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Deferred action and the discretionary state: migration, precarity and resistance*

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ABSTRACT

In the United States, the lives of undocumented people have become increasingly precarious due to increased surveillance, enforcement, criminalization, and detention. In this context, deferred action, a form of prosecutorial discretion in which the government declines to pursue removal and provides temporary work authorization, has become a source of both hope and vulnerability. Based on fieldwork, interviews, and legal analysis, we delineate the forms of partial inclusion experienced by deferred action recipients and explore the position from which they can make claims on the US state. Our analysis advances citizenship theory by detailing the relationship between the *discretionary state* and its *transitory, noncitizen subjects*, as well as how this relationship is complicated by resistance from youth activists and their allies. The liminal legality afforded by deferred action provides partial but insecure relief from the precarity experienced by the undocumented.

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Introduction

Since 2012, when President Obama initiated the Deferred Action for Childhood Arrivals (DACA) program, deferred action has been a source of hope and vulnerability for many undocumented people in the United States. Deferred action is a form of prosecutorial discretion that allows an undocumented individual to remain in the country temporarily, with work authorization. It has been used by US immigration courts for decades on a case by case basis, but in 2012, after Congress repeatedly failed to pass legislation that would create legal status for ‘DREAMers’ – undocumented youth who grew up in the United States – youth and their allies successfully pressured the Obama administration to take action (Nicholls 2013). In June of that year, Department of Homeland Security (DHS) Secretary Janet Napolitano announced that undocumented youth who immigrated to the US before the age of 16, were under 31 at the time of the DACA announcement, had attended US schools or been honorably discharged from the military, and lived in the United States continuously with a clean criminal record since June 2007 would be eligible to obtain work

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authorization and two years of relief from deportation. Some states have also allowed DACA recipients to obtain drivers licenses and to pay in-state tuition, and until September 2017, when President Trump rescinded the program, it was possible to renew DACA when the two years expired. To date, some 800,000 young people have qualified.

Yet, the amount of time that deferred action will continue to provide youth with temporary relief is limited. In 2014, President Obama created two new deferred action programs, but due to a court injunction and President Trump's rescission of President Obama's action, they were never implemented. These programs were the Deferred Action for Parents of Americans' (DAPA) program, for undocumented parents of US citizen and lawful permanent resident children, and DACA+, which expanded DACA's eligibility requirements. Together, they would have enabled almost half of the undocumented population in the United States to qualify for deferred action, While DACA still exists, on September 5, 2017, President Trump announced that DACA renewals would be discontinued in six months. In some instances, DACA recipients have been detained. For example, DACA recipient Daniel Ramirez Medina was detained when his father was apprehended by Immigration and Customs Enforcement (ICE) officials, and Daniela Vargas, who was renewing DACA, was taken into custody after speaking at a press conference (De Vogue et al. 2017; Sanchez 2017).

Its prominence yet insecurity suggest that deferred action has emerged as an incomplete and unstable form of relief from the legal precarity experienced by the undocumented. The term 'precarity', which has a long genealogy (Munck 2013), has recently been popularized by Judith Butler to refer to

that politically induced condition in which certain populations suffer from failing social and economic networks of support and become differentially exposed to injury, violence, and death. Such populations are at heightened risk of disease, poverty, starvation, displacement, and of exposure to violence without protection. Precarity also characterizes that politically induced condition of maximized vulnerability and exposure for populations exposed to arbitrary state violence and to other forms of aggression that are not enacted by states and against which states do not offer adequate protection. (2009, ii)

Unauthorized immigrants experience these vulnerabilities (Goldring and Landolt 2013). They are displaced, denied access to public benefits, and at risk of deportation and even death (De Genova 2002; Zilberg 2011; Holmes 2013; De León 2015). Deferred action recipients experience some relief from these conditions – such as work authorization – but still live in a state of liminal legality 'characterized by its ambiguity, as it is neither an undocumented status nor a documented one, but may have the characteristics of both' (Menjívar 2006b, 1008). Temporal uncertainty is a key feature of legal precarity, as 'people wait for what might be long periods of time, longing for an end to the waiting, but with little idea when it might happen and fearful of the change it might bring' (Griffiths 2014, 2005; see also Griffiths, Rogers, and Anderson 2013; Cohen 2015). The record number of deportations that earned Obama the moniker 'deporter-in-chief' and President Trump's decision to cancel the DACA program are reminders that discretion can also be exercised in ways that migrants fear. Moreover, forms of liminal legality are proliferating internationally. Ruhs and Anderson (2010) have described 'semi-compliance' in the United Kingdom, where migrants who are legally present violate the labor restrictions associated with their status, for example, working without authorization or exceeding the number of permitted work hours per week. Stendahl (2016) has highlighted the degree to which, in the European Union, the distinction between legal residence and mere presence has become key to social security schemes. Humanitarian grants of temporary protection to individuals who are fleeing violence but who have not

been deemed to meet the UNHCR definition of refugee are another case in point (Fitzpatrick 2000), as is Germany's practice of temporarily suspending the deportation of individuals who are pregnant, ill, or fleeing political strife (Castañeda 2010).

Analyzing deferred action as a form of legal liminality delineates the partial exclusion experienced by resident noncitizens and the position from which noncitizens can make claims on the state. Migration scholars have coined such terms as 'deterritorialized nation-state', 'transnational citizenship', and 'transmigrants' to describe current immigration realities in which citizens of particular states exceed their territorial boundaries, migrant communities maintain connections with both their countries of residence and origin, and households depend on family members who work abroad (Bauböck 1994; Schiller, Basch, and Blanc 1995; Basch, Schiller, and Blanc 2005). These terms highlight ways that migration challenges traditional conceptualizations of the state, but are less helpful in describing the relationship between states and the noncitizens who reside in their territory. For example, such noncitizens may focus more on regularizing their status than on acting as transnational citizens of their countries of origin. Migration scholars have also detailed the oppressive structures that treat migrants as security threats (Bigo 2002; Calavita 2003; Walters 2010), subjecting them to criminalization (Stumpf 2006; Chacón 2009; Eagly 2010), racialization (Haney-Lopez 1997; Perea 1997; Calavita 2007; Johnson 2009; Chavez 2013), and exploitation (De Genova 2002; Calavita 2003). This body of work sheds light on the power relations that result in legal precarity, yet it does not explain how liminality can also be a condition from which noncitizens make claims on the state.

To explore the relationship between states and resident noncitizens, as well as the ways that such noncitizens make claims on the state, we analyze deferred action as a legal form. Our analysis suggests that deferred action is grounded in a relationship between *the discretionary state* and its *transitory noncitizen subjects*. In contrast to the version of the state that is grounded in liberal law and social contract theory (Collier, Maurer, and Suarez-Navaz 1995), the discretionary state emerges in law's gaps (see Table 1). Where the contractual state (ideally) guarantees rights, acts in a transparent fashion, and is territorially whole, predictable, and grounded in the rule of law, the discretionary state (associated with expansive executive authority) has the power to decide the fate of its noncitizen subjects by awarding, denying, and determining the benefits of deferred action or other forms of liminal legality. The discretionary state is omnipresent, brought into being through the exercise of discretion (which affirms its sovereignty), fragmented (in that there may be internal dissension), unstable (in that its programs can be suspended or ignored), and *law-like* but differentiated from formal *law*.

These versions of state power (which are not mutually exclusive) are associated with corresponding forms of immigrant subjectivity. Immigrating subjects (see Table 2), such as naturalization applicants or those who secure the right to immigrate with authorization, approach the state as rights holders who have been granted recognition in the form

Table 1. The contractual and discretionary states, compared.

Contractual state	Discretionary state
Guarantor of rights	Has power to decide
Transparent adjudicator	Opaque yet omnipresent
Reproduced through immigration	Brought into being through the exercise of discretion
Territorially whole (governs a jurisdiction)	Fragmented
Predictable	Unstable
Founded in the rule of law	Law-like

Table 2. The contractual state and the immigrating subject.

Contractual state	Immigrating subject
Guarantor of rights	Rights holder
Transparent adjudicator	Granted recognition
Reproduced through immigration	Documented
Territorially whole (governs a jurisdiction)	Legally present
Predictable	On path to citizenship
Founded in the rule of law	Legal

of documentation, are legally present, and are on a path to citizenship (Motomura 2006). In contrast, transitory subjects (see Table 3) make claims by attempting to sway the state's exercise of discretion. Located in a liminal space and time, these subjects appear through documentation, but can also disappear if detained and deported. They are therefore insecure, and, are quasi rather than fully legalized.

In pressuring for deferred action, the immigrant youth movement challenges precarity by demanding rights (see Table 4). They thus seek to transform transitory subjects into immigrating ones, while calling for the state to follow the rule of law. At the same time, as they reveal their presence by 'coming out' and insisting that they are here to stay, undocumented activists and youth also engage in a 'politics of incorrigibility' that challenges 'the normative categories of state sovereignty' (De Genova 2010, 105). In so doing, they counter illegalization, asserting that they are unapologetic for having immigrated to the United States and defiant of the state that could potentially deport them.¹

Our analysis of deferred action is based on multiple sources. First, from 2012 to 2015, a member of our research team spent one day per week shadowing staff and volunteering at a Los Angeles-based nonprofit that provided legal services to Spanish-speaking immigrants. Second, we analyzed administrative guidance documents associated with DACA, DAPA, and DACA+. These texts help to produce both the discretionary state and the transitory subject who requests consideration. Third, we draw on interviews that we conducted between 2014 and 2017 with 40 advocates from Los Angeles and Orange County immigrant serving organizations, 52 clients or constituents of these organizations, and 11 former ICE or DHS officials. Together, these materials provide insight into the on-the-ground meanings of deferred action for noncitizen subjects in relation to the state to whose discretion these subjects must appeal (Valdes, Coleman, and Akbar 2017).

Origins

Insight into the nature of the state–noncitizen relations established through deferred action can be gleaned from the long and contested history of this form of legal liminality. The

Table 3. The discretionary state and its corresponding subject, the transitory subject.

Discretionary state	Transitory subject
Power to decide	Supplicant attempting to sway this power
Opaque yet omnipresent	Liminal
Brought into being through the exercise of discretion	Made to appear through documentation
Fragmented	Can also disappear
Unstable	Insecure
Law-like	Quasi-legal

Table 4. The immigrating subject, transitory subject, and resistance.

Immigrating subject	Transitory subject	Resistance
Rights holder	Supplicant attempting to sway this power	Constituent demanding rights
Granted recognition	Liminal	Present
Documented	Made to appear through documentation	Reveals and defines own political identity
Legally present	Can also disappear	Here to stay
On path to citizenship	Insecure	Empowered yet vulnerable
Legal	Quasi-legal	Unapologetic

sixteenth-century common law doctrine of ‘*nolle prosequi*’ gave prosecutors the authority to terminate or simply not pursue criminal or civil proceedings deemed frivolous or unwarranted (Manuel and Garvey 2013, 8). Prosecutorial discretion has been justified on the grounds that it is impractical to prosecute all offenses and that humanitarian concerns sometimes mitigate against prosecution (Wadhia 2010). In the case of US immigration law, prosecutorial discretion is quite broad, as a constitutional doctrine known as plenary power has been deemed to give Congress and the president largely unreviewable power to set immigration law and policy, subject only to the constraints of the political process (Kanstroom 2007; Wadhia 2010). Deferring action is one way that this power has been executed historically. For example, US authorities granted ‘extended voluntary departure’ and ‘deferred enforced departure’ to groups such as Cubans in the 1960s and Salvadorans in the 1990s. Intriguingly, the availability of prosecutorial discretion in individual immigration cases appears to have been something of a secret. It was not until 1975, when former Beatle John Lennon, who was fighting deportation, submitted a FOIA request inquiring about the ‘nonpriority status program,’ that information about this opportunity came to light (Wadhia 2010, 247).

Administrative guidance documents produced after 1975 reveal that the deferred action process allowed the state to assume a particular posture vis-à-vis the immigrant population: that of an ‘awesome,’ but beneficent, sovereign (Wadhia 2010, 246). The 1975 Immigration and Naturalization Service ‘Operations Instructions’ regarding deferred action state, ‘In every case where the district director determines that adverse action would be unconscionable because of the existence of appealing humanitarian factors, he shall recommend consideration for deferred action category’ (quoted in Wadhia 2010, 248). The notion that those who are seeking deferred action are asking for the state’s ‘consideration,’ rather than seeking to activate a right, has persisted to this day. These post-1975 documents also reveal the liminal nature of deferred action as ‘informal’ and ‘administrative’ in nature (Wadhia 2010, 248, quoting *Lennon v. INS* 527F2d 187, 191 n. 7). It is largely governed by memos and operations manuals rather than by statutes.² One court concluded that it ‘resembles a substantive provision for relief’ (*Nicholas v. INS* 590 F 2d at 806–07, quoted in Wadhia 2010, 249, 250), but yet is not quite such a provision, and, generally, has not been subject to judicial review (Wadhia 2010, 251).³

Student activists recognized that deferred action offered a path to liminal status, and therefore enlivened liminality as a form of protection (albeit limited) from precarity. Their success, in turn, emboldened further activism. By the early 2000s, there was a sizeable population of undocumented youth who had grown up in the United States. Immigration reforms adopted in 1996 had restricted opportunities for legalization, while eligibility for drivers’ licenses, in-state tuition, financial aid, and work authorization was often limited

to lawful residents. Undocumented youth ‘awakened to a nightmare’ when they became adolescents and discovered that they could not legally work, drive, or qualify for financial aid (Gonzales and Chavez 2012). In this context, youth activists, who came to be known as DREAMers, pressured Congress to consider legislation, known as the DREAM Act, that would provide them with immigration relief. First introduced in 2001, the DREAM Act was incorporated into comprehensive immigration reform proposals introduced in Congress throughout the first decade of the 2000s. Student activists were at the forefront of the immigrant rights movement, and used tactics such as hunger strikes, demonstrations, and occupations to draw attention to their circumstances (Nicholls 2013; Abrams 2016).

After efforts to pass the DREAM Act repeatedly failed, youth pushed the Obama administration to take action without Congress (Zatz and Rodriguez 2015). In 2011, USCIS Director John Morton (2011) issued a guidance memo indicating that ‘individuals present in the United States since childhood’, among other vulnerable groups, warranted ‘particular care’ in the exercise of prosecutorial discretion (5). In other words, if such individuals were in removal proceedings, prosecutorial discretion could be exercised in their favor by administratively closing their cases. Yet, while such closures prevented deportation, they did not meet young people’s demands for opportunities to study and pursue careers. Therefore, in the absence of Congressional action, the Executive decided to use its nonenforcement power to extend additional opportunities to some young immigrants. As a former government employee explained,

We came up with this idea, the [DHS] Secretary would issue this policy barring the removal of enforcement against DREAMers, we would identify and define what DREAMers were, we would ... then go through case-by-case results, and everybody who was a DREAMer who met that guidance we wouldn’t just close the case we’d offer them deferred action. Right? I mean we’d straight up – deferred action that you get a work card.

In the summer of 2012, young people began to apply for this new opportunity. As they obtained work authorization, the demand to expand deferred action to other young people and family members grew, and advocates moved between legal and political channels to put forward these claims. As this brief history demonstrates, the sense that discretion ought to be exercised in a consistent fashion has been in tension with the concern that clearly defining categories to which discretion should apply undermines the basis for deferred action (Manuel and Garvey 2013).

Executive action

DACA places the state and migrants in a mutually constitutive relationship in which noncitizen subjects’ requests for deferred action enable the state to consider exercising discretion. Because it is being exercised in the absence of clear guidance by Congress, deferred action is especially precarious. Ordinarily, executive power is understood as a clear delegation of power from Congress to the Executive so that the president through its agencies can interpret and implement these affirmative delegations of power. The president exercises legal authority while also arguing that doing so merely carries out, rather than creates, law. Of course, the executive branch is heterogeneous, and in the case at hand, the White House, ICE, USCIS, and political appointees such as the DHS Secretary had different and sometimes contradictory views on deferred action. As a high-level former government employee told us, he and a colleague ‘became kind of like middle men in the sense [of] shuttling between

the White House and then ICE in the policy developing process and the Secretary [of DHS] We were doing a lot of negotiating’.

The 15 June 2012 memo that created DACA invoked these complex origins and debates. In the memo’s first sentence, Secretary of Homeland Security Janet Napolitano asserted, ‘I am setting forth how, in the exercise of our prosecutorial discretion, the DHS should enforce the Nation’s immigration laws’ (DHS 2012, 1). This sentence cites ‘prosecutorial discretion’ as a capacity that DHS already clearly had. The memo also reinforced the notion that the Administration was not overstepping its authority in issuing this directive. Thus, the memo’s concluding paragraph insists, ‘This memorandum confers no substantive right, immigration status or pathway to citizenship. Only the Congress, acting through its legislative authority, can confer these rights’ (DHS 2012, 3). The distinction between a status and a substantive right was further clarified in the ‘Frequently Asked Questions’ (FAQs) posted after the DACA program was initiated: ‘An individual whose case has been deferred is not considered to be unlawfully present during the period in which deferred action is in effect However deferred action does not confer *lawful status* upon an individual’ (USCIS 2015, emphasis original). In short, great effort was taken to clarify that DACA was limited to ‘set[ing] forth policy for the exercise of discretion within the framework of the existing law’ (DHS 2012, 3), rather than producing new law.

The DACA program highlights the capacity of DHS, and the US federal government more broadly, to constitute itself as a particular kind of authority – one that did not enforce law ‘blindly’ (DHS 2012, 2) but rather would give ‘consideration’ (DHS 2012, 2) to individualized circumstances. Within DACA texts, ‘consideration’ is a technical term, as indicated by the title of the I-821D form ‘Consideration of DACA’ through which individuals can solicit DACA (USCIS 2017a). This form refers to those seeking DACA as ‘requestors’ rather than ‘applicants’, further distinguishing DACA from a status or benefit. Moreover, while only certain categories of people (who meet age, arrival, and continuous presence requirements) can ‘request’ DACA, ‘consideration’ of their request will be on a ‘case-by-case basis’, a phrase that is repeated 16 times within the FAQs (USCIS 2015). The dual nature of discretion, as responsive to yet not under the control of the ‘requestor’, is captured in a phrase from the DACA authorizing memo: law is to be carried out ‘in a strong and sensible manner’ (DHS 2012, 2). According to the FAQs, a requestor can only seek reconsideration of a denial if USCIS either (a) sent a notice to an incorrect address or (b) did not receive evidence that was sent in a timely fashion (USCIS 2015).

As it constitutes the government as a particular type of entity, so too does DACA define the characteristics of those worthy of deferred action. A central feature is that they immigrated as children and therefore are deserving of special consideration. The first sentence of DACA’s authorizing memo refers to them as ‘certain young people who were brought to this country as children and know only this country as home’, thus emphasizing the humanitarian concerns to be taken into account in their cases (DHS 2012, 1). Furthermore, the memo continues, they were innocent: ‘As a general matter, these individuals lacked the intent to violate the law’ (DHS 2012, 1), while a later paragraph lists their equities: they have been ‘productive’, they ‘may not have lived [in] or even speak the language’ of their countries of origin (DHS 2012, 2).⁴ Added to these humanitarian considerations is the government ideal of using resources efficiently – one of the justifications for prosecutorial discretion. The authorizing memo states that DACA will ‘ensure that our enforcement resources are not expended on these low priority cases’ (DHS 2012, 1).

Because nonenforcement by its nature always includes the threat of possible enforcement, deferred action remains legally precarious. For example, the I-821D form contains the heading, 'Part 4: Criminal, National Security and Public Safety Information' (USCIS 2017:4). Though one might normally assume that such a heading precedes information about how to stay safe, such as in an earthquake or when confronted with dangerous criminals, in this section, DACA requestors must report on their own criminal histories, gang membership,⁵ participation in torture or genocide, and violence. The DACA requestor is thus the potential criminal, security, and safety threat imagined by these questions. The DACA form and the FAQs also warn DACA requestors about the penalties they may incur if they submit fraudulent information. The instructions state that these include denial of DACA and any other pending request, initiation of removal proceedings, incursion of 'severe penalties provided by law', and criminal prosecution (USCIS 2017b:13). Revealingly, the FAQs stress that those who commit fraud 'will be treated as an immigration enforcement priority to the fullest extent permitted by law' (USCIS 2015). The FAQs also indicate that DACA requestors will be subject to a background check in which their biometric data will be run 'against a variety of databases maintained by DHS and other federal government agencies' (USCIS 2015). The unspecified nature of these databases could potentially create anxiety among requestors: what information might be recorded about them and where?

To distinguish the youth worthy of prosecutorial discretion from those who pose a threat, DACA enables a particular kind of calculation or 'consideration'. Through reporting requestors' dates of arrival, departure (if any), and residence, various intervals (length of each absence, totality of time absent, period of residence in the country) can be calculated. Within these temporal calculations (Cohen 2015), both the general policy (which creates the form) and the individualized assessment (the particular data recorded in each blank) is accomplished. Another documentary challenge is summarized in the frequently asked question, 'To prove my continuous residence in the United States since 15 June 2007, must I provide evidence documenting my presence for every day, or every month, of that period?' One might imagine finer gradations: 'or every hour or every minute?' (USCIS 2015). Though documentation is finite, the interval to be documented is continuous. Gaps are therefore inevitable. In our experience, the DACA requestors who faced the greatest challenges were often young adults who had completed schooling but had not yet entered the work force or established households independent of their parents.

In contrast to the careful calculations enabled by the DACA request form, DACA itself is enveloped in uncertainty that has only grown over time. DACA was created by the Obama administration, and could be terminated by unilateral order of Donald J. Trump (a process he initiated on September 5, 2017), abrogated by agency rulemaking on the part of DHS, superseded by federal Congressional legislation or gradually allowed to expire through prohibiting renewal of recipients' work permits. Information submitted by requestors is protected as a matter of discretion as well. Trump could rescind existing operation mandates and require USCIS to share this information with the enforcement arms of DHS. DACA requestors therefore took some risk in soliciting DACA. In doing so, they had to appeal to an invisible administrator who would evaluate, on a case-by-case basis but in accordance with the criteria set out in the guidance documents, whether they were a low priority for removal and therefore warranted humanitarian consideration.

Requesting consideration

The process of filling out the DACA request form and assembling the documentation that accompanies the form illustrate the temporal and legal ‘magic’ through which deferral takes place (cf Bourdieu 1986, 838). Because both service providers and individual requestors had to prepare for a process whose details were, at the time, unknown, the 2012 DACA program is an instance of the uncertainty that unauthorized migrants experience more generally (Mountz et al. 2002; Menjívar 2006a; Dreby 2012). US immigration authorities, immigrant-serving organizations, and immigrants themselves had only 60 days from June 2012, when the program was announced, until August 2012, when it would go into effect. Without knowing the details of the DACA process – the request form only became available on 15 August 2012, the first date of the program – legal staff had to prepare informational presentations, develop intake and screening forms for internal use, develop their own procedures for preparing applications, and hire and train new legal staff. At the nonprofit where a member of our team was volunteering, staff anticipated crowds, news media, and the expectation that they, the legal experts, would be able to provide certainty and guidance in the face of a large number of unknowns. One attorney referred to the anticipated onslaught of requestors as a ‘DACAnami’, and, due to the stress of having to roll out new legal services on top of the already demanding work that they were doing, some staff reported trouble sleeping. Just as soliciting DACA was ‘a leap of faith’, to quote one attorney, so too was determining how to navigate these unknowns.

Insight into the DACA request process can be gleaned through the experience of Carlos (pseudonym), a 20-year-old man who requested DACA in the first few weeks of the program. Carlos had already listened to a presentation on immigration law, been screened by a legal staff member who determined that he was eligible to request DACA, and been given a list of documents that he was to bring to his appointment. He had brought his passport, birth certificate, vaccination records, high school diploma, school I.D.’s going back to elementary school, and a letter regarding volunteer service that he had performed. However, Carlos was missing proof of presence in the United States for the year after he graduated from high school, and evidence that he was in the United States on 15 June 2012, the date when DACA was announced. Because he was undocumented, living at home, and being paid in cash, he did not have a bank account, bills in his name, or check stubs. At something of a loss, Carlos asked, ‘What about receipts from Game Stop?’ A video game player, Carlos had often reserved and then purchased new games, an activity that generated receipts bearing his name. ‘It might have saved me’, he commented before scheduling a new appointment to return with additional documentation.

This detailed example illustrates how deferral occurs. To defer the future act of deportation, Carlos had to bring his past life forward in time, through documents that had recorded the trace of his presence in the United States. The challenge he faced was that, for a period of time, his presence may have left no documentable trace, thus raising the possibility that he was in fact absent from the country during this interval.⁶ Moreover, the DACA authorizing memo retroactively made the dates 15 June 2007 (the initiation of the five-year period before 6/15/07) and 15 June 2012 (the date of the program’s announcement) incredibly important for requestors, even though they previously had no way of anticipating these dates’ significance in their lives. Receipts and other documents issued by random businesses, such as Game Stop, potentially gained legal currency as they were repurposed

as ‘presence’ documents. Such repurposing had ripple effects, as schools had to respond to additional transcript requests, medical offices had to produce extra copies of vaccinations and other records, and somehow, USCIS had to process and store all of these applications.

Just as soliciting DACA required individuals to return to and bring forward their past lives, the deferred action request process itself evoked earlier legal programs, ranging from legal clinics for Central American asylum seekers that took place at this nonprofit during the 1980s, to the 1986 legalization program under IRCA. In some ways, then, DACA returned to and brought these programs forward in time even as the promise of a future large-scale and more robust legalization was deferred to another moment.

‘A Dream Deferred ...’

Further insight into the tenuous nature of deferred action is provided by the outcome of President Obama’s November 2014 attempt to create two new deferred action programs, DAPA and DACA+. In 2014, after hopes that Congress would pass comprehensive immigration reform legislation were dashed, advocates and immigrants pressured the White House to expand deferred action. By summer of 2014, there were indications that the president was about to do just that. Then, news stories about unprecedented numbers of Central American unaccompanied minors arriving at the US–Mexico border created something of a moral panic around the idea that the country was being overrun by undocumented children. Amid accusations that an announcement of executive relief would encourage more minors to make the risky trip to the United States, the president postponed his announcement until after the November 2014 mid-term elections. By that time, the US had successfully promoted more stringent interdiction efforts in Mexico and Central America.

To listen to the president’s announcement of executive relief, a member of our research team accompanied immigrants and advocates in downtown Los Angeles, where, outside of an immigrant detention facility, a huge screen was inflated so that the speech could be projected. The mood was festive, as a band played and immigrants and activists circulated, holding signs advocating for immigrants’ rights. As night fell and the time for the speech began, viewers sat on the street pavement to watch.

President Obama appeared on the screen (Figure 1), and as the audience listened, he described the importance of immigration to the United States and the ways that the immigration system was broken (White House 2014). The president emphasized his enforcement accomplishments, characterizing the arrivals of unaccompanied minors as a ‘brief spike’. After outlining the frustrated efforts to pass comprehensive immigration reform, he described the actions that he could legally take as president: ‘First, we’ll build on our progress at the border with additional resources for our law enforcement personnel so that they can stem the flow of illegal crossings, and speed the return of those who do cross over’. This announcement led to boos from the crowd. Then he said that there would be additional opportunities for high-skilled immigrants. Next, he turned to the matter of greatest interest to those present: ‘Steps to deal responsibly with the millions of undocumented immigrants who live in this country’. Taking these steps, he said, would enable enforcement activities to focus on ‘felons, not families. Criminals, not children. Gang members, not a mom who’s working hard to provide for her kids’. In essence, the president offered long-time undocumented immigrants what he described as a ‘deal’:



Figure 1. Image of President Obama projected on screen during November 2014 Los Angeles rally to listen to the announcement of executive relief.

If you've been in America for more than five years; if you have children who are American citizens or legal residents; if you register, pass a criminal background check, and you're willing to pay your fair share of taxes – you'll be able to apply to stay in this country temporarily without fear of deportation. You can come out of the shadows and get right with the law. That's what this deal is.

The offer of this 'deal', like the distinction between 'families' and 'felons', drew lines around the 'deserving' and 'undeserving'.⁷ Instead of the cheers that could have accompanied his announcement, there seemed to be a stunned silence as the president finished his speech. In fact, as the president signed off, there were boos. While the details of this 'deal' were still unclear, the failure to include parents of DACA recipients appeared to many to be a major omission.⁸

While the crowd in downtown Los Angeles had a mixed reaction to the announcement of executive relief, some immigrants who would qualify were elated. In the days prior to the announcement, we interviewed Alondra, a Peruvian woman who had immigrated on an employment visa, stayed beyond its expiration date, and become undocumented. Well educated in her country of origin, Alondra had hoped to obtain a graduate degree in the United States. Alondra broke down in tears as she told us that instead, because of her immigration status, she was limited to studying English and office procedures at a local community college. Her family faced other challenges. Her husband, an experienced professional, could not work legally. She was unable to return to her country to see her father before his death, due to the fear that she would not be able to reenter the United States. One

of her children was a US citizen, the other was undocumented. Alondra had suffered health challenges because she was ineligible for affordable health insurance. For many years, she was unable to obtain a drivers license, which had led to expensive traffic tickets. And she and her family had experienced deeply humiliating discrimination due to being Latino and due to their immigration status. The day after Obama's announcement, however, Alondra emailed us to say what it meant to her:

Yesterday I heard President Obama's message. Finally, one feels relief. It is like being able to take a breath after having been drowning. I believe that things will be different from now on. There are many projects in our minds, and an incredible optimism. We still have a little fear, and that is normal, but the desire to do what it takes to get residency is strong.

Like Alondra, individuals we interviewed in the months following the announcement told us of the differences that they thought deferred action would make in their lives. They anticipated completing college degrees, obtaining jobs that reflected their professional training, traveling, and simply living with greater security. Of course, there were those who focused on the risks associated with deferred action, rather than the benefits. Some feared that aspects of their personal history, such as an old arrest or Driving Under the Influence (DUI) conviction, having received public benefits, or being in debt, would disqualify them. Others worried about revealing their identities and addresses to the US Government at a moment when the program's future was uncertain. Nonetheless, organizations prepared for the many applicants who would enter their offices when the program went into effect.

These preparations came to an abrupt impasse when, in February 2015, a Texas judge enjoined both DAPA and DACA+ in response to a lawsuit filed by Texas and 25 other states. The plaintiff states argued that the Obama administration had exceeded its authority and that these states would incur costs if they had to provide services to deferred action recipients. Though advocates and legal scholars (including several members of this research team) initially predicted that the injunction would quickly be lifted, it was sustained by the Fifth Circuit Court of Appeals. In June 2016, a deadlocked eight-member Supreme Court allowed the lower court's decision to stand. The election of Donald Trump in November 2016 effectively crushed any possibility that DAPA and DACA+ will be implemented.

Following the injunction, we reinterviewed would-be DACA-Plus and DAPA applicants. One was Herminia, who had immigrated to the United States from Mexico at the age of 13. Before the injunction, Herminia had hoped to qualify for DACA+ and complete a degree in biology, and obtain a job that was commensurate with her training. She commented, 'I think I have the potential to do something better with my life I just hope it's not too late'. In contrast, when we spoke with her again after the injunction, Herminia expressed bitter disappointment:

When it was suspended, all of my hopes fell. I felt very disappointed. I thought that the president had the power to act, and that is what it was, an executive action. I was taken by surprise ... that a single judge in Texas could suspend an order that had been issued by the president.

I was *very* disappointed! I was ready. I had gotten all of my paperwork in order, and was preparing to apply as soon as the program opened. It is very, very frustrating! I had waited so long and then finally, there was a small light (like at the end of the tunnel), and then it went out, suddenly

So, I am just waiting ... With the suspension, my hopes too were suspended.

DACA appears to now be suffering a fate similar to DAPA and DACA+. On September 5, 2017, Attorney General Sessions announced that the Trump administration would be

winding down the DACA program over a six month period on the grounds that President Obama had exceeded his authority in establishing DACA. No new DACA applications may be filed, pending applications that have already been received will be processed, DACA recipients whose work authorization expires between September 5, 2017 and March 5, 2018 have until October 5, 2017 to apply for renewal. Beginning March 5, 2018, when DACA recipients' work authorization expires, they will not be eligible to apply for renewal. President Trump has called for Congress to quickly pass legislation that will provide a remedy for those who immigrated to the United States in an irregular fashion as children. In other words, Trump is putatively calling for DREAMers to become "immigrating subjects," even as the rescission itself is an act of discretion that exemplifies the workings of the discretionary state. It is not yet clear whether Congress will act or what sort of legislation might be approved. In the meantime, Trump tweeted that if Congress does not act within six months, he may reconsider his decision to rescind the program. In response, immigrant youth and their allies have taken to the streets to denounce the President's decision and to urge congressional action. The uncertainty experienced by DACA recipients has intensified.

Conclusion: the subjects of deferral

Our analysis of deferred actions' origins, the 2012 DACA administrative guidance documents, the DACA request process, and the announcement and then injunction of DAPA and DACA+ makes it possible to tease out broader characteristics of the state that can exercise discretion and the noncitizens whose lives are subject to this discretion. The discretionary state has the sovereign power to decide, though this power is split among multiple state actors who can and do disagree with each other. As noted earlier, this is an *awesome* or great power: the state can act benevolently, granting lawful presence to noncitizens; or it can act violently, denying their requests and drawing boundaries around the deserving. The power to decide also includes the ability to revoke. The adjudicator who decides is invisible to the requestor, in that the DACA request process occurs through the mail. This invisibility is coupled with a kind of omnipresence, as the discretionary state may draw on the results of its own surveillance practices as it considers requests. Through a complex temporization, the performance of discretion brings the state into being by *announcing* a preexisting authority. Such an announcement is 'an illocutionary legal act: it brings this power into being by calling it forth' (Coutin, Richland, and Fortin 2014, 103). The state that is brought into being is nonetheless fragmented as state actors and agencies have competing interests and motivations (Calavita 2010). Herminia noted such fragmentation when she expressed her shock that 'a single judge in Texas could suspend an order that had been issued by the president'. The discretionary state is also unstable – for instance, DACA was rescinded by Trump. Decision-makers are empowered by the absence of statutory and constitutional constraints normally associated with formal law even as the power of such decisions derives from *distinguishing* them from statutory law.

The counterpart of the discretionary state is the transitory subject who is considered for deferred action. Unlike the immigrating subject who has been granted rights, the transitory subject is required to approach the state as a 'requestor', attempting to persuade it to exercise discretion favorably. As undocumented noncitizens who are attempting to prove that they are nonpriorities for removal, these transitory subjects are in limbo. To gain deferred action, they must make themselves appear, as Carlos did, by generating documents where

the traces of their presence have been recorded. But transitory subjects can also disappear in that they can eventually be removed, the programs for which they hope to apply can be enjoined or rescinded, or gaps in their presence documentation may disqualify them for relief. Transitory subjects are therefore insecure: they must live with a high degree of uncertainty (see also Hasselberg 2016). In short, just as the discretionary state is law-like, so too are transitory subjects quasi-legal: they may be lawfully present without lawful status, seen as ‘innocent’ child arrivals but also suspected of posing security risks.

Lastly, the youth activists who demanded executive relief and who are currently protesting against Trump’s immigration policies complicate notions of the transitory subject. These young people and their allies have launched ‘know your rights’ campaigns in order to equip noncitizens with the ability to resist a summary deportation. With slogans like, ‘here to stay’, they insist that they are present and are not leaving (<http://weareheretostay.org/>). Instead of waiting to be revealed through apprehension or made to appear through documentation, they have chosen whether and when to identify themselves publicly as undocumented (Rivera-Silber 2013; Villazor 2013). These activists try to overcome uncertainty and insecurity through empowerment and organization, countering the ‘felons, not families’ dichotomy by proclaiming that they are ‘unapologetic and unafraid’ (Ashar forthcoming, Seif 2011). Rejecting narratives of innocence, the new generation of activists says that they have no reason to apologize for being in the United States, as their parents immigrated to grant them better futures. These forms of resistance seek to transform the discretionary state into one that observes rights.

It is as yet unclear what the increased prominence of the discretionary state and the transitory subject may mean for understandings of citizenship and the associated array of interim statuses. Deferral has emerged out of and encouraged new forms of activism and civic engagement and has created new spaces of social and legal inclusion. But the proliferation of liminal statuses has also eroded rights and protections, including those traditionally associated with formal citizenship. Heightened reliance on discretionary tools that give the state unchecked power to decide therefore seem likely to continue to exacerbate noncitizens’ precarity.

Notes

1. Some activists embrace ‘illegal’ much in the way that queer was embraced by LGBT activists. They describe ‘undocumented’ as a term used by liberal allies that obscures their actual condition.
2. There are regulations and statutory references to deferred action, but they do not dictate how deferred action is to be granted.
3. Indeed, just as mandatory sentencing rules displace discretion from the judiciary to the prosecution (Lynch 2011), so too do the 1996 immigration reforms, which included ‘court-stripping provisions’, increase the importance of prosecutorial discretion in the immigration realm (Wadhia 2010; see also Chacón 2016).
4. In the United States, English language skills have been treated legally as evidence of acculturation and deservingness (Coutin 2003).
5. Gang membership is a highly malleable classification (Muñiz 2015). Those who do not consider themselves gang members, may be so characterized in a database (which may rely on old or erroneous evidence that is not available to the individual).
6. Such suspicion makes undocumented presence into an absence, perhaps akin to the sense in which migrants are an ‘absent presence’ in their homelands (Coutin 2007), or the case of

Japanese Americans who, following WWII internment, were something of an absent presence in the United States (Simpson 2001). On the challenges of documenting undocumented presence, see Coutin 2000.

7. This distinction between 'families' and 'felons' is an instance of a broader dichotomy between innocence and culpability, according to which the 'innocent' (such as child arrivals) might be deserving of legalization, in contrast to the 'culpable' (such as those who entered the US without authorization as adults) who might not. See Lee (2015, 1417) for a discussion of this dichotomy and of what he terms 'a theory of membership as innocence', that is, respect for the law.
8. One of us, who was on the East Coast at the time, heard a similar reaction during a conversation with an individual of immigrant background immediately following the president's announcement.

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References

- Abrams, Kathryn. 2016. "Contentious Citizenship: Undocumented Activism in the Not1More Deportation Campaign." *Berkeley La Raza Law Journal* 26 (2): 46–69.
- Ashar, Sameer M. *Forthcoming*. "Movement Lawyers in the Fight for Immigrant Rights," *UCLA Law Review*, 64.
- Basch, Linda, Nina Glick Schiller, and Christina Szanton Blanc, eds. 2005. *Nations Unbound: Transnational Projects, Postcolonial Predicaments, and Deterritorialized Nation-states*. London: Routledge.
- Bauböck, Rainer. 1994. *Transnational Citizenship: Membership and Rights in International Migration*. Aldershot: E. Elgar.
- Bigo, Didier. 2002. "Security and Immigration: Toward a Critique of the Governmentality of Unease." *Alternatives: Global, Local, Political* 27 (1_suppl): 63–92.
- Bourdieu, Pierre. 1986. "The Force of Law: Toward a Sociology of the Juridical Field." *Hastings Law Journal* 38: 805–853.
- Butler, Judith. 2009. "Performativity, Precarity and Sexual Politics." *AIBR-Revista de Antropologia Iberoamericana* 04 (03): i–xiii.
- Calavita, Kitty. 2003. "A 'Reserve Army of Delinquents': The Criminalization and Economic Punishment of Immigrants in Spain." *Punishment & Society* 5 (4): 399–413.
- Calavita, Kitty. 2007. "Immigration Law, Race, and Identity." *Annual Review of Law and Social Science* 3: 1–20.
- Calavita, Kitty. 2010. *Inside the State: The Bracero Program, Immigration, and the INS*. New Orleans, Louisiana: Quid Pro Books.

- Castañeda, Heide. 2010. "Deportation Deferred: 'Illegality', Visibility, and Recognition in Contemporary Germany." In *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, edited by N. de Genova and N. Peutz, 245–261. Durham, NC: Duke University Press.
- Chacón, Jennifer M. 2009. "Managing Migration through Crime." *Columbia Law Review Sidebar* 109: 135–148.
- Chacón, Jennifer M. 2016. "A New Hope: Bringing Justice Back into Removal." *New York University Law Review Online* 91: 132–149.
- Chavez, Leo. 2013. *The Latino Threat: Constructing Immigrants, Citizens, and the Nation*. Stanford: Stanford University Press.
- Cohen, Elizabeth F. 2015. The Political Economy of Immigrant Time. *Polity*. 47(3) 337–351.
- Collier, J. F., B. Maurer, and L. Suarez-Navaz. 1995. "Sanctioned Identities: Legal Constructions of Modern Personhood." *Identities* 2 (1–2): 1–27.
- Coutin, Susan Bibler. 2000. *Legalizing Moves: Salvadoran Immigrants' Struggle for U.S. Residency*. Ann Arbor: University of Michigan Press.
- Coutin, Susan Bibler. 2003. "Suspension of Deportation Hearings and Measures of 'Americanness.'" *Journal of Latin American Anthropology* 8 (2): 58–94.
- Coutin, Susan Bibler. 2007. *Nations of Emigrants: Shifting Boundaries of Citizenship in El Salvador and the United States*. Ithaca, NY: Cornell University Press.
- Coutin, Susan, Justin Richland, and Véronique Fortin. 2014. "Routine Exceptionality: The Plenary Power Doctrine, Immigrants, and the Indigenous under US Law." *UC Irvine Law Review* 4 (1): 97–120.
- De Genova, Nicholas P. 2002. "Migrant 'Illegality' and Deportability in Everyday Life." *Annual Review of Anthropology* 31 (1): 419–447.
- De Genova, Nicholas. 2010. "The Queer Politics of Migration: Reflections on 'Illegality' and Incorrugibility." *Studies in Social Justice* 4 (1): 101–126.
- De León, Jason. 2015. *The Land of Open Graves: Living and Dying on the Migrant Trail*. Berkeley: University of California Press.
- De Vogue, Ariane, Madison Park, Dan Simon, Artemis Moshtagian, Mary Kay Mallonee, and Eric Levenson. 2017. "Immigrant Protected Under 'Dreamer' Program Stays in Custody." *CNN*, February 17. Accessed March 25, 2017. <http://www.cnn.com/2017/02/14/politics/daniel-ramirez-medina-daca-detention/>.
- DHS (Department of Homeland Security). 2012. "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children." Memorandum issued by Janet Napolitano, June 15. Accessed March 6, 2017. <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.
- Dreby, Joanna. 2012. "The Burden of Deportation on Children in Mexican Immigrant Families." *Journal of Marriage and Family* 74 (4): 829–845.
- Eagly, Ingrid V. 2010. "Prosecuting Immigrattion." *Northwestern University Law Review* 104: 1281–1359.
- Fitzpatrick, Joan. 2000. "Temporary Protection of Refugees: Elements of a Formalized Regime." *The American Journal of International Law* 94 (2): 279–306.
- Goldring, Luin, and Patricia Landolt, eds. 2013. *Producing and Negotiating Non-citizenship: Precarious Legal Status in Canada*. Toronto: University of Toronto Press.
- Gonzales, Roberto, and Leo Chavez. 2012. "'Awakening to a Nightmare.'" *Current Anthropology* 53 (3): 255–281.
- Griffiths, Melanie B. E. 2014. "Out of Time: The Temporal Uncertainties of Refused Asylum Seekers and Immigration Detainees." *Journal of Ethnic and Migration Studies* 40 (12): 1991–2009.
- Griffiths, Melanie, Ali Rogers, and Bridget Anderson. 2013. "Migration, Time and Temporalities: Review and Prospect." Research Paper, *Centre on Migration, Policy and Society*. Accessed July 3, 2017. https://www.compas.ox.ac.uk/media/RR-2013-Migration_Time_Temporalities.pdf.
- Haney-Lopez, Ian. 1997. *White by Law: The Legal Construction of Race*. New York: NYU Press.
- Hasselberg, Ines. 2016. *Enduring Uncertainty*. New York: Berghahn Books.
- Holmes, Seth. 2013. *Fresh Fruit, Broken Bodies: Migrant Farmworkers in the United States*. Berkeley: University of California Press.

- Johnson, Kevin R. 2009. "The Intersection of Race and Class in US Immigration Law and Enforcement." *Law and Contemporary Problems* 72 (4): 1–35.
- Kanstroom, Daniel. 2007. *Deportation Nation: Outsiders in American History*. Harvard: Harvard University Press.
- Lee, Stephen. 2015. "Growing up Outside the Law." *Harvard Law Review* 128: 1405–1451.
- Lynch, Mona. 2011. "Mass Incarceration, Legal Change, and Locale." *Criminology & Public Policy* 10 (3): 673–698.
- Manuel, Kate M., and Todd Garvey. 2013. *Prosecutorial Discretion in Immigration Enforcement: Legal Issues*. Washington, DC: Congressional Research Service.
- Menjívar, Cecilia. 2006a. "Family Reorganization in a Context of Legal Uncertainty: Guatemalan and Salvadoran Immigrants in the United States." *International Journal of Sociology of the Family* 32 (2): 223–245.
- Menjívar, Cecilia. 2006b. "Liminal Legality: Salvadoran and Guatemalan Immigrants' Lives in the United States." *American Journal of Sociology* 111 (4): 999–1037.
- Morton, John. 2011. "Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens." Memorandum. Accessed March 24, 2017. <https://www.ice.gov/doclib/secure-communities/pdf/prosecutorial-discretion-memo.pdf>.
- Motomura, Hiroshi. 2006. *Americans in waiting: The lost story of immigration and citizenship in the United States*. Oxford: Oxford University Press.
- Mountz, A., R. Wright, I. Miyares, and A. J. Bailey. 2002. "Lives in Limbo: Temporary Protected Status and Immigrant Identities." *Global Networks* 2 (4): 335–356.
- Munck, Ronaldo. 2013. "The Precariat: A View from the South." *Third World Quarterly* 34 (5): 747–762.
- Muñiz, Ana. 2015. *Police, Power, and the Production of Racial Boundaries*. New York: Rutgers University Press.
- Nicholls, Walter. 2013. *The DREAMers: How the Undocumented Youth Movement Transformed the Immigrant Rights Debate*. Stanford, CA: Stanford University Press.
- Perea, Juan F., Ed. 1997. *Immigrants out!: the new nativism and the anti-immigrant impulse in the United States*. New York: New York University Press.
- Rivera-Silber, Natasha. 2013. "'Coming out Undocumented' in the Age of Perry." *New York University Review of Law and Social Change* 37:71–78.
- Ruhs, Martin, and Bridget Anderson. 2010. "Semi-compliance and Illegality in Migrant Labour Markets: An Analysis of Migrants, Employers and the State in the UK." *Population, Space and Place* 16: 195–211.
- Sanchez, Ray. 2017. "DREAMer Daniela Vargas Released, Immigration Group Says." CNN, March 10. Accessed March 25, 2017. <http://www.cnn.com/2017/03/10/us/dreamer-daniela-vargas-ordered-released/index.html>.
- Schiller, Nina Glick, Linda Basch, and Christina Szanton Blanc. 1995. "From Immigrant to Transmigrant: Theorizing Transnational Migration." *Anthropological Quarterly* 68 (1): 48–63.
- Seif, Hinda. 2011. "'Unapologetic and Unafraid': Immigrant Youth Come out from the Shadows." *New Directions for Child and Adolescent Development* 2011: 59–75.
- Simpson, Caroline Chung. 2001. *An Absent Presence*. Durham, NC: Duke University Press.
- Stendahl, Sara. 2016. "To Reside: To Live, Be Present, Belong." *European Journal of Social Security* 18 (2): 232–245.
- Stumpf, Juliet. 2006. "The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power." *American University Law Review* 56: 367–419.
- USCIS (United States Citizenship and Immigration Service). 2015. "Frequently Asked Questions." Accessed March 6, 2017. <https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions>.
- USCIS (United States Citizenship and Immigration Service). 2017a. "Consideration of Deferred Action for Childhood Arrivals." Form I-821D. Accessed March 6, 2017. <https://www.uscis.gov/i-821d>.

- USCIS (United States Citizenship and Immigration Service). 2017b. "Instructions for Consideration of Deferred Action for Childhood Arrivals." Accessed March 6, 2017. <https://www.uscis.gov/i-821d>.
- Valdes, Inés, Mat Coleman, and Amna Akbar. 2017. "Missing in Action: Practice, Paralegality, and the Nature of Immigration Enforcement." *Citizenship Studies* Accessed March 25, 2017. <http://www.tandfonline.com/doi/full/10.1080/13621025.2016.1277980>.
- Villazor, Rose Cuison. 2013. "The Undocumented Closet." *North Carolina Law Review* 92 (1): 1–74.
- Wadhia, Shoba S. 2010. "The Role of Prosecutorial Discretion in Immigration Law." *Connecticut Public Interest Law Journal* 9, 243–299.
- Walters, William. 2010. "Imagined Migration World: The European Union's Anti-illegal Immigration Discourse." In *The Politics of International Migration Management*, edited by Martin Geiger and Antoine Pécoud, 73–95. New York: Palgrave Macmillan.
- White House. 2014. "Remarks by the President in Address to the Nation on Immigration." November 20. Accessed April 22, 2016. <https://www.whitehouse.gov/issues/immigration/immigration-action#>.
- Zatz, Marjorie S., and Nancy Rodriguez. 2015. *Dreams and Nightmares*. Berkeley: University of California Press.
- Zilberg, Elana. 2011. *Space of Detention*. Durham, NC: Duke University Press.