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Abstract

Drawing on David Garland's (1996, 2001) observations about the 'limits of the sovereign state', we seek in this article to develop a critical understanding of the recent response in the USA to 'notario fraud'—an unlawful act committed when a non-lawyer poses as an immigration attorney. While efforts to protect immigrants from fraud on their surface represent a counter to recent anti-immigrant policies, our analysis of materials distributed by what we term an *anti-notario fraud apparatus* suggests that such activity amounts to neoliberal governance. Specifically, we study immigrant advocacy groups' discourse around the issue and argue that anti-notario efforts are akin to responsabilization. We also study how law enforcement officials discuss the issue and theorize how a one-dimensional framing of notarios as villains supports the neoliberal regime by protecting the state's sovereignty to manufacture what Nicholas De Genova (2002) has called 'deportability'.

Keywords

Deportability, exploitation, immigration, neoliberalism, notario fraud

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Introduction

Immigration law and politics under neoliberalism¹ has been characterized by an encouragement of increased immigration to satisfy economic imperatives on one hand and punitive laws, which, on the other hand, criminalize these very populations (e.g. Calavita, 2005; Varsanyi and Nevins, 2007). Under such arrangements, immigrants themselves have been responsabilized and scapegoated as attention is diverted away from the structural roots of immigration itself as a complex social problem (Fleury-Steiner and Longazel, 2010; Longazel, 2013; Longazel and Fleury-Steiner, 2011; Nevins, 2007). At the same time, these inherent contradictions create a workforce that is 'deportable' and therefore exploitable (De Genova, 2002).

While criminalization and attendant exploitation has understandably garnered increased scholarly attention in recent years, it is also important to recognize that not all crime-control initiatives have been anti-immigrant. Some, to the contrary, have taken a decidedly *pro-immigrant* stance, constructing immigrant populations as potential crime victims. In this respect, looking narrowly at the criminalization of immigrants may overlook what emerges as a vitally important question for understanding immigration law and politics in the neoliberal era: *How are attempts to protect immigrants as potential crime victims connected to broader patterns of governance?*

In this article, we argue that governmental and organizational responses to 'notario fraud'—an unlawful act committed when a non-lawyer poses as an immigration attorney and defrauds immigrants by promising to offer legal advice or services—can best be understood within the context of neoliberal governance. Although attempts to protect immigrants from fraud and deportation on their surface appear benevolent and may indeed seem to buck the tide of widespread criminalization, we argue that the core of these practices remains more or less the same: an exploitative immigration system escapes critique and is allowed to carry on. That is to say, by responsabilizing immigrants, anti-notario fraud efforts place unreasonable expectations on immigrants seeking to navigate a notoriously arduous legal regime (e.g. Coutin, 2000, 2007; Johnson, 1996), obscure, if not outright legitimize, state violence (e.g. deportation), and enable exploitation to continue unencumbered. We also contend that a narrow official framing of immigrants as potential victims and notarios as villains helps to protect state sovereignty over the ability to manufacture 'deportability' (De Genova, 2002) and enables an otherwise oppressive regime to posture as benevolent.

We begin by situating the case of notario fraud theoretically, relying primarily on David Garland's (1996, 2001) insights about the 'limits of the sovereign state'. After discussing the contours of the present inquiry, we move to an analysis of anti-notario fraud discourse. This analysis proceeds in two parts and draws analytically from Garland's (2001: 137) conception of a 'criminology of the self' and a 'criminology of the other'. Specifically, we examine materials distributed by both immigrant advocacy groups (Part 1) and federal and state officials (Part 2). This analysis enables us to illustrate the extent to which the state relies on the two-pronged strategy of responsabilization and symbolic enforcement and ultimately sets us up to problematize each of these anti-notario fraud methods as amounting to neoliberal governance. In the article's concluding section, we reflect on the implications of this research for future scholarship and advocacy.

State sovereignty, crime control, and neoliberal governance

According to David Garland (1996, 2001), contemporary crime control is driven by a two-pronged reassertion of state sovereignty. On one hand, the state has adopted what Garland calls a *responsibilization strategy*, wherein it abandons the exclusive reliance on a criminal justice apparatus in favor of an approach that solicits the help of non-state organizations and individual citizens in combating crime. Aligning with Foucault's (1991) conception of governmentality, this approach is most commonly instituted via publicity campaigns that are 'aimed to raise public consciousness, interpolate the citizen as a potential victim, create a sense of duty, connect the population to crime control agencies, and help change the thinking and practices of those involved' (Garland, 2001: 125). In this respect, the state is engaging in what has been termed 'governing-at-a-distance' (e.g. Rose, 1996) or, more specifically, a *criminology of the self*, meant to 'routinize crime, to allay disproportionate fears and to promote preventative action' (Garland, 2001: 137).

On the other hand, the state has managed to reassert its power by implementing concurrently a *criminology of the other* that 'functions to demonize the criminal, to act out popular fears and resentments, and to promote support for state punishment' (Garland, 2001: 137). Whereas the criminology of the self embodies a neoliberal responsibilization strategy, the criminology of the other draws from morally charged neoconservative orthodoxy. Here, the state responds to the predicament of state sovereignty symbolically by focusing on the 're-imposition of control, usually by punitive means' (Garland, 2001: 132). Thus while the state continually backs away from its crime control role vis-à-vis a criminology of the self, it simultaneously flexes its metaphorical muscle via a punishment spectacle (compare Foucault, 1977: 3–6) as it carries out a criminology of the other.

Torin Monahan's (2009) recent study of identity theft provides a specific example of these practices at work (see also Cole and Pontell, 2006). This research shows how responsibilization and the punishment spectacle work in tandem to reinforce neoliberalism. Focusing on public relations campaigns surrounding identity theft that 'teach consumers to "protect themselves" better' (Monahan, 2009: 156), Monahan documents both the construction of 'responsible' neoliberal subjects and the obstruction of the state's crime control responsibility. The state is literally absent as citizens are encouraged to consume products (e.g. paper shredders, anti-virus software), take in consumer-protection information (e.g. workshops, information sessions), and operate within a climate where fear and risk are pervasive (e.g. moral panics depicting dangerous 'outsiders'). Yet at other times the state is ever-present, engaging in a corresponding vilification of those populations perceived to be responsible for the identity theft problem (e.g. drug users and undocumented immigrants). By constructing panics that divert attention toward unsuspecting scapegoats and away from the broader structural inequities of neoliberalism, the state casts itself as having a role to play, but that role is not to get to the root of the problem but rather to demonstrate a willingness to punish 'undesirable' populations. In this respect, Monahan (2009: 157, emphasis added) makes an observation we believe is central to our foregoing analysis of notario fraud—namely, neoliberalism promulgates

a 'powerful myth that enrolls individuals, whether victims, criminals, state agents or industry employees, into new social relations and forms of life'.²

The present inquiry: notario fraud and the reproduction of the neoliberal order

Scholars have applied Garland's observations about the 'limits of the sovereign state' to the realm of immigration, noting that, 'foreigners, like criminals, have become a target of state intervention, seemingly at the very moment that most governments have lost much of their capacity to secure their borders' (Bosworth, 2008: 200; see also Aliverti, 2012). Numerous studies have documented how both responsabilization programs such as E-verify (e.g. Mitsilegas, 2012) and accelerated deportation efforts (e.g. Inda, 2006) enable the state to reassert its sovereignty and create powerful public spectacles of 'winning' the war against 'illegals' in an era where borders are increasingly porous. Our focus is similar to this empirical work in that it shows how the state simultaneously engages in responsabilization and traffics in the symbolism of punishment spectacles. However, we also depart from such work by considering an instance where immigrants are being '*helped*' rather than vilified. Specifically, in unpacking the discourse surrounding notario fraud and holding it up against some of the realities that many immigrants (and notarios) confront, we contend that these efforts, which on their surface appear to buck the trend of widespread immigrant criminalization, actually serve similar ends. Campaigns against notario fraud, we argue, work to enlist immigrants, their advocates, and notarios alike in a neoliberal order that relies on exploitable immigrant populations to satisfy economic imperatives.

The emergence of the anti-notario fraud apparatus

A record number of immigrants have recently arrived in the USA (Camarota, 2007), and the demand for legal services far exceeds supply (Study Group on Immigrant Representation, 2011). Considering an increasingly complex system of immigration law (e.g. Buffenstein and Cooper, 2011), high attorney fees, and the unprecedented potential for immigrant punishment, deportation, and victimization (e.g. Fussell, 2011), non-accredited individuals offering legal services to immigrants find themselves in high demand. Indeed, the defrauding of immigrants is presumably a low-risk endeavor as immigrants vulnerable to deportation are less likely to pursue criminal charges. Cultural ambiguity confounds matters even further. In Latin America, the word 'notario' is commonly used to describe a group of highly specialized, elite attorneys who, much like licensed attorneys in the USA, are subject to rigorous examinations, regulations, and professional standards. This status is very different from the English translation, notary, which in common parlance refers to 'notary publics'—entities that are not licensed to practice law, do not undergo formal training, and are limited to performing tasks such as witnessing the signing of documents and administering oaths.

While many have claimed that the scope of this problem is wide (e.g. Cisneros, 2001; Langford, 2004; Moore, 2004), to our knowledge there are no data documenting its actual magnitude (see Moore, 2004). Nevertheless, a number of disturbing cases have

been publicized, many of which involve clients being deceived, losing large sums of money, and having their quest for citizenship jeopardized.³ This has prompted a significant governmental response, leading to the formation of an expansive public/private *anti-notario fraud apparatus*.

The anti-notario fraud apparatus is organized primarily around responsabilization and symbolic enforcement (e.g. Garland, 1996, 2001). On the responsabilization side, federal agencies have unveiled a variety of strategies involving multi-agency collaboration and education. For instance, in June of 2011, the US Department of Justice (DOJ), Federal Trade Commission (FTC), US Citizenship and Immigration Services (USCIS), and other federal agencies unveiled the *Combating Immigration Scams* initiative, 'a multi-agency, nationwide initiative to combat immigration services scams' (Department of Justice, 2011). As part of this initiative, the DOJ has sought to expand its *Recognition and Accreditation* program, which authorizes non-attorneys to provide immigrants with legal services. The FTC developed a database for reporting notario fraud in partnership with other organizations and launched 'six new radio public service announcements in English, Spanish and Mandarin Chinese that warn about illegal notarios and immigration consultants' (Wouters, 2011). Along similar lines, the USCIS launched an *Unauthorized Practice of Immigration Law* (UPIL) initiative, which contains both an 'education component' and a 'capacity building component', and is 'primarily aimed at providing immigrants with the information they need to make informed choices when seeking legal advice and representation on immigration matters' (US Citizenship and Immigration Services, 2012). This initiative—whose slogan is 'the wrong help can hurt'—has sought to empower non-state agencies and proliferated a variety of anti-notario educational materials, including 'a new brochure, a poster, public service announcements for use on radio and in print publications, billboard and transit ads, and a new Web resource that includes a video' (US Citizenship and Immigration Services, 2012).

As is the case with 'governing-at-a-distance' in other domains (e.g. Rose, 1996), public-private partnerships have also been formed and as a result many non-state agencies have become key partners in the anti-notario fraud campaign. The American Bar Association (ABA) has rolled out a 'Fight Notario Fraud' initiative, which is 'dedicated to putting an end to immigration consulting fraud' (American Bar Association, 2012).⁴ The American Immigration Lawyers Association (AILA) has initiated a similar 'Stop Notario Fraud' campaign (e.g. American Immigration Lawyers Association, 2013a). And the Immigration Legal Resource Center (ILRC) has put together a training video and a series of comic books that warn immigrants to 'Watch out when you seek help with your immigration papers!' (see Immigration Legal Resource Center, 2009).

Our focus in the first part of our analysis will be on the discourse appearing on websites and materials proliferated by two of these organizations: the American Immigration Lawyers Association (AILA) and the Immigrant Legal Resource Center (ILRC).⁵ Out of a vast apparatus, we selected and chose to focus on these groups specifically because we feel that highlighting how responsabilization has affected these historically progressive immigrants' rights organizations is a most compelling way to reveal the power of the neoliberal order.⁶ Just as our intent is not deny the seriousness of notario fraud or to make light of its consequences, our goal is not to disparage the efforts of these advocacy groups or to claim that they are unaware of the structural barriers we claim are being obscured

(indeed, see American Immigration Lawyers Association, 2013b). Rather, we seek to demonstrate through our critical analysis of these immigrant advocacy groups' discourse the far-reach of responsabilization and the ubiquity of a neoliberal world-view. In other words, while well intended, we contend that these educative narratives emerge as problematic when considered in light of the structural realities that many immigrants confront.

In the second part of our analysis, we turn our attention to symbolic enforcement. While private organizations have teamed up with federal agencies to foster education, state attorneys general have simultaneously emerged as key federal confidantes on the enforcement front. In order to investigate how the state postures as 'tough' on notario fraud, we thus examine press releases unveiled by federal agencies and attorneys general from various states.⁷ Here we show the state 'acting out' (Garland, 2001: 141), creating a spectacle of law enforcement in order to demonstrate control of a dire situation. When understood as a form of neoliberal governance, we contend that such posturing problematically oversimplifies the problem and effectively enables the continued exploitation of marginalized immigrant populations.

'Protect yourself. Protect your family. Protect your dreams': a criminology of the self

'Don't be fooled!'

The materials and websites designed to combat notario fraud are replete with examples of responsabilizing narratives that suggest immigrants 'protect themselves better'. Immigrants are presented as confused, afraid, and threatened and they are encouraged to overcome these feelings by becoming smarter and more discerning consumers. The cover page of the ILRC's comic books is telling in this respect, as it features a woman facing straight ahead, pointing her finger at the reader, saying, 'Don't become a victim of immigration fraud!' (Immigration Legal Resource Center, 2009).

Dwelling on the cultural misunderstanding of the difference between notary publics and notarios was perhaps the most prevalent means through which groups combating notario fraud transmitted this message. A video from the AILA's stopnotariofraud.org focused on the 'confusion' that many immigrants experience, noting that 'the problem is that there is a lack of understanding of what notary public means in Mexico and what notary public means in the States' (American Immigration Lawyers Association, 2013a). As a representative from the ILRC similarly put it in one of the organization's 'training videos', part of the problem is that 'immigrants do not know how to assert their consumer rights' (Immigration Legal Resource Center, 2013).

Pro-immigrant advocacy groups also urge immigrants to be more responsible. An AILA (2013a) video describes itself as being 'intended to assist consumers in avoiding confusion between notaries and notarios when seeking legal help with immigration matters'. The AILA advises vulnerable immigrants not 'to be afraid to ask for information' and to be more responsible consumers: 'Because it is a service. One is paying for a service' (American Immigration Lawyers Association, 2013a). Likewise, the ILRC's (2013) training video states unequivocally, 'looking out for immigration fraud is

essentially educating immigrants to be careful consumers'. The dominant narrative of advocacy organizations is, in short, one of wise consumerism. Immigrants are told to 'watch out', 'be careful!', 'protect yourself and your family' (Immigration Legal Resource Center, 2013), 'be smart', 'use your common sense', 'get informed', 'follow these simple guidelines', and 'don't be fooled!' (American Immigration Lawyers Association, 2013a).

Wise consumerism as responsabilization

There is little doubt that these advocacy organizations are trying to protect immigrants' best interests. Yet the narrative of the wise consumer is especially problematic when considered in the broader context of neoliberal governance. As scholars have noted, under neoliberalism, 'the status of the democratic citizen, positioned as one who must decide and act collectively with others to gain preferred policy outcomes, has been eroded and partly displaced by the individualistic market roles of consumer, worker, and paying customer' (Schram et al., 2010: 742–743; see also Soss et al., 2011). Advocates in this way are encouraging immigrants to strive to attain the status of citizen-consumer. Yet what is obscured is that the exploitation, racism, and attendant marginality that so often accompanies immigration makes such a status *nearly impossible to attain* for so many. Kitty Calavita (2005: 163) makes this point in her study of immigration in Spain and Italy. When consumption becomes a determinant for citizenship, it inevitably precludes from civil society those who lack the capacity to consume:

Because of the nature of immigrants' participation in the marketplace—as discounted labor—they can never be full members of this community of consumption. Thus, it is not their exclusion from community in some traditional sense that characterizes their experience of marginality ... Instead, it is their lack of standing as unencumbered consumers that defines their—and many others'—status as *de facto* non-members.

The racism that many immigrants confront confounds matters even further. As a recent study by Pat Rubio-Goldsmith and colleagues (2009: 93) found, simply 'appearing Mexican' is the best predictor of being mistreated by immigration authorities. Pushing 'good consumption habits' on already marginalized and racialized immigrants, in other words, lends further support to a system that is patently exclusionary.

Once again, we are not suggesting that immigrant-advocacy groups are unaware of these structural barriers. We acknowledge that these organizations have long fought against the exploitation of immigrants and are doing what they can in this larger context to protect immigrants from further hardship (i.e. becoming the victims of fraud). Yet when seen in the context of responsabilization, our contention is that the mission of combating notario fraud is problematic when left in the hands of under-resourced private immigration advocacy organizations. However well intentioned private advocacy groups may be, the dislocation of the state under neoliberalism dramatically limits their ability to confront the enormously challenging problems of immigrant exploitation and the hypocrisy of continued aggressive deportation campaigns by the very state that claims to protect immigrants from notario fraud.

Promoting the 'American Dream'

Another tendency of advocacy groups working in the anti-notario fraud apparatus is the uncritical promotion of the mythical 'American Dream'. Organizations present the 'American Dream' as unattainable only because individual migrants 'fail' to select an immigration attorney. The banner displayed on the AILA's stopnotariofraud.org prominently features the lines 'Protect yourself. Protect your family. Protect your dreams' above an image of the American flag. Scrolling further down the page, one is presented with a capitalized warning: 'NOTARIOS WILL TAKE YOUR MONEY AND YOUR DREAMS' (American Immigration Lawyers Association, 2013a). In short, the implication is that these dreams are indeed attainable and only notarios stand in the way: 'Many noncitizens find out they will never get their green card or other immigration benefits because an unqualified ... notario ... unlawfully destroyed their dreams' (American Immigration Lawyers Association, 2013).

Self-protection as disciplinary

Neoliberal governance of vulnerability in this way extends beyond encouraging good decisions. Those who fail to 'consume effectively' are cast as *responsible for the consequences*, including the failure to realize one's 'dreams'. A second critique of anti-notario fraud discourse is thus that 'self-protection is *disciplinary*. It requires individuals to regulate their practices ... it conscripts them as citizen-soldiers in the war on crime, drugs, terror and weak national economies' (Monahan, 2009: 164). By heightening the emphasis on individual responsibility, the state's absence is justified: *Why should the state intervene when a system is in place that fosters the success of those who manage to navigate it correctly?* This hands-off approach is a hallmark of immigration politics in the USA, especially in recent decades. The promotion of the 'American Dream' more generally—a trope commonly used in discussions of immigration issues (i.e. the DREAM Act)—further obscures broader global economic conditions of exploitation and marginality. In other words, when such individualistic 'dreams' are cast as being elusive because immigrants cannot 'protect themselves', the illusion of a few irresponsible immigrants is reified while structural realities are obfuscated. The focus on individuals caught unprepared to navigate a climate of risk legitimizes an exploitive system by depicting US immigration policy as at least potentially 'inclusive' and 'fair' when a mountain of evidence to the contrary suggests otherwise (e.g. Bosworth, 2008; Calavita, 1994; Coutin, 2000, 2007; De Genova, 2002; Fleury-Steiner and Longazel, 2010; Fussell, 2011; Inda, 2006; Johnson, 1996; Longazel, 2013; Longazel and Fleury-Steiner, 2011; Mitsilegas, 2012; Ness, 2011; Nevins, 2007; Rubio-Goldsmith et al., 2009; Varsanyi and Nevins, 2007). Indeed, as the *AILA itself* (2013b) has noted in other contexts:

Current immigration laws and policies deny basic due process to millions of people who live in the U.S. Long-time residents are subject to deportation even when they have strong ties to the community, pay taxes, and desperately want to become full-fledged members of our society.

'I'm here. Find me. Throw me in jail. Deport me': the denial of state violence

Immigrants who fail to consume legal services 'well' are also discursively blamed for their subsequent plight, including deportation. Again the state is conspicuously absent, and, as a result, any harm immigrants experience (e.g. deportation) is construed not as state violence but rather as the carelessness of immigrants who should know the law. A diagram featured in one news report about notario fraud (Hyde, 2010) labeled 'A tale of two immigrants' is instructive here. It presents two figures representing immigrants traveling along differing paths. The first figure is led on a path that goes through a red building marked with the word 'notario', before ending up at the word 'deportation'. The second figure, in contrast, is shown moving through a green building labeled 'licensed attorney' and ending up at 'citizenship/work visa'. Rather than an accurate portrait of a profoundly broken system, deportation is portrayed solely as something the immigrant brought upon him or herself. The state is not even presented as an entity in this portrayal. This theme is prominent in anti-notario fraud materials: the AILA (2013a) insists, 'Get informed before acting so that you don't end up deported'; the USCIS warns that 'going to the wrong place can ... possibly lead to removal proceedings'; and an AILA (2013a) attorney poses the rhetorical question which blatantly implies that 'foolish immigrants' bring this upon themselves: 'why are you going to yell at La Migra: "I'm here, find me, throw me in jail, deport me"?"

What is perhaps most problematic about this particular narrative is the cruel irony buried within it. The message seems to suggest that simply following proper procedures and avoiding foolish mistakes will decrease the number of deportations. Yet this message is being proliferated at a moment when the number of deportations in the USA is at an all-time high. It might alternatively be read, then, as serving the purpose of supporting 'good' immigrants (i.e. neoliberal subjects) on one hand while *justifying* the elimination of 'bad' immigrants (i.e. those who fail to learn how to consume effectively) on the other. This is a message embodied in the Obama administration's support of the DREAM Act and simultaneous commitment to deporting immigrants who commit crime.⁸ What is presented as an effort to help, in other words, may have the opposite effect of better positioning the state to exercise its repressive power.⁹

Fighting 'predators' and defending neoliberalism: a criminology of the other

'Cracking down'

While governmental and private organizations form partnerships that educate immigrants to be 'responsible consumers', the state simultaneously broadcasts its enforcement efforts, symbolically demonstrating that they are taking action on the problem. Federal agencies and numerous state attorneys general have issued a number of press releases pertaining to notario fraud, which clearly exhibit such posturing. A general trend in these documents is the construction of notarios as dangerous, threatening outsiders.

Notarios are described with ubiquitous phrases like ‘unscrupulous’, ‘unethical’, and ‘predatory’ while words such as ‘take advantage of’, ‘exploit’, and ‘prey on’ are used to describe what they do. In contrast, terms such as ‘vulnerable’, ‘desperate’, and ‘unsuspecting consumers’ describe immigrants, helping construct them as little more than ‘potential victims’.

The implication of such discourse—as has been the case in the general political framing of law and order issues in recent decades (Beckett, 1997; Simon, 2007)—is that notario fraud must be met with swift, punitive law enforcement tactics. Attorneys general commonly employ terminology such as ‘taking a stand’ (New Jersey Attorney General, 2011), ‘aggressively pursue’ (Missouri Attorney General, 2011), ‘crackdown’ (Texas Attorney General, 2011) and ‘will not tolerate’ (Washington Attorney General, 2011). Often accompanying such ‘tough on crime’ rhetoric are specific examples of prosecutorial action. Rather than presenting specific descriptions of the scope of the problem or elaborating upon its cause, each press release provides examples—in many instances, of a single case (e.g. Department of Justice, 2011)—which suggest that efforts to crack down on notario fraud have already begun. Missouri Attorney General Chris Koster’s comment on a restraining order his office filed against a company unlawfully providing immigrants with legal services is illustrative:

This temporary restraining order will prevent this company from defrauding further unsuspecting consumers who are trying to follow the law. In the meantime, this office will aggressively pursue this company and any other company that tries to steal money from vulnerable, trusting consumers.

(Missouri Attorney General, 2011)

Press releases also depict law enforcement efforts on this front as exceptional. The Combating Immigration Service Scams initiative was described by multiple sources as ‘historic’ (e.g. Department of Justice, 2011) and ‘unprecedented in scope’ (e.g. National Notary Association, 2011). Others boasted of the collaborative nature of these efforts, implying that with multiple organizations working together, notario fraud can effectively be stopped. Texas Attorney General Greg Abbott, for example, boasted of a ‘force multiplier effect’ that would result from such collaboration (Texas Attorney General, 2011). In short, these messages provide ‘the appearance that “something is being done” here, now, swiftly and decisively’ (Garland, 1996: 451).

Defining the right to exploit: theorizing the state’s investment in combating notario fraud

State motives in combating notario fraud are curious, especially given the contemporary climate where hostile immigration laws abound. The actual motives of the state are difficult to uncover, especially when relying on the materials we draw from here; yet, it is possible to use what we know about immigration control in the neoliberal era to theorize the state’s investment in combating notario fraud. We contend that when these actions are understood as a reassertion of sovereignty and linked to continued neoliberal reliance on

exploitable immigrant labor, several reasons for why the state is so invested in combating notario fraud become clear.

The first reason is that *notarios threaten the state's sovereignty to deny citizenship*. Nicholas De Genova (2002: 438) has written about the notion of *deportability*, pointing out that most federal immigration enforcement agencies are 'neither equipped nor intended to actually keep the undocumented out'. Instead, 'some are deported in order that most may remain (un-deported)—as workers, whose particular migrant status may thus be rendered "illegal"' (De Genova, 2002: 439; see also Calavita, 2005: 74). Seen in this light, notarios are impinging on the state's ability to manufacture deportability, and therefore 'must be stopped'. When an immigrant is deported because of the fraudulent practices of a notario, the state's crop of exploitable workers is effectively reduced. At the same time, deportation that is the result of the fraudulent practices of notarios sends a very different message in comparison to deportation accomplished after the state decides on 'fair legal grounds' that a person should be deported. Stated differently, immigration enforcement is 'implicated in importation as much as deportation' (De Genova, 2002: 439; see also Calavita, 1992) and it follows the prerogative of protecting immigrants from fraud, much like the prerogative of immigrant criminalization, is part of a much larger effort to assure persistence of a group of exploitable laborers.

Along similar lines, the state also has an interest in keeping its sovereignty over the *granting of citizenship*. With the narrative focused on 'bad apples' and 'unfortunate victims', a key point is overlooked: *not all notarios are deceitful*. Many engage in legitimate advocacy, even if their actions are technically illegal. As Anne Langford (2004: 125)¹⁰ writes:

... not all notarios are out to cheat their clients. Indeed, some are likely more knowledgeable and skilled than some of their attorney counterparts. Although stories of abuse and exploitation of immigrants are the only ones brought to the public's attention, one can imagine that some notarios have a satisfied clientele and faithful community following. Indeed, notarios—like translators and interpreters—can serve important roles as a link between immigrant communities (forced further 'underground' in times of anti-immigrant sentiment) and the rest of society. Some Latino immigrants view notarios as extensions of their friendship networks, and efforts to stop their work 'have generated considerable opposition from immigrants and community associations who work closely with them'.

On closer inspection, a different picture thus emerges. Rather than 'dangerous criminals', many notarios are advocates who are striving to help other members of immigrant communities navigate a notoriously complex and repressive system of immigration law. Seeing notarios as potential advocates in this way illuminates a system that looks less like a Ponzi scheme and more like the Underground Railroad. Some notarios are people operating outside the confines of formal law seeking to bring exploitable, racialized immigrants through an arduous legal process thereby allowing them to shed their 'undocumented legal status [which] has long been equated with the disposable (deportable), ultimately "temporary" character of the commodity that is their labor power' (De Genova, 2002: 438).

To be sure, an examination of notario fraud cases does reveal that many are engaging in deceptive and fraudulent practices. Yet when considered as part of the recent

political economy of immigration in the USA, it becomes apparent that notarios in many respects *embody* the values of post-industrial society. Even those who engage in fraud can be seen as creative and flexible entrepreneurs (Monahan, 2009; see Comaroff and Comaroff, 2000 for a discussion of similar 'occult' economies). Again, this is not to suggest that what they are doing is necessarily laudable, but rather to point out that as post-industrial entrepreneurs who find unique ways to profit and who engage in the exploitation of vulnerable immigrants, notarios are not so easily differentiated from US corporations with long and disturbing records of reliance on exploited immigrant labor. Indeed, as Immanuel Ness (2011: 51) documents in his sweeping history, such companies with long histories of exploiting guest workers and undocumented immigrant labor have been described for generations by US political elites as 'vital to future business growth'. The glaring difference between the two entities, of course, is that notarios are criminalized, demonized, and constructed as dangerous while corporations are heralded and constructed as vital to fostering 'economic growth' (see Darrow, 1922 for a similar argument). In this important respect, then, we can understand the state's investment in combating notario fraud as defending their monopoly over immigrant exploitation.

The narrow criminalization frame also misses the nuance of the situation in one final sense: many notarios are themselves marginalized by the neoliberal order. In reviewing anti-notario fraud materials, we found no discussion about the conditions that led these individuals to commit fraud. The only time any further explanation is given, it is in the context of a warning. Immigrants are told to beware because notarios could be members of 'the same ethnic community' (American Immigration Lawyers Association, 2013a) or 'newcomers themselves' (Semple and Manrique, 2009). Such discourse suggests plausibility in the interpretation that notarios are themselves marginalized by the same structural conditions as the unsuspecting immigrants the anti-notario fraud apparatus portends to protect. Advocacy groups and law enforcement officials alike, however, depict the notario fraud problem as though this shared experience of oppression may not even exist. In this way, the state is able to posture as an entity dedicated to combating fraud without having to confront the deeper structural issues that are responsible for immigrant and notario marginalization. Instructive to this point is a comment made by Senator John Feinstein in support of anti-notario fraud efforts at a legislative hearing. Feinstein declared that he 'just hates people to take advantage over very vulnerable people' (US Senate, 2010). By overlooking exploitation and poor worker protections as a primary source of immigrant vulnerability—and, indeed, a longstanding structural inequity the state has no interest in eradicating (e.g. Calavita, 1994)—such comments enable the state to show concern for vulnerable immigrants without threatening the market imperatives of neoliberalism.

In short, framing immigrants as potential crime victims reifies neoliberalism. It maintains the state's sovereignty over having the ability to grant and deny citizenship and at once continues to perpetuate an exploitable class of workers. At the same time, it diverts attention away from the very ills engendered by the neoliberal regime. Attention to exploitive companies is deflected toward 'exploitive notarios' and the state's expression of concern for vulnerable immigrants permits humanitarian state posturing amid looming structural violence.

Conclusion

Despite what appears to be a shift away from decidedly anti-immigrant rhetoric and toward a narrative that privileges ‘protecting’ vulnerable immigrants, we have argued here that efforts to combat notario fraud nonetheless amount to neoliberal governance. Our intent was not to short shrift the efforts of those seeking to protect immigrants from fraud, but rather to illuminate how they operate within a broader neoliberal regime. Drawing attention to the ways that the state’s responsabilization strategy is aimed at enlisting advocates (as well as immigrants, notarios, and others) into the broader field of regulating immigrants, shines a bright light on how efforts to ‘wage war’ on notarios invests in the continued perpetuation of an exploitable immigrant workforce.

In this respect, we believe that in addition to contributing to an understanding of the neoliberal governance of immigrants, our research can also be read as a cautionary tale. While it is not surprising that immigrant advocacy groups celebrate government programs that represent a shift away from blatant anti-immigrant hostilities, the efficacy of such programs, as our analysis has suggested throughout, should be carefully evaluated, for they have the potential to further entrench a neoliberal worldview.

In this sense, our focus on notario fraud provides broader insights into the struggle for immigration reform in the USA. A recent proposal for comprehensive immigration reform is instructive. While understandably embraced by many immigrants’ rights advocates, such proposals embody responsabilization and promise to do little in the way of ending exploitation. A recent document released by the Senate ‘Gang of 8’ focused squarely on satisfying economic imperatives with no attention to the exploitation of undocumented labor. It also responsabilizes organizations, citizens, employers, and immigrants themselves. Perhaps most strikingly, the proposal sought to form a ‘commission comprised of governors, attorneys general, and community leaders living along the Southwest border to monitor the progress of securing our border’. Additionally, employers are required to ‘confirm whether new hires are legally authorized to work in the United States’, and immigrants must prove themselves as ‘responsible citizens’ before they are even eligible to begin the long, arduous path toward citizenship (US Senate, 2013). While proposals for comprehensive immigration reform—at least at the time of this writing—appear pro-immigrant on their surface, in the end, as we have argued throughout, they may continue to legitimize structural arrangements that are anything but.

Notes

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1. Our use of the term ‘neoliberalism’ aligns with David Harvey’s (2005: 2) conception of this contemporary political-economic form:

Neoliberalism is in the first instance a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices.

2. As Monahan (2009: 157) aptly observes in relation to identity theft, the word 'myth' is used here not to imply untruthfulness, but rather to allude to the extent to which the response to such crimes represents 'a social construction ... [with] symbolic force to organize social life and normalize neoliberal power relations'.
3. The American Bar Association (ABA) maintains a list that includes a sampling of such cases. See http://www.americanbar.org/groups/public_services/immigration/projects_initiatives/fightnotariofraud/attorneyresources/attorneyresources_cases.html (accessed 13 May 2013).
4. The ABA's involvement in this campaign indeed raises important questions regarding issues of professional monopoly. While our focus here is more narrowly on how state efforts to reinforce neoliberalism are filtered through private organizations, we do intend to investigate such issues in subsequent stages of this project.
5. Each of these organizations maintains a website devoted to anti-notario fraud efforts (i.e. www.stopnotariofraud.org, <http://www.ilrc.org/policy-advocacy/anti-fraud-campaign>) and we subject all materials available on these sites (including text, videos, brochures, etc.) to analysis.
6. We by no means claim that our analysis of the discourse of these two organizations is exhaustive. The anti-notario fraud apparatus extends well beyond these groups to include state and local governments as well as other organizations operating at various levels. Nevertheless, we feel as though a focus on these two 'key players' both presents an overview of the discourse that surrounds anti-notario fraud efforts and provides concrete evidence to support our larger theoretical argument. We should also note that a brief review of the anti-notario fraud rhetoric deployed by those in other levels of government (e.g. state agencies) and by organizations whom we did not focus on suggests that the rhetoric we describe here is indeed widely adopted.
7. Specifically, we used a list released by the Federal Trade Commission of state attorneys general participating in the Combating Immigration Services Scams initiative (Federal Trade Commission, 2011). From there, we sought out press releases from each of these state attorneys general on the issue of notario fraud and conducted a content analysis of all such documents that were available. Perhaps unsurprisingly, some states were more involved with the issue than others, and, as a result, not every participating state was studied.
8. This political position is quite evident in Barak Obama's remarks during the 2012 State of the Union Address:

I believe as strongly as ever that we should take on illegal immigration. That's why my administration has put more boots on the border than ever before. That's why there are fewer illegal crossings than when I took office. The opponents of action are out of excuses. We should be working on comprehensive immigration reform right now. But if election-year politics keeps Congress from acting on a comprehensive plan, let's at least agree to stop expelling responsible young people who want to staff our labs, start new businesses, defend this country. Send me a law that gives them the chance to earn their citizenship. I will sign it right away.

(Obama, 2012)

9. In their analysis of supervised injection sites (SISs) for intravenous drug users, Benedikt Fischer and colleagues (2004: 363) point out a similar irony. Just as SIS and other 'harm reduction' strategies proliferated in Vancouver, repression against illicit drug users actually intensified. Such programs—which, not coincidentally featured public–private partnerships—they point out, had the effect of separating those drug users who were 'bound more closely into existing and new systems of surveillance and control' from those who were

unwilling to take advantage of such programs. As a result, the state was able to posture as benevolent for helping some, and this posturing, in turn, made punitive measures ‘appear all the more justified’ for it targeted those who were now seen as “‘high-risk”, “‘beyond help”, or even “‘dangerous””.

10. To be sure, Langford’s review essay appears purposed to call attention to the harms of notario fraud. The quote we provide here is just a caveat that she offers. While Langford acknowledges that many notarios are helpful, she also makes that point that some are indeed deceitful and despised in immigrant communities. Again, our position in pointing out the possibility of the positive assistance notarios may provide is not to defend the unauthorized practice of law as appropriate. Rather, by drawing attention to these inherent complexities one can see how the neoliberal regime benefits.

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