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OPPORTUNITIES AND DOUBLE BINDS

Legal Craft in an Era of Uncertainty

In 2011, Tina, a U.S. citizen, and Jaime, her undocumented husband, met with a Board of Immigration Appeals–accredited paralegal at a Los Angeles nonprofit to determine whether Tina could petition for Jaime to obtain lawful permanent residency in the United States.[1] With the permission of all present, I observed the meeting as a researcher and volunteer. Tina and Jaime took their seats with hopeful expressions on their faces. The paralegal asked them a series of questions about when Jaime had entered the country, whether he ever had left, what statuses he had had since entering, whether he had been the victim of any crimes, and whether anyone had petitioned for him previously. It turned out that Jaime had entered the United States in the 1990s, and had left and reentered the country once during the 2000s.[2] He had no criminal convictions, had not been a victim of a crime, and no one had petitioned for him.

The paralegal then delivered some devastating news. He explained that family visa petitions have multiple steps. The first step is that the U.S. citizen or legal permanent resident applies for their relative. He told Tina that she had every right to apply for her husband and that this part of the application would probably be easily approved.

The second step, he said, is to apply for legal permanent residency when the petition becomes current. But, because no one had petitioned for Jaime while "245(i)"—a provision of immigration law that, prior to April 30, 2001, enabled individuals who had entered the country without inspection to

adjust their status in the United States—was in effect, Jaime would be unable to obtain residency in the United States. Instead, he would have to go to Mexico, his country of origin. Unfortunately for Jaime, individuals who have accrued one year of unlawful presence in the United States trigger a ten-year bar on lawful reentry when they leave the country, and those who reenter the United States unlawfully after triggering this bar are subject to a permanent bar. Unknowingly, Jaime triggered the ten-year bar when he first left the country in the 2000s and the permanent bar when he reentered. So, the paralegal explained, Jaime was now permanently barred from becoming a legal resident in the United States. However, if he remained outside the United States for ten years, he could apply for a waiver of the permanent bar. Also, if he fell victim to a crime, he could apply for a U-visa, which is for individuals who suffer substantial harm from a crime and who collaborate with the police in an investigation.[3]

As the paralegal finished delivering his analysis of Jaime and Tina's circumstances, Tina began to cry. The couple quickly left. The paralegal told me sadly that the scenario that Tina and Jaime faced is so common that he has created text to simply cut-and-paste into his notes after such consultations.

Later the same day, Jasmina, a lawful permanent resident who would be naturalizing at a ceremony in a few weeks, met with the same paralegal to learn whether, as a U.S. citizen, she could petition for her sisters who were in the United States, her nephews who were in El Salvador, or her husband, who was in the United States. Again, the paralegal asked her about entry dates, departures, statuses held, parents' statuses, criminal convictions, and whether anyone was a victim of a crime. Based on Jasmina's answers, the paralegal explained that her sisters would face ten-year bars on reentry, and her nephews would likely be over twenty-one and therefore ineligible by the time any petition for her sisters was approved. However, her husband, the paralegal continued, was another matter. Because Jasmina had qualified for U.S. residency through the Nicaraguan Adjustment and Central American Relief Act (nacara) and because she was married to her husband at the time, her husband was already eligible for residency, without Jasmina filing a petition.

Jasmina was surprised by this news. She related that the person who had prepared her nacara application (which had not been submitted through the nonprofit where the paralegal worked) had said that it was risky to include her husband's information in her nacara application, but she had done so anyway.

The paralegal advised her to have her husband come in for his own consultation, and he gave her a form for her husband to complete, along with a

list of the documents that her husband should bring to prove seven years of continuous presence and good moral character, two of the requirements for nacara. These documents included a copy of Jasmina's nacara application, receipts or other records for every couple of months for the last seven years, birth certificates, marriage certificates, bank account information, educational certificates and awards, and school records, if any.

Jasmina took this information and left happily, planning to return with her husband as soon as possible.

The disparate prognoses in these two consultations demonstrate the legal craft involved in deciphering the ways that records foreclose and create regularization opportunities for undocumented individuals living in the United States. Tina and Jasmina were similarly situated. Both married undocumented men, gained legal status, and sought to petition for their spouses. Nonetheless, seemingly arbitrary differences in the ways that time, presence, securitization, and documentation figured within these couples' legal histories resulted in strikingly different outcomes. Jaime's year of unlawful presence subjected him to a ten-year bar on reentry,[4] and his departure and reentry made him be legally treated as something like a "flagrant offender," whereas Jasmina's husband's seven years of continuous presence fulfilled one of the requirements for nacara.[5] Jasmina's husband benefited from the fact that special programs and provisions, such as 245(i), nacara, and U-visas, privilege humanitarian concerns, creating limited oases within the criminalization of immigration. Jasmina's husband's legal history could aid him in qualifying for residency, whereas Jaime's record of entries and exits could subject him to a permanent bar.

The expertise to develop and evaluate legal strategies is formulated in a context of legal uncertainty. One of the ways that state bureaucracies exert control, whether deliberately or not, is through their opacity and arbitrariness,[6] qualities that are exacerbated in the case of the U.S. Citizenship and Immigration Service (uscis). According to the "plenary powers" doctrine, Congress and the executive branch of government have extensive and largely unreviewable discretion to establish policies regarding foreign nationals who are present within U.S. borders or who seek entry.[7] As a result, rules can change, groups that have been permitted to settle in the country can suddenly be uprooted, and barriers to regularization can be established.[8] Examples of such changes include the revocation of reentry documents issued to Chinese residents in the late 1800s,[9] the removal of individuals (including U.S. citizens) of Mexican descent through Operation Wetback during the 1950s,[10] and the creation of presence bars through the 1996 Illegal

Immigration Reform and Immigrant Responsibility Act (iirira).[11] The U.S. immigration system is made more opaque by the fact that many legalization applications are processed through the mail, without a face-to-face meeting between the applicant and the officer who evaluates applications. Service providers have knowledge of both state actors and migration realities and therefore serve as intermediaries within regularization processes.[12] Yet, even they face uncertainty about whether and how law and policy may change in the future.

Examining the legal craft practiced by migrants and advocates highlights the quasi-magical power of papers and records[13] to transform persons by regularizing or criminalizing their presence.[14] This power derives from demands for documentation that migrants may or may not have. Documents therefore create opportunities and double binds: they are key to obtaining legal status, but they also can make legalization impossible.[15] Deciphering these opportunities and double binds involves a sort of technocratic expertise in mundane but nonetheless crucial facets of immigration law—how to fill out a form, how long it takes for applications to be processed, the amount and type of evidence that officials generally require. Exploring the nature of such expertise sheds light not only on the work of low-level service providers but also on migrants' own agency. Recent work on migrant subjectivity has emphasized the liminality produced by enforcement practices that treat long-term noncitizen residents as outsiders.[16] Uncertainty shapes migrants' engagement with legal opportunities, creating a mixture of hope and cynicism that leads to creative redefinitions of immigration law and policy.

My analysis of service providers' and migrants' legal craft is based on fieldwork and volunteer work at a Los Angeles nonprofit that provides legal services to Spanish-speaking migrants. From 2011 to 2015, I spent one day per week at this organization, for six months in 2011 and approximately eight months each year thereafter. I shadowed service providers during consultations, case review meetings, public presentations on immigration law, and appointments at which applications for family petitions, naturalization, green card renewals, work authorization, U-visas, Temporary Protected Status (tps), nacara, and Deferred Action for Childhood Arrivals (daca) were prepared.[17] As a volunteer, I translated documents such as birth and marriage certificates, letters of support, and declarations. I was also trained to prepare applications and renewals for tps, work authorizations, and daca, and to take declarations for U-visa applications. All volunteer tasks were performed under the supervision of attorneys and Board of Immigration Appeals–accredited paralegals. I had countless informal conversations

with legal staff and other volunteers, and I conducted formal interviews with forty-two of the nonprofit's clients. Two doctoral students, Gray Abarca and Véronique Fortin, also assisted with fieldwork. Here, I draw particularly on observations and volunteer experiences from June to December 2011, a period when the Obama administration pursued contradictory policies, prioritizing deportation and immigration enforcement while also calling for immigration reform and developing limited measures to provide relief on a humanitarian basis. Revisiting immigrant advocacy at this moment, when enforcement had intensified and pressures for reform were strong, sheds light on legal craft in a context of considerable uncertainty.

Legal Uncertainty and the Power of Papers

In the United States, intensified immigration enforcement coupled with efforts to create regularization opportunities have made documentation necessary, scarce, and overabundant. Documents are necessary in that social security numbers, green cards, proof of work authorization, and other forms of identification are increasingly required in order to work, drive, travel, study, and engage in myriad everyday transactions. They are scarce in that legalization opportunities have been curtailed, making such documents hard to obtain. And they are overabundant in that for many, daily life in the United States leaves a paper trail consisting of receipts, notifications, statements, and records, some of which (such as criminal records) are the result of state surveillance and therefore outside the control of the individuals to whom documents refer. Furthermore, certain key identity documents, such as birth certificates and passports, are issued by migrants' countries of origin, therefore requiring would-be applicants to access multiple national and local record systems.[18] Noncitizens do not know whether they will be apprehended by immigration officials, what records exist about them, when a legalization opportunity may arise, or how their histories and future potential would be evaluated if it did. In this context, documentary processes have the potential to prove key claims but also to fall short.

Over the past few decades, exclusionary and inclusionary pressures have intensified. These competing trends were evident in the 1986 Immigration Reform and Control Act (irca), which authorized regularization of undocumented individuals who had been in the United States continuously since January 1, 1982, as well as certain agricultural workers, but which also sanctioned employers who hired undocumented workers.[19] During the 1990s, iiraira in combination with the Anti-Terrorism and Effective Death Penalty

Act restricted regularization; subjected adults who accrued six months or one year of unlawful presence to three- and ten-year bars on lawful reentry, respectively; expanded the range of criminal convictions that made individuals ineligible for lawful permanent residency; made detention mandatory for a broad range of individuals in removal proceedings; and increased funding for border and interior enforcement.[20] These trends continued during the 2000s, as federal officials enlisted local police in immigration enforcement.[21] As a result, contact with criminal justice officials increasingly puts noncitizens, including lawful permanent residents, at risk of deportation,[22] and the criminal penalties associated with immigration violations have escalated.[23] Meanwhile, as regularization opportunities dwindled, the size of the undocumented population in the United States increased from 3.5 million in 1990 to 11 million in 2015.[24]

Migrants and advocates have pushed back against these enforcement trends by attempting to establish regularization opportunities. During the 1980s, faith-based communities declared themselves sanctuaries for Salvadoran and Guatemalan refugees in an effort to secure asylum for migrants fleeing wars in Central America.[25] This advocacy work led to the passage of nacara , which enabled certain Salvadorans, Guatemalans, and Nicaraguans to apply for U.S. residency. Trafficking and crime victims have secured the opportunity to apply for T- and U-visas on humanitarian grounds,[26] while domestic violence victims are able to petition for themselves (instead of relying on abusive spouses) through the Violence against Women Act (va wa).[27] Students and migrant youth successfully pressured the Obama administration to create the da c a program in 2012.[28] And in 2006, millions of migrants marched publicly to oppose making it a felony to be undocumented, and to advocate for comprehensive immigration reform.[29] In 2011, when I began the research for this project, the Obama administration had prioritized deportation and border enforcement (reasoning that securing the borders would create bipartisan political support for immigration reform) while also deprioritizing the removal of certain longtime residents on humanitarian grounds. In June 2011, ice director John Morton issued a memo (which came to be known as the "Morton Memo") articulating grounds on which officials should decline to pursue the removal of particular individuals. Groups such as longtime lawful permanent residents, the elderly, or those who had lived in the United States since childhood were considered to "warrant particular care."[30] Despite this memo, ice continued "removing record numbers of ordinary status violators."[31]

These enforcement and advocacy trends played out within Los Angeles, impacting the work of the nonprofit with which I collaborated. The Los Angeles metropolitan area has long been a site of migrant settlement and in 2014 had an estimated 1 million undocumented migrants, the second largest concentration in the country.[32] Los Angeles also has a thriving nonprofit sector that attempts to serve migrant communities.[33] Founded during the 1980s to meet the needs of Central American asylum seekers, the nonprofit where I carried out observations and volunteer work had expanded its services to include U-visas, va wa cases, status adjustment, and naturalization on a fee-for-service basis at a fraction of the cost charged by private attorneys. The organization primarily served Spanish-speaking migrant groups and offered consultations, public presentations on immigration law, and appointments to review documents, complete forms, and prepare declarations. Fees were sometimes waived for volunteers or the lowest-income clients, and the organization also funded some of its services through grants and donations. In addition to providing direct services, the organization engaged in outreach and advocacy.

This nonprofit's work takes place in a legal context in which low-cost represent at ion is scarce and fraud is rampant. Because immigration hearings are administrative procedures, respondents have a right to an attorney, but only at their own expense. In migrant communities, public notaries take advantage of Spanish speakers who think that a "notary" in the United States has the extensive legal training and authority of a *notario* in many Latin American countries.[34] It is not uncommon for notaries to charge migrants thousands of dollars to prepare applications that result in deportation.[35] Chinese-speaking migrants often rely on travel agents who lack legal training to assist with immigration cases. The lack of affordable, competent legal representation adversely impacts migrants' ability to regularize. A 2016 study found that detained migrants who had counsel were twice as likely to prevail in court as were those without counsel, while undetained migrants were five times more likely to win court cases than those without attorneys.[36] Yet the same study found that only 37 percent of migrants nationally had legal representation. This legal context contributes to the uncertainty that shapes migrants' legal strategies.

Deciphering Documentary Histories

The challenges and opportunities created by legal records do not exist independently of the analysis that allows them to be identified and made part of a legal strategy. The service providers who perform these analy-

ses are "legal technicians" who do "back office work" involving document preparation and form filing.[37] Examining their work makes it possible to "truly study legalism as a cultural phenomenon in its own right."[38] A conversation that I had early on with the lead attorney at the nonprofit is instructive in this regard. When I remarked that in the absence of major revisions to U.S. immigration law, only a dwindling population would be eligible to regularize, he responded that although from the outside it probably appears that the last major revision to immigration law was in the mid-1990s, in fact, interpretations of the law are changing all of the time. In other words, from the "inside"—that is, through work that engages the law's own logics—law "on the books" is quite active. Moreover, written law inheres in the documents that migrants gather, the declarations that service providers type up, the forms that paralegals complete, the files that advocates assemble, and the notices and documents that officials send to migrants. This material quite literally moves, between institutions, homes, offices, and agencies. Thus, service providers keep law on the books alive and in force by attempting to anticipate and influence the actions of state bureaucrats.

A key aspect of the way that service providers keep law alive is by examining the past with an eye to the future. The service providers I shadowed had developed the ability to decipher individuals' legal and immigration histories based on their clients' verbal accounts, any documentation that they provided, additional information that could be gleaned from external resources, and providers' understandings of the paths that legal cases can take. Knowing the sort of file needed to qualify for a particular benefit as well as the records that existed or could be gathered about an individual enabled them to evaluate the viability of regularization strategies. For example, a U.S. citizen who was in her mid-fifties met with a paralegal for a consultation regarding a petition that she had submitted for her brother in Mexico in the mid-1990s. The paralegal examined the woman's paperwork, which she had brought in a blue American Automobile Association tote bag. After questioning the woman about her and her brother's criminal records (they had none), her brother's relationships (to learn whether he would be able to include his spouse and children), and the woman's income (to understand whether she qualified to sponsor him without securing an additional sponsor), the paralegal determined that there were not likely to be any problems with the case. Service providers thus exercised a kind of double vision in which they "saw like a state," to paraphrase James Scott,[39] but also like the migrants they represented.

Form completion, which one might imagine to be somewhat routine, is also something of an art. The craft involved in filling out forms was made evident in a training session that I attended on tps renewal. Attendees learned that an addendum must be used to explain individuals' prior interaction with criminal justice officials; that a question about applicants' "country of residence" refers to their country of citizenship, not where they live; that if an individual's Alien Number does not begin with "094" then they might have an old case of some sort, and therefore one must call the immigration court hotline to check; and that signatures must fit completely within a box on the form or else the application might be rejected. Those sorts of understandings are not obvious and come from working closely with forms over time. Service providers also seemingly memorized the forms that they worked with. For instance, during one consultation that I observed, a woman who was considering applying for naturalization was worried about a discrepancy regarding her reported date of entry into the United States. Without even pulling up the twenty-one-page naturalization application form, the paralegal with whom she was consulting was able to tell her that there was no question about her entry date on the form.

Much like completing application forms, assembling application packets was part of service providers' craft. My notes from one observation of preparing an application for a family visa read as follows:

> As I watched [name deleted] assemble all of the forms, I realized there is an art to this. She had to get the primary forms and supporting documentation in the right order, two-hole-punched, attached with a metal bracket, and including the two photos for the green card as well as a note on the front which she highlighted using a yellow highlighter. She gave all of this back to [her client] in two envelopes addressed to two different offices at the same address, to make sure that the forms went to the correct people. She also explained to [her client] that she had included copies of her original documents (the originals also had to be included) so that hopefully, the consular official will give her back her original documents (birth certificate, passport, etc.) and keep the copy for their records, instead of keeping the originals for their records and requiring [her client] to have all of her original documents reissued.

The documentation had to be assembled in a way that anticipated the subsequent review; and indeed, the order of documentation suggested a kind of logic or narrative. Usually application forms came first, followed by identity documents, declarations (if applicable), and supporting documentation,

which was also ordered according to the elements that needed to be proven (for example, years of continuous presence). Providers generally disliked submitting forms online instead of in hard copy because it disabled strategies that they relied on to ensure accuracy and strengthen applications. For example, when they submitted hard copies, they could add a Post-it note, highlight text, and double check the entirety of the printed application form before submitting it.

Because convictions could make individuals ineligible for immigration benefits, understanding service providers' clients' criminal histories was key.[40] For example, I observed one consultation in which a Salvadoran man who had been convicted of drunk driving and leaving the scene of an accident sought to learn whether he could appeal a denial of tps . He was informed that a single felony or two misdemeanor convictions made an individual ineligible for tps . According to a service provider, his only hope was to reopen his felony case, obtain a new trial, and achieve a different outcome, a process known as "post-conviction relief." Obtaining an expungement would be insufficient, the paralegal who conducted the consultation explained, because expungements do not count for immigration purposes. This case was enveloped in legal uncertainty.

While a history of criminal convictions posed challenges, other sorts of records could unexpectedly make individuals eligible for status. One Salvadoran woman, Mireya, who lacked work authorization, sought to learn whether she could apply for a work permit. She informed a service provider that she had applied for asylum in the 1990s, obtained tps , and had work permits in the past. Her last work permit had been renewed fifteen years earlier, in 1995 or 1996. She had brought her expired work permits, which she handed to the service provider for inspection. The service provider informed Mireya that it was likely that she actually was eligible for lawful permanent residency (which grants more rights than mere work authorization) through nacara . With the service provider's help, she prepared a Freedom of Information Act request to obtain a copy of her immigration file and agreed to return for a follow-up appointment after it arrived. As Mireya left, the service provider told her to take good care of her expired work permits: "They are very strong evidence that you may be eligible for nacara ." Interestingly, in this case, the force of these documents came not from their validity—they were expired and could not be used to prove work authorization—but rather from the history that they documented. Documentation that on its face might appear to be worthless in fact was seemingly key to this individual's legal future.

Of course, service providers are not the only ones who practice legal craft. In addition, migrants themselves are key agents within regularization processes. The forms of agency that they practice are also shaped by their relationship to documents.

Devising Regularization Strategies

Migrants' legal craft has been shaped by their experiences living in the United States without documents. A key facet of this experience has been the securitization of immigration, that is, treating migrants as a national security risk rather than, for instance, a source of labor.[41] Securitization treats migrants with suspicion, subjects them to surveillance through checkpoints and demands for proof of residency, makes criminal issues of paramount importance within individuals' cases, exaggerates the importance of any discrepancies or temporal gaps in their records, increases the documentary burden to which migrants are subjected,[42] and makes it critical for migrants to know the content of any files that the state holds about them. These challenges are intensified by the fact that immigration is a bureaucracy—files can be lost, and the officials to whose discretion migrants appeal are often distant, given that applications are frequently submitted by mail. Migrants, rather than officials, are often held accountable for documentary deficiencies. So if officials—whether in the United States or in migrants' countries of origin—insert errors in the record, migrants have to explain, correct, or overcome these.

The degree to which securitization pervades immigration processes can be seen by the many security-related questions that appear on immigration forms. For example, pages 6–9 of the June 17, 2011, version of the n-400 "Application for Naturalization" form feature questions covering applicants' affiliations, moral character, and criminal histories. Examples include: "Since becoming a lawful permanent resident, have you ever failed to file a required Federal, State, or local tax return?" (6); "Between March 23, 1933, and May 8, 1945, did you work for or associate in any way (*either directly or indirectly*) with . . . the Nazi government of Germany?" (7); "Have you ever been a member of or in any way associated (*either directly or indirectly*) with . . . The Communist Party?" (7); "Have you ever committed a crime or offense for which you were not arrested?" (8); and "Have you ever . . . [b]een a prostitute or procured anyone for prostitution" (8; emphases in the original). In my experience, individuals were sometimes baffled, startled, or a bit offended by such questions. Applicants typically responded "no" to the vast

majority but sometimes had to report traffic violations, arrests, criminal charges, convictions, or having assisted others in entering the United States without authorization.

In response to securitization, migrants resorted to hyperdocumentation.[43] Even though the term *undocumented* is commonly used for those who lack legal status, such individuals actually have access to a multiplicity of documents—transcripts, report cards, receipts, church attendance records, rental agreements, letters—all of which have differing legal significance depending on when they were created and the sort of case an individual is pursuing. Saving such records was a way to prepare for future legalization opportunities.[44] As one nonprofit client who was pursuing naturalization recalled, "Everything is useful. And so they even asked me for checks from my job when I began to get my residency, checks from work, all that. And I save them, my check stubs, everything. The taxes, that too. One saves everything, because they ask one for *everything*. Even when you shop. . . . I have them in a box . . . because there I just go and look for what I need" (emphasis in the original). Hope leads migrants to save receipts, tax returns, and check stubs; stay abreast of news about legalization opportunities; and come into offices such as the nonprofit to explore options and file paperwork.

Applying for legal status can also be a form of resistance to securitization, particularly given that not everyone who is eligible actually applies.[45] Scholars have noted the ways that, increasingly, a status granted to immigrants may be liminal, "characterized by its ambiguity, as it is neither an undocumented status nor a documented one, but may have the characteristics of both."[46] Thus, tps recipients have the ability to remain in the United States with work authorization for specified periods of time but are not on a pathway to citizenship. The undocumented experience liminality by virtue of living in many ways as if they were lawfully present even though they may lack legal status.[47] When migrants apply for legal status, they redefine liminality as belonging, for example, by providing evidence of the years they have lived in the United States, their family relationships, and their work histories. There is some potential for individuals to choose among, amend, or create new records in ways that promote the version of reality that is of greatest utility, given their legal goal.[48] Indeed, doing so is, in essence, assembling a file, and is much of what legal work consists of. Of course, not applying was also a form of legal craft, and was appropriate for those, such as Jaime, who had little hope of prevailing.

To apply for status, migrants had to overcome challenges created by the application process itself. For U-visa and va wa applicants, case preparation

entailed recounting the details of a traumatic experience, something that many found painful. It was also common for migrants to experience difficulty obtaining the required information and documentation, especially given deadlines. One U-visa applicant was attempting to include her children in her application but had to rely on her relatives in Mexico to get their original birth certificates. Because her oldest daughter would turn twenty-one in one month and "age out" of eligibility, she needed to gather these documents quickly. She described repeated efforts to mobilize her relatives to obtain these documents. In some cases, individuals had to fax or email documents to their countries of origin so that relatives could sign them and mail them back, all under time constraints. Gustavo, who was gathering documentation to include his nephew in a petition he had filed for his sister, complained to a service provider that his nephew's town is not like Los Angeles, where there are internet cafés on every corner. His nephew would have to travel thirty to sixty minutes to access a computer. Moreover, the application fees that individuals paid did not guarantee the outcome of their cases. Such expenses were significant, especially for low-income individuals, and gathering documents could mean missing days of work. Nonetheless, applicants had to accept these conditions.

While seeking to regularize, migrants also maintained understandings of their lives that differed from the officially constructed versions. For example, a man who had not been able to prove that being deported would create an extreme and unusual hardship commented bitterly, "Yes, they said that my son could do without me because he lives with his mother." "Hardship" was a legal construct that did not include the actual hardship that his son was likely to experience. In another case, after a legal worker asked whether a woman's children had a disease or special needs that would create exceptional hardship if she were deported, the woman started to reply, "Unfortunately not," then corrected herself, saying, "No, *gracias a dios*, they are all very well!" This woman had started to allow the legal construct of hardship to dominate her thinking about her children. The legal definitions of family relations also sometimes differed from those of individual applicants. For instance, one woman referred to her partner as "*mi marido*" (my spouse) throughout the narrative that formed the basis of her U-visa application, then, when asked for the date of her marriage, reported, "We never married." Upon being informed that if she had not legally married, then she had to use another term, such as boyfriend, she commented, "In Honduras, as soon as you have a child with someone they regard him as your marido." Migrants' understandings of their legal situations also sometimes differed from those

of service providers. For example, even though many individuals saved documents, they did not always understand which ones would be useful, informing providers that a key document that providers said they needed was at home. Individuals who were eligible to naturalize often seemed to think that they could "test the waters" by simply renewing their green cards, even though service providers argued that a successful green card renewal did not mean that naturalization would be approved.

Despite anxiety, fear, and cynicism, migrants also approached the nonprofit with hope, reasoning that the years that they had lived in the United States, the fact that an acquaintance was able to acquire status, or a change in their own status or that of a relative might open new opportunities.[49] Recall the case of Jasmina, who, knowing that she was about to naturalize, approached the nonprofit to learn whether she could help relatives qualify. Optimism was tempered by frustration over the obstacles that individuals encountered. One woman, who was renewing her tps after having held this status for twelve years, described the United States as a "*jaula de oro*" (golden cage) because she could not travel internationally without advance parole, which was only granted in emergencies. Still, the optimism that led individuals to save documents, attend presentations on immigration law, schedule consultations, and submit paperwork often paid off. As a woman who had herself gained residency through ir ca and who was now petitioning for her brother remarked, "It is good to have open paths in front of you."

Conclusion: Documentary Paths

In 2011,uncertainty created by intensified enforcement coupled with unfulfilled promises for immigration reform made documents key to migrants' lives. Everyday documents could allow migrants to authenticate their relationships, continuous presence, income, community ties, and other legally significant factors, even as state scrutiny led discrepancies or gaps to potentially be interpreted as evidence of fraud. Most damaging were the reentry bars that individuals encountered. For example, one woman who came in for a consultation had lived in the United States for thirty-two years, had applied for asylum and na cara , was the beneficiary of a family visa petition, and had tps . In order to qualify for 245(i), she had obtained advance parole, left the country, and reentered legally. Though it might appear that she had many options, in fact, a service provider informed her that all she could do was to renew her tps . Both her asylum and na cara claims were denied (she was not eligible for na cara due to the date of her asylum application),

and, because she had worked in the United States without work authorization and then left the country, she had triggered a ten-year bar. This example illustrates the optimism that would lead an individual to apply for four different regularization opportunities (asylum, nacara , tps , and a family visa) as well as the oversecuritization that would attach a ten-year reentry penalty to something as minor as briefly working without authorization. It is striking that living thirty-two years in the United States was insufficient grounds to secure permanent status in the country.

Given current policy trends, the mixture of hope and anxiety that characterizes noncitizens' relationship with documents is likely to continue. This emotional duality is not unlike the temporal duality identified by Melanie Griffiths's research among asylum seekers in the UK: "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."[50] Since 2011,enforcement efforts have further intensified, particularly under the Trump administration, which has replaced Obama's efforts to distinguish between high- and low-priority deportees with the policy that removal proceedings can be initiated against any undocumented individual who comes into contact with immigration officials. Such initiatives strengthen noncitizens' need for papers. At the same time, as regularization opportunities at the federal level appear increasingly remote, undocumented individuals who live in localities with migrant-friendly policies have come to focus on securing other types of "papers." For instance, in California, individuals are eligible for driver's licenses regardless of immigration status, and some migrants have developed labor strategies, such as launching their own businesses, obtaining licenses as florists or cosmetologists, or becoming independent contractors, that enable them to work without needing employment authorization (because of not being employees). It remains to be seen how such contests between federal and local policy making will impact the opportunities and double binds experienced by unauthorized migrants.

Notes

1 All names referring to those encountered during fieldwork and volunteer work are pseudonyms.

2 In this and other accounts, some details—such as year of entry—have been omitted or changed in order to preserve confidentiality.

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8 See generally Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ: Princeton University Press, 2004).

9 See generally Lucy E. Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill: University of North Carolina Press, 1995).

10 See generally Kelly Lytle Hernández, "The Crimes and Consequences of Illegal Immigration: A Cross-Border Examination of Operation Wetback, 1943 to 1954," *Western Historical Quarterly* 37, no. 4 (2006): 421–44.

11 Gomberg-Muñoz, "The Punishment/El Castigo," 2240.

12 See generally Els De Graauw, *Making Immigrant Rights Real: Nonprofits and the Politics of Integration in San Francisco* (Ithaca, NY: Cornell University Press, 2016).

13 Sarah Horton, "Identity Loan: The Moral Economy of Migrant Document Exchange in California's Central Valley," *American Ethnologist* 42, no. 1 (2015): 56–57.

14 Jennifer M. Chacón, "Overcriminalizing Immigration," *Journal of Criminal Law and Criminology* 102 (2012): 613–14; Nicholas P. De Genova, "Migrant 'Illegality' and Deportability in Everyday Life," *Annual Review of Anthropology* 31, no. 1 (2002): 422–23.

15 See also Boehm, this volume.

16 See generally Joanna Dreby, *Everyday Illegal: When Policies Undermine Immigrant Families* (Berkeley: University of California Press, 2015); Tanya M. Golash-Boza, *Deported: Immigrant Policing, Disposable Labor and Global Capitalism* (New York: nyu Press, 2015); Roberto G. Gonzales and Leo R. Chavez, "Awakening to a Nightmare: Abjectivity and Illegality in the Lives of Undocumented 1.5-Generation Latino Immigrants in the United States," *Current Anthropology* 53, no. 3 (2012): 255–81; Cecilia Menjívar, "Liminal Legality: Salvadoran and Guatemalan Immigrants' Lives in the United States," *American Journal of Sociology* 111, no. 4 (2006): 999–1037.

17 tps is available to nationals of certain countries, such as El Salvador and Honduras, that have suffered natural disasters or political turmoil. tps is granted for a limited period of time and grants work authorization and relief from deportation, but does not permit recipients to travel internationally without advance parole or to adjust their status to that of a lawful permanent resident. It can

be renewed at the discretion of U.S. authorities. The Trump administration terminated tps for Haiti, Nepal, Sudan, Nicaragua, El Salvador, and Honduras, actions that have been enjoined by the courts (see https://www.uscis.gov/humanitarian/temporary-protected-status). As of this writing, the outcome of these legal cases is uncertain. daca was created by President Obama in 2012 and is available to individuals who immigrated to the United States before turning sixteen, were under age thirty-one in June 2012, have attended or graduated from a U.S. high school or been honorably discharged from the military, have a clean criminal record, and can prove that they have been continuously present in the United States from June 2007 until the present. Much like tps, daca confers work authorization and temporary relief from deportation, but does not place recipients on a path to citizenship. The Trump administration also rescinded daca, but that rescission was enjoined. A case regarding daca's legality is now before the U.S. Supreme Court. Oral arguments were heard in November 2019, and a decision has not yet been announced.

18 Julie Mitchell and Susan Bibler Coutin, "Living Documents in Transnational Spaces of Migration between El Salvador and the United States," *Law and Social Inquiry* (2019): 1–28.

19 For an overview of irca, see Frank D. Bean, Barry Edmonston, and Jeffrey S. Passel, eds., *Undocumented Migration to the United States: irca and the Experience of the 1980s* (Washington, DC: Urban Institute, 1990).

20 See generally Nancy Morawetz, "Understanding the Impact of the 1996 Deportation Laws and the Limited Scope of Proposed Reforms," *Harvard Law Review* 113, no. 8 (2000): 1936–62.

21 For an account of police collaboration with federal immigration enforcement, see Monica W. Varsanyi, Paul G. Lewis, Doris Marie Provine, and Scott Decker, "A Multilayered Jurisdictional Patchwork: Immigration Federalism in the United States," *Law and Policy* 34, no. 2 (2012), 138–58.

22 Chacón, "Overcriminalizing Immigration," 640–47.

23 Jennifer M. Chacón, "Managing Migration through Crime," *Columbia Law Review Sidebar* 109 (2012): 137–38.

24 Jens Manuel Krogstad, Jeffrey S. Passel, and D'Vera Cohn, "5 Facts about Illegal Immigration in the U.S.," Pew Research Center, April 27, 2017, accessed July 11, 2017, http://www.pewresearch.org/fact-tank/2017/04/27/5-facts-about-illegal-immigration-in-the-u-s/.

25 For an account of this movement, see generally Susan Bibler Coutin, *The Culture of Protest: Religious Activism and the U.S. Sanctuary Movement* (Boulder, CO: Westview, 1993).

26 For an account of U-visa applications, see generally Sarah M. Lakhani, "Producing Immigrant Victims' 'Right' to Legal Status and the Management of Legal Uncertainty," *Law and Social Inquiry* 38, no. 2 (2013): 442–73; and for an account of T-visa applications, see generally Jennifer M. Wetmore, "The New T Visa: Is the Higher Extreme Headship Standard Too High for Bona Fide Trafficking Victims?," *New England Journal of International and Comparative Law* 9 (2003): 159–78.

27 Abrego and Lakhani, "Incomplete Inclusion," 270–71.
28 For accounts of the immigrant youth movement, see generally Walter Nicholls, *The DREAMers: How the Undocumented Youth Movement Transformed the Immigrant Rights Debate* (Palo Alto, CA: Stanford University Press, 2013); Marjorie S. Zatz and Nancy Rodriguez, *Dreams and Nightmares: Immigration Policy, Youth, and Families* (Berkeley: University of California Press, 2015).
29 For an analysis of these marches, see generally Adrian D. Pantoja, Cecilia Menjívar, and Lisa Magaña, "The Spring Marches of 2006: Latinos, Immigration, and Political Mobilization in the 21st Century," *American Behavioral Scientist* 52, no. 4 (2008): 499–506.
30 "Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens," memo from John Morton, Director, U.S. Immigration and Customs Enforcement, June 17, 2011, accessed May 24, 2019, https://www.ice.gov/doclib/secure-communities/pdf/prosecutorial-discretion-memo.pdf, 5.
31 Michael J. Sullivan and Roger Enriquez, "The Impact of Interior Immigration Enforcement on Mixed-Citizenship Families," *Boston College Journal of Law and Social Justice* 36 (2016): 43.
32 Jeffrey S. Passel and D'Vera Cohn, "Twenty Metro Areas Are Home to Six-in-Ten Unauthorized Immigrants in U.S.," Pew Research Center, February 9, 2017, accessed July 16, 2017, http://www.pewresearch.org/fact-tank/2017/02/09/us-metro-areas-unauthorized-immigrants/.
33 Geoffrey DeVerteuil, "From e1 to 90057: The Immigrant-Serving Nonprofit Sector among London Bangladeshis and Los Angeles Central Americans," *Urban Geography* 32, no. 8 (2011): 1132–34.
34 Anne E. Langford, "What's in a Name? Notarios in the United States and the Exploitation of a Vulnerable Latino Immigrant Population," *Harvard Latino Law Review* 7 (2004): 116–17.
35 On the general problem of inadequate legal representation in immigration contexts, see Careen Shannon, "Regulating Immigration Legal Service Providers: Inadequate Legal Service Providers: Inadequate Representation and Notario Fraud," *Fordham Law Review* 78 (2009): 577–622; Juan Manuel Pedroza, "Making Noncitizens' Rights Real: Evidence from Legal Services Fraud Complaints," Social Science Research Network, September 7, 2017, accessed May 24, 2019, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3032217.
36 Ingrid Eagly and Steven Shafer, "Access to Counsel in Immigration Court," American Immigration Council, September 2016, accessed October 26, 2017, https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf, 3.
37 Annelise Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (Chicago: University of Chicago Press, 2011), 36.
38 Riles, *Collateral Knowledge*, 18. Following in the steps of the sociological jurisprudence and legal realists of the 1920s and 1930s, early sociolegal scholars hoped that by documenting the gap between law-on-the-books and law-in-action, legal

reformers would revise codes and practices in ways that achieved legal ideals. See generally Bryant Garth and Joyce Sterling, "From Legal Realism to Law and Society: Reshaping Law for the Last Stages of the Social Activist State," *Law and Society Review* 32, no. 2 (1998): 409–72; David M. Trubek, "Back to the Future: The Short, Happy Life of the Law and Society Movement," *Florida State University Law Review* 18 (1990): 1–56. Though what came to be known as "gap studies" successfully documented flaws in legal practices, such studies also assumed that written law (the books) is inert and that legal practices are not rule-bound. See June Starr and Jane F. Collier, eds., "Introduction," in *History and Power in the Study of Law: New Directions in Legal Anthropology* (Ithaca, NY: Cornell University Press, 1989).

39 James C. Scott, *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven, CT: Yale University Press, 1998).

40 The sorts of double binds created by criminal record checks were explained to me by an attorney, who related that if police who were collaborating with federal officials checked someone's fingerprints and found a record, the person would be in trouble, but that if there was no record whatsoever, then that could be taken as evidence of alienage, because someone from the United States would be presumed to have at least some record.

41 See generally William Walters, "Deportation, Expulsion, and the International Police of Aliens," *Citizenship Studies* 6, no. 3 (2002): 265–92.

42 Didier Fassin and Estelle D'Halluin, "The Truth from the Body: Medical Certificates as Ultimate Evidence for Asylum Seekers," *American Anthropologist* 107, no. 4 (2005): 597–608.

43 Aurora Chang, "Undocumented to Hyperdocumented: A Jornada of Protection, Papers, and PhD Status," *Harvard Educational Review* 81, no. 3 (2011): 598–20; Juan Thomas Ordóñez, "Documents and Shifting Labor Environments among Undocumented Migrant Workers in Northern California," *Anthropology of Work Review* 37, no. 1 (2016): 24–33.

44 Gray Abarca and Susan Bibler Coutin, "Sovereign Intimacies: The Lives of Documents within U.S. State-Noncitizen Relationships," *American Ethnologist* 45, no. 1 (2018): 8–9.

45 Robert Warren and Donald Kerwin, "The U.S. Eligible-to-Naturalize Population: Detailed Social and Economic Characteristics," *Journal on Migration and Human Security* 3, no. 4 (2015): 307.

46 Menjívar, "Liminal Legality," 1008.

47 Angela S. García, "Hidden in Plain Sight: How Unauthorised Migrants Strategically Assimilate in Restrictive Localities in California," *Journal of Ethnic and Migration Studies* 40, no. 12 (2014): 1895–914.

48 Jaeeun Kim, *Contested Embrace: Transborder Membership Politics in Twentieth-Century Korea* (Palo Alto, CA: Stanford University Press, 2016).

49 On the immigrant knowledge economy, compare to Maybritt Jill Alpes, "Bushfalling at All Cost: The Economy of Migratory Knowledge in Anglophone Cameroon," *African Diaspora* 5 (2015): 90–115.

50 Melanie B. E. Griffiths, "Out of Time: The Temporal Uncertainties of Refused Asylum Seekers and Immigrant Detainees," *Journal of Ethnic and Migration Studies* 40, no. 12 (2014): 2005.

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