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"Citizenship Cheaters" before the Law: Reading Fraud-Based Denaturalization in Norway through Lenses of Exceptionalism

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For decades, fraud-based denaturalization was hardly used in Norway. In the 2015–2016 "refugee crisis," however, the right-wing government decided to reinforce efforts to expose "citizenship cheaters." This article asks how this decision emerged, what arguments the government articulated to legitimize this decision, and how parliament responded. I examine the Norwegian case by reworking Schmitt and Agamben's perspectives on exceptionalism. The executive desire to reduce naturalized citizens to "bare life" illustrates Agamben's logic of exception: their potential exclusion is inscribed in law. Yet, the analysis shows that exceptionalism does not necessarily lead to "bare lives": denaturalization was mediated through legal, administrative, and democratic procedures. The opposition submitted proposals to tame the executive's denaturalization powers. In responding to criticism, the government relied on three different arguments to legitimize the decision: (1) moralizing and (2) criminalizing fraud, while simultaneously (3) de-politicizing the decision through hyper-legalism. Such reasoning does not suggest the collapse of law and politics, as Agamben envisions, but rather that states formulate exclusionary politics based on formalistic interpretations of law. The article concludes by problematizing Agamben's claim that we are all equally disposed to sovereign violence. I urge to take seriously social categories of difference in developing a political sociology of exceptionalism.

Pendant longtemps, la Norvège n'a quasiment pas eu recours à la dénaturalisation pour fraude. Néanmoins, lors de la crise des réfugiés de 2015-2016, le gouvernement de droite a décidé de renouveler d'efforts pour démasquer les « citoyens tricheurs ». Cet article s'interroge sur l'émergence de cette décision, les arguments avancés par le gouvernement pour la légitimer et la réponse du parlement. J'analyse le cas de la Norvège en retravaillant les points de vue de Carl Schmitt et Giorgio Agamben sur l'exceptionnalisme. Par son souhait de réduction des citoyens naturalisés à une « vie nue », l'exécutif illustre la logique d'exception de Giorgio Agamben: leur exclusion potentielle figure dans la loi. Pourtant, l'analyse montre que l'exceptionnalisme ne débouche pas nécessairement sur des « vies nues »: la dénaturalisation s'atténue grâce à des procédures juridiques, administratives et démocratiques. L'opposition a soumis des propositions afin de juguler les pouvoirs de dénaturalisation de l'exécutif. En réponse aux critiques, le gouvernement s'est fondé sur trois arguments afin de légitimer sa décision: i) la moralisation et ii) la criminalisation de la fraude, et la iii) dépolitisation de la décision par le biais d'un légalisme renforcé. Un tel raisonnement ne sous-entend pas l'effondrement de la loi et de la politique, comme l'envisageait Giorgio Agamben, mais plutôt

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que les États formulent des politiques d'exclusion fondées sur une interprétation puriste de la loi. Enfin, l'article problématise l'affirmation de Giorgio Agamben selon laquelle nous sommes tous enclins à la violence souveraine. Je conseille vivement la prise au sérieux des catégories sociales de différence dans l'élaboration d'une sociologie politique de l'exceptionnalisme.

Durante décadas, la desnaturalización basada en el fraude apenas se utilizó en Noruega. Sin embargo, durante la «crisis de los refugiados» de 2015-2016, el Gobierno de derechas decidió redoblar los esfuerzos para desenmascarar a los «tramposos de la ciudadanía». Este artículo se pregunta cómo surgió esta decisión, qué argumentos articuló el Gobierno para legitimarla y cómo respondió el Parlamento. Examinamos el caso de Noruega reelaborando las perspectivas de Schmitt y Agamben sobre el excepcionalismo. El deseo del ejecutivo de reducir a los ciudadanos naturalizados a la «nuda vida» ilustra la lógica de excepción de Agamben: su exclusión potencial está recogida en la ley. Sin embargo, el análisis demuestra que el excepcionalismo no conduce necesariamente a «nudas vidas»: la desnaturalización se llevó a cabo a través de procedimientos legales, administrativos y democráticos. La oposición presentó propuestas para limitar los poderes de desnaturalización del ejecutivo. En respuesta a las críticas, el gobierno se apoyó en tres argumentos diferentes para legitimar la decisión: i) moralizar y ii) criminalizar el fraude, así como, al mismo tiempo, iii) despolitizar la decisión mediante un hiperlegalismo. Este razonamiento no sugiere el desmoronamiento del derecho y la política, como prevé Agamben, sino más bien que los Estados formulan políticas excluyentes basadas en interpretaciones formalistas del derecho. El artículo concluye con una problematización de la afirmación de Agamben de que todos estamos igualmente dispuestos a la violencia soberana. Instamos a tomar en serio las categorías sociales de la diferencia a la hora de desarrollar una sociología política del excepcionalismo.

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Introduction

Writing in the aftermath of the Jewish genocide, Hannah Arendt claimed that stripping people of citizenship is the ultimate expression of national sovereignty (Arendt 1951/2017). Based on the Nuremberg laws, the Nazi government systematically stripped Jews and other minorities of their rights, which served as a necessary stepping stone toward their physical annihilation (Arendt 1951/2017; Agamben 1998). Due to the Nazi atrocities, denationalization became constrained by international and constitutional law and largely went into disuse (Gibney 2019).[1] Yet, after decades in hibernation, many western states have rediscovered their "sovereign right of denationalization" (Arendt 1951/2017). The revival of citizenship stripping primarily manifests itself as response to escalating fear of terrorism (Tripkovic 2021). States have passed new legislation or revitalized existing legal clauses to strip terrorists of their citizenship and expel them from the national territory (Birnie and Bauböck 2020).

However, citizenship stripping on less dramatic grounds is also re-emerging in liberal democracies. The focus on taking away citizenship from "naturalization fraudsters" has grown in countries such as France, the United Kingdom, and the United States (Fargues 2019; Lenard 2022). Fraud-based denaturalization can be executed if authorities discover that citizenship granted by application is based on faulty or

[1] I use citizenship stripping, deprivation, and denationalization interchangeably. Revocation [*tilbakekall*] is the administrative term used in fraud-based denaturalization cases. Denaturalization refers to a subset of denationalization cases, in which the state revokes citizenship acquired through naturalization.

incomplete information. Such denaturalization can result in statelessness or deportation (Lenard 2022). It is a standard legal provision in most liberal democracies and has generally been treated as an uncontroversial mode of citizenship deprivation (Fargues 2019; Herzog 2011). Despite its customary character—or perhaps *because* of this—the practice has attracted little academic attention.

Interestingly, Norway, a country renowned for its "hard outside/soft inside" approach to welfare, rights, and membership (Brochmann and Hagelund 2012), is spearheading the trend of denaturalizing citizens on grounds of fraud. Part of a broader law revision in 2006, the provision regulating fraudulent acquisition was unanimously passed by the Norwegian parliament. For almost a decade, it was a "sleeping" provision—hardly used and shy of political interest. In the midst of the 2015–2016 "refugee crisis," the right-wing government, consisting of the Conservative Party (*Høyre*) and the Progress Party (*Fremskrittspartiet*), stepped up efforts to uncover and sanction naturalization fraud, as one of several measures intended to make Norway "less attractive to asylum seekers" (Ministry of Education and Research 2016). Despite data scarcity, the number of investigated cases of fraud (per head) suggests that Norway is in the higher end of the European spectrum. In early 2017, the Norwegian immigration administration had 500 cases on their desks. That equals the average number of investigated cases per year in France (Fargues 2019). The remarkable spike in denaturalization cases and political interest begs the following questions, which this article will answer: *How did the decision to reinforce fraud-based denaturalization emerge? Which arguments did the government articulate to legitimize the decision to reinforce and sustain the strict denaturalization practice, and how did parliament respond?*

My theoretical point of departure is Schmitt and Agamben's lenses on exceptionalism. According to Schmitt, the state of exception is an existential threat to sovereignty, in which the sovereign can temporarily suspend law to preserve the legal and political system. Agamben (1998, 2005) claims that exceptionalism has become a permanent feature of state governance in Western societies. The state of exception, he claims, originates from the paradox of sovereignty: the fact that the sovereign is positioned outside and inside the juridical order at the same time (Agamben 1998, 15). Sovereign power operates arbitrarily and unmediated on its subjects, holding the potential to reduce them to "bare life," a life stripped of all rights and protection.

In this article, I try to rework Agamben and Schmitt's concepts to better understand the exercise of sovereignty in contemporary liberal democracies such as Norway. The Norwegian practice follows Agamben's (1998) logic of exception: by being inscribed in the provision regulating fraudulent acquisition, these subjects are excepted from law through an *inclusive exclusion*. The unprecedented efforts to dig up "cold cases" of fraud revealed the legal precarity of (some) naturalized citizens. With no statute of limitations on revocation, they are virtually subject to perpetual state scrutiny. The willingness to reinforce denaturalization can also be read as a mediated form of Schmittian decisionism, understood as "the capacity to define when, how, to what degree, and against whom law functions" (Mosser 2018, 135). Indeed, the analysis shows that denaturalization is administered *through law* rather than suspending it (cf. Johns 2005). Moreover, the analysis shows that executive efforts to strengthen revocation faced political pushback in parliament. The political opposition reduced the scope of denaturalization through legislative proposals, demonstrating the role of parliament (cf. Neal 2019) in opposing exceptional practices. The executive was pressured to legitimize their decision to re-invigorate revocation.[2] The analysis distinguishes between three arguments: moralizing naturalization fraud, criminalizing "fraudsters," and attempting to de-politicize deprivation by

[2] This main part of the analysis is based on parliamentary discussions on proposals to soften the practice (2016–2020). For details, see section "Revitalization of citizenship revocation as site of political struggle."

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hyper-legalist reasoning (cf. Ghezelbash 2020). Seen together, the arguments reveal a self-contradictory reasoning: intense *politicization* through the jargons of moral and crime, while simultaneously claiming that denaturalization belongs to the domain of law, *not* politics. Such excessive conformity to law allowed the government to remove accountability in its pursuit of "citizenship cheaters."

The article begins by first laying out Schmitt's (1922/2006) and Agamben's (1998, 2005) theories of exceptionalism. Then I take a critical look at their theories through the history of citizenship stripping and theoretical critiques. I proceed by mapping the legal and institutional framework of fraud-based revocation in Norway. The next section shows the backdrop of the reinforced practice and the political struggles that followed. Reading parliamentary discussions, I analyze the arguments articulated by the government (moralization, criminalization, and de-politicization/hyper-legalism) in response to criticism. I conclude the article by discussing its theoretical and political implications. Rather than treating this as an isolated case study of citizenship deprivation in Norway, I seek to make a sociological intervention in the literature on exceptionalism. This perspective adds a focus on hyper-legalism as a feature of exceptional practices. That implies, contra Schmitt and Agamben, not restricting exceptionalism to suspension of law and democracy, but seeing it as mediated through legal, administrative, and democratic procedures. In closing, I draw on sociologically oriented literature on citizenship deprivation to discuss Agamben's all-encompassing claims of exceptionalism. As historical and contemporary practices lay bare, we are not equally exposed to sovereign violence.

Schmitt and Agamben on Exceptionalism

Arendt claimed that "sovereignty is nowhere more absolute than in matters of emigration, naturalization, nationality, and expulsion" (Arendt 1951/2017, 364). As she suggested, naturalization and denaturalization lie at the heart of the national enterprise: to draw borders between citizens and foreigners. This raises the pressing questions: who decides and how does sovereignty operate? How are the boundaries of citizenship determined?

Carl Schmitt, the controversial legal and political scholar—and "crown jurist" of the Third Reich—famously claimed that "Sovereign is the one who decides on the exception" (Schmitt 1922/2006). With the concept of "the exception," Schmitt identified the challenge of "legal indeterminacy" (Scheuerman 2019): the fact that the law "cannot apply, enforce or realize itself; it can neither interpret, define or sanction" (Schmitt 1922/2006). On the contrary, it requires a sovereign decision to enforce it. The exception, which by definition cannot be codified in law, is precisely the case that eludes the legal norm, and it therefore requires a decision on the exception for it to exist (Schmitt 1922/2006, 6). Schmitt pointed out that legal indeterminacy is a general jurisprudential challenge, tainting all legal decisions, but the problem becomes particularly pertinent in the state of exception.

Schmitt characterizes the state of exception as an emergency or crisis, an imminent threat to the existence of the state (Schmitt 1922/2006, 6). Emergencies are unpredictable threats that cannot be safely cabined by law. The state, in most cases the executive branch, therefore, needs to act swift and unrestrained by law to eliminate the threat to restore order. In this critical moment, sovereign power in its purest form reveals itself; herein the sovereign enjoys principally unlimited authority, including the authority to suspend the entire legal order. Sovereignty, in Schmitt's authoritarian view of law and politics, is defined "not as the monopoly to coerce or to rule, but as the monopoly to decide" (Schmitt 1922/2006, 13).

Reading Schmitt—alongside Benjamin and Foucault—Agamben claims that exceptionalism has become a permanent feature of Western states' governance (Agamben 1998, 2005). Rather than being a temporary suspension of law, the state of exception constitutes "the dominant paradigm of government in contemporary

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politics," increasingly utilized as "technique of government rather than exceptional measure" (Agamben 2005, 6–8). The exception has become the rule, which collapses Schmitt's dialectical relationship between norm and exception, or "law and anomie" in Agamben's terminology (Huysmans 2008). To Agamben, the Nazi death camp is both physical manifestation and the ultimate expression of the logic of the exception (Neocleous 2006): the camp is a space of exception, a piece of territory placed outside the normal juridical order, where those interned are stripped of their political existence—they are literally excepted, taken outside law. In this biopolitical space, sovereign power operates as arbitrary and unmediated on its subjects (Agamben 1998, 171). With no recourse to law or other mediations, subjects are reduced to "bare life," naked biological beings. However, rather than being totally excluded, they are held in an ambiguous relation to the state: "delivered over to their own separateness and, at the same time, consigned to the mercy of the one who abandons it," simultaneously included and excluded, removed and captured (Agamben 1998, 110).

Referring to more modern manifestations of this logic, such as Guantanamo Bay and asylum reception centers, Agamben's thesis is that the state of exception does not belong to the past. The relation of the ban is the essential structure of sovereign power from the beginning (Agamben 1998, 111). Modern democratic nation-states are continuously using this device to assert state sovereignty. Since states can grant and withdraw rights whenever they see fit, he contends that it is impossible to pin down the state of exception in time and space. The implication is that we are all living in a colossal concentration camp and, in this sense, we are all "virtually homines sacri" (Agamben 1998, 115).

Critiquing Schmitt and Agamben through the Lens of Citizenship Stripping

Schmitt and Agamben are not shy of strong, sweeping, and—occasionally—seductive claims. Thus, making use of them in reading citizenship deprivation in liberal democracies requires justification. With reference to theoretical critique and historical and contemporary practices of citizenship deprivation, I note some significant limitations and highlight attempts to rethink these perspectives.

Citizens in liberal democracies today are protected against arbitrary citizenship stripping—sheer sovereign violence—through international and constitutional law. We usually associate citizenship stripping with totalitarian regimes, most clearly expressed in Nazi Germany's Nuremberg laws (Weil 2017). These laws deprived Jews and other minorities of full-fledged citizenship and doing so served as a necessary stepping stone toward their physical annihilation in the camps, analyzed by Arendt (1951/2017) and Agamben (1998). The totalitarian use of citizenship stripping, however, served as a lesson to liberal–democratic states, namely that denationalization powers should be constrained (Birnie and Bauböck 2020). The Universal Declaration of Human Rights enshrined that everyone has a right to a nationality and that no one shall be arbitrarily deprived of his nationality (Article 15), and legal protections against statelessness were added. The 1961 Convention on the Reduction of Statelessness prohibited denaturalization based on race, religion, or political orientation. In countries such as the United States, France, and the United Kingdom, judicial institutions have restricted the scope of denaturalization (Weil 2017). These two restraints, human rights norms and the influence of judicial institutions, made denationalization largely disappear from the political repertoire of liberal–democratic states (Gibney 2019).

As wealthy democratic states are constrained by obligations to international law and human, they search for legal loopholes to exclude undesirable subjects (Birnie and Baubock 2020). Ghezelbash (2020) argues that *hyper-legalism* is a strategy to straddle the dilemma of upholding international commitments and excluding asylum seekers at the same time. According to him, hyper-legalism involves

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"a formalistic bad-faith approach to interpreting and implementing international obligations. It allows states to claim ostensible compliance with the letter of the law, while at the same time subverting its purpose and substance" (Ghezelbash 2020, 485). Hyper-legalist reasoning equates rigid rule following with morality, yet rules are flexibly used to suit the government's needs. Interestingly, this deployment of law stands in stark contrast to Schmittian and Agambenian theories of sovereignty, in which sovereign decisions imply the *suspension* of law. In their view, sovereign decisions are defined by its *discretionary* and *extra*-legal character. Historical and contemporary practices of citizenship stripping, however, show that liberal–democratic states mainly operate within law rather than outside it. We find revocation provisions as standard clauses within the legal systems of most democratic states (Herzog 2011). Before World War II (WWII), armed conflict was the most common setting, and disloyalty the evoked legal ground (Sykes 2016). In the "war against terror," many western states have passed new legislation, expanded, or revitalized old provisions to take away citizenship from terrorists (Birnie and Baubock 2020). The removal of "Islamic State of Iraq and Syria (ISIS) bride" Shamima Begum's UK citizenship is a prominent case in point (see Masters and Regilme 2020).[3] The governing logic is that since home-grown terrorists are not alien *in* law—as natural-born or naturalized citizens—they must be alienated *by* law (Macklin 2014). Johns (2005) argues that even Guantanamo Bay, considered by Agamben the state of exception *par excellence*, is highly regulated by administrative rules and procedures, far from a "legal black hole."

Schmitt and Agamben's theories of sovereignty have also been criticized for their totalitarian (Schmitt) or totalizing (Agamben) underpinnings. By ignoring social and political negotiation of sovereign decisions, Schmitt and Agamben "ontologically erase" society, as Huysmans (2008) puts it. Rather than holding the "monopoly of power," governments in liberal democracies are accountable to the public. Democratically elected politicians often promise swift and decisive action in counteracting various social problems and crises, but they must make sense of these actions to the wider public (Rogenhofer 2022). Neal (2019, 277) stresses the crucial role of parliament in shaping security policies. The parliament may hinder government, but it may also act as a tool of government. Neal argues that MPs increasingly scrutinize the government's security policies and discourse and "play the political game" (Neal 2019, 6). Rather than assuming that the executive holds the monopoly of power, Neal's argument goes, we should empirically investigate how exceptional practices are discussed in parliament.

The Schmittian state of exception, implying the temporary but wholesale suspension of law and democratic politics, is rare and extreme (Rogenhofer 2022). Huysmans (2004) and Doty (2007) argue that we need to broaden our understanding of exceptionalism to capture its finer expressions. For Doty (2007), "decisions" to "invigorate or re-enforce the law or change the law in such a way so as to preserve a particular understanding of 'the social order'" are also articulations of sovereignty. The civilian border patrols she studied considered undocumented immigration to be "normal" and they therefore attempted to "strengthen the law, expand on it, to rectify neglect of the law, not suspend it" (Doty 2007, 116). Decisions, either in creation of new laws or in reviving dormant provisions, function to create exceptions that apply to a certain group of people within the society, Doty argues (Doty 2007, 125).

Fraud-based denaturalization is a subtle expression of exceptionalism by virtue of only applying to naturalized citizens. In most states, the executive has the power to revoke citizenship on grounds of fraud. As such, it is treated as an administrative correction rather than punishment in legal terms (Coca-Vila 2020). However,

[3]The UK government has recently introduced a bill that gives powers to deprive people of citizenship without warning (Siddique 2021).

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the power to revoke citizenship on grounds of fraud has not only been a neutral instrument of state power. It has also been selectively used to target unpopular groups in times of social and political turmoil. Frost (2021) demonstrates that fraud-based revocation laws were enacted in 1906 as a "nativist response" due to growing concerns about immigration from Southern European countries. Stories of electoral corruption were discussed in Congress, as to warn against fake naturalization papers being sold to "Italians" and "other foreigners." Gibney (2019, 4) shows that hostility to Germans during WWII spurred both US and UK government to use the fraud provision. This provision was used to target other enemies of the American state, such as anarchists, Nazi sympathizers, and Communist supporters, claiming that they lack "attachment" to the US constitution at the time of naturalization, thereby constituting fraud (Frost 2021).

While contemporary practices of fraud-based citizenship revocation are under-researched, there are indications that states are brushing the dust of this provision. In early 2020, the then US president Trump announced the opening of a denaturalization task force dedicated to cases of fraud (Lenard 2022). Fargues' (2019) original study of fraud-based denaturalization in the United Kingdom and France found that government officials and judges in both countries constructed fraud not merely as a legal issue but also filled it with moral value. He also found that fraud is increasingly framed as a security issue. According to officials interviewed, "fraudsters" threaten the integrity of the immigration system, which justifies tighter controls and sanctions against them.

The Legal and Administrative Mediation of Fraud-Based Denaturalization in Norway

The first Norwegian nationality law (of 1888) stipulated three grounds for losing Norwegian citizenship: voluntary renunciation of citizenship, loss due to long-term absence from the country, and loss due to the acquisition of another citizenship (reference removed). Between the first and the end of WWII, citizenship deprivation and deportation was enforced against Norwegian Roma (Skorgen 2012) as well as children of Germans and German-married women (Landro 2002; Kalle 2020). After WWII, revocation and deportation became separate issues. The Norwegian postwar welfare state has been characterized by its "hard outside" and "soft inside": offering generous welfare benefits to its citizens and applying strict and exclusive measures toward noncitizens (Brochmann and Hagelund 2012).

Rules targeting naturalized citizens were, however, made more restrictive when the Nationality Act was revised in 2005. A wish to consolidate the single citizenship policy motivated the introduction of a provision regarding revocation due to non-renunciation of another citizenship (Brochmann 2013). Importantly, a provision regarding fraudulent acquisition was also added. This provision states that revocation based on incorrect or incomplete information may only be executed if the applicant has furnished incorrect information against his or her better judgment or has suppressed information that was relevant for the decision. Revocation on grounds of fraud was, however, practiced before the law revision, based on section 35 of the Public Administration Act and general principles of administrative law (Midtbøen, Birkvad and Erdal 2018).

Before the law revision in 2005, a preparatory committee received a mandate to consider, among other things, the need to implement a provision on fraud-based revocation. The committee proposed to include a fraud-based provision with reference to the 1997 European Convention on Nationality (Section 7B, ECN 7B hereafter) and the Alien Act (Section 13). Unlike other issues discussed in the committee, such as dual citizenship (Midtbøen 2015), this issue did not stir much debate within the committee, noting that: "The Justice Department has established that the Convention is to be ratified and there is no assumption that Article 7 no. 1 letter

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B will represent any problem of significance. The committee concurs with this" (NOU 2000, 32, 273).[4] In line with the ECN, no statute of limitations was proposed, but the committee stated that "time lapsed" would be a factor of consideration in revocation cases. Further, the committee noted that revocation *may* lead to statelessness. In addition to time lapsed, possible statelessness should be a part of the consideration (NOU 2000, 32, 274). Children can also lose their Norwegian citizenship if it is based on the acquisition of the parents but must be assessed on a case-by-case basis (Midtbøen, Birkvad and Erdal 2018).

Moreover, the committee, in line with the signals from the ministry, established that invalid naturalization decisions as a main rule require an active decision on part of the administration to take away citizenship, as opposed to automatic loss (Ministry of Local Government and Regional Development 2005, 175). Lastly, the final law proposal noted that "when criteria for revocation (…) is fulfilled, citizenship can be revoked. The administration has discretion in deciding whether the option [*adgang*] shall be used (…) this provision shall not be used as an exceptional provision" (Ministry of Local Government and Regional Development 2005, 233). In other words, the immigration authorities have discretion in decisions regarding fraud-based revocation cases. The Parliament unanimously passed the new citizenship law, including the revocation provision.

The Norwegian Directorate of Immigration (UDI) is responsible for processing applications for citizenship and for opening and deciding cases of citizenship revocation. The Immigration Appeals Board (UNE) reviews appeals of the UDI's decisions. UNE's decisions can ultimately be tried before a court. UDI is currently under the command of the Ministry of Justice and Public Security. Until 2006, when the citizenship law was revised, the ministry had full authority to give instructions to UDI on how to process individual cases. This instruction authority was curtailed and reduced in the revised law. The ministry could no longer instruct UDI in individual cases (except for cases relating to national security), yet the ministry kept a "general authority of instruction" over UDI. In citizenship cases, the ministry can provide instructions to UDI regarding interpretation of laws, discretion, and priority of cases (the Norwegian Nationality Act, §28). Interestingly, political control regarding the execution of citizenship law was considered *unnecessary* by an official Norwegian report. The committee stated that, unlike cases relating to immigration and asylum, "dramatic events in the world rarely require swift measures when it comes to citizenship issues" (Ministry of Labour and Social Inclusion 2006, 10). The prevailing view then was that citizenship law was *not* a necessary tool of immigration control.

Since the ministry retained the general "instruction authority" over UDI, the government has the capacity to influence the volume of revocation cases. From 2013 to 2018, the period in which the immigration authorities decided to reinforce revocation efforts, the Conservative Party ruled together with the Progress Party, backed by the Christian Democratic Party (*Kristelig Folkeparti*) and the Liberal Party (*Venstre*). The Progress Party held the Minister of Justice and Public Security post during their period in government. Sylvi Listhaug (the Progress Party) was responsible for citizenship law between 2015 and 2018, in her position as Minister of Immigration and Integration (subordinate to the Ministry of Justice and Public Security). In 2018, citizenship law was transferred to the Ministry of Education and Research, headed by Jan-Tore Sanner (Conservative Party), during the time when proposals to amend law were discussed and decided upon in parliament. Following the general European trend, the government tightened access to citizenship simultaneously as new grounds for revocation were added (in the case of engagement in terrorism) and removed (non-renunciation of another citizenship upon naturalization).[5] At the same time, the right-wing government (2013–2021) made deportation a strong

[4] All quotes are translated from Norwegian to English by the author.

[5] As in Denmark, these legal changes were connected (Midtbøen 2019)—see closing discussion.

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political priority (Franko 2020, 86), making Norway one of the European leaders of deportation (Leekes and Van Houte 2020).

The presentation of these dry details of legal and administrative practice serves an important theoretical purpose: to counter Agamben's notion that sovereign power operates *unmediated* on its subjects. Instead, citizenship deprivation on grounds of fraud works through administrative rules and procedures (cf. Johns 2005). The next section explores the mediating role of parliament in contesting and seeking to constrain the executive's denaturalization powers.

Revitalization of Citizenship Revocation as Site of Political Struggle

In 2015, a record-high number (31,145) of asylum seekers registered at the Norwegian border. The government, consisting of the Conservative Party and the Progress Party, was accused of having lost control over the borders by media and parties in opposition. The unprecedented pressure at the border was portrayed as a threat to Norwegian sovereignty. Responding to this critique, the government compiled a list of measures to "make Norway less attractive to asylum seekers" (Ministry of Justice and Public Security 2016), supported by a broad alliance of political parties in parliament. Most of the measures targeted prospective asylum seekers, but also immigrants already residing in Norway were subject to new restrictions through revitalizing "sleeping" provisions in the Alien Act and the Nationality Act (Brekke, Birkvad, and Erdal 2020).

One of these extraordinary measures was stepping up efforts to revoke residence permits and citizenship acquired on false premises. The number of asylum seekers plummeted to an all-time low in 2016 (3,460) and 2017 (3,560), leaving UDI with a surplus of resources and manpower (Brekke, Birkvad, and Erdal 2020). The Ministry of Immigration and Integration instructed UDI to reallocate resources from asylum to family reunification and revocation cases. The head of the ministry at the time, Sylvi Listhaug (Progress Party), stated in a 2016 radio interview that "the money will contribute to reduce the backlog in the asylum system, modernize the ICT-system and to process revocation cases. These are cases where (…) those who have received a residence permit may have lied in their applications" (Nordnes 2016). In the same radio broadcast, the director of UDI, Frode Forfang, confirmed that the excess capacity would be used to "go after cheaters." UDI subsequently established a separate section dedicated to process revocation cases (Brekke, Birkvad, and Erdal 2020).

With excessive resources and institutional restructuring, the numbers of opened revocation cases rose significantly in the next years. Numbers from UDI showed that in 2012, 66 persons were stripped of Norwegian citizenship, but increased to 134 persons in 2016 (Tjernshaugen and Olsen 2017). In 2017, 500 cases were under investigation at UDI. Most cases included Somalis and Palestinians, who the authorities suspected were lying about their country of origin or identity. Newspapers then started to direct critical attention to the revocation practice, highlighting its human costs through the "Mahad case." After 15 years in Norway, Norwegian authorities revoked Mahad Abib Mahamud's citizenship, alleging that he had lied about his origin country. UDI claimed that he was from Djibouti, not Somalia as Mahad initially claimed, making his right to asylum and citizenship baseless. A Palestinian family of three generations received notice of citizenship revocation in 2012 on the same legal grounds. According to Norwegian authorities, the couple who first arrived in Norway had access to Jordanian citizenship, making their claim to be stateless Palestinians erroneous. Consequently, this left all three generations at risk of citizenship stripping and deportation, taking the form of a modernized "original sin."

These mediatized, personal histories eventually made their way into the Norwegian parliament. Against this backdrop, the opposition parties raised questions about several aspects of revocation law and practice. Especially the "original sin" and the lack of statute of limitations made the political opposition acutely aware

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of the consequences of revitalizing the revocation provision. Parties in opposition therefore submitted three legislative proposals seeking to either remove, restrain, or transfer denaturalization powers from the executive to the judiciary branch. First, the Green Party (*Miljøpartiet De Grønne*) proposed to abolish the revocation provision altogether (except for breaches of vital interests of the state) and to offer provisionary amnesty to those who have furnished incorrect information (Dokument 8:66 S [2016–2017]). Second, a broad coalition including the Socialist Party (*Sosialistisk venstreparti*), the Center Party (*Senterpartiet*), the Liberal Party, the Labor Party (*Arbeiderpartiet*), and the Green Party suggested to transfer the decision-making power from the executive to the judiciary branch of government (Dokument 8:33 S [2016–2017]). Third, representatives from the Socialist Party, the Green Party, and the Red Party (*Rødt*) proposed to introduce statute of limitations on citizenship revocation, to restrict citizenship revocation to dual citizens, and to set an absolute time limit on case processing (Dokument 8:43 S [2018–2019]).

However, none of the legislative proposals got majority in parliament. Instead, the government presented a bill (Ministry of Education and Research 2019) that made changes in law and practice in a liberal direction to accommodate criticism from parliament and the public (cf. Neal 2019; Rogenhofer 2022). Most importantly, the government (then including the Conservative Party, the Progress Party, the Liberal Party, and the Christian Democratic Party) decided to improve the existing system of administrative case processing rather than to transfer the authority to the court system.[6] Some changes were made to strengthen an individual's security under law, however. It was stipulated in law that children and grandchildren, as a main rule, should not automatically lose their citizenship based on their parents' (or grandparents') loss. Rather than instituting an absolute statute of limitation, the government introduced a proportionality assessment in law, which intended to prevent disproportionate intervention in the life of the person and his/her family. The assessment included years of residence in Norway, time elapsed since naturalization, "level of integration," risk of *long-term* statelessness, and the severity of the case (including identity fraud and criminal actions). Lastly, free legal aid and personal attendance at the Immigration Appeals Board (UNE) meetings were introduced, intended to improve the security under law for targets of citizenship revocation.

The strengthening of citizenship revocation can be read as a political move, in Schmittian terms. However, contrary to Schmitt's "slender decisionism"—with his emphasis on the unconstrained character of the decision (White 2015)—this move did not escape public nor parliamentary scrutiny. The parliament played a significant role in challenging and (moderately) constraining the executive's "monopoly to decide" in denaturalization matters (cf. Neal 2019). Although the executive kept the decision-making power in denaturalization cases and the scope of denaturalization remained quite wide, the government was pushed to further legitimize the decision to strengthen revocation. I now turn to analyze these three arguments.

Justifying the Decision to Revitalize Denaturalization

Moralizing Naturalization Fraud

The legal provision regulating fraud-based denaturalization was passed unanimously in parliament in 2005, part of the revision of the nationality law. In the parliamentary discussion, it was framed as a peripheral, dry, legal technicality, an issue devoid of strong emotions and moral predicaments. Yet, this changed dramatically after an unprecedented number of asylum seekers reached the Norwegian border in 2015–2016. Uncovering and sanctioning naturalization fraud was construed as crucial to protect the moral integrity of the asylum system and the

[6] The proposal to move decision-making power to the courts initially had majority, but when the Liberal Party and the Christian Democratic Party entered government, the vote tipped in favor of improving the existing system of administrative processing.

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citizenship institution itself. In line with Fargues' (2019) findings in France and the United Kingdom, executive members in Norway framed fraudulent naturalization in *moral* as well as legal terms. According to the executive members, naturalization fraud was not only a breach of law, but also portrayed as a severe moral misconduct.

According to the government, the applicant was solely to blame for this misconduct whereas the opposition tended to portray targets of citizenship revocation as innocent victims of state repression. Rasmus Hansson (MP, the Green Party) proposed to give provisionary amnesty to individuals subject to citizenship revocation with the alleged intention of "correcting *possibly* incorrect information that *possibly* has been given" (Stortinget, June 2, 2017, 3701, emphasis added). Hansson explained the emergence of these cases as:

> (…) [an] ugly outcome of the government's politics, which has led to the revocation of citizenship from people because of very old *mistakes*, that has led to that children and grandchildren of [these] people have been thrown out of Norway, and that has led to other excesses that not at all is worthy of the Norwegian state. (Stortinget, June 2, 2017, emphasis added)

The current Minister of Justice and Public Security, Per Sandberg (Progress Party) staunchly rejected the amnesty proposal, claiming that

> Our system is largely based on trust. Norwegian authorities must be able to trust that persons provide correct information when they apply for citizenship. When incorrect information is furnished, this relationship of trust is broken. And citizenship granted on faulty grounds can therefore be revoked. In my opinion, this is the way it should continue be. I am therefore against the proposal to remove the provision regulating revocation of Norwegian citizenship based on incorrect information – incorrect information, [that has been given] *not only one time, but two or three times*. (Stortinget, June 2, 2017, 3702, emphasis added)

Sandberg here underscored the moral gravity of "fraudulent citizenship acquisition" by indicating that it should not be brushed off as a minor, singular mistake, as Hansson seemed to argue. On the contrary, the then minister argued that these cases should be interpreted and sanctioned as systematic and deceitful attempts to acquire Norwegian citizenship. By underlining that applicants *repeatedly* provide incorrect information, the statement suggests that this had become the norm of naturalization acquisitions. He further emphasized the need to break this pattern of repetition, not by suspending citizenship law but by rectifying its neglect (cf. Doty 2007).

The decision to sanction citizenship "cheaters" was thus loaded with moral value. Government representatives sent a clear moral message in parliament and in the media: cheating will not be rewarded. This message had two main addressees: suspects of naturalization fraud and prospective asylum seekers. Helge Andre Njåstad, representing the Progress Party, stated in a press release that "if you have lied to get residency, you should never relax. You should know that you could be exposed at any time and be deported. As is reasonable" (Fremskrittspartiet 2017). The message thus intended to instill fear among those who had "lied," by underlining that the state will expose this moral wrong and sanction it by deportation. The emphasis on "*could be* exposed" reveals the *potentiality* of exclusion by law, even if never realized (Agamben 1998). In a 2017 radio debate, Sylvi Listhaug (Progress Party), Minister of Immigration and Integration, conveyed this message to prospective asylum seekers as well:

> It is important to us to send a signal that lying will not be rewarded, it will not pay off to try to con us, even if this happened a good while ago (…) [if you do that] then you will also send a signal to those who come today and try to do the same thing: that if you lie to Norwegian authorities, there will be consequences (…) it is very important [to uncover fraud] because acquiring Norwegian citizenship should be very hard to

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> get and should not be based on deceitful information but legitimate needs to come to Norway and get protection. (Solvang 2017)

In this message, citizenship revocation should sort out the "bad seeds" to make sure that those with legitimate needs for protection get prioritized. As the Minister indicated, this was also a key argument for rejecting the proposal to introduce statute of limitations. The largest opposition party, the Labor Party, was also skeptical of introducing a time limit on revocation cases because of its "signal effect." MP Helga Pedersen argued that "demanding asylum seekers to provide information about correct identity is a fundamental pillar in the asylum institute. This is very important to uphold, and we are very skeptical towards any signal that somehow may suggest the opposite" (Document 8:43 S [2018–2019]). Jon Helgheim, representing the government and the Progress Party, put a stronger moral spin to this message:

> To the Progress Party it is very important to have the opportunity to revoke citizenship based on false premises, regardless of time passed. To do the opposite, to introduce statute of limitations, will signalize that if you cheat your way into Norway with a false story or a fake ID, it will pay off as long as you hold on to that lie long enough. (Stortinget, February 12, 2019, 2576)

By moralizing the act of furnishing incorrect information, the executive members legitimized the exceptional practice of depriving "cheaters" of their Norwegian citizenship. Fraud-based revocation works to protect the "sacred" character of citizenship (Brubaker 1992, 147)—an institution that demands respect, where naturalization comes as a reward only for those who have shown themselves worthy. In this logic, those who "lie" and "cheat," act instrumentally and with deceit to naturalize, should suffer consequences and can never be safe.

Criminalizing Naturalization Fraud

The government drew on a related argument to justify the exceptional practice, namely that Norwegian citizenship could be abused for criminal purposes. Besides construing suspects of naturalization fraud as cheaters with illegitimate claims to Norwegian citizenship, they were also portrayed as potential criminals and security threats. Like Fargues (2019) argues, such criminalizing speech acts aim at tightening the controls and sanctions against alleged fraudsters.

This discourse is visible in the parliamentary discussions concerning the introduction of statute of limitations in revocation cases. The government parties (the Conservative Party, Progress Party, and eventually the Christian Democratic Party and the Liberal Party) voted against both legislative proposals. The government argued, and got majority, for introducing a proportionality assessment instead of an absolute time limit. A key argument was that an absolute time limitation would remove the possibility of sanctioning criminals and security threats who "abuse" Norwegian citizenship. Jan Tore Sanner (Conservative Party), the then responsible minister of citizenship law, stressed that the state's denaturalization power should be unconstrained from temporal considerations because

> An absolute statute of limitations would have unfortunate consequences. In some cases, taking the gravity of the case in consideration, it will be proportional and desirable to revoke [citizenship], even though the person became Norwegian a long time ago. These could be cases where the person actively uses different identities, for example to commit serious crime (…) statute of limitations would to a larger degree make it possible for persons to continue to live a double life on different identities. The Norwegian citizenship also grants rights that can be used for illegal activities in other countries, and in worst cases, the person can constitute a security risk. In these cases, it is important to have the possibility to revoke [citizenship indefinitely]. (Stortinget February 12, 2019, 2581)

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The minister argued that retaining *indefinite* revocation power was needed to sanction persons who abuse Norwegian citizenship to lead dual lives, commit crimes, and pose threats to national security. Although purportedly intended to target the gravest cases of fraud—"serious crime," "illegal activities" abroad, and "security risks"—it leaves a wide, ambiguous room of operation for denaturalization (cf. Beauchamps 2018). Naturalized citizens in Norway, at least in communities heavily targeted (e.g., the Somali), are held in a permanent state of exception by the sheer potentiality of exclusion.

The Socialist Party, the Green Party, and the Red Party, the architects of the proposal, argued for introducing a time limit by referring to other criminal actions that included statute of limitations. In response to this proposal, Jon Engen Helgheim (Progress Party) from the government compared citizenship acquisition based on false premises with stealing a car:

> Many like to compare statute of limitations [in fraud-based denaturalization] with serious crime. That is an odd comparison because returning something you never should have gotten is not punishment. It is not punishment if you steal a car and then return it. That is why it is not a punishment to return a citizenship that one never should have received. (Stortinget, February 12, 2019, 2583)

There seems to be an apparent paradox at play in this reasoning. On the one hand, government representatives argue that the state should possess wide-ranging denaturalization powers to sanction individuals who use Norwegian citizenship for criminal purposes—a punitive *rhetoric* if not in legal terms. On the other hand, Helgheim (Progress Party) rightly underlines that citizenship stripping is an administrative correction, not punishment in legal terms (cf. Coca-Vila 2020). Helgheim reasoned that because these individuals had naturalized on false premises, they had no right to citizenship in the first place. Party colleague Helge Andre Njåstad echoed this sentiment in a press release, commenting on Green Party's proposal to abolish the revocation provision altogether: "It is not even a punishment because Norwegian citizenship is a *privilege* this group never should have received to begin with" (Fremskrittspartiet 2017, emphasis added). These statements reflect a trend in citizenship policies and political rhetoric in Western European countries, namely that citizenship must be earned. It is considered a privilege, not a right (Joppke 2021, 160). In legal terms, a privilege does not belong to the recipient, but to the patron who bestows it. By underscoring that citizenship is a privilege, Njåstad legitimize their power to take away this status (cf. Macklin 2014). Revocation, then, simply means returning citizenship to its rightful owner. Such tropes of hospitality construe "fraudsters" as exceptional citizens, as rights are universal while privileges apply only to the few.

In the parliamentary discussions—particularly in the debate over statute of limitations—the government tended to construe the targets of citizenship revocation not only as fraudsters but also as hardcore criminals—even security threats. Some members claimed that citizenship acquired by "fraud" was equivalent to a "stolen privilege." This type of criminalizing discourse functions to keep the possibility of citizenship deprivation indefinitely open, effectively placing this particular of citizens in a state of exception, neither inside nor outside the law (Agamben 1998). By law, they are full-fledged members of the nation-state, yet the revocation provision simultaneously exposes them to *potential* deprivation of rights. Arguing with Agamben (1998, 51), citizenship law therefore remains in force without signifying subjects of denaturalization.

De-Politicization through Hyper-Legalism

The government legitimized the decision to sanction fraud more vigorously by discourses of moralization and criminalization, thereby (re)creating their exceptional

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status before the law. Interestingly, these plainly *political* arguments were performed alongside and in contrast to a third argument: the attempt to *de-politicize* the exceptional practice by resorting to *hyper-legalism* (cf. Ghezelbash 2020). With reference to both the Norwegian Nationality Act and ECN, the government claimed that their sole course of action was to enforce the letter of the law.

Against the backdrop of the "Mahad case," critical journalists insinuated that the responsible minister, Sylvi Listhaug (Progress Party), had personally made the decision to deprive the Norwegian–Somali of his citizenship, a form of "state racism." The then prime minister, Erna Solberg (Conservative Party), fended off this criticism on behalf of the government in a blogpost, underlining the independent, decision-making role of the immigration administration and by grounding revocation in law:

> In the parliament session in 2004–2005, Stortinget processed the nationality act of today. There was an extensive discussion exactly on how these cases should be managed. A broad majority agreed on the current statutory provisions (…) Norway is bound by multiple international conventions and the conclusion in Stortinget was clear: the nationality act aligns with our commitments. To revoke citizenship granted on incorrect information does not contravene with the conventions. (Solberg 2017)

The prime minister here claims ostensible compliance with the letter of international and domestic law simultaneously as the government attempted to twist the original purpose of the fraud provision (ECN 7B). Previous statements by the government revealed its dual purpose: both to target naturalized citizens *and* to "signal" strictness to potential asylum seekers. The exceptional practice was thus deployed as deterrence strategy, which the provision (ECN 7B) was not designed to do.

This mantra was also expressed by the acting minister of Justice and Public Security, Per Sandberg (Progress Party), in his response to the Green Party MP, Rasmus Hansson, who characterized the increased denaturalization efforts as an "aggressive tyranny of law" (Stortinget, May 9, 2017, 3157). The minister inverted the critique against the Green Party and the rest of parliament, which he considered equally responsible for the exceptional practice:

> First a comment to Representative Hansson regarding the government's politics in this area: this matter [revocation provision] was unanimously passed in this parliament in 2005. Unanimously passed. So what the government actually has done is that we have followed up on what a unanimous parliament said in 2005. I respect the wish to change it, but to say that the government does something different than the parliament decided is quite wrong. (Stortinget, 9 May 9, 2017)

Minister Sandberg here rightly underscores the fact that the parliament uniformly agreed to pass the revocation provision. Sandberg uses the word "politics" yet claims that the only action the government has taken is to follow the command of the parliament. However, what Sandberg's statement cloaks is that rules cannot apply themselves independently (cf. Schmitt 1922/2006). Rules require a sovereign to decide *when*, how, and *to what degree* and *against whom* they should be enforced. The political decision to apply the law with greater force is thereby discursively excluded by the statement. When Karin Andersen (the Socialist Party) prompted Minister Sandberg to reflect on the proportionality between action (providing faulty information) and reaction (citizenship revocation), he reiterated the attempt to de-politicize citizenship deprivation:

> I think this is somewhat interesting: Yes, this government makes priorities, and we have done the right priorities, because to uncover and deport human beings who have given incorrect information to get residency in Norway is important. With all due respect – these rules and this practice that have existed under [the period of] this government was also in place under the red-green [government]. I did not hear

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> SV [the Socialist Party] address this question at all during eight years in power. It is suddenly now this [question] has come up. (Stortinget, June 2, 2017, 3703)

On the one hand, the minister argues that the government prioritizes to uncover and sanction cases of naturalization fraud. On the other hand, he claims that the rule and practice of revocation was also present when the last government was in power.

This paradoxical reasoning—politicization and de-politicization—was also clearly expressed by the former Minister of Justice and Public Security, Sylvi Listhaug (Progress Party), in her argument against moving denaturalization power to the courts. If denaturalization power was transferred to the judiciary, the minister argued, this would challenge:

> (…) a fundamental trait of the division of tasks and responsibilities between the executive and judicial power. The proposal thereby challenges both the principle of separation of powers that the Constitution is based on and the traditional perspective on what the tasks of the courts should be. The courts should not be given the responsibility of executing *citizenship politics*, which [would] increase the risk of the courts being dragged into *political questions*, which again [would] impair their legitimacy and credibility as politically neutral instances for judicial control of the other branches. This will in reality be the consequence if the courts are to make decisions on revocation of citizenship (…). (Innst. 269 S [2016–2017], 9, emphasis added)

Reversing the minister's logic, citizenship revocation should remain within the hands of the executive because only that branch of government can execute it in a legitimate, credible, and neutral way. Placing denaturalization powers within the judiciary would imply a politicization of citizenship law.[7] The minister and other government representatives legitimized the decision to revive existing revocation law by underscoring its legality. Put differently: denaturalization belongs to realm of law, not politics. As such, the government took refuge in both international and domestic law for its political priority to "go after cheaters." In the same move, they opened a political field (revocation) while simultaneously shutting down the room for discussion by referring to the law as an autonomous, self-referential domain (cf. Agamben 1998).

Toward a Political Sociology of Exceptionalism in the Twenty-First Century

Why read fraud-based denaturalization as a case of exceptionalism? And what insights to sovereignty in contemporary liberal democracies does such a reading yield? By some standards, fraud-based citizenship deprivation is decidedly a norm, not exception: first, although the executive deployed the jargon of the exception ("necessity," "urgency") to justify the strengthening of law, the "refugee crisis" did not present an existential threat to the Norwegian state; moreover, citizenship revocation is an administrative routine, grounded in a specific provision in the Norwegian Nationality Act (§26), and the extraordinary reinforcement is authorized by the same law (§28); surely, immigration officials must comply with political signals from government, but only they can make individual decisions on revocation, exercising their authority as "petty sovereigns" (Butler 2004); and, finally, the analysis shows that parliament was successful in limiting the executive's denaturalization powers through democratic deliberations.

If the practice is not exceptional in existential, legal, administrative, or democratic terms, what makes it a case of exceptionalism? The executive desire to

[7] The Minister referred to principled concerns from the legal profession, namely the Supreme Court, the Director of Public Prosecutions, two (out of six) intermediate courts of appeal, the Norwegian Courts Administration, the Norwegian Association of Judges, and Oslo Courthouse. These institutions also argued that it would be impractical and costly to make the judiciary the court of first instance in revocation cases (Ministry of Education and Research 2019, 19).

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increase the number of citizenship deprivations signals sovereignty in its purest form—the attempt to reduce citizens to "bare lives." The practice follows Agamben's logic of the exception: their potential exclusion is inscribed in law. Precisely, this inclusive exclusion is what makes fraud-based denaturalization a case of *legally mediated* exceptionalism. Running counter to Schmitt's exceptionalism, fraud-based denaturalization is based on hyper-legalist reasoning rather than pure decisionism. Liberal democracies are intimately aware of their commitments to international law and human rights (Birnie and Baubock 2020). Therefore, rather than disregarding international law and stripping people of citizenship arbitrarily, states apply clauses to the letter to subvert their original purpose for new political gains (Ghezelbash 2020).

While Ghezelbash focuses on asylum seekers, hyper-legalism has spilled over to the management of naturalized citizens as well. I would argue that Midtbøen's (2019) study of recent changes in Danish citizenship law illustrates another case of hyper-legalism. He demonstrates that the main rationale to introduce dual citizenship in Denmark was to facilitate citizenship revocation of alleged terrorists. Since it is considered illegitimate to make people stateless, Denmark introduced dual citizenship to comply with international norms on statelessness. The Danish government found a legal loophole that would facilitate exclusion of terrorists while at the same time keeping commitments to human rights and international law.

Schmitt would likely despise such seemingly mechanical obedience to law, as he favored pure decisionism over legal norms. Yet, to Agamben, hyper-legalism would likely signal the generalized state of exception, a space where law and politics are indistinguishable. At first glance, hyper-legalist reasoning seems to mirror Agamben's paradox of sovereignty: "I, the sovereign, who am outside [international] law, declare that there is nothing outside [international] law" (Agamben 2005, 15). A closer reading of the hyper-legalist logic, however, adds an important nuance to Agamben's perspective on exceptionalism. While Agamben sees law as detached from politics, operating in its own enclosed field, hyper-legalism suggests that the formulation of politics has been reduced to formalistic interpretations of legal texts. Rather than witnessing the collapse of law and politics (per Agamben), we are seeing states that increasingly deploy law to articulate exclusionary politics. The strategy of the Danish state clearly expresses this instrumentalization of international law: not to overstep but to "move towards the edges of the conventions" (Dahlin 2022). By repeating the mantra "we're only following the law," liberal democracies such as Norway and Denmark reduce accountability in their pursuit to exclude undesirable subjects, be it asylum seekers, purported terrorists, or "citizenship cheaters."

Moreover, I want to problematize Agamben's generalized claim that we are all equally disposed to exceptionalism. Such claims smooth over social distinctions and fail to address how sovereign power functions differentially to target and manage populations (Butler 2004). Surveying historical and contemporary practices of citizenship, we see that that spies, disloyal citizens, and political dissidents, often belonging to undesirable ethnic, racial, classed, and gendered groups (Beauchamps 2018; Gibney 2019; Troy 2019), have been main targets. Today, suspects of terrorism, often from Muslim-majority countries (Gibney 2019), criminals (Troy 2019), and "citizenship cheaters" (Fargues 2019) are construed as threatening and worthy of exceptional treatment. Conventional punishment does not apply to them and more drastic sanctions are thus imposed (Tripkovic 2021). Naturalized citizens are generally more susceptible to be subject to denaturalization, yet this line is increasingly smudged in the "war on terror." The United States has displayed both willingness and ability to exclude birth-right citizens if they present a threat to state security (Nyers 2006). Citizenship is not necessarily the dividing line between insiders and outsiders within the nation-state. Honig (cited in Nyers 2006) thus argues that "(…) we almost always make foreign those whom we persecute. Foreignness is a

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symbolic marker that the nation attaches to the people we want to disavow, deport, or detain because we experience them as a threat."

Clearly, we are not all homines sacri, at least not in the same way. Threatening subjects, whether to moral integrity, racial hierarchies, law and order, or state security, have always been disproportionately exposed to sovereign violence, sometimes regardless of citizenship status. We should resist the Agambenian urge to collapse all social categories of difference (Huysmans 2008). Instead, we need to develop a political sociology of exceptionalism that focuses on the *particularities* of exceptional practices in liberal democracies. Such an approach could investigate the following questions: Which subjects are excepted? What legal means (suspension or excess) and arguments are articulated to create exceptional subjects? What is the role of other branches of government (including bureaucrats, parliament, and the judiciary) and society at large, in inciting, fueling, or halting exceptional practices? And how do subjects of exceptional practices maneuver this precarity? This brings me to my final point: that we need to differentiate between exceptionalism and "bare life." Although citizenship deprivation follows the logic of exception—marking particular subjects for exclusion—the outcome is not necessarily a "bare life" (cf. Seet 2020). As Foucault, Agamben's key intellectual interlocutor, reminds us, "where there is power, there is resistance." This article has highlighted the *parliamentary* struggles in determining the boundaries of executive power. Nevertheless, it remains crucial to examine the *human* struggles of those deemed immoral, unlawful, and disposable by the state.

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