

The Poverty of Privacy Rights. By Khiara M. Bridges. Stanford, CA: Stanford University Press, 2017.

Reviewed by Heidi Affi and Patrick Schmidt, Department of Political Science, Macalester College

Inequality is on the global agenda, marking the contemporary era with heightened concerns about deprivation and alienation. But for poor mothers in the United States, Khiara Bridges powerfully observes in *The Poverty of Privacy Rights*, none of this is new. American law and culture has long marginalized mothers who live in poverty, stripping them of their privacy, their dignity, and even their children. For those who had not known this, after reading Bridges' rich account, it can scarcely be forgotten.

Bridges acknowledges that readers might find in her book ample evidence of a moderate claim, one very comfortable to scholars of law and society: that poor mothers' privacy rights are ineffective. For women dependent on state aid and subjected to pervasive policing by both criminal and child welfare systems, privacy rights are unable to counterbalance the presumptions made about their liberty and their adequacy as parents. Bridges wants readers to accept a stronger claim, however: that poor mothers *do not possess* privacy rights. The key is society's moral construction of poverty, which assumes that poor people are behaviorally and morally deficient. For poor mothers in a society that cherishes motherhood as a public good, their perceived, frequently racialized deficiencies inevitably affect their children and justify law's harsh treatment. The mistrust of poor mothers is so unshakeable that "their inability to shield themselves from regulation is ... their existential condition" (84), not merely the result of a bargain with the government for benefits. Bridges poses her strong claim as "a challenge: ... to think about why we have been seduced by a narrative about equal rights when everyday, lived reality suggest that nothing could be further from the truth" (29).

A scholar of both law and anthropology, Bridges employs a mix of approaches. She first introduces her claims against the backdrop of the classic philosophical accounts of legal rights, before examining the cultural discourse of the deserving and undeserving poor (Chapter 1). One effect of this narrative emerges in an examination of the "unconstitutional conditions doctrine," the jurisprudence governing when the state's requirements on the receipt of benefits may burden other rights (Chapter 2). The pattern, Bridges shows, is unmistakable: whereas the Court has found values worth protecting when it has

struck down many regulatory requirements, the rights of poor women are not valued.

Marrying attention to legal doctrines and lived experiences, a trio of excellent chapters builds on Bridges' prior work (Bridges 2011) and sparkles with insights about the power of the state over those in poverty. In the realm of family privacy (Chapter 3), the moral construction of poverty makes poor mothers bear the fault for the child's circumstances, with the result being routine state investigation and coercive removal of children. What counts as "neglect" in fact simply describes poverty, from substandard housing to "inadequate hygiene"; the lack of privacy in the face of the child protective state is a symptom of poverty itself. Bridges examines informational privacy (Chapter 4) and reproductive privacy (Chapter 5) with a similarly incisive approach. She catalogs how the state relentlessly pursues private information and subjects poor mothers to demeaning interrogation, again driven by the presumption that the autonomy of the indigent mother can be only a threat to the public good. This distrust of women reaches its height in control over reproduction itself (Chapter 5). Constraints on abortion access and contradictory family cap policies expose the law's real intent: to condemn poor mothers' fertility and autonomy as a social problem, and to control it.

On the back of this forceful and compelling exploration, the conclusion chapter makes a curious and wholly unsatisfying turn. The larger portion of the conclusion chapter calls for cultural change and provides extended readings of two such transformations: the provision of voting rights for blacks, from the Civil War to the present, and the post-Stonewall rise in gay rights culminating in the constitutional right to marry. It takes little to persuade scholars of law and society that these transformations have had little to do with the "judicial method" and everything to do with the "social and cultural milieu" surrounding constitutional interpretation (208).

Yet, Bridges' accounts, synthesized from a limited reading of post-Rosenberg scholarship on the entanglement of courts and rights, do not parallel her own case very well. Voting rights and same-sex marriage arguably did not upend the ideological order. As others have recently evidenced (e.g., Isenberg 2017) and Bridges clearly understands, the construction of individualized blame for those in poverty is a feature, not a bug, of American liberalism and capitalism. Bridges herself notes that if she is right about her strong claim, "then actually bestowing [poor women] with these rights might force a restructuring of our entire society to order to accommodate this demand" (31).

In her final passages, Bridges holds out hope that while the Great Depression and Great Recession both failed to convince

Americans of the structural causes of poverty, future “economic upheaval” (235) will yet transform the cultural discourse. If anthropology’s cultural lens directs us to a vision too distant, then perhaps Bridges might have concluded more constructively with an agenda for legal reformers.

The disappointments of the conclusion notwithstanding, the heart of *The Poverty of Privacy Rights* demands reading as a significant contribution to—and critique of—rights. The patchwork quilt of privacy law today appears much more coherent when skillfully woven through Khiara Bridges’ multidisciplinary toolkit and, importantly, when viewed through the eyes of poor women. Their lives attest that inequality does not merely make rights less effective; under the most severe conditions, inequality excludes some people from the umbrella of rights altogether.

References

- Bridges, Khiara (2011) *Reproducing Race: An Ethnography of Pregnancy as a Site of Racialization*. Los Angeles: Univ. of California Press.
- Isenberg, Nancy (2017) *White Trash: The 400-Year Untold History of Class in America*. New York: Penguin Books.

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From Prohibited Immigrants to Citizens: The Origins of Citizenship and Nationality in South Africa. By Jonathan Klaaren. Cape Town: UCT Press, 2017.

Reviewed by Penelope Andrews, New York Law School

Jonathan Klaaren has written an important study of the historic formation of South African citizenship against the backdrop of its admirable 1996 Constitution and Bill of Rights, its embrace of dignity and equality as founding principles, and especially the commitment in the Preamble: *We, the people of South Africa ... believe that South Africa belongs to all who live within it, united in our diversity*. Klaaren refers to the inherent contradictions of this constitutional promise in contemporary South African public discourse and judicial decision making, notably the dichotomy between citizens and residents and citizen residents and citizen nonresidents. He locates the origins of these contradictions in the period leading up to as well as after the establishment of the