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Coming and Going: On the State Monopolization of the Legitimate Means of Movement

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 [B]ehind my arrest and today's interrogation, there is a great organization at work. An organization which not only employs corrupt warders, stupid Inspectors, and Examining Magistrates of whom the best that can be said is that they recognize their own limitations, but also has at its disposal a judicial hierarchy of high, indeed of the highest ranks, with an indispensable retinue of servants, clerks, police, and other assistants, perhaps even hangmen, I do not shrink from that word. And the significance of this great organization, gentlemen? It consists in this, that innocent persons are accused of guilt, and senseless proceedings are put in motion against them, mostly without effect….
--Franz Kafka[2]

The vagabond is by definition a suspect.
-- Daniel Nordman[3]

   In his writings, Karl Marx sought to show that the process of capitalist development involved the expropriation of the "means of production" from workers by capitalists. The result of this process was that workers were deprived of the capacity to produce on their own and became dependent upon wages from the owners of the means of production for their survival. Borrowing this rhetoric, Marx's greatest heir and critic, Max Weber, argued that a central feature of the modern experience was the successful expropriation by the state of the "means of violence" from individuals. In the modern world, in contrast to the medieval period in Europe and much historical experience elsewhere, only states could "legitimately" use violence; all other would-be wielders of violence must be licensed by states to do so. Those not so licensed were thus deprived of the freedom to employ violence against others. Following the rhetoric used by Marx and Weber, this paper seeks to demonstrate the proposition that *modern states, and the international state system of which they are a part, have expropriated from individuals and private entities the "legitimate means of movement,"* particularly though by no means exclusively across international boundaries.

   The result of this process has been to deprive people of the freedom to move across certain spaces and to render them dependent on states and the state system for the authorization to do so-an authority widely held in private hands theretofore. A critical aspect of this process has been that people have also become dependent on states for the possession of an "identity" from which they cannot escape and which may significantly shape their access to various spaces. There are, of course, virtues to this system- principally of a diplomatic nature-just as the

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expropriation of workers by capitalists allows propertyless workers to survive as wage laborers and the expropriation of the means of violence by states tends to pacify everyday life. Yet in the course of each of these transformations, workers, aggressors, and travelers, respectively, have each been subjected to a form of dependency they had not previously known.

An understanding of the processes whereby states monopolized the legitimate means of movement is crucial to an adequate comprehension of how modern states actually work. Analyses of state formation heretofore have focused more or less exclusively on the capacity of states to penetrate societies, without explicitly telling us *how* they do so. Such analyses have posited that successful states developed the ability to reach into societies to extract various kinds of resources, yet they fail to offer any specific discussion of the means they adopted to achieve these ends. Meanwhile, analyses of migration and migration policies have tended to take the existence of states largely for granted, typically attributing migration to a variety of socioeconomic processes ("push-pull," "chain migration," etcetera) without paying a great deal of attention to states' interests and policies.[4] When migration policies are the subject of attention, choices among alternative policies are ascribed to certain putative characteristics of the states under consideration (liberal, corporatist, communist, etc.). Rather than ignoring the role of states, such analyses take them as given and thus fail to see the ways in which regulation of movement contributes to constituting their very "state-ness."

These approaches are inadequate for understanding either the development of modern states or migration patterns. In what follows, I seek to supersede these partial perspectives and to show that states' monopolization of the right to authorize and regulate movement has been intrinsic to the very construction of states since the rise of absolutism in early modern Europe. I also attempt to demonstrate that procedures and mechanisms for identifying persons are essential to this process, and that, in order to be implemented in practice, the notion of national communities must be codified in documents rather than merely "imagined."

In the remainder of this article, I undertake four tasks. First, I show how and why states have sought to monopolize the "legitimate means of movement" -- that is, to gather into their own hands the exclusive right to authorize and regulate movement. Next, I argue that the processes involved in this monopolization force us to re-think the very nature of modern states as they have been portrayed by the dominant strands of sociological theories of the state. In particular, I seek to show that the notion that states "penetrate" societies over time fails adequately to capture the nature of state development, and argue instead that we would do better to regard states as "embracing" their citizenries more successfully over time. Then, I analyze the development of modern states as nation-states and demonstrate the corresponding need for states to identify unambiguously who belongs and who does not-in order to "embrace" their members more effectively and to exclude unwanted intruders. Finally, I discuss the nature and legal implications of the various documentary systems that undergird and make possible both states' embrace of individuals and the monopolization of the means of legitimate movement by states and the international state system: (external or international) passports, internal passports ("passes"), and ID cards.

Monopolizing the Legitimate Means of Movement

States have sought to monopolize the capacity to authorize the movements of persons- and unambiguously to establish their identities in order to enforce this authority-for a great variety of reasons which reflect the ambiguous nature of modern states, which are at once sheltering and

dominating. These include such objectives as the extraction of military service, taxes, and labor; the facilitation of law enforcement; the control of "brain drain" (i.e., limitation of departure in order to forestall the loss of workers with particularly valued skills); the restriction of access to areas deemed "off-limits" by the state, whether for security reasons or to protect people from unexpected or unacknowledged harm; the surveillance and containment of "undesirable elements"- whether these are of an ethnic, national, racial, economic, religious, ideological, or medical character; and the supervision of the growth, spatial distribution, and social composition of populations within their territories.

States' efforts to monopolize the legitimate means of movement have involved a number of mutually reinforcing aspects: the (gradual) definition of states everywhere-at least from the point of view of the international system-as "national" (i.e., as "nation-states" comprised of members understood as citizens); the codification of laws establishing which types of persons may move within or cross their borders, and determining how, when, and where they may do so; the stimulation of the worldwide development of techniques for uniquely and unambiguously identifying each and every person on the face of the globe, from birth to death; the construction of bureaucracies designed to implement this regime of identification and to scrutinize persons and documents in order to verify their identities; and the creation of a body of legal norms designed to adjudicate claims by individuals to entry into particular spaces and territories. Only recently have states actually developed the capacities necessary to monopolize the authority to regulate movement.

To be sure, despotisms everywhere frequently asserted controls on movement before the modern period, but these states generally lacked the extensive administrative infrastructure necessary to carry out such regulation in a pervasive and systematic fashion. The *successful* monopolization of the legitimate means of movement by states and the state system had to await the creation of elaborate bureaucracies and technologies that only gradually came into existence, a trend that intensified dramatically toward the end of the nineteenth century. The process decisively depended on what Gerard Noiriel has called the "*revolution identificatoire*," the development of "cards" and "codes" that identified people (more or less) unambiguously and distinguished among them for administrative purposes.[5] Such documents had existed previously, of course, but their uniform dissemination throughout whole societies, not to mention their worldwide spread as the international passport with which we are familiar today, would be some time in coming. Once they became available to (almost) anyone, however, they also became a requirement for legitimate movement across territorial spaces.

Things have not always been this way. The great migrations that populated many of the world's inhabited regions would otherwise have been greatly hampered, if not rendered impossible. Where the right to authorize movement was controlled by particular social groups before the coalescence of the modern state system (and indeed until well after it had come into being), these groups were as often private entities as constituted political authorities. Indentured servants' right to move, for example, was under the control of their masters. Serfdom was as much as anything else a system whereby serfs' legal capacity to move lay in the hands of their landlords, who had jurisdiction over them. Slavery, even when it did not involve actual shackles, entailed that slaveholders held the power to grant their slaves the right to move.[6]

As modern states advanced and systems of forced labor such as slavery and serfdom declined, however, states and the international state system stripped private entities of the power to authorize and forbid movement and gathered that power unto themselves. In doing so, they were responding to a considerable extent to the imperatives of territorial rule characteristic of

modern states, as well as to the problem of "masterless men"7 as personal freedom advanced. The phenomenon is captured nicely in Karl Polanyi's discussion of the emergence of "the poor" as a distinctive group in early modern England: "[T]hey became conspicuous as *individuals unattached to the manor*, "or to any feudal superior[,]" and their gradual transformation into a class of free laborers was the combined result of the fierce persecution of vagrancy and the fostering of domestic industry...." 8 The transition from private to state control over movement was essential aspect of the transition from feudalism to capitalism.

The process through which states monopolized the legitimate means of movement thus took hundreds of years to come to fruition. It followed the shift of orientations from the local to the "national" level that accompanied the development of (typically) larger "national" states out of the panoply of smaller city-states and principalities that dotted the map of early modern Europe. The process also paralleled the rationalization and nationalization of poor relief, for communal obligations to provide such relief were an important source of the desire for controls on movement. Previously in the domain of private and religious organizations, the administration of poor relief gradually came to be removed from their purview and lodged in that of states. As European states grew in size and fostered large-scale markets for wage labor outside the reach of landowners and against the traditional constraints imposed by localities, the provision of poor relief also moved from the local to the national arena.9 These processes, in turn, helped to expand "outward" to the "national" borders the areas in which persons could expect to move freely and without authorization. Eventually, the principal boundaries that counted were those not of municipalities, but of nation-states.

The process took place unevenly in different places, following the line where modern states replaced nonterritorial forms of political organization10 and "free" wage labor replaced various forms of servitude. Then, as people from all levels of society came to find themselves in a more nearly equal position relative to the state, state controls on movement among local spaces subsided and were replaced by restrictions that concerned the outer "national" boundaries of states. Ultimately, the authority to regulate movement came to be primarily a property of the international system as a whole - that is, of nation-states acting in concert to enforce their interests in controlling who comes and goes. Where pronounced state controls on movement operate *within* a state today, especially when these are to the detriment of particular "negatively privileged" status groups, we can reliably expect to find an authoritarian state (or worse). The cases of the Soviet Union, Nazi Germany, apartheid-era South Africa, and Communist China (at least before the 1980s) bear witness to this generalization.

The creation of the modern passport system and the use of similar systems in the interior of a variety of countries-the product of centuries-long labors of slow, painstaking bureaucratic construction-thus signaled the dawn of a new era in human affairs, in which individual states and the international state system as a whole *successfully* monopolized the authority to permit movement within and across their jurisdictions. The point here is obviously not that there is no unauthorized (international) migration, but rather that such movement is "illegal"; that is, we speak of "illegal" (often, indeed, of "undocumented") migration as a result of states' monopolization of the legitimate means of movement. "Internal" movement-a meaningless and anachronistic notion before the development of modern states and the state system-has come to mean movement within national or "nation-states" .11

None of this is to say that private actors now play no role in the regulation of movement-far from it. Yet private entities have been reduced to the capacity of "sheriff's deputies" who participate in the regulation of movement at the behest of states. During the 19th century, for

example, governments in Europe pressed steamship companies into overseeing for them whether particular people should be permitted to travel to the destinations they had chosen. Since the development of air travel, airline companies have been subjected to similar obligations. Both shipping enterprises and air carriers have frequently resisted carrying out the sheriff's deputy function, mainly because they fear that their own participation in such quasi-governmental activities will hurt their profitability. Not wanting to appear guilty of mere cupidity, however, what they are likely to say is that they regard the regulation of movement as the proper province of the state-12and so it is.

If, along with monopolizing the legitimate use of violence, modern states also monopolize the legitimate means of movement, they must have means to *implement* the constraints they enunciate in this domain. In order to do so, they must be able to construct an enduring relationship between the various agencies that constitute states and both the individuals they govern and possible interlopers. This fact compels us to re-consider the principal line of sociological argument concerning the way modern states have developed.

Modern States: "Penetrating" or "Embracing"?

Previous sociological discussion of the development of modern states has focused attention primarily on their growing capacity to "penetrate" or "reach into" societies and extract from them what they need in order to survive. Discussions of states as "penetrating" societies more effectively during the modern period can be found in almost any major recent sociological discussion of the nature of modern states.13 Going the state theorists one better, Jürgen Habermas expanded the metaphor of "penetration" to characterize the activity of both the modern bureaucratic state and the capitalist economy. Habermas thus speaks of the "colonization of the life-world" by the "steering media" of money and power.14 Yet Habermas's analysis shares the weaknesses of the "penetrationist" paradigm of state theory, for "money" is rather more concrete than "power" as a mechanism for enabling and constraining social choices. In short, the "penetrationist" school has heretofore paid greater attention to the enhancement of the *capacity* of states to intrude into social life over time without examining how they actually *effect* this result.

In a striking recent study, Philip Gorski has taken issue with the neo-Marxist (Anderson and Wallerstein) and institutionalist/bellicist (from Hintze through Tilly) approaches to the formation of states in early modern Europe by arguing that these approaches inappropriately ignore the crucial *disciplining* role of Protestantism in the development of the prototypical Dutch and Prussian states, thus missing the indispensable *social* dimension of state-building.15 Gorski's notion of "disciplinary revolution" is crucial for our understanding of the processes by which subjects came to internalize the self-restraint necessary to make effective states' penetration into their lives. The history of passport (and many other) controls suggests, however, that no matter how important the "disciplinary revolution" may have been in setting modern states on their subsequent historical course, that transformation did not - like capitalism - create an "iron cage".16 In the realm of social life, therefore, sanctions need to be continually devised, implemented, and modified by states. Despite its considerable potential for re-orienting discussions of the development of states in early modern Europe toward analysis of the cultural prerequisites of that development, Gorski's incisive analysis remains generally within the "penetrationist" paradigm of state theory.

The traditional (and unmistakably sexual) imagery of societies being "penetrated" by the state, however, unnecessarily and misleadingly narrows our analytical vision about the nature of modern states. In particular, the "penetrationist" approach has had little to say about the mechanisms adopted and employed by states to construct and sustain enduring relationships between themselves and their citizens, the "social base" of their reproduction. The metaphor of the "penetration" of societies by states thus distorts the nature of the process whereby states amassed the capacity to reconfigure social life by focusing our attention almost exclusively on the notion that states "rise up" above and surmount the isolated societies that seem, in this metaphor, to lie prostrate beneath them. Willingly or unwillingly, the now-standard imagery of penetration suggests, more or less weak societies simply receive the advances of more or less powerful states. Having been penetrated, societies give up-to a greater or lesser extent-the resources states demand of them. But how does this actually happen? How are the people who make up "societies" compelled to "render unto Caesar what is Caesar's"?

In order to extract resources and implement policies, states must be in a position to locate and lay claim to people and goods. This fact suggests an alternative imagery to that of "penetration" for understanding the accumulation of infrastructural capacity by modern states. We would do better, I believe, to regard states as seeking not simply to penetrate but also to *embrace*17 societies, surrounding and taking hold of them- individually and collectively-as those states grow larger and more administratively adept. More than this, states *must* embrace societies *in order to* penetrate them effectively. Individuals who remain beyond the embrace of the state necessarily represent a limit on its penetration. The *reach* of the state, in other words, cannot exceed its *grasp*.

In contrast to the masculinized image of "penetrating" states surmounting societies, the metaphor of states' "embrace" of societies directs our awareness to the ways in which states bound-and in certain senses even "nurture"-the societies they hold in their clutches. In this regard, the imagery of "embracing" states shares similarities with Michael Mann's notion of the way states "cage" social activity within them, particularly the way in which the rise of national states re-oriented political activity from the local to the national level.18 Yet Mann's "caging" metaphor fails to get at the way in which states metaphorically "grasp" both entire societies and *individual* people in order to carry out their aims.

The imagery of states "embracing" individuals calls to mind the fact that states hold *particular* persons within their grasp, while excluding others. This consideration is especially important in a world of states defined as nation-states-that is, as comprised of members conceived, at least from the outside, as citizens-and concerned successfully to monopolize the legitimate means of movement. In contrast, the imagery of "penetration" is blind to the peculiarities of the society that the state invades. Surely the metaphor of "embrace" helps make better sense of a world of states that are understood to consist of mutually exclusive bodies of citizens.

Systems of registration, censuses, and the like-along with documents such as passports and identity cards that amount to mobile versions of the "files" states use to store knowledge about their subjects-have been crucial in states' efforts to achieve these aims. "This is what was at stake," as Noiriel has written of the French Revolution, "when the government established civil status [*l'état civil*] on 20 September 1792 by decree. From that moment on, an individual could only exist as a citizen once his or her identity had been registered by the municipal authorities, according to regulations that were the same throughout the national territory."19 By taking this step, the French state removed from the Catholic Church the task of tracking the population. As a

religious and non-territorial organization, the Church was interested mainly in shepherding its own flock, and hence often ignored the registration of Jews and Protestants. This posture simply would not do for the purposes of a modern territorial state, which must keep track of all potential taxpayers, soldiers, mothers-and citizens. Though not without flaws and loopholes, of course, such registration systems have gone a long way toward allowing states successfully to "grasp" their populations and thus to acquire from them the resources they need to survive, as well as to exclude from among the beneficiaries of state largesse those groups deemed ineligible for benefits.

Despite certain challenges, modern "nation-states" and the international system in which they are embedded have grown increasingly committed to and reliant upon their ability to make strict demarcations between mutually distinct bodies of citizens, as well as among different groups of their own subjects when one or more of these groups are singled out for "special treatment." The need to sort out "who is who" and, perhaps more significantly, "what is what" becomes especially acute when states wish to regulate movement across borders. This is because, as Mary Douglas wrote some years ago, "all margins are dangerous… [A]ny structure of ideas is vulnerable at its margins."[20] The idea of belonging that is at the root of the concept of citizenship is threatened when people cross borders, leaving spaces where they "belong" and entering those where they do not.

Yet the nation-state is far more than a "structure of ideas." It is also-and more importantly-a more or less coherent network of *institutions*. In this respect, recent developments in sociology turn our thinking in a fruitful direction when we try to make sense of how states *actually* embrace the societies they seek to rule, and to distinguish their members from non-members. Rather than merely suggesting the way institutions shape our everyday world, the "new institutionalism" directs our attention to the "institutional constitution of both interests and actors".[21] With respect to our concerns here, in other words, as they embrace societies, states help shape the ways in which people think about themselves and what they want out of social life.

This point has a special relevance with regard to identities. Too frequently in recent academic writing, identities have been discussed in purely subjective terms, without reference to the ways in which identities are anchored in law and policy. This subjectivistic approach, given powerful impetus by the wide and much-deserved attention given to Benedict Anderson's notion of "imagined communities"[22] tends to ignore the extent to which identities must become codified and institutionalized in order to become socially significant. Gerard Noiriel has made this point in the strongest possible terms with respect to immigrants: "It is often overlooked that legal registration, identification documents, and laws are what, in the final analysis, determine the 'identity' of immigrants."[23]

But the point is more general. The cases of "Hispanics" or "Asian Americans" in the United States, categories designed for the use of census-takers and policy-makers with little in the way of subjective correlates at the time of their creation, are here very much to the point. The current debate over a "multiracial" category in the next census indicates that many people are aware of the importance of such classifications.[24] Whether substantial numbers of people think about themselves subjectively in these terms is an open, empirical question; that they would not be likely to do so without the institutional foundation provided by the prior legal codification of the terms seems beyond doubt.

In order to understand how states' embrace of individuals by means of identification documents became so central to modern states and to their monopolization of the legitimate

means of movement, we must now examine the shaping of that most pervasive of modern identities, nationality, in its generative institutional context, the nation-state.

Modern States as Nation-States

Modern states are typically understood as "nation-states." But what are these sphinxes? Characteristically, Max Weber offered extremely useful definitions of each component of this hybrid term that help us gain a purchase on its meaning. The concept of the nation, according to Weber, entails that we may "expect from certain groups a specific sentiment of solidarity in the face of other groups." The history of national movements makes plain, however, that there is no way to determine the "empirical qualities common to those who count as members of the nation".[25] Weber's insistence on the *affective* character of "the nation" directs our attention to the fluid, insubstantial character of "nations."

Sentiments come and go, however, but institutions are built to last. What might be called the "will to nation" is evanescent; what it requires is a world of institutional representation. We must therefore look to *states* to see how "nation-ness" is institutionalized. In Weber's oft-cited dictum, "a state is a human community that (successfully) claims the *monopoly of the legitimate use of force* within a given territory".[26] Nothing whatsoever is said or implied in Weber's definition with respect to the social composition ("empirical qualities") of the community comprising the state, and certainly not that community must consist of a "nation." Despite the widespread use of the term "nation-state," states have no necessary connection with nations, and are very frequently at odds with them. Yet the "nation-state" has come to be seen as the normal and desirable form of political organization since the French Revolution (whatever threats may assail it today). How did this come about?

It is against this background that Weber emphasized that "territory is one of the characteristics of the state".[27] Weber was right to stress the historical novelty of the replacement of the overlapping forms of jurisdiction characteristic of earlier times by centralizing and territorially jealous modern states. Writing in Weber's shadow, his contemporary Otto Hintze neatly summarized the nature of the earlier profusion and confusion of loyalties and obligations as follows:

In political terms, the feudal system meant a peculiar form of state organization very different from what is typical of a modern state. The feudal state lacked the attributes of sovereignty-that is, independence beyond its borders and exclusive rights within them. The whole of public life was dominated by the idea of a graduated pyramid of governing powers, each unrestricted in its own sphere, but owing to the higher power service and obedience within strictly defined limits. The states were not yet fixed in area, consolidated in themselves, or sharply distinguished from each other.[28]

The modern state system was destined to do two things: to delineate sharp territorial boundaries between states and to sweep away the "inextricably superimposed and tangled" loyalties[29] characteristic of European feudalism (at least outside of England).

Feudalism was a system of obligations-of economic rents and dues (in kind and eventually also in money), but above all of military assistance-owed by subordinates to their superiors.[30] Feudal loyalty between lords and their vassals was "an intensely *personal* relation".[31] The system could thus generate permutations insensate from our contemporary perspective,[32] which takes for granted the mutual exclusivity of membership and its obligations while casting "dual citizenship" into the murky void of anomaly. As two-dimensional,

geographical representations, maps showing Europe in this earlier period thus fundamentally mislead the viewer about the nature of political order by suggesting the kind of territorial exclusivity of loyalty and obligation that only came about as a result of an extended process involving the codification of citizenship laws rooted in the criterion of nationality.

The sometimes crazy-quilt pattern of personal obligations owed by men to each other under feudalism could not have been further removed from the presumption among "nation-states" that individuals should be assigned to membership solely and exclusively in a single, superordinate entity defined in territorial terms. In the international state system since (roughly) Westphalia,33 multiple allegiances were to be avoided wherever possible, if not prohibited altogether.

The need to curtail divided loyalties arose in substantial part from the nature of the state as a mechanism for wielding violence-policing territory internally and making war externally. The so-called absolutist regimes that gradually replaced feudal political organization in the course of the 16th and 17th centuries had routinely used foreign mercenaries for their military and police activities. There were a variety of reasons for this approach to marshaling force. One important advantage was that "strangers" without emotional ties to the indigenous population could be expected to be more reliable executors of repression against obstreperous subjects. In addition, the use of mercenaries also allowed rulers to avoid putting weapons in the hands of a local population that frequently could not be counted on to aim only in one direction. The employment of foreign mercenaries for these purposes fell into disrepute (though was hardly yet eliminated) with the military successes following upon the Convention's *levee en masse* in France in August 1793. This revolutionary innovation "conjured up the image of an entire nation in arms, throwing itself at its enemies and intimidating them by sheer mass and determination".34 The French Revolution transformed modern warfare by revealing the "fierce energies" that could be generated among ordinary recruits fired by the revolutionary and national ideologies that commingled inextricably in that upheaval.35

The prospect of citizen-armies at national scale heightened the drive toward unambiguous allegiances and brought to the fore the centrality of warmaking and its internal cognate, policing, in the construction of states. With these developments, according to Otto Hintze, "foreigners disappeared from the army".36 though in fact this process went forward unevenly and took some time, particularly for those states with colonial possessions and those, such as the United States, that sought immigrants to populate their territories.37 States in Europe, at least, would henceforth be increasingly oriented toward the exclusive participation of nationals in their central organs - armies and bureaucracies - as they sought to consolidate their grasp on the territories and populations over which they asserted control.

Despite the intensified drive toward the "nationalization" of states in Europe-the process of making them the states "of, and for, a particular, bounded citizenry"38 -a more or less coherent "society" existed among the system of states. The development of "international society" had a long history, and had been underway since at least the fifteenth century, when a system of resident ambassadors among the northern Italian city-states gave birth to modern diplomacy.39 In all events, the looseness with which the aim of nationalization was initially pursued meant that it would still be some time before even a semblance of its realization would be achieved. A whole bureaucratic apparatus of citizenship laws, identification documents, and movement controls would have to be created where previously there had been none.

Moreover, borders-theretofore a vague, fuzzy notion-would have to be firmly demarcated and policed.40 Stein Rokkan has sharply stated the relationship between control over borders and

the so-called "state-ness" of modern states: "[T]he military-administrative power of any state can best be gauged by an analysis of its success in controlling interaction across its boundaries, in checking the movement of men, commodities, and ideas".41 It would perhaps be more correct to add the qualifier "when the state wishes to do so," for not all states are concerned to control movements and transactions across their borders at all times. But Rokkan's fundamental insight concerning the centrality of border control to modern "state-ness" remains sound enough.

As nation-states-states of and for particular "peoples" defined as mutually exclusive groups of citizens-modern states have typically been eager to embrace their populations, and to regulate the movements of persons within and across their borders when they wish to do so. Their efforts to implement such regulation have driven them toward the creation of the means uniquely and unambiguously to identify individual persons, whether "their own" or others. In order to monopolize the legal means of movement, states and the state system have been compelled to define who belongs and who does not, who may come and go and who not, and to make these distinctions intelligible and enforceable. Documents such as passports and identity cards have been critical to achieving these objectives.

Getting a Grip: Institutionalizing the Nation- State

Following in Weber's footsteps, Rogers Brubaker has stressed the "contingent, conjuncturally fluctuating, and precarious" quality of "nation-ness," pointing out that "We should not ask 'what is a nation' but rather: how is nationhood as a political and cultural form institutionalized within and among states"?42 Brubaker's institutionalist constructionism provides an important corrective to those views (typically held above all by nationalists themselves) that suggest that "the nation" is a real, enduring historical entity. Failing their institutionalization, "nations" must remain ephemeral and fuzzy.

How, indeed, are nation-states institutionalized? More specifically, how *precisely* is the nexus between states, subjects, and potential interlopers generated and sustained? In order to extract the resources they need to survive, and to compel participation in repressive forces where necessary, states must embrace-that is, identify and gain enduring access to-those from whom it hopes to derive those resources. Alternatively, states must be in a position to establish whether or not a would-be entrant matches the criteria laid down for authorized entry into their domains. Charles Tilly has noted that the French Revolution's inauguration of what he aptly calls "direct rule" gave rulers "access to citizens and the resources they controlled through household taxation, mass conscription, censuses, police systems, and many other invasions of small-scale social life".43 Yet this listing leaves the matter too vague for adequate comprehension of the way in which states did, in fact, "invade" small-scale social life and seek to render populations available to their embrace.

In particular, Tilly's enumeration of invasions leaves unclear how taxation and conscription grew to depend decisively on mechanisms of surveillance such as censuses, household registration systems, passports (internal and external), and other identity documents. The activities classically associated with the rise of modern states only became possible if states were in a position successfully to embrace their populations for purposes of carrying out those activities. Such devices as identity papers, censuses, and travel certificates thus were not merely on a par with conscription and taxation as elements of state-building, *but were in fact essential to their successful realization and grew, over time, superordinate to them as tools of administration that made these other activities possible or at least enforceable*.

Sociologists of the state have begun in recent years to address more adequately the problem of how states construct a durable relation between themselves and their subject/citizens in furtherance of their own aims. This concern has been especially prominent in the work of Anthony Giddens. In his important study, *The Nation-State and Violence*, Giddens pays considerable attention to the growing role of surveillance in the development of "direct rule." In contrast to "traditional states," Giddens noted that modern states presuppose a regularized administration and that much of the necessary administrative capacity of modern states is rooted in *writing*. It is through written documents-such as identification papers-that much of the surveillance entailed by modern state administration is carried out: "[A]dministrative power can only become established if the coding of information is actually applied in a direct way to the supervision of human activities…."[.44](#) Max Weber had earlier noted the importance of "files" as an important element of bureaucratization, of course, but he failed to indicate their enormous role in the construction of states' enduring embrace of their citizens. Yet despite the heightened attention to the relationship between states and their citizens/subjects in recent writing on the development of state capacities, we still have little idea of how this relationship is *actually* constructed and sustained.

The essence of the problem can be couched in terms of states' need to be able to embrace their populations and to distinguish them from others. From the point of view of states' interests in keeping track of populations and their movements, people are little but "stigmata," appropriately processed for administrative use. The classic analysis of the operation of and responses to stigmata in informal interaction is Erving Goffman's discussion of *Stigma[,45](#) where the burden of the analysis is on the management of "spoiled identity. But the problem is more pervasive than Goffman indicated, a fact that surely would have been clear to him if he had devoted more attention to bureaucratic institutions such as the state.*

In one of his few sustained treatments of formal institutional environments, the essay on "total institutions" in Asylums[,46](#) Goffman shows that the effort to impose control in such environments begins with systematic attempts to annihilate the identities, the selves, of their inmates. In total institutions, the point is to deprive individuals of the personality resources that they might use to mount a defense against their condition. "On the outside," however, obliteration of individual identity would be ruinous to the state, for it would short-circuit the essential process of identifying individuals for administrative purposes. This outcome would frustrate the performance of those universal and indispensable state activities, the extraction of resources from subjects to nourish the administrative and coercive agencies that constitute and (assuming the state continues to function coherently) continuously replenish the state.

Michel Foucault extrapolated these basic insights into a nightmarish, dystopic, even absurd vision of modern society as a "carceral" world pervaded by "gentle" means of discipline and control carried out under and through the watchful eye of the "individualizing gaze".[47](#) Foucault dramatized this intuition by suggesting that Bentham's "Panopticon," in which individual prisoners could be seen by a centrally located guard who was himself invisible to them, had become the basic model of modern social organization. In a sense, Foucault only drew the logical consequences from Weber's persistent fears about the juggernaut of bureaucratic rationality. Yet Foucault's emphasis on the intimate connections between power and knowledge, and on the crucial importance of individual surveillance in modern administrative systems, has proven enormously fruitful.

Indeed, the following passage, coincidentally discovered in a manual for driver's license tests issued by the State of California, offers remarkably clear evidence of the profound importance that identification practices have assumed in modern times:

IDENTIFICATION

The issue of identification (ID) - its reliability, integrity, confidentiality, etc. - is of prime concern to all levels of government, and the private sector as well. The eligibility for government services, the issuance of various licenses, the assessment of taxes, the right to vote, etc., are all determined through evaluations based in part on the identification documents you present. *It becomes critical that ID documents and systems be completely authenticated and accurate in order to positively and uniquely identify each individual*.[48]
     States have come decisively to depend, by their own lights, on the unique and unambiguous identification of individuals in order to carry out their most fundamental tasks.[49] The examination of individual stigmata, the essential form of which lies at the heart of all modern systems of identification, "places individuals in a field of surveillance [as well as] situates them in a network of writing; it engages them in a whole mass of documents that capture and fix them".[50] The document held by the individual as "ID" thus corresponds to an entire series of files chronicling movements, economic transactions, familial ties, illnesses, and much else besides - the power/knowledge grid in which individuals are processed and constituted as administrative subjects of nation-states.
     The task of state-sponsored identification with the aim of extending the states' embrace has evolved significantly over time, however. Prior to the French Revolution, descriptions of a person's social standing-residence, occupation, family status, etc.-were generally regarded as adequate indicators of a person's identity for purposes of internal passport controls in France.[51] Thereafter, the growing preoccupation with surveillance and the progress of modern science combined to render insufficient these earlier, more homespun practices. States wanted to embrace their inhabitants more firmly, and to be able to distinguish them from outsiders more clearly, than was possible with such methods. Achievement of this aim necessitated greater precision in identifying them.
     At the same time, the rise of natural rights ideologies proclaiming individual freedom and the inviolability of the person cast into disfavor older habits of "writing on the body" such as branding, scarification, tattooing, and dress codes as means for identifying persons (except when these methods of marking are voluntarily inflicted, of course).
     As a result, states with a rising interest in embracing their populations had to develop less invasive means to identify them. The approach they adopted employs roughly the same principle that underlies karate: the person's body is used *against* him or her, in this case as evidence of identity. The techniques for "reading off the body" have become more and more sophisticated over time, shifting from unreliable subjective descriptions and anthropometric measurements to photographs (themselves at first often considered unreliable by police), fingerprinting, electronically scanned palm-prints, and the retina scans dramatized in the recent film version of "Mission: Impossible." The persistent tinkering with these techniques indicates that states (and other entities, of course) have a powerful and enduring interest in identifying persons, both their own subjects/citizens and those of other countries.
     The ability of states uniquely and unambiguously to identify persons, whether "their own" or others, is at the heart of the process whereby states, and the international state system,

have succeeded over time in monopolizing the legitimate means of movement in the modern world. We now turn to an analysis of the different types of "papers" states have used in their efforts to distinguish among persons for purposes of regulating their movements.

Usurping the Legitimate Means of Movement: A Typology of "Papers"

Identification documents have played a crucial role in states' efforts to generate and sustain their embrace of individuals and to use this embrace to expropriate the legitimate means of movement. Such documents come in three basic varieties. Here I explicate more clearly the nature of the different types of such documents and analyze their relationship to states' assertion of a monopoly on the right to authorize people's movements.

Clearly, (external) passports and internal passports or "passes" are not the same thing, although the former appears to have evolved out of the latter to a significant degree.[52] External or international passports, most familiar today to those from "liberal-democratic" countries, are documents associated with movement across international state boundaries. They ordinarily constitute *prima facie* evidence of the bearer's nationality. In contrast, internal passports or passes are designed to regulate movements *within* the jurisdiction of a state. The identification card, common to societies on the European continent and to those that have endured colonial domination by Europeans, comprises a "mixed" type, lying between the other two in terms of its role in control over movement and in securing citizen access to privileges and benefits.

The legal implications of the differences between "internal" and "external" passports are far-reaching. The right to *leave* and *return to* one's country is a prerogative that has come to be widely accepted in international law, even if that law is often ignored in practice. In contrast, the right to move *within* one's country is entirely a matter of the domestic law of sovereign states, subject only to the relatively weak and largely unenforceable strictures that may be imposed by human rights norms and conventions. The very enunciation of such "rights," it might be noted, indicates the extent to which states and the state system have expropriated and monopolized the legitimate means of movement in our time.

Most familiar to people today is the right of states to control *entry*, a prerogative that has come to be understood as one of the quintessential features of sovereignty. It is important to note, however, that the widespread recognition of this prerogative is a fairly recent development. In a survey of the international legal opinion available during the period immediately preceding the First World War, Bertelsmann was unable to muster any consensus for the view that states had an unequivocal right to bar foreigners from entry into their territory.[53]

Still, although they have come to be governed by different bodies of law, passports and passes share the function of controlling the movements of people within and across delimited spaces, thereby affirming states' control over bounded territories and enhancing their embrace of populations. Identification cards, by contrast, are not normally, or at least not primarily, used to regulate movement, but simply to establish the identity of the bearer for purposes of state administration and for gaining access to benefits distributed by the state. Let us examine each of these documents in turn.

A. International Passports

The contemporary international passport is primarily an expression of the attempt by modern nation-states to assert their exclusive monopoly over the legal means of movement. But the

13

passport cannot be reduced exclusively to a mechanism of state control, even though this is certainly its principal function today. For in addition to enhancing bureaucratic domination over persons and territories, the passport vouchsafes the issuing state's guarantee of aid and succor to its bearer while in the jurisdiction of other states. Possession of a passport thus constitutes *ipso facto* evidence of a legitimate claim on the resources and services of the embassies or consulates of the issuing state - not to mention, in extreme cases, its military power.

For the traveler, the modern passport also functions as a *laissez-passer*, bearing witness to the document's partial origins in diplomatic practice. Passports issued by the United States, for example, carry the following inscription: "The Secretary of State of the United States of America hereby requests all whom it may concern to permit the citizen/national of the United States named herein to pass without delay or hindrance and in case of need to give all lawful aid and protection." With the spread of access to the physical means of travel in the last century and a half, individual voyagers have been transformed into quasi-diplomatic representatives of particular countries, simply because the issuing state has usurped the capacity to authorize movement and thus "embraced" the traveler as a citizen-member of the nation-state.

These ambiguities of passports indicate that document cannot be regarded merely as a means of governmental control. To use again the words of the United States passport, the "passport is a valuable citizenship and identity document. It should be carefully safeguarded. Its loss could cause [the bearer] unnecessary travel complications...." Modern passports, like their predecessors such as safe-conducts and *laissez-passers*, facilitate movement into and out of spaces controlled by others than one's own sovereign.

Still, state control over individual movement is clearly the predominant purpose of contemporary passports. The functions performed by the passport in contemporary interstate travel may be described as follows:

1. Departure. Routine travel across international borders comprises a three-part process. First, the individual must depart his or her state of origin. Permission to leave one's country is by no means a foregone conclusion for people from many lands, despite the widespread recognition of such a right in international law.[54] Subjects of a state cannot automatically assume that they have the right to travel abroad, a situation both manifested and exacerbated by the fact that most states now require passports for departure from their domains. Because passports are also normally required for entry into other countries, the right to a passport from one's own government is virtually synonymous with the right to travel abroad. For example, a 1967 decision by the Supreme Court of India holding that Indian citizens have a constitutional right to travel abroad also held that, in consequence, the government had no prerogative to withhold a passport from any citizen who requested one, for such withholding would have nullified the basic right.[55] Consistent with this sort of ruling, most citizens of democratic states, at least, have come to assume that they will be able to acquire a passport on demand.

These considerations point to the usual connection between access to a passport and national citizenship. A recent German study of passport law put the matter as follows: "Each state may issue passports only to those who stand in a close factual relationship to it. As a rule, therefore, passports are issued primarily to citizens of the state in question. Only in exceptional cases are travel documents issued to foreigners who happen to be within the state's territory".[56] This presumed connection between citizenship and possession of a state's passport is, of course, the basis for the colloquial reference to the latter as an indication of possession of the former.

Formal citizenship is not necessarily the foundation of a claim to a passport for travel, however. As indicated by the inscription in the United States passport quoted above, states may

elect to offer passports for interstate travel to their non-citizen *nationals* (e.g., "denizens" such as resident aliens, refugees, asylees, or non-citizen populations over which states hold dominion). In principle, states may elect to give passports to anyone they choose, restricted only by the terms of international law and agreements and by their own legal determinations concerning to whom they want to extend their protections while those persons are abroad. According to a leading expert on international migration law, in fact, "state practice in the issuance of passports is so varied... that it is impossible to establish a connection in international law between the issuance of a passport and the acquisition or tenure of nationality. The problem is not merely that very many states issue travel documents of various kinds to travelers of foreign nationality but that some States [sic] issue passports, in the strict sense of the term, to aliens of defined classes".57 The widespread deviations from the standard assumption of a connection between citizenship and access to a passport invalidates this assumption, even though the principal function of a passport in international law is to demonstrate the identity and nationality of the bearer. Because states and the state system have monopolized the power to authorize international movement, persons must possess a passport regardless of its origins of issuance; this situation creates anomalies for those who have difficulty in claiming affiliation with a particular state.

Conversely, states may choose *not* to grant passports to particular persons, irrespective of their legal status (citizens, denizens, etc.). Those states that curtail free departure and return generally deny their subjects many of the other rights we associate with modern citizenship and human rights norms. In 1982, for example, the South African courts ruled that access to a passport was a privilege rather than a right for both blacks and whites, and that the government could revoke any passport without cause or appeal.58 Yet even nominally democratic states have been known to refuse to grant documents for international travel to certain groups of its citizens. For example, as a result of the Internal Security Act of 1950, the State Department gained the authority to deny passports for international travel to members of the Communist Party.59 These examples indicate states' interest in monopolizing the authority to move for political or ideological reasons.

Beyond the passport itself, a number of countries insist that the international voyager acquire an exit visa as evidence of the state's acquiescence in the traveler's (emigrant's?) departure. Rulers' fears of "brain drain" often underlie such restrictions. As a result, less developed countries have frequently argued that they must retain control over the departure of their subjects in order to be able to take advantage of the expenditures on education and training from which those subjects have benefited.60

Freedom of movement and citizenship rights may thus diverge in significant and unexpected ways. Modern states have frequently denied their citizens the right freely to travel abroad, and the capacity of states to deny untrammeled travel is effected by those states' control over the distribution of passports or equivalent documents, which have become essential prerequisites for admission into many countries.

2. Entry. Having successfully departed the country of origin, the traveler must gain access to a "target" country. In an international state system that regards sovereignty as its most fundamental principle, no traveler can presume that receiving states will grant access to their soil.61 At a time when substantial but unknown numbers of people become "immigrants" simply by overstaying the legally prescribed duration of their stay, limiting ingress is the best way for states to avoid entering into a series of potentially costly obligations to non-nationals.62 Passport and visa controls are crucial mechanisms for this purpose, the "first line of defense" against the entry of undesirables. Indeed, the fundamental purpose of passports from the point of view of

international law is to provide to the admitting state a *prima facie* guarantee that another state is prepared to accept an alien that the "target" state may choose to expel.63

For the entry portion of the process of international travel, an entry visa may be required in addition to the passport. In such cases, the passport plays primarily the role of a certificate of identification, assuring the receiving government that would-be entrants are who they say they are. If required, the visa is the document of record authorizing ingress. Passports have come to be more or less universally required for admission to a foreign territory, but they may not suffice in themselves for gaining such admission. In other words, they may be necessary but not sufficient conditions for legally crossing international borders.

Just as possession of citizenship in certain countries may present barriers to international movement, the *lack* of a nationality-the condition of statelessness-may also pose severe problems for anyone wishing to navigate the international state system. Immediately after World War II, Hannah Arendt rightly insisted that the "ever-growing new people comprised of stateless persons [is] the most symptomatic group in contemporary politics".64 Although her discussion is now somewhat dated, Arendt argued that "not the loss of specific rights,... but the loss of a community willing and able to guarantee any rights whatsoever, has been the calamity that has befallen ever-increasing numbers of people".65

The loss by the stateless of a community to guarantee their rights had particularly profound ramifications for their ability to enter states increasingly defined in ethnonational terms as they successfully asserted their monopoly over the authority to move, and especially to enter. After World War I, the League of Nations therefore created the Nansen passport, named after the Norwegian explorer-*cum*-refugee administrator under whose authority it was issued, in order to facilitate international movement by people whose states had abandoned them in the upheavals of that tumultuous era.66 The problem of travel documents for the stateless in a world of nation-states remains an important concern of human rights and refugee advocates to this day.

3. Return. Finally, the traveler wishing to return to his or her country of origin will need a passport as unambiguous evidence of eligibility for re-admission. As a matter of international law, states are required to admit their own citizens (and only them). This requirement has relatively little to do with the rights of persons as such, however. Rather, the doctrine of "restricted returnability" entails that states must admit their own citizens to avoid a situation in which the state whose national a person is might frustrate the legitimate efforts of another state to expel unwanted aliens. From the point of view of the individual, the ever more widely recognized right to return to one's own country flows not from rights inhering in the individual, but rather from the exigencies of sovereignty in the international state system. Just as the passport constitutes *prima facie* evidence that the issuing country will take in the bearer if he or she is denied entry into or expelled from the "target" country, the document constitutes *prima facie* evidence of a claim to return to the issuing country.

In the end, therefore passports are necessary *and sufficient* not for gaining entry to another country *but only for returning to one's country of origin.* Assuming that the document is deemed to be genuine, the passport indicates that the bearer has an incontestable right to enter the territory controlled by its issuing state. This unexpected fact explains the panic that grips international travelers abroad when they discover that they have lost their passport in some distant land. Beyond the fact that the lack of a passport is likely to complicate travel to any third countries, the ill-fated tourist fears especially that return to his or her place of origin may be difficult or even impossible in the absence of a passport. A lifeline has been cut, and the traveler is adrift in a world in which states have monopolized the authority to grant passage.

The external or international passport thus proves to be a document of considerable ambiguity. As the documentary expression of modern states' attempts to control their borders and expropriate the means of legitimate movement, the passport concentrates in itself the enormous increase in modern states' control over individual existence that has evolved since the 19th century. At the same time, bearers of these documents are ensured that they may avail themselves of the protections that states may provide in an uncertain and potentially hostile world. Modern international passports thus join together diplomatic functions with mechanisms of state control. Their spread and more vigorous enforcement during and after World War I-as nationalist fervor reached its height, opportunities for mass travel expanded, and nation-states consolidated their control over territories and populations-indicate that the control function predominates. Still, if passports were intended purely for purposes of state control, they would hardly command such a high price on many of the world's black markets.[67] In contrast, states' control over movement is the more or less exclusive function of internal passports.

B. Internal Passports

The internal passport or "pass" has few similarities with the international passport, with its connotations of access to foreign territories and to the protections of the issuing state while in those other jurisdictions. Internal passports lack the ambiguity characteristic of the latter as documents that both enhance state control and afford their bearers various rights and immunities. Instead, the internal passport may be a state's principal means for discriminating among its subjects in terms of rights and privileges. In particular, passes may be used to regulate the movements of certain groups of subjects, to restrict their entry into certain areas, and to deny them the freedom to depart their places of residence (or of authorized presence, as in the South African mines and urban areas during the apartheid period). In the Soviet Union, internal passports in combination with the *propiska* system of housing registration restricted the movement and domicile of Soviet subjects, especially inhibiting their freedom to take up residence in certain urban areas and constraining the departure of collective farmers from the countryside.[68]

As modern states have expanded their administrative capacity to embrace the populations resident in their jurisdictions, controls on internal movement (and on residence) have sometimes been strengthened as well. Nowadays, the use of internal passports to control movement within state boundaries bespeaks illegitimate, authoritarian governments lording it over subdued or terrorized populations. Their use in the anomalous cases of Stalin's Russia, Nazi Germany, and apartheid-era South Africa notwithstanding, internal passports and passes constitute a reversion to practices abandoned by democratic nation-states.

C. Identity Cards

Identity cards confront us with a documentary "gray zone." They, rather than internal passports authorizing movement *per se*, may also be used by the authorities to enforce intermittent checks on movement. Those required to have such documents (often after the age of 16) must produce them on the demand of the organs of social order, and failure to do so may be a punishable offense. Even in democratic states, such identity checks may be used to control access to certain areas, although the degree to which such regulation is admissible may be subject to legal dispute. Yet, as the passage from the California Driver Handbook quoted above indicate, such identity

documents may also be necessary for gaining access to certain rights of democratic participation (e.g., voting), public services (e.g., medical care), and transfer payments ("welfare"). Internal identification documents that may be used by states to control movement therefore frequently share some of the features of international passports, enabling their bearers to obtain access to the benefits associated with citizenship in a particular state.

Modern democratic states frequently require some kind of identification card that is used to regulate movement only sporadically, but that may be crucial for acquiring certain benefits of citizenship (e.g., the *Personalausweis* in Germany; the *carte d'identité* in France; the driver's license or social security card in the United States, although legally speaking these are not "ID cards"). In contrast, authoritarian states often impose pass controls on movement for significant elements of the population and enforce those controls more regularly and stringently; the connection of such documents to the provision of social services or the acquisition of the benefits of citizenship is non-existent, or limited at best. It would perhaps be most useful to think of internal identity documents as reflecting, together with external and internal passports, points on a continuum defined by the efforts of modern states to grasp their populations and monopolize control over legitimate movement. Figure 1 portrays the different documents discussed above in terms of the relationship between their functions as mechanisms of state control and as "paper keys" providing access to privileges and benefits. What all of these documents share in common, however, is the use of pieces of paper to construct and sustain enduring identities for administrative purposes - that is, to enhance the embrace of individuals by states.

Figure 1. Passports, Passes, and Identity Cards: Movement Control vs. Access to

Citizenship Rights

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                         |              * Passports
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Restrictions             |
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on                       |
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Access to Privileges and Benefits

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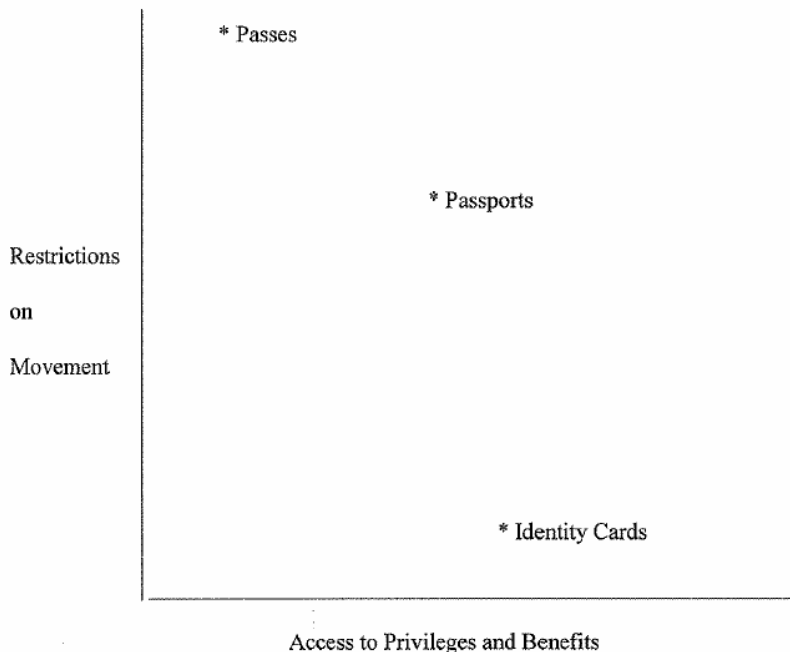
Ultimately, passports and identity documents reveal a massive illiberality, a presumption of their bearers' guilt-of what remains to be established-when called upon to identify themselves. The use of such documents by states indicates their fundamental suspicion that people will lie about who or what they are, and that some independent means of confirming these matters must be available if states are to monopolize the legal means of movement and thus sustain themselves as going concerns. In the face of potentially unstable and possibly counterfeit identities, states impose identities in order to achieve their administrative, economic, and political aims. Passports and other documents authorizing movement and establishing identity discourage people from choosing identities inconsistent with those validated by the state.

Conclusion

With documents such as passports and ID cards as the "proof" of our identities for administrative purposes, we seem to have entered the world described by Franz Kafka in *The Trial*, where people are "arrested" without ever being imprisoned or even charged; where they can speak against their arrest without ever knowing who has accused them or to which authorities they might properly appeal; and where the freedom to move about has been compromised by anonymous bureaucracies that have usurped the legitimate means of movement. Our everyday acceptance of "the passport nuisance"[69] is a sign of the success with which states have monopolized the capacity to authorize and regulate movement, and thus to constrain the freedom of ordinary people to come and go.

The monopolization of the means of movement by states and the international state system as a whole in the modern world has been extremely successful (though hardly seamless, of course), and this fact must be borne in mind against the background of contemporary concern that states may be "losing control".[70] State monopolization of the means of legitimate movement has rendered individual travelers dependent on state (as opposed to private) authority for their movements in a manner previously unparalleled in human history. Passports and identification documents, which facilitate modern states' identification and "embrace" of individuals and populations, have made possible this extraordinary transformation of social life - a transformation akin to those identified by Marx when he analyzed the monopolization of the means of production by capitalists, and by Weber when he discussed the modern state's expropriation of the legitimate use of violence. To these two, we must add a third type of "expropriation" in order to make sense of the modern world - the monopolization of the legitimate means of movement by modern states and the state system more broadly.

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Endnotes

1. I am grateful to the European University Institute for providing me with a 1995-96 Jean Monnet Fellowship, and to the National Endowment for the Humanities and the German Marshall Fund, each of which has provided funding to support the research on which this article is based. This version has benefited greatly from comments on earlier drafts by Caroline Ford, Janet Gilboy, Phil Gorski, Leo Lucassen, and Michael Mann.

2. Kafka 1953: 54-55.

3. Nordman 1987: 152.

4. A major exception to this generalization is Zolberg 1978. Zolberg has been urging for two decades that state policies rooted in political and economic considerations occupy a more central role in studies of human movement (or its absence). Yet my sense is that his pleas have remained largely unheeded.

5. On the "identificatory revolution," see Noiriel 1991; he develops the notion of "The Card and the Code."in Noiriel 1996, Chapter 2.

6. For an excellent comparative analysis of slavery and serfdom as systems of control over movement, see Kolchin 1987, esp. Chapter 1, "Labor Management."

7.To borrow the title of Beier 1985. This group-die Herrenlosen-was a matter of special concern to the members of the Reichstag of the North German Confederation when they voted to abolish passport controls in 1867.

8.Polanyi 1944: 104. Such persons-"die Herrenlosen" in German-were a matter of special concern to the members of the Reichstag of the North German Confederation as late as 1867, when they voted to abolish passport controls.

9. For an analysis of the origins of modern poor relief systems, see Gorski 1996. On the nationalization of poor relief in Germany, see Steinmetz 1993. One may well wonder whether recent changes in U. S. welfare law that shift responsibility from the federal down to the state level have begun to reverse this trend.

10.See Spruyt 1994.

11. Historical evidence indicates clearly that people routinely regarded as "foreign" those from the next province every bit as much as those who came from other "countries," well into the nineteenth century.

12.On this issue, see Gilboy 1997.

13.See, for instance, Mann 1993; Tilly 1990; Skocpol 1978. Randall Collins used the term "penetration" as a sort of taken-for-granted shorthand for understanding the essential activities of modern states in his comments on a presentation by Michael Mann at the Center for Social Theory and Comparative History, UCLA, January 27, 1997.

14.See Habermas 1987.

15.See Gorski 1993, 1996.

16.To refresh the reader's memory, I quote the relevant passage from Weber: "The Puritan wanted to work in a calling; we are forced to do so. For when asceticism was carried out of monastic cells into everyday life, and began to dominate worldly morality, it did its part in building the tremendous cosmos of the modern economic order. This order is now bound to the technical and economic conditions of machine production which to-day determine the lives of all the individuals who are born into this mechanism, not only those directly concerned with economic acquisition, with irresistible force. Perhaps it will so determine them until the last ton of fossilized coal is burnt. In Baxter's view the care for external goods should only lie on the shoulders of the 'saint like a light cloak, which can be thrown aside at any moment.' But fate decreed that the cloak should become an iron cage." (Weber, 1958, p. 181) Rulers have not been able, or at least have not been content, to rely on the self-discipline of their subjects in order to maintain their power. Thus while the modern economic system may compel people to obey, the need for such devices as passport controls suggest that the "iron cage" (Gehaeuse der Hoerigkeit; literally, "house of obedience") was less sturdy in other realms of life. While the economic system has its own sanctions that need no further help from states (except that they refrain from providing income adequate for survival to large groups), the social system has few such intrinsic penalties.

17. I am (loosely) translating here the German word "erfassen," which means to "grasp" or "lay hold of" in the sense of "register." Thus, for example, foreigners registered at the Auslaenderbehörde (Agency for Foreigners) are said to be "auslaenderbehördlich erfasst" - I. e., registered for purposes of surveillance, administration, and regulation by that agency. It says something important about the divergent processes of state-building on the European continent and in the Anglo-American world that we lack ordinary English equivalents for the German "erfassen" (as well as the French verb "surveiller"). (I also suspect that Russian and Chinese speakers, veterans of long-standing systems of documentary controls on movement, can think of a similarly untranslatable term.) Whether or not our language adequately reflects this reality, the activities of "embracing" populations have become essential to the production and reproduction of states in the modern period.

18. Mann 1993: 61.

19. Noiriel 1996, p. xviii.

20. Douglas 1966: 121.

21. Brubaker 1996: 24; see also Powell and DiMaggio 1991.

22. See Anderson 1991.

23. Noiriel 1996: 45.

24. On this particular "classification struggle" (Bourdieu), see Wright 1994.

25. Weber 1978: 922.

26. Gerth and Mills 1946: 78.

27. Ibid.

28. Hintze 1975: 191-2. In a similar vein are Hedley Bull's remarks (1995: 61) on the differences between earlier forms of political organization and modern states: "Because the politically competent groups in primitive stateless societies are not sovereign over persons and territory, but are related less exclusively than is the modern state to the persons that belong to them and to areas of land, they appear to have a less self-sufficient existence and to be less introverted or self-regarding than are the members of the society of states [i.e., of the modern state system]."

29. Anderson 1974: 37; for an extended analysis of how sovereign, territorial states emerged as the successors to earlier, nonterritorial forms of political domination (basically, church and empire), see Spruyt 1994.

30. On the institutions of vassalage and homage (N.B. the etymological connections to the Latinate words for "man" - e.g., French homme, Italian uomo, Spanish hombre), see Bloch 1961, Part IV.

31. Poggi 1978: 21.

32. Friedrich Engels once noted the odd and unexpected configurations the system might yield: "Charles the Bold. was the feoffee of the Emperor for a part of his lands, and the feoffee of the French king for

another part of them; on the other hand, the King of France, his feoffor, was at the same time the feoffee of Charles the Bold, his own vassal, for certain regions." Quoted in Anderson 1974, p. 38 n.38.

33. Stephen Krasner has been among the leading critics of the notion that the Peace of Westphalia (1648) that ended the Thirty Years' War inaugurated anything fundamentally new, or marked the culmination of a previously initiated process. See Krasner 1995.

34. Woloch 1994: 385.

35. McNeill 1982: 221. McNeill goes on to note that the observation of these energies terrified the rulers of old regime states elsewhere in Europe who witnessed them, leading these monarchs to dig in their heels against "military experimentation" of the French variety and thus to maintain armies along inherited lines until the mid-nineteenth century.

36. Hintze 1975: 206.

37. On the unusual openness of the U. S. military to non-nationals, and their use of military service as a "fast-track" route to citizenship, see Jacobs and Hayes 1981.

38. Brubaker 1992: x.

39. See Mattingly 1988.

40. For a study of the drawing of the border between France and Spain and its consequences for the populations of the borderland, see Sahlins 1989. Sahlins notes (239) that the formal delineation of a boundary line separating the two countries was finally achieved only in 1868.

41. Rokkan 1975: 589; see also Kratochwil 1986.

42. Brubaker 1996: 16, 19.

43. Tilly 1990: 25.

44. Giddens 1987: 47. Leonard Dudley (1991) has noted that writing originated (in ancient Sumeria) not as a means of recording speech, but in order to facilitate taxation.

45. See Goffman 1963.

46. See Goffman 1961.

47. See Foucault 1979 and 1980. For a critique of the negative assessment of the visual faculty in recent French social thought and its attendant attack on Enlightenment styles of thought with their emphasis on transparency, luminosity, and, well, enlightenment, see Jay 1993.

48. 1996 California Driver Handbook, Department of Motor Vehicles, State of California [n.p., n.d.]. My italics.

49. For a sensible discussion of recent developments in the understanding of surveillance in modern societies, see Lyon 1994. Lyon's exposition makes clear that it is not only states that have an interest in intensified surveillance, but private economic entities as well; this article concerns only the way that states make use of and depend upon surveillance techniques in order to control movement.

50. Foucault 1979: 189.

51. Nordman 1996, pp. 1123-4.

52. Daniel Nordman (1987: 151) has offered this cautionary proviso against overly Whiggish interpretations of this matter: "It is probably arbitrary to think a priori that the passport, after having been used in the form of a variety of safe conducts in the interior of a territory, would then the second time around become a sort of fixture associated with passage across frontiers as a result of a subsequent politics of rationalization. The inverse hypothesis is also entirely plausible: the passport may have expanded to the interior of the national territory as an instrument of social control after having been experimented with... on the occasion of movements abroad."

53. Bertelsmann 1914: 13-17.

54. See Hannum 1987.

55. See Turack 1972: 8-9. The case in question was Satwant Singh Sawhney v. Assistant Passport Officer, Government of India, 10 April 1967. Ironically, the result of the decision was the Passport Act, 1967, which enumerated the specific grounds on which the Indian government could refuse a passport to an applicant. The 1967 Act was the first statutory regulation of a matter that theretofore had been left arbitrary.

56. Bergmann and Korth, 1990: 4.

57. Plender 1988: 150.
58. Dowty 1987: 171.
59. Dowty 1987: 128.
60. See Bhagwati 1976.
61. For a thoughtful discussion of the reasons why a liberal polity might want to restrict entry into its territory, see Whelan (1988).
62. Already in 1959, a leading analyst of the role of nationality in international law put it this way (Van Panhuys 1959: 55): "Admission, especially of persons who wish to take up residence in the admitting State, resembles in many respects naturalization (which sometimes results): the foreign national is thus admitted to the local legal community; through his residence or actual sojourn[,] rights and obligations come into being which resemble those resulting from nationality."
63. Goodwin-Gill 1978: 26.
64. Arendt 1973: 277.
65. Arendt 1973: 297. In an important analysis of the relationship between nationality and citizenship rights in postwar Europe, Yasemin Soysal (1994) has argued that the "Rights of Man," rooted in a notion of "universal personhood" and codified in international human rights covenants, have generally superseded claims to rights rooted in national citizenship. She notes, however, that in contrast to civil and social rights, political rights remain strongly tied to nationality.
66. Skran 1995.
67. I am grateful to David Laitin for insisting on this point in a personal communication.
68. See Fitzpatrick 1995; Matthews 1993; Zaslavsky and Luryi 1979.
69. Fussell 1980: 24.
70. See Cornelius, Martin, and Hollifield 1994 and Sassen 1996.