

**The Disinterested State:  
Negative Diasporic Policy as an Expression of State Inclusion and National Exclusion**

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**Abstract:** This article engages with the understudied phenomenon of the “disinterested, denouncing” (Levitt and Glick Schiller 2004) or “indifferent” (Ragazzi 2009) diaspora state. Focusing on US citizens abroad, the article argues that there is negative diasporic outreach on the part of the state—“disinterested” from the state’s perspective, but “denouncing” from that of the diaspora. Negative diasporic outreach is exemplified by the 2010 FATCA legislation, which sought to root out tax evaders resident in the US, but has, instead, affected millions of American emigrants through increased financial control and the repercussions of those policies, and has resulted in sharply higher citizenship renunciation figures. Impact on an American diaspora was not considered in the law’s proposal, debate and passage into law. Second, the article argues that this negative diasporic outreach, in combination with the continued facilitation of the right to vote, is a reflection of the inclusion of these American emigrants in the American state, but their simultaneous exclusion from the American nation.

**Keywords:** FATCA, diaspora, American migrant, transnationalism, citizenship renunciation

## Introduction

More than half of the world's states have established institutions dedicated to the inclusion of diasporas (Gamlen 2014; Arrighi and Lafleur **this issue**), and more than 80% allow or facilitate extra-territorial voting (Collyer and Vathi 2007), a trend which has accelerated since 2000. Governments have granted their citizens living abroad the right to vote and to hold dual citizenship, provided for direct representation in parliaments, facilitated the sending of remittances, formally and ceremonially recognised their contributions to the country, and more. Mexico and the Philippines are well-known examples of countries which have shifted from seeing emigrants as deserters or traitors to actively supporting them (Durand 2004; Rodriguez 2002), and many others, including Global North and classic immigration countries, have done so as well (Gray 2006; Larner 2007; Collyer 2013, 17-8). This international trend, arguably a normative shift (Gamlen 2014; Lafleur 2015, 846), toward states' engagement with diasporas is a strong one, yet the parallel phenomenon of some states' lack of engagement with their diasporas remains understudied. This article fills a gap in the literature on these "indifferent" (Ragazzi 2009) or "disinterested, denouncing" states (Levitt and Glick Schiller 2004; Boccagni et al. 2016).

This article examines the relationship between the United States and its estimated 9 million citizens abroad (US Department of State 2016)—emigrants, diaspora or overseas Americans. While the US encourages other diasporas to engage with their countries of origin and to contribute economically and politically (e.g. US Department of State 2014; Levitt and Lamba-Nieves 2011), there is no consistent or institutionalised engagement by the United States with its own overseas population as a distinct diaspora. Its policies vis-à-vis its overseas population reflect "multi-tiered" policies which have been shown to exist in other cases, such as Egypt (Tsourapas 2015), with support and assistance provided to all US citizens overseas; the service provision is, however, tailored for those who are conceived of

as being overseas temporarily. In the 1960s and 1970s, overseas Americans<sup>1</sup> lobbied for the right to vote and won that right in 1975 (Klekowski von Koppenfels 2014; Michaux 1996; Smith 2014). Today's relationship is, however, characterised by what might be called negative diasporic outreach, constituted in large part by the increased financial control of those overseas citizens by the 2010 Foreign Account Tax Compliance Act ("FATCA", a play on the term "fat cat"). Today's lobbying by overseas Americans is directed at revising or repealing that legislation.

This article argues that the seeming contradiction between the continued facilitation of overseas Americans' right to vote on the one hand and focused financial control on the other reflects the inclusion of this American diaspora in the American state, with their full rights as citizens recognised, but their exclusion from the American nation, or national narrative, here conceptualised as an "imagined community" (Anderson 2006). In addition to the financial control, the simultaneous inclusion and exclusion is reflected in the contrast between the protections and assistance offered to overseas citizens, including the right to vote, but a lack of programs addressing the concerns of a long-term emigrant population. Their political rights are, in most cases, assured (see Arrighi and Lafleur, **this issue**), but policies or programs acknowledging their value to the broader idea of America are lacking. Overseas Americans themselves note that they are not seen, either in popular or in government imagination, as a coherent diasporic population, nor are they included in any understanding of what constitutes the American nation. This conclusion supports Levitt and Glick Schiller's (2004) argument that transnational engagement "rejects the long-held notion that society and the nation-state are one and the same" (1003) as well as their finding that the state's "arrangements [vis-à-vis a diaspora] are by no means static" (Levitt and Glick Schiller 2004, 1024). Similarly, the lack of specific inclusion for American emigrants reflects

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<sup>1</sup> This paper uses the term 'American' interchangeably with 'US citizen', while recognising that 'American' also refers to others from North, Central and South America.

Bloemraad's argument that the United States fails to emphasize the "symbolic meaning" (2006, 139) of inclusive citizenship for different migrant groups. Full diaspora membership implies belonging both with the rights of a formal citizen, as well as inclusion in the "imagined community" of the nation. The American diaspora is included only in a narrow, not in a broad, understanding of citizenship.

After a review of key literature, this paper discusses the profile of the US diaspora, drawing on a survey (closed and open-ended questions) conducted December 2014-January 2015 (N=1546, see Data and Methods below). Second, it reviews the FATCA legislation and its role in record high numbers of post-2010 American citizenship renunciation. Although it is not explicitly a diasporic institution (Gamlen 2014, S183; Ho and Yeoh 2015, 154), FATCA extends domestic governance internationally through its explicit inclusion of all foreign businesses and bank accounts owned by "US persons." The article then analyses qualitative survey responses, demonstrating the impact of the negative diasporic outreach on the American diaspora.

## **Diaspora**

Eventual return and forcible dispersion are no longer core components of today's understanding of diaspora. The conceptual overlap between "diaspora" and "transnationally-engaged community" is also decreasing, with suggestions that Australians (Hugo 2006), Britons (Finch et al. 2010, 6) or US citizens abroad (Croucher 2012; Klekowski von Koppenfels 2014) could constitute diasporas. Ultimately, we can be comfortable in understanding "diaspora" as a population dispersed across multiple locations and having a distinct sense of identity both as a group and vis-à-vis the country of origin across those multiple locations (cf. Dufoix 2008; Faist 2010; Butler 2001, 192; Gamlen 2013; Mirilovic 2016).

### ***State engagement with the diaspora***

In the past, emigrants were often seen as traitorous, ungrateful or simply absent by both origin governments and populations (see Bauböck 2003; Gamlen 2008; Klekowski von Koppenfels 2014, 234). Fewer and fewer countries hold this view, as countries have shifted from the denunciation of emigrant citizens to inclusion and awareness of mutual benefit (Boccagni et al. 2016; Délano and Gamlen 2014). Levitt and Glick Schiller (2004) categorise state-diaspora relationships in three ways: some states have included their emigrants both economically and politically, becoming “Transnational Nation States,” while the more common “Strategic, Selective State” engages with its diaspora in selected ways, perhaps economic or political, whether through bases of legal inclusion or established programs (1023). The third type of state, increasingly rare, is the “Disinterested, Denouncing State” for whom migrants “are seen as having abandoned the homeland or even as traitors to its cause” (1024), with Cuba as one example. Ragazzi categorises the United States as an “indifferent state ... characterized by a general lack of interest to its population abroad” (2014, 81) and notes that such states, including Belgium and Nigeria, remain understudied in the area of diaspora engagement. Ho (2011) notes, on the other hand, that many states have at least two diaspora policies: they may celebrate some migrants, such as the highly skilled, or members of one ethnic or religious group, while “neglecting” others.

Although there is a strong emphasis within the diaspora engagement literature on remittance-sending and such phenomena as hometown association contributions (e.g. Horst 2008; Waldinger and Fitzgerald 2004), Délano and Gamlen (2014) note that financial remittances are only one of many reasons for state engagement with a diaspora. Levitt and Glick Schiller similarly note that origin states maintain or (re-)establish links with their diasporas to encourage remittances, strengthen trade ties, or because they hope diasporas can further their interests abroad (2004).

Economic factors or remittances are not, Lafleur finds, a complete explanation for enfranchisement (2011, 498; also Collyer 2014, 66). Diaspora inclusion is not necessarily instrumental; a changed understanding of the state and community can also explain a shift from disinterested or indifferent states to transnationally engaged ones (Ragazzi 2009). This shift occurs, Ragazzi argues, as the concept of belonging moves from being marked by territorial belonging, i.e. within the state, to being citizenship-based, or within the nation, which, in turn, legitimises transnational engagement (2009, 391).

Not all state diasporic outreach is positive; Collyer notes that while most diasporic outreach is a question of providing services, some states are engaged in enforcing obligations, usually financial, or even engaging in “surveillance and control” (2014, 64). While Ho notes that states may engage in different ways with different diaspora groups (2011), Délano and Gamlen (2014) caution against approaches to diaspora engagement which portray the state as a unitary actor (45). A state can, then, both engage its diaspora and, at the same time, seek to control it; the US case exemplifies this tension.

### ***Diaspora and state interactions***

Widely accepted explanations for emergence and activism of diasporas reflect both economic and political elements. Migrants may engage transnationally in order to increase status in the country of origin (Fitzgerald 2004), engage in an ongoing conflict, whether as “peace-makers” or “peace-breakers,” or seek to overthrow a regime or enjoy a newfound freedom of speech (Østergaard-Nielsen 2000; Levitt and Jaworsky 2007; Adamson 2002; Gamlen et al. 2013). The destination country can play a role in diaspora engagement; reactive transnationalism—whether economic or political engagement with the country of origin or increased identification—can emerge as a result of discrimination or negative context of

reception in the host country (Itzigsohn and Giorguli Saucedo 2002, 772; Østergaard-Nielsen 2001, 263).

### ***Background***

Two tensions shape overseas Americans' relationship with the state: that between temporary and permanent migrants, and that between political inclusion and financial control. In the United States, the popular and government view continues to be that departure from the US is expected to be a temporary overseas relocation. Temporary migrants study or work abroad, may perhaps be on intra-company transfers, or on humanitarian, military or religious missions, with the experience seen as strengthening their value upon return to the United States. The concept of a voluntary long-term emigrant who remains a loyal and/or engaged citizen is counter-intuitive in the American national narrative. For the US, long-term emigrants have been seen as draft-dodgers, tax-evaders or political dissenters (Hardwick 2010). Both the US government and population struggle with the concept of an American emigrant or diaspora population; they are Ho's "neglected" diaspora. In the case of the United States, its strong and integral identity as both an historical and contemporary immigration nation, even if contested under a Trump presidency, combines with a continued lack of identity as an emigration state and, indeed, no understanding of having any emigration at all, to shape its relationship with its emigrants in a selectively exclusionary way.

The second tension is that of the formal relationship with the state. Political inclusion in the state—enfranchisement—was achieved in 1975 within an extension of rights in a domestic civil rights context in response to lobbying by the overseas population. That extension of the franchise built on military service members' right to vote, with others living abroad included on the basis of equal rights (Smith 2014, 39). FATCA, which sought to root

out tax evaders residing in the US and investing overseas, passed without reference to, or seemingly reflection on, the US diaspora, reflects the continued exclusion of the diaspora from the nation, or national narrative.

The State Department assists and facilitates voting, as does the Foreign Vote Assistance Program (FVAP), located in the Department of Defense. Consular officials hold briefings on voter registration and reach out to overseas American community groups for that purpose. The outreach varies from year to year and from country to country. The State Department assists destitute travellers, provides alerts for those travelling, issues passports, registers births abroad and much more. Individual efforts may be undertaken, whether support of artists' work or select issuance of coveted invitations to Fourth of July celebrations, but there is not, nor has there been, an institutionalised governmental outreach to an American diaspora.

In explaining overseas American engagement, Klekowski von Koppenfels argued that identity and reactive transnationalism played key roles in their transnational political engagement (2014, 174). Lacking a uniform ethnic identity, Americans draw instead on a sense of civic identity for motivation to vote, using this participation in the state to reify their national identity (cf. Bloemraad 2006). Secondly, identified and visible as Americans during the US-led Iraq War starting in 2003, many in Europe felt compelled to become politically active to demonstrate their opposition to the war as Americans, in a clear case of reactive transnationalism (Klekowski von Koppenfels 2014). Many within the US diaspora feel that they serve as “informal” or “unknown” ambassadors (Michaux 1996), in short, furthering US interests abroad, serving its “geostrategic interests” (Mylonas and Žilović, **this issue**). However, their own perception of their role is at odds with a lack of a widespread recognition in the United States that overseas Americans still belong to the American nation and can, and do, further American interests abroad. This is a clear contrast to the conceptualisation of, for



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**Klekowski von Koppenfels, Amanda (2017) *The Disinterested State: Negative Diasporic Policy as an Expression of State Inclusion and National Exclusion*.  
Journal of Ethnic and Migration Studies, 45 (4). pp. 595-612. ISSN 1369-183X.**

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example, the Haitian diaspora as Haiti's "tenth department" (Glick Schiller and Fouron 1999).

While Collyer argues that the inclusion of emigrants in the national narrative enables their inclusion in democratic institutions (2013, 17), for overseas Americans, inclusion in democratic institutions—enfranchisement—has taken place, but inclusion in the national narrative lags behind. A state's self-identity, and identification of its "people," is an integral part of the diaspora inclusion process (Collyer 2014; Ho 2011), both for states which acknowledge and include their diasporas, and for those which do not.

### **Data and methods**

This article draws on data from an opt-in online qualitative survey of US citizens and former citizens living outside the United States (N=1546) from 5 December 2014 to 20 January 2015. The survey had 1546 responses; 1399 were US citizens (90.3%) and 147 former US citizens (9.7%). The survey link was initially distributed via email and social media through existing networks and to new contacts. These networks included both individuals and organisations. From those initial contacts, the survey link was shared numerous times via social media and the link was posted on several well-visited blogs.

The survey was entitled 'The United States and You – A Survey for US Citizens and Former US Citizens' and explained:

There has been a great deal in the news recently about US citizens giving up their US passports, but these reports are largely based on anecdotal evidence and not on systematic research. This survey seeks to fill that gap, and explore, from a research perspective, what factors are playing a role in US overseas citizens' thought processes on maintaining or renouncing US citizenship.

Insofar, FATCA was mentioned neither in the description nor in survey questions, but did emerge as a central point in participants' open-ended responses. The survey included both closed- and open-ended questions. Responses to open-ended questions were substantial (1422 responses, with many individual responses stretching onto several pages). Insofar, to facilitate analysis, a data reduction technique was used and a representative sub-sample of ten percent of the overall qualitative survey responses selected. Data were sorted by response to the question "Have you ever thought about renouncing US citizenship?"<sup>2</sup> They were sorted by date and time of response; every tenth complete response within each response category was selected. These 146 responses were coded thematically in NVivo. Such representative sub-sampling within a large sample enables manageable qualitative analysis. This article draws on quantitative data from the complete survey results and qualitative data from the sub-sample.

### ***Profile***

Just under one-third (31.0%) of US citizen respondents had actively thought of renouncing US citizenship, and 3.3% were in the process of doing so. Some 9.2% of the overall sample were former US citizens. It should be clear that the responses on consideration of renunciation are not necessarily clear statements of intention. Indeed, in comments, many reported that, while they had actively sought out information, they were unlikely to renounce. There was no substantial variation by income level (see Table 2). The sub-sample selected for qualitative analysis had the breakdown as presented in Table 1.

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<sup>2</sup> The possible responses were: 'No, I have not thought about it'; 'I have given passing thought to the idea'; 'I have actively thought about it and looked into it, whether through an Internet search, asking for advice, etc.'; 'Yes, I am currently in the process of doing so'; 'Yes, and I have done so.'

**Table 1: Have you ever thought of renouncing US citizenship?**

	All respondents	US citizens only
Have not thought about it	26.7%	29.5%
Have given it passing thought	29.5%	32.6%
Have thought actively about doing so	29.5%	32.6%
Am currently in the process of doing so	3.4%	3.8%
Have done so	9.6%	na
	N=146	N=132

The contrast between the World Bank’s 2010 estimate of 2.4 million overseas Americans and that of the State Department’s 2012 estimate of 6.3 million (and the increase to 9 million in 2016) reinforces the point that there is not one definitive source for the size of the American diaspora. All counting and profiling mechanisms are incomplete (Klekowski von Koppenfels and Costanzo 2013; Klekowski von Koppenfels 2014; Smith 2010) and, while there is increasing research on the different aspects of this varied migrant population (Croucher 2009; Klekowski von Koppenfels 2014), more research is needed.

The plurality of respondents (32.5%) had moved to be with a partner—consistent with previous research (Klekowski von Koppenfels 2014; OVF 2009)—with employment the second key motivator, at 26.4% of respondents. Study (10.3%) and exploration (9.6%) were of similar importance. Over one-third (38.9%) had lived in their current country of residence for over 20 years and an additional 20.5% between 11 and 19 years. Two-thirds of all respondents noted that permanent return to the US is unlikely. Just under half (45.3%)

reported pre-tax annual household incomes of less than USD 100,000 (18.1% reported less than USD 50,000), and 8.0% USD 250,000 or more.<sup>3</sup>

The majority of overseas Americans can thus be identified as Conradson and Latham's "middling migrants" (2005), which provides an intermediate position between the "elite" migrant and the underprivileged (Ryan et al. 2015). However, even within that "middling" category, there remains great diversity (Klekowski von Koppenfels et al. 2015, 614), not only in terms of income and employment,<sup>4</sup> but also identity, integration and relationship to the origin country. In short, an overseas American is more likely to be a long-term "middling" migrant, a part of the "neglected" diaspora (Ho 2011), and not the fabulously rich "fat cat" investment banker or independently wealthy scion of a well-to-do family often imagined by domestic US actors. Such imagination is a narrative common among countries without a positive diasporic outreach. Collyer notes that for such states, including Arab Spring nations, North Korea and Eritrea, "'emigrants'" choice to live outside the country was alone enough to rouse suspicions of their motives .... [these insinuations] build on narratives of emigrants as wealthy, privileged, out of touch or corrupt" (2013, 16). In the case of the American diaspora, those teaching English by the hour and well-integrated in the country of destination seem to outnumber those jetsetting "elite migrants" whose lifestyle captures the public imagination, leading us to question widespread stereotypes.

### **Negative diasporic outreach: financial reporting requirements**

The United States is one of only two countries to tax its citizens on worldwide income. The other is Eritrea, where permission to emigrate and to return is linked to the payment of a two per cent annual tax (Riggan 2013, 92). All other countries use residence-

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<sup>3</sup> It should be noted that taxation rates vary substantially from one country to another, so that net income can have strong variation.

<sup>4</sup> 41.4% were full-time employed, 20.2% retired and 18.2% self-employed; 3.5% were unemployed and looking for work

based taxation (RBT). All US citizens living abroad have been required to file annual tax returns since 1962, whether or not tax is due.

In addition to citizenship-based taxation (CBT), additional financial reporting requirements have affected overseas Americans. Passed in 2010, taking full effect in 2014, the Foreign Account Tax Compliance Act (FATCA) was passed as part of H.R. 2847, the Hiring Incentives to Restore Employment Act (HIRE). Intended to crack down on tax evasion, FATCA was meant to provide the revenue needed to fund HIRE. FATCA's key provision is that foreign banks and financial institutions must report the accounts of 'US persons'—US citizens and Green Card holders—to the United States' Internal Revenue Service (IRS) or face substantial penalties. "US persons" themselves must also report these accounts to the US government. To avoid required reporting, many financial institutions have made the decision to no longer accept "US persons" as customers and have closed existing accounts, denied investment opportunities and even mortgages, thus denying overseas Americans banking and investment services.

Simultaneously, enforcement of the 1970 Banking Secrecy Act (BSA), also meant to combat tax evasion, was increased. The BSA requires that any US citizen holding more than a total of \$10,000 in one or more foreign accounts at any point during the year must report the highest annual balance of those accounts to the Department of Treasury via an annual Report of Foreign Bank and Financial Accounts (FBAR). As of 2004, penalties for 'non-wilful noncompliance' were increased to \$10,000 per account per year and enforcement increased.

FATCA has been widely perceived by US citizens abroad as a negative move directly affecting them, with one respondent speaking of the United States' "aggression against its diaspora," another calling it a "witch-hunt" and a third asking "why do they treat people who

work abroad like terrorists and money launderers?” *The Economist* called FATCA “a piece of extraterritoriality stunning even by Washington’s standards” (*The Economist* 28 June 2014). Yet the law was passed to target US-based tax evaders. Here we note not a two-tier approach to a diaspora, but a distinction in the state’s and diaspora’s perception of the same phenomenon; if the state was disinterested, the diaspora perceives denunciation.

FATCA demonstrates the extra-territorial nature of state-diaspora relations, which has an impact not only on US citizens, but also on foreign banks and other companies and organisations now charged with implementing US policy (cf. Ho and Yeoh 2015; Ragazzi 2009, 383). The impact of FATCA is thus not only a direct state-diaspora one, but is mediated through destination country banks and other financial institutions.

#### ***Implications of financial reporting requirements: citizenship renunciation***

FATCA and increased FBAR enforcement have arguably resulted in the record-high numbers of citizenship renunciations since FATCA’s passage in 2010. Conventional wisdom has it that wealthy Americans are renouncing as a tax avoidance strategy. Yet my data (see Table 2) showed no substantial variation in renunciation intentions by income level. The decision to renounce rather involved “wrenching emotions,” as one woman living in Canada noted. My research thus suggests that there are alternative explanations. Three key reasons

**Table 2: Have you ever thought of renouncing US citizenship?**

	All respondents	US citizens only	Under \$50,000 gross income	\$250,000 gross income or more
Have not thought about it	29.4%	32.4%	33.2%	27.9%
Have given it passing thought	30.1%	33.2%	29.9%	29.5%
Have thought actively about doing so	28.2%	31.1%	27.4%	32.8%
Am currently in the process of doing so	3.0%	3.3%	3.6%	2.5%
Have done so	9.2%	na	5.8%	7.4%
	N=1546	N=1404	N=274	N=122

emerged in my research: First, for many, the complexity and cost (of paying a tax preparer, and not necessarily a question of paying taxes *per se*) was a key motivation in renouncing. Second, the feeling of “denunciation” emerged and, finally, for those well-established in destination countries, many holding a second passport (57.8% of the survey respondents held dual citizenship), increased reporting requirements negatively impacted their lives in their country of destination.

**Table 3: Annual Number of Renunciations\***

2008	2009	2010	2011	2012	2013	2014	2015	2016
226	731	1485	1781	932	2999	3415	4279	5411

\*Calculated from quarterly reports in the Federal Register by the Treasury Department. Does not

include relinquishments; there is some dispute as to the accuracy of the figures.

The first reason for renunciation was the cost of filing, translating into a measurable cost of US citizenship, which played a role for some, as this person recounted: “Every year I pay about \$1,000+/p.a. and about \$70 postage to lodge a tax return that calculates “\$0” due.” Not only cost, but complexity also emerged numerous times, often combined with other factors, as in the case of this woman:

After 45 years in Canada ... and nearing 70, the paperwork expectations for filing were becoming too complex for spouse ... with our children & their families settled and definitely Canadian, with most of our friends/activities here, we realized we would not be moving back to the US.

This sentiment was echoed by another woman who renounced, noting she “realized that I needed to renounce asap because I was finding I couldn’t sleep at night due to the stress of not knowing what rules I was not complying with at great risk of enormous penalties.

Secondly, many reported feeling targeted by the US government, with FATCA both a proximate and an underlying cause: “More personally, I feel ill over the way we are being treated as presumptive criminals and that the attitude of resident Americans towards us appears to be ‘good riddance.’” The increased enforcement of the FBAR was another factor, as expressed here: “Further, I am sick of filing tax forms that make me feel like a criminal (the form to FINCEN<sup>5</sup> is the final straw) even though I am living an honest life.” Expressions that the policies are “punishing honest people for not living in the US” were also strongly present. Levitt and Glick Schiller note that “Any overtures migrants make vis-à-vis their

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<sup>5</sup> FBAR has been filed online since 2013, with filers required to do so via the website of the Financial Crimes Enforcement Network (FINCEN).

ancestral home are viewed as suspect because migrants are seen as having abandoned the homeland or even as traitors to its cause” (2004, 1024); in this case, overseas Americans are not making overtures—but view themselves as the subjects of a form of negative or controlling outreach by the state.

Finally, for others, US citizenship, post-FATCA, had negative impacts on their daily lives in their countries of destination: “Shame, shame, shame on the US government for creating a situation under which renunciation became my most viable personal option. [I] had personal and business accounts where I live and work forcibly closed due to FATCA.” Both banking and employment were mentioned. This person noted, “My fear is FATCA will limit my career and business opportunities and make me into a second class EU citizen.” Another noted that the policies resulted in banks changing their treatment of US customers: “I feel like I am being treated as a criminal by banking institutions.” The increase in US citizen renunciations, while still a minute percentage of all overseas Americans (the 21,000 renunciants named by the Federal Register between 2008 and 2016 make up less than 0.2% of the estimated 9 million overseas Americans), does reflect a clear and significant trend. The significant increase in renunciations has, in turn, reinforced the popular belief that overseas Americans have left the country—and are now renouncing their citizenship—not for reasons of partnership or employment, but rather to avoid taxation or disloyalty. The Ex-PATRIOT Act proposed in 2012 would have, if it had been passed into law, denied entry to the US to former Americans who had renounced to avoid taxation. In introducing the bill, Senator Charles Schumer referred to Facebook co-founder Eduardo Saverin, who renounced and is assumed to have done so for tax avoidance purposes, when he said: “my fellow Americans, when you renounce your nation to fatten your bank account, you are—by definition—being greedy and unpatriotic” (US Congress 2012, S3549).

### **American engagement and disengagement**

Yet the majority of overseas Americans remain citizens and remain eligible to vote. Many do perceive a denouncing state following FATCA, yet have no plans to renounce US citizenship—as this person noted: “1. I’m an American. 2. I deeply resent being treated like a tax fraud or a drug lord. FATCA is absurd, the penalty provisions are absurd.” Yet, at the same time, individual American politicians have identified in the diaspora both a source of votes and of funds. The 2000 Presidential election, famously decided by 537 votes in the state of Florida, highlighted the importance of absentee ballots in US federal elections (Klekowski von Koppenfels 2014:173), although complete counts of overseas votes remain elusive. Both Republican and Democratic presidential candidates have attended fund-raisers overseas since 2007 and have sent so-called surrogates to do the same (Klekowski von Koppenfels 2014, 201; *Washington Post*, July 7, 2016). Indeed, overseas Americans have actively exercised their citizenship rights through voting, fund-raising, lobbying and protesting. Grass-roots lobbying won overseas Americans the right to vote in federal elections in 1975 (states may extend the right to vote in local and state elections, but are not required to do so) and facilitated transmission of citizenship to children born abroad (Klekowski von Koppenfels 2014; Michaux 1996). The 2009 MOVE Act facilitates voting still further. This active participation on the part of the diaspora and their inclusion by the state, at odds with the negative diasporic outreach—exclusion—of increased financial reporting, with its result of increased citizenship renunciation, reflects Délano and Gamlen’s warning that the state is not necessarily a unitary actor (2014, 45).

We can explain this otherwise puzzling juxtaposition of positive and negative outreach, or of differentiated inclusion and exclusion, by drawing on the lens of different citizenship logics, namely that of inclusion in the state versus that of the nation. The extension of the right to vote—extending full inclusion in the state—can be understood in the broader logic of the then recently-concluded Civil Rights Movement, in which voting rights

were extended to African-Americans. Through framing their campaign for the right to vote and for facilitated transmission of citizenship as a question of equal rights in the state for overseas citizens, overseas Americans were able successfully to “piggyback” (Rhodes and Harutyunyan 2010, 480) on past campaigns, including that for the extension of the franchise to military posted overseas (Klekowski von Koppenfels 2014, 233 and 243). As Boccagni et al. also argue, “in-country civil society” (2016:456) thus played a key role in the extension of the vote to emigrants. Yet, the state’s unreflective action of passing FATCA, seeking to target domestic tax-evaders, serves to underscore the absence of the overseas population in the national narrative.

### **Of the state, but not of the nation**

The extension of the franchise was thus not, as it has been in other cases, a shift in conceptual understanding of the nation to include emigrants (cf. Collyer 2014), but rather was extended following a normative shift in an understanding of equal rights within the context of citizenship domestically. Insofar, the case of the US supports Gamlen’s argument that the extension of rights need not be part of a coordinated diaspora engagement programme (2008, 847).

Overseas Americans are citizens, part of the US state, and are thus subject to the same responsibilities as US-based citizens (taxes and Selective Service registration) and enjoy rights including, for most, the right to vote and to pass US citizenship to children born abroad. However, there is no widespread understanding or imagination of overseas Americans being part of the broader American nation; the image of the overseas American is that of a US citizen temporarily overseas, perhaps as a student, an individual on military deployment, on a short-term contract or carrying out humanitarian assistance, but not as an emigrant or long-term resident abroad. It is this contrast between the conventional wisdom

and the reality of the profile of overseas Americans which results in overseas Americans having additional financial reporting requirements vis-à-vis their compatriots based in the US. Democrats Abroad, the overseas arm of the Democratic party, sees itself as the ‘51<sup>st</sup> state’ and indeed sends delegates to the Democratic National Convention as a state (unlike Republicans Overseas, which is not similarly institutionalised within the Republican Party). This is not, however, replicated on a national level. Again, Ho’s concept of the ‘neglected’ diaspora comes to mind.

Not seen as a distinct or permanent population, overseas Americans are not included in the decennial census. One survey respondent noted that “because we aren’t present in the US we don’t count” —this is felt to be the case not only figuratively, but literally as well. A broad coalition of overseas American advocacy groups lobbied in the 1990s to be included in the 2000 US Census, in part to demonstrate their strength of numbers and thus political power: “in an era of close elections, politicians pay attention to their constituents; insofar, having an accurate count of Americans overseas could further lobbying goals” (Klekowski von Koppenfels 2014, 251), also pointing to a lack of representation and a question of fairness. Success in achieving a test census in 2004 was tempered by the test’s conclusions that inclusion of overseas citizens in the census faced significant challenges, not the least of which was poor cost effectiveness (Klekowski von Koppenfels 2014, 253). Overseas Americans were not included in the 2010 Census.

The Department of the Treasury—not the State Department, and not the US Census Bureau—oversees the increased financial reporting. FATCA sought to find those “who game the system;” Senator Max Baucus, introducing the bill in 2009, noted: “The bill gives the IRS powerful tools to find US taxpayers who are hiding their money in offshore accounts” (US Congress 2009, S10785). The law was not addressing 9 million (then estimated by the State Department at 5.3 million (Smith 2010)) overseas Americans, but rather the “up to 52,000

individuals [who] hid billions of dollars in offshore accounts through UBS” (US Congress 2009, S10785). Ending “offshore tax evasion” was the goal, with wealthy US-based “fat cat” tax evaders the intended target, not millions of middle-class overseas Americans, such as this woman: “I’m not the person they were aiming for. I’m self-employed, and earn under \$20,000 a year. I can’t even afford to renounce now [with the fee now \$2350] —though I am fully compliant with tax and would face no penalty—and it’s ridiculous.” Such contrasting facilitation of rights and exercise of control reflects a merging of the domestic and external spheres, with “the interlocking components of national citizenship” being “selectively reassigned to diaspora populations” (Ho and Yeoh 2015, 154). In this case, the selectivity is reflected in the inclusion of diaspora in the state as US citizens, but exclusion from the national narrative. They are subject to duties as *citizens*, but not accorded any status as *overseas* citizens or diaspora members, but are subject even to additional duties.

While the facilitation of rights and the exercise of control, or “governing” (Gamlen et al. **this issue**) may be treated and seen separately within different Departments of the US government, they are not necessarily seen as separate issues by US citizens living abroad. This woman who has lived in Australia since 1995 said: “I canceled my [voter] registration in 2013 due to being treated as a second-class citizen, and a presumed criminal/tax evader (guilty until proven innocent), by the US government (IRS, Treasury).” She explicitly chose abstention in a direct protest to her perception of having other civil rights restricted; in the absence of complete inclusion—including both rights and recognition—she chose to abstain.

### **“Informal Ambassadors” or “Suspicious person”?**

Levitt and Glick Schiller note that diaspora “movement and attachment is not linear or sequential but capable of rotating back and forth and changing direction over time: (2004, 1011). For overseas Americans, FATCA has had a clear impact upon their attachment to the

state. While the contradiction between facilitating the right to vote for US citizens living abroad and mechanisms to root out tax evaders may not be evident to those within the US government, it is seen as denunciation by many overseas Americans, as noted by this respondent: “Many Americans abroad feel a deep sense of betrayal.” Another noted that this betrayal is seen as particularly strong in the face of a lack of recognition as an *overseas* American: “Our contact with the US is usually through the Embassy or Consulate in the country which we reside. Yet we are not seen as members of the US community, actually treated as foreign clients within these agencies.” This reflects Levitt and Glick Schiller’s point that the disinterested, denouncing state “treat[s] migrants as if they no longer belong to their homeland” (2004, 1024).

Ragazzi notes that some governments have a stance vis-à-vis their diasporas of “consider[ing] anyone who leaves, or stays abroad, at best ‘suspicious’ or at worst a ‘traitor’” (Ragazzi 2009:386), thinking of Kurdish emigrants from Turkey or Serbian or Croat emigrants from then-Yugoslavia. This American survey respondent had a similar perception: “It really boils down to being made to feel like a suspicious person simply because I live elsewhere and therefore have a foreign bank account.” Another respondent drew a broader picture, saying: “living outside of the United States puts you, in the eyes of the government, in the position of someone not to be trusted and also makes you into a second rate citizen.”

Survey respondents reported having often acted as informal ambassadors (Klekowski von Koppenfels 2015), explaining and giving context to widely disseminated American culture and foreign policy actions. As this person stated simply: “we ARE the face of the US abroad.” While State Department officials may well draw on individual overseas Americans with whom they happen to have contact, there is no systematic outreach to Americans living abroad by the Department of State. Having explained and defended US policy over the years,

overseas Americans have not had their position as informal ambassadors recognised, and feel that lack of recognition as abandonment:

There seems to be no representation of our viewpoints, positions, or interests-- and little done to support us as Americans abroad. It would seem to me that the US State Department would be better served to embrace the American Expat community within their activities.

During the Iraq War, starting in 2003, which was unpopular and sharply criticised in Europe, Americans living abroad often responded to and refuted criticisms of the US government, in the process strengthening their own sense of being American and becoming more politically engaged (Klekowski von Koppenfels 2014, 208). The passage of FATCA, however, has nullified that sense of engagement for many, leading to a sense of disillusionment (Klekowski von Koppenfels 2015), as expressed by this man, living in Japan, who has given passing thought to renouncing:

I was a good ambassador for America as I progressed through my career. Now [post-FATCA] I feel as though I am victimized by the idea that an American living outside America must prove he is not a criminal. The problem is there is no mechanism by which to achieve that. I am disappointed and angry.

We may even be seeing the emergence of a diasporic identity among overseas Americans. Butler argues that the “*construct* of the homeland...functions as the constituting basis of collective diasporan identity” (2001, 204, italics in original) and, further, that “diasporan representations of the homeland are part of the project of constructing diasporan identity” (205). FATCA is thus simultaneously an extraterritorial extension of domestic law and may be a catalyst for the construction of a diasporic identity.

## **Taxation without representation**

Once the rallying cry of American colonists, “taxation without representation” is today widely used among overseas American advocates who seek collective representation. Although, as discussed above, overseas Americans lobbied for and received the vote in 1975, they refer to a lack of representatives elected solely by overseas Americans. France, Italy or Algeria have dedicated representatives for their emigrant population, but overseas Americans vote in their last state of residence, such as New York or California, and thus cannot speak electorally with one collective diasporic voice. With an estimated 9 million US citizens living abroad, they would, if they were a state, be more numerous than forty of the fifty states. Overseas American lobbying and votes have increased a number of individual legislators’ awareness of overseas Americans as voters and potential donors, yet institutional or national recognition of overseas Americans as a constituency has not emerged, despite the efforts of the 22-member House Americans Abroad Caucus.

This man living in Norway, referring to the dedicated seats for French “expatriés” in the French Senate and Parliament, expressed the perceived voicelessness:

As an American expat, I feel little support from the government, and indeed often feel as if I am being penalized or criminalized (by things like FATCA) for living overseas. I don't feel as if expats have a voice in the government. The feeling is compounded when I hear about how countries like France support their expats.

The simultaneous inclusion and exclusion of overseas Americans is expressed by this person: “I think the lack of dedicated and explicit legislative representation of Americans who live overseas is profoundly unfair and amounts to ‘taxation without representation.’” Bound individually by financial control legislation applying to overseas Americans, he expresses frustration at the lack of a collective voice.

## Conclusion

Remaining strong in its self-identification an immigration country, the United States—government and population alike—struggle with the concept of American emigrants or diaspora. The state’s lack of recognition of overseas Americans as members of the American nation, as part of the national imagination, was a key factor in the passage of FATCA. Designed to target US-based “fat cats” investing millions abroad, the drafters of the legislation did not consider the impact on overseas Americans—the “neglected” diaspora of a “disinterested” state. Millions of “middling migrants” —overseas Americans—have, however, been negatively affected by the repercussions of FATCA, including closed bank accounts, with many in the American diaspora perceiving this legislation as a “denouncing” (Levitt and Glick Schiller 2004) act on the part of the US government.

Indeed, a 20-fold increase in citizenship renunciations from 2008 to 2016 reflects the American diaspora’s reaction. The increase in renunciations suggests a decrease in popular sovereignty and a withdrawal of the consent to be governed; the state’s demonstrated exclusion of an American diaspora from the American nation has led to sharply increasing numbers of those choosing to exclude themselves from the state as well. Many more—the vast majority—are not renouncing, but nonetheless feel neglected (cf. Ho 2011) or denounced by the state as well. Negative diasporic outreach in the American case reflects the same mechanism as in cases of positive diasporic outreach—the inclusion in “understandings of the people” or the nation is crucial (Collyer 2013, 14). Yet the long-term American emigrant—the “neglected emigrant” —is identified primarily by stereotype, whether draft-dodger, tax evader or living in the lap of luxury. In part because of this misidentification, an American diaspora is not included in the American social contract, either implicitly or explicitly, and are not seen as full citizens. Inclusion of overseas populations in the national self-understanding is a prerequisite for complete inclusion and is, in this case, absent.

Ragazzi noted that “while governmental practices toward ‘their’ populations abroad can be contradictory and confused, they can be made more intelligible through an understanding of the broader material, intellectual, and political contexts in which they emerge” (2009, 391). The seeming contradiction of the US case—extension of the vote and continued facilitation of that vote on one hand, and financial restrictions on the other—is resolved by an *of the state, but not of the nation* understanding; overseas Americans are understood to be temporarily abroad, with those who are “emigrants” in any permanent sense being “neglected.”

The case of the United States sheds light on our understanding of these “indifferent” or “disinterested” states through the many state-diaspora contradictions in value, positioning and identity. The diaspora may see itself as playing the role of “informal ambassadors,” representing and even defending sometimes unpopular American foreign policy actions, yet the state does not recognise the diaspora as representing any form of soft power or being of value to the state’s interests (cf. Mylonas and Žilović **this issue**). Diaspora members have seen themselves as proud Americans, yet long-term state disinterest and recent legislation which many perceive as denunciation reinforces their perception that they are not a valued part of the nation, in turn resulting in a shift away, as represented by increasing renunciation figures and other concerns. Included in considerable domestic policy—taxation, financial reporting, policies cracking down on tax evasion, but also voting—they are nonetheless not part of the “imagined community” (Anderson 2006) that makes up a nation. Unlike Haiti’s “tenth department” (Glick Schiller and Fouron 1999), there is no recognition of an American diaspora as an integral part of the national understanding.

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