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The spectre of statelessness

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Abstract

A prominent theory of political obligation argues that, to avoid the dangers of statelessness (basic needs deprivation, rights violations, and political disenfranchisement) people should establish, maintain, and obey states. This theory underwrites a statist ideal that presents states as the primary guarantors of justice and democracy. I challenge this statist ideal, arguing that statist institutions are ill-equipped to provide full justice, especially for stateless people. I argue that statelessness is a product of the state system's structure and that eliminating the dangers of statelessness therefore requires challenging the core organising principles of the state system. I conclude that stateless people have broad prima facie moral permissions to resist the state system's constitutive norms, practices, and institutions; that others may have obligations to support their efforts; and that addressing the dangers of statelessness requires resisting rather than obeying statist institutions. I also offer a corrective to the literature on refugees' political obligations, illuminating how even obedience to a relatively just state or camp authority can uphold a state system that is unjust overall. I examine these issues in conversation with empirical scholarship on stateless people's activism, like Hong Kong's 'Refugee Occupy' movement.

Keywords: statelessness; ethics of resistance; political obligation; global justice; transnationalism

Political theorists often appeal to the dangers of statelessness to justify acquiescence to state power. To avoid the 'state of nature', they say, we must establish, obey, and maintain states—even if they are not fully just. Such appeals are prominent in both historical and contemporary works,[1] and they encourage the adoption of a statist ideal that recommends obedience to states and exalts the state as a political form. These works invoke the spectre of statelessness to justify a general obligation to obey and maintain states. But rarely do these invocations consider the condition of actually stateless people. If a state's citizens may obey it and bolster its power—even if it sometimes wields that power unjustly—to lessen their already minuscule risk of

[1]E.g., Hobbes 1994 [1651]; Kant 1996a [1797]; Stilz 2009; Wellman 2001.

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statelessness, what may actually stateless people do to oppose the systems that make them so?[2] With at least 10 million stateless people and over 6 million living in refugee camps worldwide,[3] this is a pressing question. Here, I adopt a capacious understanding of statelessness, including anyone effectively lacking state membership and stable access to its associated benefits. This encompasses both *de jure* and *de facto* stateless people, and people (like refugees, asylum seekers, and migrants fleeing 'failed states') who do not have effective membership in either their states of origin or residence.[4] With this broad understanding of statelessness in mind, I re-centre stateless people and re-cast the dangers of statelessness not as a reason to maintain state power, but a reason to resist it.

I propose that statelessness—and a continued vulnerability to statelessness even for those who presently enjoy state membership—is produced by the state system's organisation around two core principles:

> **Political Authority Principle:** because states are the world's primary political authorities, reliable access to basic needs fulfilment, rights protection, and political enfranchisement is conditioned on state membership.
>
> **Sovereignty Principle:** because they are sovereign, states may grant or deny membership at will.

In an international system designed around the Political Authority Principle, stateless people lack legal standing and suffrage and are often denied access to education, health care, and employment opportunities and are disproportionately vulnerable to basic rights violations like assault and trafficking.[5] Understanding 'stateless people' broadly, as I do, to include refugees, asylum seekers, and migrants escaping failed states, only makes this case stronger—as many people fitting these descriptions suffer the same disadvantages.[6] Moreover, in an international system designed around the Sovereignty Principle, stateless people can be kept vulnerable to these disadvantages indefinitely if states continue to deny them membership. Further, I argue, the current state system maintains itself by channelling political activity through statist institutions, reinforcing its existing structure. By *statist* institutions, I mean those that operate according to the Political Authority and Sovereignty Principles. So, international institutions that do not challenge at least one of these principles are statist despite being international.

If, as I argue, statelessness is a product of the state system's current structure and the state system maintains that structure by channelling political activity through statist institutions, then we cannot remedy the disenfranchisement and injustice

[2]My suggestion resembles Delmas' (2018) argument that many principles often invoked to ground citizens' obligations to obey their states actually ground obligations to resist. However, my work departs from Delmas' in focusing on the transnational sphere (Delmas' discussion of transnational obligations is very brief, see, e.g., Delmas 2018, 105–6) and focusing on the *state system* (rather than individual states) as a site of injustice and contestation.

[3]USA for UNHCR 2021; UNHCR n.d.

[4]For overviews of legal understandings of statelessness and different types of statelessness, see U.S. Department of State n.d.; Owen 2018, 303, 313.

[5]UNHCR n.d.; USA for UNHCR 2020.

[6]See, e.g., USA for UNHCR 2020.

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stateless people face via statist institutions. Many normative theorists (despite their other disagreements)[7] adopt a statist ideal, presenting statist institutions as those most capable of delivering democracy and justice. I challenge the statist ideal, arguing instead that statist institutions are ill-suited to achieve justice for stateless people. I propose that resistance against the state system's power (e.g., via transnational activism challenging statist institutions) is a more promising route to justice and enfranchisement for stateless people.

Below, I explore this possibility in conversation with empirical scholarship on stateless people's activism, such as Hong Kong's 'Refugee Occupy' movement, in which asylum seekers protested the humanitarian assistance regime to which they were subject.[8] There are sizeable descriptive, empirical, and ethnographic literatures on refugee and migrant activism, which illustrate the importance of recognising refugees and migrants as political agents and examine their struggles against the ways in which states and the state system police, constrain, and oppress them.[9] I will not comprehensively survey these literatures, nor do I aim to contribute to them. Rather, I draw on them to inform and illustrate the real-world implications of my normative arguments. For example, Vecchio and Ham's discussion of Refugee Occupy and Saunders' discussion of asylum-seeker-led protests in Germany and Austria illustrate how the state system both marginalises stateless people and further entrenches itself by channelling their political activity through statist institutions.[10] This informs my normative conclusions about the state system's (in)capacity to deliver full justice and the resulting need to pursue justice by challenging its structure. Likewise, I draw on Vecchio and Ham; Ilcan; Pincock, Betts, and Easton-Calabria; and Saunders to illustrate what it could look like in practice for stateless people to exercise the moral permissions I argue they have to resist the state system.[11] I do not claim to give original descriptive accounts of the cases these works discuss or that these cases are representative of all stateless people's activism. Instead, they provide a proof of concept—showing how the political dynamics I discuss and the normative recommendations I make *can* manifest in the real world.

'State of nature' narratives and the statist ideal they underwrite suggest obedience to or exaltation of the state as the correct response to the dangers of statelessness. However, I argue that understanding the dangers of statelessness—including how they are produced and reproduced by the state system itself—recommends resistance against the state system. In essence, statelessness as it occurs in our world is a product of state power, not of its absence. Therefore, the remedy is not more state power, but the development of alternate channels by which stateless people can secure for themselves what the state system denies them.

I do not claim stateless people are *obligated* to resist the state system. Rather, I argue that, insofar as resisting statist institutions is a precondition of stateless people enjoying justice, they have broad prima facie moral *permission* to resist. This insight provides a needed corrective to the literature on refugees' political obligations,[12]

[7]E.g., Stilz 2009, 2019; Walzer 2011, 2015; Ypi 2012.

[8]Vecchio and Ham 2018.

[9]In addition to Vecchio and Ham 2018, see, e.g., de Genova 2009; Ilcan 2018; Mezzadra 2022; Pincock, Betts, and Easton-Calabria 2020; Saunders 2018; Stierl 2019; Tazzioli 2018.

[10]See Saunders 2018; Vecchio and Ham 2018.

[11]See Ilcan 2018; Pincock, Betts, and Easton-Calabria 2020; Saunders 2018; Vecchio and Ham 2018.

[12]E.g., D'Cruz 2014; Gates and Klosko 2022; Rescher 1992.

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which often ignores how requiring obedience to even a reasonably just state can entrench a state system that is unjust overall.

Insofar as others have reasons (and sometimes obligations) to help ensure stateless people are treated justly, they may also have reasons and obligations to support stateless peoples' anti-statist resistance movements. Moreover, a fully just world would not only guarantee remedies for the specific people who are currently stateless but would also be structured to guard against others experiencing statelessness in the future. This would require abandoning the Political Authority Principle or the Sovereignty Principle (or both). In other words, it would require radical departures from the state system as we know it, grounding independent reasons, and possibly obligations, to resist or thwart the state system.

To some extent, my argument resembles Arendt's—that dividing the world into nation-states and making human rights protections conditional on national membership produced a class of people with neither membership nor rights protections.[13] Arendt, too, critiqued how the world order's structure allowed people to become stateless, then cemented their exclusion from the rights protections that depended on possessing membership in a political community (the dominant form of which was the nation-state).[14] And others have explored how Arendt's account of statelessness applies to today's stateless people.[15]

That said, I depart from Arendt and her prominent interpreters, who focus on understanding the political dynamics by which statelessness is created and contested, and the subjective experience of statelessness, without necessarily drawing clear normative or moral conclusions. For example, Güngdogdu's 'aporetic' reading emphasises Arendt's reluctance to construct normative arguments or make policy recommendations to 'resolve' the contradictions and 'perplexities' she identified in the simultaneous assertion of human rights' universality and their effective denial to stateless people.[16] Instead, Güngdogdu writes, Arendt attempts 'to carefully examine how these perplexities become manifest…as well as how political actors navigate and renegotiate them.'[17] This critical analysis is necessary, but alone cannot detail different actors' moral permissions and obligations as they navigate the political terrain it describes. Thus, though I, too, explore the political dynamics that generate statelessness, I also draw on my account of these dynamics to develop arguments about stateless persons' moral permissions to resist statist institutions, others' moral obligations to support their resistance, and the limits of our moral obligations to the state system and its constitutive institutions. I therefore draw out the implications of the political dynamics surrounding statelessness for the ethics of resistance and the nature of political obligation in a way others have not.

Appeals to the dangers of statelessness in defence of state power

Many political theorists invoke the dangers of statelessness to justify state power and defend the claim that individuals have strong reasons—or obligations—to establish, obey, and maintain states. This section surveys some prominent examples to

[13]Arendt 1968, 290–302.
[14]See Siegelberg 2020, 95, 186–92, 205–9; Gündogdu 2015, 2–3.
[15]See, e.g., Bhabha 2009; Gündogdu 2015.
[16]Gündogdu 2015, 14.
[17]Ibid.

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demonstrate this argumentative strategy's ubiquity and influence in political theory. It was perhaps most famously and dramatically employed by Hobbes.[18] Hobbes not only argues that people should establish states to escape the horrific 'state of nature', but that, to guard against state collapse and a return to the state of nature, sovereigns should be given virtually absolute power.[19]

Hobbes writes that the point of founding a state (i.e., instituting a sovereign) is to avoid the 'miserable condition of war' that would obtain in its absence.[20] To achieve this goal, he continues, we must grant the sovereign virtually unlimited discretion 'to do whatsoever he shall think necessary' to preserve peace and prevent the state's dissolution.[21] Hobbes warns that limiting the sovereign's power would lead to state collapse, catapulting the people back into the state of nature (by definition, a condition of statelessness).[22]

Hobbes also argues that people should submit to absolute sovereigns, since doing so is the surest way to avoid the condition of statelessness, which would be far worse than any injury their sovereigns could do them. He writes:

> the greatest that in any form of government can possibly happen to the people in general is scarce sensible, in respect of the miseries and horrible calamities that accompany a civil war (or that dissolute condition of masterless men, without subjection to laws and a coercive power to tie their hands from rapine and revenge)…[23]

For Hobbes, to escape the horrors of statelessness, we must found states, give them virtually absolute power, and ensure they retain it. Even if our sovereigns are deeply imperfect—iniquitous, harsh, and cruel—we should acquiesce to their absolute rule because it is infinitely preferable to the statelessness we would suffer in its absence.

Though his political philosophy differs significantly from Hobbes', Kant also invokes the dangers of living in the state of nature to justify state power and individuals' obligations to obey states.[24] For Kant, living outside a state's authority may not involve the physical dangers Hobbes highlights, but it does involve the moral dangers that arise from having one's rights ill-defined and no way to solve conflicts without one party being subjected to another's unilateral will.[25] Thus, people living nearby one another are obligated to form states to govern their relations: 'when you cannot avoid living side by side with all others, you ought to leave the state of nature and proceed with them into a rightful condition.'[26] And people who fail to fulfil this obligation, 'do wrong in the highest degree.'[27]

[18]I won't survey the extensive secondary literature on Hobbes. I do not claim to offer a novel interpretation of Hobbes that advances this literature. Rather, I aim to offer *one* plausible interpretation of Hobbes and to show how the logic he employs is mirrored by later theorists.

[19]Hobbes 1994 [1651].

[20]Ibid., 106.

[21]Ibid., 113.

[22]See ibid., 115–6, 211, 213–4, 216–7.

[23]Ibid., 117.

[24]As with Hobbes, I don't offer a novel interpretation of Kant, but rather highlight the role the idea of statelessness plays in his account of a sovereign's legitimate powers and of citizens' political obligations.

[25]Kant 1996a [1797].

[26]Ibid., 451–2.

[27]Ibid., 452.

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Moreover, in Kant's view, the moral importance of establishing and maintaining a state grounds a seemingly unconditional duty to obey it, regardless of how the state was established and what abuses the sovereign commits.[28] Kant writes, '…a people cannot offer any resistance to the legislative head of a state which would be consistent with right, since a rightful condition is possible only by submission to its general legislative will.'[29] Shortly thereafter, Kant explicitly invokes the importance of establishing and maintaining a state to justify this demanding duty to obey:

> The reason a people has a duty to put up with even what is held to be an unbearable abuse of supreme authority is that its resistance to the highest legislation can never be regarded as other than contrary to law, and indeed *as abolishing the entire legal constitution.*[30]

Like Hobbes, Kant holds that life outside a state's authority (in a condition of statelessness) would subject us to serious perils. Since it is imperative to avoid these perils, people are obligated to found states and, once founded, to obey their commands—even if they undertake 'unbearable abuse' of the sovereign power.[31] Anything less would amount to 'abolishing the entire legal constitution',[32] effectively making subjects stateless again.[33]

Contemporary political theorists also invoke the perils of statelessness to justify state power and individuals' acquiescence to it. In her early work, Stilz draws on Kant and Rousseau to argue that 'justice is a necessarily institutional value, and the *only* institution in which it can be realized is *the legitimate state.*'[34] According to Stilz, we can't achieve justice (which she equates with equal freedom for all persons) without states because, whenever people live outside a state's authority, they will 'retain the power to interfere with [each other's] choices unilaterally and at will.'[35] She concludes, 'one of our most fundamental duties of justice is the duty to belong to a legitimate state.'[36] In turn, Stilz argues citizens are obligated to obey their states if

[28]Ibid., 461–6.

[29]Ibid., 463.

[30]Ibid., emphasis added.

[31]Ibid.

[32]Ibid.

[33]Kant's defense of state power does not entail that he would endorse the structure of today's state system as it currently exists. Much interpretive work would be needed, for example, to fully draw out the implications of Kant's prescriptions in *Perpetual Peace* and his notion of 'cosmopolitan right'—which constrains how states ought to treat non-members—for his views on the ideal organization of the world order (see Kant 1996a [1797], 455, 489–92; 1996b [1795]). It would be reasonable to read Kant as a critic of state systems that give states the wide sovereign discretion our current system does. That said, Kant's description of a dangerous state of nature from which we need states to protect us, and his invocation of this narrative to ground strong individual obligations to obey states is still rhetorically significant. It represents a rhetorical move that has become common in political theory: to invoke one image of the absence of state protection (the statelessness of the state of nature) and draw on it to justify the claim that people here and now have obligations to maintain and obey states. This is especially significant because Kant's claim that individuals have strict obligations to obey their states (based on his state-of-nature narrative) is not obviously conditional on the establishment (or even attempted establishment) of his ideal world order. That is, it is not clear that Kant would see the existence of a flawed state system as undermining individuals' obligations to obey their states.

[34]Stilz 2009, 86, emphasis added.

[35]Ibid., 56.

[36]Ibid.

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those states are legitimate (and therefore enable them to achieve some degree of freedom from subjection to others' wills).[37] Importantly, to be legitimate in Stilz's view, a state must meet several 'substantive' and 'procedural' criteria, but it need not be fully just.[38]

Stilz gives us a contemporary version of the familiar refrain: living outside a state's authority (in a condition of statelessness) would be dangerous, and to escape that danger we ought to establish states and help them maintain power, even if they use it to commit injustice. Stilz's version of this argument says that, in the state of nature, we would be unable to achieve justice and would constantly be subject to others' unilateral wills. Therefore, we have a duty to form, maintain, and obey legitimate states. Even if our states commit injustice, as long as they are legitimate, we are obligated to obey and help maintain them—since they allow us to achieve some degree of equal freedom we could not if we were stateless.

Both key argumentative moves Stilz makes—(A) grounding the state's authority to coerce on its necessity for escaping the dangers of the state of nature and (B) positing that states can be legitimate and that their citizens can be obligated to obey them even when they are not fully just—remain common in contemporary political theory. For example, Wellman identifies 'benefit theories' as comprising one prominent school of thought regarding legitimacy and political obligation.[39] These theories claim states have legitimate authority to coerce their citizens, and citizens have obligations to obey state commands, because states provide citizens significant benefits they would otherwise be unable to enjoy (e.g., in the state of nature).[40] The idea of the state of nature plays a similar role in Wellman's own view. Though he thinks it's conceptually possible for a state to be legitimate (have a right to coerce) without citizens being morally obligated to obey it, ultimately he argues that we need states to escape the extreme dangers of the state of nature, that each citizen has an obligation to contribute their fair share to establishing and maintaining states that can help us do so (legitimate states), and that each citizen is therefore obligated to obey the commands of their state if it is legitimate.[41]

As these examples illustrate, political theorists commonly invoke the dangers of statelessness to justify state power and defend the position that people should establish, obey, and maintain states—even if they sometimes wield their power unjustly. Moreover, this reasoning occupies a prominent place in both historical and contemporary political theory.

Granted, different theorists understand the dangers of statelessness differently. But the arguments surveyed above share an overarching logic: if statelessness is a detestable condition that exposes those who suffer it to many problems, the solution to these problems is state power—more state power, more stable state power, state power that is continually upheld and renewed by the people subject to it. Thus, this common narrative about statelessness underwrites a statist ideal that presents states as the primary guarantors of justice and protection and recommends obedience and allegiance to them as a result. Below, I will problematise how the common narrative

[37]Ibid., 72.
[38]Ibid., 92–6.
[39]Wellman 2001, 736–7.
[40]See Ibid.
[41]Ibid., 742–50.

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presents the relationship between statelessness and state power in order to challenge the statist ideal.[42]

Statelessness as a product of the state system

Despite the central role the idea of statelessness plays in the theories surveyed above, none of them gives us sufficient resources to understand statelessness as it manifests in the world today or the ethical issues that come along with it. Perhaps this is unsurprising, as the theories surveyed above arguably concern the foundations of state power, and therefore discuss the kind of statelessness that arises before stable states are established—rather than the statelessness that arises once states are already in place.[43] There is nothing wrong with this on its own. The problem arises when this understanding of statelessness—applicable, perhaps, in the moment of state formation and in the absence of an entrenched state system—is invoked to justify normative claims about the obligations individuals have to already-established states in an already-entrenched state system. The theorists surveyed above (especially Kant, Stilz, and Wellman) do not present their theories as generating normative conclusions only for people involved in the process of state formation in the absence of an entrenched state system. They present their theories as giving much more generally applicable reasons and justifying much more generally applicable obligations to obey and uphold state power.

Thus, I do not claim that the theorists surveyed above would say modern statelessness is the same phenomenon as the 'statelessness' of the state of nature. Rather, I want to highlight a rhetorical move commonly made in political theory: to invoke one image of the absence of state protection (the statelessness of the state of nature) and draw on it to justify the claim that people here and now have obligations to maintain and obey states—even though the way in which people *today* experience the absence of state protection (modern statelessness) is a distinct phenomenon that the state system itself creates. If, when you envision the absence of state protection, you see a void where state power should be (as in the classic images of the state of nature), you will look for state power to fill it. But if, when you envision the absence of state protection, you see a creature of the state system (as I argue we should understand modern statelessness), you will look for ways to dismantle that system.

Rather than understanding statelessness as the mere absence of a state, then, I propose we see statelessness—and the continued vulnerability to it—as a product of the state system. Recall, by 'statelessness' I mean the condition of effectively lacking

[42]My critique of the statist ideal shares some similarities to Ochoa Espejo's (2020) critique of the 'Desert Island Model,' which presents states with sovereign jurisdiction over set territories and discretionary powers to control resources and borders in their territories as the ideal governing institutions. However, Ochoa Espejo's view is part of a larger account of territorial rights that attempts to explain the foundations of rights to jurisdiction, natural resource use, and border control partly by developing a theory of 'place-based' duties. While my view is compatible with many of Ochoa Espejo's positions on these issues, it does not depend on endorsing them. Correspondingly, Ochoa Espejo focuses more on developing a general theory of territorial rights and political community. In contrast, I focus on identifying a particular shortcoming of the existing state system (its organization around the Political Authority and Sovereignty Principles) and its implications for the ethics of resistance—defending positions adherents of many different theories of territorial rights and political community could potentially endorse.

[43]My thanks to Inés Valdez for suggesting this interpretation.

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state membership and stable access to its associated benefits. In this, I follow Arendt, who adopted a similarly wide definition of statelessness, warning that drawing the category too narrowly could obscure how those who possessed a legally recognised nationality but were denied the usual protections of national membership were made vulnerable in similar ways to those with no legally recognised nationality.[44] Similarly, I define statelessness broadly not because I assume the experiences of all stateless people so understood are identical, but because they are all routinely vulnerable to rights violations, basic needs deprivations, and disenfranchisement due to their lack of effective state membership (legal status notwithstanding). For the purposes of my normative arguments, it is morally significant that stateless people share this feature, whatever other differences mark their experiences.[45]

By the 'state system', I mean the version of the state system that currently exists, structured around the two principles identified above:

> **Political Authority Principle:** because states are the world's primary political authorities, reliable access to basic needs fulfilment, rights protection, and political enfranchisement is conditioned on state membership.
>
> **Sovereignty Principle:** because they are sovereign, states may grant or deny membership at will.

Some might argue that the state system is not structured around the Sovereignty Principle because international law concerning stateless people and refugees constrains states so they cannot deny membership (or its attendant protections) to anyone at will. However, states, as sovereign entities, must opt into the relevant conventions. Moreover, even states party to these conventions can circumvent them or comply with them in ways that do not involve granting state membership (or even reliable protection) to stateless people or refugees. States may simply refuse to comply with international law, as the United States has done by turning away asylum seekers at its southern border.[46] Alternatively, states may act in ways that could be considered compliant with international law but that nonetheless deny state membership and protection to those who seek it. Consider high seas interdiction, where migrants are intercepted and diverted in international waters, sometimes without the opportunity to submit a request for asylum.[47] Consider also 'protection elsewhere schemes', designed to 'defend a legitimate state's right to unilaterally exclude outsiders (including refugees)' by allowing states where refugees arrive to send them to other,

[44]Gündogdu 2015, 2; Siegelberg 2020, 206.

[45]I will not extend my arguments to cover people who *do* have effective state memberships but whose rights are still badly neglected or violated by their states. Even though many with effective state memberships are not treated by their states as justice requires, in the current state system, possession of an effective state membership is still extremely significant and has tremendous effects on one's life prospects and ability to agitate for one's rights. Even people with state memberships may be badly oppressed, but their oppression arguably takes a different form than that which stateless people face. Thus, I hesitate to treat stateless people and people whose rights are not fully protected by their states as one homogenous group. I leave it open that others may argue my conclusions should be extended to people who are not stateless but are also not adequately protected by their states. However, I will not pursue those extensions here.

[46]Drake and Saldivar 2018; Mattiace and Gaubeca 2023.

[47]See Wise 2013.

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supposedly safe, countries to have their asylum claims assessed.[48] Similarly, housing refugees in camps, sometimes for many years,[49] doesn't obviously violate international law, but it allows states to deny refugees full membership and its attendant protections.

Further, Owen notes that states may adopt domestic laws compliant in letter with 'international norms governing the reduction of…statelessness' but not effectively implement them.[50] He cites Catherine Allerton's work on Malaysia, where the constitution allows resident children without another citizenship to become Malay citizens, but where this provision has never actually been used to grant a child citizenship.[51] Under some circumstances, even states that revoke the citizenship of someone without another citizenship may be considered compliant with international law.[52] A 2014 law allowed the UK to denaturalise naturalised citizens *without another citizenship* if the government deemed them dangerous to the UK's 'vital interests' and reasonably believed another country's law would permit them to acquire citizenship there.[53] Importantly, the UK law did not require the denaturalised person actually possess another citizenship—only that the UK government be convinced they *could* obtain one according to the letter of some other country's law. Nonetheless, the UK law was considered 'compatible with the UK's international obligations.'[54]

Taken together, these realities mean the state system—specifically, its organisation around the Political Authority and Sovereignty Principles—*both* makes state membership necessary to enjoy a host of benefits important to living a decent life and being treated justly and with dignity *and* gives states the power to deny that membership at will. Thus, statelessness, in a very real sense, is created by the state system. Statelessness consists in people being effectively denied state membership and its attendant benefits and protections. What creates this phenomenon? First, what makes it the case that these benefits and protections (legal standing, political enfranchisement, access to basic goods and services, freedom from basic rights violations, etc.) are attached to state membership? The answer I've suggested is *the state system*—more specifically, the fact that the state system is structured around the Political Authority Principle. Second, what makes it the case that people can simply be summarily denied state membership and the benefits attached to it? Again, the answer is *the state system*—more specifically, the fact that the state system is structured around the Sovereignty Principle.

That some will be left disenfranchised, with their basic needs unfulfiled and their rights unprotected, is surely a predictable effect of attaching political representation, basic needs fulfilment, and rights protections to state membership (i.e., adopting the Political Authority Principle) and granting states the power to deny membership at will (i.e., adopting the Sovereignty Principle). A political system built on the Political Authority and Sovereignty Principles is *designed around* the decision to empower states and give them the authority to make people stateless. The current state system

[48]For a critical discussion of such programs, see Cherem 2016; quote from Cherem 2016, 183.
[49]USA for UNHCR 2020.
[50]Owen 2018, 305.
[51]Ibid.
[52]See ibid., 309.
[53]Ibid.
[54]Ibid.

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depends upon some entities (states) having the power to make people stateless (to deny them political representation, basic needs fulfilment, and rights protections by denying them state membership). Thus, the current structure of the state system creates both statelessness and a perpetual vulnerability to statelessness even among people who presently enjoy state memberships. It creates statelessness by making it the case that some people are denied reliable access to basic needs fulfilment, basic rights protections, and political enfranchisement because they are denied state membership. And it creates perpetual vulnerability to this condition by granting states the discretionary right to deny membership—which, given the organisation of the state system around the Political Authority Principle, brings with it a denial of reliable access to these same goods and protections.

One could imagine alternate institutions that did not attach enfranchisement, needs fulfilment, and rights protection so firmly to state membership or did not give states the power to deny it at will. This leaves open the question of what alternate institutional arrangements we should prefer. I have suggested that, to adequately address the issue of statelessness, the international system should *not* be organised around the Political Authority and Sovereignty Principles; we should abandon at least one of these principles. But there are many possible institutional arrangements that would meet this standard. One option, of course, would be the complete abolition of the state in favour of an anarchic system. But this is not the only option, and nothing I've said here entails it is the one we should pursue.

Instead, one could imagine a world of open borders, as Carens advocates, where people are guaranteed the freedom to settle in any state of their choosing[55]—combined with an additional guarantee that they would enjoy membership wherever they settled. This would revoke states' discretion over their membership, a clear rejection of the Sovereignty Principle. In a world like this, states might still be powerful political actors and the Political Authority Principle might remain in place, attaching important benefits and protections to state membership. But states would not be entitled to deny or revoke membership—and individuals would have greater power to determine their own membership by settling where they preferred.

Alternatively, imagine establishing political institutions in which stateless people were formally enfranchised and guaranteed the protections that (today) typically require state membership. Siegelberg discusses one such arrangement proposed to accommodate stateless people after World War II, which would have 'create[d] an extranational citizenship sponsored by the United Nations such that the stateless would become the first world citizens.'[56] This reform alone wouldn't challenge the Sovereignty Principle, as states could retain discretion over their membership. But it would constitute a clear departure from the Political Authority Principle, as there would be another way for stateless people to reliably access the needs fulfilment, rights protections, and political enfranchisement that currently depend on state membership.

One could also imagine strengthening international institutions to more significantly limit states' sovereign discretion. For example, Arendt briefly endorsed the idea of a European federation of nations where political community and territorial sovereignty need not be so tightly connected as they are in the standard Westphalian

[55]Carens 2013, 225–54.
[56]Siegelberg 2020, 174.

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state model.[57] More recently, Mayerfeld has advocated an international human rights regime where states' relationships to international law resemble U.S. states' relationships to national law as understood in Madisonian federalism—an arrangement Mayerfeld argues is incompatible with certain conceptions of sovereignty and possibly with a state-centric world order.[58]

Or, as another alternative, imagine granting more governing power to sub-state or non-state groups. Many writing about Indigenous governance have made promising proposals in this vein, which might be adapted to other contexts. Think, for example, of devolving governing power to sub-state groups as Lu suggests,[59] rejecting Westphalian models of sovereignty and constructing non-state governing institutions on alternate normative foundations as Alfred advocates,[60] or institutionalising a legal pluralism that allows state and non-state institutions to govern on equal footing without either claiming a monopoly on power, as Duthu recommends.[61] Gandhi, too, proposed non-state governance of a sort, arguing that the plight of stateless people in interwar Europe revealed the limitations of Western state-centric models of governance and advocating instead for village-level governance.[62]

Depending on how they were executed, either of these alternatives—more robust international institutions or devolution and power-sharing—could challenge either the Political Authority or Sovereignty Principles, or both. For example, restructured international institutions might deny states discretion over their membership, rejecting the Sovereignty Principle. A pluralistic legal system might allow individuals to access the benefits currently tied to state membership via membership in various sub-state or non-state groups, perhaps with overlapping jurisdictions, challenging the Political Authority Principle. Disentangling membership in a political community from territorial sovereignty—either through restructured international institutions or devolution and power-sharing among sub-state and non-state groups—might challenge both the Political Authority and Sovereignty Principles by establishing other ways (besides state membership) people could access the benefits of political community and denying states the sole discretion to define and bound political communities.

Insofar as these alternatives would involve abandoning at least one of the Political Authority or Sovereignty Principles, any of them would address the core problem I've identified with the statist world order—that its organisation around the combination of these two principles is the root cause of statelessness. However, this leaves open the question of which alternative is best, all things considered. Answering this question is beyond the scope of this article. After all, an institution's effectiveness at addressing the root cause of statelessness is only one metric by which its moral merit can be measured. Identifying the ideal institutional arrangement would necessitate weighing many other moral considerations about the forms of political representation required for true justice and democracy and complex pragmatic considerations about what kinds of institutions could feasibly deliver these goods. For example, one might argue against the anarchic solution by pointing out that—imperfect as they are, states do provide many benefits to many people—perhaps making the world overall better off than it would be under anarchy. One might criticise the restructured international

[57]Ibid., 187.
[58]Mayerfeld 2016, 14–5, 217–27.
[59]Lu 2019, 269.
[60]Alfred 2004.
[61]Duthu 2013.
[62]Siegelberg 2020, 78.

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institutions alternative for being insufficiently democratic because its centres of power would be so far removed from the average world citizen. Arguably, we could avoid this by instead instituting a pluralistic world order where power was shared among state, non-state, and sub-state groups. But this might introduce the problem of 'forum shopping', whereby, in a world of overlapping jurisdictions, already-powerful and well-resourced actors would be the best equipped to bring their claims to whatever institutions would treat them most favourably—at others' expense. How should we evaluate and weigh these risks? Are any of the proposed alternatives more feasible than others, and should this change our assessment of their moral worth? Doing these issues justice would require a lengthier treatment than I can give here. Thus, I offer the alternatives above only as possible suggestions to illustrate some ways we could address the core problem I identify in this article—the organisation of the state system around the Political Authority and Sovereignty Principles—so as to address the core injustice it creates—statelessness.

Recognising these alternatives—even without identifying the 'best' one—also highlights that continuing to organise our political lives around and within a state system based on the Political Authority and Sovereignty Principles is a choice. It is a choice to adopt norms and policies that create, as a matter of course, a class of people denied enfranchisement, needs fulfilment, and rights protection because they are denied state membership.

One might object that presenting statelessness as a product of the state system obscures the many different reasons particular people become stateless—including persecution, climate change, and inadequate record-keeping that leaves people unable to legally establish their nationalities.[63] I agree, the most *direct* cause of someone being without an effective state membership varies from case to case. But the fact that this person is, as a result, denied stable access to basic needs fulfilment, rights protections, and political enfranchisement (because the Political Authority Principle attaches these benefits to state membership) *and* the fact that they are not guaranteed membership in a new state that could grant them these benefits (because the Sovereignty Principle grants states the discretion to deny newcomers membership at will) are products of the state system. Moreover, that new people can always be made similarly vulnerable—that new classes of stateless people can always be generated, whatever the direct causes of their statelessness may be—is also a product of the state system.

Statist institutions maintain the state system

One way the state system maintains its current structure—thereby creating and re-creating the problems of statelessness—is by channelling political activity into statist institutions. This reinforces the impression that states *should be* the primary loci of political power and helps ensure states *remain* the primary loci of political power (in line with the Political Authority Principle). To illustrate this dynamic, I look to Hong Kong's treatment of asylum seekers.[64] I do not claim the Hong Kong

[63]Thank you to Marty Finnemore and Anum Syed for raising this concern.

[64]Hong Kong's sovereign status is complex. However, I will treat Hong Kong's institutions as statist institutions. One could argue that Hong Kong is *functionally* a state, so we should theorise it as such. Or one could argue that we should see it as a subsidiary of the Chinese state. While I will typically adopt the former perspective, either option suggests Hong Kong's governing institutions are part of and consonant with the basic organising structure of the state system—and this is what is relevant for my present arguments.

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case is representative of all stateless people's circumstances. However, it offers a clear illustration of the political dynamic I want to expose here: that channelling political activity into statist institutions can further entrench the state system and its current structure. And, as we will see later, this case offers an equally clear illustration of what anti-statist resistance undertaken by a transnational coalition of stateless people could look like.

Hong Kong is not party to the UN Convention Relating to the Status of Refugees, it does not grant asylum, and it identifies only a small percentage of asylum seekers as eligible for resettlement elsewhere.[65] Moreover, Hong Kong law prohibits asylum seekers from working, compelling them to rely on meagre state assistance and whatever charity they can get, and the state bureaucracies they must navigate to file required paperwork and make formal claims on the government are notoriously complex and unresponsive.[66]

If asylum seekers were to comply with the laws and regulations governing them, and were to advocate for their interests and press their claims only via government-approved channels, this would mean refusing to work (becoming unable to support themselves) and slogging through 'a confusing and punitive bureaucracy' that exacerbates the precarity and uncertainty they already suffer.[67] As one asylum seeker explained in 2014, government bureaucrats 'treat you like you don't exist.'[68] This person compared their experience in Hong Kong to their experiences in their country of origin, which they had left to seek asylum:

> In my country we have no proper laws, we have no freedom.…But at least there is certainty. People need certainty to live—but here so many times I go talk to them—and they push me away. They show me their power by not talking to me….[69]

One could interpret this situation as follows: to comply with government regulations, Hong Kong's asylum seekers must forego employment, putting themselves at the mercy of the state (and private benefactors) to secure even subsistence goods. They must subject themselves to government institutions that—since the asylum seekers do not enjoy formal membership in the state, and since the Political Authority Principle attaches political representation to state membership—can easily afford to ignore them. Any claims they want to make for basic goods, services, or recognition as asylees must be made through these institutions—despite the fact that they are slow, unresponsive, circuitous, insufficiently provide for asylum seekers' needs, lack a government-approved accountability mechanism, and will not recognise any fundamental challenge to the government's authority over asylum seekers.

Compelling asylum seekers to press their claims through such institutions entrenches both the Political Authority and Sovereignty Principles. It reinforces the idea that the state is the actor with the rightful authority to decide what, if any, benefits asylum seekers are granted—reflecting the Political Authority Principle, which guarantees a full suite of benefits only to state members and the Sovereignty Principle, which guarantees states the right to deny membership at will. And it

[65]Vecchio and Ham 2018, 202.
[66]Vecchio and Ham 2018.
[67]Ibid., 207.
[68]Quoted in ibid., 206.
[69]Quoted in ibid.

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reinforces the idea that the state may decide what benefits to grant asylum seekers subject to no real accountability or constraint from the asylum seekers themselves—because, again, the Political Authority Principle guarantees political representation to members only. Even if some asylum seekers managed to successfully navigate Hong Kong's complex bureaucracies and receive government assistance, the effect of directing all their political activity through these bureaucracies would be to reinforce the idea that it is the bureaucrats who should decide what (if any) assistance asylum seekers receive.

Moreover, channelling asylum seekers' political activity through a state's institutions not only ensures that particular state has secure authority over those particular asylum seekers; it also reinforces the idea that state institutions *in general* ought to have discretion over who is granted state membership and its attendant benefits, as well as what (if any) rights and benefits non-members enjoy. That is, channelling asylum seekers' political activity through Hong Kong's government-approved channels not only reinforces the ways in which *Hong Kong's* institutions embody the Political Authority and Sovereignty Principles; it also entrenches the broader organisation of the state system around the Political Authority and Sovereignty Principles.

Though the details outlined above are specific to Hong Kong, this case illustrates a broader political dynamic that can occur elsewhere as well. Namely, it illustrates how channelling political activity through statist institutions can work to uphold state power and, more generally, the state system as it is currently organised (around the Political Authority and Sovereignty Principles). But if the state system itself produces the condition of statelessness—and the deprivations, harms, and injustices stateless people experience—then it is not clear that we can rely on statist institutions (which perpetuate that same system) to deliver justice for stateless people.

The Insufficiency of Statist Institutions and Resistance as an Alternative

In addition to Stilz and Wellman, discussed above, many others adopt a statist ideal that presents the state as the institution we should rely upon to deliver justice. Michael Walzer, too, argues that only sovereign states can reliably protect individuals and their rights.[70] Discussing the scope of international moral and political obligations, Walzer writes that 'the sovereign or semi-sovereign states of the global order' alone can deliver needed justice to the world's people and help us avoid the '[s]tatelessness and the anarchy and civil wars' that he places 'among the most important causes of human misery.'[71] Nor is this mentality unique to nationalists. Lea Ypi, a cosmopolitan who endorses demanding principles of global justice, nonetheless maintains that we should pursue their achievement via *state* institutions.[72]

[70]Walzer 2011; Walzer 2015.

[71]Walzer 2011, 46.

[72]Ypi 2008; Ypi 2012; see also Lu's (2019, 254–7) criticism of Ypi's statism. This is not to suggest that Ypi fully endorses the current structure of the state system. She herself has argued against the strictest interpretations of state sovereignty, suggesting, for example, that a state's claims to legitimate authority can be undermined by how it treats outsiders (see Ypi 2013). Still, Ypi (2008; 2012) suggests we should rely on states (at least for now) as central vehicles to advance global justice. She arguably doesn't fully reckon with the extent to which relying on states in this way can entrench the current structure of the state system—even if Ypi herself ultimately wants to transcend it.

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But my analysis casts doubt on statist institutions' capacity to deliver justice for stateless people—not only because they may inadequately address stateless people's needs in the short term, but also because continuing to treat them as the world's primary political authorities may reinforce their power, entrenching the state system's current structure, centred around the Political Authority and Sovereignty Principles—which creates statelessness in the first place. This raises the question, if working within statist institutions is unproductive—or even counterproductive—when it comes to achieving justice for stateless people, what alternative modes of political action might be preferable?

In Hong Kong, some asylum seekers responded to ineffective statist institutions by engaging in resistance—both in the sense of breaking the law and in the sense of refusing to live according to the script dominant norms and institutions had given them. Some aspects of asylum seekers' resistance might be cast as opposition to the behaviour of the Hong Kong government at the time, rather than opposition to either organising principle of the state system (the Political Authority Principle or the Sovereignty Principle). However, I argue that other aspects of asylum seekers' resistance do represent challenges to these principles and that to ignore this would be to miss an important element of their advocacy.

What, then, did Hong Kong asylum seekers' resistance look like? Some worked to support themselves, despite it being illegal and punishable with imprisonment.[73] In 2013, a group of asylum seekers also had a confrontation with police at a branch of the International Social Service (ISS, the non-profit group the government contracts to provide asylum seekers assistance).[74] They had gone to the ISS hoping for assistance to secure decent living accommodations, but the ISS refused to meet with them.[75] Subsequently, asylum seekers led a protest and eventually (in early 2014) a sit-in at the ISS (again ending in a confrontation with police), objecting to unfair treatment and inadequate food assistance.[76] After this initial sit-in, many more asylum seekers joined the effort, occupying several ISS offices.[77] This was the beginning of the asylum-seeker-led activist organisation Refugee Union and its protest movement, Refugee Occupy, which would eventually set up camp at a footbridge in Hong Kong's Central District.[78] Refugee Union occupied public spaces for 200 days.[79]

[73]Vecchio and Ham 2018, 208.

[74]Ibid., 208, 211.

[75]Ibid., 211.

[76]Ibid.

[77]Ibid.

[78]Ibid., 210–1. As Vecchio and Ham (2018, 202–3) note, international law distinguishes 'refugees' (people who have been found by a relevant institution to meet the international legal criteria for refugeehood) from asylum seekers (whose asylum claims may not have been vindicated by a formal institution). However, given Hong Kong's similarly harsh treatment of refugees and other asylum seekers, this distinction is blurred in practice there (Vecchio and Ham 2018, 202–3). Moreover, asylum-seeker activists in Hong Kong identified themselves as *refugees*, using that term more generally to encompass people who seek asylum—which Vecchio and Ham (2018, 202–3) present as a self-conscious assertion of status that Hong Kong and the international community often denies them. In describing these activists' work, I will sometimes follow their lead, using the term 'refugee' as they do, recognising that this is a broader usage than it is afforded in international law.

[79]Vecchio and Ham 2018, 202.

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In addition to resisting government power by breaking the law, confronting police, trespassing, and occupying public spaces, members of Refugee Union and Refugee Occupy also engaged in resistance by asserting their political agency in a context where that was seen as either impossible or condemnable. The dominant norms in Hong Kong dictated that asylum seekers should behave as passive and compliant recipients of state aid or private charity—not as members of the political community exercising independent agency.[80] Moreover, international law and institutions have a history of characterising refugee policy as apolitical and purely humanitarian.[81] At times, this supposedly apolitical status has been invoked to justify curtailing the political activities—and denying the political agency—of refugees. Johnsson surveys several such curtailments in various international law instruments, including prohibitions on refugees:

- acting 'contrary to the purposes and principles of the United Nations',
- participating in 'subversive activities' against any state,
- acting in any way 'likely to detract from the exclusively civilian and humanitarian character of refugee camps and settlements',[82]
- engaging in 'political, military, and propaganda activities likely to prejudice good relations' between their home and host countries, and
- acting in any way that could 'affect the strictly civilian and humanitarian nature of camps and settlements' or endanger a regional peace process.[83]

It is also more generally an assumption of the state system as currently structured (reflected in the Political Authority Principle) that individuals exercise their political agency primarily through their states. This assumption diminishes stateless people's political agency. Thus, the assumption that stateless people are not and should not be political agents—as opposed to mere recipients of humanitarian aid and charity—is not only prominent in the Hong Kong case, but in international law and norms more broadly. It is this assumption that participants in Refugee Occupy directly challenged, even when they did not break the law.

By asserting their identities as asylum seekers, re-conceptualising the 'asylum seeker' as a rights bearer, highlighting their standing as members of Hong Kong's political community, and exercising their political and social agency to provide public goods and services (e.g., meals, tent housing, public relations, escorts to government offices, assistance in navigating government bureaucracies) from within their camp, participants in Refugee Occupy refused to play the roles dominant norms ascribed to asylum seekers.[84] We can clearly see the emphasis on rights protection, membership in Hong Kong's political community, and political agency in the letter Refugee Union sent to ISS during its 2014 food aid protests.[85] The letter, demanding more transparency in food prices (to stop ISS from shortchanging asylum seekers), opens:

> We are the Refugee Union, an association of refugees that represents nationals of many countries seeking asylum in Hong Kong. Our stated mission is to seek justice

[80]See ibid., esp. 207, 210.
[81]See Johnsson 1991, 581–2; Siegelberg 2020, 62–5.
[82]This requirement also appears in the more recent compilation UNHCR (2009, 63, Conclusion no. 48).
[83]Johnsson 1991, 582.
[84]Vecchio and Ham 2018, 213–4.
[85]Ibid., 211.

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> and protection, fighting for our rights, dignity and future when these are not clearly provided as per international and domestic legal frameworks.[86]

Though this kind of resistance didn't (directly) involve lawbreaking or physically confronting the executors of state power, it did involve asylum seekers rejecting the norms dominant in their social context, which said they should be passive and obedient and should ingratiate themselves to their would-be benefactors. Members of Refugee Occupy and Refugee Union also rejected the dominant understanding of what it meant to be a 'refugee' in Hong Kong—an outsider to the political community, either a passive recipient of whatever aid the state or private charity deigned to give, or, if found to be exerting agency, deviant and dangerous.[87] And they dared to live according to a different model—by asserting their agency, building a supportive and empowering political community of asylum seekers, and contesting the terms of the political institutions to which they were subject. Thus, Vecchio and Ham argue that Refugee Occupy 'produced a significant identity shift for asylum seekers in Hong Kong. Asylum seekers resolved to take ownership of the 'refugee' label, renegotiating their socioeconomic degradation by asserting their rights and taking pride in… reaching and surviving Hong Kong'.[88]

Thus, participants in Refugee Occupy posed a clear challenge to the Political Authority Principle. Whereas the Political Authority Principle identifies state membership as a prerequisite for political enfranchisement, assuming people can and should exercise political agency through their states, members of Refugee Occupy asserted their political agency despite lacking state membership. Arguably, participants in Refugee Occupy also challenged the Sovereignty Principle by asserting and enacting their membership in Hong Kong's political community despite Hong Kong's refusal to grant them formal membership, thereby contesting the notion that states should have full discretion over their membership. Hence, my conclusion is that Refugee Occupy does contain anti-statist elements—or, more precisely, elements that challenge the current structure of the state system. Though some of the protesters' demands could be interpreted simply as calls for Hong Kong's government to behave differently, their acts of protest also represent challenges to the state system's two organising principles, the Political Authority Principle and the Sovereignty Principle.

Earlier, I proposed that—though I discuss Hong Kong as an illustrative case—directing political activity through statist channels could entrench statist institutions in other contexts as well. Similarly, stateless people can engage in anti-statist resistance in other contexts; this phenomenon is not unique to Hong Kong. Indeed, there are ample examples of such resistance—where stateless people assert their political agency against a background of norms and institutions that assume political agency must always be exercised through one's state. For instance, Pincock, Betts, and Easton-Calabria examine how refugees in Uganda and Kenya undertake collective action to provide protection and aid within their own communities.[89] Similarly, Ilcan presents refugees' activism in Uganda as a kind of political claims making that can create novel forms of political subjectivity and community and challenge states'

[86]Refugee Union 2014.
[87]See Vecchio and Ham 2018, 207, 210.
[88]Ibid., 212.
[89]Pincock, Betts, and Easton-Calabria 2020.

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authority to grant or deny citizenship.[90] And, in her work on asylum seeker-led protests in Germany and Austria, Saunders notes how they can create new avenues for political contestation that may not rely on states, establish asylum seekers as clear political agents, and challenge dominant understandings of politics, citizenship, and community.[91] In these cases, too, refugees challenge the Political Authority Principle by asserting their political agency outside official state-sanctioned channels and despite lacking state membership—and challenge the Sovereignty Principle by asserting and enacting forms of political community and membership that do not depend upon states' discretionary approval.

This turn to resistance to achieve political goals the state system makes appear beyond the reach of stateless people is significant because it suggests another avenue —besides working within the confines of statist norms and institutions—by which stateless people can secure justice. Again, if the state system (specifically, the combination of the Political Authority and Sovereignty Principles) creates statelessness and working within the confines of statist norms and institutions entrenches and reproduces the state system, then contesting those norms and institutions may be a more productive way for stateless people to overcome the obstacles to flourishing the state system puts in their way.

Moreover, one core injustice associated with statelessness is that stateless people are denied not only various goods and protections, but also the political agency necessary to remedy these deprivations. This creates a kind of democratic deficit, in that stateless people are subject to the myriad political institutions comprising the current state system, but are effectively denied a say in those institutions. Stateless people asserting their political agency as against the state system that denies it is arguably an important part of opposing this injustice. Seen this way, such resistance against the terms imposed by the current state system may even be a prerequisite for a just, democratic world order.

Implications for the ethics of anti-statist resistance

Elsewhere, I have argued that there is a natural duty of justice requiring everyone to do their fair share to help ensure others live under just conditions, and that this duty requires people to help achieve justice for others everywhere, not only their co-citizens.[92] Even those who don't endorse the natural duty of justice may think people have differently grounded obligations to pursue justice. If this is true, and if resisting statist institutions is a prerequisite to achieving a fully just and democratic world, are stateless people morally *obligated* to resist? In general, I think not, because resisting statist institutions may be very costly for them. It may involve antagonising the very actors who control the material conditions in which they live and confronting well-resourced and well-armed opponents who may vehemently, and violently, defend the statist status quo. And, recall, the natural duty of justice only requires people to pursue justice when this is not prohibitively costly for them—to use my formulation, when it does not disrupt what they take to be their central life projects.[93] Other

[90]Ilcan 2018.
[91]Saunders 2018, 850–2, 864.
[92]Rafanelli 2021, 22–7.
[93]See ibid., 25.

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plausible accounts of people's obligations to pursue justice will place similar limitations on the gravity of the costs they are obligated to absorb in its pursuit. Thus, if stateless people are in situations where pursuing justice (for themselves or others) via resistance is prohibitively costly, they are not required to do so.

Indeed, such considerations seem to have led some Hong Kong asylum seekers to forego resistance. Some asylum seekers refused to participate in Refugee Occupy because they believed 'protesting and becoming too visible…would reinforce their stigmatisation' and 'worried that the little they had achieved over the years could be swept away by law enforcement to restore the order that the Occupiers had disturbed'.[94] If they, or other stateless people, judge the costs of resistance too high to bear, I am in no epistemic position to doubt them.

So, I do not suggest a general moral obligation for stateless people to resist statist institutions. However, I have shown that one commonly invoked rationale for state power and for the claim that people have strong reasons (or obligations) to uphold and obey states is weaker than often thought. Namely, the claim that people should uphold and obey states to avoid the dangers of statelessness arguably doesn't apply to stateless people, for whom the state system is the origin of much harm and injustice. I have argued it is statist institutions that create the condition of statelessness—by entrenching the state system's current structure, which makes it the case that not everyone is guaranteed state membership and makes the lack of state membership synonymous with lacking reliable access to basic needs fulfilment, rights protections, and political enfranchisement. But if this is so, it hardly makes sense to ask stateless people to uphold statist institutions to escape the dangers of statelessness, since it is those same institutions that subject them to the dangers of statelessness. And insofar as resisting—rather than upholding—statist institutions is a precondition of stateless people enjoying justice, they have broad prima facie moral permissions to resist.

Granted, even thinkers, like Stilz and Wellman, who invoke the dangers of statelessness to ground obligations to obey states, could agree that asylum seekers in Hong Kong (and perhaps elsewhere) would be permitted to disobey the government if it were illegitimate. After all, Stilz[95] and Wellman[96] only claim people are obligated to obey *legitimate* states. They could argue that, taking the Hong Kong case as an example, Hong Kong's government is illegitimate and asylum seekers living there therefore have no obligation to obey it. If Stilz or Wellman made such an argument, one might conclude that there was no real difference between my view and theirs, since we would all agree asylum seekers in Hong Kong (and other similarly-situated populations) were morally permitted to disobey the government. However, a crucial difference would remain between my view and Stilz's or Wellman's, even on this interpretation. Namely, my claims about stateless people's moral permissions to resist the state they reside in do not depend on an assessment of the state's legitimacy. On my view, stateless people's permissions to resist are grounded in the idea that a state system structured around the Political Authority and Sovereignty Principles *creates* statelessness and that cooperating with the institutions comprising this system entrenches it (thereby perpetuating statelessness). This reasoning stands regardless of whether any given state qualifies as legitimate.

[94]Vecchio and Ham 2018, 215.
[95]Stilz 2009.
[96]Wellman 2001.

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Putting it in terms of the Hong Kong case, Stilz and Wellman could claim asylum seekers would be permitted to resist the government if it were illegitimate. But my point is that *we do not need to know* whether Hong Kong's government is legitimate to conclude that asylum seekers are permitted to resist it. If asylum seekers' moral permissions to resist were grounded in Hong Kong's illegitimacy, the Hong Kong government could nullify those permissions by enacting reforms to bring it in line with the standards of legitimacy (whatever those may be). But my argument is that asylum seekers' permissions to resist are grounded in the fact that Hong Kong's institutions help comprise and entrench a state system that (because it is organised around the Political Authority and Sovereignty Principles) produces and reproduces statelessness. This would remain true whether or not Hong Kong's government qualified as 'legitimate'. Thus, on my view—unlike on views like Stilz's and Wellman's—stateless people's moral permissions to resist are robust even against many admirable reforms individual states might make, because they reflect the flaws in the underlying structure of the state system, which even legitimate states can entrench.

This also marks a difference between my view and '*state system legitimacy theories*', which say that 'a state's legitimacy is conditional upon its playing some role in a legitimate state system'.[97] Typically, such views hold that the existing state system's treatment of refugees (among others) undermines its legitimacy, which in turn undermines the legitimacy of the states comprising it and sometimes generates permissions to resist those states.[98] In other words, state system legitimacy theorists argue that the illegitimacy of the state system transfers to individual states—meaning that any state within an illegitimate state system is itself (at least somewhat) illegitimate and that this may ground permissions to resist it. While compatible with this core claim of state system legitimacy theories, my view does not depend upon it. What matters for my argument is that a state system organised around the Political Authority and Sovereignty Principles creates statelessness; that operating within the rules of the institutions comprising this system will entrench it, thereby entrenching the problem(s) of statelessness; and that stateless people therefore have broad moral permissions to resist such institutions. It is irrelevant to my argument whether a given state's role in upholding the existing state system renders that state illegitimate. Among other things, this means endorsing my view does not require explaining how the illegitimacy of the state system could transfer to individual states or endorsing the counterintuitive conclusion that even very just and well-performing states are illegitimate if they exist in an imperfect international system—two significant challenges Sharp identifies for state system legitimacy theories.[99] Instead, endorsing my view only requires agreeing that it can be justified to resist a state when complying with it would uphold the kind of state system that produces and reproduces statelessness—regardless of whether this reality undermines that specific state's legitimacy.

My analysis also reveals a related problem in the literature on refugees' political obligations. This literature acknowledges that a refugee's obligations to their host state or camp authorities can be weakened or nullified if their particular host state or camp authorities are egregiously unjust. However, it typically ignores how the (in)

[97]Sharp 2024, 294, emphasis in the original.
[98]For an overview, see Sharp 2024.
[99]Ibid., 298–9.

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justice of the state system *as a whole* can affect refugees' obligations and how compliance with camp or host state authorities (even reasonably just ones) can perpetuate an unjust state system. For example, D'Cruz, Gates and Klosko, and Rescher all argue that refugees have obligations to obey their host states or camp authorities that can be cancelled if those states or authorities are exceptionally unjust.[100] But all these thinkers seem to say we can assess refugees' obligations by assessing their host state's or camp's justice *in isolation*.[101] They do not consider how supporting even a relatively just state or statist camp authority can strengthen a state system that is unjust overall (especially toward refugees).

While I have argued only for moral permissions—not moral obligations—on the part of stateless people themselves to resist statist institutions, I propose that others may be obligated to support stateless people when they exercise these moral permissions. After all, some more privileged people will be able to support stateless people's resistance movements without facing the prohibitive costs stateless people themselves face. If the natural duty of justice (or some other principle) obligates people to pursue justice, and if resisting statist institutions is necessary to achieve justice for stateless people, those who can facilitate such resistance without absorbing unreasonable costs may be obligated to do so.

One might object that resisting statist institutions is not actually necessary to achieve justice for stateless people, because they could instead be *incorporated into* statist institutions and statist institutions could grant them the various benefits, protections, and political representation they are currently denied. Call this the *accommodationist objection*. Even in the Hong Kong case, some of the remedies asylum seekers sought—like more transparency around the value of their food aid and swifter resolution of the claims they brought to the government—*could have* been provided by existing statist institutions, their actual reluctance to do so notwithstanding. Gibney seems to endorse the accommodationist objection, suggesting that the state system's inevitable production of refugees threatens to delegitimise it *unless* states 'incorporate refugees back into the system'.[102] For Gibney, this re-incorporation may sometimes require states to grant refugees asylum, though perhaps not full citizenship.[103]

There are, however, two problems with this reasoning. First, without challenging at least one of the state system's core organising principles (the Political Authority and Sovereignty Principles), any benefits statist institutions granted to stateless people would be granted, and therefore revocable, by state discretion. Left unchallenged, the Political Authority and Sovereignty Principles mean stateless people will always experience the state system (and the institutions that comprise it) as a dominating force that can give and take benefits at will.[104]

[100]D'Cruz 2014; Gates and Klosko 2022; Rescher 1992.

[101]D'Cruz (2014, 2), Rescher (1992, 23–5), and Gates and Klosko (2022, 3) address the obligations of 'refugees', a category they define more narrowly than the category of 'stateless persons' as I understand it. Thus, their arguments are only meant to apply to a subset of those whose moral permissions I discuss. Still, my overarching point—that they only consider how the justice of individual states or camps can affect refugees' obligations, ignoring how states and camps can reinforce injustice on the state-system level—stands.

[102]Gibney 2018, 4.

[103]Ibid., 4–5.

[104]For this understanding of domination, I draw on Pettit 2011.

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Insofar as the source of injustice is the structure of the state system itself—specifically, its organisation around the Political Authority and Sovereignty Principles—rather than any one state's behaviour or migration policy, the injustice cannot be remedied by making reforms that leave the background structure intact. This idea is also reflected in some resistance movements led by stateless people. Focusing on asylum-seeker-led protest movements in Germany and Austria, Saunders argues that the asylum seekers do not only demand asylum, but also critique the international human rights and refugee policy regimes and more generally the 'political and socio-economic structures of global life' that effectively keep them in positions of vulnerability.[105] Saunders argues that only some of protesters' demands can be accommodated by the human rights and refugee policy regimes currently dominant on the international stage.[106] Other demands challenge these regimes' fundamental underlying principles, especially the idea that one's home state is and should be the primary guarantor of one's human rights.[107] That is, they challenge the Political Authority Principle, which attaches human rights protections to state membership.

The second problem with the accommodationist objection arises because a fully just world would not only guarantee remedies for the specific people who are currently stateless, but would also be structured to guard against others experiencing statelessness going forward. This—insurance against the production and reproduction of a class of stateless people—would require radical departures from the state system as we know it. Specifically, it would require abandoning at least one of the Political Authority or Sovereignty Principles. This is because, as argued in previous sections, as long as the state system is organised around these principles, people will always be vulnerable to statelessness. Insofar as the state system attaches basic needs fulfilment, rights protections, and enfranchisement to state membership (the Political Authority Principle) and grants states the discretion to deny membership at will (the Sovereignty Principle), it sets things up so that new groups of people will predictably be made stateless and suffer the corresponding deprivations as time goes on. This would be true even if every currently stateless person were offered remedies for the deprivations they had suffered up to this point. Thus, challenging the organising principles of the state system—accomplished by resisting the statist institutions that uphold it—seems integral to achieving genuine justice, as opposed to merely improving the conditions of the state system's latest victims.

A modified version of the accommodationist objection acknowledges that it would be insufficient to incorporate stateless people into the state system as it is currently constituted, but argues that full justice *could* be achieved by incorporating them into a *reformed* version of the state system that was nonetheless still state-centric. One might imagine, for example, layering international or cosmopolitan institutions or inter-state agreements on top of existing statist institutions without challenging the underlying structure of the state system. Stilz endorses such a view in her later work, where she offers 'a qualified defence of a territorial states system'.[108] (I will treat Stilz's view as emblematic of the modified accommodationist objection.) Stilz argues that the state system cannot be fully legitimate unless it is made to align more thoroughly with the values underlying its justification (occupancy rights, basic justice, and

[105]Saunders 2018, 848.
[106]Ibid., 854.
[107]Ibid.
[108]Stilz 2019, 249.

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collective self-determination)—and that this would require reforming the existing migration policy regime, especially the regime of refugee policy.[109]

Stilz argues that states have '*morally binding, enforceable*' duties to avoid frustrating 'outsiders' fundamental territorial interests' (roughly, their interests in being able to occupy and use land to pursue their life projects).[110] This requires admitting refugees, by which Stilz means anyone whose fundamental territorial interests are unfulfiled in their home country.[111] Stilz argues that states' enforceable duties should be enforced using a strategy whereby states *voluntarily bind themselves* and *bind each other* to fulfil their duties, ensuring all refugees are admitted to some state where their occupancy rights and self-determination are protected and where they enjoy basic justice. Specifically, Stilz says, states should bind themselves via treaty and bind each other by threatening to revoke the benefits of international cooperation from other states that do not sign or honour the terms of the relevant treaties.[112]

While I share Stilz's scepticism about whether states are entitled to the full discretion over membership the state system currently assigns them,[113] I believe her allegiance to a statist model of world order limits the extent to which her arguments can show us the way to full justice—especially for stateless people. As indicated above, I understand the existing state system to be organised around the Political Authority Principle (since states are the world's primary political authorities, reliable access to basic needs fulfilment, rights protection, and political enfranchisement is conditioned on state membership) and the Sovereignty Principle (because they are sovereign, states may grant or deny membership at will). Stilz, reasonably, argues we should reject the Sovereignty Principle, but she presents this as a friendly amendment to the state system, rather than a radical challenge to it. She explicitly describes her view as a '*reformist* account of territorial sovereignty',[114] contrasting it with a 'more radical[] strand of cosmopolitanism that places the normative presuppositions of the modern state system into question'.[115]

However, I would argue that to reject the Sovereignty Principle is precisely to reject a key 'normative presupposition[] of the modern state system'.[116] Thus, if Stilz really does want us to reject the Sovereignty Principle, then her view calls for a more radical change to the core organising principles of the state system than she admits. But if this true, it is not clear that we can or should rely on states and statist institutions to bring about the required change—as Stilz suggests we should. At the very least, there is a danger in overreliance on statist institutions that Stilz doesn't seem to recognise. As I argued above, there is good reason to think that channelling political activity through statist institutions will entrench the existing state system, around whose structure they are designed. This suggests we should not rely on statist institutions as the

[109]Stilz 2019.

[110]Ibid., 251, emphasis in the original.

[111]Ibid., 157–86, 251–2.

[112]Ibid., 219–48.

[113]Ibid., 12–3.

[114]Ibid., 15, emphasis in the original.

[115]Ibid., 17. I have not argued that all boundaries or political memberships are morally arbitrary, which is the view Stilz (2019, 17) attributes to the 'radical' cosmopolitans. However, I have argued that the basic organising structure of the state system is ill-equipped to achieve full justice and should be challenged.

[116]Stilz 2019, 17.

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primary channel via which to challenge the state system's fundamental organising principles—or at least that such a strategy should be accompanied by acts of resistance that more directly challenge the state system's structure and dominant norms.[117]

Stilz could defend her claim that she recommends only reforms to—not radical departures from—the existing state system by clarifying that she does not mean to fully reject state discretion over membership (the Sovereignty Principle). Instead, she could simply say that, in an ideal world, states would exercise their discretion so as to ensure better outcomes for the world's refugees, and that other states and intergovernmental organisations would be justified in exerting pressure on them to do so.

There is material in Stilz's text to support this interpretation. When discussing how states' duties to protect others' basic territorial interests should be enforced, she envisions a multilateral treaty, where both signing and compliance with the treaty terms would be incentivised by a practice of revoking the benefits of international cooperation from recalcitrant states.[118] This could include denying defectors 'diplomatic recognition or membership in international organisations, imposing tariffs and trade restrictions in response to infractions, freezing assets, [and] reducing foreign aid'.[119] Stilz gives the example of a treaty defining standards for forest conservation, but we could also imagine a treaty defining standards for the treatment of refugees.[120]

Though Stilz recognises her proposed enforcement mechanisms can be coercive,[121] in her determination to show that they represent mere *reforms* to the state system, she says they are compatible with a principled commitment to state sovereignty.[122] She argues that they do not infringe a 'community's right to immunity from interference by outside powers within its territory' because even people targeted for sanction 'are still free to make their own decisions, even if they are heavily incentivised to cooperate'.[123] This certainly suggests that the ways Stilz thinks it would be justifiable to 'enforce' states' compliance with their obligations toward refugees do not reduce states' discretion over their membership. Instead, they simply alter the balance of costs and benefits states will encounter when exercising their discretion in different ways—which Stilz says is not a challenge to their sovereign authority.

On this understanding, Stilz's proposed changes do sound more like modest reforms than radical challenges to the state system. But this comes at a cost. Stilz has not challenged the Political Authority Principle. As in her earlier work, Stilz treats states as the proper loci of political power and the institutions uniquely suited to

[117]Stilz acknowledges there is a role for transnational activism and 'global protest actions' (2019, 253) to play in implementing her proposals. However, her brief discussion emphasises activists' capacity to educate and raise awareness among citizens of different states, hopefully inspiring them to demand that their own governments adopt reforms in line with Stilz's principles. States remain the main vehicle of political change, and their citizens remain the main constituents enfranchised and empowered to enact political agency demanding change. Thus, it is not clear how resistance movements that more directly challenged the state-centric structure of the world order would fit into Stilz's prescriptions.

[118]Stilz 2019, 244–6.

[119]Ibid., 245.

[120]Ibid., 244–6.

[121]Ibid., 245.

[122]Ibid., 254–5.

[123]Ibid., 255.

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deliver justice. Thus, if she does not advocate limiting states' discretion over membership—and therefore does not reject the Sovereignty Principle—the version of the state system she endorses will be organised around the same two principles as the status quo state system. Consequently, it will still empower states to perpetually re-create classes of stateless people. Granted, her modified version of the state system may make certain states less likely to exercise this power in ways that make quite so many people stateless. But it would not, on its own, eliminate the underlying problem: that the state system attaches basic needs fulfilment, rights protection, and political enfranchisement to state membership and empowers states to deny that membership at will.

Stilz appears to be in a double bind. Either her proposals really do limit states' sovereignty and discretion over their membership, in which case they represent a radical challenge—not a friendly amendment—to the existing state system. In this case, it is not clear why we should rely on states and statist institutions to enact such a radical challenge to the very system they are designed to uphold. Or Stilz's proposals do not undermine states' sovereignty or discretion over their membership, in which case they do not solve the problem of the state system empowering states to continually create and re-create classes of stateless people.

Moreover, even if she could escape this double bind, Stilz's view faces another challenge arising from her reliance on states to be the agents bringing her proposals to fruition. If successfully implemented, Stilz's proposals would arguably make the world order more democratic by ensuring more refugees were politically enfranchised via incorporation into states. However, insofar as Stilz relies on states—in which stateless people (including refugees) are typically not enfranchised—to enact her proposals, the process of their enactment will suffer from a democratic deficit. The political processes through which Stilz's reforms would be enacted, the negotiations that took place therein, and who was or was not empowered in those negotiations, would inevitably affect the shape of any resulting policies, treaties, and institutions. If stateless people were thoroughly disenfranchised in these political processes—because they had not yet been incorporated into the statist institutions on the table for reform—whatever reforms were adopted might not reflect their perspectives. Even if stateless people were enfranchised within states *after* Stilz's reforms were adopted, the specific nature of those reforms—which presumably would determine the terms of stateless people's incorporation into the state system—would have been designed largely without their input.

This criticism also applies to versions of state system legitimacy theory that similarly emphasise states as the primary actors who should repair the state system's defects. For example, when discussing what would need to be done to adequately reform the state system, Owen focuses heavily (though not exclusively) on the responsibilities of states.[124] He rightly recognises that states play a crucial role in upholding the current structure of the state system—but he treats this mainly as a source of responsibility for states.[125] However, we must also acknowledge that states' role in upholding the status quo system (including its disenfranchisement of stateless people) makes them ill-suited to fundamentally change it. This is because whatever

[124]Owen 2016, 280–3, 285–7; 2020, 49–50; see also the discussion of Owen in Sharp 2024, 296, 298–9. For a brief discussion of non-state actors' responsibilities, see Owen 2020, 56–9.

[125]Owen 2016, 287.

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they do to pursue change will also work to entrench the status quo—as when their pursuit of reform by incorporating stateless people recreates the latter's disenfranchisement by excluding them from the processes through which the terms of their incorporation are decided.

The foregoing analysis shows why the modified accommodationist objection fails. The injustices faced by stateless people, and the overarching injustice that the state system empowers states to perpetually create new groups of stateless people, would not be effectively addressed by incorporating stateless people more fully into the current state system or a modestly reformed version of it. And we have good reason to think active resistance against the state system and its organising norms is a promising route to addressing these injustices where statist institutions cannot. Perhaps we should also reform the institutions making up the current state system, maybe even adopting some of Stilz's preferred reforms. But we should not count on states and statist institutions alone to bring about the kind of radical restructuring of the state system full justice would require—nor should we ask stateless people to count on them.

Conclusion

I have argued that we should understand statelessness, and the continued vulnerability to it, as a product of the state system—not the mere absence of a state. Once we do this, we should doubt the conventional wisdom that the solution to the problem(s) of statelessness is more state power. After all, since statelessness is a product of the state system, stateless people may be best served by contesting the terms that the system imposes on global order. More specifically, since the state system's current organisation around the Political Authority and Sovereignty Principles creates and re-creates the problem(s) of statelessness, adequately addressing statelessness requires abandoning at least one of those two principles. Moreover, I've argued that channelling political activity through statist institutions entrenches the state system's current structure—centred around the Political Authority and Sovereignty Principles. Thus, working within and empowering statist institutions in turn works to reproduce the condition of statelessness. This means we should doubt whether statist institutions can provide justice for stateless people. Even if one group of stateless people can be effectively incorporated into and served by statist institutions, the state system that has been thereby empowered will be able to produce new classes of stateless people indefinitely. This represents a powerful challenge to the statist ideal adopted by many prominent political theorists, which presents states as the best guarantors of justice and democracy. So, I argue, resistance against statist institutions is a more promising way to challenge the Political Authority and Sovereignty Principles—and therefore an important avenue via which stateless people can seek justice for themselves, as well as a necessary corrective to the state system's flaws.

Though I haven't provided a blueprint for the institutions that should ideally replace dominant statist ones, I have shown that a statist international order organised around the Political Authority and Sovereignty Principles is inadequate to deliver full justice—particularly for stateless people—thereby discrediting the statist ideal. I have shown that, if we want institutions capable of delivering full justice and addressing the problems of statelessness, we must look for *some* alternative—and I have surveyed several possible alternatives, illustrating how each could challenge the

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Political Authority or Sovereignty Principle (or both). I have also illuminated one core consideration anyone attempting to choose among alternative institutional arrangements should account for—one that is obscured by the statist ideal. Namely, if the chosen option is to adequately address the problem(s) of statelessness, it must challenge at least one of the organising principles at the heart of the state system (the Political Authority and Sovereignty Principles). As my discussion of Stilz and the modified accommodationist objection shows, simply layering international or cosmopolitan institutions or inter-state agreements on top of existing statist institutions would not stop the state system from creating vulnerability, injustice, and disenfranchisement for stateless people. Rather, adequately addressing these issues requires radically challenging the underlying structure of the state system itself.

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