

## ‘Without Papers I Can’t Do Anything’: The Neglected Role of Citizenship Status and ‘Illegality’ in Intersectional Analysis

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### Abstract

Intersectionality scholarship has yet to systematically recognize the importance of citizenship status for the mutual shaping of inequalities. In this article, we bring attention to the combined structuring force of criminal law and citizenship status (and the related concepts of ‘illegal’ or ‘irregular’ status) in intersecting with other categories of social disadvantage, such as those created by racialization, class, gender and ethnicity. Drawing on ethnographic fieldwork and interviews with women in prisons for ‘foreign nationals’ and health clinics for ‘undocumented’ migrants in Norway and Denmark, this article shows how citizenship status has a central role in the co-constitution of gendered, classed and racialized social disadvantages.

### Keywords

citizenship, deportability, gender, illegalization, intersectionality, racialization

### Introduction

‘There’s a beautiful world, but I can’t see it,’ the man sitting next to me in the waiting room says, ‘it’s like being blind.’ [ . . . ] He is from Ghana, but has ‘Italian papers’. He has been living in Denmark for years, but he says he comes and goes every three months to not exceed his stay. I ask if he feels like he belongs here now. ‘I don’t have what it takes to belong here. I’m not in the system. I don’t have the card.’ (Fieldnotes, Copenhagen Red Cross Clinic for Undocumented Migrants, Denmark, 2019)

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The card in question is the CPR number, the Danish personal identification number all legal residents of the country are required to have. Besides keeping count of legal residents, it also allows access to welfare services such as health care and education, to paid work, economic benefits, banking services, borrowing books from the library or getting a mobile phone contract. There is very little that can be done legally in Denmark without a CPR number. This article sets out to explore the role of citizenship and residence status in the creation of conditions of social inequality and exclusion, particularly as these relate to other forms of social disadvantage and power relations. The empirical data were collected in two clinics for ‘undocumented’ migrants and two prisons – social spaces defined by social marginality, or more precisely, spaces where marginalities meet and intersect (e.g. Kilroy et al. in Carlton and Segrave (2013: 63).

Addressing intersections of complex inequalities has become one of the most influential theoretical approaches in social sciences, and results in considerable cross-disciplinary fertilization. Yet, despite the productivity and the richness of the field, we still lack a systematic analysis of the importance of citizenship status for the mutual shaping of inequalities. In the European context particularly, legal status is of central importance in understanding the nature of social marginality and exclusion (Barker, 2018; Franko, 2020; Gonzales and Sigona, 2017). The answers to the frequently asked questions ‘Do you have papers?’ or ‘What kind of passport do you have?’ not only determine access to rights and welfare benefits, but also intersect with a number of social cleavages related to racialization, ethnicity, gender and class (Bosworth et al., 2018).

Contemporary citizenship and mobility regimes are carriers of deeply ingrained post-colonial legacies (Basaran and Guild, 2017; Yuval-Davis and Werbner, 1999). In that respect, racialized, ethnicized and classed inequalities are solidified in and through an individual’s citizenship and legal status. However, we will also show how citizenship status (and the ‘illegality’ deriving from it) serves to reinforce and deepen existing inequalities and (re)create them in novel, contextually dependent, configurations. We argue that the role of citizenship status and ‘illegality’ needs to be systematically incorporated into the analytical tools drawing on intersectionality, as well as into the intellectual and political projects inspired by it. In the conclusion, we also suggest that such an incorporation carries with it a distinct set of challenges in terms of political action and anti-discrimination policies. Inequality stemming from citizenship status is produced and shaped by the existing legal system and calls into question the seeming neutrality of the law. This task was at the heart of early intersectional scholarship but now demands novel (and more radical) approaches to our concepts of discrimination.

## **Intersectionality, Citizenship Status and Criminal Justice**

Intersectional approaches have always been concerned with the role of the law in relation to inequality and have inspired several movements within legal studies, such as critical legal studies, critical race theory and feminist jurisprudence (Carbado et al., 2013; Collins and Bilge, 2020). In her pioneering work, Crenshaw (1989, 1991) coined and conceptualized the term to demonstrate the juridical erasure of the subjectivities of women of color within the justice system. Drawing on this, other legal scholars explored the ways in which various complex identities interacted with legal structures, particularly with regards

to racialization and gendering (see inter alia Cho (2013) for an overview). Consequently, intersectionality – as a theory, an analytical tool and a tool for political activism and practical intervention – crossed the borders of legal scholarship and became widely used across different disciplines (Carbado et al., 2013; Cho et al., 2013; Hancock, 2016).

It is beyond the scope of this article to provide a comprehensive overview of this diverse scholarship. For the purposes of our discussion, we will concentrate on the understanding of citizenship status within intersectionality studies. In their popular introduction to the field, Collins and Bilge (2020: 19), for example, mention citizenship status, along with race, class, gender and age, as categories that ‘position people differently in the world’. Although the book has an explicit focus on global inequality and issues relevant to the Global South, citizenship does not receive further attention. According to Bosworth et al. (2018: 3), intersectional perspectives have a tendency to privilege the analysis of race, while studies of migration control, citizenship and criminal justice have often neglected the chance to incorporate intersectional perspectives. It is worth noting, though, that Crenshaw (1991) used immigration law as an example in one of her influential articles, and this thread was later taken up by some legal scholars (Romero, 2008). Also Yuval-Davis (2007) provides a forceful argument for why citizenship should matter for intersectionality. However, her analysis focuses on citizenship not primarily as the relation between an individual and the nation state, but as a multi-layered concept relating to belonging that can be attached to multiple political communities. This approach is in line with other contributions within citizenship studies that have contested the ‘conception of citizenship as merely a status held under the authority of a state’ and have sought to broaden it to include various political and social struggles of recognition and redistribution (Isin and Turner, 2002: 2). Although it opens extremely productive avenues of analysis, this burgeoning interest in citizenship has mainly focused on ‘lived citizenship’ and has left the narrow concept of citizenship as a *legal status* in the shadows. In this article, we propose to return to it.

By contrast, citizenship status, and the exclusionary practices directed at those legally deemed non-citizens and ‘aliens’, have received considerable attention within criminology, sociology and socio-legal studies, particularly in the field often labelled crimmigration scholarship and border criminologies (see inter alia Aas and Bosworth, 2013; Barker, 2018; Bosworth et al., 2018; Franko, 2020; Stumpf, 2006). This body of work has provided ample documentation not only of the punitive and exclusionary policies stemming from the nature of contemporary citizenship regimes, but also of how they intersect with racialization (García, 2017; Parmar, 2018), ethnicity (Franko, 2020), gender (Canning, 2019; Golash-Boza and Hondagneu-Sotelo, 2013) and class (Melossi, 2003).

Scholarship on borders and criminal justice has not nurtured an explicit theoretical and analytical focus on intersectionality. In their edited collection on the subject, Bosworth et al. (2018: 3) observe that, despite notable exceptions, ‘for the most part, the ways that the intersection between migration, border control, and criminal justice create a dynamic system of racial and ethnic disparities remains under-explored theoretically and empirically’. As Vázquez (2018) points out, the enactment and implementation of migration and crime laws and policies in the United States have shaped and been shaped by race and racism. In recent years, the omission has been remedied by several contributions that have brought racialization and racism to the forefront of current scholarly

attention (see inter alia Bosworth et al., 2018; Parmar, 2018). Issues of citizenship and the illegalization of migration create a complexity, which in important ways challenges the capability of intersectionality's model (Sanchez, 2017: 52). Thus, far less is 'known about how "illegality" complicates racialized experiences, and even less is known about how gender and class further complicate this process' (García, 2017: 474). Several observers have called for a critical re-reading of intersectionality scholarship, one developing a better understanding of how the post-colonial condition demands a transcendence of the traditional race–class–gender nexus and an acknowledgement of global divergences between social groups (Henne and Troshynski, 2013: 463). Such an endeavor means taking on board how citizenship functions as a global mechanism for distribution of privilege, and how it is intimately connected with criminalization and the use of state penal power (Aas and Bosworth, 2013; Aliverti, 2013; Barker, 2018; Franko, 2020).

There is a large and growing body of scholarship and political activism focusing on how social inequality shapes policing practices, definitions of crime and institutional responses to it, and 'how the justice system embodies, perpetuates, and transforms existing social inequalities such as race, class, and gender' (Paik, 2017: 4; see also De Coster and Heimer, 2017). Critical perspectives on the perceived neutrality of the law have always been a feature of intersectionality scholarship (Delgado and Stefancic, 2013; Robinson, 2013). An intersectional approach can undoubtedly provide the most productive framework for analysing the complex realities through which law creates and supports social marginalization. We, therefore, suggest that citizenship status (and the 'illegality' deriving from it) is a *structural condition* that should be acknowledged as one component inequality. In the following sections, we give empirical examples of how this inequality intersects with and shapes other categories such as race, ethnicity, gender and class. Our findings reveal how these facets are essentially connected though, in empirical terms, often impossible to disentangle. As we will show, racializing processes are shaping contemporary hierarchies of citizenship as well as reconfiguring the nature of poverty and social exclusion in a global society. In their assessment of intersectionality scholarship, Walby et al. (2012: 228) point out a tension between the notion of the mutual constitution of inequalities (Hancock, 2007) and the demand for the component inequalities to be made visible (Crenshaw, 1989, 1991). This dilemma may ultimately be irresolvable, but it is certainly present in this article.

While mindful that any attempt at disentanglement is fraught with difficulty, we also acknowledge that all intersectional approaches are necessarily particularized and, therefore, incomplete. Crenshaw's (1989) original intervention, for example, was limited to specific power structures surrounding Black women and did not interrogate Black men's intersectional marginalization vis-a-vis the criminal justice system. As Carbado et al. (2013: 304) point out, for this reason a particularized intersectional analysis or formation is always a work-in-progress, functioning as a condition of possibility for agents to move intersectionality to other social contexts and group formations. We therefore set out to make visible a single hitherto under-theorized structure of power: citizenship status.

## Methods

The theoretical arguments presented in this article draw on collaborative work based on data sharing, lengthy dialogue and exchanges across several research projects<sup>1</sup> and sites

of inquiry in Scandinavia during the last 10 years. The empirical examples are selected from data collected by Dorina over several months, between 2017 and 2019, at sites in Denmark and Norway. Observations and ethnographic, semi-structured and life-story interviews were conducted at two prisons holding ‘foreign nationals’, two health clinics for ‘undocumented’ migrants and in several public settings, in Denmark and Norway. Fifty-seven women of 23 nationalities participated in the research. They were at different stages in their lives and of different ages. The majority were women of color and socio-economically disadvantaged.

Gaining access to institutional sites and participants posed some challenges, in terms of formal and informal access. In Denmark, prison officials were apprehensive regarding the security environment and administrators at the clinics sought to prioritize the women’s well-being. Initially, the women also had concerns about anonymity, owing to their immigration status. In Norway, institutional access did not pose challenges, but access to participants in the health clinics was challenging, as they showed signs of research fatigue. The interviews were conducted by Dorina in English, Norwegian and Romanian, except for three cases when translators were used.

The sample included women whose legal status had changed following state intervention (i.e. through illegalization). We have chosen to use the term ‘illegalized’ to describe the women’s position and situation, as it describes an experience empirically closer to the women’s own orientation and experience. The term refers not only to their ‘irregular’ or ‘undocumented’ status in terms of legal residence, but also to a number of policing practices to which they were subjected.<sup>2</sup> As citizenship status and ‘illegality’ were key concerns as regards sampling, none of the interviewees held Danish or Norwegian citizenship. Some of the women did not have the legal right to enter Denmark or Norway. Others, including EU citizens, had entered legally but had exceeded their right to stay beyond a specific timeframe. Some had had their right to stay revoked owing to a criminal conviction (and were serving a prison sentence), while others had their asylum applications denied. A few women were waiting for a review of their application to stay, and could not access a number of other rights. In a research setting, women who are illegalized, incarcerated or otherwise disadvantaged by the system are considered ‘vulnerable’ and therefore the research design, data management and publication of the findings require specific ethical consideration that, in our case, was submitted to and approved by the Norwegian Centre for Research Data.

Our initial interest in the subject was sparked by our own positionalities. We are both non-citizen women living in Norway, though we enjoy the benefit of legal mobility and the privileges conferred by being middle class and white. It has been suggested that, in the field, common positions do not necessarily make ‘common individuals’ and that therefore researchers should ‘give up the idea of any assumed, a priori commonality with their research participants and instead set out to conduct research from a position of uncertainty’ (Nowicka and Ryan, 2015: 2). This position was adopted in the study. Although building rapport was made easier by our gender and non-citizenship and, in some cases, native language, differences in position related to racialization and class led to active interrogation of power disparities in the field (for instance reflected in the make-up of the sample or Dorina’s ability to leave the prison at any time and to access public spaces without fear of being stopped by the police). These disparities, therefore, informed the data and fieldwork, and eventually the analysis (Davis, 2014).<sup>3</sup>

## Citizenship Status, 'Illegality' and Global Privilege

Citizenship is a formal demarcation of membership of a national community and therefore a social privilege. The privileges of citizenship are particularly evident when a national community belongs to a country in the Global North, which has strong welfare provisions (Barker, 2018). The term citizenship refers both to a formal status and to substantive aspects pertaining to recognition and equality. When examined within a national frame of understanding, the universal aspects of citizenship are often seen as 'a public declaration of equality' (Western, 2014: 302). However, within a global frame, citizenship functions as a social stratification mechanism and its formal aspects come to the fore. As Bosniak (2017: 315) points out: 'at some moments and in some settings, universalist norms of citizenship are understood to extend only to those persons who possess status citizenship in the state in question. From this perspective, substantive citizenship is for status citizens only.'

The lack of formal citizenship thus means exclusion from the discourse and practices of equality and hence denotes an adverse condition (Bosniak, 2017). While recent political debate has focused on equality of racial, gender, sexual and other identities in terms of substantive citizenship (Isin and Nielsen, 2008), in most northern societies formal citizenship has also had greater political salience. In our study, we found that, even in prison, arguably among the most marginalized members of society, non-citizens are more marginalized than citizens. For example, in Vestfløyen prison, the foreign women's legal status put them into a separate category from Danish prisoners with whom they shared the wing. While Danish prisoners have access to traditional welfare rights, such as education, work and sport, non-citizens have a limited access to such benefits, following amendments to the Act on the Execution of Sentences (2018).

Most notably, the importance of formal citizenship has resulted in greater restrictions on terms of residence and increased exclusion of non-citizens who have been exposed to processes of illegalization (Aliverti, 2013). Solidified in the concept of 'illegal migration', these exclusionary practices of sovereign nation states are part of global regimes for the control of movement, and global hierarchies through which the mobility of some social groups and nationalities is encouraged and welcomed, while that of others incurs criminal sanctions (Franko, 2020). 'The accident of being born in the global South', as Dauvergne (2008: 17) puts it, thus becomes a legal handicap for citizens of these countries and carries with it a web of penal measures and criminal justice interventions. Dauvergne (2008: 8) observes that '[m]ore than any other phenomenon, illegal migration points up the immense and arbitrary privilege of birth in a prosperous state'.

These global hierarchies of citizenship and mobility create distinctions between what Bauman (1996) famously termed 'tourists' and 'vagabonds', shaping everyday language and state bureaucratic practices. These distinctions are situated within racialized, classed and post-colonial contexts. Accordingly, several observers have pointed out that 'migrant' is a racially coded label (De Genova and Peutz, 2010; Parmar, 2018), which is, as Basaran and Guild (2017: 273) suggest, reserved for those associated with particular origins and geographies, embedded in colonial politics and sustained in post-colonial imaginaries.

It can be argued that – like racialization – a person's legal status is imprinted on them, and that the condition of migrant 'illegality' is thus not only a juridical condition but, as

Willen (2007) shows, also an ontological one. In the case of the women in our study, this ontological reality of ‘illegality’ was viscerally felt because of their severely constrained life choices and inability to access social rights. Thus Awa, who had migrated from Gambia to Denmark, said:

I live in fear, because I don’t have documents. I don’t really go anywhere, I just go to work [cleaning] with my friends, and back home to sleep. I worry about this situation a lot of the time. Last night I spent all night crying and worrying and wondering how I can bring my children here from Gambia.

In another case, Amina, who migrated from Eritrea, experienced the constraints on her life choices to be so severe that she compared living in Norway with imprisonment: ‘If I had papers, I would be settled, I would have rights. But I don’t have rights. I cannot move. It is like a prison, a peace prison.’

An important factor in these statements is the fear of deportation. Although in recent years some liberal states, such as the UK, have expanded their powers of denationalization and thereby increased the deportability of their own citizens, normally, one of the main distinctions between citizens and non-citizens is that the latter are deportable (Gibney, 2013). Non-citizens are thus under the threat of various state actions and processes, such as police suspicion, detention, punishment and loss of welfare and social rights, which may ultimately lead to deportation (De Genova and Peutz, 2010; Franko, 2020). The constant fear and awareness of deportability not only radically reduced the quality of life of the women in our study, but also reduced their ability to access social rights. Fatima, who had travelled from Eritrea to Sudan and Libya and then, unsuccessfully, claimed asylum in Denmark, described her situation thus:

Since then it’s been difficult to be without papers, not to work, not to go to school. I’d like to go to school, but without papers, I can’t do anything. This is what I want the most, papers. I just work here and there; I rely on friends.

As we will show below, illegalization creates vulnerability and is intrinsically connected to social marginality, economic and sexual exploitability, and, potentially, violence. One is highly dependent on others to access life opportunities and has very little chance of having one’s voice heard. Spivak’s (1988) famous question – ‘can the subaltern speak?’ – has inspired productive debate about the structural implications of colonialism and racism, but we should also take note of the silencing that results from the structural conditions of fear of deportation within northern societies. In our study, we discovered that the women in prison seemed less reluctant to speak about their situation than those visiting health clinics for undocumented migrants. For most prisoners, deportation seemed a *fait accompli*, but those residing irregularly found themselves in a liminal position, where they still enjoyed territorial presence in the country, yet felt intensely vulnerable to police action.

So then, although in juridical terms the absence of formal citizenship and residence rights denotes a binary position, in terms of experience this is not simply a matter of status. Rather than being a static condition, as De Genova and Peutz (2010) point out, ‘illegality’ can be better described as a process of illegalization. An individual ‘can flit in

and out of [‘illegality’] depending on the relation between his and her movements and activities and the movements and activities of national, international and/or transnational agencies’ (Squire, 2011: 7). A person may thus enjoy probationary membership and a certain level of rights in a society, but these may be cancelled because of various state policies (Franko, 2020). Esen, for example, following a conviction, feared deportation to her country of origin, Afghanistan (which she had left as a child following religious persecution), rather than to Iran, where her extended family had refugee status. The possibility of being taken away from her husband and the life she had built in Norway caused her unbearable stress. She had attempted suicide, and struggled with depression. For Esen, the loss of membership, and the subsequent deportation to Afghanistan, carried particularly severe consequences since she was a woman with a prison conviction and a member of a religious minority.

Esen’s example shows the need to ‘examine the complexity, fluidity, and lived experiences that vary by social, political, and historical contexts’ and are conducive to illegalization (García, 2017: 477; Schrover et al., 2008). Although those who have been illegalized may represent a relatively small proportion of the population, the condition of potential deportability affects most of those who have the formal status of non-citizens. The social realities of non-citizenship and ‘illegality’ are shaped, nevertheless, by an intricate interplay of legal status and socio-political conditions, which we will now proceed to explore.

## **Legal Status, Poverty and Racialization**

In our study, deportability and the processes of illegalization also overshadowed the lives of socio-economically disadvantaged European citizens who, in principle, should enjoy a number of legal protections from expulsion. Despite their legal status as citizens of the European Union/European Economic Area (EU/EEA) states, certain ethnic and racialized groups found their membership status to be unstable and under constant threat. This situation was the result of several policy developments. Following its expansion into Central and Eastern Europe, the EU established a legal framework, extending to the EEA, which limits the mobility of EU citizens who may constitute an ‘unreasonable burden’ on the social system of the host state (part of the framework being the Citizenship Directive 2004/38/EC). As Lafleur and Mescoli (2018) observe, poor Central and Eastern Europeans have been defined as ‘Euro-villains’ in discourse relating to European citizenship and welfare.

In our study, many of the users of services provided for ‘undocumented migrants’, such as the Oslo Red Cross Clinic, language cafes and various church activities, were racialized and ethnicized EU citizens. Although lacking in citizenship, they were in principle entitled to a number of welfare services, for example, the European Health Insurance Card, yet in practice, they often experienced obstacles when accessing these services (see also Balibar, 2004; Lafleur and Mescoli, 2018). Class was an important factor in this. However, illegalization is particularly pronounced when the socio-economically disadvantaged populations are racialized. The position of Roma<sup>4</sup> in Europe, as racialized, criminalized and minoritized people, has been much discussed (see inter alia De Genova, 2016; Sigona and Trehan, 2009; Yıldız and De Genova, 2018). However, as pointed out

by Yuval-Davis et al. (2017), the intersection of racialization and class alone does not entirely explain their situation. Following the mobility allowed by ‘EU-ropean citizenship’, the re-racialization of the Roma has been entwined with their ‘migrant’ status (Yıldız and Genova, 2018; Yuval-Davis et al., 2017). The condition of deportability has thus also been a central factor in their abjection (Hepworth, 2012).

Like several other European states, Scandinavian countries have also criminalized, through national or local policies, survival strategies employed by the Roma, such as begging and rough sleeping (Friberg, 2020). The Roma women in this study were prey to constant fear and the threat of illegalization. A ban on begging and rough sleeping in Copenhagen and in Oslo, for instance, left Roma women feeling ‘hounded by the police’. Unpaid fines following these offences, and the prospect of arrest, incarceration and ultimately deportation caused them constant stress, anxiety and fear. Lavinia, a Roma woman, and her husband survived on the small sums she got for returning bottles and cans to supermarkets. They sent part of the money back home to Lavinia’s mother who was taking care of their child. The stricter policing of Roma in Copenhagen made her worried:

Lavinia: I think I got the bedbugs from that place where we slept last night.

Dorina: What kind of place is it?

Lavinia: We slept there before, lots of people sleep there, on mattresses on the floor. It’s not good, it’s not clean. Seventy-five crowns a night. [. . .] It’s pretty hard to be on the street now. The police are stricter. A lot stricter. In the last two years, they’ve got so much stricter. They pick up people sleeping on the street, and then give them 21 days in prison and deportation. [. . .] I’m exhausted.

The ban on sleeping rough, naturally, mainly affects the most socio-economically disadvantaged populations. And although it is in principle a universal prohibition, addressing citizens and non-citizens alike, the repercussions of its breach are most acutely felt by the latter (i.e. fines and prison sentences resulting in deportation). It thus shows the intersection of legal structures with class, citizenship status and, as we shall see below, racialization.

Several of our interviewees also reported experiences of racial discrimination. At Vestre prison, Roma women were a relatively large group and believed that the officers ‘really have it in’ for them and ‘are so much nicer to the Danish, to those who speaks Danish’. In one instance, as Dorina was sitting at the lunch table in the office, one officer commented that ‘new people’ would be ‘coming in’ that day. Another officer, sighed, feigning exasperation: ‘Ugh, I’m sure it’s . . .’, then stopped and turned to Dorina, smiling, and said: ‘You don’t mind if I say . . . Romanians?’ At Vestre prison, Roma and Romanian are categories collapsed together to refer to socio-economically disadvantaged and racialized prisoners. Irena, a Lithuanian woman awaiting deportation, commented:

I always thought Denmark was a good country, where everyone is equal. Then I got to prison and realized Denmark is a racist country. If you are foreign, they just want to kick you out of

the country, like you never existed in this country. And I came in here and realized the officers are racist. They always call me the 'Lithuanian', in a belittling way, but I have lived here for seven years, my family is here, my whole life is here. But it's worse for the Romanians, I mean the Roma women. I've heard the officers called them racist things. You know the old Roma lady, on the other side, like how she was a 'dirty gypsy, with no teeth'.

Reflecting on their situation, the women were keenly aware of their citizenship status and their position in the global hierarchy. They described the economic inequality between their countries of origin and Scandinavian countries and saw themselves as paying the price. They put their situation down to the fact that they were 'born in the wrong place', had a 'different skin colour' or were just 'trying to make ends meet'. They saw the Scandinavian system as being 'rigged against foreigners'. All the women emphasized the importance of having the legal rights of citizens and urged Dorina to acquire a Norwegian passport: 'You never know what might happen. Look at me? You don't want to end up in my situation', concluded Adela, who was in Kongsvinger prison, awaiting deportation to Bulgaria. 'Norwegian passport, no problems.' This inherent possibility of 'illegality' and deportation was deeply constraining in terms of their everyday life experiences, which, combined with racialization, created an entrenched sense that Scandinavian quality of life was unjustly for citizens only.

### **'They Say Women Have Rights Here': 'Illegality' and Gendered Vulnerabilities**

In intersection with gender, 'illegality' produces specific vulnerabilities (Canning, 2019; Schrover et al., 2008), which may lead to gendered exploitation, abuse and violence. Although we do not set out to construct our interviewees simply as passive women or 'victims',<sup>5</sup> our findings support other studies demonstrating that illegalized migrants find themselves exploited in the shadow economy, unable to challenge their employers, and are reliant mostly on their social networks (Bloch, 2013).

Most of the women in our study were the main or sole providers for their extended families and had found work through their networks, most often in child and elderly care and cleaning. They described situations where they were overworked and underpaid but had no other options available. They depended on their networks, or people with legal rights, not only to find work, but also to send money home, and for basic needs such as shelter and healthcare. This dependency was often exploited. Daya described the process of finding work and accommodation after her application for asylum was rejected. The process was facilitated by a man holding rights in Norway who required her to pay for his help with her labor and body:

So, I went for the interview [for asylum], and on the way back I took a taxi. The driver was from [redacted] so he asked me what I was doing here, right? So, I explained this and that, and he said that if I needed help, I just needed to call him. He gave me his phone number. I called him afterwards, and I asked him . . . I said, 'I need a place to stay, I need a job, could you help me?' So, he came and picked me up and drove me to his friend's place. And I stayed with him, because I had . . . I didn't know anyone else. I had . . . I had no money for rent either. The

cheapest thing was to be with him, to stay with him . . . Yes, so, uhm [clears throat], then I started looking for a job.

In Daya's case, gendered power inequalities were compounded by her lack of resources and a lack of settled residence status. In one of her relationships, a man threatened to report her to the authorities if she left the relationship.

Alya described being entirely dependent economically on her partner, who had legal rights in Norway. She did not have a social network and, like most other women in this study, she did not speak Norwegian and knew little about the services available to women. Her reliance on her partner made for an unequal and abusive relationship, where he controlled every aspect of her life, including her reproductive choices:

I had to do what he wanted. It was like [pause], it was him who decided everything. I couldn't keep myself going, with food, and [pause] it was like I was totally dependent on him. So, it was like that until I got pregnant. And I got pregnant immediately, because he refused to get me contraceptives, that's the kind of person he was. [. . .] I didn't know anything about child support. I didn't know how I would pay for electricity, how I would pay for rent. Everything, you know, everything [pause]. I couldn't speak the language. I didn't know anything [pause]. I was 19 years old.

As previous studies have shown, for illegalized women, their legal status is an additional and often insurmountable barrier to escaping abusive situations or accessing services, and they therefore tend to stay longer in abusive relationships (see *inter alia* Ammar et al., 2012; Moynihan et al., 2008).

Farah described a life permeated by violence at the hands of her partner. She recounted years of psychological, physical and sexual abuse that caused her to dissociate frequently and for prolonged periods, and that left a mark: 'It was really traumatizing. A lot of the time, I was just floating outside of my body.' Similarly to Alya, Farah's lack of language skills contributed to her social exclusion in terms of lived citizenship. However, illegalization compounded the women's vulnerability to gendered and sexual violence owing to a fear of deportation. Their examples also show that abusive partners can and do use the threat of deportation to prevent women from seeking help or leaving (see also Ammar et al., 2012).

For some of the women, the fear of deportation is exacerbated by fear of gendered repercussions in their country of origin. Adele, having received a deportation order following a criminal conviction, could not believe it. She had been a permanent resident, but not a citizen. She laughed at what she had thought: 'I was never told this permanent residence wasn't permanent at all.' But her laughter turned to tears, when she talked about deportation. She would be deported after 20 years in Norway – forced to leave her three children behind: 'The real punishment is losing my children.' She also feared the consequences of returning to a conservative, religious society, with strict gender roles:

They say women have rights here. Where are these rights? Where are these rights? How can they do this to a woman like me? Take me away from my children. Send me back to [country redacted]? After 20 years here, I grew up here, I was formed as an adult here. What awaits me in [country redacted]? Nothing. Should I prostitute myself? Sell my body? Because in [country

redacted] I am a whore. I was with Norwegian men, so I'm a whore. No [nationality redacted] man will marry me. I have tattoos. Tattoos alone will get me a knife in the back from my own family. My parents [pause], I don't want to speak ill of them, but they don't support me in any way, all I was good for was to send money. I have nothing in [country redacted]. They want to send me there after 20 years. It's a different culture. Where are these rights? Women's rights? How can they do this to a woman?

Although set in a broader context of stricter immigration and deportation policies in Norway (Franko, 2020), Adele's statement reveals that vulnerability is a multi-layered phenomenon where structural, community and individual factors come together to produce specific harms. The combined force of criminal law, immigration law and deportation regimes creates conditions for gendered vulnerabilities and in various ways makes the state complicit in the gendered and sexual violence inflicted upon the women (see also Abji, 2016; Canning, 2019). While vulnerability is specific and localized, and may manifest unevenly across women's bodies (Page, 2018), 'illegality' and the absence of rights, help produce the conditions for gendered harms, exploitation and abuse within specific communities and at an inter-personal level.

## Conclusion

The women in this study found themselves in the care or custody of institutions designed exclusively for non-citizens. Such institutions, along with detention centres, camps, processing and identification sites and the like, have been multiplying across Europe (Majcher et al., 2020). Although the importance of citizenship is difficult to ignore in such settings, our data show how the lack of formal membership also affects everyday lives outside institutional settings, and creates fear, social marginality and vulnerability to exploitation.

Our methodological design did not enable us to compare groups with and without citizenship status. However, our findings show that illegalization plays a central role in the shaping of other categories of social disadvantage, especially those associated with class, racialization and gender. Nevertheless, rather than seeing 'illegality' as a category that can be clearly distinguished from others, it may be more productive to examine the processes through which various categories are shaped by others. Racial and colonial hierarchies are built into citizenship categorizations by immigration authorities' use of color schemes to sort border-crossers into white, grey and blacklisted countries (Guild, 2009). In Europe, citizenship and residence regimes are also productive of racialized and ethnicized hierarchies, including in the case of East-European citizens, especially Roma. Their otherness is reinforced and institutionalized by various processes of illegalization.

We have also argued the importance of context, complexity and fluidity (Hancock, 2007). The dilemma, as Walby et al. (2012: 228) point out, is how 'to balance the stability and fluidity of inequalities so they are sufficiently stable as to be available for empirical analysis, while recognizing that they change'. Although they are seemingly stable legal categories, citizenship status and 'illegality' are rendered fluid and contextually dependent by state authorities' actions, which are shaped by perceptions of gender, race, ethnicity, religion and class.

Dembour (2015: 503) points out that differential treatment on the basis of nationality and citizenship can be seen as a ‘form of institutionalized racism or at least discrimination’. In scholarly literature, the knowledge about intersections of multiple inequalities has been linked to political intersectionality and projects focused on addressing discrimination, including legal redress (Collins and Bilge, 2020; Crenshaw, 1991; Walby et al., 2012). In that respect, social disadvantages related to citizenship and ‘illegality’ represent a challenge. How can legal redress be provided when the problem itself lies in the present legal order and the sovereign prerogative to differentiate between members and non-members? As Dauvergne (2008: 27) observes, ‘illegality and sovereignty have a reciprocal relationship’. Consequently, it has proved difficult to use the law to alleviate this legally produced condition: ‘The law is a necessary site for constructing illegality, but is much less apt for remedying it’ (Dauvergne, 2008: 27).

Although international human rights regimes might naturally be expected to provide such a remedy, juridical attempts at defining non-citizens as bearers of rights have been fraught with difficulty. As Dembour’s (2015) comprehensive study shows, even in the eyes of the European Court of Human Rights – the symbolic and institutional embodiment of European justice – migrants are still primarily defined by their alien status. This means that human rights take second place to the sovereignty principle (Dembour, 2015: 504). Like attempts to remedy racialized, classed and gendered inequality, addressing social inequalities stemming from citizenship and ‘illegality’ rocks the foundations of power relations in contemporary societies. Citizenship, and the privileges deriving from it, are intimately connected with state sovereignty, and are one of the most jealously guarded social distinctions in the present global order (Sassen, 1996). This article is written in the hope that recognizing how social disadvantage intersects with legal categories may pave the way to the destabilization of socio-legal regimes that, at present, seem largely immune to change.

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## Notes

1. ‘NORDHOST: Nordic Hospitalities in a Context of Migration and Refugee Crisis’, ‘Crime Control in the Borderlands of Europe’.
2. For a detailed discussion and problematization of these categories and terms in migration research, see Franko (2020) and Schrover et al. (2008).
3. See also Damsa’s (forthcoming) doctoral dissertation for an in-depth discussion of positionality in this study.

4. 'Roma' represents heterogeneous populations across the world, including many nationalities, languages, customs and levels of prosperity. In presenting our findings, we use the term 'Roma' to refer to those who identified as 'Roma', 'gypsies' and 'Romanian Roma'.
5. Literature addressing 'illegality' from a gendered perspective has generally leaned towards depicting women's experiences of victimhood, partly owing to the predominant focus being on trafficking, prostitution and gendered and sexual violence (Schrover et al., 2008).

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