

BOOK REVIEW*

The Invention of the Passport by JOHN TORPEY
(United Kingdom: Cambridge University Press, 1999) pp 272.
Recommended retail price \$A90.00 (ISBN 0 52163 249 8).

The Invention of the Passport serves as a powerful antidote to two common perceptions of passports in particular and migration controls more generally. The first myth which is dismantled is the idea that passports are something to be taken for granted, something which is almost naturally occurring. Equally importantly, however, John Torpey confronts the conventional wisdom of migration scholars that the passport, and the idea of migration control which grounds it, are inventions of the early 20th century. The book gathers together diverse historical evidence and reassembles it to tell the story of the gradual emergence of the contemporary passport over the past three centuries.

By far the most appealing aspect of the work, in my view, is the carefully constructed thesis that Torpey sets out in the first chapter of the book. There are three planks to his argument, which dovetail to form a sophisticated and original analysis. The first building block in his argument is that theories of the state that assert the capacity of states to penetrate societies rarely articulate an explanation for how this penetration occurs. Drawing somewhat obliquely on a Foucauldian governmentality analysis, Torpey argues that states achieve societal penetration by 'embracing' their populations, and that the administration of sophisticated identification systems is the principal means of achieving this embrace. The second key aspect of Torpey's argument is that the progressive advance of the use of passports as a means of controlling populations is not merely an activity carried out by sovereign states. Instead, it is an activity which is constitutive of sovereign nation-states as we recognise them today. The capacity to control populations in this way, and the fact that this becomes a primary state objective is bound up in the nature of 'state-ness.' The final plank of Torpey's central argument, which is a conclusion drawn from the previous two (although he states it at the outset), is that modern states have expropriated for themselves a monopoly over 'the legitimate "means of movement", particularly though by no means exclusively across international boundaries'.¹ With this conscious echo of Marxian and Weberian analyses of the logic of states, Torpey positions his work

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1 John Torpey, *The Invention of the Passport* (1999) 4.

as contributing to an understanding of contemporary states in the historical periods following those theorists.

Following this theoretical positioning of his work, Torpey presents four chapters which focus in extensive detail on developments contributing to the evolution of the contemporary passport. Torpey presents this recount by sketching a series of snapshots of events unfolding in Europe and, to a lesser extent, in the United States ('US'). The work is neither comparative – because it considers different places at diverse points in time to make differing arguments – nor comprehensive – because it highlights particular events rather than telling a linear story, and does not claim to be. Indeed, given that the historical material is drawn from existing analyses, such ambitions would not be appropriate. The overall effect is convincing, presenting an expanse of historical development concisely. Torpey queries the historical accuracy of some of migration history's best known stories, such as the effect on German Jews of migration restrictions in the lead up to World War II. While ultimately not proffering a new orthodoxy, Torpey probes the past and pleasingly allows competing accounts to run parallel courses.

One of the most impressive effects of the historical detail presented by Torpey is that it makes apparent the extent to which contemporary debates about migration policies simply reflect and refine discursive currents which have been present since the very idea of having a migration policy was initiated. Periods of economic liberalism, as well as prosperity, are accompanied by permissive approaches towards population movement and political rhetoric about the importance of open borders. When the state is threatened, as in times of economic pressure or war, the attitude towards migration is restrictive. At these times, states assert a need to separate members from others, 'us' from 'them,' in order to limit their obligations or to ensure the availability of support from their populations. Policies today reiterate these positions and postures with astonishing accuracy.

A closely related insight of Torpey's work is the strong class effects of migration controls. While those who are privileged are not always the same, international and national mobility are clearly aspects of privilege. Torpey demonstrates these effects at several intervals, for example, in considering the effects of England's poor laws on mobility and in looking at Germany's regulation of vagrants at various points in time. The class effects of migration restrictions are highly topical. In an era where globalisation is itself becoming trite, a growing number of 'citizens of the world' contribute to new understandings of what constitutes privilege – new ways of conceiving of class. Contemporary stowaways dying in transit to Britain, the US or Australia are often labelled 'mere economic migrants', a clear class marker. Mobility itself is privilege.

Torpey also makes the point that identity, and particularly national identity, is not independent of the documents which 'prove' it. There is simply no way of looking at someone and deciding what state they 'belong' to. The equally fraught concept of 'race' complicates rather than clarifies. Because race is more amenable to attempted readings from the body, it is all the more confusing, more

vulnerable to stereotype, more inviting of invidious discrimination and simple error. Without a document of national identity, not only is identity unknowable, it is non-existent. If nations did not choose to identify members in this way, individuals would not experience identity in this fashion. Torpey makes this point but perhaps does not press it as fully as he could given the extent to which this insight may be counter-intuitive to readers outside disciplines (such as sociology) which have thoroughly scrutinised identity for at least the past decade.

This disciplinary point is important when considering the book from a lawyer's point of view. The passport, and all forms of identity documents, are legal documents. The primary events in Torpey's narrative are legal events: edicts are proclaimed, laws are passed, enforcement is carried out, challenges are brought. Reading from a lawyer's vantage point, the story appears as a legal one. Reading it in a sociologist's language serves as an important reminder of the social embeddedness of law and of law's position as only one competing societal discourse. Some aspects of the book are frustrating for a lawyer: there are few citations to primary legal sources and some flat assumptions (particularly about international law) that portray 'the law' as a stable and fixed backdrop to other events. These points are minor, however, unless the reader is looking primarily for a comprehensive account of legal developments.

My principal disappointment with the book is that the strong and nuanced argument of the first chapter is not prominently emphasised and refined in the more substantial empirical chapters. I would have found it helpful to see a focused discussion of the minute functioning of governmentality in the subsequent chapters in order to more fully elaborate the picture of the state's embrace of its citizens. While Torpey observes at several points that the enforcement of particular laws was uneven, I would like to know more about the precise mechanics of this unevenness and how it would have been experienced by individuals. I believe the Foucauldian style of analysis, which Torpey draws on in developing his thesis, could have been further exploited to good end in the rest of the book. It would have added to the analysis by extending the context of the passport somewhat, for example, by considering who chooses to obtain a passport, the mechanics of obtaining a passport, and the fact that a great many citizens of all countries of the world do not possess passports for some, most, or even all of their lives. The brief analysis of identity cards commences this work, but does not complete it. And, as with the empirical chapters, the conclusion does not return to a further development of the initial arguments. Given the strength of those arguments, this seems to be a missed opportunity.

The only other minor criticism I would raise is that Benedict Anderson's seminal analysis of the nation as an imagined community² does not deserve the short shrift Torpey gives it.³ Anderson's work is fully attentive to the prominent

2 Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (2nd ed, 1991).

3 Torpey, above n 1, 6.

role of administrative and bureaucratic structures in the emergence of 'nation' as a concept, and, to that end, clearly coincides with Torpey's work.

Overall, *The Invention of the Passport* is an informative work with some compelling insights to offer. It would provide a strong basis for further work extending the detailed analysis to the contemporary era and it presents an invitation to legal scholars to complete some of the legal pieces of the puzzle.