

October 14, 2010

Dear Legal Theory Workshop Participants,

Attached is a forthcoming article in the *Yale Journal of Law & the Humanities* that proposes a way out of the current nation of laws vs. nation of immigration stalemate, setting out a new theoretical framework that emphasizes the importance of rootedness as a basis for legal title. It addresses one of the most fraught dimensions of this debate, namely, whether to legalize the status of undocumented immigrants present in the country for an extended period of time. The rootedness approach, or what I label *jus nexi*, is itself informed by insights from property theory and other private law doctrines that reveal a legal (rather than moral) basis for establishing an equitable path to earned citizenship.

A complementary article, entitled "Picking Winners: Olympic Citizenship and the Global Race for Talent," will appear in 120 *Yale Law Journal* \_\_ (2011). In that article, I explore how and why countries entangled in a global race for talent are willing to go so far as to reconfigure the boundaries of political membership in order to attract the world's "best and brightest," demonstrating the rise of a transfer market in which citizenship itself becomes an important recruitment tool.

Both of these works grow out of my recently published book, *The Birthright Lottery: Citizenship and Global Inequality* (Harvard University Press, 2009), in which I have developed a conceptual analogy between birthright citizenship and inherited property. This conceptual analogy proves helpful, as I have argued in that book, in justifying redistributive obligations on those benefiting from the inheritance of membership, with the aim of ameliorating its most glaring opportunity inequalities. Here, the core theoretical claims have to do with the way citizenship is being reconfigured by nation states operating in a more dynamic and globalized environment; the importance of drawing a connection between rights and obligations, social membership and access to legal title; and the crucial value of citizenship as a government-dispensed entitlement that grants security and protection to the individual.

I very much look forward to the conversation.

Yours,

Ayelet

