Arendt concluded that the right to membership in a political community, and therefore access to rights, was the most basic human rights. In identifying this Arendt uncovered three inconsistencies that strike to the heart of the liberal theory of citizenship and rights, and in doing so brought into question the philosophical underpinnings of contemporary human rights discourse.

First, Arendt showed that the 'Rights of Man' are a fragile foundation on which to build individual rights (Arendt, 1985, p. 291). Liberal political theory is predicated upon individual rights which were postulated to stem from a 'natural' and 'inalienable' universal human equality and freedom, that is the 'Rights of Man.' Prior to the French and American liberal revolutions the fountain of law was the monarch— and state sovereignty was conceived as god given. With the declaration of the 'Rights of Man', law was proclaimed to come from abstract man. State sovereignty was seen to come from the people and not the monarch or god. The former subjects of the monarch became citizens of the state (Arendt, 1985, p. 291). Yet, despite proclamations to the contrary by revolutionaries, man as an abstract, equal, and free individual has never actually existed "for even savages lived in some kind of social order" (Arendt, 1985, p. 291).

"The Western conception of the person as a bounded, unique, more or less integrated motivational and cognitive universe, a dynamic centre of awareness, emotion, judgement and action organized into a distinctive whole and against a social and natural background is, however incorrigible it may seem to us, *a rather peculiar idea within the context of the other world cultures*" (emphasis added Geertz, 1973, p. 48 in Saharso, 2000, p. 231).

Human beings are, after all, social animals who live within continually reconstituting communities of family, friends, neighbours, colleagues and acquaintances. Consequently "man had hardly appeared as a completely emancipated, completely isolated being who carried his dignity within himself without reference to some larger encompassing order, when he disappeared

¹⁰ I wish to acknowledge the aid of the work of Bridget Cotter, John Williams, Linda Bosniak (2000) and Daniel Pécaut (2000a) in aiding my understanding of Arendt.

again into a member of a people” (Arendt, 1985, p. 291). Arendt argued that if a person was a member of a people as opposed to an individual, then rights are not protected because of the ‘inalienable’ and ‘universal’ liberal ‘Rights of Man’, but because their rights were held by an individual as a member of a people that is willing and able to protect them. Quite quickly human rights become interwoven with the rights of peoples and nations (Arendt, 1985, p. 291).

Arendt’s second point is that individual rights are only possible to protect when they coexist with the right of a people to sovereignty. In other words, the ‘Rights of Man’ are unenforceable outside of the context of a state willing to protect them. International documents, which define ‘human rights’, like the Universal Declaration of Human Rights, are in conflict with a state’s sovereign right to decide who is a citizen and/or who is worthy of having rights respected because international agreements are predicated on sovereignty of the state. The very idea of universal human rights in the international context is in a contradiction to the norm of state sovereignty. As a consequence, international organizations and agreements are only as strong as the willingness and ability of a state to ensure their implementation and enforcement.

Arendt’s final point is that if a strong international human rights regime is a fantasy, then the only way to ensure that rights are protected is by ensuring the right to membership in a political community. This is the only universal human right which should supersede state sovereignty. According to Arendt, when a person loses their status as a citizen, ‘*inborn*’ and ‘*inalienable*’ rights do not actually come into effect. A person, when not a member of a people or a state, “[loses] the very qualities which make it possible for other people to treat [them] as a fellow [human beings]” (Arendt, 1985, p. 300). Arendt called this denial of membership in a political community statelessness, and advocated the right to membership as the only preventative measure.

The stateless face three basic losses. First, the loss of their home means the loss of the very social fabric where they were born and raised and where they have created a unique existence (Arendt, 1985, p. 293). The unprecedented aspect of this loss is that it is impossible to find a new home because there is no state that is willing to accept the homeless, nowhere where they can re-found a political community (Arendt, 1985, p. 293). The second loss is the loss of state protection, the loss of legal status in their own as well as other countries (Arendt, 1985, p. 294). The final indignity is that those excluded from a political community are excluded not because of their actions or their thoughts but because of what they fundamentally are: innocent. According to Arendt, it is innocence, in the sense of a “complete lack of responsibility,” which is the defining aspect of rightlessness and the loss of political status (Arendt, 1985, p. 294–295).

The problem of a stateless person who is excluded from a political community is not just the loss of a home or citizenship rights but that a person is no longer part of any political community (Arendt, 1985, p. 295). Arendt, demonstrating her affiliation with Aristotle, saw this loss as entailing the loss of the relevance of speech, because there is nobody there to listen, and the loss of the importance of human relationship, because there is nobody there who cares. These are two defining features, according to Arendt’s take on Aristotle, of human nature. Statelessness thus implies both loss of an Aristotelian polity and an expulsion from humanity (Arendt, 1985, p. 297).

A RE-EXAMINATION OF HANNAH ARENDT

In bringing elements of Arendt’s philosophy to bear on the situation of Colombian refugees and IDPs it is important to locate Arendt’s writing in its spatial and temporal contexts. Arendt wrote her analysis after living through the horrors of the Second World War. Her views were shaped by the failures of European states and the League of Nations to comprehend, predict and prevent a genocide in which more than 12 million people lost their lives. Fifty years have done little to remove the poignancy and utility of Arendt’s analysis in understanding the failures of international instruments designed to protect ‘stateless persons.’ However, the period has

brought changes that warrant further analysis of Arendt's conclusions. The first task is to clarify what exactly a political community is.

One way of defining the right to membership in a political community is as the right to citizenship in a nation–state. Arendt does not explicitly define a political community this way, but her focus on the sovereign nation as the arbitrator of rights implies this understanding. Arendt was a theorist of the nation–state, and she conceived citizenship in a way that was bounded. A citizen “is by definition a citizen among citizens of a country among countries. [Their] rights and duties must be defined and limited, not only by those of [their] fellow citizens, but also by the boundaries of a territory...” (Arendt, 1968, p. 2 in Bosniak, 2000, p.f 3).

This sort of citizenship is a term which has experienced renewed interest in academic circles in recent years, but it is by no means a concept which has an easy and agreed upon definition. Kymlicka and Norman define citizenship as referring to one of three possibilities: first, as a person's status as a legal citizen, defined by a person's civil, political and social rights as well as a small number of duties; secondly, a person's identity as a member of one or multiple ‘political communities’ as contrasted with membership in identities based on “class, race, ethnicity, religion, gender, profession, sexual preference, etc”; and finally, as a person's activity or civic duty¹¹ (2000, p. 30).

Bosniak adds to this understanding by distinguishing between citizenship–as–legal–status, “legally recognized membership in an organized political community,” and citizenship–as–rights, “the enjoyment of rights is the defining feature of societal membership, citizenship requires the possession of rights, and those who possess the rights are usually presumed to enjoy citizenship.” She also adds the concept of citizenship–as–political–activity: that is “active engagement in the political community” (2000, p. 456).

These different definitions make it clear that citizenship is an open and contested term which brings to mind rights along with duties; participation along with exclusion; belonging along with othering. It is because citizenship provokes such a fluidity of meanings that the term opens the possibility for misunderstanding and confusion. To be specific in usage, I confine myself to Arendt's interest in two aspects of citizenship: citizenship–as–rights and citizenship–as–political–activity.

There have been recent debates about the linkages between citizenship and the nation–state. Thus I now turn to examining to what extent can Arendt's focus on the political community and citizenship stemming exclusively from the nation–state be justified in light of changes in the last twenty five years which have led some authors to conclude that citizenship has become/or is becoming denationalized. The answer depends on the exact composition of the question, that is the meaning of citizenship which is being discussed. The question becomes twofold. First, do citizenship–as–rights exist outside of the nation–state? Secondly, does citizenship–as–political–activity in a political community exist outside of the nation–state? If the answer to either of these questions is yes, a second pertinent question to ask is does this change the situation for the stateless.

The theory that rights have become denationalized can be summarized as the following. In the absence of a world government, an international human rights regime has developed since the Second World War. Instruments of the United Nations have defined universal human rights as well as rights specific to children, refugees and women. These social, political, civil, economic

¹¹ According to William Galston, citizenship requires four civic virtues: “(i) *general virtues*: courage; law–abidingness; loyalty; (ii) *social virtues*: independence; open–mindedness; (iii) *economic virtues*: work ethic; capacity to delay self gratification; adaptability to economic and technological change; and (iv) *political virtues*: capacity to discern and respect the rights of others; willingness to demand only what can be paid for; ability to evaluate the performance of those in office; and willingness to engage in public discourse” (Galston 1991: 221–4 in Kymlicka and Norman 2000: 7).

and environmental rights are expressed in international law, and it is argued that they longer stem from the nation–state.

An analysis of the facts brings into question the assumptions at the base of this theory. Some rights have become less bounded to the nation–state. For example, economic rights enshrined within the World Trade Organization (WTO) have become denationalized as state sovereignty is bent in the interests of international capital. However, a supra-territorial¹² space of political, civil and social rights is non–existent outside of the European Union¹³. Although, the Universal Declaration of Human Rights lays out a quite detailed ‘Bill of Rights,’ they are still only enforceable by a willing and able sovereign state.

The problem with an overly enthusiastic take on the universality of human rights is that it can lead to the presumption that internationally sanctioned rights provide some sort of protection to individuals. This is not the case because the foundation in international law goes out its way to protect state sovereignty. “Rights guaranteed under the [international human rights] regime are not self–executing: they are made available to individuals only by way of their states, which must have affirmatively assumed obligations to enforce them under the various human rights treaties” (Bosniak, 2000, p. 60). To return to the earlier question, it seems that citizenship–as–rights is still very much the affair of states.

In order to answer the second question, has a denationalization of citizenship–as–political–activity occurred, the concept of the nation–state and the idea of a political community need to be unpacked. According to Arendt the nation is the basis from which statehood can be formed and from which rights are to be protected. However, her conception of the nation preceding the state is deduced *a priori* and does not take into account the ways that states actively construct the nation, and how few nation–states exist in the world. States can be understood as territorially bounded entities with political, legal and administrative control over an area which has been constructed over a historical period by monopolizing violence and incorporating other sub groups (Shapiro, 2000, p. 80). A nation consists of a people with a coherent culture, united on the basis of shared decent and/or with historically stable coherence (Shapiro, 2000, p. 80). Shapiro argues that the construction of the myth of a nation–state, that is a coherent people inhabiting a fixed territory with their own state, requires that the state engage in discursive doctoring of the “autobiographical record” creating linkages between the “historical narrative” and “a territorial space.” That is, constructing a culturally coherent nation is necessary (Shapiro, 2000, p. 80). The constructed nature of the nation makes linking, as Arendt suggested, citizenship–as–political–activity (and the political community as a whole) to the nation–state somewhat unwarranted.

Shapiro also shows that the community itself is not the strongest of foundations on which to base this type of citizenship. If the nation–state is a continually constructed creation, the community, according to Shapiro’s take on Jean–Luc Nancy, is but a temporal linkage of social bonds that is not based on any fundamental bedrock. Shapiro argues that there are no secure identities and there are no secure spaces that can provide for the integration of a community (Shapiro, 2000, p. 82). Thus, if “being in common involves only a juncture, the sharing of a space of encounter” then membership in a political community does not so much imply membership in a pre–existing fixed entity but rather access to a place where ones voice is heard and human relations are important (Shapiro, 2000, p. 82).

¹² Supra–territoriality is a concept borrowed from Scholte (2000). He argues that globalization can be characterized by the growth of supra–territoriality, which implies a new social space located beyond the traditional territorial boundaries. In this new social space interactions happen not on an international scale between states, but on a truly global level.

¹³ There is no supraterritorial body, except the European Court of Human Rights whose jurisdiction is limited to the member states of the European Union, that has the power to force a sovereign state into obeying its rulings (Bosniak 2000: 468).

If citizenship-as-political-activity is thus not taken to mean exclusively participation in a political community defined as a nation-state then citizenship-as-political-activity could be seen as becoming denationalized. Bosniak identifies one area where this is occurring in the rise of supra-territorial civil society consisting of global non-governmental organizations working in the women's movement, human rights, indigenous rights, and environmental issues; as well as in the growth of global social movements (474). Thus, some aspects of citizenship can be considered as becoming denationalized. The political community, the space of fleeting human interactions where voices are heard and relations valued, is being "drawn more expansively" (Bosniak, 2000, p. 479) than is usual in citizenship theory.

However, this broadening of citizenship-as-political-activity is not very relevant to the stateless because the possibility for denationalization is only accessible to the few who have access to supra-territorial spaces. Therefore, it remains that in spite of recent additions to citizenship theory, Arendt's understanding of citizenship as bounded by the nation-state is still warranted. After all, a nation may be constructed and even imaginary, but it is a powerful imaginary with real consequences especially for those who are excluded.

COLOMBIA'S VIOLENT PAST AND PRESENT

Before looking at Arendt's conclusions in relation to the conflict in Colombia, I want to provide a brief overview of the conflict itself. What follows is a simplification of an extremely fluid and complex history. The violence in Colombia between government, paramilitary and guerrilla forces and is normally traced back to the period between 1945 and 1965 referred to as *La Violencia* (Sánchez, 2000, p. 28). This was a period characterized by widespread political violence within the elite, divided along Liberal and Conservative lines, and between the elite and the poor along class lines. *La Violencia*¹⁴ led to mass murder and dislocation, which has etched itself on the collective memory of Colombia.

There are four main protagonists in Colombia's conflict. The *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* ([Revolutionary Armed Forces of Colombia – People's Army], FARC-EP), which was an outgrowth of the communist influenced peasant defence guerrillas (UNHCR 2005a, p. 6). FARC-EC was founded in 1965, and originally had a strong communist underpinning and support from the USSR (Gottwald, 2004, p. 520). During the 1980s and 1990s FARC-EC expanded their operations to 17 departments with 60 fronts¹⁵ and today consists of about 17,000 members (UNHCR, 2005a, p. 6). A second smaller guerrilla group known as the *Ejército de Liberación Nacional* ([National Liberation Army], ELN) was founded by urban university students in the 1960s and inspired by the Cuban revolution (Gottwald, 2004, p. 520; UNHCR, 2005a, p. 7). The ELN is much smaller than FARC-EC, with between 3,500 and 5000 combatants in four fronts. They remain a mostly regional force located in the north of the country (UNHCR 2005a, p. 7).

In response to extortion activities by guerrillas, many land owners and ranchers funded the creation of paramilitary groups in the early 1980s (Gottwald, 2004, p. 520). These groups received support from the Colombian state, and many of their members are retired military and police officials. Their main organization is the *Autodefensas Unidas de Colombia* ([United Self-Defence Forces of Colombia], AUC), which operates all over the country. As of 2001, the AUC consisted of between 10,000 and 20,000 members (UNHCR, 2005a, p. 8). Although the AUC committed to demobilizing 15,000 members by 2005, the Colombian government says 2,624 have turned in their arms (UNHCR, 2005a, p. 8). The fourth and final protagonist in the conflict is the Colombian military itself. Due to US government funding, in the name of Plan Colombia, the

¹⁴ *La Violencia* can itself be linked to the nineteenth century because most of the current violence in Colombia has long and deep roots, but an analysis of this period is beyond the scope of this article.

¹⁵ A front is an autonomous guerrilla group, operating in a particular region.

military has recently expanded to include approximately 150,000 members, including 55,000 combat troops (Gottwald, 2004, p. 521). In light of these four distinct actors, the conflict in Colombia can best be characterized as a war on multiple fronts, where the participants fight between themselves.

After a brief cooling in the 1960s and 1970s, the conflict spiralled in an increasingly violent direction during the 1980s and 1990s. Guerrilla and paramilitary forces began to participate in what Richani describes as the war-system (1997). A vicious economic circle developed which was based on the narcotics industry, kidnapping, extortion and crime (Segura Escobar, 2000, p. 112). Prior to the 1980s, guerrilla groups did not have the economic resources required to expand their operation. However, during the 1980s the growth of the drug trade and the arrival of oil companies in the Caño Limón (Segura Escobar, 2000, p. 112). The expansion of the guerrilla movements in turn fuelled increasing military expenditures (Segura Escobar, 2000, p. 113), and contributed to the development of the paramilitary forces. This expansion created a self-fulfilling economic logic where the narcotics industry fuelled the expansion of the military, and where some profit more by continuation the conflict than by seeking a solution.

Like previous periods of conflict, those most negatively affected have been the rural poor on whose land and with whose bodies the war(s) are being fought. “When paramilitaries and guerrillas dispute the same territories, terror against the civilian population has become the principal means to isolate the enemy, cutting him off from a base of support” (Pécaut, 2000b, p. 129). A member of a village in a guerrilla-controlled region is under suspicion both by the government and the paramilitaries because they are perceived as being sympathizers with the guerrillas. The reverse is also true, as guerrillas treat with suspicion those who live in territory controlled by paramilitary units or with a state presence. Neither side wishes to directly confront the other, and has thus resorted to “taking the water away from the fish”; strategy that “focuses on undermining the enemy’s social base” and “renders one and all susceptible to becoming a military target [where] no space is allowed for neutrality” (Segura Escobar, 2000, p. 114). Extreme violations of human rights law, such as “extra-judicial killings, arbitrary executions, enforced disappearances, torture, hostage taking, and attacks against the civilian population” are common, they are no-longer a side affect of war but its deliberate policy (Gottwald, 2004, p. 522).

Violence has become banal. The most horrific and graphic events are as routinely reported on in the media as they are committed by guerrillas, paramilitaries, and the government. In some regions violence has become an everyday form of existence. Although most violence has been directed against the poorest rural people, it has also been increasingly targeted at politicians, teachers, professionals, journalists, indigenous leaders and women leaders (UNHCR, 2005a). The fact that the majority of victims have committed no crimes and are not sympathetic to any of the parties involved, is a reminder that innocence provides little protection and there is often little alternative but to leave¹⁶. Displacement has become one of the outcomes of the conflicts in Colombia.

ARENDETT AND THE STATELESS OF COLOMBIA

According to the UNHCR, between 1996 and 2004 over two million people were forced to leave their homes and their communities. Some have moved to other regions of Colombia, but many have sought safety by crossing international frontiers. There are hundreds of thousands of Colombians who have fled to the neighbouring countries of Ecuador, Venezuela and Panama. Where financial resources exist, the United States, Costa Rica, Canada and Europe have also become destinations of asylum.

¹⁶ There are those who have chosen to stay, for example members of the *Comunidad de Paz San José de Apartadó* in Antioquia, Colombia ([Peace Community of San José de Apartadó], Comunidad, 2006). However, comparatively speaking their numbers are small.

The terms used to describe Colombians who have been forced to leave their homes are IDPs and refugees. According to the UNHCR (2005a), refugees gain their legal status from Article 1 A (2) of the 1951 Convention relating to the Status of Refugees. Internally displaced persons are those who have been forced to flee their homes, but who have not crossed international frontiers. Arendt's term stateless is a useful label for both groups because it describes their situation, and acts as a reminder that the stateless have truly no right to have rights and no membership in a political community. The existence of the stateless in countries neighbouring Colombia underlines the weakness of international human rights law because it is a reminder that the state still has absolute sovereignty in deciding who gets to have rights. Their existence internally within Colombia undermines the coherence of Arendt's observation that citizenship in the nation–state is key to preventing the consequences of statelessness.

According to Arendt the stateless have experienced four losses. Millions have lost the “social fabric” in which they exist, and they have little possibility of acquiring another home where their voice can be heard. Although extremely heterogeneous in their composition IDPs and refugees share similar experiences in the moment of expulsion.

The suddenness and terror of the flight; the closeness to death; the intimidation and hostility, the frequent breakdown of solidarity between neighbours; the material and symbolic losses; the erosion of the fundamentals of identity and self esteem, are just some of the factors that make violent expulsion a particular and very traumatic form of emigration, sharpened by the scant or non–existent hope of return (Segura Escobar, 2000, p. 109).

These stateless persons were forced to leave their homes and communities, and their ability to start over is limited due to the economic situation and discrimination they encounter. In urban areas, many find themselves marginalized on the outskirts of cities, threatened both by the violent groups which forced them to leave, and members of these adopted communities themselves who view displaced persons with deep suspicion (Pécaut, 2000a, p. 103). In neighbouring countries, many of the border communities which house a large number of Colombians have very limited resources, receive little substantive assistance from the state beyond increased military and police presence (Gottwald, 2004, p. 529) and have extremely high unemployment (OIPAZ, 2004, p. 66).

A stateless person has also lost the support of a state willing and able to protect their rights. Some have lost legal status of citizenship; all have lost access to rights guaranteed to them by state and international law. IDPs in Colombia have legal status as citizens with rights, but they have no substantive access to that status or the rights that status is supposed to protect. Many of the displaced are poor, with little education, and have never had access to the state or its resources. As much as 75% of the country is controlled, or disputed by, non–government forces such as the FARC-EP (Gottwald, 2004, p. 525). In practice it matters little what theoretical rights the displaced have under the state, when the region where they live has no state presence. Or worse, the state acts in manners antagonistic to their rights. Citizenship *de jure* means little with no substantive access to rights, and thus statelessness becomes the *de facto* norm in spite of legal citizenship.

A third core component of Arendt's definition of statelessness is lack of membership in a political community. Pécaut argues that in the case of IDPs this does not apply because Colombians are members of the Colombian nation–state (Pécaut, 2000a, p. 92). I disagree. Colombia has never been a coherent nation–state. It has been wracked by undeclared civil war for much of its history, from [Sandi29]the conservative/liberal conflict of the 19th century, *La Violancia* in the 1950s, to the present war. Both IDPs and refugees are excluded from the nation–state and have no political community. They can, according to Arendt, be considered to have lost

that what makes them human. According to Aristotle,^[Sandi30] membership in a political community implies the relevance of speech and of human relationships. There is little point of speech if there is nobody willing to listen, or of human relationships if they are liable to be torn apart at a moment's notice. In some regions violence is the rule of the day, and communities turn against neighbours. People have been deprived:

Not of the right to freedom, but of the right to action; not of the right to think whatever they please, but of the right to opinion. Privileges in some cases, injustices in most, blessings and doom are meted out to them according to accident and without any relation whatsoever to what they do, did, or may do (Arendt, 1985, p. 296).

IDPs and refugees have been denied access to a political community, and as a consequence they are denied even the ability to construct their own realities.

The final key characteristic of a stateless person is innocence. Like those displaced in Europe after the First World War through changing territorial boundaries and xenophobic government policies, one unifying element of Colombians stateless persons is that they have been forced from their home, excluded from the nation–state and political community not because of who they are or what they have done. They are vulnerable simply for belonging to a social sector, a profession, or for having chosen a given lifestyle.

Campesinos are killed because they are *campesinos*; workers because they are workers; teachers because they are teachers; judges or journalists because they fulfil their duties; prostitutes, beggars, or homosexuals because their existence is intolerable; soldiers, police, or guerrillas outside of combat because they do not appear to fit in, and so on [...] the war is being waged not only against those who are involved in it, but also against those who are fleeing it, that is its victims (Sánchez, 2000, p. 46).

The term refugee implies protection stemming from international law and universal human right. Internal displacement implies state support. Neither exists, and recognizing this situation makes it clear that IDPs and refugees can be understood as stateless, having endured a four–part loss.

The countries immediately surrounding Colombia: Panama, Venezuela, Ecuador, Brazil and Peru have all adopted strict measures to prevent mass movements of people (Gottwald, 2004, p. 529). Although these measures failed to prevent between 300,000 and a million people leaving Colombia for neighbouring countries, they do demonstrate the fact that “sovereignty is nowhere more absolute than in matters of ‘emigration, naturalization, nationality, and expulsion’” (Preuss, 1937, p. 1, 2, & 5 in Arendt, 1985, p. 278). The differences between the responses of the Panamanian, Venezuelan, and Ecuadorian governments to Colombians^[Sandi31] in their territory shows the state-bound construction of rights.

In the case of Panama, between 1996 and 1997, a thousand Colombians fled into its southern provinces due to conflict in the border region. The Panamanian government declared them ‘irregular migrants’ and promptly, with the support of the Colombian government, organized their forced repatriation in, according to the UNHCR, contradiction to rights guaranteed under international refugee law (Gottwald, 2004, p. 530).

In Venezuela a similar process occurred in 1999 when 4,000 people crossed into Venezuela fleeing violence and seeking asylum. The government of Venezuela, ignoring obligations under international law and barring access to the UNHCR, defined them as ‘Internally Displaced Persons in Transit.’ A double speak which allowed the government to skirt

international law and return them to Colombia at the earliest convenient moment (Gottwald, 2004, p. 530).

Ecuador has complied somewhat with their obligations under international refugee law. There have been approximately 34,000 people recognized by the Ecuadorian government as refugees, and the UNHCR has been granted access to many regions of the country. However, in spite of Ecuador's comparatively open policy of recognizing refugees there are, according to the UNHCR, approximately 250,000 Colombians in Ecuador who are 'persons of concern' with no legal status (UNHCR, 2005b). These people have little incentive to apply for refugee status because the number of applicants that have been accepted as refugees recently dropped 50% as the government adopted more and more restrictive criteria for granting status (Gottwald, 2004, p. 533; Refugees International, 2004).

Despite the widespread violence in Colombia, only a handful of people have been granted refugee status in neighbouring countries, comparatively speaking. Few have sought refugee status due to the consequences of denial and the threat of deportation. The differing yet common responses of all three countries underlines that it is the state that ultimately decides which international laws it will follow (Gottwald, 2004).

This is the very situation that international human rights law is designed to prevent. Human beings are supposed to be created equal with the right to asylum when confronted by situations which force them to leave their homes. Within Colombia, constitutions and the rule of law are supposed to prevent a similar situation. The failure of both the international community and of the Colombia state to address the situation of the stateless underlies Arendt's conclusion that the liberal ideal of the equal individual has no relation to the situation of the stateless. If liberal rights were universal, the innocent would not have become stateless and be excluded from home, legal status, and political community.

Statelessness reinforces Arendt's three conclusions about liberal rights theory: the weakness of the 'Rights of Man,' the importance of sovereignty, and the fragility of international human rights regime. The response of different regional governments to the stateless in Colombia makes a mockery of universal declarations of rights. The very existence of statelessness implies the denial of the most basic human right. *De facto* and *de jure* stateless underlines the failure of international human rights law. People have no access to what Arendt considers fundamental to being human, membership in a political community, citizenship in a nation-state.

CONCLUDING THOUGHTS

Citizenship-as-rights has not become denationalized as is shown by the responses of the governments of Panama, Venezuela and Ecuador to Colombian refugees. Bosniak and Shapiro have shown that citizenship-as-political-action can be understood in other contexts than the state when spaces are opened for communication. Bosniak showed that the net of political-action can be drawn to include the much wider denationalized spaces of global civil society. Shapiro showed that political community inside the state exists in the temporal and spatial connections among individuals. Yet, these observations do not undermine Arendt's focus on the nation-state because they do not address the paradox raised by Arendt. To be stateless is to have no access to what it is to be human, and therefore in the context of refugees and internally displaced persons, talk of liberal human rights without an entity able to enforce them is, in fact, recognition of the failure of rights. Even if citizenship-as-political-action is expanding and this phenomenon is relevant to the stateless, based on the assumption that the stateless have access to the global spaces discussed by Bosniak, it does not address the day-to-day challenges of being stateless. There are no mechanisms of enforcement, no ways that global civil society can tackle the three-fold loss of the millions of stateless. In this context, Bosniak's denationalization offers little practical insight to the problem of stateless.

The existence of statelessness, even when a person is legally a member of a nation–state, as is the situation in Colombia, contradicts Arendt’s final conclusion and the most basic right to have rights is membership in a nation with their own state. The right cannot be conceived as the right to citizenship because legal citizenship has done little to protect the rights of the internally displaced in many parts of Colombia where state forces have played an antagonistic in withholding these rights. The same failure, which has occurred in the international human rights regime, has thus occurred within the realm of the state. For, as in the international regime, the stateless in Colombia encounter their statelessness at the very moment their rights are supposed to come into force.

In spite of this weakness in Arendt’s theory, the failure of both the international community and of the Colombia state in addressing the situation of the stateless, supports her conclusion that the liberal ideal of the equal individual has little relation to the situation of the stateless. If liberal rights were universal, the innocent would not have become stateless as they are excluded from home, legal status, and political community.

Arendt’s all too relevant critique of liberal human rights is a sobering conclusion because it provides neither optimism nor direction in tackling the problem of stateless outside of the nation–state. The situation of Colombia’s *de facto* and *de jure* stateless does not lend itself to a hopeful commentary on international human rights law and thus no such positive platitudes are offered.

This paper has looked at Colombia through Arendt’s lens to uncover the fragile foundation of human rights law. To be sure, there is symbolic and moral value to international documents. However[Sandi32], the declarations are important not because they guarantee rights, which they do not, but [P.S.33]because they can be used as moral grounds to challenge the state. International agreements on rights are important because they provide a basic standard, a guideline of a human rights regime. Yet[Sandi34] to forget Arendt’s observation that universal human rights do not actually have any power beyond that which the state gives them is overly optimistic and does not honour, nor recognize, the layers of loss experienced by the stateless[P.S.35].

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