

## CHAPTER ONE

### COMING AND GOING

#### *On the State Monopolization of the Legitimate “Means of Movement”*

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

The result of this process has been to deprive people of the freedom to move across certain spaces and to render them dependent on states and the state system for the authorization to do so – an authority widely held in private hands theretofore. A critical aspect of this process has been that people have also become dependent on states for the possession of an “identity” from which they can escape only with difficulty

and that may significantly shape their access to various spaces. There are, of course, virtues to this system – principally of a security nature – just as the expropriation of workers by capitalists allows propertyless workers to survive as wage laborers and the expropriation of the means of violence by states tends to pacify everyday life. Yet in the course of each of these transformations, workers, aggressors, and travelers, respectively, have each been subjected to a form of dependency they had not previously known.

Let me emphasize that I am not claiming that states and the state system *effectively* control all movements of persons, but only that they have **monopolized the authority to restrict movement vis-a-vis other potential claimants, such as private economic or religious entities**. Such entities may play a role in the control of movement, but they do so today at the behest of states. Nor am I arguing that states' monopolization of the legitimate "means of movement" is a generalization valid for all times and places; the monopolization of this authority by states emerged only gradually after the medieval period in Europe and paralleled states' monopolization of the legitimate use of violence. My argument bears strong similarities to that of John Meyer when he addresses the delegitimation of organizational forms other than the nation-state in the emerging "world polity." Various non-state associations, Meyer writes,

are kept from maintaining private armies, their territory and property are subject to state expropriation, and their attempts to control their populations are stigmatized as slavery . . . although states routinely exercise such controls with little question. A worker may properly be kept from crossing state boundaries, and may even be kept from crossing firm boundaries by the state, but not by the firm.<sup>1</sup>

To be more precise, firms may keep a worker from crossing the boundaries of those firms, but they do so under authority granted them by the state.

An understanding of the processes whereby states monopolize the legitimate "means of movement" is crucial to an adequate comprehension of how modern states actually work. Most analyses of state formation heretofore have focused on the capacity of states to penetrate societies, without explicitly telling us *how* they effect this penetration. Such analyses have posited that successful states developed the ability to

<sup>1</sup> Meyer 1987 [1980]: 53.

reach into societies to extract various kinds of resources, yet they typically fail to offer any specific discussion of the means they adopted to achieve these ends. Foucault's writings on "governmentality" and the techniques of modern governance represent an important corrective to this tradition. For all their preoccupation with policing, population, and "pastoral power," however, Foucault's considerations of these matters lack any precise discussion of the techniques of identification that have played a crucial role in the development of modern, territorial states resting on distinctions between citizens/nationals and aliens.<sup>2</sup>

Meanwhile, analyses of migration and migration policies have tended to take the existence of states largely for granted, typically attributing migration to a variety of socioeconomic processes ("push-pull" processes, "chain migration," "transnational communities," etc.) without paying adequate attention to territorial states' need to distinguish "on the ground" among different populations or to the ways in which the activities of states – especially war-making and state-building – result in population movements. The chief exception to this generalization is found in the writings of Aristide Zolberg, who has urged for decades that the state-building (and state-destroying) activities of states should occupy a central role in studies of human movement or its absence, alongside the more routine examination of states' immigration policies.<sup>3</sup> Rather than ignoring the role of states, studies of immigration policies take them as given and thus fail to see the ways in which regulation of movement contributes to constituting the very "state-ness" of states.

These approaches are inadequate for understanding either the development of modern states or migration patterns. In what follows, I seek to supersede these partial perspectives and to show that states' monopolization of the right to authorize and regulate movement has been intrinsic to the very construction of states since the rise of absolutism in early modern Europe. I also attempt to demonstrate that procedures and mechanisms for identifying persons are essential to this process, and that, in order to be implemented in practice, the notion of national communities must be codified in documents rather than merely "imagined."<sup>4</sup>

<sup>2</sup> See Foucault 1979, 1980b, 1991.

<sup>3</sup> See, e.g., Zolberg 1978, 1983. It seems to me that Zolberg's pleas have only gradually begun to be heeded; see, e.g., Skran 1995.

<sup>4</sup> See Anderson 1991 [1983]. Michael Mann (1993: 218) has noted that "Anderson's 'print capitalism' could as easily generate a transnational West as a community of nations" in the absence of the institutionalization of the latter.

In the remainder of this chapter, I undertake four tasks. First, I show how and why states have sought to monopolize the “legitimate ‘means of movement’” – that is, to gather into their own hands the exclusive right to authorize and regulate movement. Next, I argue that the processes involved in this monopolization force us to rethink the very nature of modern states as they have been portrayed by the dominant strands of sociological theories of the state. In particular, I seek to show that the notion that states “penetrate” societies over time fails adequately to characterize the nature of state development, and argue instead that we would do better to regard states as “embracing” their citizenries more successfully over time. Then, I analyze the need for states to identify unambiguously who belongs and who does not – in order to “embrace” their members more effectively and to exclude unwanted intruders. Finally, I examine some of the efforts of early modern states in Europe to implement documentary restrictions on movement, and thus to render populations accessible to their embrace.

## MONOPOLIZING THE LEGITIMATE “MEANS OF MOVEMENT”

States have sought to monopolize the capacity to authorize the movements of persons – and unambiguously to establish their identities in order to enforce this authority – for a great variety of reasons that reflect the **ambiguous nature of modern states, which are at once sheltering and dominating**. These reasons include such objectives as the extraction of military service, taxes, and labor; the facilitation of law enforcement; the control of “brain drain” (i.e., limitation of departure in order to forestall the loss of workers with particularly valued skills); the restriction of access to areas deemed off-limits by the state, whether for “security” reasons or to protect people from unexpected or unacknowledged harms; the exclusion, surveillance, and containment of “undesirable elements,” whether these are of an ethnic, national, racial, economic, religious, ideological, or medical character; and the supervision of the growth, spatial distribution, and social composition of populations within their territories.

States’ efforts to monopolize the legitimate “means of movement” have involved a number of mutually reinforcing aspects: the (gradual) definition of states everywhere – at least from the point of view of the international system – as “national” (i.e., as “nation-states” comprised of members understood as nationals); the codification of laws establishing

which types of persons may move within or cross their borders, and determining how, when, and where they may do so; the stimulation of the worldwide development of techniques for uniquely and unambiguously identifying each and every person on the face of the globe, from birth to death; the construction of bureaucracies designed to implement this regime of identification and to scrutinize persons and documents in order to verify identities; and the creation of a body of legal norms designed to adjudicate claims by individuals to entry into particular spaces and territories. Only recently have states actually developed the capacities necessary to monopolize the authority to regulate movement.

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

Things have not always been this way. The *great migrations that populated many of the world’s inhabited regions would otherwise have been greatly hampered, if not rendered impossible.* Where the right to authorize movement was controlled by particular social groups before the coalescence of the modern state system (and indeed until well after it had come into being), these groups were as often private entities as constituted political authorities. Indentured servants’ right to move, for example, was under the control of their masters. Under serfdom, the

<sup>5</sup> On the “identification revolution,” see Noiriel 1991; he develops the notion of “The Card and the Code” (1996 [1988]); see also Chapter 2 of this volume. In her work on laws relating to naming, Jane Caplan (2001) speaks of the emergence of a “culture of identification” during the nineteenth century.

serfs' legal capacity to move lay in the hands of their landlords, who had jurisdiction over them. Slavery, even when it did not involve actual shackles, entailed that slaveholders held the power to grant their slaves the right to move.<sup>6</sup>

As modern states advanced and systems of forced labor such as slavery and serfdom declined, however, states and the international state system stripped private entities of the power to authorize and forbid movement and gathered that power unto themselves. In doing so, they were responding to a considerable extent to the imperatives of territorial rule characteristic of modern states, as well as to the problem of "masterless men"<sup>7</sup> as personal freedom advanced. The phenomenon is captured nicely in Karl Polanyi's discussion of the emergence of "the poor" as a distinctive group in early modern England:

[T]hey became conspicuous as *individuals unattached to the manor*, "or to any feudal superior[.]" and their gradual transformation into a class of free laborers was the combined result of the fierce persecution of vagrancy and the fostering of domestic industry.<sup>8</sup>

The transition from private to state control over movement was an essential aspect of the transition from feudalism to capitalism.

The process through which states monopolized the legitimate means of movement thus took hundreds of years to come to fruition. It followed the shift of orientations from the local to the "national" level that accompanied the development of "national" states out of the panoply of empires and smaller city-states and principalities that dotted the map of early modern Europe. The process also paralleled the rationalization and nationalization of poor relief, for communal obligations to provide such relief were an important source of the desire for controls on movement. Previously in the domain of private and religious organizations, the administration of poor relief gradually came to be removed from their purview and lodged in that of states. As European states declined in number, grew in size, and fostered large-scale markets for wage labor outside the reach of landowners and against the traditional constraints imposed by localities, the provision of poor relief also moved from the local to the national arena.<sup>9</sup> These

<sup>6</sup> For a comparative analysis of slavery and serfdom as systems of control over movement, see Kolchin 1987, especially chapter 1, "Labor Management."

<sup>7</sup> For an in-depth study of such persons in one country, see Beier 1985.

<sup>8</sup> Polanyi 1944: 104 (my emphasis); see also Chambliss 1964.

<sup>9</sup> For an analysis of the origins of modern poor relief systems, see Gorski 1996, 1997. On the "nationalization" of poor relief in Germany, see Steinmetz 1993. One may well wonder whether

processes, in turn, helped to expand “outward” to the “national” borders the areas in which persons could expect to move freely and without authorization. Eventually, the principal boundaries that counted were those not of municipalities, but of nation-states.

The process took place unevenly in different places, following the line where modern states replaced non-territorial forms of political organization<sup>10</sup> and “free” wage labor replaced various forms of servitude. Then, as people from all levels of society came to find themselves in a more nearly equal position relative to the state, state controls on movement among local spaces within their domains subsided and were replaced by restrictions that concerned the outer “national” boundaries of states. Ultimately, the authority to regulate movement came to be primarily a property of the international system as a whole – that is, of nation-states acting in concert to enforce their interests in controlling who comes and goes. Where pronounced state controls on movement operate *within* a state today, especially when these are to the detriment of particular “negatively privileged” status groups, we can reliably expect to find an authoritarian state (or worse). The cases of the Soviet Union, Nazi Germany, apartheid-era South Africa, and Communist China bear witness to this generalization.<sup>11</sup>

The creation of the modern passport system and the use of similar systems in the interior of a variety of countries – the product of centuries-long labors of slow, painstaking bureaucratic construction – thus signaled the dawn of a new era in human affairs, in which individual states and the international state system as a whole successfully monopolized the legitimate authority to permit movement within and across their jurisdictions. The point here is obviously not that there is no unauthorized (international) migration, but rather that such movement is specifically “illegal”; that is, we speak of “illegal” (often, indeed, of “undocumented”) migration as a result of states’ monopolization of the legitimate “means of movement”. What we now think of as “internal” movement – a dubious and anachronistic notion before the development of modern states and the state system – has come to mean movement within national or “nation-states.” Historical evidence indicates clearly that, well into the nineteenth century, people routinely

recent changes in US welfare law that shift responsibility from the federal down to the state level have begun to reverse this trend.

<sup>10</sup> On such organizations, see Spruyt 1994.

<sup>11</sup> On passport controls in the Soviet Union and China, see Torpey 1997.

regarded as “foreign” those from the next province every bit as much as those who came from other “countries.”

None of this is to say that private actors now play no role in the regulation of movement – far from it. Yet private entities have been reduced to the capacity of “sheriff’s deputies” who participate in the **regulation of movement at the behest of states**. During the nineteenth and into the twentieth century, for example, governments in Europe pressed steamship companies into overseeing for them whether particular people should be permitted to travel to the destinations they had chosen. Since the development of air travel, airline companies have been subjected to similar obligations. Both shipping enterprises and air carriers have frequently resisted carrying out the sheriff’s deputy function, mainly because they fear that their participation in such quasi-governmental activities will hurt their profitability. Not wanting to appear guilty of mere cupidity, however, they are likely to say that they regard the regulation of movement as the proper province of the state – and so it is.<sup>12</sup>

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

#### MODERN STATES: “PENETRATING” OR “EMBRACING”?

Previous sociological discussion of the development of modern states has focused attention primarily on their growing capacity to “penetrate” or “reach into” societies and extract from them what they need in order to survive. Discussions of states as “penetrating” societies more effectively during the modern period can be found in almost any major recent sociological discussion of the nature of modern states.<sup>13</sup> Going

<sup>12</sup> On this issue, see Gilboy 1997.

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



the state theorists one better, Jürgen Habermas expanded the metaphor of “penetration” to characterize the activity of both the modern bureaucratic state and the capitalist economy. Habermas thus speaks of the “colonization of the life-world” by the “steering media” of money and power.<sup>14</sup> Yet Habermas’s analysis shares the weaknesses of the “penetrationist” paradigm of state theory, for “money” is rather more concrete than “power” as a mechanism for enabling and constraining social choices. But we may correct for the abstractness of “power” relative to that of money by seeing that identification papers of various kinds constitute the bureaucratic equivalent of money: they are, so to speak, the currency of modern state administration.

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

In order to extract resources and implement policies, states must be in a position to locate and lay claim to people and goods. This fact suggests an alternative imagery to that of “penetration” for understanding the accumulation of infrastructural capacity by modern states. Foucault has of course stressed the importance of “surveillance” in modern societies, but it often remains unclear in his writings to what particular purposes surveillance is being put. I believe we would do well to regard states as seeking not simply to penetrate but also to *embrace* societies, “surrounding” and “taking hold” of their members –

<sup>14</sup> See Habermas 1987.

individually and collectively – as those states grow larger and more administratively adept. More than this, states *must* embrace societies in order to penetrate them effectively. Individuals who remain beyond the embrace of the state necessarily represent a limit on its penetration. The reach of the state, in other words, cannot exceed its grasp. Michael Mann is correct that the “unusual strength of modern states is infrastructural,”<sup>15</sup> and their capacity to embrace their own subjects and to exclude unwanted others is the essence of that infrastructural power.

My use of the term “embrace” derives from the German word *erfassen*, which means to “grasp” or “lay hold of in the sense of register.” Thus, for example, foreigners registered at the *Ausländerbehörde* (Agency for Foreigners) are said to be *ausländerbehördlich erfasst* – i.e., registered for purposes of surveillance, administration, and regulation by that agency. People are also *erfasst* by the census. It says something important about the divergent processes of state-building on the European continent and in the Anglo-American world that we lack ordinary English equivalents for the German *erfassen* (as well as for the French verb *surveiller*). Whether or not our language adequately reflects this reality, however, the activities by which states “embrace” populations have become essential to the production and reproduction of states in the modern period.

In contrast to the masculinized image of “penetrating” states surmounting societies, the metaphor of states’ “embrace” of societies directs our awareness to the ways in which states bound – and in certain senses even “nurture” – the societies they hold in their clutches. In this regard, the imagery of “embracing” states shares similarities with Michael Mann’s notion of the way states “cage” social activity within them, particularly the way in which the rise of national states tended to reorient political activity from the local or regional to the national level.<sup>16</sup> Yet Mann’s “caging” metaphor fails to get at the way in which states metaphorically “grasp” both entire societies and individual people in order to carry out their aims. My metaphor of states “embracing” their populations is much more akin to James Scott’s idea that states seek to render societies “legible” and thus more readily available for governance.<sup>17</sup>

<sup>15</sup> Mann 1993: 60.    <sup>16</sup> Mann 1993: 61.

<sup>17</sup> See Scott 1998. If I may borrow the metaphor with which Scott describes how he and Stephen Marglin arrived at roughly similar views about the functioning of states, he and I seem to have taken different trains to much the same destination; his train, however, was a “local,” whereas

The notion that states “embrace” individuals goes further, however, by calling to mind the fact that states hold *particular* persons within their grasp, while excluding others. This consideration is especially important in a world of states defined as nation-states – that is, as states comprised of members conceived as nationals – and concerned successfully to monopolize the legitimate “means of movement”. In contrast, the imagery of “penetration” is blind to the peculiarities of the society that the state invades. Surely the metaphor of “embrace” helps make better sense of a world of states that are understood to consist of mutually exclusive bodies of citizens whose movements may be restricted as such.

Systems of registration, censuses, and the like – along with documents such as passports and identity cards that amount to mobile versions of the “files” states use to store knowledge about their subjects – have been crucial in states’ efforts to achieve these aims. Though not without flaws and loopholes, of course, such registration systems have gone a long way toward allowing states successfully to “embrace” their populations and thus to acquire from them the resources they need to survive, as well as to exclude from among the beneficiaries of state largesse those groups deemed ineligible for benefits.

Modern “nation-states” and the international system in which they are embedded have grown increasingly committed to and reliant upon their ability to make strict demarcations between mutually distinct bodies of citizens, as well as among different groups of their own subjects, when one or more of these groups are singled out for “special treatment.” The need to sort out “who is who” and, perhaps more significantly, “what is what” becomes especially acute when states wish to regulate movement across external borders. This is because, as Mary Douglas wrote some years ago, “all margins are dangerous . . . [A]ny structure of ideas is vulnerable at its margins.”<sup>18</sup> The idea of belonging that is at the root of the concept of citizenship is threatened when people cross borders, leaving spaces where they “belong” and entering those where they do not.

Yet the nation-state is far more than a “structure of ideas.” It is also – and more importantly for our purposes – a more or less coherent network of *institutions*. In this respect, recent developments in sociology turn our thinking in a fruitful direction when we try to make sense of

mine was an “express.” That is, Scott explores a variety of ways in which modern states have sought to make societies “legible,” while I have tried to focus on one particular aspect of that effort – namely, identification documents deployed for the regulation of movement.

<sup>18</sup> Douglas 1966: 121.

how states actually embrace the societies they seek to rule, and to distinguish their members from nonmembers. Rather than merely suggesting the way institutions shape our everyday world, the “new institutionalism” directs our attention to the “institutional constitution of both interests and actors.”<sup>19</sup>

This point has a special relevance with regard to identities. Too frequently in recent academic writing, identities have been discussed in purely subjective terms, without reference to the ways in which identities are anchored in law and policy. This subjectivist approach, given powerful impetus by the wide and much-deserved attention given to Benedict Anderson’s notion of “imagined communities,” tends to ignore the extent to which identities must become codified and institutionalized in order to become socially significant. Noiriel has made this point in the strongest possible terms with respect to immigrants: “It is often overlooked that legal registration, identification documents, and laws are what, in the final analysis, determine the ‘identity’ of immigrants.”<sup>20</sup>

But the point is more general. The cases of “Hispanics” (as opposed to Caribbeans or South or Central Americans, for example) or “Asian Americans” (as opposed to Japanese-Americans, Korean-Americans, etc.) in the United States, categories designed for the use of census-takers and policy-makers with little in the way of subjective correlates at the time of their creation, are here very much to the point. Whether substantial numbers of people think about themselves subjectively in these terms is an open, empirical question; that they would not be likely to do so without the institutional foundation provided by the prior legal codification of the terms seems beyond doubt.

As nation-states – states of and for particular “peoples” defined as mutually exclusive groups of citizens<sup>21</sup> – modern states have typically been eager to embrace their populations and to regulate the movements of persons within and across their borders when they wish to do so. Their efforts to implement such regulation have driven them toward the creation of the means uniquely and unambiguously to identify individual persons, whether “their own” or others. In order to monopolize the legitimate “means of movement”, states and the state system have been compelled to define who belongs and who does not, who may come and go and who may not, and to make these distinctions

<sup>19</sup> Brubaker 1996: 24; see also Powell and Dimaggio 1991. <sup>20</sup> Noiriel 1996 [1988]: 45.

<sup>21</sup> See Brubaker 1992.

intelligible and enforceable. Documents such as passports and identity cards have been critical to achieving these objectives. Beyond simply enunciating definitions and categories concerning identity, states must *implement* these distinctions, and they require documents in order to do so in individual cases.

## GETTING A GRIP: INSTITUTIONALIZING THE NATION-STATE

In order to make sense of the notion that states exist “of and for particular peoples” generally understood today as “nations,” we must first consider what a “nation” is. The concept of the nation, according to Weber, entails that we may “expect from certain groups a specific sentiment of solidarity in the face of other groups,” without there being any determinate “empirical qualities common to those who count as members of the nation.”<sup>22</sup> Following in Weber’s footsteps, Rogers Brubaker has stressed the “contingent, conjuncturally fluctuating, and precarious” quality of “nation-ness,” pointing out that: “We should not ask ‘what is a nation’ but rather: how is nationhood as a political and cultural form institutionalized within and among states?”<sup>23</sup> Brubaker’s institutionalist constructionism provides an important corrective to those views (typically held above all by nationalists themselves) that suggest that “the nation” is a real, enduring historical entity. Failing their institutionalization, “nations” must remain ephemeral and fuzzy.

How, indeed, is nationhood institutionalized? More specifically, precisely how is the nexus between states, subjects, and potential interlopers generated and sustained? In order to extract the resources they need to survive, and to compel participation in repressive forces where necessary, states must embrace – that is, identify and gain enduring access to – those from whom they hope to derive those resources. Alternatively, states must be in a position to establish whether or not a would-be entrant matches the criteria laid down for authorized entry into their domains. Charles Tilly has noted that the French Revolution’s inauguration of what he aptly calls “direct rule” gave rulers “access to citizens and the resources they controlled through household taxation, mass conscription, censuses, police systems, and many other invasions of small-scale social life.”<sup>24</sup> Yet this listing leaves the matter too vague for adequate comprehension of the way in which

<sup>22</sup> Weber 1978: 922. <sup>23</sup> Brubaker 1996: 16, 19. <sup>24</sup> Tilly 1990: 25.

states have, in fact, “invaded” small-scale social life and sought to render populations available to their embrace.

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

Sociologists of the state have begun in recent years to address more adequately the problem of how states construct a durable relation between themselves and their subjects/citizens in furtherance of their own aims. This concern has been especially prominent in the work of Anthony Giddens. In his important study *The Nation-State and Violence*, Giddens pays considerable attention to the growing role of surveillance in the development of “direct rule.” In contrast to “traditional states,” Giddens noted that modern states presuppose a regularized administration and that much of the necessary administrative capacity of modern states is rooted in *writing*. It is through **written documents – such as identification papers – that much of the surveillance** entailed by modern state administration is carried out: “[A]dministrative power can only become established if the coding of information is actually applied in a direct way to the supervision of human activities.”<sup>25</sup> Max Weber had earlier noted the importance of “the files” as an important element of bureaucratization, of course, but he failed to indicate their enormous role in the construction of states’ enduring embrace of their citizens. Yet despite the heightened attention to the relationship between states and their subjects/citizens in recent writing on the development of state capacities, we still have little idea of how this relationship is actually constructed and sustained.

The essence of the problem can be couched in terms of states’ need to be able to embrace their populations and to distinguish them from

<sup>25</sup> Giddens 1987: 47. Leonard Dudley (1991) has noted that writing originated (in ancient Sumeria) not as a means of recording speech, but in order to facilitate taxation.

others. From the point of view of states' interests in keeping track of populations and their movements, people are little but "stigmata," appropriately processed for administrative use. The classic analysis of the operation of and responses to stigmata in informal interaction is Erving Goffman's discussion of *Stigma*,<sup>26</sup> where the burden of the analysis is on the management of "spoiled identity." But the problem is more pervasive than Goffman indicated, a fact that surely would have been clear to him if he had devoted more attention to the operations of bureaucratic institutions.

In one of his few sustained treatments of formal institutional environments, the irreplaceable essay on "total institutions" in *Asylums*,<sup>27</sup> Goffman shows that the effort to impose control in such environments begins with systematic attempts to annihilate the "identities" – the selves – of their inmates. In total institutions, the point is to deprive individuals of the personality resources that they might use to mount a defense against their condition. "On the outside," however, obliteration of individual identity would be ruinous to the state, for it would short-circuit the essential process of identifying individuals for administrative purposes. This outcome would frustrate the performance of those universal and indispensable state activities, the extraction of resources from subjects to nourish the administrative and coercive agencies that constitute and (assuming the state continues to function coherently) continuously replenish states.

Michel Foucault extrapolated these basic insights into a nightmarish, dystopic, even absurd vision of modern society as a "carceral" world pervaded by "gentle" means of discipline and control carried out under and through the watchful eye of the "individualizing gaze."<sup>28</sup> Foucault dramatized this intuition by suggesting that Bentham's (never-built) "Panopticon," in which individual prisoners could be seen by a centrally located guard who was himself invisible to them, had become the basic model of modern social organization. In a sense, Foucault only drew the logical consequences from Weber's persistent fears about the juggernaut of bureaucratic rationalization. Yet Foucault's emphasis on the intimate connections between power and knowledge and on the crucial importance of individual surveillance in modern administrative systems has proven enormously suggestive.

<sup>26</sup> See Goffman 1963. <sup>27</sup> See Goffman 1961.

<sup>28</sup> See Foucault 1979, 1980a. For a critique of the negative assessment of the visual faculty in recent French social thought and its attendant attack on Enlightenment styles of thought with their emphasis on transparency, luminosity, and, well, *enlightenment*, see Jay 1993.

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

IDENTIFICATION: The issue of identification (ID) – its reliability, integrity, confidentiality, etc. – is of prime concern to all levels of government, and the private sector as well. The eligibility for government services, the issuance of various licenses, the assessment of taxes, the right to vote, etc., are all determined through evaluations based in part on the identification documents you present. *It becomes critical that ID documents and systems be completely authenticated and accurate in order to positively and uniquely identify each individual.*<sup>29</sup>

By their own lights, then, states have come decisively to depend on the unique and unambiguous identification of individuals in order to carry out their most fundamental tasks.<sup>30</sup> The examination of individual stigmata, the essential form of which lies at the heart of all modern systems of identification, “places individuals in a field of surveillance [and also] situates them in a network of writing; it engages them in a whole mass of documents that capture and fix them.”<sup>31</sup> The document held by the individual as “ID” thus corresponds to an entire series of files chronicling movements, economic transactions, familial ties, illnesses, and much else besides – the power/knowledge grid in which individuals are processed and constituted as administrative subjects of states.

The achievement of this administrative knowledge was a long time in coming, however; state-sponsored identification practices with the aim of extending states' embrace of their populations have evolved significantly over time. Prior to the French Revolution, for example, descriptions of a person's social standing – residence, occupation, family status, etc. – were generally regarded as adequate indicators of a person's identity for purposes of internal passport controls in France.<sup>32</sup> Thereafter, the growing preoccupation with surveillance and the progress of modern science combined to render insufficient these earlier, more homespun practices. States wanted to embrace their inhabitants

<sup>29</sup> 1996 California Driver Handbook, Department of Motor Vehicles, State of California [n.p.: n.d.]. My italics.

<sup>30</sup> For a discussion of recent developments in the understanding of surveillance in modern societies, see Lyon 1994. Lyon's exposition makes clear that it is not only states that have an interest in intensified surveillance, but private economic entities as well; this book concerns only the way that states make use of and depend upon surveillance techniques in order to control movement.

<sup>31</sup> Foucault 1979: 189. <sup>32</sup> Nordman 1996: 1123–1124.



more firmly, and to be able to distinguish them from outsiders more clearly, than was possible with such methods. Achievement of this aim necessitated greater precision in identifying them. Yet at the same time, the rise of liberal and natural law ideas proclaiming individual freedom and the inviolability of the person cast into disfavor older habits of “writing on the body” such as branding, scarification, and tattooing, as well as dress codes as means for identifying persons (except when these methods of marking are voluntarily assumed, of course).

As a result, states with a rising interest in embracing their populations had to develop less invasive means to identify people. The approach they adopted employs roughly the same principle that underlies jujitsu: the person’s body is used *against* him or her, in this case as evidence of identity. Techniques for “reading off the body” have become more and more sophisticated over time, shifting from unreliable subjective descriptions and anthropometric measurements to photographs (themselves at first often considered unreliable by police), fingerprinting, electronically scanned palm prints, DNA fingerprinting, and the retina scans dramatized in the film version of *Mission: Impossible*. The persistent tinkering with these techniques indicates that states (and other entities, of course) have a powerful and enduring interest in identifying persons, both their own subjects and those of other countries. The ability of states uniquely and unambiguously to identify persons, whether “their own” or others, is at the heart of the process whereby states, and the international state system, have succeeded over time in monopolizing the legitimate “means of movement” in the modern world.

Against this background, let us briefly examine the imposition of passport controls in early modern European states, as rulers increasingly sought to establish untrammelled claims over territories and people. Such rulers began to move away, however unintentionally, from a “political map [that] was an inextricably superimposed and tangled one, in which different juridical instances were geographically interwoven and stratified, and plural allegiances, asymmetrical suzerainties and anomalous enclaves abounded.”<sup>33</sup> In doing so, they cleared away some of the medieval underbrush that stood between them and the nation-state.

<sup>33</sup> Anderson 1974: 37–38.

## THE PREVALENCE OF PASSPORT CONTROLS IN ABSOLUTIST EUROPE

Passport controls in Europe are hardly a recent invention. The exigencies of rule in early modern Europe led states to take a considerable interest in strengthening their power to regulate the comings and goings of their subjects. The mercantilist policies pursued by these states entailed the general presupposition that population was tantamount to, or at least convertible into, wealth and military strength. Accordingly, these rulers had a powerful interest in identifying and controlling the movements of their subjects. This they sought to do with a variety of strictures on movement that frequently involved documents as the means for their enforcement.

For example, with Prussia's Imperial Police Ordinances of 1548, beggars and vagrants "were banned as a threat to domestic peace, law, and order." Shortly thereafter, an edict of the Imperial Diet prohibited the issuance of "passes" to "gypsies and vagabonds [*Landstreicher*]," suggesting both that these two groups were in bad odor and that passes were required as part of the normal procedure for removing from one place to another, at least for those of the lower orders.<sup>34</sup> By the seventeenth century, German rulers made laws intended to tie servants more firmly to their masters, and thus also to squelch those bogeys of the officialdom, vagrancy and itinerancy.<sup>35</sup>

Meanwhile, across the Channel, similar developments had been afoot for some time. Despite the guarantee of the English subject's freedom to depart in the Magna Carta, a statute of 1381 forbade all but peers, notable merchants, and soldiers to leave the kingdom without a license.<sup>36</sup> Early modern English rulers were especially concerned that uncontrolled departures would facilitate religious deviance.<sup>37</sup> Then, not long after the English Civil War, an alleged upsurge in itinerancy generated by the desire of the destitute to turn up more generous rates of poor relief than were available in their native villages led the English monarch, Charles II, to adopt a law severely restricting movement from one parish to another. The "Act for the better Reliefe of the Poore of this Kingdom" of 1662<sup>38</sup> empowered the local authorities to remove to their place of legal settlement anyone "likely to be

<sup>34</sup> Bertelsmann 1914: 17–18. <sup>35</sup> Raeff 1983: 74, 89–90.

<sup>36</sup> 5 R. II, stat. 1, c. 2 (1381) section 7, cited in Plender 1988 [1972]: 85, n. 12.

<sup>37</sup> See Warneke 1996.

<sup>38</sup> 14 Charles II c. 12. This law appears to be what Karl Polanyi (1944: 78 and *passim*) refers to as the "Act of Settlement (and Removal)."

chargeable to the parish” – or, to put it in terms that would later become familiar in American immigration legislation, anyone “likely to become a public charge.” At the same time, the law allowed migration for purposes of performing seasonal or other temporary labor, provided that the person or persons involved “carry with him or them a certificate from the minister of the parish and one of the churchwardens and one of the overseers for the poore” attesting to their legal domicile, to which they were required to return upon completion of such work. These laws governing movement helped to codify in law – and to implement in practice – a distinction between “local” and “foreign” poor, and notably referred to the place to which illegal settlers should be removed as their “native” residence. The act of removing oneself from one’s place of birth thus appears to have been regarded as an anomaly, and may indeed have constituted a violation of the law without proper papers.

To the east, trends toward enhanced documentary controls on movement received a powerful boost from Russian czar Peter the Great. Eager to advance Russia’s standing among the Continental powers, Peter’s modernizing reforms arose primarily from a desire to improve the country’s military capabilities. In this enterprise Peter was smashingly successful, for by 1725 he had created the largest standing army in Europe.<sup>39</sup> Such armies required extensive recruitment and, consequently, systematic access to the young men of the country. One means for the state to gain such access was to restrict mobility by requiring documentation of movement and residence. Consistent with this aim, the czar in the early eighteenth century promulgated a series of decrees regulating the domicile and travel of Russian subjects. An edict of 1719 required anyone moving from one town or village to another to have in his (or less likely her) possession a pass from his superiors.<sup>40</sup> This ukase only broadened the provisions of the legal code of 1649 that had originally consolidated the Russian pattern of serfdom, the very essence of which lay in its controls on peasant movements.<sup>41</sup> The use of documents as mechanisms of control made serfdom’s legal restrictions on peasant movements easier to enforce.

These examples demonstrate clearly that restrictions on personal freedom of movement related directly to two central questions facing burgeoning modern states: (1) how the economic advantages available in a particular area were to be divided up, whether these involved access

<sup>39</sup> Bendix 1978: 501ff. <sup>40</sup> Matthews 1993: 1–2. <sup>41</sup> See Kolchin 1987.

to work or to poor relief; and (2) who would be required to perform military service, and how they would be constrained to do so. In other words, documentary controls on movement were decisively bound up with the rights and duties that would eventually come to be associated with membership – citizenship – in the nation-state.

Until the ultimate triumph of capitalism and the nation-state in nineteenth-century Europe, however, controls on movement remained predominantly an “internal” matter. This fact reflected the powerfully local orientation of life and the law, as well as the persistence of mercantilist ideas about population-as-wealth and the relatively inchoate character of states and the international state system. Gradually, competition among states set in motion processes of centralization that resulted in a winnowing of the number of competitors, such that only those states capable of mobilizing sufficient military and economic resources survived.<sup>42</sup>

In the course of these developments, rulers seeking to expand their domains and their grip on populations increasingly asserted their authority to determine who could come and go in their territories. For example, during the late medieval period in France, the legal concept of the “foreigner” shifted from the local to the “national” level (at this point the term can still only be applied anachronistically), and from the private realm to that of the state, as a consequence of the royal usurpation from the *seigneur* of the so-called *droit d’aubaine*, according to which foreigners had been defined as those born outside the *seigneurie*.

This [shift] created for the first time a kingdomwide status of foreigner and, correlatively, an embryonic legal status of French citizen or national. The legal distinction between French citizen and foreigner thus originated in the late medieval consolidation of royal authority at the expense of seigneurial rights.<sup>43</sup>

The monopolization of the legitimate “means of movement” by states entailed their successful assertion of the authority to determine who “belonged” and who did not. The states’ complete expropriation of the power to authorize movement would take some time to achieve, of course, but they were well on their way to making this monopoly a reality.

<sup>42</sup> On this process, see Burke 1997; Elias 1978 [1939], 1982 [1939]; Tilly 1990.

<sup>43</sup> See Brubaker 1992: 37. It is suggestive that, at least according to one historian, the term “passport” was first attested to in France during this period. See Nordman 1987: 148.

To these more strictly political considerations must be added Karl Polanyi's compelling portrayal of the decisive role of the early modern state in weaving together local into national markets, a process that frequently involved the triumph of the central state against fierce local resistance. This gradual transformation facilitated a sea change in conceptions of "internal" and "external" territory and thus in the nature of the restrictions on who could come and go, and with whose authorization.<sup>44</sup> As markets for labor power, in particular, became "nationalized," states asserted dominion over the right to determine who could move about and under what conditions. The general result of the process was that local borders were replaced by national ones, and that the chief difficulty associated with human movement was entry into, not departure from, territorial spaces. The spread of identification documents such as passports was crucial to states' monopolization of the legitimate "means of movement". But this outcome would take some time to achieve in practice, and began by facing a sharp challenge from the libertarian elements in the French Revolution. It is to the events of that upheaval, typically thought of as the "birth of the nation-state," that we now turn.

<sup>44</sup> Polanyi 1944: 63–67. I am grateful to Peggy Somers for reminding me of the usefulness of Polanyi's classic for the analysis I am trying to develop here.