PAPER TRAILS

Migrants, Documents, and Legal Insecurity

Sarah B. Horton Josiah Heyman editors

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Migrants, Documents, and Legal Insecurity

EDITED BY SARAH B. HORTON AND JOSIAH HEYMAN

Duke University Press *Durham and London* 2020

Printed in the United States of America on acid-free paper ∞
Designed by Courtney Leigh Richardson
Typeset in Minion Pro and Helvetica Neue by Westchester Publishing Services

Library of Congress Cataloging-in-Publication Data

Names: Horton, Sarah Bronwen, [date] editor. | Heyman, Josiah McC. (Josiah McConnell), [date] editor.
Title: Paper trails : migrants, documents, and legal insecurity / Sarah B. Horton and Josiah Heyman, editors. Other titles: Global insecurities.
Description: Durham : Duke University Press, 2020. | Series: Global insecurities | Includes bibliographical references and index.
Identifiers: l c c n 2019047825 (print)
l c c n 2019047826 (ebook)
i s b n 9781478007944 (hardcover)
i s b n 9781478008453 (paperback)
i s b n 9781478012092 (ebook)
Subjects: l c s h : Identification cards—Law and legislation—United States. | Identification cards—Law and legislation—Great Britain. | Emigration and immigration law—United States. | Emigration and immigration law—Great Britain.
Classification: l c c kf 4840. p37 2020 (print) | l c c kf 4840 (ebook) | dd c 342.7308—dc23
lc record available at https://lccn.loc.gov/2019047825
lc ebook record available at https://lccn.loc.gov/2019047826

Cover art : Form I-821D, DACA

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SARAH B. HORTON

Introduction. PAPER TRAILS

Migrants, Bureaucratic Inscription, and Legal Recognition

New developments have made identity documents an increasingly revealing site at which to examine the power dynamics between migrants and the state in traditional immigrant-receiving countries. First, in the United States, Canada, and the European Union, new forms of temporary and provisional legal status are proliferating, even as states are less likely to grant permanent legal status.[1] In Canada, for example, the number of nonimmigrants the state admits through its guest worker program has only increased since the 1970s, even as those admitted as legal permanent residents have declined.[2] In Spain, new immigration laws passed in the 1990s admit migrants only as temporary workers on one-year renewable permits,[3] while in the United Kingdom, only the wealthiest investors and highly skilled migrants are granted a chance at permanent settlement.[4] Finally, in the United States, provisional forms of lawful presence—such as Temporary Protected Status and the "stays of deportation" offered by the Deferred Action for Childhood Arrivals program—multiplied during the Obama administration even as opportunities for regularization for unauthorized migrants stalled.[5]

These temporary and provisional statuses may be seen as the bureaucratic manifestation of a broader phenomenon of "global apartheid"—that is, of a system of heightened immigration restrictions in more prosperous nations that increasingly deny foreigners the stability of permanent legal status in

the receiving country. We follow Nandita Sharma in conceptualizing "global apartheid" as a system of restrictive immigration and citizenship controls that admit foreigners only on a temporary or "illegal" basis.[6] As Sharma observes, global apartheid is not about keeping people of different citizenship statuses apart, but rather about incorporating foreigners into the nation on unequal terms via the denial of legal permanent status. In Sharma's formulation, therefore, legal distinctions on the basis of citizenship status have replaced those made on the basis of race, creating a highly vulnerable class of foreign workers who serve as an "efficient, flexible, and globally competitive workforce."[7]

This volume focuses on documents as a window onto the power dynamics between migrants and states in high-income countries that have been traditional destinations for South-to-North migration. Although we recognize that documents have become an increasingly important site through which states manage South-to-South migration and migration in transit states, we focus on South-to-North migration here due to space limitations.[8] Because the new immigration statuses created in the North are only temporary, they have profound, and understudied, implications for migrants' relationships to state bureaucracies. They more intensively subject migrants to state bureaucratic surveillance. That is, migrants must request frequent renewals and meet a battery of requirements to prolong these already-"liminal" legal statuses.[9]

The expansion of these temporary statuses has occurred against the backdrop of a moment of growing uncertainty for migrants in traditional receiving countries—one in which the pressures of national securitization appear to be trumping the impulse toward humanitarianism. These developments disrupt the old certainties migrants had come to expect in their interactions with the state. On the one hand, the old bureaucratic firewalls are coming down. U.S. government agencies formerly kept separate in the name of humanitarianism—such as the U.S. Department of Health and Human Services and ice —are now changing policy to share information about migrants, facilitating the criminal prosecution of asylum seekers and of parents who enable their children's unauthorized passage.[10] On the other hand, government officials are collaborating with new bureaucratic agents in immigration control. In the United States, debates continue over the role of the police, probation officers, and even Department of Motor Vehicles officials in collaborating with immigration enforcement. Meanwhile, in the United Kingdom, the government is increasingly devolving responsibility for immigrant policing to landlords, professors, and truck drivers.[11] This environment

of insecurity intensifies the stakes for migrants when interacting with state bureaucracies—even with the very arms of the state charged with extending legal status rather than enforcing immigration controls.[12] Migrants reluctantly and fearfully submit to state scrutiny because they seek the privileges and security identity documents confer, even as they have reason to fear that becoming "legible" to the state may lead to their eventual deportation.

Finally, official identification documents are proliferating, as local branches of government and even foreign governments are newly providing official identifications to unauthorized migrants. In the United States, for example—and to a lesser extent in Europe and Canada—municipal and state governments are themselves extending official identity documents to migrants. Predicated on the affirmation of unauthorized migrants' membership in local communities and on the knowledge that lacking accepted forms of identification leads to myriad forms of social exclusion,[13] these local-level identity documents are an increasingly popular means of acknowledging unauthorized migrants' "social personhood."[14] Indeed, municipal ids represent attempts by local governments to establish membership policy at the local rather than the national level.[15] In addition, foreign governments—including Mexico, Guatemala, Colombia, Senegal, Mali, and Nigeria—now extend consular ids to their expatriates to provide them with official verification of their identity; they even campaign to expand local acceptance of such documents in order to stabilize their expatriates' situation abroad.[16] Diverse identification documents have varying levels of legitimacy for different purposes, and they interact in complex, unpredictable ways with formal immigration documentation and statuses.[17] Most importantly for our purposes, even inclusive forms of bureaucratic inscription at the local level—such as municipal ids and driver's licenses—may unintentionally expose unauthorized migrants to the risk of immigration enforcement, as we discuss below.

This volume brings together anthropologists, sociologists, geographers, and political scientists to examine these practices of what we call "bureaucratic inscription" and migrants' resistance to them.[18] By "bureaucratic inscription," we refer to the social and material dynamics through which migrants are inscribed into official bureaucratic systems at various scales of government. We hold that bureaucratic inscription entails discrete—and sometimes prolonged—moments of visibility to a field of power. We use state practices of documentation as a lens to explore how they transform migrants' subjectivities and conceptualization of their place in the nation, as well as how they reveal contradictions in governance created by the contested and

changing form of "the state" itself.[19] In this volume, then, we ask the following questions: How do the processes entailed in applying for legal status and local-level forms of documentation alter migrants' behaviors and attitudes toward "the state" in its varied forms? In what ways are migrants able to exercise agency when applying for legal statuses and when using official documents to achieve various aims, and in what ways do these paper trails capture or entangle migrants? How is legal status made concrete through documentation, and how does examining the bureaucratic processes of documentation reveal techniques of state power and the power asymmetries between migrants and the state? What is omitted when the particularities of individual biographies are compressed into standardized legal categories through bureaucratic processes, and what happens when individuals' narratives of identity and state bureaucratic identifications conflict?[20] We keep in mind that identity (held by the self) is not the same as identification (emplaced from outside); important questions occur at their intersection.[21] In that regard, how do documents, and the practices and statuses linked to them, become an important site for action, both individual and collective?

Our Approach

We suggest that documents—the tangible evidence of bureaucratic inscription—constitute a particularly useful site at which to analyze the power relationship between migrants and the state. First, migrants primarily encounter the state through everyday practices of documentation. "The state" often appears distant and faceless to those it governs; it is through documents and the process of entering state bureaucracies that the state takes concrete form. Indeed, migrants not only encounter the state during processes of *inscription* (that is, when they submit to government surveillance by applying for identity documents, benefits, or legalization), but also during *validation* (that is, when they receive documentary proof of legal status, benefits, or identity) or *verification* (that is, when they submit their documents for verification, either by the state or by third parties). Second, documents are concrete distillations of state power; through documents, the state strives to identify and enumerate its population and separate it by legal status. Yet because documents are the result of practices of inscription, they are simultaneously a potent site of resistance; as forms of writing, documents may be forged, mimicked, and subverted.[22] Divorced from the authority they are intended to represent, after all, documents are merely material artifacts. Thus migrants may appropriate some of the power of the state by engaging with

documents as objects: by separating them from their lawful bearers, by deploying them to alternative ends, or by exchanging, pooling, and "renting" them.[23] And finally, as material objects, documents are crystallizations of the law at a particular historical and social moment.[24] While the law is a "living document," subject to change, identity documents are concrete distillations of the law in time and space. Therefore, attention to bureaucratic inscription and the materiality of documents brings into sharp relief the law as human artifact. It reveals changing state policies regarding migrants' rights and the contradictory policies of localities and foreign governments that have devised their own documentary practices.

Placing documents at the center of our study of immigration controls underscores the fact that legal status is fundamentally conferred in *writing*. Many scholars have identified writing as key to the administrative capacity of modern states, suggesting that the documents provided by state bureaucratic systems serve as forms of surveillance and control.[25] As James Scott has argued, a central concern of modern states is ensuring that their populations are *legible*—that is, enumerated and categorized in standardized ways—so that they can be governed effectively.[26] Yet we recognize that bureaucratic inscription exceeds writing as well—individuals are inscribed into state bureaucracies through fingerprints, retina and iris scans, voice recognition, and photos that may be read by facial recognition technologies.[27] Thus we use the term *bureaucratic inscription* in an expansive sense to refer to the various processes and technologies through which information about individuals and their immigration status is incorporated into official state registers. These are socio-material processes enacted by a variety of actors—not only state bureaucrats and the street-level bureaucrats who assist them, but also legal advocates[28] and migrants themselves.

Similarly, we use the term *documents* to refer not only to official immigration papers bestowed by the nation-state, such as passports and visas, but also to the myriad documents now extended to denizens at subnational levels. Little attention has been devoted to how documents granted by other levels of government—driver's licenses, municipal and ngo ids, consular ids—interact with the official immigration documents granted by national governments. In some cases, policy makers seek to prohibit unauthorized migrants' access to documents provided by other levels of government out of a fear that they may serve as "breeder documents"—ingeniously parlayed by migrants for the rights and privileges associated with legal status.[29] In other cases, policy makers aim to extend valid forms of identification to unauthorized migrants in order to grant them the everyday privileges of local

denizenship—such as picking children up from school or requesting library privileges. Thus the struggle over whether to include unauthorized migrants in the national body plays out at different levels of the state in the form of contests over documentation.

Recent volumes have used historical and sociological approaches to examine the key role that official documents and state bureaucratic systems play in the ability of states to distinguish between citizens and noncitizens and therefore to control mobility.[30] They have also examined the complex relationship between state practices of identification and how individuals conceive of their own identities.[31] Yet less scholarship examines how the complicated power dynamic between migrants and the state unfolds through bureaucratic interactions and the documents that concretize them—especially at a moment in which legibility to the state entails heightened risks. This volume's contribution lies in examining how migrants on the ground experience, accept, and resist state bureaucratic practices in a time of increasing securitization. This introduction highlights four main themes related to processes of bureaucratic inscription that run through the chapters assembled here: (1) the tension inscription raises for migrants, as they seek the security documents offer yet fear visibility to the state; (2) how new forms of bureaucratic inscription (that is, municipal ids and driver's licenses) attempt to include migrants in local communities but simultaneously extend the power of the state; (3) the dynamics of inscription as state power and migrant resistance; and (4) the different subjectivities created by varying intensities and durations of bureaucratic inscription.

The Tension between Legibility and Security

Inscription generates "paper trails" that follow migrants. That is, state-issued identity documents may grant security by verifying migrants' identity and conferring legal status. However, in rendering migrants not only known to the state but *legible*—that is, locatable through the information tied to migrants' identities—documents also make migrants more vulnerable.[32] Indeed, recent developments in the United States and Europe have thrown this tension between legibility and security into sharp relief.

First, the United States and nations in Europe increasingly offer temporary and provisional forms of immigration status in lieu of legal permanent residency. The Deferred Action for Childhood Arrivals (daca) program in the United States, for example, offers its bearers only a temporary and contingent reprieve from deportation and must be renewed every two years.

Temporary Protected Status (tps), a form of legal status granted immigrants fleeing "extraordinary and temporary conditions,"[33] must also be renewed in the same time frame. The temporary work visas that have proliferated in Spain, France, and the United Kingdom also require renewals.[34] Because these temporary statuses may be rescinded at any moment, and none of them provides a pathway to legal permanent residency, they leave bearers suspended in a prolonged state of "liminal legality."[35]

Asylum seekers in Europe and the United States occupy a similar legal limbo. They may wait years for a decision on their cases; if they lodge an appeal, their cases may drag out even further.[36] As they await a resolution, they remain visible to the state, their presence "lawful" but their status "unlawful" as their cases are pending. Meanwhile, domestic workers in the United Kingdom and those on eb-3 visas in the United States endure a kind of "probationary" or "conditional" lawful status in that they must remain with their employers in order to receive legal permanent residency.[37] The bearers of these provisional and temporary statuses in the United States and the United Kingdom share an ambivalent relationship to the documents that bestow on them their lawful presence. Their stays of deportation, temporary authorizations, or asylum claims leave a paper trail that makes them locatable by the state.

The increase of these provisional statuses in the United States and Europe comes amid a growing emphasis on securitization that only amplifies uncertainty for migrants. In this context, the risk entailed by bureaucratic inscription—of being known to an arbitrary and often punitive central state authority—may outweigh the risk of remaining unknown. For migrants facing stringent and punitive immigration systems, illegibility to the state may serve as a shield. Changes to immigration laws in the United States since the 1990s, for example, have eroded the security once offered by legal status. On the one hand, the boundary between legal and "illegal" status has become more permeable, as the frequent renewals, high administrative fees, and arcane rules governing temporary legal statuses have made it easier to "fall out of status."[38] On the other hand, changes in immigration law in 1996 have rendered legal permanent residents deportable for a greater number of offenses, brightening the line between "citizens" and "noncitizens."[39] Thus, those unauthorized migrants who have never interacted with state bureaucratic systems may ironically feel safer from punitive immigration enforcement than even legal immigrants who are deeply embedded within bureaucratic systems. As a result, even those unauthorized migrants eligible to adjust their legal status may opt out in order to preserve their invisibility and security.[40]

Yet, in other cases, migrants already captured within the system may find benefits to disappearing from it, even at the risk of apprehension and deportation. That is, some U.S. migrants with legal status may voluntarily give up that status in order to remain safe from an immigration regime they view as arbitrary and punitive.[41] Similarly, migrants from certain countries that remain largely excluded from legitimate entry to Europe have been known to destroy their national documentation in order to seek relief through the asylum system instead. This illustrates the way documents may constrict migrants' possibilities, highlighting the profoundly "*disqualifying*, rights-*limiting* character of a passport as a marker of nationality."[42] In short, entering state bureaucratic systems entails significant risk at this moment of punitive immigration enforcement and heightened national securitization.

Local-Level Bureaucratic Inscription

It is not only applications for status adjustment that make migrants legible to the state; bureaucratic inscription is carried out at multiple levels. Indeed, local-level governments in the United States and Europe are increasingly issuing their own identity documents to unauthorized migrants in the form of municipal ids or driver's licenses. Because cities must address the practical needs of their residents on the ground, they may be more likely to resist restrictive immigration policies carried out by the national government.[43] Issuing formal identification to unauthorized residents is a means by which municipalities resist national membership policy and attach entitlements to local inhabitance rather than legal status. By framing their efforts around the principle of local residence (or *jus domicile*), policy makers and migrant advocates assert unauthorized migrants' deservingness of the everyday prerogatives of local citizenship.[44]

In the United States, for example, the driver's license serves as a kind of "master identifier," monopolizing the legitimate means to verify identity. Only with this officially validated identifier can one access the everyday privileges that community residents take for granted: the ability to obtain library cards, open bank accounts, rent apartments, and establish utilities.[45] Lacking a driver's license also makes it difficult for unauthorized residents to identify themselves when picking up their children from school or obtaining marriage licenses.[46] Yet due to concerns about national security prompted by 9/11,unauthorized migrants became ineligible for driver's licenses in all but twelve states and the District of Columbia. The unquestioned acceptance of the driver's license as a universal identifier renders unauthorized migrants

unidentifiable and therefore excludes them from local bureaucracies. In fact, the refusal of some law enforcement officers to accept any form of official identification other than U.S. driver's licenses poses a particular threat to unauthorized residents. Because the police are required to take any individual they cannot identify into custody, unauthorized migrants who are stopped by the police run the risk of being arrested and, as a consequence, deported.[47]

To grant unauthorized migrants greater security and extend them the everyday privileges of community life, then, migrant advocates in the United States have increasingly focused on expanding the reach of a form of identification based on local inhabitance—municipal ids.[48] Municipal ids grant migrants access to the same municipal services as other residents, serving as a symbolic statement of their local belonging. These ids gained traction in the United States after the failure of comprehensive immigration reform in 2012 and the 2016 Supreme Court stalemate over former President Obama's proposal to legalize the parents of children with legal status.[49] Since 2015, cities such as Baltimore, Chicago, Detroit, Phoenix, Philadelphia, Pittsburgh, and South Bend, Indiana, have begun considering offering municipal ids to residents;[50] some Midwestern counties (in Michigan and Wisconsin) have followed suit.[51] In their efforts to integrate unauthorized migrants into local communities, some European cities have also created municipal id cards, including Vienna in 2015 and Madrid in 2016.[52] In contrast, sanctuary measures in Canadian cities—in Toronto, Hamilton, London, and Montreal—have focused on removing identification requirements such that unauthorized migrants may access city services.[53]

Municipal ids—while an assertion of unauthorized migrants' deservingness of urban citizenship[54]—are still a form of bureaucratic inscription. Thus, ironically, these efforts at inclusion may increase the risk of migrants' apprehension by making them visible to other branches of government. The recent struggle over the confidentiality of records of applicants for New York City's municipal id (idnyc) is a vivid example of this. The result of a compromise between migrant advocates and the police, proponents of New York's municipal id law pledged to maintain applicants' personal data for up to two years in order to enable potential investigations of fraud.[55] More than a million New Yorkers signed up for the idnyc by the end of 2016, more than half of whom use the card as their primary identification. Yet after the election of President Trump, city officials hastily announced that, starting in 2017, they would no longer retain the records—that is, the copies of the documents applicants had presented as proof of identity and residence—once

the id s were issued. Moreover, they announced they would also jettison the data of former applicants in order to prevent their falling into the hands of the Department of Homeland Security.[56] Citing concerns of "national security," however, two Republican assemblymen sued to force the city to retain the records and lodged a Freedom of Information law request for the personal information of all applicants to make them accessible to the federal government.[57] Thus, as municipalities operate within an increasingly precarious national immigration climate, extending legitimacy to unauthorized migrants through local-level identification also exposes them to the risk of deportation.

The actions of renegade officers in the Vermont Department of Motor Vehicles shortly after the state passed a law allowing unauthorized migrants to obtain "driver privilege cards" further illustrate this tension. Even though Vermont state policy prohibits state employees from carrying out federal immigration enforcement, in 2014 the Vermont dmv forwarded to ice the information of a Jordanian national, Abdel Rabbah, and even took the extraordinary measure of luring Rabbah to the dmv so that ice could apprehend him and initiate deportation proceedings.[58] While Rabbah launched a discrimination lawsuit against the dmv, ultimately settling for $40,000, a new investigation reveals that the dmv routinely sent the information of unauthorized migrants to ice well after the incident and even informed ice officers of the dates of migrants' appointments.[59] Thus, while driver's licenses include migrants in the everyday life of local communities and grant them greater security from local police, they may unintentionally expand the reach of state power. At this moment of intensified insecurity for migrants, attending to the articulations between local-level forms of identification and state bureaucratic systems, as well as how migrants and their advocates navigate this relationship, is incumbent on us.

The Dynamics of Inscription: State Power and Migrant Resistance

This brings up our third main theme: the interaction between inscription as a form of state power and migrant resistance. Clearly, those seeking official recognition must submit to state power. Whether applying for municipal id s, state driver's licenses, or formal legal statuses, they must meet a series of evidentiary requirements. In Spain, for example, a 2005 regularization program required that workers demonstrate duration of residence, proof of employment, and evidence of social integration (in the form of proof of family ties or a report from the local town council).[60] Meanwhile, in the United

States, migrants seeking to regularize their status must assemble evidence of positive interactions with local institutions (churches, schools, doctors' offices) to attest to their "good moral character."[61] Ironically, then, migrants must accumulate significant paper trails in order to successfully adjust their legal status. Regularization, then, requires that "undocumented" migrants develop an intimate relationship to bureaucratic records.

Regularization requirements transform the meaning of mundane records to migrants as well as migrants' relationships to local bureaucracies. When migrants regularize, a wide variety of state and non-state records—receipts for medical appointments, check stubs, tax returns, school enrollment records, and utility bills—assume new importance. For example, Don Pablo is an unauthorized farmworker who had missed the last opportunity for regularization in the United States in 1986 because he threw out his back and was recuperating in Mexico. His employer had sent him a letter informing him that he was eligible and urging him to apply, and Don Pablo kept that letter ever since. Aware that the 1986 "amnesty" had required farmworkers to supply proof of duration of residence and work history, for thirty years Don Pablo had diligently collected all the "official"-seeming documents he could in three plastic bags under the cot in his apartment. One held his tax returns; another bills, medical documents, and receipts; and the third his check stubs. Regularization requirements therefore mean that ordinary paperwork assumes new currency to migrants, as it becomes valuable evidence of one's duration of residence, work history, or "moral character" (diligence, civic responsibility, compliance with the authorities). For these reasons, some have observed that "the state"—whether the local branches of government that issue these myriad documents or a centralized government authority—often assumes a greater presence in the lives and imaginations of precariously positioned migrants than it does in those of its citizens.[62]

The state's unilateral authority to enact immigration laws and interpret bureaucratic records illustrates the arbitrariness of the state—a principal attribute of state power.[63] On the one hand, the state has largely unquestioned authority over immigration policies; in the United States, for example, the doctrine of plenary power places control over the disposition of noncitizens residing in the nation and those entering from abroad squarely in the hands of the executive branch and Congress. This allows the state to suddenly expel foreigners in the name of national security, to ban the entry of particular nationalities, and to exclude at whim those previously included in the national body.[64] On the other hand, "the state" is not a single entity; it is made up of myriad bureaucrats who differ in their interpretation

and enactment of "state" policies across bureaucracies and localities;[65] the discretionary power of these individuals to enact state policy only exacerbates the state's arbitrariness. Finally, state policies regarding immigration are often ambiguous and open to interpretation;[66] they are almost always complicated, changeable, and so inaccessible to the layperson that few dare approach them without legal representation.[67] Thus a profound asymmetry in power between the state and migrants lies at the heart of bureaucratic inscription; the very opacity of the state and its inscrutability to those it governs helps uphold its power.

The very foreignness of the logics of immigration law to ordinary individuals helps illustrate this asymmetry. Indeed, because of the discretionary power given to officials in applying immigration law, as well as changes in law and procedure, state officials may accord documents a different value and significance depending on the time and place. For example, even expired documents or supposedly "negative" documentation—that is, evidence of a migrant's unlawful entry—may become valuable for regularization. Expired work permits may be useful evidence of a migrant's duration of residence in the United States.[68] A bail receipt for release from immigration detention may also serve as evidence of duration of residence by providing an official time stamp. On the other hand, seemingly "positive" documentation may also be interpreted in such a way as to facilitate removal. For example, a migrant may present his visitor's visa at the U.S.-Mexico border only to find himself deported, branded as a potential visa overstayer due to his prior trips to the United States.[69] The shifting significance of documentation, and its interpretation in erratic ways, reveals the unpredictability of state power and of the agents who enact it each day.

Yet even as the state exerts control over migrants through its arbitrariness in granting and interpreting documents, migrants do not submit passively to state power. Some actively assert control over their fates by attempting to disrupt government identification schemes. Failed asylum seekers in Europe may destroy their original passports or identity cards in order to avoid government identification and delay their return, preventing their countries of origin from promptly issuing travel documents to authorize their deportation.[70] In the era of voluntary departure, Central American migrants crossing into the United States also ditched their passports and official documents so that if they were apprehended, they would be released into Mexico rather than flown back to El Salvador or Guatemala.[71] Similarly, those with deportation orders—whom federal authorities are actively seeking—may evade legibility by working under the documents of others, preventing the

generation of any paper trail of their whereabouts.[72] When deportation is imminent, illegibility is often migrants' only remaining source of power.

Others may submit to bureaucratic scrutiny yet refuse to buy into the state's logics. Migrants may agentively and creatively engage with official documents and those who bestow, verify, and check them. Indeed, migrants are acutely aware that valid documents are a scarce form of capital in migrant communities; they open the doors to other forms of capital, such as the ability to travel, to access driver's licenses, to find a job, or to access public benefits. In both Europe and the United States, then, official work authorization documents may be exchanged, rented, and sold.[73] In marginalized communities with scarce access to formal documentation, migrants may treat legal status as a fungible commodity.

Migrants also deploy their knowledge of the blind spots and prejudices of the state agents charged with document verification. As Ordóñez shows in this volume, Otavalo migrants from Ecuador take advantage of border officials' inability to distinguish among indigenous individuals in order to use the travel documents of others to cross international borders. By pooling and exchanging "papers," migrants treat documents as a communitarian resource. Thus, migrants have developed ingenious practices of document circulation in resistance to a global system in which the privileges of mobility are unevenly distributed.[74]

Bureaucratic Inscription and Subjecthood

As a technique of power, bureaucratic inscription may shape migrants' subjectivity and sense of self. Modern processes of classification and documentation may be seen as a means by which the state "knows," enumerates, and surveils its population, and therefore as key to ensuring and maintaining state control.[75] As instantiations of state power, documents and bureaucratic requirements may be viewed as biopolitical technologies that help transform migrants into particular kinds of subjects.[76] Indeed, as the chapters here show, state bureaucratic processes shape individuals' behaviors and forge their ideas of their relationship to the state—sometimes even before migrants enter the state's ambit.

In the United States, for example, unauthorized migrants from Central America and Mexico often learn to diligently save both official and informal records in case they should have the opportunity to apply for legalization. Because of these groups' duration of migration to the United States and their networks' knowledge of legal requirements, they often assemble their own

paper trails *in anticipation* of their applications for legal status. As Abarca and Coutin show, for example, noncitizens attending a legal advocacy clinic in Southern California knew in advance that recordkeeping was a vital practice in their efforts toward legalization; they already knew the names of official immigration forms and had emplotted possible pathways toward legalization.[77] They carried shopping bags or binders full of a variety of mundane and bureaucratic records to meet state evidentiary requirements; even those who remained ambivalent about applying for an adjustment of status had meticulously saved their records. Thus, Abarca and Coutin's data suggests that the intensity and duration of Central Americans' exposure to U.S. practices of bureaucratic inscription have an enduring effect on the ways they view documents and their relationship to state power. Noncitizens' very anticipation of future interactions with an unpredictable state yields compulsively careful recordkeeping practices.

If Central American migrants may anxiously collect documents in advance of opportunities for legalization, the effects of such anticipation may also last well after they have adjusted their status. For example, Menjívar has shown that because of the long and unpredictable duration of their TPS status as well as a hostile local environment, liminally legal Central Americans in Phoenix often live "hyperaware" of the law.[78] Not only does their legal instability shape the life decisions they make regarding family unification; it also shapes their everyday actions such as deciding which supermarket is "safe" to visit. However, as she describes in this volume, this vigilant attitude toward the state is not unique to unauthorized or temporarily authorized migrants. Because of the racialized nature of requests for documents in a state and county in which law enforcement is a visible presence, even Latinx legal permanent residents and citizens continue to arm themselves with "their documents" as they go about their daily business. As they are constantly reminded of their racialized outsider status in their everyday interactions, then, Latinx immigrants of all statuses avoid the state because they have internalized the implication that their presence is "illegitimate."

These examples, then—along with the chapters in this volume by Boehm and Coutin—attest to the power of the state and the efficacy of state disciplinary practices in shaping migrants' behaviors. As Cris Shore and Susan Wright argue in their volume on governmentality, we may see state bureaucratic practices in a Foucauldian sense as "political technologies" that shape individuals' conduct "so that they themselves contribute, not necessarily consciously, to a government's model of social order."[79] And yet in other cases, state bureaucratic processes appear to have minimal efficacy in

shaping migrants' behaviors and subjectivities in ways congruent with state objectives. As Ordóñez shows for the indigenous Ecuadorian migrants who make their lives as itinerant merchants and musicians in Colombia and Europe (this volume), this group's long-standing existence on the margins of the Ecuadorian state has instilled a deeply skeptical and pragmatic attitude toward state institutions. Indigenous Ecuadorians strategically pool and exchange official ids and letters of invitation to achieve particular purposes, regard deportation and imprisonment as minor inconveniences, and flexibly adapt their documentary strategies to suit different regimes. Therefore, Ordóñez makes the important point that migrants' attitudes toward the immigration controls of the European states they enter were fundamentally shaped by their experiences with the state in Ecuador, and by their position of marginality. Perhaps because of their long-standing evasion of state bureaucratic control, these migrants exhibit a markedly flexible—and almost cavalier—attitude toward documentation when compared with the Central American and Mexican migrants discussed above. In short, the success of state disciplinary projects in different locations remains an ethnographic question. Migrants' differing relationships with their home states, in combination with the relative intensity and duration of surveillance in their receiving states, shapes differing attitudes toward documentation and the state power it embodies.

Conclusion

This volume outlines why the study of documentation is a particularly fertile ground for examining the relationship between migrants and the state, and an especially important one at this political juncture. Identity documents stand at the intersection between legitimacy and legibility, identity and identification, and security and insecurity. Even as states increasingly restrict the kinds of identification noncitizens may receive, a variety of governments at the subnational level—swayed by the concerns of migrants and their advocates—have extended identity documents to unauthorized and liminally legal migrants in order to stake their claims to local citizenship. Yet as these nations enter an ever more xenophobic and nativist phase, in turn emboldening immigration agents, the paper trails left by migrants in even local bureaucracies have become a renewed focus of concern. If documents position migrants at the fulcrum between legitimacy and legibility, the current political moment has decidedly shifted the balance toward the latter. As scholars, we must attend to new contestations of migrants' rights that occur

at the material level of identity documents. Moreover, we must be alert to the new struggles emerging over local-level forms of documentation that once seemed secure (such as state driver's licenses), over who has the right to access to such paper trails, and over the new forms of legibility they create.

As temporary, provisional, and liminal statuses proliferate in traditional receiving countries and in transit states, this not only ensnares migrants in a web of bureaucratic relations with the state that creates new vulnerabilities; it also yields a plethora of contradictory and inconsistent implications for migrants' eligibility for government programs, for ordinary privileges, and even for immigration status adjustments. The arbitrariness of such rules and the disjunctures they create across governments—and even across different scales of single governments—testifies to the limitations of enacting local citizenship policy in the absence of comprehensive immigration reform. It also highlights the inconsistency of "the state" itself as a fragmented and ever-shifting entity. By documenting these inconsistencies, we aim to demystify the state and the proliferating paper trails it creates.

Notes

I would like to thank my research assistants, Lorena Cannon and Lucia Terpak, for their help with this project.

1 See Ruth Gomberg-Muñoz, *Becoming Legal: Immigration Law and Mixed-Status Families* (Oxford: Oxford University Press, 2016); Cecilia Menjívar, "Liminal Legality: Salvadoran and Guatemalan Immigrants' Lives in the United States," *American Journal of Sociology* 111 (2006): 999–1037; Cecilia Menjívar and Daniel Kanstroom, eds., *Constructing Immigrant "Illegality": Critiques, Experiences, and Responses* (New York: Cambridge University Press, 2014); Nandita Sharma, *Home Economics: Nationalism and the Making of "Migrant Workers" in Canada* (Toronto: University of Toronto Press, 2006); Nandita Sharma, "Global Apartheid and Nation-Statehood: Instituting Border Regimes," in *Nationalism and Global Solidarities: Alternatives to Neoliberal Globalisation*, ed. James Goodman and Paul James (New York: Routledge, 2007), 71–90. There is evidence that countries of transit—that is, nontraditional migrant-receiving countries—may also be creating more provisional legal statuses to cope with increased immigration. In the face of growing criticism over its handling of Central American migration and its low rate of approval of asylum cases, for example, Mexico has increasingly created new temporary and short-term visas. Article 52 of Mexico's 2011 Nueva Ley de Migración grants a stay of deportation to those who have witnessed a "grave crime" and report it to the authorities—a stay that ends once the crime has been investigated. Similarly, after a delegation of disabled Honduran train victims paid a high-profile visit to Mexico in April 2014, the Mexican government promised to issue humanitarian visas to all train victims—visas that would be valid for a year,

may lead to legal residence, and are renewable. Nevertheless, a full examination of how countries of transit are responding to immigration through the creation of temporary and provisional legal categories is outside the scope of our analysis. See Jasmine Gersd, "Beast Victims Finally Start Getting Rights," *Fusion News*, April 22, 2014, accessed November 3, 2014, http://www.fusion.net/section/news; Sonia Wolf, "Migrantes Víctimas de Delito: ¿Detectar y Deportar o Detectar y Proteger?," *Insyde ac* 10 (2013): 1–3.

2 Sharma, *Home Economics*; Sharma, "Global Apartheid and Nation-Statehood."

3 Kitty Calavita, *Immigrants at the Margins: Law, Race, and Exclusion in Southern Europe* (New York: Cambridge University Press, 2005).

4 See Anderson, this volume.

5 Gomberg-Muñoz, *Becoming Legal*; Menjívar, "Liminal Legality"; Menjívar and Kanstroom, eds., *Constructing Immigrant "Illegality."*

6 Sharma, *Home Economics*; Sharma, "Global Apartheid and Nation-Statehood."

7 Sharma, "Global Apartheid and Nation-Statehood," 80; see also Josiah Heyman, "Capitalism and US Policy at the Mexican Border," *Dialectical Anthropology* 36 (2012): 263–77; Sharma, *Home Economics*; David Spener, *Clandestine Crossings: Migrants and Coyotes on the Texas-Mexico Border* (Ithaca, NY: Cornell University Press, 2009).

8 While the pattern of exclusions due to citizenship status that is characteristic of global apartheid began with increased South-to-North migration, it has recently spread to new migrant-receiving countries. These include richer and safer countries in the South that are receiving more migrants from other countries in the South as well as transit countries that have adopted policies and practices similar to those in the North that obstruct migration. Here we focus on the implications of temporary and provisional immigration statuses for migrants in traditional immigrant-receiving countries as the process of global apartheid is the most developed and entrenched in these regions.

9 Menjívar, "Liminal Legality." In this volume, we use the term *migrant* as opposed to *immigrant* to highlight the "intrinsic incompletion and consequent irresolution" of migration rather than a unidirectional and purposeful movement; Nicholas P. De Genova, "Migrant 'Illegality' and Deportability in Everyday Life," *Annual Review of Anthropology* 31 (2002): 419–47. Critics have argued that the term *immigrant* itself describes new arrivals from the perspective of the nation-state, often connoting a linear process of assimilation. Nevertheless, we acknowledge that the current political moment has raised the real-world stakes of claiming migrants as "immigrants"—that is, as people who intentionally entered a country in order to settle permanently—rather than as temporary interlopers. Therefore, we have allowed our contributors to choose which term they prefer; Gomberg-Muñoz and Menjívar (this volume) both prefer the term *immigrant* to signal their interlocutors' intent to remain in the United States. Similarly, for the sake of consistency, we use the term *unauthorized* to refer to migrants without official permission to enter a nation-state. As Heyman, Talavera, and Núñez note, the common term *undocumented immigrants* is a misnomer as many unauthorized migrants do in fact have

various forms of documentation. Indeed, migrants are "undocumented" only from the state's perspective; they often have various forms of documentation, including expired visas through which they once entered and then overstayed. See Josiah Heyman, Victor Talavera, and Gina M. Núñez, "Healthcare Access and Barriers for Unauthorized Immigrants in El Paso County, Texas," *Family and Community Health* 32 (2009): 4–21.

10 Dara Lind, "The Trump Administration's Separation of Families at the Border, Explained," *Vox*, June 11, 2018; Franco Ordóñez, "Trump Administration Targets Parents Who Paid to Smuggle Children into US," *Charlotte Observer*, June 29, 2017.

11 See Anderson, this volume.

12 Asad L. Asad, "On the Radar: System Embeddedness and Latin American Immigrants' Perceived Risk of Deportation," preprint draft (Ithaca, NY: Center for the Study of Inequality, Cornell University, 2017).

13 Els De Graauw, "Municipal id Cards for Undocumented Immigrants: Local Bureaucratic Membership in a Federal System," *Politics and Society* 42 (2014): 309–30; Helen Marrow, "Deserving to a Point: Unauthorized Immigrants in San Francisco's Universal Access Healthcare Model," *Social Science and Medicine* 74 (2012):846–54; Juan Thomas Ordóñez, *Jornalero: Being a Day Laborer in the USA* (Oakland: University of California Press, 2015).

14 Susan Bibler Coutin, *Legalizing Moves: Salvadoran Immigrants' Struggle for US Residency* (Ann Arbor: University of Michigan Press, 2000).

15 Monica Varsanyi, "Interrogating 'Urban Citizenship' vis-à-vis Undocumented Migration," *Citizenship Studies* 10 (2006): 229–49.

16 Over two dozen countries currently offer consular ids, and their requirements vary. For example, a Matrícula Consular de Alta Seguridad from Mexico verifies that the bearer is a Mexican citizen living abroad (usually in the United States). To obtain such a card, one must produce a birth certificate, a form of photo identification, and proof of address in one's country abroad; the cards contain a photo and give the migrant's birthplace and residence.

17 Local law enforcement's acceptance of consular ids as valid identification is not uniform, just as not all banks accept municipal ids. See Monica Varsanyi, "Documenting Undocumented Migrants: Matrículas Consulares as Neoliberal Local Membership," *Geopolitics* 12 (2007): 311.

18 This volume is the end result of a Wenner-Gren Foundation–sponsored workshop, "Migrants and Documents: A View of the Nation-State from Below," which was held at the University of Colorado, Denver, in August 2017, with Sarah B. Horton and Josiah Heyman as principal investigators.

19 Veena Das and Deborah Poole, "State and Its Margins: Comparative Ethnographies," in *Anthropology in the Margins of the State*, ed. Veena Das and Deborah Poole (Santa Fe, NM: School of American Research Press, 2004).

20 As Yngvesson and Coutin astutely note: "Paper trails, which ought to substantiate truth, sometimes plunge their referents into a reality that is incommensurable with their sense of self." See Barbara Yngvesson and Susan Bibler Coutin, "Backed by Papers: Undoing Persons, Histories, and Return," *American Ethnologist* 33 (2006): 184.

21 Josiah M. Heyman, "Class and Classification on the U.S.-Mexico Border," *Human Organization* 60 (2001): 128–40.

22 Veena Das, *Life and Words: Violence and the Descent into the Ordinary* (Berkeley: University of California Press, 2006); Das and Poole, "State and Its Margins"; Madeleine Reeves, "Clean Fake: Authenticating Documents and Persons in Migrant Moscow," *American Ethnologist* 40 (2013): 508–24.

23 See Apostolous Andrikopolous, "Argonauts of West Africa: Migration, Citizenship, and Changing Kinship Dynamics in a Changing Europe" (Ph.D. diss., Amsterdam Institute for Social Science Research, 2017); Sarah Horton, "Identity Loan: The Moral Economy of Migrant Document Exchange in California's Central Valley," *American Ethnologist* 42 (2015): 55–67; Ordóñez, this volume. Campbell and Heyman use the term *slantwise* for diagonal maneuvers that interact with power relations but cannot easily be classified as either domination or resistance. The tripartite set of domination, resistance, and slantwise maneuver seems useful in understanding the play of action around documentation. Howard Campbell and Josiah M. Heyman, "Slantwise: Beyond Domination and Resistance on the Border," *Journal of Contemporary Ethnography* 36 (2007): 3–30.

24 Susan Coutin, "Falling Outside: Excavating the History of Central American Asylum Seekers," *Law and Social Inquiry* 36 (2013): 569–96.

25 Das, *Life and Words*; Das and Poole, "State and Its Margins"; James Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven, CT: Yale University Press, 1998).

26 Scott, *Seeing Like a State.*

27 David Lyon calls these techniques "the co-opting of the body itself as a means of identification," noting, "Information can now be extracted from the body that can override the person's own claims to a particular identity." David Lyon, "Under My Skin: From Identification Papers to Body Surveillance," in *Documenting Individual Identity: The Development of State Practices in the Modern World*, ed. Jane Caplan and John Torpey (Princeton, NJ: Princeton University Press, 2001), 291.

28 See Coutin, this volume.

29 See Provine and Varsanyi, this volume.

30 Jane Caplan and John Torpey, eds., *Documenting Individual Identity: The Development of State Practices in the Modern World* (Princeton, NJ: Princeton University Press, 2001); Ilsen About, James Brown, and Gayle Lonergan, eds., *Identification and Registration Practices in Transnational Perspective: People, Papers and Practices* (London: Palgrave Macmillan, 2013); John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge: Cambridge University Press, 2000).

31 About, Brown, and Lonergan, eds., *Identification and Registration Practices in Transnational Perspective*; Heyman, "Class and Classification."

32 Deborah Boehm, *Returned: Going and Coming in an Age of Deportation* (Oakland: University of California Press, 2016); Coutin, *Legalizing Moves*; Cecilia Menjívar, "The Power of the Law: Central Americans' Legality and Everyday Life in Phoenix, Arizona," *Latino Studies* 9 (2011): 377–95. See also Yngvesson and Coutin, "Backed

by Papers," 184, for a different definition of "paper trails." Yngvesson and Coutin examine the temporal aspects of paper trails in both referencing a past origin and compelling future movement. They note that official papers "do not merely document prior moments and movements but also have the potential to redefine persons, compel movement, alter moments, and make ties ambiguous."

33 uscis , "Temporary Protected Status," last updated May 13, 2019, https://www.uscis.gov/humanitarian/temporary-protected-status#What%20is%20TPS?.

34 Calavita, *Immigrants at the Margins*; Stephen Ruszczyczk, "Local Governance of Immigrant Incorporation: How City-Based Institutional Fields Shape the Cases of Undocumented Youth in New York and Paris," *Comparative Migration Studies* 6 (2018); see also Anderson, this volume.

35 Menjívar, "Liminal Legality." The Trump administration has placed the future of migrants with temporary legal status in doubt. It announced the end of daca in 2017 and in 2018 rescinded the eligibility for tps of nationals from El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan. Adding to the uncertainty, both moves have been temporarily blocked by the courts. As those with daca and tps await adjudication of their fate, they live with the uncertainty of knowing that these liminal legal statuses render them visible to the state.

36 Camila Ruz, "What Happens to Failed Asylum Seekers?," *bbc News Magazine*, August 23, 2015.

37 See Anderson, this volume.

38 Menjívar, "Liminal Legality."

39 Asad, "On the Radar"; Juliet Stumpf, "The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power," *American University Law Review* 56 (2006): 367–419.

40 Asad, "On the Radar."

41 Asad, "On the Radar."

42 Torpey, *The Invention of the Passport*, 155, emphasis in the original.

43 R. Penninx et al., *European Cities and Their Migrant Integration Policies: A State-of-the-Art Study for the Knowledge for Integration Governance (king) Project, University of Amsterdam,* 2014, https://pure.uva.nl/ws/files/4504632/167659_496057.pdf.

44 Varsanyi, "Interrogating Urban Citizenship vis-à-vis Undocumented Migration"; Varsanyi, "Documenting Undocumented Migrants."

45 Varsanyi, "Documenting Undocumented Migrants."

46 Ordóñez, *Jornalero*, 198.

47 Varsanyi, "Documenting Undocumented Migrants," 311.

48 Center for Popular Democracy, "Who We Are: Municipal id Cards as a Local Strategy to Promote Belonging and Shared Community Identity," 2013, accessed January 30, 2019, https://populardemocracy.org/news/who-we-are-municipal-id-cards-local-strategy-promote-belonging-and-shared-community-identity; Center for Popular Democracy, "Promoting Equality: City and State Policy to Ensure Immigrant Safety and Inclusion," 2016, accessed January 30, 2019, https://populardemocracy.org/news/publications/promoting-equality-city-and-state-policy-ensure-immigrant-safety-and-inclusion; De Graauw, "Municipal id Cards

for Undocumented Immigrants." To obtain a municipal id, an applicant must present photo identification (in the form of a foreign birth certificate, driver's license, passport, or consular id card) as well as proof of address (such as a utility bill, insurance bill, or check stub).

49 This is the now-defunct Deferred Action for Parents of Americans and Lawful Permanent Residents program.

50 cpd, "Promoting Equality," 5.

51 See Lauren Slagter, "First County Issued id Card in Midwest Proves Popular with Immigrants," *MLive*, April 27, 2017, http://www.mlive.com/news/ann-arbor/index.ssf/2017/04/washtenaw_county_id_projects.html. In conservative and swing states, however, municipalities offering such ids may be constrained by hostility of the broader political units within which they must operate. For example, Pittsburgh and Philadelphia began entertaining the prospect of municipal ids in 2015 but stalled in the face of state legislation rendering "sanctuary cities" liable for any personal or property damage by unauthorized immigrants. See Joel Mathis, "PA 'Sanctuary Cities' Could Face Crackdown," *Philly Mag*, February 18, 2016, http://www.phillymag.com/citified/2016/02/18/philadelphia-sanctuary-city/. Thus, the continuing struggle over municipal ids illustrates the contestation of localities' rights to determine local membership policy and the limitations of subnational citizenship.

52 Center on Migration, Policy, and Society, "European Cities and Migrants with Irregular Status," 2017, accessed January 30, 2019, https://www.compas.ox.ac.uk/wp-content/uploads/City-Initiative-on-Migrants-with-Irregular-Status-in-Europe-CMISE-report-November-2017-FINAL.pdf; Platform for International Cooperation on Undocumented Migrants (picum), *Cities of Rights: Ensuring Health Care for Undocumented Residents* (Brussels: picum, 2017).

53 Dan Goffin, "Toronto Not Truly a 'Sanctuary City,' Report Says," *Star*, February 17, 2017, accessed May 2, 2017, https://www.thestar.com/news/gta/2017/02/17/toronto-not-truly-a-sanctuary-city-report-says.html.

54 Varsanyi, "Interrogating 'Urban Citizenship' vis-à-vis Undocumented Migration."

55 Liz Robbins, "New York City id Holders Aren't a Threat, nypd Official Says in Court," *New York Times*, January 5, 2017, accessed May 2, 2017, https://www.nytimes.com/2017/01/05/nyregion/new-york-id-program-immigrants.html.

56 Robbins, "New York City id Holders Aren't a Threat."

57 Jarrett Murphy, "Can New York's Mayor Do More to Protect Immigrants from ice?," *Nation*, March 14, 2017, accessed May 2, 2017, https://www.thenation.com/article/can-new-yorks-mayor-protect-immigrants-from-donald-trumps-deportation-machine/.

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https://migrantjustice.net/news/ice-to-vermont-dmv-were-going-to-have-to-make-you-an-honorary-ice-officer.

60 Sébastien Chauvin, Blanca Garcés-Mascareñas, and Albert Kraler, "Working for Legality: Employment and Migrant Regularization in Europe," *International Migration* 51 (2013): 118–31.

61 Gomberg-Muñoz, *Becoming Legal*.

62 Das, *Life and Words*; Das and Poole, "State and Its Margins: Comparative Ethnographies."

63 Akhil Gupta, *Red Tape: Bureaucracy, Structural Violence, and Poverty in India* (Durham, NC: Duke University Press, 2012); Miriam Ticktin, "Where Ethics and Politics Meet: The Violence of Humanitarianism in France," *American Ethnologist* 33 (2006): 33–49.

64 Gray Abarca and Susan Coutin, "Sovereign Intimacies: The Lives of Documents within US State-Noncitizen Relationships," *American Ethnologist* 45 (2018): 7–19; Hiroshi Motomura, "Immigration Law after a Century of Plenary Power: Phantom Constitutional Norms and Statutory Interpretation," *Yale Law Journal* 100 (1990): 545–613; see also Coutin, this volume.

65 Gupta, *Red Tape*; Ticktin, "Where Ethics and Politics Meet."

66 Ticktin, "Where Ethics and Politics Meet."

67 Menjívar, "Liminal Legality"; see also Coutin, this volume.

68 See Coutin, this volume.

69 See Boehm, this volume.

70 Ruz, "What Happens to Failed Asylum Seekers?"

71 Sarah Mahler, *American Dreaming: Immigrant Life on the Margins* (Princeton, NJ: Princeton University Press, 1995), 72.

72 Horton, "Identity Loan," 60–62.

73 Andrikopolous, "Argonauts of West Africa"; Horton, "Identity Loan"; Ordóñez, *Jornalero*.

74 Josiah M. Heyman, "Ports of Entry as Nodes in the World System," *Identities: Global Studies in Culture and Power* 11 (2004): 303–27.

75 Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977–1978* (New York: Palgrave Macmillan, 2004).

76 Cris Shore and Susan Wright, "Policy: A New Field of Anthropology," in *Anthropology of Policy: Critical Perspectives on Governance and Power*, ed. Cris Shore and Susan Wright (New York Routledge Press, 1997).

77 Abarca and Coutin, "Sovereign Intimacies."

78 Menjívar, "The Power of the Law."

79 Shore and Wright, "Policy: A New Field of Anthropology," 6.

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