

INTRODUCTION

In an obscure paragraph of a package of immigration reforms adopted in 1996, the US government committed itself to developing “an automated system to track the entry and exit of all non-citizens, thus providing a way of identifying immigrants who stay longer than their visas allow.” At the time that the legislation was supposed to be put into effect, however, some in the government came to regard this measure as likely to cause undue complications for millions of border-crossers, and the implementation of the law was postponed for two and a half years. The postponement was also deemed advisable in part because the Immigration and Naturalization Service, the agency mandated to design the system, was far from having amassed the technology “to process information estimated to be so vast that in one year it would exceed all the data in the Library of Congress.”¹ Clearly, this program would be an enormous and unprecedented undertaking.

This book examines some of the background to such efforts to identify and track the movements of foreigners. The study concentrates on the historical development of passport controls as a way of illuminating the institutionalization of the idea of the “nation-state” as a prospectively homogeneous ethnocultural unit, a project that necessarily entailed efforts to regulate people’s movements. Yet because nation-states are both territorial and membership organizations, they must erect and sustain boundaries between nationals and nonnationals

¹ See “Law to Track Foreigners Entering US Postponed,” *New York Times* (West Coast edition), October 4, 1998: A4; “Agreement Resolved Many Differences over Policy as Well as Money,” *New York Times* (West Coast edition), October 16, 1998: A17.

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both at their physical borders and among people within those borders.² Boundaries between persons that are rooted in the legal category of nationality can only be maintained, it turns out, by documents indicating a person's nationality, for there simply is no other way to know this fact about someone. Accordingly, a study that began by asking how the contemporary passport regime had developed and how states used documents to control movement ineluctably widened to include other types of documents related to inclusion and exclusion in the citizen body, and to admission and refusal of entry into specific territories.

I argue that, in the course of the past few centuries, states have successfully usurped from rival claimants such as churches and private enterprises the “monopoly of the legitimate ‘means of movement’” – that is, their development as states has depended on effectively distinguishing between citizens/subjects and possible interlopers, and regulating the movements of each. This process of “monopolization” is associated with the fact that states must develop the capacity to “embrace” their own citizens in order to extract from them the resources they need to reproduce themselves over time. States’ ability to “embrace” their own subjects and to make distinctions between nationals and nonnationals, and to track the movements of persons in order to sustain the boundary between these two groups (whether at the border or not), has depended to a considerable extent on the creation of documents that make the relevant differences knowable and thus enforceable. Passports, as well as identification cards of various kinds, have been central to these processes, although documentary controls on movement and identification have been more or less stringently developed and enforced in different countries at various times.

This study focuses on the vicissitudes of documentary controls on movement in Western Europe and the United States from the time of the French Revolution until the relatively recent past. I begin with the French Revolution because of its canonical status as the “birth of the nation-state.” Yet the transformation of states inaugurated by the French Revolution turns out to have had much more to do with the gradual process of inclusion of broad social strata in the political order than with the construction of an ethnically “pure” French population, although I examine efforts along these lines as well. The shift toward broader incorporation of the populace in political decision-making is

² See Brubaker 1992, chapter 1; Crowley 1998.

reflected in the controversies chronicled in Chapter 2, where I recount how the French revolutionaries publicly debated the issue of passport controls on movement for the first time in European history. Because I was intrigued by the question of who supported and who opposed documentary controls on movement in various contexts and why they did so, I discuss subsequent debates over these matters in other countries wherever I have been able to find source materials. The narrative addresses the legal history of passport controls in these countries until shortly after the Second World War. I say relatively little about the postwar period, mainly because others have analyzed the process of European unification and its attendant relaxation of documentary restrictions on movement in greater detail than I could hope to do.³ Instead, I say only enough about the postwar era to indicate some doubts about whether we have entered into a period of “post-national membership,” as some commentators have recently suggested.⁴

The geographical frame of the study derives from my belief that the dominance of Western states in the period examined has been relatively clear-cut, and that the imposition of Western ways on most of the rest of the world has been one of the most remarkable features of the era. Here I am only echoing what I take to be common wisdom about the rise and dominance of the West during the modern age. This should not be taken to imply any denigration of non-Western cultures, but only the recognition that those societies have not been sufficiently powerful to impose their ways upon the world. Indeed, I would be delighted if this study were to stimulate studies of systems of documentary controls on movement and identity in other parts of the world and in other periods.⁵ For now, however, it seems worthwhile to begin to make sense of the processes that spawned the world-girdling system of passport controls on international movement that arose from the gradual strengthening of state apparatuses in Europe and the United States during the past two centuries or so.

Because the passport system arose out of the relatively inchoate international system that existed during the nineteenth century, I do not undertake strong, systematic comparisons of one country versus another. I argue that the emergence of passport and related controls on movement is an essential aspect of the “state-ness” of states, and it

³ See especially Wiener 1998. ⁴ See Soysal 1994.

⁵ I have myself been involved in organizing an effort toward this end, although the temporal frame and geographic reach ultimately remained more restricted than we would have wished; see Caplan and Torpey 2001.

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therefore seemed to be putting the cart before the horse to presume to compare states as if they were “hard,” “really-existing” entities of a type that were more nearly approximated after the First World War. Moreover, what is remarkable about the contemporary system of passport controls is that it bears witness to a cooperating “international society” as well as to an overarching set of norms and prescriptions to which individual states must respond.⁶ This does not mean, as some seem to think, that there is no such thing as “sovereignty,” but only that this is a *claim* states make in an environment not of their own making. To paraphrase Marx, states make their own policy, “but they do not make it just as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly found, given, and transmitted” from the *outside*.

The following study seeks to demonstrate that passports and other documentary controls on movement and identification have been essential to states’ monopolization of the legitimate “means of movement” since the French Revolution, and that this process of monopolization has been a central feature of their development as states during that period. The project has been motivated in considerable part by the uneasy feeling that much sociological writing about states is insupportably abstract, failing to tell us how states actually constitute and maintain themselves as ongoing concerns. By focusing not on the grand flourishes of state-building but on what Foucault somewhere described as the “humble modalities” of power, I hope to contribute to a more adequate understanding of the capacity that states have amassed to intrude into our lives over the past two centuries.

The narrative focuses on the legal history of passport controls in the United States and Western Europe until shortly after the Second World War. I say relatively little about the postwar period (1945–1990), mainly because others have analyzed the process of European unification and its attendant relaxation of documentary restrictions on movement in greater detail than I could hope to do.⁽³⁾ The discussion of the postwar era does, however, register some doubts about whether we have entered into a period of “post-national membership,” as some commentators have suggested.⁽⁴⁾ The narrative concludes with a chapter on the very substantial developments in passport controls in Western Europe and North America that followed the terrorist attacks of September 11, 2001, in the United States.

⁶ My thinking on this issue has been much influenced by Bull 1995 [1977].