

# Symposium: Managing Mixed Migration

## Locked in Temporality: The European Governance of Refugees by Means of Time

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*The life span of man running toward death would inevitably carry everything human to ruin and destruction if it were not for the faculty of interrupting it and beginning something new, a faculty which is inherent in action like an ever-present reminder that men, though they must die, are not born in order to die but in order to begin.<sup>1</sup>*

The governance of residence entitlements by means of time is a Janus-faced phenomenon. Time is, in the first place, one of the major techniques that states can use to differentiate categories of new arrivals—the durable, desired migrant vis-à-vis the temporary, unwanted alien—and their residence entitlements. States use temporal categories to navigate between the obligations of international human rights and international refugee law toward migrants in need, on the one hand, and governments’ anxieties that temporary protection schemes will function as a pull factor for migrants seeking entry to the EU, on the other.

Yet there is another side to the role of time in the governance of the presence of migrants. The amount of time a migrant has spent within a state’s territory can also be an argument for inclusion and stronger residence entitlements. Such inclusion is often based on principles of “rootedness”—that is, the idea that people put down roots in the places where they live. A European example of this approach is the EU Long-Term Residents Directive, which provides third country nationals (non-EU citizens) with strong residence

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1. HANNAH ARENDT, *THE HUMAN CONDITION* 222 (1959).

entitlements after a lapse of time. Similar provisions exist for EU citizens.<sup>2</sup> In political theory, the durable presence of migrants within a territory is a widely accepted proxy for stronger residence entitlements.

This Essay analyzes how these two sides of time play out in the regulation of residence entitlements for asylum seekers and refugees who are present within EU territory. In doing so, it suggests that there is a tension between the suggested linear progression of stronger, rootedness-based residence entitlements and the intricate ways in which governments can keep asylum seekers and refugees stuck in liminal phases of waiting. I argue that the proliferation of the temporal governance of refugees, most recently in the EU Proposal for a Regulation addressing situations of crisis and *force majeure* (hereinafter the “Proposal for a Crisis Regulation”),<sup>3</sup> has limited the value of rootedness for migrants’ claims for inclusion.

### I. TEMPORAL GOVERNANCE

Time is arguably one of the most important techniques that governments can use to differentiate the legal entitlements accruing to various categories of migrants.<sup>4</sup> Melanie Griffiths has coined the term “temporal governance” to refer to the diverse manifestations of the role of time in governing migration.<sup>5</sup> States can stall or suddenly accelerate the time associated with migration procedures, and they can impose time limits that are clear-cut or leave room for discretion. Governments handling such migration procedures can invoke deadlines, probationary periods, and waiting times, or they can restrict the usage of evidence by means of time limits.<sup>6</sup> Governments can limit residence entitlements through deadlines (for instance, in applications for long-term residence or naturalization) and can qualify certain forms of residence as “temporary,” “continuous,” or “interrupted.” Residence permits can be antedated, just as legal decisions can be based on an assessment of the past until a certain point in time, excluding developments after that moment. The possibilities of using time in migration law to differentiate residence entitlements for migrants are seemingly endless.

Although time can be used to regulate the inclusion and exclusion of migrants outside a state’s territory (as when states impose waiting periods before a migrant’s relatives can apply for family reunification),<sup>7</sup> states have increasingly

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2. Council Directive 2003/109, 2003 O.J. (L 16).

3. *Commission Proposal for a Regulation of the European Parliament and of the Council Addressing Situations of Crisis and Force Majeure in the Field of Migration and Asylum*, COM (2020) 613 final (Sept. 23, 2020).

4. See MARTIN STRONKS, *GRASPING LEGAL TIME: TEMPORALITY AND EUROPEAN MIGRATION LAW* (2022).

5. Melanie Griffiths, *The Changing Politics of Time in the UK’s Immigration System*, in *TIMESPACE AND INTERNATIONAL MIGRATION* 48 (Elizabeth Mavroudi, Ben Page, Anastasia Christou eds., 2017).

6. See Marcelle Reneman & Martijn Stronks, *What Are They Waiting For? The Use of Acceleration and Deceleration in Asylum Procedures by the Dutch Government*, 30 *TIME & SOCIETY* 302 (2021) (discussing these techniques).

7. Council Directive 2003/6, art. 8, 2003 O.J. (L 251) 16.

used time to shape those processes within their territories. Legal maneuvers that distinguish physical entry into the territory from lawful admission represent what Ayelet Shachar has called the “bleeding inward of the border.”<sup>8</sup> The “temporal border,” as Martina Tazzioli has put it,<sup>9</sup> is an important element of the process through which the border has moved inside the territory of the state, as traditionally understood. Temporal borders can engender a sense of existential immobility among migrants—a condition that Ghassan Hage has called “stuckedness.”<sup>10</sup> Existential immobility is not limited to the physical impossibility of moving from one location to another; it is also a temporal question, related to whether one can move forward towards a viable future.<sup>11</sup>

## II. THE TEMPORAL GOVERNANCE OF REFUGEES

To appreciate how this temporal governance plays out in the regulation of the presence of refugees, it is first important to emphasize that the asylum seeker is, legally speaking, a peculiar temporal figure. The crux of the protection of asylum seekers is that, for any applicant, it might retrospectively turn out that they have been a refugee since the beginning of the procedure. This temporal legal move is called a declaratory act: the recognition of a person’s refugee status does not make that person into a refugee, but declares her to be one.<sup>12</sup> The moment the asylum-seeker is recognized as refugee, it is acknowledged that she has been a refugee since the moment she left the country in which she was persecuted. During the procedure, this means that the asylum-seeker cannot be sent back to her country of origin, because refugees—a category to which the asylum-seeker potentially belongs—cannot be subject to *refoulement*. At the same time, however, she will not be fully included in the society of the host country, because she is also potentially an unlawfully present migrant. The asylum-seeker is thus a figure with a split temporal character: she is both a potential refugee *and* a potential unlawful migrant. This ambiguity reflects the two sides of refugee policy—the obligation not to subject refugees to *refoulement* and the wish not to grant entry to people who are not, in fact, refugees—that are at the heart of every asylum procedure. The temporal governance of the refugee is based on this ambiguity. It is for this reason that the procedural time of the refugee can be characterized as liminal: the asylum-seeker has physically entered the territory

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8. AYELET SHACHAR, *THE SHIFTING BORDER: LEGAL CARTOGRAPHIES OF MIGRATION AND MOBILITY* 20 (2020).

9. Martina Tazzioli, *The Temporal Borders of Asylum: Temporality of Control in the EU Border Regime*, 64 *POL. GEOGRAPHY* 13 (2018).

10. GHASSAN HAGE, *WAITING* 7 (2009).

11. See generally Anne Mcnevin, *Time and the Figure of the Citizen*, 33 *INT. J. OF POL., CULTURE, AND SOC’Y* 545 (2020); Anne Mcnevin & Antje Missbach, *Luxury limbo: temporal techniques of border control and the humanitarianisation of waiting*, 4 *INT. J. MIGRATION AND BORDER STUDIES* 12 (2018).

12. PIETER BOELES, MAARTEN DEN HEIJER, GERRIE LODDER, KEES WOUTERS, *EUROPEAN MIGRATION LAW* 298 (2014). This is one of the basic principles of refugee law. See also GUY S. GOODWIN-GILL AND JANE MCADAM, *THE REFUGEE IN INTERNATIONAL LAW* 51 (2007); UNHCR, *HANDBOOK AND GUIDELINES ON PROCEDURES AND CRITERIA FOR DETERMINING REFUGEE STATUS* 17 (2019) (stating that “he does not become a refugee because of recognition, but is recognized because he is a refugee.”).

and has been admitted to the asylum procedure but has not yet entered the host state's society.

Legal frameworks offer many possibilities through which states can prolong this liminal phase. States can prolong the duration of the asylum procedure or make asylum-seekers wait for months or even years before their asylum procedures start. As I have argued elsewhere, together with Marcelle Reneman, states can employ temporal governance to accelerate cases with low chances of success and decelerate cases with high chances of success.<sup>13</sup> In the wake of the 2015 “refugee crisis” in the Netherlands, for example, the number of asylum applications rose quite dramatically, and some categories of asylum-seekers had to wait more than two years before they were admitted to asylum procedures.<sup>14</sup> EU rules leave states with plenty of “temporal discretion” to take measures that affect the duration of asylum procedures, even though there are legal limits to the maximum duration of those procedures.<sup>15</sup> This temporal discretion is the result of conceptual ambiguity and the room for exceptions in the rules that regulate the duration of asylum procedures.<sup>16</sup> Yet even if it is clear that certain processing times are unlawful because they exceed the maximum allowed period of time, asylum-seekers often have no effective legal remedies at their disposal to ensure that a decision is taken in their cases.

The asylum-seeker remains a temporal subject even if she is legally recognized as a refugee. Article 14(1) of the Qualification Directive stipulates that EU member states shall revoke, end, or refuse to renew an individual's refugee status if the individual in question has ceased to be a refugee because the circumstances under which she was recognized as a refugee have ceased to exist.<sup>17</sup> Refugee status is supposed to protect against certain risks to the life and freedom of the refugee: when those risks disappear and protection can be provided by the refugee's country of origin, asylum protection is no longer needed. Refugee status is thus temporary, granted only for the time the refugee has a well-founded fear of being persecuted in their country of origin. Refugee protection is definitionally a form of temporary protection, even though governments will in practice not always revoke refugee status when the risk ceases to exist.

There is another aspect of temporal governance that applies to the

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13. See Reneman & Stronks, *supra* note 6.

14. “Crisis” is obviously a temporal category that does a lot of implicit work in the contemporary refugee law. For critical discussions of this theme, see, e.g., HEMME BATTJES ET AL., *THE CRISIS OF EUROPEAN REFUGEE LAW: LESSONS FROM LAKE SUCCESS* (2016); Cathryn Costello, *Overcoming Refugee Containment and Crisis*, 21 *GERMAN L. J.* 17 (2020).

15. See Reneman & Stronks, *supra* note 6, at 314.

16. See, e.g., Council Directive 2013/32, Art. 31(2), 2013 O.J. (L 180), 77 (stating that procedures should be concluded “*as soon as possible*, without prejudice to an adequate and complete examination”) (emphasis added). Generally, the asylum procedure should not take longer than six months; however, Member States may extend the time limit of the procedure up to a further nine months where a case is very complex; there is a situation of *high influx*; or the applicant fails to satisfy certain obligations to cooperate in the procedure. For an elaborate discussion of temporal discretion in European asylum procedures, see *id.* at 320-325.

17. Council Directive 2011/95, 2011 O.J. (L 337), 17.

protection of asylum seekers, provided by the Temporary Protection Directive<sup>18</sup> and similarly by the Proposal for a Crisis Regulation issued by the European Parliament and the European Council. The main goal of these instruments is to provide protection in cases of mass influxes of displaced persons who cannot return to their countries of origin,<sup>19</sup> as suggested by the Explanatory Memorandum to the Proposal for a Crisis Regulation.<sup>20</sup> If the European Commission activates the crisis mechanisms, member states are allowed to prolong the duration of border procedures and return procedures and several time limits related to asylum procedure can be extended.<sup>21</sup> An important aspect of the proposal is the possibility of granting immediate protection status to asylum-seekers, by which member states may suspend the examination of applications for international protection for designated groups and grant immediate protection status to the persons concerned for one year. During this period, the beneficiaries of immediate protection have access to rights such as protection from *refoulement*, information on the rights and obligations relating to their status, the maintenance of family unity, the right to be issued a residence permit, freedom of movement within the member state, access to employment, access to education, and a host of other rights. After one year, member states resume the examination of asylum applications.

The Proposal for a Crisis Regulation thus adds another layer of temporality to the protection of asylum-seekers by providing for temporary protection for a designated period of time. This form of protection would provide certain rights within states' territory for one year just as it extends the amount of time asylum-seekers must wait to be recognized as refugees. Such an approach is not entirely unique: states typically provide temporary permits to students or au pairs that include points in time after which the migrant is no longer permitted to reside within the state's territory. But particular to the situation of asylum-seekers is the fact that after the permit ends, they cannot return to their countries of origin. The merits of their asylum claims must first be evaluated while they remain within the territory, so as to be establish whether each asylum seeker is in fact a refugee.

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18. Council Directive 2001/55, 2001 O.J. (L 212).

19. For a discussion of the differences and similarities between these two instruments, see Meltem Ineli-Ciger, *What a difference two decades make? The shift from temporary to immediate protection in the new European Pact on Asylum and Migration*, EU IMMIGRATION AND ASYLUM LAW AND POLICY (Nov. 11, 2020), <https://eumigrationlawblog.eu/what-a-difference-two-decades-make-the-shift-from-temporary-to-immediate-protection-in-the-new-european-pact-on-asylum-and-migration/>.

20. *Commission Proposal for a Regulation of the European Parliament and of the Council Addressing Situations of Crisis and Force Majeure in the Field of Migration and Asylum*, *supra* note 3, at 1.

21. On March 4, 2022, the EU Council decided for the first time to activate the Temporary Protection Directive because of the Russian invasion of Ukraine. Council Implementing Decision 2022/382, 2022 O.J. (L 71). This development could not be included in the present Essay but clearly adds to the bifurcated nature of temporal protection. See for a first analysis M. Ineli Ciger, *5 Reasons Why: Understanding the Reasons Behind the Activation of the Temporary Protection Directive in 2022*, EU IMMIGRATION AND ASYLUM LAW AND POLICY (Mar. 7, 2022), <https://eumigrationlawblog.eu/5-reasons-why-understanding-the-reasons-behind-the-activation-of-the-temporary-protection-directive-in-2022/>; Daniel Thym, *Temporary protection of Ukrainians: the unexpected renaissance of 'free choice'*, EU IMMIGRATION AND ASYLUM LAW AND POLICY (Mar. 7 2022), <https://eumigrationlawblog.eu/temporary-protection-for-ukrainians-the-unexpected-renaissance-of-free-choice/#more-8289>.

## III. PROGRESSIVE TEMPORALITY

The effects that territorial presence have on migrants' legal entitlements have been widely discussed in political theory.<sup>22</sup> Although there is disagreement about issues such as the exact value of territoriality, to whom it applies, and the precise normative arguments for inclusion, theorists agree that “being here” makes a difference for claims for inclusion.<sup>23</sup> The political theorist Michael Walzer, for example, has famously defended the political inclusion of those who are present within the territory of a democratic community by arguing that “the processes of self-determination through which a democratic state shapes its internal life must be open, and equally open, to all those men and women who live within its territory, work in the local economy, and are subject to local law.”<sup>24</sup> It is this normativity that Anne McNevin has called “progressive temporality”—a model of citizenship in which the future is better than the past.<sup>25</sup>

Yet states can also differentiate residence entitlements by means of time, as has been discussed above. States use such temporal differentiation, for example, to provide long-term residence entitlements only after a probationary period; to exclude temporary migrants, such as students or seasonal workers, from such stronger rights; or to provide residence rights to those who reside within their territories without permission only under exceptional circumstances. This temporal differentiation, however, remains based on the general principle that the longer one resides within the territory, the stronger one's residence entitlements become—since, as Joseph Carens has put it, people “sink deep roots” over time<sup>26</sup> and “form their deepest human connections where they live.”<sup>27</sup> The passage of time thus serves as a proxy for affiliation, for local ties, for assimilation, or for integration.

In contemporary European migration law, this progressive temporality is

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22. See, e.g., MICHAEL WALZER, SPHERES OF JUSTICE (1983); T. Hammar, *Legal Time of Residence and the Status of Immigrants*, in FROM ALIENS TO CITIZENS: REDEFINING THE STATUS OF IMMIGRANTS IN EUROPE 187 (Rainer Bauböck ed., 1994); RUTH RUBIO-MARÍN, IMMIGRATION AS DEMOCRATIC CHALLENGE: CITIZENSHIP AND INCLUSION IN GERMANY AND THE UNITED STATES (2000); MICHAEL DUMMETT, ON IMMIGRATION AND REFUGEES (2001); SEYLA BENHABIB, THE RIGHTS OF OTHERS: ALIENS, RESIDENTS AND CITIZENS (2004); DORA KOSTAKOPOULOU, THE FUTURE GOVERNANCE OF CITIZENSHIP (2008); Neil Walker, *Denizenship and Deterritorialisation in the European Union*, in A RIGHT TO INCLUSION AND EXCLUSION? NORMATIVE FAULT LINES OF THE EU'S AREA OF FREEDOM, SECURITY AND JUSTICE 261 (Hand Lindahl ed., 2009); JOSEPH CARENS, IMMIGRANTS AND THE RIGHT TO STAY (2010); AYELET SHACHAR, THE BIRTHRIGHT LOTTERY (2009); Ayelet Shachar, *Earned Citizenship: Property Lessons for Immigration Reform*, 23 YALE J. L. & HUM. 110 (2011); Linda Bosniak, *Being Here: Ethical Territoriality and the Rights of Immigrants*, 8 THEORETICAL INQ. L. 389 (2007); Sarah Song, *The Significance of Territorial Presence and the Rights of Immigrants*, in MIGRATION IN POLITICAL THEORY: THE ETHICS OF MOVEMENT AND MEMBERSHIP 225 (Sarah Fine & Lea Ypi eds., 2016); SARAH SONG, IMMIGRATION AND DEMOCRACY (2018).

23. See for a further discussion of the meaning of temporal presence in European migration law, see Stronks, *supra* note 4, at 65-97.

24. WALZER, *supra* note 22, at 60 (emphasis added).

25. McNevin argues that the progressive temporal narrative of citizenship obscures the effective denial of citizenship. McNevin, *supra* note 11.

26. JOSEPH CARENS, THE ETHICS OF IMMIGRATION 159 (2013).

27. Joseph Carens, *Who Gets the Right to Stay?*, BOSTON REVIEW (Jan. 23, 2018), <https://bostonreview.net/articles/joseph-h-carens-who-gets-right-stay/>. For a discussion of the prevailing arguments for the significance of territorial presence for the rights of immigrants, see Song, *The Significance of Territorial Presence and the Rights of Immigrants*, *supra* note 11.

reflected most notably in the EU Long-Term Residents Directive.<sup>28</sup> The Directive gives third-country nationals (such as non-EU citizens) the possibility to apply for long-term residence status after a period of five years of continuous and lawful residence within the territory of an EU member state. According to Recital 6 of the Directive, “[t]he main criterion for acquiring the status of long-term resident should be the duration of residence in the territory of a Member State. Residence should be both legal and continuous in order to show that the person has put down roots in the country.”<sup>29</sup> Another example of progressive temporality can be found in the caselaw of the European Court of Human Rights on the right to family and private life in Article 8 of the European Convention on Human Rights. There is an extensive body of migration caselaw regarding this provision, most notably in cases in which states have withdrawn the residence statuses of long-term residing migrants who have been convicted of a crime.<sup>30</sup> As the European Court of Human Rights noted in *Üner v. The Netherlands*, “the rationale behind making the duration of a person’s stay in the host country one of the elements to be taken into account lies in the assumption that the longer a person has been residing in a particular country, the stronger their ties with that country and the weaker the ties with the country of their nationality will be.”<sup>31</sup> Time thus has a double function: on the one hand, it is a means of governing and distributing the residence entitlements of migrants residing within a state’s territory, while on the other hand it provides the foundation for inclusionary arguments based on rootedness.

#### IV. PROGRESSIVE TEMPORALITY FOR THE REFUGEE?

Refugees do not escape the Janus face of time: they are exposed to temporal governance just as they profit from progressive temporality. Even though there are numerous ways to make asylum-seekers wait before or during asylum procedures, time can still have value for subsequent claims to stronger residence entitlements. As mentioned, lawfully residing migrants may apply for long-term resident status after five years of lawful and continuous presence within the territory of one of the member states of the EU. The Long-Term Resident

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28. Council Directive 2003/109, *supra* note 2. Similar provisions can be found in the EU Citizenship Directive. Council Directive 2004/38, art. 16, 2004 O.J. (L 158), 105. *See also* Council of Europe, *Recommendation 2000(15) of the Committee of Ministers to member states concerning the security of residence of long-term migrants* (Sept. 13, 2000).

29. Council Directive 2003/109, *supra* note 2, at 3.

30. For a discussion of this progressive temporality in the case law of the ECHR, see Stronks, *supra* note 4; Alan Desmond, *Friend, Foe and Foil: The Many Uses of Time by the European Court of Human Rights in Expulsion Cases*, 4 EUR. HUM. RTS. L. REV. 418 (2021); Başak Çalı & Stewart Cunningham, *The European Court of Human Rights and Removal of Long-term Migrants: Entrenched Statism with a Human Voice?*, in *MIGRATION AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS* 159 (Başak Çalı, Ledi Bianku, & Iulia Motoc eds., 2021). For further discussion of this case law for long-term residing migrants, see M.B. DEMBOUR, *WHEN HUMANS BECOME MIGRANTS: STUDY OF THE EUROPEAN COURT OF HUMAN RIGHTS WITH AN INTER-AMERICAN COUNTERPOINT* (2015); Charlotte Steinorth, *Üner v The Netherlands : Expulsion of Long-term Immigrants and the Right to Respect for Private and Family Life*, 8 HUM. RTS. L. REV. 185 (2008); Daniel Thym, *Residence as De Facto Citizenship? Protection of Long-term Residence under Article 8 ECHR*, in *HUMAN RIGHTS AND IMMIGRATION* 126 (Ruth Rubio Marín ed., 2014).

31. *Üner v. The Netherlands*, 873 Eu. Ct. H.R. 16 (2006)

Directive stipulates that, for recognized refugees, time spent in the asylum procedure will count for at least half of that period. In cases in which asylum procedures exceed eighteen months, the entire duration of the procedure counts toward that five-year period.<sup>32</sup> Moreover, member states may back-date grants of residence status to the moment of the asylum application, thereby taking into account the entire duration of the asylum procedure. (States do not consider the periods of time that new arrivals have spent waiting before the asylum procedure has commenced.) After refugees have been granted Long-Term Resident Status, their status is no longer temporary, because it cannot be withdrawn when the risks in their countries of origin cease to exist.

It is not yet clear how the new Proposal for a Crisis Regulation will affect the progressive temporality experienced by refugees in the EU. Yet despite the proposal's promise that asylum-seekers can access certain rights for a period of one year, it seems that the proposal favors the stagnation and deceleration of asylum procedures through the extension of time limits. What is more, it is unlikely that the period of one year of immediate protection will count for the purposes of the Long-Term Resident Directive, since the new Proposal equates immediate protection with subsidiary protection—a form of international protection for persons seeking asylum who do not qualify as refugees—that is exempted from the scope of the Long-Term Resident Directive. Such a result would effectively make asylum-seekers (and refugees) wait longer at the borders of European society.

#### V. THE FADING PROGRESSIVE TEMPORALITY OF REFUGEES

Bridget Anderson has stressed that a presumption of a linear trajectory towards permanent sorts of residence underlies much of the research on migration and migration policy. On this account, integration or rootedness inevitably develop as a consequence of the mere lapse of time. Yet migrants' trajectories through time are often neither smooth nor linear, and some categories of migrants find themselves in prolonged liminal statuses.<sup>33</sup> There is no chronologic of presence, to re-purpose Bonnie Honig's critique of the "chronologic of rights,"<sup>34</sup> in the sense that stronger residence entitlements are not the uniform consequence of a migrant's durable presence within a state's territory over a period of time. As I have argued in this Essay, temporal governance bifurcates entitlements through the sophisticated use of prolonged waiting periods, procedural time, back-dated residence entitlements, and the qualification of certain statutes as temporary.

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32. The entitlements of the Long-Term Resident Directive have only applied to refugees since an amendment of the Directive in 2011. See Council Directive 2011/51, 2011 O.J. (L 132). Refugees' exposure to the inclusionary side of time has not been self-evident from the beginning: refugees fell outside of the scope of the 2003 version of the Directive because of the temporary nature of their status. Council Directive 2003/109, 2003 O.J. (L 16).

33. Bridget Anderson, *And About Time Too... Migration Documentation, and Temporalities*, in GLOBAL INSECURITIES. PAPER TRAILS: MIGRANTS, DOCUMENTS, AND LEGAL INSECURITY 53 (Sarah Horton & Josiah Heyman eds., 2020). Anderson's point coincides with McNevin's argument regarding progressive temporality, though McNevin focuses on citizenship. See McNevin, *supra* note 11.

34. BONNIE HONIG, EMERGENCY POLITICS: PARADOX, LAW, DEMOCRACY 44 (2009).

Asylum-seekers and refugees are currently among the main targets of temporal governance. “Being here” has become an increasingly scarce commodity, both with respect to migrants’ actual presence within states’ territories and those migrants’ abilities to access the legal entitlements attached to that presence. But even though the ways to make asylum-seekers wait are numerous, those who eventually manage to be acknowledged as refugees can benefit: their time waiting might not be fully acknowledged in their claims for stronger residence entitlements, but at least half of their procedural time may count toward that end, and their temporary status can be transposed to a permanent residence permit after five years of continuous residence.

The prospect of immediate protection that the Proposal for a Crisis Regulation offers adds another period of lawful waiting time to the extensive arsenal of methods that states can use to make refugees wait. While this form of protection provides asylum seekers certain rights, it also prolongs their time in a liminal state. And it is precisely because the beneficiaries of immediate protection receive material rights, such as access to education and the labor market, that their “stuckedness” is so apparent. These beneficiaries may enter the host society, but there is no certainty that their welcome is durable; their residence is defined by its temporariness. Just as they are to be granted the freedom of movement within the host country during the period of immediate protection, so too are they temporally immobile, or barred from moving toward a viable future. Immediate protection offers additional proof of the proliferation of the temporal governance of mobility by further differentiating access to rights and residence by means of a time. Some new arrivals have immediate access to the benefits provided by the progressive temporality of their presence within the host state’s territory. Others, as if locked in temporality, have to wait before their clocks start ticking.