



Graduate School of Development Studies

**New Mobilities within Old Paradigms:  
Globalization, Citizenship and Migration: beyond the  
Nation State?**

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***Richa Kumar***

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Members of the examining committee:

Dr Helen Hintjens (supervisor)

Dr Thanh-Dam Truong (reader)

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***Inquiries:***

Postal address:           Institute of Social Studies  
                                  P.O. Box 29776  
                                  2502 LT The Hague  
                                  The Netherlands

Location:                 Kortenaerkade 12  
                                  2518 AX The Hague  
                                  The Netherlands

Telephone:               +31 70 426 0460

Fax:                        +31 70 426 0799

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## **Abstract**

This research paper illustrates the misfit of the nation state paradigm and citizenship theories in contemporary world of de-territorialised politics and economy especially in the context of globalization. Using the combination of intersectionality theory with contract and governance approaches, this study tries to come to terms with the complexities of migratory flows of people in the present world. A number of examples of migration experiences have been selected to illustrate this misfit. Two of these many stories – namely that of the Chinese cockle pickers who in 2004 lost their lives in Morecambe Bay – and that of Ayaan Hirsi Ali who lost her Dutch citizenship in 2006 – have been looked into in detail. Both cases are examined in the context of global migration regimes as they operate within the context of ‘Fortress Europe’. One of the interesting outcomes of the study is a reappraisal of the notion of ‘citizenship’. Here the study draws on Kabeer’s study of how to construct more inclusive forms of citizenship for those like migrants who find themselves excluded.

## **Relevance to Development Studies**

“If there was a global theme of the year in 2006, it was that of migration and development” (IOM 2006). The International Organization for Migration (IOM) proposed this theme because of their view that obstacles to migratory movements are now one of the major obstacles for the South in promoting their development. This study contributes a ‘think piece’ with some examples, to explore these huge questions of citizenship and patterns of exclusion and inclusion under global migration regimes. This is an area of growing importance for development studies generally.

## **Keywords**

Citizenship; Nation-State; Migration; Globalisation; Migration Regime; In/justice; Intersectionality; Cockle-pickers; Ayaan Hirsi Ali; European Union.

# Chapter 1

## Introduction

### 1.1 The urge to migrate

Migration since the first out – of – Africa exodus has always been there: the earliest out of Africa was a journey in search of means of survival. However, post agrarian migration was a behaviour [that was] typically performed by defined sub-groups (often kin – recruited) with specific goals, targeted known destinations and likely to use familiar roots. It was a purposeful journey to find new lands to settle down.

### 1.2 Migration and the formation of Nation States

The history of human society is much what it is because people have been mobile as well as sedentary. (The primordial urge to settle down has always been there.) It has laid to formation of ordered societies culminating in the formation of “Nation States” (as we see it to-day) which in turn gave birth to the concept of “Citizenship”: that one belongs to a particular Nation State. And here the migrant comes across a huge disadvantage, especially in this era of globalisation, which seriously challenges the very concept of the Nation State in which the modern world has its anchorage.

### 1.3 Migrants and Universality of Human Rights

The Universal Declaration of Human Rights (UDHR) unequivocally states that “everyone has the right to a nationality” and that “no-one shall be arbitrarily deprived of his nationality.” However, despite these unequivocal declaration, instances of statelessness of people resulting in their marginalisation, invisibility and sub-human existing is so common in the modern times. The treatment meted out to migrants within the host country and the sending country, on many occasions, flies in the face of the basic rights and claims of a person. It transcends beyond the life of migrants. The death of twenty-three Chinese Cockle Pickers shows how statelessness of a person leaves a legacy of impoverishment and victimization. The impressive array of international treaties and conventions<sup>1</sup> on human rights are circumscribed by the limitation

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<sup>1</sup> The international covenants and treaties on human rights include Universal Declaration of Human Rights (UDHR), 1948, the International Covenant on Economic, Social and Cultural Rights (ICESR), 1966 and International Covenant on Civil and Political Rights (ICCPR), 1966. The two Covenants (ICCPR and ICESR) together with the Declaration confer fundamental rights to all individuals under all circumstances. There are other international instruments relevant migrants like the

of being applicable to citizens alone; this pushes the migrants to the brinks of society. Migrants today are an embodiment of the annihilation of basic rights and entitlements of people. They belong to no-one and to nowhere thus making one wonder what it takes to belong.

#### **1.4 Citizenship as anchored in the concept of Nation States**

The concept of citizenship, defining the parameters of belonging and (non) belonging has evolved with the birth of nation-states. And in modern democratic societies, the membership of individuals is marked by the status of citizenship (Castles 2000) and hence who belongs to a particular society and who does not. The traditional concept (realisation) of citizenship as analogous to the modern theme of citizenship, has evolved on the basis of Social Contract Theory (Castles 2000) which assumes State power and homogeneity among its members. What makes citizenship of extreme relevance in modern democratic societies is its centrality to the process of “participation”: the very essence of democratic functioning. Ideally, a democratic state needs the participation of all its members: everybody is meant to belong (Castles 2000); this entails redefining citizenship as an inclusive concept.

Citizenship has significant impact on the claims a person can make; it extends guarantees which assist the inclusion of persons within a society. The emancipation of any minority group has been spearheaded by the basic demand to be recognized as a citizen. However, quite often citizenship becomes a tool for executing politics of exclusion within and without the nation-state working in tandem with other biases for discrimination namely, gender, race, caste, ethnicity, class and religion. This is because the notion of citizenship and nation-states assumes that there is homogeneity amongst the people/members and any sort of heterogeneity challenges this basic premise: migrants challenge the basic premise of homogeneity of nation-states by bringing in other traditions, cultures, languages, religions which present new factors for integration in the pre-existing social fibre of a country.

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UN Convention relating to the Status of Refugees, United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 and the International Convention on Elimination of All Forms of Racial Discrimination (ICERD), 1965 along with regional instruments like the Organisation of African Union Refugee Convention, 1969 and the non-binding Cartagena Declaration on Refugees, 1984.

## 1.5 Citizenship in a globalised world

The guarantees that Citizenship ensures is the cardinal principle for democratic governance and the realisation of fundamental freedoms which are enshrined in most Constitutions and the International Covenants and Treaties. The fact that migrants are frequently denied such a range of basic rights raises many questions regarding the relevance of democracy and its universal applicability. In a globalised world, where the world economy thrives on free mobility of capital and labour<sup>2</sup>, allowing for regimes and spaces that provide for exploitation is not in consonance with the human rights philosophy and the notions of justice; migrant population cannot be shoved to the fringes of society.

International legal regime for the protection and promotion of human rights of migrants gets undermined because of the paradigmatic constraints and other associated problems such as non-ratification and infrastructural deficits. Also because realisation of rights is anchored in membership of persons as citizens; refugees, asylum seekers, migrant workers and other such 'aliens' who lack basic membership "fall between the cracks of a state-based membership system" (Brysk & Shafir 2004: 3). The international law related to people on the move has over period of time thrived on the "artificiality of labelling" (Jense 2007) categorising people on the move in a manner that jells with the existing apparatus of power providing spaces for state irresponsibility and erosion of rights of people.

## 1.6 The Present Research

This research emerges from a growing awareness about 'nation-state', 'migration' and 'citizenship' nexus and the need to explore and re-think rights-based approaches beyond the nation-state. However, migration today severely challenges the conventional paradigms within which 'citizenship' is

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<sup>2</sup>The migration of labour is very restricted in spite of globalization. Not all types of labourers/workers are allowed to enter in other countries. Globalization entails international expansion of market relations and the pursuit of economic liberalism (Overbeek 2002). The persuasion of neo-liberal ideology has made States take decisive steps towards liberalization of the exchange of capital, goods and services (Edgar Bill 2004). Paradoxically, however, there has not been a similar level of equivalent change in the field of migration (of people) (Edgar Bill 2004). On the contrary, to demolition of trade barriers and controls on financial markets state governments have shown a marked reluctance to remove the inhibitions on the free movement of people on to their territory (Edgar Bill 2004). Crawley (Crawley 2006) in his review of the publication of the Global Commission on International Migration (GCIM) notes the dichotomy between forms and types of migration on which migration policies are very often based on. Migrants are categorized as "good" (most notably involving labour migrants considered highly skilled) and those considered "bad" (most notably asylum seekers and those who arrive to join their families).



conceptualised. According to Ruud Lubbers (as quoted by Helton 2002) “if the international community does not address these issues (related to migration) successfully, then we will pay the bill in political instability later”. Migratory flows of all dimensions and nature antagonises the liaison between citizenship and (the) nation-state which is a product of a particular historical moment.

Thus the paper endeavours to explore the inadequacy of a nation-state centred model of citizenship which is ill-suited to address the complexity of the emerging issues on migration. The paper limits the exploration of paradigmatic inadequacies within the new lexicon and typology of migrants wherein people on the move are without rights.

The research starts with an in-depth exploration of the title of the paper – new mobilities in old paradigms. With a brief overview on the relevance of migration as an issue of international concern, the classical theories on states are outlined – the old paradigms. The Westphalian model of state is based on the Social Contract Theory. The chapter explores the birth of the nation-state within the context of the European history and the works of Hobbes. The Chapter outlines how the basic tenets of the Social Contract Theory are based on a particular construction of ‘man’ as irrational, passionate and weak and ‘life’ being solitary, poor, nasty, brutish and short (Graham 2000: 34). The theory of Justice based on John Rawls work is also based on the conceptualisation of state of the social contract. His theory is expanded to provide a schema for conceptualising justice in a trans-political manner if justice is the “first and uncompromising virtue” (Rawls 1971: 4, Sen 2006). The later part of the Chapter explores the pressures on the theoretical prerequisites of Social Contract in the era of globalization. The increased mobility of people is facilitated by the processes of globalization. The diversity of the definition of globalization is looked into; however, this is not explored in depth because for the purposes of the paper we only need to see the impact of global processes on the nation-state paradigm in the context of migration of people. The impact is explored by underscoring the effects in the four stories of migration which has been analysed to “fill-out” the deficits of the nation-state based membership.

In order to explore the theoretical deficits of the concepts of nation-state and citizenship, four stories of migration are selected as an illustration of the same. The details of the stories are appended at the end of the paper. The four stories are an illustration of the inadequacies and deficits of the ‘old paradigms’ of nation-state based on the social contract theory. They bring forth the issue of statelessness and its consequences in diverse circumstances. The resolved or the unresolved nature of the cases flies in the face of the theoretical underpinnings that circumscribe legal recognition and protection. The four cases are about specific situations and specific people but there are elements in them that are extracted for the purpose of the present research illustrate the complexity of trying fit ‘new mobilities in old paradigms’. The cases also illustrate the fragility of international and national juridical institutions. The qualitative aspect of the research strategy based on stories is

the fact that it humanises the research simultaneously anchoring the research in the lives of real people.

In order to explore the misfit of new patterns of migration within old paradigms of body politic, the next chapter is an intersectional analysis of the four telling stories of migration. The chapter places the four telling stories of migration within a matrix of exclusion which shows the intersectionality of various markers of identity namely race, class, gender, religion and sexuality resulting in situations of statelessness (Naples 2008). An intersectional analysis of the stories provide for the elements for conceptualising new forms of citizenship which goes beyond the paradigmatic constraints of the nation-state. Naila Kabeer (2005) articulates a vision of inclusive citizenship based on the narratives of various excluded groups of people.

The subsequent chapter explores two particular experiences of migration- the story of the twenty-three Chinese Cockle Pickers and that of Ayaan Hirsi Ali. The chapter compares and contrasts these two cases to illustrate the theoretical inadequacies of the nation-state paradigm and how it renders people in structurally irrelevant positions. These two experiences are indeed very different in terms of their context, their location and the elements of exclusion. However, these two stories bring forth the fragility and the fickleness of the State functioning based on the nation-state paradigm. The Chinese Cockle Pickers is a case of a collective of people who migrated into United Kingdom (UK) illegally to get employed and always remained economically and politically invisible. On the contrary, the story Ayaan Hirsi Ali is that of a successful migrant who made herself politically relevant and visible in her host society, but her markers of difference were never subsumed by the dominant markers of her host society. In both cases, the subjects involved reached a point of clandestine existence where they were reduced to people without rights and claims. These two stories are not exhaustive in any manner, however, they are chosen for the purposes of this paper because being well-documented and their contrasting features.

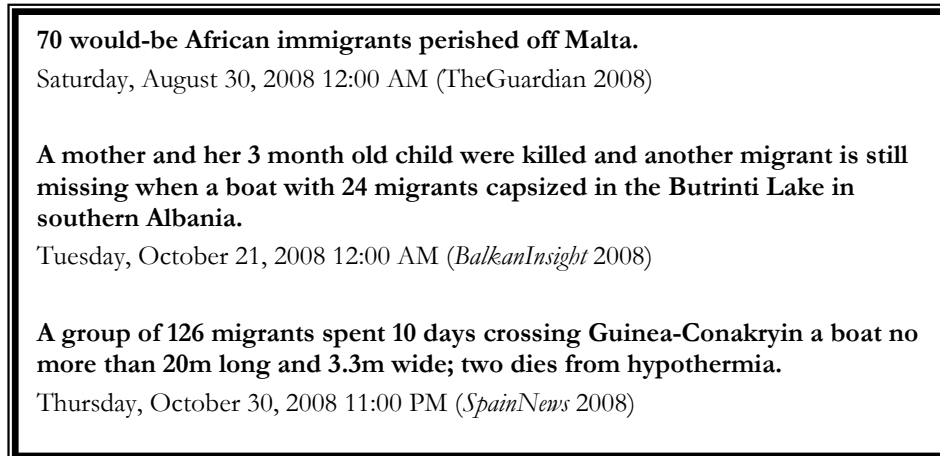
The research is an exploration of the misfit of the nation-state paradigm in terms of dealing with the complexities of contemporary migration. Concepts of citizenship and nation-state are perversely used to close borders, deny asylum, deport people and introduce laws and procedures which push migrants to the edges of society. The inhumane treatment of migrants is an illustration of the redundancy of old concepts of citizenship and nation-state in today's world. If notions of citizenship and nation-states, as well as justice and rights, are to remain relevant to migrants today, then they have to be adapted to a changing context. Rendering people stateless is a source of human insecurity and sows the seeds of national and regional instability (UNHCR 1997). This paper will explore the limits of the theoretical premise of the nation-state from a human rights angle.

## Chapter 2

### New Mobilities within Old Paradigms

*“The production of ‘human waste’ – or more precisely, wasted lives, the ‘superfluous’ populations of migrants, refugees and other outcasts – is an inevitable outcome of modernisation. It is an unavoidable side-effect of economic progress and the quest for order which is characteristic of modernity.” (Z.C. Bauman 2004)*

Figure 1:



The above are few of the headlines that have appeared in the newspapers in the last three months of 2008. And there are many more that are being added to the undocumented list of the dead would-be immigrants. One cannot help but, admire the tenacity of the “boat people”<sup>3</sup> in their quest for a better life. However, their gruesome demise is an affront the notion of human dignity and failure of the international and the national state in upholding the sanctity of human dignity. The failure to assimilate them in the host countries and their ill-treatment illustrate the confusion in the discourses of belonging to a nation-state. The chapter discusses the old paradigms - classical theories on nation-state which has been the foundation for conceptualising citizenship. The chapter explores the historical ontology of nation-state based social contract theory is explored and how it has formed the basis for citizenship which has also circumscribed the Rawls’ theory of justice. Later the new dynamic relationship between the concepts of national sovereignty of human rights in a globalised world is presented referring to some contemporary works like that

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<sup>3</sup> Boat people was a term that was used in the context of the mass departure of Vietnamese refugees from Communist-controlled Vietnam. The term is now used to refer to illegal immigrants or asylum seekers who emigrate en masse in boats which are unseaworthy and unsafe.

of Amartya Sen (2006). The chapter also underscores the effects of globalisation with reference to the four stories of migration

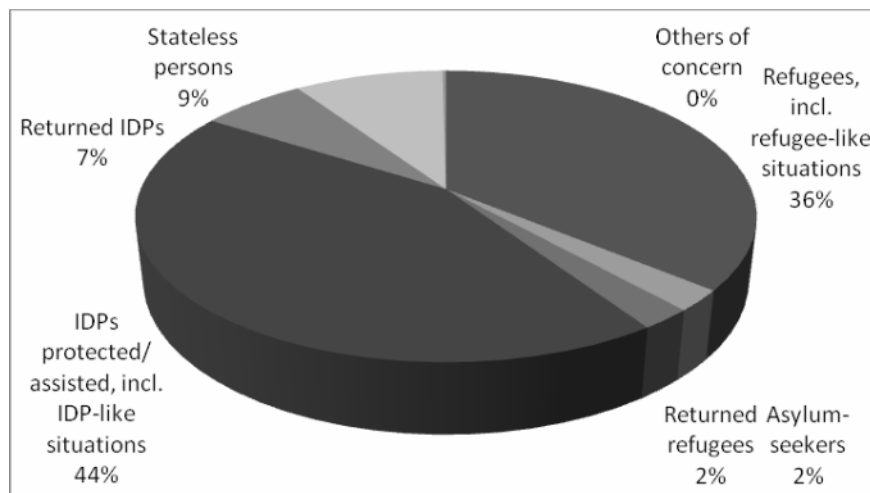
## 2.1 Contemporary Migration

As already mentioned, moving populations has been central to the history of human society and evolution of nation states. Terms like facilitated migration, return migration, assisted voluntary return, migration management, and integration have entered in the regular contemporary policy lexicon of every country and organisation.

The International Organization for Migration in its Annual Report of 2006 said that “If there was a global theme of the year in 2006, it was that of migration and development” (IOM 2006). About four million new immigrants entered OECD countries on a permanent basis in 2005, an increase of 10% from 2004 (OECD 2007).

In June 2008, UNHCR came out with a report on refugees, asylum seekers, returnees, internally displaced and stateless persons collectively being referred to as “persons of concern” estimating the statistics to be 31.7 million (UHCR 2008).

**Figure 2:**  
**Total population by category, end 2007**



Source: UNHCR Statistical Online Population Database at <http://www.unhcr.org/statistics>

Some 200 million people today—one in 33—do not live in the country where they were born (Centre for Global Development 2007). The number is on a rise as aging rich societies run short of workers.

The factors behind internal and international migration are very similar in many cases, but the treatment of international migrants raises more difficult issues of morality and policy choices than does that of internal migrants (Bagchi 2008: 197). Population movements today “juxtapose basic concepts of national sovereignty and human rights in a new dynamic relationship”(Arthur

C. Helton 2002: 2). And in a post-September 11 world order, national security is an important component of internal and foreign policy which increasingly “reflect on the malleability of concepts of territorial sovereignty” (Arthur C. Helton 2002: 121). The tensions surface, among others, in relation to issues of “admissibility of immigrants, including refugees and persons seeking asylum, and the treatment of potential and actual immigrants by the host states” (Bagchi 2008: 197). The reasons for the tension require us to revisit particular conceptions of state and belonging. The new migration casts a question mark upon the bond between identity and citizenship, individual and place, neighbourhood and belonging (Culture in a Globalised City- Zygmunt Bauman 2008) and security and insecurity.

## **2.2 The Old Paradigms-Classical Theories on Nations-state**

Thomas Hobbes (1568-1679) described the nature of the state as a form of institution- as he had put it, an ‘Artificial Man’, defined by prominence and sovereignty, the authorised representative giving life and motion to the society and the body politic (Graham 2000: 1). But globalisation has undermined the system of world governance based on the 17<sup>th</sup> century Westphalian model of sovereign state in unprecedented ways (Truong 2008).

The essence of the Westphalian model of state is based on a “social contract between the state and the citizenry” (Graham 2000: 1) whereby, citizens confer on the state the right to control a definable territorial space and, in the process, the right to make and enforce such rules or laws as is deemed necessary in exchange for political, economic and military security (Graham 2000: 1).

In the 17<sup>th</sup> century, the populace sought to control the ‘incomprehensible nature of those power systems’ (Castles 2000: 33) because they experienced a real ‘war of all against all’ (Hobbes, 1968 Castles 2000: 33). The citizens wished to create an orderly lawful world, and challenged the rules and values of existing system (Castles 2000: 34). The state is there to ‘promote the interests of a determinate group of human beings, bound together by the tie of a common nationality’ (Beitz 1983: 591). The nation-state is to be a ‘collective personality’ which, like the individual personality, “is born and dies in times...asserts itself only by the consciousness, being capable of [rational] thought and action”(Graham 2000: 1). The state in the 17<sup>th</sup> century was ruled by absolute monarchs who regarded all in their state as their possessions and the subjects had no control over the arbitrariness and violence that marked their lives (Castles 2000: 34).

Both Machiavelli and Hobbes construction of the state was based on a ‘pessimistic conception of human nature’(Graham 2000: 11) with life being solitary, poor, nasty, brutish, and short (Castles 2000: 34). Hobbes perceived human beings as uninformed, passionate, undisciplined and violent; moreover, they lack(ed) the intelligence to perform rational cost-benefit calculations and are incapable of discerning their own best interest. And because man cannot find fulfilment and salvation within himself he must find it outside – in the

collectivity, in the state (Graham 2000: 11). The state compensated for the deficiencies of the man; man is passionate, the state is rational; man is weak, the state is strong – it possesses reason and will, there is a *raison d'état* and *volonte d'état* (Graham 2000: 11). The Hobbesian state was legitimated by reference to the neo-Aristotelian theory of the organic growth of larger societies from clan and tribal origins, linked by kinship (Castles 2000: 34).

It was in the backdrop of an absolute state that the modern theory of citizenship arose challenging the tyranny of the state and however mythical the proposition of a mass opting into a social contract to create a state might sound, it is people who have granted a central organ a monopoly of political authority and power (Graham 2000: 1). The deterministic and positivistic conceptualisation of state has been reinforced by the 19<sup>th</sup> and 20<sup>th</sup> century concepts of ideology and nationalism – it is an organization to which millions of people owe allegiance and for which many are prepared to die (Graham 2000: 1). Indeed, the psychological high of belonging has made it particularly satisfying to belong to a particular state and to be stateless is to enter a world of unimaginable misery and insecurity (Graham 2000: 1).

### 2.3 Rawls Theory of Justice

It was within the framework of a particular conceptualization of state, that John Rawls (1921-2002) started from an 'original position' in which the person contemplating the principles of justice did not know where he is placed in the scheme of things but he - the person contemplating principles of justice - knows that he is a member of a 'well-ordered society' (Bagchi 2008: 198). Rawls' relevance to our discussion is for two reasons:

- firstly, the primacy that he gives to *justice* as a 'first and uncompromising' virtue of human activities (Rawls 1971: 4) is based on the contractarian nature of state and its conceptual weakness can be seen under the effects of globalisation, and
- secondly, the normative scope of Rawls' work is very broad and it provides a theoretical scheme for cosmopolitanism and international justice which are relevant to the issue of integration of migrants and their treatment (Beitz 2000). Sen (2006) explores Rawls' theory of justice within the discourse of human rights. He notes that "every person anywhere in the world, irrespective of citizenship or territorial legislation, has some basic rights, which others should respect".

Rawls' peoples are members of a society in which **(a)** everyone accepts and knows that the others accept the same principles of justice, and **(b)** the *basic social institutions* (emphasis added) generally satisfy and are generally known to satisfy these principles (Rawls 1971: 5). The contractarian moral theory assumes a rational agreement on mutually beneficial terms of interaction (Gauthier, D 2006: 57) and is not compatible with a highly individualised or an atomised social order. Schnapper (1997) encapsulates the crisis in the common

sense notion citizenship in the introduction to her book *Community of Citizens* (Schnapper 1997: 1)

“We are witnessing today a weakening of public feeling and of political bonds. In fact, nothing assures us that in the future the modern democratic nation will retain the capacity to ensure the social ties. Today the globalization of economic exchanges and relations between political units limits political and economic independence and the sovereignty of each nation. Moreover, the internal evolution of democracies, where collective life seems to be concentrated on the means of wealth production and its redistribution, tends to undermine the very political idea which founded the nation. This process has reached a point at which it seems impossible for democracies to demand their citizens to protect themselves with the price of their lives. *In democracy there is no longer any supreme sacrifice: the individuals and their interests have replaced the citizen and his ideals* [emphasis added]. This calls for a retrospective reflection.”

The theory of social contract, though a theoretical construct, has become the ‘conscious basis for our social thought and practice’ (Gauthier 2006: 57) to such an extent that in the ‘conventional view, nationhood has a necessary historical and cultural dimension’ (Beitz 2000: 679). A nation’s unity is thought to be based on a common language and history, ethnic or racial uniformity, probably a common religion, and so forth (Beitz 2000: 679). As Gauthier (2006: 70) in his conclusion rightly says, “Love and patriotism are myths to the contractarian. But these myths, and not reason, have been the real support for the enduring coercive order, enabling it to enlist fear and thus assure the survival of the state.” David Luban (2006: 670) in a self-descriptive piece titled “The Romance of the Nation-State” explores the ‘violence of nationalism and the indifference to basic human rights’ (2006: 670) that emerges from the ‘myth of the nation-state’ (2006: 670) which is a product of a particular historical construct. In the ‘Romance of the Nation-state’ (romance being an essential characteristic of the nation-state) Luban says ‘in place of respect for people it (the Romance of the Nation-State) sets respect for peoples, in place of universalism, relativism’ (2006: 670). Dominique Schnapper notes that the nation is a political project not fixed in a particular historical moment, and is capable of transcending the tension between universalism and particularism and it is a project that we need to undertake to meet the contemporary realities. (Schnapper 1997).

Less romantically, the next section explores the pressures on the contractarian theory under the effects of Globalisation and how the old concepts are being used to foster anti-migrant sentiments both in policy regime and in theory.

## 2.4 New Mobilities –Fragility of the Old Paradigms

The relevance of the state contract theory is being severely challenged by the present globalised regime as it is not up to the current tasks. The state contract theory is facing the problem of how to think of “subjects of collective action”, and not simply reducing them to a “rational contract between enlightened individuals”; this indicates “a substantive collapse of collective actors and to a certain state of social sciences and humanities which still needs to catch up with the *process* and fully grasp its mechanism and momentum” (Yakimova 2002). Bauman in his reply to Peter Marden encapsulated the impact of the “vagaries of globalisation or some post modern domain” (Marden, Peter in Graham 2000: 47) and the need to revisit the conventional wisdom of politics and society.

## 2.5 Globalization defined

Held and McGrew (ed. by Held 2003: 33, Held 2003: 33) in their introduction have tried to encapsulate the range of definitions of globalization. Globalization has been conceived as an “action at a distance” (Held 2003: 3) whereby the actions of social agents in one locale can come to have significant consequences for distant others. It is also understood as time-space compression, because of the way in which instantaneous electronic communication erodes the constraints of distance and time on social organization and interaction (Held 2003: 3). Accelerating interdependence, another feature of globalisation, is seen in terms of the intensification among national economies and societies such that the events in one country impact the others. In a shrinking world the perception is of the erosion of borders and geographical barriers to socio-economic activity, global integration, the reordering of interregional power relations, consciousness of global condition and the intensification of interregional interconnectedness. Held and McGrew rightly conclude that the definitions vary in terms of the “differential emphasis given to the material, spatio-temporal and cognitive aspects of globalisation” (2003: 3).

The way globalization is defined is more a theme of perspective and ideology; the changes that have been brought in the world cannot be denied. For the purposes of this paper we do not need to go into the range of definitions of globalisation, instead we assume globalization to be a “legitimate object of knowledge” (Robinson 1998: 562) that warrants for an “interdisciplinary approach predicated on a paradigmatic shift” to explain transnational phenomenon like migration with relevant concepts embedded in the “epoch of structural transformation”. Hardt and Negri (Negri 2003) use the word ‘Empire’ to describe globalization – the concept of the Empire is characterized by lack of boundaries (2003: 118) and they argue for a “strategic vision as open-ended and dependent on the praxis of the multitude” (Southall 2006).



## 2.6 Globalization and Migration

Whether the term “globalisation” is used or not, whether it’s real or a myth, both the ‘globalization skeptics’ and the ‘hyper-globalizers’ cannot deny that we live in an era marked by “experiences of displacement and security spanning between a cyber world – characterised by a hyper-mobility of finance, technology, information and the ‘cosmopolitan’ values of ‘flexible citizenship’ – and the world of human trafficking and smuggling of migrants and refugees – a mode of mobility adopted by people who cross borders on foot, by boat, trucks and planes who are often abandoned to die when arrangements break-down”(Truong 2006).

Bauman uses the word ‘Liquid’ as a metaphor of the present-day state of modernity. He explains that the word liquid does not refer to their specific gravity but a ‘sense of looseness and of their bonds’(Yakimova 2002). This liquidity in the contemporary world has “thrown the existing paradigm of macro-social inquiry into an impasse” (Robinson 1998: 564). Increasingly, resources and threats that matter, including money, information, pollution, and popular culture, circulate and shape lives and economies with little regard for political boundaries (ed. by Held 2003: 204).

A 2002 issue of *The Economist* conducted a survey on migration concluded “it is impossible to separate the globalisation of trade and capital from the global movement of people”(Economist 2002). The connection between immigration and globalization is intense and cannot be ignored. In the last fifty years, immigration at a global scale has intensified as more countries are getting involved (Lisa Benton Short 2005). Globalization has accelerated the rate of migration and the increased the diversity of origin points; immigration is a powerful example of ‘globalization from below’.(Lisa Benton Short 2005). The Centre for the Study of Globalization (Lisa Benton Short 2005) compiled a database ranking the global immigrant cities in which they provide significant information the foreign born population in some cities some being as high as 82 percent in Dubai, Miami at 51 percent, Amsterdam at 47 percent, Toronto at 45 percent, and Muscat at 45 percent. The study indicates that the number of foreign born in several countries is quite significant to be not considered for integration and assimilation within their host societies. And the process of integration and assimilation is hindered because of the theoretical paradigms within which belonging/citizenship gets conceptualised.

## 2.7 Fragility of the nation-state paradigm

The conventional paradigm that has guided any kind of macro-social inquiry is within the Contract theory which is the nation-state paradigm. The Nation-state theory confronts severe conceptual instability in an internationalised world. The “nation-state framework of analysis” requires a “territorially bounded, homogeneous state with a singular purpose” gets severely challenged under forces of globalisation. The absolutes of the Westphalian state system – a territorially, fixed, homogenous state with a well-defined political community with a shared set of values where everything (of value) lies within some state’s

borders - are all dissolving (Mathews, Jessica T 2003: 204, Pratt 2004). What needs to be noted is that because of an “ahistoric moment of utilitarian calculation informed by reason and fear that gave rise to social contract has no counterpart in international relations” (Graham 2000: 1) and the Hobbesian contract between individuals and the state cannot be replicated internationally by a similar contract between states there is an absence of governance systems at a global level.

Even Rawls’ – one of the most influential theorists of liberalism - inquiry into the theory of justice, which does provide a device for cosmopolitanism, operates within the “nation-state framework of analysis”. For Rawls, his members of society, though not knowing where they are in the distribution scheme, are members of a “well-ordered society”. Thus, a society is assumed to have a state capable of delivering primary goods to the worst-off members of society (Bagchi 2008: 198). His device was to “rationalize the structure of a state founded upon liberal, free market principles whereby the members of the state exercise their moral powers for the purpose of justice and for a condition of the good and the socio-economic conditions needed for this exercise” (Bagchi 2008: 198). Rawls theory of justice being a “legacy of the social contract theory” (Nagel 2005) of state has the disadvantage of being predicated upon an explicit socio-political framework of a “functioning state” (Bagchi 2008: 198). This predication is problematic as the emergence of juridico-legal systems are border bounded whereas the theories of human rights are essentially an appeal beyond the bounded legal enforcement mechanisms and states remain the main agents of accountability for the rights. Rawls argued that the liberal requirements of justice included a strong component of equality among citizens thus making a specific political demand which applies to the basic structure of a unifies nation-state (Nagel 2005). The prerequisite for justice – a unified nation state - makes justice an exclusionary concept.

However, Amartya Sen in his article (Sen 2006) argues for a “radical reformation of our theorizing about human justice, in particular our theorizing about global justice”. His claim is that “human rights are in basic sense trans-political in nature and their protection should not wait for the whole world to be constituted by “well-ordered states”, and that they should not also depend on the construction of a globally egalitarian political order ...” (Bagchi 2008: 201) Nagel’s (2005) argument that there is no “theory of global justice” precisely because of the “disappearance of an enforcement mechanism and the concomitant disappearance of an ethical defence of human rights beyond state borders” (Bagchi 2008: 198) brings out the dilemma in the reification of the nation-state paradigm which results in the abandonment of large sections of the populations.

In the case of the Chinese Cockle pickers, for example, none received any compensation either from Britain or by China (as they were illegal migrants in Britain and they were then disowned by the Chinese). Mehdi Kazemi and several others like him have to live with sense of perpetual persecution because he chooses not to be ‘discreet about his behaviour’ (Verkaik 2008a). Kazemi’s right not to be harmed was likely to be violated by his state in his home-country, Iran. Both the UK and The Netherlands then sent him back and forth – he became a person without any basic claims someone viewed as having no

rights, an illegal person outside the protection of a state of law. Even Ayaan Hirsi Ali, although an elite figure, lost protection of Dutch law overnight and found herself in a flight once more, albeit in well-paid flight.

The notion of Hobbesian contract implies an implicit or explicit contract entered into by the ‘citizens of a democratic state’. And without an alteration in the ‘basic axioms of the social contract theory’ it cannot be extended into the international arena (Bagchi 2008: 199). Moreover, the limitation of theory of justice being limited to citizens in liberal democracies is that which makes citizenship essentially exclusionary. The non-citizens are excluded from a nation and migrants who might acquire citizenship or residence through the legal procedures remain excluded or at the threshold of exclusion (Bagchi 2008: 199, Sen 2006). A lesser mortal like Hicham Yezza and someone like Ayaan Hirsi Ali - a classic ‘successful migrant’ - in spite of having residence permits and citizenship were excluded overnight from the society where they lived long enough as “good citizens”. This was because the theory of justice extends to “citizens” within liberal democracies based on common history, language and culture.

The Rawlesian exercise involves “institutional reasoning among people who are born into that society in which they lead their lives” (Bagchi 2008: 199, Sen 2006). And as in Rawlesian democracy there is ‘no in-built mechanism of scrutinizing dominant values in a well-ordered society, [it] may end up by encoding racism, gender discrimination, not to speak of class biases, directed against strangers (migrants for instance) or even citizens who do not belong to the focal group (Bagchi 2008: 198) It was rightly mentioned by Dr. Alf Gunvald Nilsen – a friend of Yezza and Sabir on a blog (A.G. Nilsen 2008) that the incident would never have occurred if the people involved had been blonde, Swedish PhD students (the two men were of British-Pakistani and Algerian backgrounds respectively). The traditional markers of colour, sexuality, race, gender and religion have been juxtaposed with modern markers of nationality to legitimise the logic of discrimination and exclusion. And this compels one to wonder along the lines of Dr. Nilsen whether Ayaan Hirsi Ali would have met the fate she did if she were not a Black Muslim Woman? Would Yezza and Sabir have been treated as potential terrorists if they were blonde and white with names like Richard or John? And if Kazemi were a white homosexual might he have been a celebrated star.

What is of particular concern to this paper is that the nation-state paradigm has circumscribed [Rawlsian] justice such that the ‘utilitarian justice and its complement, an instrumental view of rationality, were also circumscribed...by the idea of what human nature is, in all place and all times’ (Bagchi 2008: 199). The problem is that this circumscription allows for institutionalising injustices towards immigrants. However, a theory of justice must not limit its discourse to the borders of a nation-state. If Rawls’ preoccupation was with the ‘intrinsic value of justice’ it must be addressing the new realities which are transnational in character and not limited by a schema of well-ordered society conceptualised within the nation-state paradigm.

Globalization, howsoever defined, indisputably has an impact which is beyond economic alone. The cases of Ayaan Hirsi Ali, Mehdi Kazemi, the cockle pickers and the Nottingham Case have resonances of the impact of

globalization. Globalization has stirred a ‘new politics’ of identity – of gender, sexuality, lifestyle, age cohort, religion and ethnicity – that challenges the national identities, often replacing or supplementing them with local-cum-transnational sources of identity (Held 2003: 142). The ‘new social movements’ like the feminists, the homosexuals, religious fundamentalists to name a few, work (very often) in tandem with politics of identity. These movements use new technology and focussing their energies on their own state [thus] increases the salience of diverse local and transnational identities.

In this ‘new politics of identity’ there are resonances of a Black Somali Muslim woman who had been a victim of Female Genital Mutilation (FGM), decided to escape an arranged marriage to a distant cousin in search of her Zamunda<sup>4</sup> or an Iranian gay who does not want to be ‘discreet about his behaviour’ and chooses to express and articulate his identity even in a world beset with anti-homosexual laws and punishments. [It was] the idea of a capitalism that has now [has] become global, transnational, post-industrial, ‘informational’, consumerist, neoliberal and ‘restructured’, is undermining the nation state (ed. by Held 2003: 135) with the consequence of displacement and poverty at home that made a bunch of Chinese leave their homeland in search of their ‘Zamunda’ that would take them out of debt and poverty. But, as one gets overwhelmed by the obsolescence of the nation-state, one is also confronted with the revocation of someone’s citizenship or the death of 23 people or someone fearing persecution because of his sexual orientation or a student being harassed because of his markers of otherness identify him as a potential terrorist and one realises that the old paradigms (of nation-state) exist giving dimensions and reach to new fears and insecurities; we have fortress continents<sup>5</sup> being created to legitimise the traditional forms of discrimination in an interconnected world.

In conclusion, the realization of basic rights cannot be confined to the presence of an enforcement agency or a juridical framework. Thus, if Rawls’ preoccupation was the primary and uncompromising virtue of justice, if the predication of justice is based on the existence of a contract between the state and its citizens, then justice is compromised and relegated to a secondary

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<sup>4</sup> Ayan Hirsi Ali uses the name Zamunda, which she has borrowed from the movie *Coming to America* – a fictitious African country, analogically to describe a land “with cool breezes and a benign king, where animals and humans interacted in peaceful non-verbal understanding, where men and women were equal and women had no veils to wear and people had rights”.

[http://www.aci.org/publications/filter.all,pubID.26543/pub\\_detail.asp](http://www.aci.org/publications/filter.all,pubID.26543/pub_detail.asp)

<sup>5</sup> Naomi Klein used the term ‘Fortress Continents’ in an article published in the *Guardian* (January, 2003). She defines it as a bloc of nations that joins forces to extract favorable trade terms from other countries, while patrolling their shared external borders to keep people from those countries out. But she adds that if a continent is serious of becoming a ‘fortress’ it needs some poor countries to do the dirty work in the fortress. She uses the phrase to explain the emergence of EU and Fortress Nafta.

position. This chapter has made it clear that theoretical constraints cannot be the reason to deny people their basic rights; we cannot live in a world where concepts precede the lives of people and at times at the cost of their lives. The next chapter will explore the matrix of exclusion using the intersectionality as a tool to identify the markers of 'otherness' that beset the migration regime.

## **Chapter 3**

### **Stories of Statelessness – Exploring the Matrix of Exclusions**

This chapter explores the use of the intersectionality approach and how it can help to ‘fill out’ the concept of inclusive citizenship. The intersectionality approach has proven especially useful because it shows how a multiplicity of factors can contribute to either revocation of citizenship or even complete annulment of any compensatory rights. In the next chapter this will be explored in detail in the case of both the illegality of the Chinese cockle pickers and the grating of (as it turned out temporary) asylum to Ayaan Hirsi Ali.

The twenty-three Chinese Cockle Pickers who died in the rising tide in Morecambe Bay, UK in 2005, and Ayaan Hirsi Ali whose sudden loss of citizenship in 2006 brought her back into the news, are very contrasting cases in all respects. We also considered the cases of Hicham Yezza and Rizwaan Sabir, staff and a student at the University of Nottingham until 2008 and Mehdi Kazemi, a gay Iranian asylum-seeker who was moved back and forth between UK and The Netherlands between 2006 to 2008. The former two contrasting cases – the Chinese Cockle pickers and Ayaan Hirsi Ali, will be explored in more detail in the next chapter. Meanwhile, in this chapter reference will be made to all these case, where relevant.

This positive aspect of the intersectionality approach, and the reason it was selected for this study, is that it seems to provide tools needed to analyse the systemic aberrations noted in many contemporary stories of migration. Intersectionality theory focuses on the lived experiences of people and takes into account the simultaneous intersection of various markers of difference and inequality. These include race, sexuality, gender and class (Naples 2008). In this chapter, a matrix is plotted to chart the intersection of the markers of identity in each of the four selected migration stories. This produces what can be termed a ‘matrix of exclusion’; it is from this matrix that two cases will be selected for more in-depth analysis in the chapter that follows.

#### **3.1 Intersectionality - a tool to plot the matrix of exclusion**

Feminist scholars developed intersectionality theory especially to analyse the experiences of women with colour, to understand the violence they experience as a resultant of an interaction of multiple dimensions identity, race and gender. Kimberle Crenshaw (Crenshaw 1991) introduced the term intersectionality to study the violence experienced by African American women as a conflation of other dimensions of identity like race and gender . She focuses her study on two dimensions of male violence against women namely, battering and rape and in case of women with colour it is “frequently a product of intersecting patterns of racism and sexism” (Crenshaw 1991: 1243). Similar

processes of overlap and complexity in the stories of migrants told above can be seen.

Although Crenshaw conceptualises intersectionality theory in the particular context of male violence experienced by African American women, the theory has the wider merit of being capable of use to map other intersections of markers of difference in other instances. It does this “by factoring in issues such as class, sexual orientation, age and colour” (Crenshaw 1991: 1244 -1245). The theory is used in this study to underscore the dynamic interplay between a multiplicity of factors that together produce a resultant situation of vulnerability and marginalization for migrants in the selected stories.

For the purposes of this paper, the idea of intersectionality is combined with notions of citizenship and nation-state approaches to configure and organise the specific cases of migrants selected. One purpose of this is to help appreciate the structural and theoretical inadequacies of the logic of citizenship in the context of statelessness, something that the four cases have in common.

### **3.2 Statelessness and the emaciation of migrants’ rights**

The ability to make claims in the public sphere, challenging or affirming dominant rules, norms and meanings, is an important feature of citizenship and of democratic participation (Naples 2008). The very concept of being a ‘citizen’ is usually conceived of within the parameters of a contractual relationship between the sovereign state and the individual (Lipschutz 2004: 33). A citizen is usually seen the embodiment of the dominant markers of identity that fits ‘him’ into membership of a typical Westphalian nation state. Those with different markers like race, religion, sexual orientation, language, nationality, class, and culture may be denied access to protection or political rights in the nation-state system. Migrants are an embodiment of these markers of difference, which can make them “ineligible for rights of political participation, social services, international recognition” and compensation in the case of accident or death (Brysk & Shafir 2004). All those in the stories selected here at one time or other had the experience of being relegated to a space outside the law, of being regarded as illegal aliens.

When the stories are plotted in a matrix of exclusion, the intersectionality of the various markers of identity becomes more graphic which illuminates the idea of the interaction of multiple factors contributing to a resultant exclusion. The matrix below was compiled with a friend during the course of our discussion on the present research. The matrix of exclusion is precursor to the discussion on each story that follows.

The common link between the four subjects of the selected stories namely, the Chinese Cockel Pickers, Mehdi Kazemi, Ayaan Hirsi Ali and Rizwaan Sabir and Hicham Yezza is their status of being a migrant. Ayaan Hirsi Ali did receive her citizenship in The Netherlands which was eventually revoked. The various markers of identity are categorized as religion, race, gender, sexuality, market and class. The end of the table shows the resultant

because of the interaction of the markers of identity in each case. When the matrix is graphed, it shows that there is no single factor that contributes to the marginalization in each case.

**Table 1:**  
**The matrix of exclusion the selected stories of migration**

Migration	Ayaan Hirsi Ali	Mehdi Kazemi	Rizwaan Sabir/ Hicham Yezza	Chinese Cockle Pickers
Religion	x	x	x	
Race	x	x	x	x
Gender	x			x
Sexuality		x		
Market/Class				x
Result	Revocation of Dutch citizenship, presently permanent US resident	Temporary asylum granted in the UK	Rizwaan was arrested and released later; Hicham Yezza arrested and awaits deportation	Died in the Morecambe Bay; neither UK nor the Chinese government paid any compensation to the dead

Source: Compiled with a friend Marenne Mei Jansen

In the University of Nottingham case, Rizwan Sabir and Hicham Yezza were bearers of markers of difference in terms of religion and race (A. Nilsen 2008). It was probably this that resulted in their arrest and now structures the probability of deportation in the case of Yezza (White 2008). Similarly, Mehdi Kazemi embodied differences of religion, race and sexual orientation (EveryoneGroup 2008). The complex intersection of these kinds of differences resulted in his exclusion and explains his fear of persecution, if deported to in his home country Iran. However, in case of Ayaan Hirsi Ali and Mehdi Kazemi their markers of difference – gender on the one hand and sexual orientation on the other – also became the basis for their individual emancipation, or at least inclusion in the basic rights of citizens (however temporarily conferred) (Ali 2007, Van Marsh 2008).

Quraishy (2003: 71) succinctly notes the crisis that Europe (for instance) faces in the wake of increased migratory flows. He clearly makes reference to the different markers of otherness that migrant bear.

“The most pressing issue that confronts Europe today is: How to resist racism?... What to do with over 22 million people who are not white Caucasian, have other cultural values, come from ‘underdeveloped’ parts of the globe, are perceived as economic ‘burden’ on host societies and,



most threatening of all in popular imagination, particularly in case of Islam are a threat to the security of Western civilization.”

The stories of Ayaan Hirsi Ali, Mehdi Kazemi and the university of Nottingham case of Rizwaan Sabir and Hicham Yezza, all serve to show that when people involved are bearers of a religious identity – Islam – that led to their resolution in a manner that is in accordance with the post 9/11 paradigm of Islamophobia. In the wake of an increase terrorist attacks and especially the 9/11 incident, there has been a reification of the nation-state with a security approach to migration. This approach has intensely securitized the technocratic rim of the states to exclusion and violation of the rights of the people (Sparke 2006, Truong 2008). The approach has been stretched to sanction border policing at the cost of the lives of immigrants; states practice ‘terrorism’ against immigrants even though they might have lived in the host countries for many years (Bagchi 2008).

The case of the Chinese Cockle Pickers robustly brings out the limits of the legalistic concept of citizenship. Their existence and beyond is subjected to the narrow and legalistic conception being a citizen. Their economic impoverishment in their home country and their illegal status in the host country intersect to the resultant effect statelessness and renunciation by their home country. Their life and death is dehumanised with being caught up in the technocracy of legal non-belonging. Britain legislated the Gangmasters Licensing Act in 2005 in response to the deaths (MailOnline 2008). At the same time the Chinese government disowned the dead bodies of the cockle pickers. Their story illustrates how the fundamental jurisprudence of innocent until proven guilty is turned on its head where international (clandestine) labour migration is concerned. Their illegality forfeited their fundamental right to life and any sort of reparation for their death. Their statelessness did not result in their disenfranchisement alone but left a legacy of debt for their families, as will be explored in a later chapter. Their labour was delegitimized both economically and legally because realisation of labour rights like compensation is dependent on citizenship (Seidman 2004).

This can lead one to argue that statelessness converts the victimhood into assumed criminality which in the above cases and when extrapolated to other similar cases, is a resultant of intersecting of markers of otherness. And the assumption creates a norm for the victimization of migrants. An interesting incident that happened in the late 90s in UK is a case in point. A case of shoplifting was being heard in the London Courts for the trial of a wealthy banker had taken to lifting commodities from Harrods and Harvey Nichols as a form of stress relief (Bancroft 2001). Her lawyer, pleading in mitigation said that “this is not some Gypsy who has come here from Czechoslovakia to steal with a gang” (Bancroft 2001). And in that one statement, he stigmatised the few hundreds of Czech and Slovakian Roma who had attempted to claim asylum in Britain the previous year; it encapsulated the extent of the prejudice and hatred that citizens of the richest countries (Britain in this case) of the world project onto unwanted migrants (Bancroft 2001).

Also the present anti-immigrant sentiments, policies and practices are a product of an intersection of various markers different from the dominant.

Even in the cases, where the migrants espouse the markers of dominant categories like language, legal documents relating to status of residency or citizenship like in the case of Ayaan Hirsi Ali and Rizwaan Sabir, their markers of otherness never gets subsumed in the dominant categories; they are always at the risk of being disenfranchised and suffer the forfeiture of basic rights.

The knowledge that statelessness in case of migrants is a resultant of the convergence of various markers of difference like race, class, gender, religion, nationality aids the understanding of citizenship being an exclusive concept. The intersectional analysis bring out the deficits in conventional conceptualisation of citizenship aiding a conceptualisation of citizenship in an inclusive way which does not operate on the existence of certain dominant markers collapsing all space for any difference.

Evidently, there is an intersection of dimensions of conventional and new paradigms of discrimination that converge to create an anti-immigrant and xenophobic environment as shown in the matrix of exclusion. The intersectional approach provides us with the lenses to see the exclusionary aspects of immigration laws and procedures like the integration test in case of The Netherlands or the enactment of the Dutch Alien Act, 2000 (HRW 2003) which outlines the law on asylum and immigration is geared towards efficiency at the cost of protection and realisation of rights and the various integration tests which is based on the proficiency in language, knowledge of Dutch history as a pre-requisite to immigrate or unify with your family. The non-permissiveness characteristic of borders of a nation-state converges with the contractual nature of citizenship which becomes the central axis along which exclusion takes place

### **3.3 Inclusive Citizenship: Trans-political character of human rights**

The above stories when seen through the lenses of intersectionality raise issues about the dominant of citizenship as an exclusionary concept based on the premise of cultural homogeneity. Formal principles of equality and justice are nested in the nation-states and available to citizens only. An interaction of multiple factors is used to justify the exclusion and ill-treatment of migrants, both legal and illegal. Once “out of place” these people are relegated to a clandestine existence forever; the realisation of rights for a migrant has been a zero-sum game. Indeed there is a need to conceptualise formal notions of equality and justice beyond the nation-state paradigm in order to come to terms with the ramifications of modern diversities and global capitalism.

An inclusive conceptualisation of citizenship would be workable if it addresses these conventional and new paradigms of discrimination. The concept of inclusive citizenship would have the potential to envisage belonging not as a ‘being’ but as a ‘becoming’: fundamental rights, privileges and obligations associated with citizenship must provide space for diversity and difference (Lipschutz 2004: 32-33). Citizenship is a contingent and contextual product of the era of nation-state, then the new realities of migration requires a reconstruction in the contemporary context (Lipschutz 2004). An inclusive

conceptualisation wherein there is a “conflation of the juridical ideas of membership with a more spontaneous politics of identity and desire” (Falk 2004) . New rules conviviality needs to be mapped to provide a basis for equality and a sense of membership. Naila Kabeer (2005) has done commendable work in exploring “meanings and expressions” of *inclusive citizenship* in an “interconnected world”. She has explored these meanings and expressions based on the experiences of certain excluded groups of people in various countries. Her vision of the elements of inclusive citizenship is broad to nest human rights as part of daily lives having potential to transcend the discrimination based on religion, race, gender, sexual orientation, class, and poverty. To briefly mention the elements of Kabeer’s vision of inclusive citizenship are **justice, recognition, self-determination** and **solidarity**. She argues that these are the core values often entailed in any aspiration for citizenship for groups or individuals and is capable of providing a sense of horizontal solidarity with the others (Kabeer 2005). Her notion of **justice** revolves around the premise “when it is fair for people to be treated the same and when it is fair that they should be treated differently” (Kabeer 2005: 3). Extrapolating her understanding to the story of Mehdi Kazemi, he has the right to express his sexual orientation and his homosexual orientation should be taken into account in treating his asylum application to grant him justice and protection. The Chinese Cockle Pickers must be treated as labourers and be given compensation in the light of their contribution like any other worker.

The second element of **recognition** is closely webbed with the concept of **justice**. She notes “demands for justice by many disempowered groups is a demand for recognition: recognition of the intrinsic worth of all human beings, but also recognition of and respect for their difference” (Kabeer 2005: 4). The intersectional analyses of the stories illuminate how formal notions of equality and justice are rooted with conventional ideas of discrimination resulting in a clandestine existence or death.

The element of **self-determination** refers to people’s ability to exercise some degree of control over their lives. Migrants, legal or illegal are subjected to the fickleness to state and its institutions having no control over their lives or death. Ayaan Hirsi Ali lost her citizenship overnight and was subjected to the vagaries of the fickleness of various counties. The Chinese Cockle Pickers lost their lives in a different country not knowing the language or even the emergency phone-line number; all they could do is to call their families back home, hoping against hope, that their prayers would be heard. And the other selected stories and those not selected have resonances of a complete lack of control over their lives.

The final element of **solidarity** is the “capacity to identify with others and act in unity with them in their claims for justice and recognition” (Kabeer 2005: 7). A sense of **solidarity** is essential in mainstreaming the claims of justice and recognition of those excluded. The global support that Kazemi received from homosexuals from all parts of the world gave credibility to his case for asylum (EveryoneGroup 2008); his case coincides with the advocates for a post national human rights regime. It is clear that claims to basic human rights cannot be dismissed on the basis of the existence of qualifications of

citizenship (Sen 2006). Realization of rights and justice must be based with a concept of belonging or citizenship that does not confine itself to the view of citizens of well-ordered states alone (Sen 2006).

This chapter has shown how intersectionality analysis can be used to understand the lived experiences of migrants in Europe. This chapter has also shown how the parameters of exclusive forms of citizenship can be traced using the intersectional approach, and to propose ways of tackling this conceptually.

## Chapter 4

### Understanding Migration Experiences

*“Stories are like searchlights and spotlights; they brighten up parts of the stage while leaving the rest in darkness.... Their task, after all, is to “cure” the stage, making it ready for the viewers’ visual and intellectual consumption; to create a picture one can absorb, comprehend and retain out of the anarchy of blots and stains one neither take nor make sense of. It is the mission of stories to select, and it is in their nature to include through exclusion and to illuminate through casting shadows.” (Z. Bauman 2004)*

In this chapter, the stories of the twenty-three Chinese Cockle Pickers who died in the rising tide in Morecombe Bay, UK in 2005 and that of Ayaan Hirsi Ali who her sudden loss of citizenship in The Netherlands in 2006 are compared and contrasted discerning their ramifications within the context of international migration. These two cases are extremely diverse in nearly all ways, except that they both take place in the same period and inside the European Union. Since: “people, rather than states are the subject of evidence-based analysis” (Caroline Thomas, cited in Roberts, 2008: 14) this study has selected cases on that basis. But despite the differences in the two cases, differences which will become more apparent in this chapter, there are also some striking similarities between them. Both illustrate the misfit of the old paradigms of citizenship and nation-state with the new realities of migration, diversity and globalisation. The salience of these two examples is how each highlights problems of exclusion along lines of class, gender, race and legal status, as illustrated in the last chapter. The close connection made under the existing paradigm between rights of citizenship and membership of the nation-state is damaging in very different ways in each case.

The two cases explored in some depth in this chapter thus have been selected because they have some diametrically opposite characteristics in terms of the location of those being considered in the apparatus of power relations of the state and economy. Yet in both cases, the people concerned end up, at some point, with a status of complete statelessness, which in one case is temporary and in the other proves fatal. Each case brings out the callousness and fickleness of contemporary state responses in Europe to the knotty question of how to receive. The territorial limits of the host and receiving countries are highlighted especially in the Ayaan Hirsi Ali case, as will be shown later. What each case illustrates is the various forms of discomfiture that arise because of attempts by states in particular to manage “new mobilities within old paradigms”.

The Ayaan Hirsi Ali and the Chinese Cockle Picker stories are each better documented than those of Rezwaan Sabir/Hicham Yezza and Mehdi Kazemi. This reflects Ayaan Hirsi’s celebrity status on the one hand, and how the Chinese Cockle Pickers story captured media attention when it happened, and has since been researched in a number of serious scholarly studies. The two

cases also differ since one is a case of individual vulnerability, the other a case of a collective vulnerability with wider, global ramifications for families left behind. Each case study helps to illustrate the position of migrants caught between the gap between an archaic vision of citizenship and nation-state and contemporary realities of global movements. A final reason for the selection of these two case studies is that in each case, markers of otherness serve to create different forms of vulnerability and injustice.

The ramifications of the two case studies is organised in the following way: the chapter will explore the issues raised in the context of the paper first in the case of the Chinese Cockle Pickers and then in the case of Ayaan Hirsi Ali. There follows an examination of how the two illustrative cases intersect. This is to illustrate the fragility of the nation-state paradigm and to introduce the idea of more inclusive forms of citizenship.

#### 4.1 The Chinese Cockle Pickers

In the morning editions of 6<sup>th</sup> February 2004, British newspapers reported the deaths of twenty Chinese Cockle Pickers in the Morecambe Bay. They drowned after being caught in an incoming tide at the Bay in Lancashire, north-west coast of England (Edgar Bill 2004: 39). On 7<sup>th</sup> February 2004, The Guardian had a story on the “19 Chinese drowned half a world away from home” under the headline “Victims of the Sands and the Snakeheads” (TheGuardian 2004). Richard North (North March 29, 2006) in his blog rightly asks the question if the Chinese who were drowned that night were in fact victims of snakes and snakeheads<sup>6</sup>.

Father of two children, Guo Bin Long, used his mobile phone to call his family in China. He said “the water is up to my chest. The bosses got the timing wrong. I can’t be back in time” (Cohen 2006). Guo Bin had paid a steep price of £ 18,000 to a snakehead to find him a job. He already had a debt of £ 30,000. Pieke (Pieke 2004) describes him and many other such migrants from the Fujian province as “exponents of the raw and unfinished Chinese globalization”. Guo Bin left behind a daughter aged 17, a son aged 10 and his wife. His mother committed suicide after being harassed by the money lenders. These lenders charge an interest rate as high as 10 per cent per annum and his family has a debt of £ 20,000 (Watts 2007). Indeed, Guo Bin and the others were exponents of the raw and unfinished Chinese globalization; they were the low wage workers who had crossed borders illegally trying to tap the higher productivity zones of the European rim (Biemann Ursula Angela Sanders 2003). The only crime of the Chinese Cockle Pickers and many other illegal migrants is trying to cross borders in an urge to make a decent living. Their

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<sup>6</sup> Snakeheads is used to refer to Chinese gangs that smuggle people to other countries upon payment. They are found in the Fujian region of China and smuggle their customers into wealthier Western countries in Western Europe, North America or Australasia.

case is only understandable in the context of an unjust world order where one half of the world is spiralling downwards into extreme poverty and the other half wallowing in prosperity (A.C Helton 2002: 1).

The illegal immigrants are placed in the bottom-most rung of the “hierarchy of vulnerability” (Edgar Bill 2004). Their “illegal” status acts like a “double-edged sword” (Bagchi 2008); they work in the worst-off conditions without any labour rights being applicable. For instance, the Chinese Cockle Pickers lived in “sordid, overcrowded conditions in Kensington, an inner-city slum area of Liverpool” (Edgar Bill 2004).

Jonathan Watts aptly describes their death as “A made-in-China and consummated-in-Britain tragedy” (Watts 2007). He says:

“It is as if they have fallen into a crevasse between justice and charity, from which there is no way out. Although this was a made-in-China and consummated-in-Britain tragedy, no one wants to take responsibility for the consequences. The authorities in Beijing have washed their hands of the matter. The British government has paid to send the bodies home, but it is reluctant to do more for fear of encouraging other illegal immigrants”.

The responsibility of the death of the Cockle Pickers has been placed differently by different people. The General Secretary of UK’s Transport and General Workers’ Union, Tony Woodley described the tragedy as an example of the “sordid underbelly of free-market globalization” and in particular, of “cowboy capitalism” (Woodley 7/2/2004). He further added that “this is not a migration issue. It is an exploitation issue” (Woodley 7/2/2004). However, John Meadowcroft and John Bundell (2004) do not agree with the General Secretary’s attribution of the death of the cockle pickers to the “machinations of global capitalism”. Instead they put forth an argument where he criticizes the state-regulated access to cockle beds making case for an alternative market-oriented regime of private property rights. They are right in so far as to recognize the causes of the tragedy in State failure.

The Cockle Pickers had come to the UK to escape the poverty created by Socialism in China but their death was not because Morecambe Bay was state regulated, but because they were structurally irrelevant in that society. They fell into the unwanted categories of people - failed asylum seekers, destitute asylum seekers waiting for Home Office decisions, or those not known to immigration (Pai 2006). In the process of absolving global capitalism, Bundell and Meadowcroft (2004) miss out on the common axis of vulnerability around which the migrant labour work across the world. Hsiao-Hung Pai (2006) exposes the structural element of the tragedy; Gangmasters or snakeheads controlled the workload required and set production targets for the 30-40 Chinese cocklers in each team, and were referred to as “bosses”, supplying companies such as Penclawdd Seafoods Ltd (owned by Dani Foods). They are themselves an exploited part of the layers of prosperous local cockling middlemen who supplied seafood-processing conglomerates (Pai 2006). Contrary to public assumption, the incoming Chinese cocklers recruited since

2002 were making huge profits not for their smugglers but for Dani Foods and Dani Foods was not called for trial even once.

The allusion by the General Secretary to the forgotten cases of fifty-eight Chinese people who died in the back of a lorry crossing the Channel in the year 2000 illustrates the structure of exploitation to which they (illegal immigrants) operate and become victim of (Woodley 7/2/2004).

Pieke (2004) notes that the drumming up of the usual imagery of snakeheads, gangmasters, bogus asylum seeking shadows the structural causes that make people resort to desperate measures in making a living. The profile of most of the victims of the Morecambe Bay tragedy is that of an impoverished farmers and workers all of whom were in dire conditions back home too (TheGuardian 2006). The General Secretary in his statement noted the enormity of the tragedy:

“The poor Chinese cockle pickers are the tip of an enormous iceberg of migrant labour working in many sectors of the economy, in all parts of the country. In Norfolk, gang workers were paid just £3 to cut 1,000 daffodils. In Cambridgeshire, workers were forced to live in partitioned containers with no water supply - and were deducted up to £80 a week rent from their meagre earnings for the privilege. In a fish processing plant in Scotland, gang workers were found working 12-hour shifts, seven days a week, for less than the minimum wage”.(Woodley 7/2/2004)

Lin Liang Ren, the "gangmaster" in charge of the cockle-pickers, who was tried for manslaughter said “the ultimate responsibility for the Morecambe Bay deaths lies with the top bosses, the English suppliers and their international clients, who put enormous pressure on us to produce” (Pai 2006). During the £5 million trial (TheTimes 2006), the English suppliers were not brought to trial even once.

The tragedy led to the enactment of the Gangmasters (Licensing) Act, 2004 under which the gangmasters trading without a license will be liable for a 10 year imprisonment (MailOnline 2008). Hsiao-Hung Pai (2006) in an article written two years after the tragedy notes that gang labour exploitation continues as usual; twenty teams of hundreds of Polish work at Morecambe Bay under similar working conditions as the Chinese. There is no regulatory system to limit the number working the sands and no prevention against abuse in organised labour (Pai 2006). But good quality cockles are still fetching £1,000 a tonne – 100 grams of cockles are sold at around £2.80 in the supermarkets (Pai 2006). It is indeed business as usual. Each day on Knott End and Pilling Sands, where the bay's flatness guarantees fast tides, two hundred Polish workers can be seen working in pairs working two exhausting shifts a day, getting paid £10 per 25-kilo-bucket by the Polish gangmasters (Pai 2006). These workers said they haven't even been told about dialling 999 in case of emergency (Pai 2006).

The Gangmasters Legislation Act is now part of the British law and with tightened immigration controls, people are driven to riskier jobs.



Lawyers in London who are pressing a claim for money from Britain's criminal compensation fund for the Chinese Cockle Pickers say "It won't be easy. There is no precedent ... All we can do is wait" (Watts 2007). And they will not receive any compensation other than some meagre charity from the UK Fujian Association gave 10,000 yuan (about £660) to many of the victims, but this was barely enough to pay for the funerals (Watts 2007). Nick Broomfield, who made the 2006 film *Ghosts* about the tragedy, set up the Morecambe Victims Fund with the Guardian journalist Hsiao-Hung Pai last August aimed at raising £500,000 for the victims' families but could only collect £20,000, including £5,000 that ITV donated after its recent Bafta (Watts 2007). They are condemned to a clandestine death; the barrier of illegality and non-belonging is used to deny them compensation. Their families have no recourse to any legal reparation.

Cohen (2006) notes that the Morecambe Bay tragedy makes one reminisce about the indentured labour system where workers are trapped in a vicious cycle of exploitation which is essential for the survival of global capitalism. As Bauman (2004) notes that such 'wasted lives' like that of migrants, refugees and other outcasts are central modernity; they constitute the cheap reserves of labour on which global capitalism thrives. Probably, the only incident that departs this tragedy from an indentured labour system is the trans-local connection between the victims and their homes. It is ironic that the victims when being drowned called their homes instead of 999.

In conclusion, millions other are still a part or becoming a part of a system that drains the blood off the poorest of the world for the consumption of the richest; a system that maintains itself by strengthening borders (Pai 2006). The flurry of media concern and popular sympathy for the victims and their families has faded, allowing the incident to be classified as a tragic abnormality and they no more form a part of the memory of anyone except their families (Pai 2006). However, they reveal how deeply their death is connected to the everyday lives of millions of people in Britain and around the world (Pai 2006). One of the local labour users who have his cockles processed at Penclawdd Shellfish Processing Ltd in Wales was awarded Welsh Exporter of the Year (Pai 2006). These cockles are packaged in Holland and exported to Poland and Spain (Pai 2006). His company works with 1,500 fishermen who use gang labour all over Britain and makes an annual profit of £4m, but has no idea about working conditions of the cocklers (Pai 2006).

Their undefined, clandestine status has been used against them; they have been stripped off basic rights of recognition. The trial of Lin Liang Ren appears is a tokenism which has not addressed any structural reasons for the tragedy. The appalling working conditions continue, the undocumented status of the migrant workers require them to remain invisible and non-existent in their host society. Yang Shang-jin, a former Chinese cockler rightly notes the tragedy was made possible by the brutality of capitalism and now it is Polish cockle-pickers who bear the brunt of this ruthless system, as the Chinese workers did (Pai 2006).

## 4.2 Ayaan Hirsi Ali

“For HER courage, her honesty and her unflinching support of the rights of Muslim women, Ayaan Hirsi Ali deserves to be considered a heroine. A target for extremists throughout the Islamic world, her life is in constant danger. When, after the making of her film, *Submission*, its Dutch director, Theo Van Gogh, was murdered, she too found herself under sentence of death. Yet she has never held back from expressing her outspoken view that, in terms of subordinating women, repressing art and limiting freedom of speech, Islam is a backward religion. Controversial or not, she has a right to be heard” [capitals in original]. (Linklater 2006)

On 17<sup>th</sup> May 2006 Ayaan Hirsi Ali was stripped of her Dutch citizenship on the grounds that she had lied regarding her biographical data during her Dutch asylum application. The administrative diligence and speed with which her citizenship was revoked by the Immigration Minister, Rita Verdonk was highlighted in a 40-minute documentary called “The Holy Ayaan” (Broder and 2006). She was reduced to a stateless position overnight, unprotected and without any legal means of identity.

With her loss of citizenship the issue of a previous Fatwaa issued on her by Imam Fouad El-Bayly, President of the Johnstown Islamic Center after her movie *Submission*, Ayaan Hirsi Ali was now in a very vulnerable, even in a life-threatening position. Many argue that Ayaan became a victim of Dutch political vagaries, and that this was a wholly exceptional case. However, being stripped of one’s citizenship can happen to almost any migrant. What her case illustrates is the underlying fragility and fickleness of the migration regime as it is embedded in the state technocracy. In spite her being able to successfully espouse the markers of her host society, like language, abiding by the Dutch law and customs, becoming an atheist and most importantly, a strong defender of liberal values, her otherness was never subsumed.

The revocation her citizenship of her citizenship shows that the ‘real’ problem was not that she lied about her biographical data during her asylum application, but that she was not born Dutch (Globalclashes 2006). The other important question she raises: “What type of people do we want to immigrate and to integrate our (host) society?” (Globalclashes 2006) Hirsi Ali did fit in the Dutch society; after all she rose to win a seat in the parliament.

Broder (2006) asks a rather apt question if she had an option other than lying. We cannot put the clock back to see what would have happened if she had not lied, but it wouldn’t be an exaggeration to assume that she would have been forced into the marriage as arranged by her father and remained a face behind the veil and a voice unheard. “She said that she had lied to prevent her family from tracking her down” (Broder 2006). An outraged professor of Legal Philosophy at the University of Leiden, Afshin Ellian said "This affair is a disgrace for our country and for all of Europe. Voltaire and Erasmus are turning over in their graves"(Broder 2006).

Her personal story of fleeing from a forced marriage and fighting out the Muslim taboos is tied to the process of globalization; her desire to be free and assert her individualism is after all an exponent of the globalization of liberal, democratic values. She “wanted to be in a position to shape her own future” (Broder 2006). However, her loss of citizenship raises issues about citizenship being a relevant ground to guarantee or provide recourse to the rule of law. Her loss of Dutch citizenship was followed by serial offers of refuge from the protectors of Western liberty like the Danes and the Belgians (Diab 2006, MacQueen 2007).

However, Ayaan since the beginning of her migration journey was in relevant position; she was structurally relevant. Her access to political clout and her repute actually resulted in a competition between several countries as it would have given them the image of being the hallmark of Western liberty. Her story is a counter-case to that of the Chinese Cockle Pickers. Sarah Wildman (Wildman 2006) places Ayaan’s loss of citizenship within the larger discourse on asylum seeking.

“The sentiment isn't isolated. Earlier this month (May 2008), Austria's Interior Minister Liese Prokop announced that 45 percent of Muslim immigrants were "unintegratable," and suggested that those people should "choose another country." France's lower house of parliament last week passed a strict new immigration law, now awaiting Senate approval” (Wildman 2006).

Philippe De Bruycker, founder of the Odysseus Network, an academic consortium on immigration and asylum in Europe notes “the trend today more and more in Europe is to try to control immigration flow” (Wildman 2006). Ayaan’s revocation thus suggests that immigrant populations remain socially distinct in their host societies and the distinction between those who came for work and those who seek asylum is blurred.

The revocation of citizenship which affected Ayaan Hirsi Ali is an illustration of the exclusionary elements of citizenship as it is defined under the dominant nation-state paradigm. As a Muslim women, who considered herself vulnerable to being subjected to a forced marriage, Ayaan Hirsi Ali was able to convince the Netherlands authorities to grant her refugee status (Linklater 2006). Her loyalty to her country of asylum was not under question. Even after her loss of citizenship she said “I define citizenship as declaring allegiance to the community you belong [to] and that for me is Holland” (BBCNews 2006). In spite of this, it seems her work in The Netherlands could not redeem her in the eyes of then Minister Rita Verdonk. The ‘lie’ that she had apparently told in order to facilitate her asylum application was ‘detected’ and not ‘forgiven’. Integration and Immigration Minister Rita Verdonk, said “rules are rules” and that Hirsi Ali's Dutch citizenship was invalid (Diab 2006). “However fantastic I may think Ayaan is...I have to uphold the law.”

Ayaan’s treatment was rather a shock to both Dutch, and even more to international audiences. In spite of her high location in the power apparatus of her adopted country, her markers of otherness were never removed or

subsumed by those commenting on her position in her host society. Her very presence and her high position seemed to pose a challenge to many people's desire to maintain the cultural homogeneity of The Netherlands. Her power and position could not outgrow her profile of a migrant – her self-proclaimed identification with The Netherlands could not remove her 'otherness'. She remained caught between the territorial imperatives of membership and the privilege of exclusion by the executive. Finally, Ayaan Hirsi Ali was forced to sever her "allegiance" with Holland; she left with some penetrating questions about the basic tenets of liberal democracy. As she said:

"I will leave, but the questions remain – the questions about the future of Islam in *our* country, the subjugation of women in Islamic culture and integration of many Muslims in the West. I will leave the Netherlands. Sad and relieved I will pack my bags again. I will continue" [emphasis added] (Murray 2006).

What her case also suggests is that 'losing your religion' is no guarantee that you will become accepted in the ostensibly secular elite of the host society. Whatever the status of the person involved, their 'temporary' belonging can apparently be reasserted in an instant, and perfectly legally. At the same time that Ayaan Hirsi Ali lost her citizenship, it may be no coincidence that many another Iraqi family, among others, were similarly losing their identity due to very minor (generally technical or biographical) errors in their original application forms (Diab 2006). It was clear that the executive had ordered a 'thorough review' of cases; perhaps a move to counter the General Paardon (amnesty) that was taking place in The Netherlands at that time, and which was perceived by Minister Verdonk as a personal defeat.

### 4.3 Discerning the intersectionality of two stories

The case of Ayaan Hirsi Ali is in sharp contrast to that of the twenty-three Chinese Cockle Pickers; in her case markers of difference and otherness became her tool for liberation. Her acceptance by the United States and finally The Netherlands deciding to grant her citizenship in June 2006 (BBCNews 2006) is an illustration of her **recognition** and **justice**; she also had the ability to exercise some control over her life (**self-determination**) in terms being located so as to choose to US residency rights (Kabeer 2005). But Hirsi Ali could enjoy these elements of Kabeer's (2005) vision of an inclusive citizenship in an exclusive way. Though she was caught in the archaic versions citizenship and nation-state, but she got liberated within a statist version of globalization. On the contrary, the Chinese Cockle Pickers are illustration of such group of people whose clandestine status transcended their life and death.

In both the cases there is some kind of vulnerability which relegates them to the 'other'. In Ayaan's case this vulnerability became the tool for her emancipation as she offsets her gendered vulnerability with Western dominant discourses about a threatening Islamic 'other'. In the case of the Chinese

Cockle Pickers, the various forms of vulnerability were conflated and each exacerbated the other, as poverty, economic exploitation, xenophobia, anti-immigrant feelings and their undocumented status all intersected. The trial of Lin Liang Ren demonstrates this conflation rather strongly. As mentioned earlier, at no point were the UK suppliers asked to appear in court nor were immigrant officials required to appear for negligence on their part. This is surprising, to say the least, given that the cockle pickers' illegal status resulted from the negligence of both. Lin Liang Ren became the scapegoat who was held criminally responsible, thus absolving all other parties involved in making the tragedy, from any responsibility of their own<sup>7</sup> (or any criminal charges).

For those at the lower end of the hierarchy of vulnerability – the low-skilled and unskilled economic migrants, asylum seekers, and clandestine migrants – the migration experience is beset with such multiple level vulnerabilities. Both the Cockle Pickers case and the Ayaan Hirsi case illustrate this in different ways, each bringing out the need for a rethinking of the relationship between the rights nested in citizenship under the nation-state paradigm (Edgar Bill 2004).

Economic migrants and asylum seekers are portrayed as those fleeing the 'war torn', 'crisis ridden' or 'poverty stricken' regions of the periphery, joining the global migration streams that have economically and socially stable countries of the core as their destination (Edgar Bill 2004). This statement brings out the need to place migratory flows within larger structures and to understand them beyond the binary parameter of push and pull factors.

The matrix of exclusion (Table 1) in Chapter 3 showed how the markers of otherness in each case relate. In the case of Ayaan Hirsi, the result was the revocation of citizenship and in the case of the Chinese Cockle Pickers, their unacknowledged and untimely death. One possible way of tying these cases together at the end of this chapter is to consider the elements of inclusive citizenship as proposed by Kabeer (2005). In her view, the key elements are: justice, recognition, self-determination and solidarity. Each of these needs to be included in any move to reconceptualise citizenship as going beyond the confines of the nation-state paradigm and a narrow view of citizenship as being the exclusive preserve of 'nationals' (however defined legally and historically). Excluding migrants of all classes, genders and backgrounds from the normal protections of the state is the result of priorities which are far from democratic. The main priority of nation states remains the old realist one; to maintain the status-quo – and to keep the other out. States in Western Europe – if the UK and The Netherlands are anything to go by – appear trapped in a cycle of exclusionary, narrowly national-interest based policy-making. The outcome for all kinds of categories of migrants is a destructive policy-practice environment in which they are subject to arbitrary and even cruel and indifferent processes. The policy priority still seems to be to

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<sup>7</sup> The Morecambe Bay tragedy was not an Act of God but a tragedy that occurred because of structural negligence.

“control”, with much less emphasis being given to the need to definitively “integrate” those who cross borders, especially from South to North.

International migration is a controversial issue as it problematises the hitherto commonsensical understanding of nation-state and of membership in a nation-state as the sole basis for citizenship and related rights. Migration of all dimensions confronts governments and hence their very theoretical premise in relation to the relevance of liberal democratic values. Governments need to address the issue of asylum-seekers, refugees and economic migrants (who are often conceptualised as economic units of labour rather than human beings without rights, responsibilities and aspirations – as were the Chinese Cockle Pickers’ (Crawley 2006).

This chapter has suggested that no matter where one is placed in the intersections of power relations, a migrant remains vulnerable. This is because their identities are not subsumed by the dominant categories of identification, at least not for migrants categorised as from ‘outside’ the areas of integration. Intersectionality brought out the different kinds of citizenship rights deficits in each of the two case studies. This chapter also showed how states behave in fickle and indifferent ways to deny basic legal guarantees to whole categories of migrants. The idea is that the concepts and theories that were the product of an earlier era, the era of the Westphalian nation-state, remain very powerful in the era of globalisation. This research cannot explore wider questions in depth, but suggests that patterns of exclusion like these may have their roots in the colonial and early modern era where war, exclusion and persecution were all part of nation-building.

## Chapter 5

### Conclusion

The paper opened with a brief outline on the migration being central to the evolution and existence of human societies. However, migration of all dimension have made citizenship and nationhood contested issues in global politics. This paper has explored the historical ontology of nation-states which has been *the* way of organizing political and social membership to a society and illustrated the discriminatory nature of state-based membership. The nation-state paradigm and citizenship based on that (nation-state) paradigm are ill-suited to grapple with the realities of globalization and flow of people. The intersectionality theory is used to demonstrate how conventional markers of difference like that of gender, class, race, and sexual orientation are combined with the logic of citizenship to marginalise and victimize migrants. Four contemporary cases of migrants from Europe and UK are selected because they had the virtues and elements that could be and have extracted to illustrate the misfit of the nation-state paradigm in a globalised world especially with regard to protection and conferment of rights to migrants.

Nation-state is based on the social contract theory as proposed by Thomas Hobbes on the assumption of life as solitary, poor, nasty, brutish and short and brutish and ‘man’ conceived as irrational, passionate and weak. The nation-state was conceptualised to compensate for these weaknesses of ‘man’; nation-state is rational and capable reason and will. Thus, in the backdrop of a positivistic and deterministic conceptualization state, membership to a political and social community was envisaged. Even a liberalist like John Rawls had his vision of justice circumscribed by the presence of a “well-ordered society” thus making principles of justice an exclusive virtue. The guarantees and rights to migrants enshrined in various international treaties and covenants get limited by the nation-state paradigm; states can choose to deny rights to migrants by non-ratification. However, as explored in chapter two and also elsewhere in the paper primacy of justice virtue cannot be compromised to the exclusion of migrants as they are non-members to the well-ordered society.

An intersectional analysis of the stories selected helps us identify the deficits of a state-based membership. This can be used to have an inclusive conceptualization of citizenship having the elements of justice, recognition, self-determination and solidarity; such a vision of citizenship is beyond the prerequisites of homogeneity in culture, language and history being more assimilative and accommodating in its characteristic. A socio-political construct like nation-state is being exploited to discriminate migrants at the cost of their lives.

A cartoon by Andy Singer which shows how history has reversed the order of controls over human movement effectively places the migratory flows of people within the history of human society and the evolution of the nation-state from the colonial into the post-colonial era. As this study has shown that migration has been a way of life ever since the evolution of *homo sapiens*. Today, the logic of the nation-state and membership in the form of exclusive forms of citizenship is being used to legitimise the violation of the right to movement, especially of people from the South. This study has used the migration issue

and the place of individuals and groups of migrants in the global migration regime, specifically taking examples from within the EU of The Netherlands and the UK to explore how the nation-state system continues to violate the basic rights of migrants produced by globalisation and global economic change.



Source: <http://www.politicalcartoons.com/cartoon/288d9552-4490-476a-a7e944da8a7d7392.html>

This study has raised the whole question of the continued relevance of the nation-state and begs the question of what might be able to replace it, an exploration that would require further study beyond the confines of this limited exploration. The study has also questioned how a concept of citizenship tied to narrow definitions of membership of the nation-state might be expanded to become more inclusive and more in tune with the ramifications of the deterritorialised politics and economy that has grown up in the contemporary era. If liberal democratic values are to remain relevant, then membership of European nation-states must be reconceptualised in more inclusive and accommodating ways. States need to adjust and come to grips with the way in which the contemporary realities of diversity and pluralism, and the continuing realities of South to North migration, require new migration regimes and new forms of social contract between citizens and the states in which they live and settle.





## Appendix I

### Four Stories of Migration

#### ***Circa February 2004: The Chinese Cockle Pickers who lost their lives in Morecambe Bay***

23 MIGRANT WORKERS MOSTLY FROM FUJIAN PROVINCE in China died after they were caught in the dark on the mudflats by a rising tide at Morecambe Bay, Lancashire (Athwal 2006, Casciani 2005). They were harvesting cockles—a profitable shellfish, on the Bay (Gasper, Truong 2005). They were thought to be asylum seekers awaiting decisions on their claims; later it was found that these were illegal immigrants who had paid large sums of money to be smuggled into Britain (Athwal 2006). They all lacked work permits and were controlled by Chinese “gangmasters” who took half of their income from cockle sales (Gasper, Truong 2005). These workers were stuffed in one house all together and would be taken to the sands at any time of the day or night depending on the tides (Gasper, Truong 2005). Local residents and fishing communities in the Morecambe Bay were warned of the danger months back (Gasper, Truong 2005).

In July 2004, Lin Liang Ren was charged with manslaughter and conspiracy to commit to pervert the course of justice and was sentenced to fourteen years of imprisonment (Athwal 2006). Zhao Qing Xiao was charged with conspiracy to commit facilitation, conspiracy to pervert the course of justice and breaching immigration laws and was also sentenced to two years and nine months of imprisonment (Athwal 2006). Lin Mu Yong was charged with conspiracy to commit facilitation and was jailed for four years on immigration charges. During the investigation, Detective Constable Neil Thompson was given a formal written warning and removed from the enquiry after he used offensive racist language – the word “chink” (Athwal 2006). This tragedy tidied away with Morecambe Bay having a dedicated police officer to gather intelligence on illegal practices on sands and a Gangmasters (Licensing) Act, 2004 was enacted with the establishment of Gangmasters Licensing Authority (Casciani 2005). The enactment of the Gangmasters Licensing Act is to seal United Kingdom against all kind of illegal migration. Under the Act the gangmasters trading without a license will be liable for a 10 year imprisonment. (MailOnline 2008). However, the Act provides no compensation or recourse whatsoever for victims. The authorities were so pleased with the outcome of Operation Lund (as the case was called) that investigators won last year's top criminal justice award (Watts 2007). ITV received a Bafta for its coverage of the seven-month trial, which ended in March last year (Watts 2007). The Chinese tragedy became a triumph, a vindication of Britain's way of dealing with disaster. The Lancashire

Constabulary which carried out the Operation Lund has posted a timeline of the events that formed a part of the investigation<sup>8</sup> and nowhere does one see any preoccupation with the miseries of the victims.

Every day, 5000 miles away from the Morecambe Bay, the families of the dead are being sucked by the mudflats of the Bay - the victims were all illegal migrants, their dependants have received no compensation, meagre charity, and endure such appalling harassment from debt collectors that several have been driven from their homes and some have killed themselves and the families of the dead back home have huge debts upon them which is awaiting to be repaid (Watts 2007). The repayment of these debts has started another chapter of exploitation and impoverishment.

### ***Circa 14 May 2008: Case of the student and staff University Of Nottingham***

AN ALGERIAN MUSLIM IMMIGRANT, a staff member at University of Nottingham - Hicham Yezza and a British Pakistani Muslim immigrant doctorate student – Rizwaan Sabir at the same University were arrested under Section 41 of the Terrorism Act, 2000 (A. Nilsen 2008). Their crime – Rizwaan Sabir is a PhD student at University of Nottingham writing his dissertation on Islamist Extremism and International Terrorist Networks had downloaded the Al Qaeda training manual from a publicly accessible US government website (Christie 2008). Sabir had asked Hichman Yezza to print the document for him as it was too big and would have exceeded his printing quota (Curtis 2008). The material was printed, noticed by the staff members, reported to the University authorities .The university reported it to the police, and the two men were arrested. Their houses and computers were searched, mobiles seized (Curtis 2008). They were released after six days without charge but Yezza was handed to the immigration authorities for unspecified irregularities in his Visa status. His Visa conditions give home office the right to deport in case he arrested (Sunny 2008).

Yeza has been resident in the U.K. for 13 years, during which he has studied for both undergraduate and postgraduate degrees in Nottingham (Curtis 2008). He is an active member of debating societies, a prominent member of an arts and theatre group, and has been writing editorials for the Student Peace Movement magazine for the last five years. His application for a British citizenship was underway. As this case is being cited here, Hichman Yezza awaits his deportation at the Citadel detention centre at Western Heights (White 2008), near Dover. Dr Alf Nilsen, a research fellow at the university's school of politics and international relations, said "If he is taken to Algeria, he may be subjected to severe human rights violations after his involvement in this case. He has been in

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<sup>8</sup> <http://www.lancashire.police.uk/index.php?id=4214> Last accessed on 18 September 2008.

the UK for 13 years. His work is here, his friends are here, his life is here” (Curtis 2008).

### ***Circa 2005: Ayaan Hirsi Ali and her loss of Citizenship***

A BLACK MUSLIM SOMALIAN IMMIGRANT WOMAN appears as one of the "100 Most Influential People of 2005" in the Times Magazine (Manji 2005) and as one of the Glamour Heroes of 2005, and Reader's Digest's "European of the Year (Ali 2007)." The Black Muslim Somalian woman is Ayaan Hirsi Ali.

Ayaan Hirsi Ali was born in Somalia, raised a Muslim, subjected to genital mutilation and spent her childhood and early adulthood in Africa and Saudi Arabia (Ali 2007). In 1992 when she moved to The Netherlands as a refugee escaping an arranged marriage to a distant cousin – a Somali Canadian. She soon received her citizenship in The Netherlands. In The Netherlands she learnt the local language, did odd jobs, worked as a translator for Somali immigrants, an interpreter in abortion clinics and shelters for battered women, earned a masters degree in political science from University of Leiden and worked for the Labor Party in the Netherlands (Globalist 2008). In November 2002, she became a member of the VVD (People's Party for Freedom and Democracy) — and served as a member of parliament working for the rights of Muslim women in Europe, the enlightenment of Islam and security in the West (Globalist 2008). While she was in the parliament, she focused on furthering the integration of non-Western immigrants into Dutch society, and campaigned defending the rights of women in Dutch Muslim society (Ali 2007). She campaigned to raise awareness of violence against women, including honor killings and female genital mutilation, practices that had followed the immigrants into Holland and which were, at the time, largely ignored by the Dutch legal system (Ali 2007). In her three years in the government, she was recognised as an advocate for women's rights and an “enlightened Islam”, earning her both fame and infamy in her adopted country and worldwide.

Until 16 May, 2006, Hirsi Ali's was a classic story of a successful immigrant. But on that day she was forced to resign from the Dutch parliament due to the controversy over the legitimacy over her Dutch citizenship. It was claimed she had provided inaccurate information to the authorities at the time of her asylum application (Ali 2007). The then Dutch Immigration Minister, Rita Verdonk decided to revoke her citizenship. Hirsi Ali has abandoned her faith of Islam, disowned by her family, living under perpetual threat of Fatwa she has now become a permanent resident of the United States working a resident fellow at the American Enterprise Institute in Washington DC, Ayaan researches the relationship between the West and Islam, women's rights in Islam, and violence against women propagated in the name of religious and cultural arguments (Ali 2007).

### ***Circa March 2008: Iranian Gay seeking asylum***

"I wish to inform the Secretary of State that I did not come to the UK to claim asylum. I came here to study and return to my country. But in

the past few months my situation back home has changed. The Iranian authorities have found out that I am a homosexual and they are looking for me. I cannot stop my attraction towards men. This is something that I will have to live with the rest of my life. I was born with the feeling and cannot change this fact but it is unfortunate that I cannot express my feeling in Iran. If I return to Iran I will be arrested and executed like my former boyfriend."(Verkaik 2008b)

This was the letter that Seyed Mehdi Kazemi who is 19 wrote to the Home Secretary, Jacqui Smith. Mehdi Kazemi is an Iranian homosexual who came to London to study English in 2004. In a telephonic conversation with his father in Tehran he discovered that his boyfriend had been arrested by the Iranian police, charged with "lavat" (sodomy) and hanged. His father told Mehdi that before the execution in April 2006, his boyfriend had been questioned about sexual relations he had with other men and under interrogation had named Mr Kazemi as his partner (Verkaik 2008b). Fearing his own fate if he returned to Iran, Mehdi claimed asylum in Britain in 2007; his case was refused. Afraid of his prospects for deportation he fled to Holland. The Netherlands also rejected the asylum plea by Mehdi. In the mean time, the United Kingdom has now sent a formal request to Holland asking for Mehdi's return to Britain under the Treaty of Dublin, and according to regulation CE 343/2003, the British Government will proceed with his deportation to Iran (EveryoneGroup 2008). After the rejection of the initial appeal for asylum in The Netherlands that was made in October Mehdi then appealed unsuccessfully to a regional court in December. His last appeal was to the Council of State in January. Daniela Tempelman, the spokeswoman for the Council of State- the highest administrative court in The Netherlands- said that in order for the Dutch court to consider Kazemi's asylum application, he needed to prove that Britain did not handle his asylum application properly, but he wasn't able to prove any wrongdoing on the part of the British government (CNN 2008). The British government accepted the Dutch request to take him back. Around March 2008, Mehdi was returned to Britain and the Home Secretary, Jacqui Smith said "Following representations made on behalf of Mehdi Kazemi, and in the light of new circumstances since the original decision was made, I have decided that Mr. Kazemi's case should be reconsidered on his return to the U.K. from the Netherlands" (Lyll 2008). In June 2008, The Independent quoted that Ms. Smith in a letter to a Liberal Democrat peer said there was no "real risk" of gay men and lesbians being discovered by the Iranian authorities or "adverse action" being taken against those who were "discreet" about their behaviour (Verkaik 2008a). She in her letter to Lord Roberts of Llandudno said: "We recognise that the conditions for gay and lesbian people in Iran – and many other countries – are such that some individuals are able to demonstrate a need for international protection," she wrote. "We do not, however, accept that we should make the presumption that each and every asylum-seeker who presents themselves as being of a particular nationality or sexuality, regardless of their particular circumstances, should automatically be ...

allowed to remain in the UK”(Verkaik 2008a). She also added: "With particular regard to Iran, current case law handed down by the Asylum and Immigration Tribunal concludes that the evidence does not show a real risk of discovery of, or adverse action against gay and lesbian people who are discreet about their sexual orientation (Verkaik 2008a)." On 20<sup>th</sup> May 2008, Britain's Home Office finally granted asylum to Mehdi saying that they are keeping the case under review where circumstances have changed and it has been decided that Mr. Kazemi should be granted leave to remain in the UK based on the particular facts of this case (Van Marsh 2008).

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