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# NEGOTIATING THE PARADOXES OF MIGRANTS' HUMAN RIGHTS

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A COMMENTARY ON S. Abji (2018), "Postnational Acts of Citizenship: How an Anti-Border Politics Is Shaping Feminist Spaces of Service Provision in Toronto, Canada," *International Feminist Journal of Politics* 20(4): 501–23.

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## ABSTRACT

Salina Abji's work examines feminist service providers who work with non-status migrant survivors of gender violence. While these advocates assist their clients in accessing state rights, they also challenge the state's right to decide who belongs. I offer a critical reading that suggests two key contributions of her essay. First, she illustrates the intersection of multiple paradoxes of human rights that are too often analyzed separately, and second, she shows how activists negotiate the tensions produced by the contradictions of human rights. I also draw on her scholarship to think about advocate-migrant relationships and the role of indigenous feminist politics.

SOCIOLOGIST SALINA ABJI'S 2018 essay focuses on the influence of "postnational" politics on Canadian feminist service providers who work with non-status migrant women who experienced gender violence in their home countries or while living in Canada. Postnational politics contest the state as the central way to politically organize borders. An example of postnational "thinking" is to assert that non-status migrants deserve to be safe and afforded rights, simply because they are human and they are "here." To be sure, these advocates utilize a transnational feminist framing of gender violence as a human rights issue, thus obligating states to ensure migrant victims have access to state services

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and relief from deportation. However, the service providers are not just challenging negligent or violent state behavior; they are engaging in postnationalist politics because they want to disrupt the sociopolitical order in which states get to decide who belongs.

I see Abji's contributions to human rights research as two-fold. First, her analysis of non-status migrants' experiences with gender violence illustrates the intersection of the multiple paradoxes of human rights that are too often analyzed separately. Second, she brings nuance to understandings of human rights advocacy by showing how feminist service providers negotiate the tensions produced by the contradictions of human rights.

The human rights regime, which is the international system of laws, obligations, and mechanisms that articulate, institutionalize, and implement human rights, is rife with paradoxes. First, human rights are secular universalist constructs, ostensibly applicable to every person equally, but the regime also reflects and entrenches asymmetrical power relations. As a result, states can create hierarchies of whose human rights matter more than others (citizens vs. non-status migrants), and to use the discourse of human rights to justify violent actions, such as military intervention, in less powerful countries. Second, the state is ultimately responsible for upholding human rights, which is why women's human rights advocates focus primarily on state accountability for preventing and punishing gender violence; however, the state is also a key perpetrator of gender violence. Third, non-status migrants who fear persecution in their home countries may turn to the state for protection from deportation, such as through asylum; but the state itself creates the conditions for migrants to be undocumented and marginalized through acts of border control/enforcement and the criminalization of migration.

Abji interviews social service providers in Toronto, Canada, between 2013–2015, a period that follows years of both increasing feminist anti-border coalitional work and escalating state restrictions on non-status migrants' rights. Her analysis shows that the aforementioned paradoxes intersect. She also reveals yet another paradox: states simultaneously position themselves as human rights champions of refugees *and* as bulwarks against the “threat” of migrants. In 1993, Canada was the first country to issue guidelines to allow gender persecution to count as grounds for applying for asylum and more

recently has been a key leader in creating and implementing the United Nations Global Compact on Refugees. Yet, Canada has simultaneously embraced neoliberal defunding of the organizations that serve migrants, limited the pathways to citizenship, and increasingly criminalized migrant communities (see also Abji 2016; 2020). The Canadian Border Services Agency (CBSA), created in 2003, has identified and thus restricted the number of non-status migrants entering and living in Canada. In 2011, the CBSA made official its long-standing practice of allowing immigration officers to enter institutions such as women's shelters to locate and potentially deport non-status migrants.

The advocates Abji interviews negotiate human rights paradoxes by naming the state as a perpetrator of violence and thus responsible for undermining the very system meant to address migrant rights (see also Abji 2016; 2020). Canadian discourse and policies that frame asylum seekers as duplicitous ultimately increase denials of asylum grants and rates of immigration detention and deportation. In turn, migrant survivors are re-traumatized through incarceration or deportation to situations of violence. Or they live precariously as unauthorized migrants, subject to harm from abusers and fearful of seeking help. I posit that Canada discursively distinguishes between "good migrants," imagined as innocents fleeing war-torn countries, and "bad migrants," envisioned as frauds and economic and security threats, in order to *simultaneously* enjoy its reputation as being refugee-friendly yet act as if it can deliver on promises to have "strong borders."

The advocates also experiment with anti-border challenges to the state's power to determine legal status. Service providers work within institutional agencies such as refugee services, legal services, and women's shelters. At the same time, to access rights for their clients, they also organize with other service providers and campaigns to discuss and understand the state's violence, refuse to ask about or share the non-citizen status of their clients, and promote "access without fear" policies to support migrant survivors. But ultimately, the universality of human rights notwithstanding, the advocates face significant limits in circumventing state repression against migrants, or in imagining feasible alternatives to the state. Abji thus lays bare how the interlocking paradoxes of human rights disproportionately impede non-status migrant survivors' enjoyment of rights. Non-status migrants are up against the state's arbitrary enforcement of human rights, state

violence and inaction regarding non-state violence, and state restriction of access to legal status.

Abji's second contribution is in shaking up assumptions that human rights activists primarily promote state responsibility for protecting human rights. Indeed, recent scholarship tends to explore either how advocates reproduce colonial power relationships and thus reinforcement of state power, or how they mobilize around norms and international legal mechanisms to effect positive changes in state behavior. But Abji reveals that advocates can negotiate the paradoxes of human rights precisely when they challenge that the *state* should be the one to decide and guarantee the human rights of migrants! So while human rights workers may want to make sure that people in immigration detention centers are treated "humanely," or that non-status migrants are "protected" by the state, activists influenced by postnational politics also aim to eliminate detention and border enforcement, thereby "challenging the sovereign right of states to enforce borders altogether" (Abji 2018: 518–19, n. 3).

Abji's research demands of us to consider the implications of postnationalism for advocate-migrant relationships. She shows that migrant advocates, many of whom may be people of color and/or migrants themselves, unsettle sovereignty. I believe their politics are bound up with the actions of migrants who protest and disrupt state border enforcement. So, while advocate-migrant solidarity is important to explore, I am also curious about the obstacles that might appear in advocate-migrant interactions.

Abji notes that she asks her interviewees a "visioning" question about how they would rethink the system to support the needs of non-status migrant women. But her interviewees struggled with their answers and with the unknown consequences of a borderless world, prompting Abji to ask: "Would a world without borders also be a world without gender inequality, or without racism?" (512). I suggest that while a borderless world may replicate or produce oppression, so too may anti-border advocacy. What are the fractures and hierarchies within feminist anti-border coalitions as they look for new ways to politically organize belonging and rights? In analyzing how activists position themselves between the state and non-status migrants, do advocates ever inadvertently jeopardize migrants' safety, needs, or agency? How can feminists service providers best ally with *migrants*'

anti-border actions, such as their protests in migrant camps and detention centers, political actions in which they “out” themselves as non-status, or repeated attempts to enter countries without papers, even when states strategically and violently utilize treacherous and unforgiving terrains, such as bodies of water and deserts, to deter unauthorized migration?

One interviewee grapples with her own father’s story of receiving amnesty, narrating that she benefits from the advantages thus afforded to her yet still believes the immigration system is oppressive and exclusionary (14). But many migrant recipients of legal relief may not be so conflicted. So, how might service providers respond to some non-status migrants’ desire for state borders and potential *rejection*—perhaps because they embrace the current system as the most *feasible* chance to save the lives of their families through grants of asylum, or perhaps because they never wanted to leave their home countries and were attached to *those* borders and thus *believe* in borders—of postnationalism?

Abji’s essay also provokes questions about the potential influence of indigenous politics in feminist anti-border work. Indeed, one interviewee points to the influence of indigenous movements in shaping her understanding of immigration law as a colonial, settler enterprise that makes distinctions between worthy settlers (European-descendant people) and unworthy settlers (racialized non-status migrants) (11). The connection this activist draws is all the more relevant given that in 2015, soon after becoming Prime Minister, Justin Trudeau ironically declared Canada to be postnationalist in order to emphasize the importance of all identities, particularly of marginalized communities. Then, shortly thereafter, Trudeau announced a national inquiry into the alarming increase in disappeared and murdered indigenous women and girls. One year after Abji’s article was published, the Canadian inquiry released a damning analysis of the systematic oppression of indigenous women, girls, and two spirit people, an oppression that is rooted in the colonial strategies of stripping indigenous communities of their sovereignty (National Inquiry 2019). Those same brutalities against indigenous people empower the settler state to dictate which non-status migrants belong, claims of celebratory “postnationalism” notwithstanding.

Abji’s essay made me think about that report, and of rising concerns in Canada about the violence experienced by non-status

migrant women and indigenous women alike. I thus am curious what Abji thinks about the potential of feminist anti-border work to more explicitly attend to gender violence against indigenous communities, particularly given the aforementioned advocate's astute observation of the relationship between settler colonialism and immigration restrictionism. Precisely because the advocates Abji studies are not traveling "elsewhere" to work with "distant others" but rather in alliances with non-status migrants living in the same city, what could emerge from coalitional work with indigenous activists, some of whom may have contested legal statuses themselves? Can feminist anti-border advocacy challenge not only state border control but also settler sovereignty? How does feminist postnationalist activism address the complexities of challenging state border control while also supporting indigenous appeals to the sovereignty of "physical bodies, nations, land, and water" (Sovereign Bodies Institute)? How do indigenous feminist politics fit into postnationalist discourses? I suspect Abji must be grappling with these questions, as her framework shows that it is precisely through addressing seemingly incommensurable issues that "fraught and fruitful" feminist praxis occurs (518). It is the friction of the state and human rights rubbing up against each other that yields creative ways to disrupt murderous power structures and to imagine justice.

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