Superfluousness, Human Rights and the State: Applying Arendt to Questions of Femicide, Narco Violence and Illegal Immigration in a Globalized World

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Overview: This paper shows how Hannah Arendt’s disturbing notion of superfluousness and her critique of human rights are highly applicable to the often violent problems that globalization has brought to the U.S.-Mexico border region—with worrying consequences.

Keywords: Arendt, superfluousness, human rights, statelessness, femicide, narco violence, sovereignty, illegal immigration, Arizona immigration law, Abu Ghraib

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Abstract

This paper shows how Hannah Arendt’s disturbing notion of superfluousness and her critique of human rights are highly applicable to the problems globalization has brought to the U.S.-Mexico border region and beyond, with worrying consequences. In theory, ‘inalienable’ human rights form a safety net to catch those whose governments fail to afford them political rights. But, as Arendt pointed out, such minimum rights only function if one’s state is willing and able to guarantee them. For her, stateless persons are deprived of both a territory and of occupying a ‘niche in the framework of the general law.’ They are thus doomed to fall through a glaring crack in the legal system to the point where they can be rendered ‘superfluous as human beings’—and treated accordingly. This argument patently applies to illegal immigration, particularly after the Arizona law. Indeed, with no state present or willing to claim rights on their behalf, all those who lack formal citizenship status (illegal immigrants, refugees, political prisoners, suspected terrorists), are still the most likely to fall through the cracks. Yet I argue that the logic of superfluousness has a much wider applicability in a context where globalization and responses to 9/11 have challenged further the state’s ability to guarantee its citizens’ security. For a region where the boundaries between states are increasingly porous provides conditions for the proliferation of new and systematic exclusions from the basic protections that citizenship and human rights should provide. And this is occurring even while those excluded hold all the formal tokens of legal-political membership. The femicides of Cd. Juarez, and recent human rights violations surrounding narcotrafficking cartel violence exemplify the way this systematic, state-led exclusion and the malfunction of human rights exacerbates the condition of those groups who are already vulnerable.
Introduction

One of the broader questions that this paper speaks to is “What function are human rights required to perform and why is it the case that they seem to be working less and less at the US-Mexico border (as elsewhere)?” In contrast to other rights (notably the political rights that accompany citizenship), human rights are intended to protect the most fundamental of human needs. Among the most central are the right to food, to shelter, to have a place to belong, to call home, to life (or to not be killed), to certain kinds of freedom—especially freedom from oppression and violence. The list may also include rights to basic equality before the law and perhaps the right to a fair trial.

Such human rights are intended to provide a minimum standard for human life: a “safety net” for human beings when other rights fail to ‘kick in.’ And so, for example,

- at least if they are not found guilty of a capital crime—in many countries convicted criminals might lose freedom of movement and some political rights, but may still claim human rights to food, adequate living conditions and freedom from violence.

- Legal aliens living away from the land of their own citizenship rights may have reduced or different political, legal and property rights, but still have human rights, which are designed to be claimed on their behalf by their own state.

- Illegal aliens or refugees forgo political rights, as well as many legal and economic ones, but again, human rights should activate at this point to ensure that even if they are deprived of rights like freedom of expression, they have rights to basic human needs like food, clothing, shelter, life and freedom from violence.

- And perhaps most poignantly, the same is supposed to be true for those people whose own governments fail to afford them political, legal, social and economic
rights, the minimum rights afforded by human rights were specifically designed to catch them and to preserve the fundamental aspects of a dignified human life.

These were the very kinds of scenarios that prompted the Rights of Man in 1789 after the French Revolution, the Universal Declaration of Human Rights (UDHR) in 1948 after the Second World War and, relatedly, the practice of trials for Crimes against Humanity, in 1950. Yet over 60 years later, while “we are intervening in the name of human rights as never before,”¹ gross human rights violations continue to abound, in the so-called developed democracies as well as in other parts of the world.

There are, of course, many answers as to why. Not all apply to all cases, and clearly a combination of factors and theories need to be taken into account to satisfactorily explain and resolve specific human rights abuses like those now occurring at the U.S.-Mexico border as well as the problems experienced in championing human rights more generally. One that continually catches my attention was developed by Hannah Arendt and revolves around the inextricable, yet highly contentious, relationship between human rights and the state.

In this paper I use Hannah Arendt’s critique of human rights and her disturbing notion of superfluousness as a lens that can shed light on some of the often violent problems that globalization has brought to the North American region. The central argument is that the clash between globalizing forces on one hand, and the reassertion of state sovereignty on the other are providing the conditions for systematic exclusions from the protections that citizenship and human rights should provide. In some cases, this is occurring even while those excluded hold all formal tokens of legal-political membership

which demonstrates how the paradox of rights Arendt theorized in the 1960s continues to beleaguer the functioning of human rights in contemporary contexts.

I first outline Arendt’s central contentions against human rights, with a focus on the logical and conceptual confusions she identified as the foundation of what has become a deep rivalry between citizenship rights and human rights. I then sketch briefly how her notion of human superfluousness develops from her critique of human rights. Throughout the rest of the paper, I show how several key elements of these arguments are found in new yet disturbingly clear form in the contexts of four contemporary arenas in which human rights are proving extremely difficult to uphold: illegal immigration, particularly in the case of Arizona, the treatment of detainees in Abu Ghraib and Guantánamo Bay, the femicides of Ciudad Juárez, and the human rights violations surrounding narcotrafficking cartel violence at the Mexico-U.S. border.

I have explored the conceptual underpinnings and logical developments of Arendt’s arguments on rights, superfluousness and the state in detail elsewhere, but the following synopsis isolates the main points that pertain to the practical examples discussed here.

**Arendt, Human Rights and the State**

For Arendt, the whole notion of human rights contained a paradox at its very roots; a paradox that, at certain historical moments—for her in the aftermath of the First World War and in totalitarian regimes, but also now in times of globalization—can make upholding human rights particularly difficult to achieve even when the national and international will to do so is very strong. To function as a protective safety net against arbitrary government acts or neglect, human rights were designed in a way that tied them to

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humanity: to people, not governments or states. It was thought that only this could render them truly “inalienable,” i.e., irreducible to other rights and laws. However, the functioning of any rights system is predicated on the legal system, which requires the state system. A catch-22 situation ensues: human rights are supposed to activate when the state fails in its duties toward some or all of its people(s). But they simultaneously require legally the state system in order to be guaranteed and claimed. They therefore do not undercut the state and its sovereignty. They are thoroughly dependent upon it.

The right of every individual to belong to humanity, should be guaranteed by humanity itself. It is by no means certain whether this is possible. For, contrary to the best-intentioned humanitarian attempts to obtain new declarations of human rights from international organizations, it should be understood that this idea transcends the present sphere of international law which still operates in terms of reciprocal agreements and treaties between sovereign states.3

So, while other states or international organizations can and have intervened on behalf of those whose human rights have been violated, the success of such humanitarian intervention—and indeed the coherence of the system of human rights itself—has to contend with, and against, the continuing fact of state sovereignty.

In Arendt’s view, the category of people most negatively affected by the paradox of rights were those who were made stateless virtually overnight when the boundaries of Europe were redrawn after the First World War. This deprived millions of either a home territory to be repatriated to, or a new state that would offer them naturalization. In the face of the sheer numbers of refugees at the time, the age-old right to asylum was effectively abandoned and the legal process of naturalization broke down internationally to the point where even naturalizations that had already been accepted were cancelled.4 “[I]t was a problem not of space, but of political organization.”5 Being stateless did not just deprive a person of belonging to a territory, it deprived them of occupying a clear “niche in the

5 Arendt, *Origins*, 294 [emphasis added].
framework of the general law\textsuperscript{6} the basis of which rests not on human rights, but on citizenship status and the political rights that go with it.

If a human being loses his political status, he should, according to the implications of the inborn and inalienable rights of man, come under exactly the situation for which the declarations of such general rights provided. Actually the opposite is the case. It seems that a man who is nothing but a man has lost the very qualities which make it possible for other people to treat him as a fellow-man.\textsuperscript{7}

The basic problem can be fleshed out in the following way. A fundamental conceptual confusion exists between the notions of \textit{homme} and \textit{citoyen} that were encapsulated in the 1789 Declaration of the Rights of Man and the Citizen and extended in a similar confusion over the relation between the individual and the state in the UDHR. It might make intuitive sense to consider the biological status and needs of humans as more fundamental than other statuses and privileges, including political ones. However, if the protection of these biological needs is expressed in the form of rights, then it is predicated on the \textit{prior} existence of a functional legal and political artifice, not the other way around. Logically (and historically\textsuperscript{8}) speaking, then, the concept of the citizen precedes, and is necessary for articulating, the concept of ‘the human.’ And, contrary to the reverse derivation found in Enlightenment social contract theories, the state precedes, and is necessary for conceiving (as well as protecting), ‘the individual.’

The conceptual confusion was concomitantly replicated in the UDHR, particularly in its lack of a clear definition of the right to citizenship and its relation to the right to nationality (Article 15). Julia Harrington has recently identified two connected weaknesses here that pertain strongly to Arendt’s position on statelessness. The first concerns that the Declaration fails to properly connect the rights of individuals (the terms in which human


\textsuperscript{7} Arendt, \textit{Origins}, 300.

\textsuperscript{8} See Paul Barry Clarke, ‘Citizen Human,’ in Clarke, Paul Barry, ed., \textit{Citizenship: A Reader} (Boulder Colorado: Pluto Press, 1994), 3-33.)
rights are expressed) and the responsibilities of the state, because it fails to designate which state is responsible for protecting the rights of which individual (citizen/human). The second concerns the way citizenship rights are, in practice, understood and articulated.

When a person is detained arbitrarily, it is usually clear what state is detaining her. Yet states generally do not give citizenship to individuals just because they are residents, or even because they are born there, and international law doesn’t require them to. So the question of which state is violating the right of any particular stateless person (and by implication, responsible for giving her citizenship) isn’t clear from the Universal Declaration…

[Moreover] it is hard to separate the idea of a right to citizenship/nationality in the abstract from state recognition of that citizenship in practice… because the right to citizenship is so poorly defined in law… it’s hard to say when someone has it; thus, when that person is denied or deprived of citizenship, or proof of citizenship, by a state, the victim herself may conclude that she is stateless, rather than that her right to citizenship has [been] violated. But many of the world’s stateless people would not be stateless at all if their country’s laws were non-discriminatory or properly implemented.9

Arendt’s argument highlights the grave practical consequences that stem from both the logical confusion inherent in mistakenly placing human rights as prior to political rights, and the ensuing conceptual confusion surrounding the conflation of the notions of citizenship, nationality and humanity and basing conflicting conceptions of rights on any or all of these. In becoming stateless, she argued, persons are robbed of the only entity that could guarantee a set of minimum rights, rendering them extremely vulnerable to many kinds of abuse, since they have no functional legal status in their own countries or abroad.

[I]t turned out that the moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them… The stateless people were… convinced… that loss of national rights was identical with loss of human rights.10

Clearly, the state has the last word on who and what kinds of persons have legal status and will be protected, and whose human rights will be suspended, negated or deprioritized. Unable to send refugees back to their nonexistent homelands and unwilling to assimilate or naturalize them into their own sovereign nations, the idea of internment camps for large

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groups of stateless persons became after WWI (and in many places still is) the “routine solution” along with a temptation to resort to excessive policing and arbitrary rule—two issues I will return to presently.

**Human Superfluousness**

It is here that Arendt’s critique of rights led her to conceive of one of her most poignant, distressing, and difficult concepts that still applies today, though I hope to show that it applies in more and wider circumstances than she originally had in mind. She called this concept ‘human superfluousness’ which is rooted in the inherent confusions that permeate the base of the paradox of human rights. The plight of the stateless “is not that they are not equal before the law, but that no law exists for them.” They are deprived of what Arendt considered the most fundamental right of all: “the right to have rights,” without which, human rights cease to function (properly, or at all). The stateless are thus doomed to fall through a glaring crack in the legal system to the point where they are rendered superfluous—and treated accordingly.

While this may sound like a radical claim based on an equally radical and highly specific set of historical examples, its implications are profound and have much contemporary significance both for the stateless and also, as we shall see, for many in the

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11 For example, from 2001-2008 the Australian government shipped asylum seekers to offshore camps on Nauru island (see Bridget Cotter, “Hannah Arendt and the ‘Right’ to Have Rights,” in Hannah Arendt and International Relations: Readings Across the Lines, eds. Anthony F. Lang and John Williams (New York: Palgrave Macmillan, 2005), 106) and Manus Island, Papua New Guinea. Both were shut in 2008, but the Christmas Island detention center remains open to deal with Australia’s policy of mandatory detention for unauthorized aliens. Administrative detention of refugees and asylum seekers is widespread in Europe and the U.S. in restrictive detention centers and sometimes in prisons.


U.S. and Mexico who hold all the formal tokens of legal-political membership, but who remain otherwise excluded or unprotected. The stateless have no state to guarantee the observation of their human rights, or to make any claims on those who might violate them. Stateless people are consequently deprived of many basic things legally, politically and often socially: a place in the framework of the law, a place in the world to belong to and call home, a state to claim human rights on their behalf, even their individuality and specific group identity (in the eyes of others looking on) is in danger of becoming blurred. In a very real sense, they disappear from our familiar juridico-socio-political map. They fall through the cracks between states, in becoming anomalies that no longer fit the ethico-legal-political framework that the state system provides. If they cannot be assimilated, it is easier to view them as undeserving of the same kind of political attention that citizens enjoy, or even see them as threatening. For their very existence poses a huge challenge to the legal-political framework which, in Arendt’s time, was already destabilized by the effects of the world wars on the state system. Today, in a context where globalization is producing a concomitant destabilization of state sovereignty—as well as desperate attempts to wrest it back—it is not difficult to see the Arizona Immigration Law and recent European political rhetoric on the failure of multiculturalism (discussed below) as clear responses to precisely this perceived ‘threat.’

When groups are not claimed by a sovereign authority able to enforce the protection of their rights, the danger for Arendt is that this can lead to the point where they “are treated as if they no longer existed, as if what happened to them were no longer of any interest to anybody, as if they were already dead.”\textsuperscript{16} And so she claims that there was a certain logic to the progression from internment camps for Jews and other stateless people in the interwar

period to what I have elsewhere called the radical ‘end-stage’ of superfluousness.\textsuperscript{17} The epitome of this end stage was exemplified in the violence of the Nazi death camps where once-human individuals were turned into unremembered, replaceable, \textit{nonpersons}, indistinguishable from each other, and stripped of any solidarity: “superfluous human material” to be liquidated if conditions are thought to require it, making their “murder as impersonal as the squashing of a gnat.”\textsuperscript{18}

Arendt was referring to the dehumanization tactics that surrounded, and produced, the ‘living dead’ of the Nazi camps. But the pertinence of some of her claims is not restricted to such extreme cases, or to the experiences of statelessness as these are traditionally understood—particularly in a world that is becoming increasingly deterritorialized. Indeed, with no state present or willing to claim rights on their behalf, all those who lack formal citizenship status, even if they are not stateless \textit{per se} (illegal immigrants, refugees, political prisoners, suspected terrorists), are still the most likely to fall through the cracks—and be treated accordingly.

\textbf{State Sovereignty, Superfluousness and Illegal Immigration}

The deterritorialization that has accompanied globalization is having a clear impact on the contemporary ways in which the malfunctioning of human rights can lead to various forms of human superfluousness. On one hand, the consequences of global restructuring point to increased mobility of persons and resources, flexibility of borders and identities and, in some places, a detachment of contemporary mobility and socioeconomic rights from their traditional grounding in formal membership of a nation or state. On the other, and beginning well before 9/11, state actions attempting to ameliorate the diffusion of its

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sovereign control over its citizens and territories have introduced significant tensions over how issues of persons and borders are to be handled and protected.

In North America since NAFTA, for example, several reactions to the increased mobility of persons (and contraband) across porous borders and the decreasing control the three states have been able to exert over their denizens and territory reflect a desire both to resist deep integration at the political and regional identity level and to recapture a more traditional, stable view of state sovereignty that effectively prioritizes citizenship rights over human rights. This is, perhaps, most patent in the United States’ reassertion of authority concerning its right to determine who should be granted full citizen status and who should not. “International law recognizes that individual states have the right to determine who qualifies as a citizen. It is in this respect that immigration has become central to the exercise of state sovereignty.” It has also become a site that is primed for the generation of superfluousness.

The current reassertion of state sovereignty has focused very visibly on stiffening border controls and through the abundance of proposals for more policing of North American borders (especially the Mexico-U.S. border). It is most symbolically expressed in the blatant, if somewhat desperate, attempt to re-solidify territorial borders quite literally via the U.S.-Mexico border wall, nearly 650 miles of which had been completed in January 2010. Beyond the border, the controversial 2010 Arizona Immigration Law (SB1070) complemented this with a reassertion of the authoritative value of citizenship status and rights over the illegal immigrant community, coupled with giving heightened powers to the

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21 See Gabriel and MacDonald, “Migration and Citizenship Rights,” 276-8. As such, former anti-drug and immigration-crossing measures have been adapted by the U.S. to the drives of the War on Terror.
state police—one symptom that Arendt correlated with the production of superfluousness in interwar Europe. “Theoretically,” she wrote, “in the sphere of international law, it had always been true that sovereignty is nowhere more absolute than in matters of emigration, naturalization, nationality and expulsion.” This led Arendt to muse on such “weapon[s] of denaturalization” and the probable correlation between how far a regime had been ‘infected’ with totalitarianism and how often it exercised its sovereign right to denationalize, deport or expel.

It is well known that the Arizona law, which criminalizes being in the state without applying for and carrying documentation, has worrying implications for human rights by increasing the likelihood of arbitrary arrest and detention and promoting discrimination on the basis of ethnic or racial appearance. It is still too soon to gauge the practical impact that SB1070 is having in general on Arizona’s human rights record. However, the projected increase in the numbers of those who can be (now legally) stopped and incarcerated while their residency status is determined reveals disturbing parallels with Arendt’s claim that “the internment camp…has become the routine solution for the problem of domicile of the ‘displaced persons’.” The fact that SB1070 has spurred several other U.S. states to propose similar legislation serves only to reinforce the gravity of her observation that, in the absence of political rights, the effective power of human rights evaporates at the very moment they are needed the most.

The biopolitical management of bodies inherent in SB1070 found related practical expression in the control of minds when the corollary law HB 2281—which imposes an educational curriculum that “bans ethnic studies programs” in Arizona public schools and

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25 Arendt, *Origins*, 279 [emphasis added].
colleges—came into effect on January 1, 2011. The de-emphasis HB 2281 places on racial or ethnic identities and their histories in favor of teaching pupils “to treat or value each other as individuals” embodies a clear attempt to revert to the supposed ‘levelling effect’ of liberal political principles underpinning a traditional liberal view of citizenship based on the assumption that the citizenry can be seen as—indeed, is best seen as—an undifferentiated, homogenous whole. This forms a telling example of the point I made earlier concerning the many basic legal, political and social deprivations that the stateless are subject to, including specific group identity. But in this case, it is not only the ‘anomalous’ particular identities of illegal immigrants that such policies seek to banish from our familiar juridico-socio-political map. The particular identities and differences of many groups of citizens also become casualties of this model.

The effort to revert to an abstract, universalistic, culture-neutral, context-free and difference-blind view of citizens also figures strongly in Arendt’s discussion of equality in her critique of human rights.

The reason why highly developed political communities… so often insist on ethnic homogeneity is that they hope to eliminate as far as possible those natural and always present differences and differentiations which by themselves arouse dumb hatred, mistrust, and discrimination because they indicate all too clearly those spheres where men cannot act and change at will… If a Negro in a white community is considered a Negro and nothing else, he loses along with his right to equality that freedom of action which is specifically human; all his deeds are now explained as ‘necessary’ consequences of some ‘Negro’ qualities; he has become some specimen of an animal species, called man.

Her point is not only pertinent to contemporary state immigration laws and practices of the U.S., however. On the other side of the Atlantic, the recent rhetoric of politicians in Germany and the U.K. concerning the ‘failure of multiculturalism’ has been increasingly studded with references to a similar disillusionment with difference, cloaked in calls to

28 Arendt, Origins, 301-2.
return to a more unified national (if not ethnic) homogeneity. In place of the idealistic, difference-sensitive liberal tolerance espoused by multicultural theorists, multiculturalism in Europe has been cast by George Friedman as merely a superficial, pragmatic attempt to deal with the large pools of immigrant workers that supplied the labour demands of postwar northwestern European industrial economies. “[M]ulticulturalism was a grand bargain meant to lock in migrant loyalty in exchange for allowing them to keep their culture—and to protect European culture from foreign influences by sequestering the immigrants. The Germans tried to have their workers and a German identity simultaneously. It didn’t work. Multiculturalism resulted in the permanent alienation of the immigrants.” 29 And this is not an isolated case. Similar calls for a return to “a stronger national identity to prevent people turning to all kinds of extremism,” 30 were made in February 2011 by British Prime Minister David Cameron in tandem with his critique of multicultural policies which he argued have precluded cultural assimilation to, and obstructed social unity behind, the dominant values of the British society.

All these examples extend an understanding of superfluousness that reconnect with my earlier point concerning the glaring fact that the rights of man, which are the very mechanisms supposed to protect one’s basic humanity, are meaningless once a person is moved beyond the remit of the protection that only acceptance in a sovereign state can give. Yet the claim can be pushed further. The type of exclusion that so detaches groups of people from the protection of their basic human rights can also function as a justification for doing additional physical violence to them, occasionally to the point of justifying that

their total annihilation is somehow rationally or even morally valid.\textsuperscript{31} The point is borne out via the case of the death camps by both Arendt and Giorgio Agamben,\textsuperscript{32} which I cannot go into here. However, one contemporary iteration of this very strong form of superfluousness in which stripping persons of their humanity has formed part of a rhetorical justification for doing them additional harm is worth mentioning, though I can do no more than that here.\textsuperscript{33}

\textbf{Abu Ghraib and Guantánamo}

The superfluous status of the political detainees of the War on Terror is especially highlighted by the reports of systematic human rights abuses of suspected terrorists in Guantánamo Bay and in the photographs (released from 2003-2006) of the torture of Abu Ghraib prisoners. Like the immigration detention centers, Abu Ghraib and Guantánamo prisons have become a physical embodiment as well as a figurative representation of the ‘cracks in between states’ into which those anomalous “outlaws” who do not fit into the traditional sovereign state system, or who contravene the particular ethical framework that upholds it, are herded. It is clear that the officials involved in the Abu Ghraib atrocities considered their actions of extreme physical and psychological torture somehow either justified or at the very least unlikely to result in punishment, since the actions were not deemed to be worth fully hiding. As has been well publicized, several officials had snapshots taken of themselves next to clearly physically and psychologically degraded prisoners—sometimes pyramids of bound, naked, dehumanized detainees—as if they mattered no more than the forgettable monuments one stands next to for snaps taken on any routine summer vacation. The pictures are so shocking because they reveal not only the

\textsuperscript{31} For a detailed development of this argument, see Norman, “Violence and Deprivation,” 2009, 11, 14.
\textsuperscript{33} See Norman, “Violence and Deprivation,” for a more detailed account of the relation between superfluousness and the War on Terror and for deeper theoretical discussion of its roots.
breadth of the extended powers of state officials in the wake of the Patriot Act, but also how easy it can be for ordinary individuals to feel comfortable with rendering human beings superfluous.

The dissemination of these photographs into the international public realm nevertheless *did* reinsert the prisoners into Arendt’s ‘world of men,’ forcing perpetrators and their states to assume legal responsibility for their actions. Until the publicity emerged, the Geneva Convention was unable to guarantee the basic human rights of the detainees for precisely the reasons behind the criticisms Arendt levelled at the Rights of Man.\(^\text{34}\) Yet some protective elements of this international agreement started functioning again despite their challenge to state sovereignty. Not all detainees were “perfectly superfluous,” their erasure from the world of men was not absolute.

But how far specific states are able or willing to “claim” detainees back from their superfluous status remains to be seen. When I first researched this issue in early 2009 President Obama was keen to voice his plans to close Guantánamo at the end of that year. Plans that have been an unequivocal failure, partly because of the very problems concerning rights, the stateless (or the outlawed) and what to do about them that Arendt problematized. In 2009 Obama also attempted to censor new photographs documenting the rape and sexual abuse of prisoners on the grounds that their public release would risk the safety of troops,\(^\text{35}\) which again highlights the way in which the priority of citizen status and rights, as well as the centrality of preserving national security, continues to trump human rights.

The examples of immigration and the treatment of suspected terrorists do highlight that Arendt’s arguments on superfluousness and human rights still apply most strongly to

\(^{34}\) In that, because most of the provisions of the Convention were seen to clash with U.S. views of its state sovereignty and national security, only one Article was ultimately observed in the case of Guantánamo in the wake of the USA Patriot Act.

those who lack formal citizenship within a given territory: aliens, criminals, outlaws. Yet there are signs that a new, low-grade but equally insidious, form of superfluosness is emerging in some of the alternative contexts created by globalization. For it seems that a region where the boundaries between states are increasingly porous provides conditions for the proliferation of new and systematic exclusions from the basic protections that citizenship and human rights should provide. Moreover, this is occurring even while those excluded hold all the formal tokens of legal-political membership, but where these are no longer functioning as adequate guarantees for a variety of reasons. Indeed, it seems a distinct possibility that certain elements inherent in globalization have meant that superfluosness is no longer a condition restricted to the stateless or the outlawed, and capitalized on by totalitarian regimes in death camp scenarios. It is one tactic that can be utilized by otherwise democratic regimes in their attempts to reconcile the sovereignty requirements of the modern state system with postglobalized conditions of migration, economic and political interdependence and technological advances. And under these circumstances, superfluosness can, and has, happened to citizens, too. And it is no accident that it is occurring most visibly at the border.

The Femicides of Ciudad Juárez

The entire context surrounding the femicides in Juárez is fraught with obfuscation, media-hype, lack of documentation and official denials, which make it difficult to cite any ‘facts’ with much confidence. However, from 1993 to March 2011, the figures listed by most NGOs range between 450-600 femicides, with as many as 400 missing. Some

36 Generally understood as “the misogynous killing of women by men,” (Radford, Jill. “Where Do We Go from Here?” in Femicide: The Politics of Woman-Killing, edited by Jane Caputi and Diana E.H. Russell (Twayne Publishers: New York, 1992) 3), and later refined to “the killing of females by males because they are female,” (Russell, Diana E.H. and Harms, Roberta A, (Eds.), Femicide in Global Perspective New York: Teachers College Press, 2001, Ch. 2, 13-14). It must be stressed that not all female homicides are femicides. The term femicide was coined by Caputi and Russell and defined as being “on the extreme
recent reports put the murder figures as high as 1,192, and almost all sources indicate that their figures are a gross underestimation of the true numbers. Domestic and narcotrafficking-related violence are cited as responsible for a large part of these figures. The vast majority of the women were kidnapped, brutally tortured, raped, murdered, mutilated and dumped half-naked in the desert outskirts of the city.

Despite the difficulties in verifying and interpreting the data, the reactions to the femicides are what truly demonstrate just how pervasive the experience of the superfluous life can be. The phenomenon has seized the attention of the international media and human rights organizations primarily because of the way in which the authorities (on both sides of the border) have been unable or unwilling to ensure that the crimes are investigated systematically. But as in the case of suspected terrorists, while an international public space for debate and action attempting to reclaim the human rights of the women of Juárez has opened up, its real success has been limited. Recent events indicate that keeping that public space open may well be both difficult and dangerous. Dissident voices in the crusade against the femicides, including prominent human rights campaigners and the families of murdered women have become the targets of threats, attacks and murder themselves, exacerbating the tense atmosphere of fear and effectively annihilating any semblance of public space in the region.

end of a continuum of antifemale terror that includes a wide variety of verbal and physical abuse, such as rape, torture, sexual slavery… Whenever these forms of terrorism result in death, they become femicides” (Caputi, Jane and Diana E.H. Russell. “Femicide: Sexist Terrorism against Women,” in Caputi and Russell, eds, Femicide, 15).


For the three most recent, see “The Silencing of Women’s Voices,” Frontera NorteSur.
Over 100 femicide cases remain officially unsolved and evidence suggests that many of those cases that have been closed identified the wrong perpetrator. Furthermore, there seemed to be scant progress in slowing the murder rate even before the severe narco-related violence in the city exploded in 2008, largely eclipsing the femicides in the media, the government response (on both sides of the border) and in the eyes of the national and international public. As a result of the lack of interest and/or impotence and inefficiency of the authorities, a climate of fear has evolved, in which the safety and survival of all is questioned in the face of such unpunished violence and criminal activity—one condition in which the current narcoviolence is thriving.

In spite of the many contributing reasons for the less-than-thorough response of the authorities, what cannot be concealed is the way that for so many years the Mexican authorities attempted to cover up, failed to solve or reduce, downplayed or even ignored the disappearances, the murders and the murdered even after the international spotlight was turned on Cd. Juárez. While national and international NGOs have, to a small extent, kept these women from being totally unremembered nonpersons, the figures and media images of the femicides over the years have certainly done much to erase the individuality of the victims. This is another example of how the conditions can be created for rendering human beings superfluous, but it is especially telling in its demonstration of new ways in which this concept can be applied in a globalized ‘world of men.’

The similarities between the femicides of Juárez and many of Arendt’s observations about superfluousness in Europe are striking. “The decision,” she wrote, “of the statesmen to solve the problem of statelessness by ignoring it is further revealed by the lack of reliable statistics on the subject. This much is known, however: while there are one million

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‘recognized’ stateless, there are more than ten million so-called ‘de facto’ stateless.”

But this time it is happening to supposedly ‘full citizens’ and from a position inside the state, and in a globalized context where the boundaries of the nation-state are not as sharply defined as in the first half of the twentieth century. This has an effect on how the tactics of superfluousness function. The excluded “ultimately become just as outlawed in their own country as the stateless and the homeless” in the sense that they are somehow existing outside of the protection of the law their nationality should guarantee as a result of their place and status inside the state. Arendt thought that this could only happen in a system that was already extremely arbitrary, organized and totalitarian. But Cd. Juárez is one example that shows how in a globalized world this is no longer necessary. The vulnerabilities of statelessness are not required if state sovereignty is already weakened and other deprivations render groups vulnerable in different ways. Neither are they required if the mechanisms of human rights malfunction in such a way that neither the home state nor international organizations are able or willing to successfully “claim” those “nonpersons” who fall through the cracks. One implication of the contentions I have made here, however, is that the fissures that can potentially lead to new postglobal ‘holes of oblivion’ will continue to open up within states as well as between them.

This is where my position aligns for a moment with Hayden’s recent claim that the deprivations of global poverty normalized by the structural conditions of global capitalism lead to a systematic exclusion of the global poor from the common human world that renders them increasingly superfluous. The point to add here is that a globalized world, in which the boundaries between states and their sovereign domains are becoming increasingly porous, deterritorialized and spatially decentered, could well provide many

42 Arendt, Origins, 279.
conditions for the proliferation of new forms of rendering human beings superfluous. It certainly seems to be significant that the femicides are occurring along a highly permeable border where the sovereign power of expulsion from one side, and sanctioned belonging on either side has traditionally been almost impossible to enforce with success.

The context of fear surrounding the Cd. Juárez femicides has not yet reached the radical ‘end stage’ of superfluousness. However, if it looks like a particular crime is not being taken seriously by the political and legal authorities of a state, and if the punishment for that crime remains systematically and openly unenforced or enforced arbitrarily—for whatever reason—in a way that fails to significantly deter further criminal activity, then it may not be long before the end stage is reached. And for the last few years, the escalating violence in Cd. Juárez and other Mexican border cities as a result of territorial clashes between rival narcotrafficking organizations and with the Mexican military seems to be a sign that it is coming.

**NarcoViolence and Human Rights**

More research is certainly required in this area in any attempt to see how the logic of superfluousness might shed some light on why it is happening and what measures will be needed to reduce the current violence at the Mexico-U.S. border. However, a few things can be said concerning the human rights violations that are accompanying the situation.

The people of Cd. Juárez as well as many other cities along the border are caught between the violence of the narcotraffickers on one hand and the military there to protect them on the other. In September 2010, the Washington Office on Latin America (WOLA) released a report detailing human rights violations in Juárez including torture, forced

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disappearances, sexual harassment, rape, robbery and even extrajudicial killings by Mexican soldiers (whose presence increased by 1,000% from December 2006 to mid-2010, and has burgeoned more with President Calderon’s 2011 drive to militarize the border further). They remain unpunished. The 1,450 complaints of human rights violations against the military that the Chihuahua State Human Rights Commission say have been lodged from March 2008-September 2009, are, according to the WOLA report, a serious underestimate of the real figure. The 1,250 reports of military human rights violations received in 2008 represented a 600% increase on 2006 figures.

As has been well documented in the media, a growing number of journalists of several nationalities investigating the border violence and narco involvement in it have been murdered: a total of 65 since the year 2000, eleven of whom were murdered between January and September 2010. As a result of this ‘narco-censorship,’ news and information on the drug war is being suppressed, and journalists feel forced, or are co-opted, to write what they think the cartels want to hear. And while in October 2010, journalist groups appealed to President Calderon for more commitment in bringing the perpetrators to justice, the reality of the situation is similar to the femicides. The crimes are still largely go underinvestigated and unpunished, adding to the culture of fear that surrounds the process of rendering human beings superfluous.

Two points are worth making here. The first concerns the role of impunity in the malfunction of human rights and its consequent production of superfluousness. The second concerns how the culture of fear and lack of information is squeezing out of play any

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46 Meyer, Abused and Afraid in Juarez.
47 According to the Miguel Agustín Pro Juárez Human Rights Center, Mexico City, Memorandum to the Human Rights Committee, May 6, 2009: 2. Available at: [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/CentroProdh_Mexico96.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/CentroProdh_Mexico96.pdf)
semblance of a public sphere that could be used to counteract the inability of the Mexican state to resolve the situation without escalating the violence further.

Viewed through an Arendtian lens, the lack of systematic punishment of violent crimes resulting from the narcowars (which also applies to the cases of the femicides) shares parallels with the damage Arendt saw had happened to “the very structure of legal national institutions,” in interwar Europe, “when a growing number of residents had to live outside the jurisdiction of those laws and without being protected by any other.”\(^{49}\) If one is “liable to jail sentences without ever committing a crime,”\(^{50}\) as has habitually been the case for decades south of the border given the inherent corruption in the Mexican juridical and law enforcement systems, then it makes little sense to give much weight to following the law. Indeed, “the best criterion by which to decide whether someone has been forced outside the pale of the law is to ask if he would benefit by committing a crime.”\(^{51}\) Clearly, many illegal immigrants in Arizona believe they are benefitting, as do those who commit femicide or homicide at the border with impunity. But what this last statement from Arendt seems to suggest for contemporary forms of superfluousness is not so much that the illegal immigrants, narco cartel members, or perpetrators of femicide are removed outside the pale of the law. Rather, in a deterritorialized setting where the bounds of state sovereignty have been significantly blurred and weakened, it is the pale of the law has been forced away. The public realm has all but gone with it.

The culture of fear caused by unpunished narcoviolence (conducted by the military as well as the narcos) has led to runaway public insecurity and mass migration away from bordertowns. Bars, clubs and restaurants have closed. Trustworthy information, not merely about the larger picture of the war and the state of its main play and politics, but also

\(^{49}\) Arendt, Origins, 286.  
\(^{50}\) Arendt, Origins, 286.  
\(^{51}\) Arendt, Origins, 286.
concerning whether it is safe to travel two streets home from a friend’s house after dark, is almost impossible to come by.

There are increasingly more walls being built because people feel unsafe in their own neighborhoods. They stop using public spaces. They stop socializing with their neighbors. Before, people would come to things like funerals, but now there’s the fear that the person killed may have been up to something and someone may come and kill the people who showed up to support the family. The first casualty of this [fear] is the loss of the community bond in a given area.\(^{52}\)

It is, perhaps, this loss of public space and community bond that forces into sharp relief just how broad the real remit of superfluousness can become in a contemporary context. For it is not only suffered by those who are killed, or those equally replaceable, disposable narcogroup members or sympathizers, paramilitaries and soldiers who conduct the murders. It touches the lives, and diminishes the rights, freedoms and human dignity, of every citizen. These are the very things that human rights were designed to protect, yet continually fail do so because they remain just as consequent upon citizenship rights as they did in 1789. However, in the case of the homicidal and femicidal violence along the Mexican border, not even being a citizen can assuage the suffering or deprivation. Once the public space is in danger of almost total annihilation, the privileges and status of being a citizen lose not only the protective force they demand from the state. They lose their meaning.

Conclusion

Arendt’s critique of human rights draws attention to the juridico-legal cracks that open up between states into which the unprotected are likely to fall—now, as then—when state sovereignty (“in which each state has absolute jurisdiction within its own borders and

The proliferation of various grades and forms of human superfluousness ensues.

I have attempted to show in this paper that such proliferation is all the more likely under conditions of deterritorialization which in many ways grind in direct tension with contemporary reassertions of state sovereignty, particularly in the way that these opposing processes have been perceived and dealt with in North America of late. But in at least the cases of the femicides of Cd. Juárez and the narcoviolence along the Mexico-U.S. border, the ensuing production of superfluousness, accompanied by its attendant human rights violations, appear to be occurring not merely to the stateless, but also to those who hold the very citizenship status that Arendt argued is required to guarantee human rights. Deterritorialization and global restructuring have, indeed, permitted the cracks in between states to spread inside them. The new forms of superfluousness being generated today are, for the most part, less extreme than those in Arendt’s arguments. Yet this does little to detract from their insidious character.

Perhaps the most important conclusion that stems from the examples I have sketched is that the superfluous life is not only generated in organized, efficient administrative state systems. It can also emerge where statehood has been incompletely formed, where legal and administrative frameworks are defective, and where resources (including the political will to uphold human rights equally and to punish their violation according to the rule of law) are scarce. Arendt was certainly correct in her observation that “impotence breeds violence.”

As we have seen, the current state impotence being experienced in the face of globalizing forces can spawn the physical violence of the

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murders at the border, or the torture of political detainees in the name of national security. But it can also create the psychological violence inherent in the discrimination produced by laws that lead to unfair and unequal treatment, the systematic practices of humiliation that lead to dehumanization, and the climates of uncertainty and fear that suffocate community bonds and destroy the very place in which all rights are grounded, claimed and protected: the realm of the citizen; the public realm.

State impotence and inefficiency could emerge as an inability to protect its citizens from terrorist attacks, as in the War on Terror, or ongoing battles with terrorist activity in Northern Ireland or Sri Lanka. It can also surface as an inability to fend off interventions that destroy sovereignty, such as weapons inspections or humanitarian intervention. Or it can manifest in an incapacity to deal with large-scale crime as exemplified by the Juárez femicides, or powerlessness to control organized criminal elements within the state that challenge its monopoly over violence. These circumstances can tempt us to use the rhetoric of absolutes Arendt warns us against, driven by fear and an ever-increasing need for security. Security policies and related apprehension and detainment practices are dogged with impotence and inefficiency when they are applied along permeable borders and become increasingly harsh, and sometimes violent as a result. All these feed into the conditions within which human superfluousness is not just possible, but likely. For as state sovereignty is challenged as much by the forces of globalization as by the forces of terror or intervening states or organizations, so too are political and human rights.

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BIO

**Emma R. Norman** is a specialist in political theory who received her Ph.D. from the Department of Government at the University of Essex in 1999. She was an associate professor in the Department of International Relations and Political Science at the UDLAP from 2003-2010 where she taught political philosophy, applied political theory, methodology in the social sciences, and ethics. Her research interests focus on identity, citizenship, applied ethics, postliberalism, technology and the political, and the work of Hannah Arendt and Carl Schmitt. She has published articles, conference papers and chapters covering topics ranging from agonistic citizenship, identity and the political, individualism, violence and biopolitics, to the ethics of conflict resolution.

Since 2005, Dr. Norman has been lead CoEditor-in-Chief of the international peer-reviewed journal *Politics and Policy*—a Wiley-Blackwell/Policy Studies Organization publication now in its 39th year.

Her book *El yo político [The Political Self]* was published by Ediciones Coyoacán in 2007. Her latest chapter on feminism and citizenship at the U.S.-Mexico border will be published this year by Ashgate in Anne Runyan *et al.*, (eds.), *Feminist (Im)Mobilities in Fortress North America: Identities, Citizenships, and Human Rights in Transnational Perspective.*