

JACQUELINE STEVENS

STATES

without

NATIONS

CITIZENSHIP

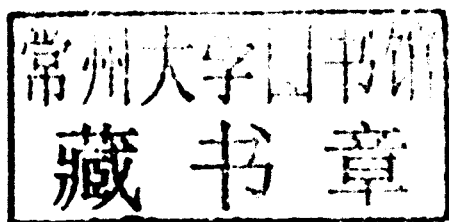
for

MORTALS

JACQUELINE STEVENS

STATES WITHOUT NATIONS

Citizenship for Mortals



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STATES WITHOUT NATIONS

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For Sarah and Rue

To fight aloud, is very brave—
But gallanter, I know
Who charge within the bosom
The Cavalry of Woe—

Who win, and nations do not see—
Who fall—and none observe—
Whose dying eyes, no Country
Regards with patriot love—

We trust, in plumed procession
For such, the Angels go—
Rank after Rank, with even feet—
And Uniforms of Snow.

EMILY DICKINSON
(C. 1859)

Preface

Despite the Mexican-Spanish zone that reaches from Los Angeles to San Antonio and leaps over to Saint Augustine, despite the profound influence of the American Indian on our early development, the pioneering in the Mississippi valley and the northwest by French and French-Canadians, the ten percent contribution to the population made by Negro and mulatto, and all the weight of 39 million "Foreign white stock" in the country, there are still some who repeat the shibboleth and call us an Anglo-Saxon nation.

FREDERICK DETWEILER,

"THE ANGLO-SAXON MYTH IN THE UNITED STATES" (1938)

The chances of factual truth surviving the onslaught of power are very slim indeed; it is always in danger of being maneuvered out of the world not only for a time but, potentially, forever. Facts and events are infinitely more fragile things than axioms, discoveries, theories.

HANNAH ARENDT, "TRUTH AND POLITICS" (1967)

In "Truth and Politics," Hannah Arendt meditates on the backlash against her account of Adolf Eichmann's 1961 war crime trial in Israel.¹ Her five lengthy articles on Eichmann's management of Jewish removal from Germany, first published in the *New Yorker*, detail specific Jewish elites' support—if not initiation—of one Nazi plan to shift the Jewish population from Europe to Palestine. Eichmann wrote of being instructed by his boss Reinhardt Heydrich,

Hitler's chief of staff for Jewish expulsion and genocide, to read "Theodore Herzl's *Der Judenstaat*, the famous Zionist classic, which converted Eichmann promptly and forever to Zionism."² In 1905, Herzl called for the international Jewish nation to pull together and establish a state in Palestine. Profits from selling Jewish property in western Europe would subsidize the settlement of the poor Jews from eastern Europe.³ Arendt offered damning evidence that in the 1930s the Jewish Agency of Palestine, modeled along the lines of Herzl's plan, was taking advantage of Germany's anti-Semitism and coordinating Jewish expropriation and resettlement with a passion that may even have exceeded that of the bureaucrat in the docket.

Arendt noted Eichmann's description of the "emissaries from Palestine, who would approach the Gestapo and the SS . . . to enlist help for the illegal immigration of Jews into British-ruled Palestine."⁴ Arendt says that they were "not interested in rescue operations" but wanted to select "suitable material." Paraphrasing another study of these actions, Arendt wrote, "they were probably among the first Jews to talk openly about mutual interests and certainly the first to be given permission 'to pick young Jewish pioneers' from among the Jews in the concentration camps."⁵ For Arendt to describe these actions and others, such as Jewish financiers working with Eichmann's bureaucracy to pay for Jewish passage to Palestine, was taken by some as a wanton attack on justice,⁶ as if the world could not condemn a war criminal if the commitments of a nationalist organization that experienced slaughter, the Zionists, were discussed in the same breath as the goals of an imperialist nationalist organization that perpetrated that slaughter.

Arendt's "Truth and Politics" (1967) engages critics of her Eichmann narrative by explaining the challenge of speaking the truth in the face of politics rather than by refuting specific charges. However, Arendt is doing something more specific than resisting the pressures of a vague political agenda. She is telling the truth in the presence of nations. Stories that would question a nation's honor and founding myths evoke especially venomous renunciation and reprisals. This is worth examining. Arendt's work in this area had a long history. Twenty years earlier, Arendt showed the same honesty and clear thinking, but under conditions that were even more fraught with political danger. In 1944, when the Jewish community, including Arendt, a recent refugee, was horrified by the millions of Jews being killed in Europe, she disparaged the Zionists attempting to establish an exclusively Jewish nation-state:

The social-revolutionary Jewish national movement, which started half a century ago with ideals so lofty that it overlooked the particular realities of the Near East and the general wickedness of the world, has ended—as do most such movements—with the unequivocal support not only of national but of chauvinist claims—not against the foes of the Jewish people but against its possible friends and present neighbors.⁷

Arendt believed the exclusively Jewish nation-state being contemplated would be seen as parasitic on an imperial power and despised by its neighbors,⁸ and she challenged American Zionists to back a proposal endorsed by many other intellectuals and states: a federated state of Arabs and Jews.⁹

Arendt's rebuke to an organization with the noble mission of representing a people being massacred was courageous, but why this was so is also perplexing. As much as Arendt bravely endured attacks for lending support to anti-Semitism, her audience resisted facts they should have been desperate to learn. Indeed, this was Arendt's point when she disparaged the shift among "Jewish left-wing intellectuals who a relatively short time ago still looked down upon Zionism as an ideology for the feebleminded."¹⁰ In 1944, the war was still on, the Einsatzgruppen were still destroying the Jews of Europe, and it would be four more years before the United Nations would establish Israel. Political dramas affecting the region were still unfolding, and Arendt had reason to believe that if she warned the American Jews that the European émigré leadership urging a purely Jewish state was tainted by bigotry and Nazi affiliations¹¹—on which Arendt also had commented during this period—the American Jews would demur from continuing on that path.¹² In the event, Arendt was right on the facts and astute on her predictions about the consequences of Zionists pursuing this course.

So why were her claims in 1944 treated with disbelief or dismissed as opinion? Once the Jewish community was made aware of the truth—that the Zionist leadership was chauvinist and had been openly collaborating with Nazis—one might expect that American Jews would find the Jewish Agency collaborators despicable and would reject their ideas and leadership for a Jewish state. (Chaim Weizmann was the president of the Jewish Agency of Palestine and Israel's first president.) Instead, the American Jewish intelligentsia ignored not only its own earlier aversion to Zionism but also its hatred of Nazi policies of expulsion and with the Jewish intelligentsia became a collaborator with the collaborators. This is not behavior unique to those who supported

the establishment of Israel but, as Arendt pointed out, the *modus operandi* for all national movements. This especially dramatic example of people giving their full support to causes, ideologies, and people they would, absent their national attachments, otherwise despise suggests that truth's contest with nationalism goes deeper than the everyday challenge truth faces in politics, to irrational psychic attachments that supersede logical, instrumental ones.

It is tempting to see the nation as the means through which people express their traditions, communities, and histories and to imagine that it poses problems only in circumstances of nationalism, but the most apparently pacific nation does not exist without the possibility of virulent nationalism. In the early 1990s, the main concern among scholars of the nation-state was its demise and replacement by a global corporate network that would be based in the United States and penetrate and absorb markets worldwide, creating a single hegemonic capitalist empire.¹³ This expectation changed after the 2001 attacks on the World Trade Center and the Pentagon, though these events were only history's most recent reminders of the nation's ever-present possibilities of systemic violence. The rapidity and ease with which President Bush shifted from encouraging an open border with Mexico to locking up long-term residents in detention facilities by the tens of thousands¹⁴ is similar in kind if not degree to the experience people in the former Yugoslavia described, when their neighbors became their attackers. If the nation were not an enduring form conducive to the rapid instigation of irrational, systemic violence, then these shifts could not occur so easily and seem, after the fact, so predictable.

The United States used to be perceived as a government committed to advancing an uncompromising human-rights agenda. Such an image was attacked by the Right as naïve, by the Left as hypocritical, and by the far Left as diabolically imposing the West's particular values in the name of universal ones. That criticism has become *passé*. And the White House under the Bush and Obama administrations is not the only government institution to use the cover of national security to abrogate rights recognized by U.S. and international law. In 2007, the Democratic-controlled U.S. Senate twice rejected the most draconian immigration bill considered by Congress since the early twentieth century—because it was too permissive. Both versions of the bill that the Democratic leadership worked furiously to pass would have established English as the national language, deported legal residents who were convicted of drunk driving, established a national database of all aliens applying for employment, built a seven-hundred-mile fence along the U.S.-Mexican border, established a program for aliens to live and work in the country without being eligible for

citizenship, and required undocumented aliens applying for legal resident status to pay thousands of dollars in fees and leave the country.¹⁵ The liberal immigration-law centers in the country all opposed the bill.¹⁶ And yet all eleven Democrats who voted against S. 1348 and the five who voted against S. 1639 did so because they, like the Republicans who opposed these measures by strong majorities, thought the bills were too easy on aliens.

Senator Claire McCaskill (D-MO) explained her nay vote: “when someone breaks the law, they should be brought in front of our criminal justice system and be accountable to the courts.”¹⁷ The two Democratic senators from Montana issued a joint press release: “Baucus and Tester said that the bill aimed at reducing the number of illegal immigrants entering the country makes it too easy for an illegal immigrant to get a work visa, does not go far enough in strengthening the country’s borders, and does not have tough enough enforcement measures.”¹⁸ Of course, there is another way to prevent people living here illegally, and that is to allow anyone residing here to do so without sanction. The bill’s author, defending these measures as the best that he could do for immigrants, was Senator Edward Kennedy, whose civil rights credentials were otherwise in excellent standing. Yet, in exchange for burnishing his bipartisan reputation, he was willing to reject the advice of liberal organizations he otherwise supported and urge the passage of a measure that would have criminalized the presence of longtime residents in this country.

Ironically, buried in S. 1639 was language to establish a Commission on the Wartime Treatment of Jewish Refugees. The bill would have charged the commission with reviewing “the United States Government’s refusal to allow Jewish and other refugees fleeing persecution or genocide in Europe entry to the United States.”¹⁹ It also required a “review of Federal refugee law and policy relating to those fleeing persecution or genocide, including recommendations for making it easier in the future for victims of persecution or genocide to obtain refuge in the United States.”²⁰ Thus, toward the end of a bill that would have codified a labor underclass based on birthright, Congress also was being asked to recall its aversion to the consequences of these political partitions and exclusions based on nationality. Admittedly, guest-worker programs are not death camps. The goal of this book is to demonstrate their connection, to reflect on why so-called liberals make exceptions from their larger principled worldviews to endorse policies whose outcomes they would be expected to reject, and to explore alternative policies for states without nations.

STATES WITHOUT NATIONS

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INTRODUCTION

When mud huts or straw shelters, incapable of resisting the inclemency of the weather, sufficed for the living, tumuli were raised for the dead, and stone was used for sepulchres before it was used for houses. It is the strong-built houses of the dead that have withstood the ages, not the houses of the living; not the temporary lodgings but the permanent habitations.

MIGUEL DE UNAMUNO, TRAGIC SENSE OF LIFE (1954)

It is not the consciousness of death but the flight from death that distinguishes men from animals.

NORMAN BROWN, LIFE AGAINST DEATH (1959)

POLITICS FOR MORTALS

Humans, from the Latin *humus*, are creatures of the earth, “the *earthy* one, the *earth-born*.”¹ Other creatures come and go, and therefore also are earthy, so to speak, but only humans are mortals, beings conscious of their own mortality. Mortality has enormous implications for politics. Most obviously, governments use the fear of death to manipulate obedience. If the threat of one’s destruction is the most extreme example of coercion, and if governments have a monopoly on the legitimate use of coercion, then governments have the pre-eminent means of guaranteeing obedience, or so the story goes.² Death is not a perfect incentive system. Honor and justice may be more important than self-preservation. Socrates advocated death over obedience to an unjust democratic sovereign: “A man who is good for anything ought not to calculate the chance of living or dying; he ought only to consider whether in doing anything he is doing right or wrong.”³ Telling the Athenian jury that he would not compromise his principles even if it meant a death sentence, Socrates said he did not know what became of the dead and therefore, in ignorance, he had nothing to fear.⁴

Also aware of death’s ambiguity, the seventeenth-century theorist of the social contract Thomas Hobbes arrived at the opposite inference. In a recently ended civil war, Christian soldiers had shown themselves willing to risk death to support their view of God. This willingness to die for a religious cause made Hobbes uneasy, and he told his readers it was more rational to fear certain violent death from breaking their covenants with the state than to fear an uncertain eternal hell from breaking their covenants with God: “Because there is no natural knowledge of man’s estate after death, much less of the reward that is then to be given to breach of faith, but only a belief grounded upon other men’s saying that they know it supernaturally or that they know those that knew them that knew others that knew it supernaturally, breach of faith [with the sovereign] cannot be called a precept of reason or nature.”⁵ In other words, Christians should know that life is good and it would be irrational to risk life now for a future that might be less felicitous.

In addition to these commonly debated questions about how the fear of death and other bodily harms incites compliance with state prohibitions, mortal citizens have two other characteristics with political implications that extend far beyond questions of authority. First, mortals are conscious of being born from another mortal’s body. Second, half are conscious that anatomy denies them the ability to similarly give birth. Envyng the ability to reproduce

children from their own bodies,⁶ men compensate by presiding over entire reproductive units, political societies they create by law.⁷ A political society's kinship rules for creating families to repopulate as larger hereditary groups derive from men's desire to control by law intergenerational attachments available at birth only to mothers, meaning those who give birth. This is because the intergenerational world is fantasized by men, first as young boys, as the biological prerogative of mothers, and not because of maternity's essential preeminence in securing intergenerationality, which may be produced in an infinite variety of contexts and communities (chapter 5 explores these ideas in detail). Intergenerational groups with hereditary rules for membership are mortality's neurotic and even psychotic symptoms. Nationality, ethnicity, caste, clan, and, in the last several hundred years, race are the conveyances for mortal narratives, the way men assure themselves through law the feeling of security they feel is denied by anatomy. The hereditary group that uses the legal convention of fatherhood to put men into certain relations with children—with whom they may lack a genetic relation—is an invention designed by creatures preoccupied with fantasies about the significance of bearing children and who seek to overcome their finite lifespans.⁸

Many of the ideas in these chapters build on my earlier book, *Reproducing the State*, which shows that certain intergenerational groups often considered natural, for example, the family, the nation, ethnicities, and races, are actually produced by laws, kinship laws in particular.⁹ *Reproducing the State* contrasts the law's use of birth for membership in hereditary kinship groups with religious groups recruiting through death narratives. *Reproducing the State* also analyzes the muddled legal status of religious groups under the U.S. Constitution. On the one hand, the state singles out religious devotion for special protection by admonishing the government to ignore religion, an injunction not equally available to other membership groups, thus favoring religion. But, on the other hand, the state's preeminence over religious groups is performed by its prerogative to outline the scope for religious devotion in the first place.¹⁰

Reproducing the State engages primarily with the theories and histories of these affinities. It devotes little space to the daily political consequences of kinship laws today and virtually none to exploring alternatives. *States Without Nations: Citizenship for Mortals* begins where *Reproducing the State* ends, documenting the specific harms that kinship rules cause and explaining the benefits of changing them. Some points are reiterated to avoid confusion, but a reader who wants a historical and theoretical explication of how political