


ARTICLE

Special Issue: Legal Infrastructures

Citizenship as Legal Infrastructure

Christian Brown Prener¹  and Thomas Gammeltoft-Hansen²

¹European University Institute, Florence, Italy and ²University of Copenhagen, Copenhagen, Denmark
Email: christian.prener@eui.eu

(Received 06 December 2024; accepted 09 December 2024)

Abstract

Whenever a person intends to cross a border, citizenship de facto determines—more than any other status—whether that person can enter the territory of another state. Yet, despite its ubiquity and centrality within global mobility infrastructures, the exact mechanisms through which citizenship shapes human movement on the planetary scale remain surprisingly ambiguous. This Article examines the multifaceted ways in which citizenship operates as an organizing principle within the complex of rules and norms governing transnational human mobility, including how the increasing acceptance of dual nationality status and the emergence of citizenship-by-investment schemes reverberate throughout the legal infrastructure and create new pathways for elite mobility. Using citizenship as an exploratory lens, the Article thereby seeks to theoretically complement and nuance existing scholarship in migration and mobility studies, arguing that physical space remains the dominant structure for human mobility. As we show, legal infrastructures reconfigure access to human mobility in ways that simultaneously fragment and compress physical space as it pertains to transnational movement.

Keywords: Citizenship; legal infrastructure; migration; tourism; free movement; transnational mobility

A. Introduction

Technological advances have made transnational human movement easier than ever.¹ For the first time in history and for large parts of the global population, transnational mobility² is both relatively safe and affordable.³ As a result, human movement has risen enormously in the past three decades,⁴ with yearly border crossing estimates now close to three billion globally.⁵ Tourists make up a striking eighty-two percent of all transnational movement, international migrants

¹See generally Massimo Livi Bacci, *Is Homo sapiens A Growingly Mobile Species (In the Very Long Run)?*, in HANDBOOK OF HUMAN MOBILITY AND MIGRATION (Ettore Recchi & Mirna Safi eds., 2024); HEIN DE HAAS, *HOW MIGRATION REALLY WORKS: THE FACTS ABOUT THE MOST DIVISIVE ISSUE IN POLITICS* (2023).

²This Article uses *mobility* as reference to *human spatial mobility*, that is, the physical movement of human beings in space and time. Compare this term with *social mobility*, which refers to a change in societal position. For more on the relation between these two archetypes of mobility, see AHARON KELLERMAN, *UNDERSTANDING PERSONAL MOBILITIES* (2023); Adrian Favell & Ettore Recchi, *Social Mobility and Spatial Mobility*, in *SOCIOLOGY OF THE EUROPEAN UNION* 50–75 (Adrian Favell & Virginie Guiraudon eds., 2011).

³See HEIN DE HAAS, *supra* note 1; VINCENT CHETAIL, *INTERNATIONAL MIGRATION LAW* 3 (2019).

⁴See generally Ettore Recchi & Mirna Safi, *Introduction*, in HANDBOOK OF HUMAN MOBILITY AND MIGRATION, *supra* note 1; STEFFEN MAU, *SORTING MACHINES: THE REINVENTION OF THE BORDER IN THE 21ST CENTURY* (2022); AXEL DREHER, NOEL G. GASTON & PIM MARTENS, *MEASURING GLOBALISATION: GAUGING ITS CONSEQUENCES* (2008).

⁵See generally EMANUEL DEUTSCHMANN, *MAPPING THE TRANSNATIONAL WORLD* (2022); Ettore Recchi, Emmanuel Deutschmann & Michele Vespe, *Estimating Transnational Human Mobility on a Global Scale* (Eur. Univ. Inst., Working Paper No. RSCAS 2019/30, 2019).

16.9 percent, while refugees and asylum seekers comprise less than one percent.⁶ Yet, despite borders being crossed by more people and at a higher frequency than ever before, human mobility has not become more global in nature, nor have borders become more permeable in recent years.⁷ Increases in transnational movement are, on the contrary, primarily driven by a small minority of privileged citizens who travel more often and to more destinations, while the majority of the global population is increasingly limited in their ability to move beyond the territory of the state to which they “belong.”⁸

Coinciding with this global mobility divide, recent empirical observations have shown that transnational mobility—contrary to popular belief—tends to cluster *within*, not *across*, geographical regions.⁹ Research by Deutschmann and Recchi shows that around eighty percent of all transnational mobility happens within world regions, and only twenty percent between regions.¹⁰ In other words, international human mobility is in fact not particularly global, or *inter-regional*, in nature, but overwhelmingly regionalized. While annual cross-border movements have steadily increased over the past decades, longitudinal data going back to the 1960s point to the regionalized spatial pattern of transnational movement being remarkably robust across time.¹¹ Based on these observations, Deutschmann & Recchi conclude that physical *space* remains the dominant structure shaping transnational movement and that the notion that human mobility has undergone a “death of distance”¹² or a “time–space compression”¹³ is empirically unfounded.¹⁴

The robust relationship between human mobility and physical space over time is a remarkable finding. It has significant implications not only for scholarly explanations of major shifts in immigration law and policy, as linked to for example the advent of “jet age asylum-seekers,”¹⁵ but also for ongoing policy discussions in many Global North countries, which for decades have remained wedded to a “deterrence paradigm”¹⁶ and rarely, if ever, consider how transnational migration control and legal mechanisms of *non-entrée* might obstruct free movement arrangements in other parts of the world.¹⁷ The conclusion drawn by Deutschmann and Recchi, however, seems to miss the other side of the equation—namely the extent to which complex webs of law related to, for example, immigration, travel, and deterrence themselves reconfigure transnational spaces for human mobility. It is not geographical distance, a lack of

⁶DEUTSCHMANN, *supra* note 5, at 6.

⁷Ettore Recchi & Emanuel Deutschmann, *How Global Is International Mobility?*, in HANDBOOK ON HUMAN MOBILITY AND MIGRATION, *supra* note 1; MAU, *supra* note 4.

⁸Steffen Mau, Fabian Gülzau, Lena Laube & Natascha Zaun, *The Global Mobility Divide: How Visa Policies Have Evolved over Time*, 41 J. ETHNIC & MIGRATION STUD. 1192 (2015); ZYGMUNT BAUMAN, *THE HUMAN CONSEQUENCE* 18 (1998); Thomas Spijkerboer, *The Global Mobility Infrastructure: Reconceptualising the Externalisation of Migration Control*, 20 EUR. J. MIGRATION & L. 452 (2018).

⁹See Recchi & Deutschmann, *supra* note 7.

¹⁰See DEUTSCHMANN, *supra* note 5; Recchi et al., *supra* note 5; Recchi & Deutschmann, *supra* note 7.

¹¹Recchi & Deutschmann, *supra* note 7. For more on levy-flight patterns of human movement, see Dirk Brockmann, Levente Hufnagel & Theo Geisel, *The Scaling Laws of Human Travel*, 439 NATURE 462–65 (2006).

¹²FRANCIS CAIRNCROSS, *THE DEATH OF DISTANCE: HOW THE COMMUNICATIONS REVOLUTION WILL CHANGE OUR LIVES* (1997).

¹³DAVID HARVEY, *THE CONDITION OF POSTMODERNITY* 240 (1989).

¹⁴DEUTSCHMANN, *supra* note 5, at 126, 133–34.

¹⁵David A. Martin, *The New Asylum Seekers*, in *THE NEW ASYLUM SEEKERS: REFUGEE LAW IN THE 1980s*, 1 (David A. Martin ed., 1988); Matthew J. Gibney, *The State of Asylum: Democratisation, Judicialisation and Evolution of Refugee Policy*, in *THE REFUGEES CONVENTION 50 YEARS ON: GLOBALISATION AND INTERNATIONAL LAW* 16 (Susan Kneebone ed., 2003).

¹⁶Thomas Gammeltoft-Hansen & Nikolas Feith Tan, *The End of the Deterrence Paradigm? Future Directions for Global Refugee Policy*, 5 J. ON MIGRATION & HUM. SEC. 28, 28 (2017).

¹⁷See generally James C. Hathaway & Thomas Gammeltoft-Hansen, *Non-Refoulement in a World of Cooperative Deterrence*, 53 COLUM. J. TRANSNAT'L L. 235 (2014); Marie Deridder, Lotte Pelckmans & Emilia Ward, *Reversing the Gaze: West Africa Performing the EU Migration-Development-Security Nexus*, 51 ANTHROPOLOGIE & DÉVELOPPEMENT 9 (2020) (Fr.); Rahmane Idrissa, *Dialogue in Divergence: The Impact of EU Migration Policy on West African Integration: The Cases of Nigeria, Mali, and Niger*, FRIEDRICH EBERT STIFTUNG 1 (2019) (Ger.).

economic capacity, nor historical similarities that deter, say, Mexicans from crossing the border into the United States, North Koreans from entering South Korean territory, or Tunisians from entering the Schengen Area. In each of these cases, an assemblage of domestic, regional, and international laws creates additional sociotechnical barriers for mobility between otherwise proximate geographies.¹⁸

Without refuting the empirical observations around the enduring centrality of physical space or “distance decay” for human mobility,¹⁹ a central premise for this Article is that transnational movement cannot be reduced to a function of “spatial nearness” alone. In each of the examples above, law—together with its associated material configurations of border controls,²⁰ transportation services, airports and harbors—determine which borders a person can cross, how quickly they get to pass, for what purpose, and at what cost.²¹ Laws related to human mobility, in other words, both fragment and compress geographical distances, and as such significantly reshape global mobility patterns. This speaks not only to law’s infrastructural properties, but also to how, beyond geography and technology, law today has become a central organizing medium for the mobility not only of people, but also of goods, money, and information.

Yet, despite its ubiquity, the mechanisms by which law shapes human mobility on the global scale remain unclear and often obscured. Rules related to human mobility are dispersed across numerous fields of study—from human rights law, refugee and humanitarian law, through visa and diplomacy law, maritime and aviation law, labor law, immigration law, and nationality law, to name but a few.²² Traditional legal research on this issue is not only thematically and geographically skewed,²³ it has also remained largely siloed in terms of adopting regime-specific perspectives.²⁴ Consequently, we know surprisingly little about how legal mobility regimes interact and reconfigure in response to each other, and the outcomes produced by these dynamics.²⁵ Different calls have been made for more multidimensional and non-formalist approaches to the legal regimes that govern human mobility.²⁶ Recent research has already shown

¹⁸William H. Byrne & Thomas Gammeltoft-Hansen, *Untangling the Legal Infrastructure of Schengen*, 9 EUR. PAPERS 157 (2024).

¹⁹Whereby the likelihood of movement between two places decreases as the distance between them increases. See Harvey J. Miller, *Tobler’s First Law and Spatial Analysis*, 94 ANNALS THE ASS’N AM. GEOGRAPHERS 284, 284–89 (2004); Robert Toovey Walker, *Geography, Von Thünen, And Tobler’s First Law: Tracing The Evolution of A Concept*, 112 GEOGRAPHICAL REV. 591 (2022).

²⁰See generally PETRA MOLNAR, *THE WALLS HAVE EYES: SURVIVING MIGRATION IN THE AGE OF ARTIFICIAL INTELLIGENCE* (2024); Spijkerboer, *supra* note 8.

²¹See generally E. Tendayi Achiume, Thomas Gammeltoft-Hansen & Thomas Spijkerboer, *Introduction to the Symposium on COVID-19, Global Mobility and International Law*, 114 AM. J. INT’L L. UNBOUND 312 (2020); Vincent Chetail, *The Architecture of International Migration Law: A Deconstructivist Design of Complexity and Contradiction*, 111 AM. J. INT’L L. UNBOUND 18 (2017).

²²See Vincent Chetail, *Professor of Int’l L. at the Graduate Inst. of Int’l and Dev. Stud., Remarks at the one-hundred-tenth meeting of the American Society of International Law: Conceptualizing International Migration Law*, in AM. SOC’Y INT’L L. PROC., at 201 (2017).

²³See Thomas Spijkerboer, *The Geopolitics of Knowledge Production in International Migration Law*, in RESEARCH HANDBOOK ON THE LAW AND POLITICS OF MIGRATION 172 (Catherine Dauvergne ed., 2021).

²⁴See Jaya Ramji-Nogales, *Moving Beyond the Refugee Law Paradigm*, 111 AM. J. INT’L L. UNBOUND 8, 8–12 (2017); Chetail, *supra* note 21.

²⁵See William H. Byrne, Thomas Gammeltoft-Hansen, & Nora Stappert, *Legal Infrastructures: Towards a Conceptual Framework*, 25 GERMAN L.J. 1229 (2024) (appearing in this same special issue). See also, MAU, *supra* note 4; Mikael Rask Madsen & Thomas Gammeltoft-Hansen, *Regime Entanglement in the Emergence of Interstitial Legal Fields: Denmark and the Uneasy Marriage of Human Rights and Migration Law*, 40 NORDIQUES 1 (2021) (Fr.).

²⁶See, e.g., Chantal Thomas, *What Does the Emerging International Law of Migration Mean for Sovereignty?*, 14 MELBOURNE J. INT’L L. 1 (2013); Cathryn Costello & Itamar Mann, *Border Justice: Migration and Accountability for Human Rights Violations*, 21 GERMAN L.J. 311–34 (2020); Jaya Ramji-Nogales, *Migration Emergencies*, 68 HASTINGS L.J. 118 (2017); Chetail, *supra* note 22.

how legal mobility regimes indeed do interact and entangle in ways that may eventually impact and reshape its constituent parts²⁷ with both intended and unintended systemic effects for the evolution of international law.²⁸ For example, the so-called “human rights turn”²⁹ within international refugee law, and subsequent uptake of migration cases before regional human rights courts and international human rights bodies, illustrates how the two fields over the course of a gradual normative process have become so intimately interdependent that it is now virtually impossible to separate one from the other.³⁰

In contribution to this burgeoning scholarship, this Article aims to unpack some of the complexities that pertain to the “juridical puzzle”³¹ that is “global mobility law.” It does so in two steps: The first section considers the benefits and pitfalls of approaching an inherently fragmented legal field such as mobility law as a legal infrastructure and, through this lens, reconnects existing scholarship on human mobilities with a legal perspective on how interlocking norms reconfigure physical space and mobility patterns. In the second section, we argue that *citizenship* provides a particularly useful analytical entry point for understanding the distributive effects of this legal infrastructure. As the legal status connecting person and state, citizenship not only serves as the prime determinant of individuals’ legal access to and range of transnational mobility,³² but also functions as an organizing principle across the wide array of different rules and norms governing this area. Finally, we turn to how the legal infrastructure for citizenship itself is evolving through an increasing acceptance of dual nationality status across jurisdictions, and specifically how this creates new mobility pathways for a small global elite capable of navigating the opportunities this affords them.

B. The Legal Infrastructure of Transnational Mobility

A central theme in this Special Issue concerns the benefits and pitfalls of approaching assemblages of legal regimes as *legal infrastructure* for the purpose of improving current understandings of the interplay between law and socio-material dynamics.³³ Despite the ontology of “infrastructure” becoming increasingly open-ended within the social sciences, the notion that formally different laws—in this case pertaining to human mobility—operate as one still requires an expansive view on how law and infrastructure come together, affect each other, and their individual ontological meanings³⁴—which is clear for neither.³⁵ Infrastructures have been described as “matter that

²⁷See generally Rask Madsen & Gammeltoft-Hansen *supra* note 25; Anna Wyss & Janine Dahinden, *Disentangling Entangled Mobilities: Reflections on Forms of Knowledge Production Within Migration Studies*, 10 COMP. MIGRATION STUD. 33 (2022); *ENTANGLED LEGALITIES BEYOND THE STATE* (Nico Krisch ed., 2021).

²⁸See Dimitry Kochenov, *Inter-Legality—Citizenship—Inter-Citizenship*, in *THE CHALLENGE OF INTER-LEGALITY* 133 (Jan Klabbers & Gianluigi Palombella eds., 2019).

²⁹Thomas Gammeltoft-Hansen, *Extraterritorial human rights obligations in regard to refugees and migrants* in *THE ROUTLEDGE HANDBOOK ON EXTRATERRITORIAL HUMAN RIGHTS OBLIGATIONS* (Mark Gibney, Gamze Erden Türkelli, Markus Krajewski, Wouter Vandenhole eds., 2021) See also RUTH RUBIO-MARIN, *HUMAN RIGHTS AND IMMIGRATION* (2014).

³⁰See, e.g., JAMES C. HATHAWAY, *THE RIGHTS OF REFUGEES UNDER INTERNATIONAL LAW* (2005); VINCENT CHETAIL, *INTERNATIONAL MIGRATION LAW* (2019); Vincent Chetail, *Migration and International Law: A Short Introduction*, in *INTERNATIONAL LAW AND MIGRATION* 1 (Vincent Chetail ed., 2016); Rask Madsen & Gammeltoft-Hansen *supra*, note 25.

³¹RICHARD B. LILICH, *THE HUMAN RIGHTS OF ALIENS IN CONTEMPORARY INTERNATIONAL LAW* 122 (1984).

³²See generally AYELET SHACHAR, *THE BIRTHRIGHT LOTTERY: CITIZENSHIP AND GLOBAL INEQUALITY* (2009); Seyla Benhabib, *THE RIGHTS OF OTHERS: ALIENS, RESIDENTS, AND CITIZENS* (2000); Francesca Strumia, *Migrant Citizenship: Rethinking the Citizenship-Mobility Nexus*, 38 NORDIC J. SOC. L. 127 (2024).

³³See Byrne et al., *supra* note 25.

³⁴As opposed to a “laws of infrastructures” framework, which denotes the symbiotic relationship between law and physical, digital, or other socio-material infrastructures, for example the physical structures and services involved in their enforcement and the laws related thereto, as well as the power and politics pertaining to infrastructures. See Byrne et al., *supra* note 25.

³⁵See Benedict Kingsbury & Nahuel Maisley, *Infrastructures and Laws: Publics and Publicness*, 17 ANN. REV. LAW & SOC. SCI. 353–73 (2021).

enable the movement of other matter,”³⁶ “the grounds on which other technologies can operate,”³⁷ or as “material systems of substrates”³⁸ working invisibly to make “other things work.”³⁹ Today, however, infrastructure terminology pertains as much to railroads, roads, and harbors as it does to the socio-technical distribution of digital information or financial ecosystems.⁴⁰ Despite this enlargement of its terminological meaning, a certain insistence remains consistent within the literature: Infrastructures are, at some level, human-made—something built as opposed to natural.⁴¹ In addition, infrastructures are defined as much by their structure as they are by the set of “relations, processes and imaginations”⁴² that connect their component parts; “they are things but also the relation between things.”⁴³ Enfolding and overlapping in multiple coexisting systems, infrastructural relations are often both recursive and entangled.⁴⁴ Personal access to the internet, for instance, relies on a computer connected to a host of network cables in the ground—both of which rely on electricity, which relies on power plants, which are in turn controlled by computer systems. Here, computers are both the *parent* and *child* of the systems that facilitate access to the internet. An infrastructure is thus not a hard-shelled system, “[n]ever a ‘thing’”⁴⁵ on which a particular set of functions or technologies operate, but always in a relationship or an infinite regress of relationships.

To speak of global mobility law as infrastructure in this vein may be met with opposition from certain scholars, arguing that the field lacks the kind of “formal or coherent multilateral institutional framework regulating states’ responses to international migration” that one would normally expect from international law.⁴⁶ Aleinikoff suggests that the field of international migration law “may well be conceived of as a body of legal norms of substance, but not one of architecture.”⁴⁷ Mégret questions whether the global body of law pertaining to human mobility might be more of a “law of obstacles to human mobility than a body of law premised on a more fundamental commitment to freedom of movement,”⁴⁸ and Chetail emphasizes that the architecture of international migration law is so contradictory, distorted, and asymmetrical that the legal field is better described in deconstructionist terms.⁴⁹ Shortcomings in terms of both codification issues and uneven ratification of existing instruments has led to arguments that “[w]hen it comes to human mobility, only refugees are the object of a legal regime.”⁵⁰ The legal framework for human mobility is indeed—as Lillich describes it—“a giant unassembled

³⁶Brian Larkin, *The Politics and Poetics of Infrastructure*, 42 ANN. REV. ANTHROPOLOGY 327, 329 (2013).

³⁷Michael Fisch, *Tokyo’s Commuter Train Suicides and the Society of Emergence*, 28 CULTURAL ANTHROPOLOGY 320, 320–43 (2012).

³⁸Susan Leigh Star, *The Ethnography of Infrastructure*, 43 AM. BEHAV. SCIENTIST 377, 377–91 (1999).

³⁹*Id.* at 380.

⁴⁰Larkin, *supra* note 36; Byrne et al, *supra* note 25.

⁴¹Larkin, *supra* note 36.

⁴²Benedict Kingsbury, *Infrastructure and InfraReg: On Rousing the International Law “Wizards of Is”*, 8 CAMBRIDGE INT’L L.J. 171, 179 (2019).

⁴³Larkin, *supra* note 36, at 329.

⁴⁴See Penny Harvey, *Infrastructures In and Out of Time: The Promise of Roads in Contemporary Peru*, in THE PROMISE OF INFRASTRUCTURE 84 (Hannah Appel, Nikhil Anand & Akhil Gupta eds., 2018).

⁴⁵GREGORY BATESON, STEPS TO AN ECOLOGY OF MIND 249 (1978).

⁴⁶Alexander Betts, *Introduction*, in GLOBAL MIGRATION GOVERNANCE (Alexander Betts ed., 2011).

⁴⁷Thomas Alexander Aleinikoff, *Toward a Global System of Human Mobility: Three Thoughts*, 111 AM. J. INT’L L. UNBOUND 24 (2017); Thomas Alexander Aleinikoff, *International Legal Norms on Migration: Substance Without Architecture*, in INTERNATIONAL MIGRATION LAW: DEVELOPING PARADIGMS AND KEY CHALLENGES 471 (Ryszard Cholewinski, Richard Perruchoud & Evan MacDonald eds., 2007).

⁴⁸Frédéric Mégret, *Transnational Mobility, the International Law of Aliens, and the Origins of Global Migration Law*, 111 AM. J. INT’L L. UNBOUND 13, 13 (2017).

⁴⁹Chetail, *supra* note 21.

⁵⁰Antoine Pécoud, *Philosophies of Migration Governance in a Globalizing World*, 18 GLOBALIZATIONS 103, 103, 106–07 (2021).

juridical jigsaw puzzle,” for which “the number of pieces is uncertain, and the grand design is still emerging.”⁵¹

Yet, it is precisely for these reasons that an infrastructural lens may be useful. First, in contrast to more doctrinal approaches invariably emphasizing normative gaps and fragmentation, an infrastructure approach enables us to explore normative connections and conjoined impacts between formally separate legal regimes. Ascertaining a person’s access to transnational movement only really makes sense when considering how different laws interoperate.⁵² In his article elsewhere in this Special Issue, Frédéric Mégret traces how travel visas have become a “ubiquitous legal infrastructure” for everyday mobility, with broad-scale and heavily skewed impact on global mobility.⁵³ On their own, however, visa rules are largely ineffective in preventing the physical arrival of, for example, asylum-seekers, thereby triggering core obligations of prospective host states in the Global North. The enforcement of visa rules instead depends on other legal constructs. The most important being the global spread of carrier sanction legislation, by which commercial travel operators are fined for carrying passengers without proper travel authorization. This has led to a *de facto* privatization of migration control, requiring airlines across the world to perform extensive pre-embarkation screening and registrations.⁵⁴ Another is the host of bilateral and cross-regional agreements between the Global North and transit and origin countries, enlisting national authorities in these states to perform exit or en route document and migration control.⁵⁵ It is only through the interaction between these different legal constructs that the osmotic “filtration” instigated by visa regimes gains its practical significance for (in)access to transnational mobility.⁵⁶ And it is only by bringing these different elements—of which the above-mentioned are only a few examples—into constellation that we may appreciate what Shachar terms the “shifting borders of the twenty-first century,” by which the physical enforcement of mobility restrictions in the form of border control is no longer based on affixed territorial markers, but rather subject to prosperous states’ constant utilization of sophisticated legal tools to either selectively restrict or incentivize particular mobility patterns.⁵⁷

Second, a legal infrastructure approach underscores that mobility law—like all infrastructures—is not a hard-shelled system operating within a vacuum, but a structure inextricably linked to other mobility determinants and wider normative structures. Mobility law both shapes and is being shaped by socioeconomic, spatial, and material structures that pertain to human mobility.⁵⁸ Just as geography and technology have historically shaped *spatial accessibility*,⁵⁹ social structures—whether legal, socioeconomic, or material—form their own topographies of accessibility. Free movement of people regimes (“FMPRs”) are a case in point. As legal constructs, the European Schengen Zone or the South American Common Market (“MERCOSUR”) are often hailed as liberal models that enhance social circulation by limiting

⁵¹Lillich, *supra* note 31, at 122.

⁵²MAU, *supra* note 4.

⁵³See Frédéric Mégret, *The Travel Visa as the Ubiquitous Legal Infrastructure of Everyday Global Mobility Arbitrariness*, 25 GERMAN L.J. (2024) (appearing in this same special issue).

⁵⁴Spijkerboer *supra*, note 8 at 456; Tilman Rodenhäuser, *Another Brick in the Wall: Carrier Sanctions and the Privatization of Immigration Control*, 26 INT’L J. OF REFUGEE L. 223–247 (2014).

⁵⁵Hathaway et al *supra*, note 17.

⁵⁶Thomas Gammeltoft-Hansen, *Filtering out the Risky Migrant: Migration Control, Risk Theory and the EU*, 52 AMID WORKING PAPER SERIES (2006).

⁵⁷AYELET SHACHAR, *SHIFTING BORDER: LEGAL CARTOGRAPHIES OF MIGRATION AND MOBILITY* (Manchester University Press, 2020).

⁵⁸Byrne et al., *supra* note 25. See also Niamh Keady-Tabbal and Itamar Mann, *Weaponizing rescue: Law and the materiality of migration management in the Aegean*, 36 LEIDEN J. OF INT’L L. 61 (2022) (presenting Keady-Tabbal and Mann’s analysis of systematic “drift-backs” in the Aegean Sea).

⁵⁹Toovey Walker, *supra* note 19.

states' capacity for restricting the entry of foreigners into their territory.⁶⁰ Yet as “macro-territorializations”⁶¹ formed along socioeconomic divides, FMPRs not only promote social circulation internally, but are equally legal arrangements that reconfigure social stratifications and economic divides by simultaneously hardening external borders.⁶²

In our context, the legal infrastructure actively distorts and reorganizes physical mobility pathways, rather than merely reflecting pre-existing or “natural” boundaries. On the one hand, this may serve to compress physical distances by creating specific mobility corridors or “legal wormholes” facilitating specific patterns of transnational movement. Consider, for example, the bilateral visa waiver agreements between Australia/New Zealand and European countries, the web of bilateral transnational labor agreements between the Gulf and various countries in Africa and Asia, or the so-called China–Ghana corridor. Each of these are legal arrangements that have reshaped mobility flows by facilitating cross-regional movements. Vice versa, legal infrastructures in many cases carve up and obstruct human movement between otherwise proximate territories. Consider, for example, how EU enlargements in both 2004 and 2007, and the subsequent Schengen processes, created new “hard borders” in parts of Eastern Europe, which previously had enjoyed free movement—literally splitting villages along the new Schengen border down the middle.⁶³

These dynamics can be observed on larger scales as well. International tourism, student mobility, and labor migration are all characterized by a “global mobility divide”⁶⁴ produced and sustained by law. The evolution of visa-waiver rules have meant that travel opportunities have increased for citizens of OECD countries over the past forty years, but have stagnated or diminished for citizens in less affluent countries.⁶⁵ Across the same period, visa costs have become almost perfectly inversely proportional to the GDP of a country: Low for citizens of wealthy countries—if not waived entirely—while citizens of poor countries pay exceedingly more for a visa in both relative and absolute terms, in some countries costing more than an average monthly income.⁶⁶ Finally, increasingly high visa rejection rates for citizens of low-income countries exacerbate the mobility divide. Forty to fifty percent of visa applicants from Ghana, Senegal, and Nigeria are, for example, rejected in the EU.⁶⁷

In sum, even if eight out of ten transnational movements do occur intra-regionally, it would be reductive to conclude, as Deutschmann and Recchi do, that transnational movement is predominantly structured by physical space.⁶⁸ What is missing from this interpretation is that legal infrastructure (re-)configures mobility opportunities across any “portion of the surface of the globe.”⁶⁹ Laws related to transnational mobility in many cases *do* sustain intra-regional

⁶⁰Rainer Bauböck, *Free movement regimes: is the EU experience exportable?*, in HANDBOOK OF HUMAN MOBILITY AND MIGRATION 242–256 (Edward Elgar Publishing, 2024); Diego Acosta Arcarazo, *The Expansion of Regional Free Movement Regimes. Towards a Borderless World?*, in CAUGHT IN BETWEEN BORDERS: CITIZENS, MIGRANTS AND HUMANS (Wolf Legal Publishers, 2019). See also Florian Hofmann & Andrea Jimenez, *Unruly Practices at the Border: From Mobility Regimes to Infrastructures in a Latin American Key*, 25 GERMAN L.J. (2024) (appearing in this same special issue).

⁶¹MAU, *supra* note 4, at 116.

⁶²SHACHAR, *supra* note 57; Spijkerboer, *supra* note 8; MAU, *supra* note 4.

⁶³Etienne Ciapin, *Western Border Issues of Ukraine in Crisis: Transcarpathia, Border Interface with the European Union*, 20 POLITICKÉ VEDY 174–189 (2017).

⁶⁴Mau et al. *supra* note 8; Bauman, *supra* note 8. See Mathias Czaika, Hein de Haas & Maria Villeras-Varela, *The Global Evolution of Travel Visa Regimes*, 44 POPULATION & DEV. REV. 589, 589 (2018) (suggesting that “instead of a global mobility divide, it is more appropriate to speak of multiple regional mobility divides in an increasingly multi-polar world”).

⁶⁵Mau et al., *supra* note 8.

⁶⁶Recchi et al., *supra* note 7.

⁶⁷Commission Report on Statistics on migration to Europe (Apr. 11, 2024), https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/promoting-our-european-way-of-life/statistics-migration-europe_en#irregular-border-crossings; Benjamin Fox, *EU cashes in on €130m in rejected visa applications*, EUOBSERVER (June 5, 2024, 11:13 AM), <https://euobserver.com/eu-and-the-world/ar1aabb08b>.

⁶⁸DEUTSCHMANN, *supra* note 5, at 126 and 133–134.

⁶⁹Gail Lythgoe, *The changing “landscape” of sovereignty viewed through the lens of international tax: Reterritorializing the offshore*, 59 CANADIAN YEARBOOK OF INT’L L. [ANNUAIRE CANADIEN DE DROIT INTERNATIONAL] at 171 (2022).

movement—either directly, such as in the case of regional free movement arrangements, or indirectly through corollary barriers for mobility between world regions. Yet, at a more fundamental level, mobility law enables exactly the kind of “time-space compression”⁷⁰ that Deutschmann and Recchi seek to refute—on the one hand, it establishes distinct mobility corridors across world regions, and on the other it carves up hard boundaries within historically important spaces of transnational mobility. The importance of law in this context is not a new insight, even among social scientists. Sociologists such as Torpey have insightfully pointed to visas and passports as means of “population movement control” through which states “monopolize the legitimate means of movement.”⁷¹ Yet, in both law and other disciplines such analyses have largely focused on singular legal regimes. The significance of an infrastructural approach in this context is thus first and foremost to draw out the structural and accumulative effects of law in shaping transnational mobility patterns.⁷² It enables a combined perspective on how laws related to mobility produce “differentiation, stratification, and hierarchy”⁷³—not just in terms of geography and space, but equally in relation to elements such as nationality, class, and socio-material conditions.⁷⁴ Second, by foregrounding law as a particular type of infrastructure, our approach brings attention to the complex interplay between different bodies of law and how changes in one legal regime may reverberate across several others, ultimately producing system-wide reconfigurations. In the following sections, we turn to illustrate each of these dynamics using citizenship as an explorative frame.

C. Citizenship and (Im)Mobility

Moving beyond regime-specific perspectives to consider the wide array of laws related to human mobility as forming a particular type of infrastructure presents an immediate analytical challenge. Like other large-scale infrastructures, it is much easier to offer examples of mobility law’s structuring role or its impacts from an experiential basis than it is to neatly delineate its boundaries or attempt to perceive its totality.⁷⁵ Within infrastructure studies this problem has led to a host of different analytical strategies, from vertically unearthing different layers (“*strata*”) of infrastructure,⁷⁶ to shifting attention to the activities and actors that enable infrastructures to function (referred to as “*infrastructural inversion*”).⁷⁷ The solution offered here is more horizontal, namely to exploratively trace particular nodes of the legal infrastructure—in our case those related to citizenship. Building on the notion that all infrastructures are “distributions of features or qualities along several axes,”⁷⁸ we argue that citizenship operates almost as an axial centerpiece

⁷⁰HARVEY, *supra* note 13; CAIRNCROSS, *supra* note 12.

⁷¹JOHN C. TORPEY, *THE INVENTION OF THE PASSPORT: SURVEILLANCE, CITIZENSHIP AND THE STATE*, 5 (Cambridge University Press, second edition, 2018); Mark B. Salter, *The Global Visa Regime and the Political Technologies of the International Self: Borders, Bodies, Biopolitics* 31 ALTERNATIVES 167, 167 (2006).

⁷²Spijkerboer *supra* note 8; MAU *supra* note 4.

⁷³Kingsbury, *supra* note 42, at 179.

⁷⁴See generally Byrne et al., *supra* note 25.

⁷⁵Mark Thomas Young, *Now You See It (Now You Don't): Users, Maintainers and the Invisibility of Infrastructure*, in *TECHNOLOGY AND THE CITY: TOWARDS A PHILOSOPHY OF URBAN TECHNOLOGIES* 101–119 (Michael Nagenborg, Taylor Stone, Margot, González Woge, & Pieter E. Vermaas, eds., 2021); Christine L. Borgman, *The invisible library: Paradox of the global information infrastructure*, 51 LIBRARY TRENDS (2003).

⁷⁶Susan Leigh Star, *The Ethnography of Infrastructure*, 43 AM. BEHAV. SCIENTIST 377–391 (1999).

⁷⁷GEOFFREY C. BOWKER, *SCIENCE ON THE RUN: INFORMATION MANAGEMENT AND INDUSTRIAL GEOPHYSICS AT SCHLUMBERGER, 1920–1940* (1994). For more recent critiques of such approaches see, for example, Larkin, *supra* note 36; NIKHIL ANAND, AKHIL GUPTA, AND HANNAH APPEL, *THE PROMISE OF INFRASTRUCTURE* (Nikhil Anand, Akhil Gupta, and Hannah Appel eds., 2018).

⁷⁸Kingsbury & Maisley *supra* note 35; Geoffrey C. Bowker, Karen Baker, Florence Millerand, and David Ribes, *Toward information infrastructure studies: ways of knowing in a networked environment*, in *INTERNATIONAL HANDBOOK OF INTERNET RESEARCH* 97–117 (J. Hunsinger et al eds., 2009).

within the legal infrastructure of mobility. As both a medium and outcome of the assemblage of rules, norms, and institutions that regulate human mobility, citizenship is in one way or the other connected to most, if not all, legal regimes pertaining to human mobility. Beyond its role within mobility law, citizenship also influences global mobility across socioeconomic, spatial and material dimensions. Indeed—as we will come to see—once approached for its multidimensionality, citizenship, more than any other social or legal status, determines the extent to which an individual can move freely around the world.⁷⁹ For this reason, citizenship serves as a particularly useful lens to explore, examine, and ultimately elucidate how law shapes human movement on the planetary scale.

In the following, we thus examine how citizenship operates within the legal infrastructure for human mobility. Specifically, we highlight five central mechanisms through which citizenship structures global patterns of (im)mobility. First, while in most states citizenship confers on its holder an—almost—unconditional right to reside and move *within* the territory of the granting state, citizenship is simultaneously leveraged to *disenfranchise* large parts of the world's population from moving beyond the borders of the state to which they “belong.” Because only citizens can move, reside, and work within the borders of the issuing country without fear of deportation,⁸⁰ citizenship offers on the one hand an unrivaled degree of freedom of movement within the territory of the citizenship-granting state, yet on the other it is a status that effectively ties people down to the physical locality recognized as the territory of the issuing state. Second, citizenship indirectly provides its holder with varying degrees of *extraterritorial* mobility privileges, that is legal permissions granted by other states to cross into territories other than that of the citizenship-granting state. Extraterritorial mobility privileges are the reason why, for example, a French citizen may settle or travel in large parts of the world visa-free, while a Somalian can only travel visa-free to a handful of countries—most of which are other African states.⁸¹ As both bilateral and multilateral visa waiver programs and domestic visa rules almost exclusively differentiate based on nationality status, extraterritorial mobility privileges pivot on citizenship. Third, more subtly and on a smaller scale, nationality status shapes transnational mobility as an increasingly important criterion across a range of other international legal regimes, including refugee law, human rights law, and statelessness law. Fourth, citizenship determines not only *where* a person lives, but also *from where* a person's transnational movement may begin, exhibiting profound impacts on both the spatiotemporal and economic costs of—and access to—transnational movement. Finally, we consider how two recent and intersecting legal developments in nationality law—namely the increasing acceptance of dual nationality status and the emergence of citizenship by investment (“CBI”) schemes—might reverberate throughout the legal infrastructure of transnational mobility and create new mobility pathways for economic elites.

1. Citizenship as Mobility Disenfranchisement

Although empirical research shows that transnational movement predominantly occurs within world regions, it says little about the large demographic left entirely out of such statistics because they do not move transnationally at all. With respect to spatial mobility, the starting point and principal feature of citizenship is that it is a legal status that ties people down to the territory in which they were born—a “spatial fixation”⁸² of the individual to the geographically delineated area

⁷⁹See generally SHACHAR, *supra* note 32; Benhabib, *supra* note 32.

⁸⁰DIMITRY KOCHENOV, CITIZENSHIP (MIT, 2019). See CHRISTIAN PRENER, DENATIONALISATION AND ITS DISCONTENTS (Brill, 2022) (providing the exception, being deportation following citizenship revocation for terrorist offences or other serious criminal offences).

⁸¹For an overview of visa requirements according to citizenship status, see, for example, *The Passport Index*, ARTON, <https://passportindex.org/> (last visited Oct. 15, 2024).

⁸²Distinct From Harvey's concept of “spatial fix.”

internationally recognized as under the rightful sovereign control of the state.⁸³ While this may contradict the lived experience of say, a Danish or Singaporean citizen, who precisely *because* of their citizenship can travel to more countries than ever before, it is here crucial to emphasize that while a few “super citizenships” may indeed provide access to a plethora of transnational mobility opportunities, nationality status *per se* is never the source of such extraterritorial mobility privileges. Rather, extraterritorial mobility springs from, and is thus contingent on, other states granting such mobility privileges based on either domestic law, bilateral or multilateral agreements. Ultimately, access to another territory is always a *privilege* contingent on the hospitality of a receiving state and never a *right* deriving from citizenship. With respect to transnational mobility, citizenship represents at its core rather *immobility*—a legal and ultimately physical confinement of the individual to the territory of the issuing state.⁸⁴ The fact that most states today grant their citizens a right to leave their own country⁸⁵ has not changed this fundamental aspect of the citizenship–mobility nexus, as the exit from one country always relies on the entering of another. In the absence of a permissive right—such as a *visa*—to enter another country, the legal infrastructure of mobility works to ensure that people remain where they hold citizenship. From this perspective, the minority of the global population who, due to the color of their passport, may travel and reside within large parts of world are thus not transnationally mobile *because* of their citizenship, but rather because of mobility law having been organized *around* citizenship.

That citizenship ties people down to territories is abundantly evident in the spatial distribution of the global population. As shown by Milanovic, a hallmark of the spatial distribution of the global population is indeed that people overwhelmingly live where they are born.⁸⁶ When coupled with the fact that international migrants account for less than four percent of the world’s population⁸⁷ and citizenship acquisition after birth remains an exceptionally rare occurrence—currently accounting for less than *two percent* of all citizenship statuses in the world⁸⁸—the absolute majority of the global population not only live where they are born—they live where they hold citizenship. The fact that transnational movement has soared tremendously over the past decades⁸⁹ is not an indication that this territorial confinement prompted by citizenship has lessened. On the contrary, it is a testament to, on the one hand, the technological ease and affordability of cross-border travel today, and, on the other hand, the unprecedented degree of access to visa-free movement that a small minority of the world’s more privileged citizens enjoy. For the absolute majority of the global population, freedom of movement exists only within the geographically delineated area, *territory*, to which they “belong”—and in some cases not even there either.⁹⁰

⁸³GAIL LYTHGOE, *THE REBIRTH OF TERRITORY* (CUP, 2024) (arguing that the meaning of “territory” should be redefined).

⁸⁴For an introduction of the underlying historical reasons, see Torpey *supra* note 71.

⁸⁵G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 13.2 (Dec. 10, 1948); Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221, art. 2, Protocol 4 [hereinafter European Convention on Human Rights].

⁸⁶BRANKO MILANOVIC, *GLOBAL INEQUALITY*, (Harvard Press, 2016); KOCHENOV, *supra* note 80.

⁸⁷There were some 258 million migrants globally in 2017. UN DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS POPULATION DIVISION, *INTERNATIONAL MIGRATION REPORT 2017* (UN, 2017); and around 281 million in 2021 according to IOM, *WORLD MIGRATION REPORT 2022* (M. McAuliffe & A. Triandafyllidou eds., 2021).

⁸⁸All cases of naturalization globally amount to less than two percent of the world’s population. See KOCHENOV, *supra* note 80, at 12.

⁸⁹While the global population has grown 2.5 times over the past sixty years, the growth rate of cross-border travels in 2019 was approximately 22 times that of 1960 according to the UN World Tourism Organization. Note that the UNWTO’s definition of “tourism” includes all types of transnational travels, except day trips and returns to one’s country of residence. See Ettore Recchi & Mirna Safi, *Introduction*, in *HANDBOOK OF HUMAN MOBILITY AND MIGRATION* (Ettore Recchi & Mirna Safi eds., 2024).

⁹⁰Spijkerboer, *supra* note 8; MAU, *supra* note 4; Bauman, *supra* note 8.

II. Extending Mobility Privileges Through Citizenship

In reverse, the second mechanism by which citizenship shapes transnational mobility is as the medium through which *extraterritorial mobility privileges*—the legal permissions granted by other states to cross into territories other than that of the citizenship-granting state—are distributed.

As shown by empirical research on visa waivers⁹¹ and visa costs,⁹² access to transnational mobility is today both regionally stratified and highly unequally distributed, producing a “global mobility divide” between the Global North and South⁹³ or indeed “multiple regional mobility divides in an increasingly multi-polar world.”⁹⁴ Whereas a Norwegian or Singaporean citizen may effortlessly travel large parts of the world, the average Sudanese or Pakistani citizen has very limited legal options for moving beyond the territory of their state.⁹⁵ For a variety of reasons,⁹⁶ most countries design their domestic visa and immigration rules to deliberately “filter out” citizens from low-income countries such as Sudan or Pakistan. This kind of differential treatment based on nationality status has long been a hallmark of the global visa regime, which, in the words of Czaika et al, can be seen as “systems of institutionalized discrimination based on nationality,” justified from a logic of “protecting the exclusive residency and political rights of citizens.”⁹⁷ While principally nationality-based, EU visa policies have further been shown to strongly correlate with ethnic, religious, class, and gender divides, fueling arguments that visa rules broadly violate non-discrimination principles.⁹⁸ Within legal scholarship, Spijkerboer has argued that a legal infrastructural approach may precisely aid such arguments by bringing attention to the intimate connections between different rulesets and their combined effects, ultimately pointing to international law’s “partisan character” in sustaining a marginalization of mobility rights for large parts of the world’s population along these lines.⁹⁹ According to den Heijer, the legal proceedings around the 2017 US travel ban, which targeted predominantly Muslim countries, show some potential for concrete actions in this regard—even if a revised policy ultimately was accepted by the US Supreme Court.¹⁰⁰ At the same time, however, concrete attempts to challenge this status quo face the obstacle that international law has for more than a century granted states an extraordinary degree of leeway to adopt differential treatment based on citizenship, not just in migration law but on a range of different issues.¹⁰¹ Indeed, the way in which mobility law has historically developed through webs of bilateral or regional agreements reciprocally extending certain rights and privileges to third-country nationals means that citizenship-based discrimination is effectively baked in. By formally classifying nationality as a non-hierarchical status, despite all evidence to the contrary, mobility law effectively allows states to circumvent evolving discrimination norms within the domain of territorial access.

⁹¹Mau et al., *supra* note 8.

⁹²Ettore Recchi, Emanuel Deutschmann, Lorenzo Gabrielli, and Nodira Kholmatova, *The global visa cost divide: How and why the price for travel permits varies worldwide* 86 POLITICAL GEOGRAPHY (2021).

⁹³Mau et al., *supra* note 8; Bauman, *supra*, note 8.

⁹⁴Czaika et al., *supra* note 64 (suggesting that “instead of a global mobility divide, it is more appropriate to speak of multiple regional mobility divides in an increasingly multi-polar world”).

⁹⁵ARTON, *supra* note 81.

⁹⁶Gammeltoft-Hansen & Tan, *supra* note 16.

⁹⁷Czaika et al., *supra* note 64.

⁹⁸Maarten den Heijer, *Visas and Non-discrimination*, 20 EUR. J. OF MIGRATION AND L. 470, 470 (2018).

⁹⁹Spijkerboer, *supra* note 8.

¹⁰⁰den Heijer, *supra* note 98.

¹⁰¹*Id.*; Christian Prener, *The dichotomy within denationalisation: Perpetuating or emancipating from its discriminatory past?*, 22 INT’L J. OF DISCRIMINATION AND THE L. 305, 305–25 (2022); ROGERS BRUBAKER, *CITIZENSHIP AND NATIONHOOD IN FRANCE AND GERMANY* (Harvard University Press, 2009).

III. Citizenship-Based Differentiation Across Different Mobility Regimes

Citizenship-based differentiation likewise plays an important, albeit more subtle, role for access to transnational mobility across several other international legal regimes, including human rights law, refugee law, and statelessness law.¹⁰² These are legal regimes usually celebrated as universalist exceptions to the principles of sovereignty and self-determination. Consider, for example, the international refugee regime: While refugee organizations in the Global North may insist on individual determinations of asylum seekers' protection needs as part of national procedures, the reality in many large-scale refugee hosting countries in regions of origin is often strikingly different in terms of adopting *prima facie* or group-based recognition based largely on nationality.¹⁰³ In Europe, a similar approach was adopted in regard to Ukrainian refugees, again prompting arguments about differential treatment based on nationality.¹⁰⁴ Important in this regard was the EU's prior extension of visa-free access for Ukrainian nationals as part of labor agreements, which not only incapacitated the EU's existing model for asylum reception—the so-called Dublin system—but also highlights how nationality-based distinctions in one area of mobility law, labor, may ultimately come to determine responses in other areas, asylum.¹⁰⁵

Even within the ordinary asylum systems of many Global North states, there is an increasing tendency to short-cut legal niceties through collective procedures strictly based on nationality status.¹⁰⁶ As part of the recently adopted EU Pact on Migration and Asylum, many more asylum applicants will be subjected to expedited procedures if they are deemed nationals of countries with an acceptance rate of lower than twenty percent.¹⁰⁷ Vice versa, Frontex routinely refers to “a large number of false declarations of nationality among claimed Palestinian nationals, in particular by nationals from Maghreb (Algeria, Morocco) and Middle East countries (Iraq).”¹⁰⁸ While an asylum seeker potentially declaring another nationality may be incentivized by imaginations about their rights, the phenomenon ultimately reveals how the “right nationality” translates into refugee and human rights protection. As Itamar Mann notes, asylum seekers declaring a false nationality is not about seeking the cover of another nationality, but rather calls for “universal humanism”—being human “*sans* the added layer of citizenship.”¹⁰⁹ For those falsely claiming to be Palestinian, for instance, Palestine functions as “a symbol for crisis”; a locality so awful that it calls for the immediate protection for all those who come from there.

IV. Citizenship, Socioeconomic Status and Global Mobility

Our fourth perspective is that citizenship not only determines *where* a person lives, but also *from where*—in both geographic and socioeconomic terms—a person may embark on a transnational journey. While increasingly affordable, transnational movement remains a demanding financial expenditure relative to average income levels for most of the world's population. As the average person's socioeconomic capacity is increasingly, and in many cases almost entirely, determined by

¹⁰²Christian Prener, *Citizenship Revocation and The Question of Proportionate Consequences: Latest Judgment from The Danish Supreme Court Sheds New Light on the Limits of Article 8 of the European Convention on Human Rights*, 5 STATELESSNESS & CITIZENSHIP REV., 112, 112–117 (2023); Prener, *supra* note 101.

¹⁰³Tamara Wood & Ahmed Elbasyouny, *Analysing group refugee recognition in African states' law and practice*, 11 REF. MIG. WORKING PAPERS (2023); Jean-François Durieux, *The many faces of “prima facie”: group-based evidence in refugee status determination*, 25 REFUGEE 151 (2008).

¹⁰⁴Cathryn Costello & Michelle Foster, *(Some) refugees welcome: When is differentiating between refugees unlawful discrimination?*, 22 INT'L J. OF DISCRIMINATION AND THE L. 244, 244 (2022).

¹⁰⁵Thomas Gammeltoft-Hansen & Florian Hoffmann, *Mobility and legal infrastructure for Ukrainian refugees*, 60 INT'L MIGRATION 213–215 (2022).

¹⁰⁶Elspeth Guild, *The Right to Dignity of Refugees: A Response to Fleur Johns*, 111 AJIL UNBOUND 193 (2017).

¹⁰⁷Cecilia Manzotti, *Nationality Status Determination in Asylum Procedures under the CEAS and the Potential Impact of the “New Pact on Migration and Asylum”*, 35 INT'L J. OF REFUGEE L. 193, 193–212 (2023).

¹⁰⁸FRONTEx, EXTRACT FROM THE ANNUAL RISK ANALYSIS 2010, 15 (FRONTEx, 2010).

¹⁰⁹Itamar Mann, *Border Masquerades*, 39.1 (8) BERKELEY J. INT'L L., 127, 141 (2021).

the country in which one is born, the importance of citizenship in this regard has only been magnified in recent years.

Traditionally, research on citizenship has concerned itself with the status *within* the nation-state entity. Foregrounding the rules for acquisition and loss of citizenship within general politics of inclusion and resistance, much citizenship literature focuses on citizenship as a legal reflection of citizens' (in)ability to affect change in society, citizenship as a means of social inclusion—and exclusion—and citizenship as a tool for integration through equal rights, national belonging, identity, and civic responsibility.¹¹⁰ Rights-based approaches in particular have dominated citizenship literature over the past many decades, with countless variations of either Marshall's formative conceptualization of citizenship as a bundle of political, civil, and social rights along with duties such as taxation, military service, and political participation,¹¹¹ or Arendt's notion of citizenship as a "right to have rights," a *meta-right* necessary for the protection of all other rights.¹¹²

In contrast, a growing critical strand of citizenship literature has approached citizenship as a distinct form of *social closure*—in both national, regional, and global contexts.¹¹³ Noting the lack of any sustained analysis of the relevance for citizenship in Weber's concept of social closure, Brubaker, for instance, argues that *closure*—as embodied in a host of institutions and practices such as the territorial border, universal suffrage, universal military service, and naturalization—*always* pivots on the legal institution of citizenship.¹¹⁴ Only citizens have an unqualified right to enter and remain in the geographical space defined as a state's "territory," and naturalization—which governs access to citizenship status after birth—is itself restricted to the qualified. For these reasons, Brubaker argues, citizenship is both an *instrument* and *object* of closure.¹¹⁵ Spatially, citizenship excludes unauthorized non-citizens from the national territory; politically, citizenship excludes non-citizens from political decision-making; economically, citizenship excludes non-citizens from the labor market and welfare rights; socially, citizenship excludes non-citizens from the national community.¹¹⁶

Within this critical strand of literature, a particular focus is on citizenship as a driver of global socioeconomic inequalities. From different disciplinary backgrounds, scholars such as Joseph Carens, Seyla Benhabib, Aylet Shacar, and Branko Milanovic—and more recently, Dimitry Kochenov, Yossi Harpaz and Sara Kalm—have all argued that citizenship, in combination with the international system of passports and visa restrictions, reinforces global socioeconomic inequalities.¹¹⁷ Moving further in this direction, Mau argues that the institution of citizenship operates as a "global hierarchy of mobility," designed to keep the masses from accessing the

¹¹⁰See e.g., Rainer Bauböck, *Democratic inclusion: A pluralist theory of citizenship*, in *DEMOCRATIC INCLUSION* (Manchester University Press, 2018); Rainer Bauböck, *Expansive citizenship—voting beyond territory and membership*, 38 PS: POL. SCI. & POL., 683 (2005); Rogers Brubaker, *Migration, membership, and the modern nation-state: Internal and external dimensions of the politics of belonging*, 41 J. OF INTERDISCIPLINARY HIST. 61 (2010); Christina Gathmann & Julio Garbers, *Citizenship and integration*, 82C LAB. ECON. (2023); Maarten Vink & Gerard-René De Groot, *Citizenship attribution in Western Europe: International framework and domestic trends*, 36 J. OF ETHNIC AND MIGRATION STUD. 713 (2010); Maarten Vink, *Comparing Citizenship Regimes*, in *THE OXFORD HANDBOOK OF CITIZENSHIP*, 221 (2017).

¹¹¹T.H. Marshall famously defined citizenship as a set of civil rights guaranteeing individual freedom, protected by law; political rights of participation in the civil polity, as protected by Parliament; and social rights to economic welfare and security, protected by a welfare state. See generally T. H. MARSHALL & THOMAS BOTTOMORE, *CITIZENSHIP AND SOCIAL CLASS* (1950).

¹¹²HANNAH ARENDT, *THE ORIGINS OF TOTALITARIANISM* 2 (1958).

¹¹³See, e.g., Joseph H. Carens, *Who Belongs? Immigration, Democracy, and Citizenship*, in *OF STATES, RIGHTS, AND SOCIAL CLOSURE: GOVERNING MIGRATION AND CITIZENSHIP* (Oliver Schmidtke & Saima Ozcurumez eds., 2008).

¹¹⁴See generally ROGERS BRUBAKER, *CITIZENSHIP AND NATIONHOOD IN FRANCE AND GERMANY* (2009).

¹¹⁵See Rogers Brubaker, *Beyond Ethnicity*, 37 ETHNIC & RACIAL STUD. 804, 804–808 (2014).

¹¹⁶*Id.*

¹¹⁷See generally JOSEPH H. CARENS, *THE ETHICS OF IMMIGRATION* (2013); Seyla Benhabib, *The Emergence of Citizenship as a Political Problem in an Era of Globalization*, in *CITIZENSHIP, EDUCATION AND SOCIAL CONFLICT* 37 (2012); Shachar, *supra* note 32; Milanovic, *supra* note 80; Kochenov, *supra* note 80; YOSHI HARPAZ, *CITIZENSHIP 2.0: DUAL NATIONALITY AS A GLOBAL ASSET* (2019); Sara Kalm, *Citizenship Capital*, 34 GLOB. SOC'Y 528 (2020); Yossi Harpaz, *Citizenship and Residence Rights as Vehicles of Global Inequality*, in *CITIZENSHIP AND RESIDENCE SALES* (Dimitry Kochenov & Kristin Surak eds., 2023).

territories and limit benefits to a privileged few.¹¹⁸ Brubaker describes the institution of citizenship as an “international filing system” allocating persons to states.¹¹⁹ Perhaps most seminally, Shachar labels modern citizenship as a “birthright lottery,” in which life opportunities are bestowed on the essentially “morally arbitrary terms of *where* (*ius soli*) or to *whom* (*ius sanguinis*) one is born.”¹²⁰ Shachar’s criticism echoes that of Benhabib and Carens who for decades have held that citizenship is merely the “modern equivalent of the feudal privilege”—an inherited status that either greatly enhances or diminishes one’s life chances.¹²¹

When coupled with the fact that around *ninety-eight percent* of all citizenships today are granted by either bloodline (*ius sanguinis*) or territory (*ius soli*),¹²² the idea that citizenship is an inequality-perpetuating institution rests on a solid empirical foundation. The very same status which within the polity was “the antidote to the feudal privilege and barriers to internal movement,”¹²³ today propagates precisely the kind of hierarchical ordering of individual rights, worth, and freedom of movement in the transnational sphere that it was once designed to eliminate. Increasingly, as a legal institution, citizenship has produced “the naturalization of its own arbitrariness.”¹²⁴

This criticism has gained substantial empirical support from economists such as Branko Milanovic. Based on his comprehensive study of global income-level distribution, Milanovic explicates how the territory into which one is born is the single most important predictor of the level of economic prosperity one is likely to experience in life.¹²⁵ According to his study, two-thirds of income variability across country percentiles is governed by one variable: The country in which people live. For example, a person born in the United States will earn on average ninety-three times more than a person born in Congo. On this basis, Milanovic puts an empirical spotlight on the remarkable socioeconomic privilege that comes with a “top-tier citizenship”—what he terms the “*citizenship premium*.”¹²⁶ Furthermore, because socioeconomic inequalities are increasingly occurring *in between* states, as opposed to class-based *within* the state, citizenship—Milanovic argues—becomes a key driver for migration as “people born in poor countries will naturally seek their fortunes in relatively richer ones.”¹²⁷

This inextricable link between geography, citizenship and global socioeconomic inequalities has a profound impact on the nexus between citizenship and transnational mobility. As citizenship status determines *where* on the surface of Earth one may reside, citizenship ultimately also determines *from where* a person’s transnational movement may begin. This reflects not only the level of socioeconomic capacity one may leverage in the pursuit of transnational movement, but also in which corner of the physical world one’s travel begins. As the average person’s socioeconomic capacity increasingly varies based on the country in which one is born, the importance of citizenship for transnational mobility has thus only been intensified in recent decades. While gradually becoming more affordable, cross-border travel—and in particular cross-regional travel—is still a demanding financial expenditure relative to average income levels for most of the world’s population. With this in mind, we may think of citizenship not only as a legal

¹¹⁸MAU, *supra* note 4, at 69.

¹¹⁹This is what Harpaz subsequently coins as the “fourth dimension of citizenship.” HARPAZ, *supra* note 117, at 3.

¹²⁰Shachar, *supra* note 32, at 46.

¹²¹Benhabib, *supra* note 117; CARENS, *supra* note 117.

¹²²Kochenov (2019) *supra* note 28.

¹²³Peter J. Spiro, *An Intellectual History of Citizenship*, in THE CAMBRIDGE HISTORY OF GLOBAL MIGRATIONS 541, 541 (M. Borges & M. Hsu eds., 2024).

¹²⁴PIERRE BOURDIEU, OUTLINE OF A THEORY OF PRACTICE, 164 (Cambridge, 1977) (“Every established order tends to produce the naturalization of its own arbitrariness.”).

¹²⁵Milanovic, *supra* note 87, at 138; KOCHENOV, *supra* note 80.

¹²⁶A person at the tenth—or fiftieth or seventieth—percentile of American income distribution is, for example, better off than a person at the tenth—or fiftieth or seventieth—percentile of, say, Kenyan income distribution. See MILANOVIC *supra* note 86, at 138.

¹²⁷*Id.* at 156. Cf. de Haas, *supra* note 1 (contending that labor demand is the dominant reason for migration).

infrastructure that distributes access to transnational mobility based on nationality status, but also as an infrastructure that co-shapes the socioeconomic position from where one's transnational movement may begin in the first place.¹²⁸

V. Evolving Infrastructures: Citizenship Changing

Over the past century, the greatest transformation of modern citizenship has been imposed by the gradual “deterritorialization” of rights regimes led by the proliferation of human rights instruments.¹²⁹ The fact that most rights today are granted based on one's humanity rather than one's citizenship status stands today not only as a major triumph of the human rights movement, but also as one of the most foundational transformations of modern citizenship.¹³⁰ Despite historical and still reverberating hesitations of international human rights institutions to properly engage with migrants' and foreigners' rights,¹³¹ human rights law makes perfectly clear that rights protection cannot be based on citizenship status, but solely on territoriality and jurisdiction.¹³² By gradually dissociating rights from citizenship, human rights norms have increasingly challenged traditional conceptions of citizenship as a “right to have rights,” and prompted contemporary citizenship scholars to distill a new and altered meaning of citizenship in light of its historical, rights-based rooting.¹³³ A growing body of literature has in this regard pointed to citizenship undergoing an “instrumental turn.”¹³⁴ Approaching citizenship for its ability to increase personal mobility, quality of life, education, business opportunities, and tax advantages, Harpaz argues that we are in the midst of a shift towards a “new form of citizenship” driven by those with inferior citizenship's quest for a “compensatory citizenship.”¹³⁵ Joppke argues that citizenship is undergoing an inevitable “lightening.” Characterized by a gradual thinning as a concept, “citizenship light,” he argues, is increasingly dissociated from the nationhood, rights, and exclusive allegiance that historically gave the status its weight.¹³⁶ Yet, while the importance of citizenship has undeniably diminished in recent decades in terms of political, civil, and social rights, the “lightening” of citizenship has, as Spiro points out, one significant exception: *Mobility privileges*.¹³⁷ With respect to transnational mobility, the particular nationality status one holds has only become more central in recent years.

In this final section, we turn, however briefly, to two recent and intersecting developments within citizenship law to illustrate how the legal infrastructure of citizenship itself might be changing in ways that will ultimately reverberate throughout the legal infrastructure, and deepen the global mobility divide by creating new mobility corridors and opportunities for economic elites.

¹²⁸Byrne et al., *supra* note 25.

¹²⁹For a discussion on “de-territorialization,” “re-territorialization” and “territorialization,” see Stuart Elden, *The state of territory under globalization: Empire and the politics of reterritorialization*, in TERRITORIES, ENVIRONMENTS, POLITICS 15, 15–36 (Routledge, 2022).

¹³⁰KOCHENOV, *supra* note 80.

¹³¹MARIE-BÉNÉDICTE DEMBOUR, WHEN HUMANS BECOME MIGRANTS: STUDY OF THE EUROPEAN COURT OF HUMAN RIGHTS WITH AN INTER-AMERICAN COUNTERPOINT (OUP, 2015); Rask Madsen & Gammeltoft-Hansen, *supra* note 25.

¹³²Article 2 of the International Covenant on Civil and Political Rights stipulates, for instance, that “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant [. . .]”. G.A. Res. 2200A (XXI) International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, art. 2.

¹³³Spiro, *supra* note 123.

¹³⁴Harpaz, *supra* note 117.

¹³⁵Yossi Harpaz & Pablo Mateos, *Strategic citizenship: negotiating membership in the age of dual nationality*, 45 J. OF ETHNIC AND MIGRATION STUD. 897, 898 (2019).

¹³⁶Christian Joppke, *The Inevitable Lightening of Citizenship*, 51 (1) EUR. J. OF SOCIO. ARCHIVES 9, 12 (2010).

¹³⁷Spiro, *supra* note 123.

Over the past two decades, a newfound consensus has emerged: While “land cannot belong to two states at the same time, [...] people can.”¹³⁸ As a result, dual nationality status has gained widespread popularity in recent years, with the share of countries fully accepting dual citizenship increasing significantly.¹³⁹ Driven most strongly by origin country reforms on dual citizenship,¹⁴⁰ increasing from twenty-seven percent in 1960 to seventy percent in 2022, acceptance of dual citizenship is now a predominant trend in nationality laws across the world.¹⁴¹ This “liberalization of dual citizenship”¹⁴² is remarkable considering that until recently the idea of a person holding two citizenships was regarded as entirely incompatible with the foundational principles of state sovereignty. Citizenship, after all, marked an *exclusive* allegiance to the state.¹⁴³ This shift towards citizenship acquisition *after* birth no longer operating on “zero-sum” conditions, has opened the possibility for nationality statuses to be accumulated and leveraged for a number of different reasons. This includes the pursuit of improved rights and related economic, educational or other livelihood opportunities—as well as higher degrees of global freedom of movement. Catering to such interests, a commercialized market for citizenship has unsurprisingly emerged in recent years with some countries offering their national membership in return for a financial investment,¹⁴⁴ and various commercial brokers operating in this market.¹⁴⁵

Depending on the size of the investment, CBI schemes¹⁴⁶ exempt applicants from traditional naturalization requirements such as a period with permanent residence or employment in the country.¹⁴⁷ Gaining momentum over the past decade,¹⁴⁸ dozens of countries, most of them small islands in the Mediterranean, Caribbean, and South Pacific, today sell up to 50,000 citizenships annually.¹⁴⁹ While many states have for decades offered residence programs with fast-tracks for citizenship status,¹⁵⁰ the idea of states selling their citizenship for cash is both a novel and significant development with several potential repercussions. Some scholars have criticized CBI schemes for potentially distorting the interests and meaning of active membership within the

¹³⁸Rainer Bauböck, *Genuine links and useful passports: Evaluating strategic uses of citizenship*, 45 J. OF ETHNIC AND MIGRATION STUD., 1015, 1020 (2019).

¹³⁹Maarten Vink, Luuk Van Der Barren, Rainer Bauböck, Jelena Dzankic, Iseult Honohan, & Bronwen Manby, *Codebook: GLOBALCIT citizenship law dataset - Dual citizenship*, EUI Research Data, 2021, Robert Schuman Centre for Advanced Studies, <https://cadmus.eui.eu/handle/1814/73190>; Maarten Vink, Luuk van der Barren & David Reichel, *A Global Panel Dataset of Dyadic Dual Citizenship Acceptance* (forthcoming 2024, preprint at <https://doi.org/10.31219/osf.io/6x3jt>); Spiro, *supra* note 123.

¹⁴⁰Maarten Vink, Arjan H. Schakel, David Reichely, Ngo Chun Luk, & Gerard-Rene de Groot, *The international diffusion of expatriate dual citizenship*, 7 MIGRATION STUD. 362, 365 (2019).

¹⁴¹Spiro, *supra* note 123.

¹⁴²Vink, Schakel, Reichely, Luk & de Groot, *supra* note 140 at 377.

¹⁴³PATRICK WEIL, *THE SOVEREIGN CITIZEN: DENATURALIZATION AND THE ORIGINS OF THE AMERICAN REPUBLIC*, 25 (2012).

¹⁴⁴Spiro, *supra* note 123.

¹⁴⁵See KRISTIN SURAK, *THE GOLDEN PASSPORT: GLOBAL MOBILITY FOR MILLIONAIRES* (2023).

¹⁴⁶Christian Joppke, *Citizenship by Investment: A Case of Instrumental Citizenship*, in *CITIZENSHIP AND RESIDENCE SALES*, *supra* note 117.

¹⁴⁷Kristin Surak, *Global Citizenship 2.0 – The Growth of Citizenship by Investment Programs*, INVESTMENT MIGRATION WORKING PAPER 2016/3 (2016); Luuk van der Barren, *Investor Citizenship and State Sovereignty in International Law*, in *CITIZENSHIP AND RESIDENCE SALES*, *supra* note 117.

¹⁴⁸A 2016 review identified sixty different Immigrant Investor Programs in fifty-seven countries, which includes residence-by-investments, of which half had been established since the year 2000, see Gamlen et al. *Re-thinking Immigrant Investment Funds*, INVESTMENT MIGRATION WORKING PAPER 2016/2 (2016). By 2019, in the EU, half of Member States had an investor program scheme, up from only four in 2010, see Kristin Surak, *Who wants to buy a visa? Comparing the uptake of residence by investment programs in the European Union*, J. OF CONTEMPORARY EUR. STUD. (2020).

¹⁴⁹Kristin Surak, *Investment migration globally: The dynamics of supply and demand*, COMPAS WORKING PAPER WP-20-159 (2022).

¹⁵⁰In the UK, for instance, a residence program with a six-year path to citizenship can be acquired for GBP 2 million but may be shortened in return for a larger contribution (GBP 5 million: 3 years; GBP 10 million: 2 years). See Henley & Partners 2021, 97, 113; Sara Kalm, *The Business of Citizenship: Investment Citizenship Firms in Global Governance*, 37:1 GLOBAL SOC'Y, 69, 68–92 (2023).

polity, while others highlight the practice's potential for exacerbating global inequalities by offering the "global elite" the means to unshackle itself "from any meaningful relation to a particular location."¹⁵¹ Shachar highlights how both golden visas and CBI schemes exacerbate, rather than alleviate, "pre-existing economic inequality by distorting the opportunity for individuals to gain access to membership in safer and more prosperous nations."¹⁵² In the context of wealth taxation, Piketty has described how "secession of wealth tends [. . .] to obscure the very idea of nationality, since the wealthiest individuals can to some extent take their money and change their nationality, cutting all ties to their original community."

There is no shortage of reasons as to why CBI schemes are increasingly popular and cater to the industry's current "clientele."¹⁵³ Research by Surak shows that individuals who purchase an additional citizenship are predominantly incentivized by the ability to travel visa-free to more countries.¹⁵⁴ Yet for those capable of purchasing it, an investor citizenship in Malta, for example, functions as a "gilded backdoor to Europe"¹⁵⁵ that offers not only a unique degree of visa-free mobility within European territories, but also the residency rights and privileges that come with an EU citizenship.¹⁵⁶ From this viewpoint, the acceptance of dual nationality and its enablement of a commercialized market for citizenship has indeed opened a new and attractive pathway for wealthy individuals to gain not only unrestricted global freedom of movement, but also the financial, cultural, and social benefits that often come with it. Not unlike Harvey's notion of mobility, which foregrounds the expansionist nature of capitalism constantly seeking new ways to expand further and faster,¹⁵⁷ "golden passports" emerge as something catering to an elite for whom everything is increasingly within reach—even citizenship in a state where one never has nor intends to set foot. Conversely, some might argue that the marketization of citizenship could—at least in theory—reflect an imperfect yet progressive new form of naturalization. A way for minorities of economically affluent but otherwise mobility disenfranchised individuals to "unchain" themselves from the physical confinement enforced upon them by the citizenship status granted by birth—a naturalization mode that operates on market conditions rather than feudal principles.

Ultimately, the marketization of citizenship and the increasing possibility for individuals to hold two or more citizenships contribute to an increasing "strategization" of citizenship¹⁵⁸ by establishing a novel and significant pathway through which economic elites can leverage economic capital to become "kinetic elites."¹⁵⁹ The current impact of CBI remain limited in actual practice. Dual nationality status remains a rarity on the global level—currently comprising less than two percent of all citizenship statuses worldwide, and CBI programs remain only economically feasible for a relatively small fraction of the global population.¹⁶⁰ Nevertheless, both still in their infancy, the legal acceptance of dual nationality status and the emergence of CBI schemes are today fast-growing global phenomena that foreshadow a potentially profound reconfiguration of the citizenship–mobility nexus. These developments may reverberate in unforeseen ways throughout the legal infrastructure of transnational mobility. However, by tethering access to particular

¹⁵¹*Id.*

¹⁵²Ayelet Shachar, *The Marketization of Citizenship in an Age of Restrictionism*, 32 ETHICS & INT'L AFFS (2018).

¹⁵³Kalm, *supra* note 116.

¹⁵⁴Surak, *supra* note 146, at 34.

¹⁵⁵Aylet Shachar, *Dangerous liaisons: Money and Citizenship*, in DEBATING TRANSFORMATIONS OF NATIONAL CITIZENSHIP 8 (Rainer Baubock ed., 2018).

¹⁵⁶Harpaz, *supra* note 117.

¹⁵⁷HARVEY, *supra* note 13; Ettore Recchi & Aurore Flipo, *Spatial Mobility in Social Theory*, 10 SOCIETÀ MUTAMENTO POLITICA 125–37 (2019).

¹⁵⁸Harpaz & Mateos, *supra* note 134.

¹⁵⁹TIMOTHY CRESSWELL, ON THE MOVE: MOBILITY IN THE WESTERN WORLD, 255–257 (2018).

¹⁶⁰All cases of naturalization globally amount to less than two percent of the world's population. See Kochenov, *supra* note 80. Dimitry Kochenov & Kristin Surak, *Introduction*, CITIZENSHIP AND RESIDENCE SALES, *supra* note 117.

citizenships to individual economic capacity, CBI schemes seem poised to drive yet another wedge into the global mobility divide, further bifurcating the global population into a small minority for whom the legal infrastructure increasingly facilitates transnational movement, and the global majority for whom the legal infrastructure is increasingly a source of mobility disenfranchisement.

D. Conclusion

In this Article we have underscored the significance of law in shaping patterns of transnational mobility on the global scale. We have shown this by, firstly, approaching the array of laws related to human mobility as a coherent legal infrastructure that operates to both facilitate and obstruct transnational mobility and thereby significantly reconfigure global mobility patterns. Secondly, using citizenship as an exploratory lens to analyze this legal infrastructure, we have outlined five central—yet often overlooked—mechanisms through which mobility laws increasingly pivot on citizenship. Each of these mechanisms serve to stretch or compress the physical world—establishing mobility corridors that explicitly enhance transnational movements between distant geographies or posing immense socio-technical barriers to transnational movement between otherwise proximate geographies. Elucidating how mobility laws unevenly distribute access to transnational mobility based on the nationality status of the traveler in question, we have sought to spotlight the legal infrastructure’s distributive and stratifying effects, with legal opportunities for transnational mobility increasingly distributed along socioeconomic divides.

As a centerpiece of mobility law, citizenship has provided a particularly useful analytical entry point for understanding the conjoined effects of this legal infrastructure. As shown, citizenship *de facto* determines not only the territories a person can access and reside in, but also the level of socioeconomic resources that a person may leverage in the pursuit of transnational movement. For a small “kinetic elite,”¹⁶¹ nationality status increasingly operates as a unique resource which enables them to navigate the legal infrastructure in historically unprecedented ways to maximize individual mobility capital. Yet, for the vast majority of the global population, citizenship and the swath of mobility laws orchestrated around it form an infrastructure of transnational *immobility*, with territorial borders transformed into tightly knit osmotic filters that selectively prevent almost all attempts of regular border crossing.

Without refuting the empirical findings by Deutschmann & Recchi that transnational movement remains overwhelmingly intra-regional,¹⁶² our overarching contention is thus that global mobility patterns are not resistant to “alterable social factors,”¹⁶³ but rather inextricably linked to and co-constituted by an assemblage of mobility laws, which ultimately both fragment and compress traditional notions of geographical space as it pertains to human movement.

Acknowledgements. We are thankful for the valuable feedback we have received on earlier versions of this Article presented in Florence and Copenhagen, with special thanks to William Hamilton Byrne and Maarten Vink.

Competing Interests. The authors declare none.

Financial Support. Research for this Article has been funded by the Danish National Research Foundation, Center of Excellence for Global Mobility Law, grant no. DNR169, and the Carlsberg Foundation, grant no. CF22-0097.

¹⁶¹Sheller, *supra* note 159.

¹⁶²DEUTSCHMANN, *supra* note 5, at 150.

¹⁶³*Id.* at 29, 134; Recchi & Deutschmann, *supra* note 7.