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Understanding the Mobilities of Indigenous Migrant Youth Across the Americas

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Abstract: Enhanced immigration enforcement measures are now a dominant practice throughout the world. The concept of transnationalism, used by scholars to illuminate the complex dynamics these measures have across nation-state borders, has been critiqued for its replication of methodological nationalism—the assumption that the nation-state is a natural social and political form of the modern world. How then can migration scholars deepen the understanding of the mobilities of migrant children and youth without replicating methodological nationalism? We propose a relational socio-cultural analytic that synthesizes settler colonial theory and the theory of racialized legal status to comprehend the complex experiences of Indigenous migrant Maya youth and families throughout the Americas. Our use of a relational critical comparative analysis challenges structural functionalist approaches that limit the study migration dynamics within nation-state contexts, which can unwittingly sustain national membership in a state(s) as an aspirational emblem of belonging. We explore how Indigenous Maya experience and challenge the meaning of statelessness and the spillover effects of immigration enforcement measures along the US–Mexico and Mexico–Guatemala borders. We argue that a relational socio-cultural analytic lens serves as a powerful tool for understanding how nation-states co-produce stateless Indigenous populations and how these populations persist throughout the Americas and the world.

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1. Introduction

Over the last three decades, “immigration” enforcement in the Western hemisphere has created an environment in which migrants¹ and their US-born children are vulnerable to family separation. Young migrants and their families must maneuver within hostile environments to access legal, educational, and health institutions that are integral to their settlement and incorporation in the United States (Waters and Pineau 2015). Scholars have illustrated specific ways in which the intensification of “immigration” laws across the hemisphere has created unwelcoming environments for migrants in their places of origin, transit, and destination (De León 2015; Frank-Vitale 2020; Aranda and Vaquera 2015).

Scholars have used the concept of transnationalism to refer to the ways nation-states² regulate populations across borders (Mountz 2011; Waldinger 2015) and the relations of nonstate entities—communities, families, friends, compatriots—across national geographies (Basch et al. 1993; Schiller et al. 1995). Many researchers have used transnationalism to show how diaspora communities sustain communal ties across nation-state borders (Fox 2005; Smith 2005). Others, however, have noted that bolstered immigration enforcement policies can constrain such efforts and ultimately compromise these ties (Berger

Cardoso et al. 2016; Aranda et al. 2014; Waldinger 2017). While the concept of transnationalism has proven helpful in illuminating these complex dynamics, Nina Glick Schiller (2010) called attention to the ways scholars of transnational migration³ bound their unit of study within national contexts. In other words, the use of transnational as an analytic concept replicates methodological nationalism—the assumption that the nation-state is a natural social and political form of the modern world (Wimmer and Schiller 2003).⁴ How then can migration scholars deepen the understanding of the mobilities of migrant children and youth without replicating methodological nationalism?

To help answer this question, we explore how certain scholars have moved toward de-centering the nation-state as a unit of analysis in social scientific research. This scholarship informed our use of a relational cultural analytic lens to understand the complex factors that shape the cross-border mobilities of Indigenous Maya from Guatemala.⁵ We focus on this region (1) because US enforcement of “immigration” policies has increasingly extended beyond the territorial boundaries of the United States and Mexico to include Central America, and thus we hope to (2) account for how processes of racialization shape the subjective experiences of Indigenous migrants, and (3) illuminate how statelessness complicates the experiences of Indigenous Maya throughout their migration journeys.

In the pages that follow, we situate the current study by briefly reviewing the most relevant literature in migration studies, both more traditional scholarship and recent critiques of the literature. Specifically, we detail how racialized legal status operates to produce statelessness and illegality. We then provide an overview of the cross-border mobilities of Indigenous Maya from Central America,⁶ outlining the structural dynamics that contribute to “emigration”⁷ and the role of states in bolstering “immigration” enforcement in the region. Finally, we show how these processes jointly delimit the rights of Indigenous Maya in their places of residence.

Cross-Border Mobilities in the Twenty-First Century

Policymakers and pundits often use the language of “crisis” to depict illicit migration from Latin America to the United States (Hernández 2015). Scholars have described this language as part of a broader strategy by state interests to evade an analysis of how historical inequalities inform the power dynamics that undergird global capitalism (Golash-Boza 2015). The field of migration studies has been slow to study these dynamics. For example, an entire area of study focused on how foreigners confront ethnic, racial, gendered, and class barriers as they “assimilate” to the “dominant” culture of host nation-states (Portes and Zhou 1993; Waters and Jimenez 2005).⁸ Such work led scholars to uncover how the interdisciplinary field of migration studies builds on a broader legacy that privileges state territoriality as a natural feature of the social order, distinguishing insiders (citizens) from outsiders (noncitizens) (Wimmer and Schiller 2003). According to Lisa Malkki (1995), state territoriality reproduces the “national order of things”. Together, the understanding of migration as an episodic “crisis” and the focus on the assimilation of “outsiders” to the nation-state have served to prevent a critical comparative analysis⁹ of the cross-border mobilities of people throughout the Americas.

Feminist and critical ethnic studies scholars have been at the forefront in applying a critical comparative analysis of the forces that contribute to outmigration from less affluent to more affluent countries, which are inextricably linked to imperial and colonial projects, militarization, and global political economic inequities (Chang 2000; Lowe 2015; Espiritu 2014). These same factors have contributed to the production of displaced populations—individuals who are not recognized as nationals of any country—within the territory of nation-states (Walia 2021). The absence of an adequate enforcement mechanism in international law to ensure the right to nationality, combined with armed conflict, generalized violence, and the intensification of “immigration” enforcement measures against racial, ethnic, and religious groups has increased the number of refugees, internally displaced persons (IDPs), and the stateless.¹⁰

Unlike refugees and IDPs, those who are stateless are not considered nationals by any state under the operation of its laws.¹¹ The diminished rights of belonging faced by stateless people reflect the experiences of these noncitizen populations, which have compelled scholars to reconceptualize statelessness as forced displacement (Belton 2015). This article builds on these insights to explore how global political dynamics—including colonialism, state violence, and the imposition of free trade agreements—have shaped the production of the outmigration of forcibly displaced stateless populations from Latin America to the United States.¹²

Successive interventions by the United States reinscribed Latin American states as nominally independent, and at the same time enabled political and economic reforms that increased social inequalities (Grandin 2010). In the case of Guatemala, three primary factors—Indigenous land dispossession, taxation, and the use of debt labor to support an agro-export economy by *Ladino*¹³ and Indigenous Maya elites—enabled the exploitation of the Indigenous population (Grandin et al. 2000). Under the pretext of eradicating communism, the United States supported successive regimes that used scorched-earth military methods to decimate largely Indigenous Maya communities.¹⁴ During the Guatemalan Civil War (1960–1996), as many as 150,000 refugees, the vast majority of whom were Indigenous Maya, fled Guatemala for Mexico. Although Mexico implemented a naturalization program in 1995, the program ended abruptly in 2005 (García 2006). As a result of these developments, as many as 27,000 Guatemalan Maya who fled the Guatemalan Civil War became stateless throughout Mexico or were propelled to migrate to the United States, where they became undocumented (Ruiz Lagier 2015; Gil-García 2018b).

In an examination of the factors that contribute to statelessness, scholar Lindsey N. Kingston (2017) concluded that “statelessness is both a *cause* of marginalisation as well as a *symptom* of it” (p. 17, emphasis in original). Jillian Blake’s (2017) research on denationalization laws showed that this reciprocal process transpired in the Dominican Republic. The racial marginalization of Haitians contributed to what she called the “race-based statelessness” of Haitians. Stateless Haitians now faced hardened barriers to exercise their political, economic, and cultural rights in the Dominican Republic. Similarly, the statelessness of Indigenous Maya is both symptomatic of and a cause of racial marginalization in Mexico. The ongoing state use of military violence (Klein 2007), the passage of free trade agreements that secure the mobility of capital (Stephen 2001) but restrict labor,¹⁵ and the enforcement of “immigration” policies create conditions that can exacerbate the marginalization of disparaged groups and may increase the size of stateless populations throughout the Americas. Paradoxically, while these trade agreements facilitated the liberalization of trade, they coincided with the intensification of “immigration” enforcement measures throughout the hemisphere (see Section 3.2). According to Giovanni Batz (2021), two factors—structural inequality and state-sponsored violence—are the primary “root causes” of migration that provide a basis for advancing a critical comparative analysis of how nation-states shape human mobility throughout the Americas.

Changes in “immigration” policy are another essential aspect of Indigenous Maya statelessness and migration. In the last ten years, the United States has seen an increase in the number of migrants arriving from Latin America and has bolstered “immigration” enforcement measures, while increasingly outsourcing or externalizing these measures. Externalization, a border enforcement strategy that involves countries of origin and transit preventing migrants from reaching their destination, is now a dominant practice among most industrialized destination states (Frelick et al. 2016). The logic of deterrence informed a US foreign policy that boosted “immigration” enforcement measures in Mexico¹⁶ and regional agreements with Central American countries to stem outmigration (Rietig and Villegas 2015; Echeverria et al. 2015). Externalization, therefore, entails new forms of surveillance of migrant populations, allowing states to evade their obligations to protect asylum seekers and refugees (UNHCR 2010).

Trump administration policies expedited the criminal prosecution of unauthorized migrants and subjected many asylum seekers to family separations, which often ripped

children from their parents who faced mandatory detention and deportation (Muñiz de la Pena et al. 2019; Gil-García et al. 2021). Further, in 2019, the Trump administration initiated the Migrant Protection Protocols (MPP), which requires asylum seekers to remain in Mexico to await their asylum hearing in a US immigration court (DHS 2019); recent studies have found that this policy further exposes asylum seekers to violence (AI 2021).¹⁷

In March 2020, President Trump sought to halt communicable diseases from “coronavirus impacted areas” by invoking Title 42, a public health statute that allows the government to override all other laws and close the border to “nonessential” travel indefinitely (CDC 2020). As a result, “immigration” enforcement continued unabated during the COVID-19 pandemic. Importantly, the Title 42 public health law eliminated the due process protections that allow people to request asylum. Nationality and demographic-specific restrictions implemented by the Mexican government allow the return of Mexican and Northern Triangle nationals but exclude the return of any non-Mexican family with children under the age of seven (GPO 2020). The Mexican government’s requirement to prioritize the repatriation of those from Central America places minors and families from these countries at heightened risk of violence, stigma, and deprivation (HRW 2022). Between March 2020 and February 2022, Title 42 resulted in 1,020,341 Mexicans and 586,052 Central Americans¹⁸ facing expulsion.¹⁹

In May of 2023, the formal end of the COVID-era public health emergency brought Title 42 to a halt; however, this shift coincided with the placement of an additional 1500 active duty military and 2500 National Guard troops along the US border and the implementation of a new “legal” pathway to entry (Romo et al. 2023). Amnesty International has since concluded that this new “legal” measure violates domestic and international laws that require states to ensure that individuals and their families can access their territory and receive a fair assessment of their asylum claims without discrimination (AI 2023).

2. Methods

As part of a larger data collection effort, the lead author used a mixed-methods approach to document the everyday forms of state violence inflicted on Indigenous Maya as well as the resilience they exhibited in the face of this state violence. The larger project entailed primary analysis of survey data, ethnographic observations, and interviews (70 in total, gathered over 36 months between August 2004 and May 2021) with migrants, local officials, youth (ages 14–18), and service providers in Chiapas, Mexico and California, Arizona, and Colorado. Members of the research team (Bové and Vener) developed semi-structured interview questions that explored the following themes: (1) experiences migrating to the United States, (2) factors that led parental figures to return to Mexico, (3) experiences of U.S. citizens during their time as exiles living in Mexico, (4) linguistic barriers faced by minors while in Mexico, (6) barriers to social services, and (7) factors that shaped the return of U.S. citizen minors to their country of birth. Data analysis followed the principles of grounded theory (Charmaz 2011). An initial subset of transcripts were open coded to allow the discovery of emergent themes and topics (Emerson et al. 2011). Once consensus was achieved on the application of codes, the themes were organized into a coding structure and applied to the full set of transcripts, which strengthened the internal reliability and validity of the findings (Guest and MacQueen 2008).

Participants shared information on difficult topics ranging from educational inequities, barriers to health access, ongoing trauma from war, and the impact of endemic poverty on outmigration. In the process, they provided information about how many people remained stateless and how statelessness contributes to extreme vulnerability among individuals and families. The information shared by informants made it ethically and morally untenable to maintain an “objective” distance from their ongoing suffering. Thus, the lead author shaped the study to support community needs, which showed a commitment to informants as they continued to struggle to live with dignity and foster a sense of belonging in the United States and Mexico. This approach of engaged ethnography corresponds with *testimonio*, a research method that involves collecting first-person accounts

with the goal of bearing “truthful witness” to individual and collective violence (Beverley 2004; Holling 2014). These accounts are leveraged as a consciousness-raising tool to elicit political change.

Participants’ *testimonios* exposed the limits of the Mexican government’s short-lived naturalization program (1995–2005)—limits that prevented thousands of migrants from availing themselves of the extension of Mexican citizenship. The larger study traces how systematic denials of legal status in Mexico caused thousands to become stateless in Mexico or had little choice but to migrate to the United States, where they became undocumented. Our article builds on this empirical research to reveal how a relational socio-cultural lens can be used to understand cross-border migration and better reflect migrant experiences. We apply Joseph and Golash-Boza’s (2021) use of Du Bois’s theories of race to show how racialized legal status delimits the rights of citizens and non-citizens in ways that can produce statelessness and illegality, which negatively shape the health outcomes of stateless migrants, their families, and their communities across generations (Torres and Young 2016).

A relational socio-cultural lens is used to frame a snapshot of this larger study, specifically findings from the interviews and participant observation data from one family who faced a prolonged period of statelessness. We examine how this family navigated statelessness, how forms of inequality persisted following their receipt of national citizenship in Mexico, and how “immigration” enforcement measures in the US and Mexico had spillover effects on their US citizen child, David. Our decision to focus on one child’s experience is informed by how, unlike other participants in the study, he became a target of the zero tolerance policy—a US “immigration” policy authorizing family separations (2017–2018). At the request of the child’s mother, the lead author assisted her in locating her husband and son and has continued to work with lawyers and immigration advocates to seek their reunification. As the US government failed to compile data on the families that faced family separation under zero tolerance, our article provides empirical evidence of the long-term consequences of this policy on children and families and the obstacles to meet eligibility criteria established under President Biden’s 2021 Family Reunification Interagency Task Force (hereafter Task Force). We argue that the Task Force, created in response to international condemnation of the intentional separation of families under the zero tolerance program, remains unable to address the spillover effects experienced by as many as 1000 US citizen minors and others who faced separation both during this policy’s tenure and after its termination.

David’s Story

In the late 1990s, David’s parents, Evelyn and Carlos, having fled Guatemala during the Civil War years earlier and being denied legal status in Mexico, had no choice but to leave Mexico and enter the United States to find work. Shortly after their son David was born in the United States in 2003, the US government instituted a nationwide crackdown on “immigration,” prompting Evelyn and Carlos, as well as other unauthorized parents, to avoid being in public spaces and engaging with civic institutions for fear of deportation and separation from their children. In 2007, the couple made a difficult decision: Evelyn would return to Chiapas with David, while Carlos would remain in the United States to send remittances. Two years later, Carlos rejoined his wife and son in Chiapas. The parents’ legal standing as stateless persons prevented them from becoming Mexican citizens, exposing them to discrimination and deportation yet again, this time from Mexico to Guatemala.

A multi-year effort to obtain legalization for those Indigenous Maya who remained stateless led to Carlos and Evelyn being granted Mexican citizenship in 2015 (Gil-García 2018b). However, their new status as Mexican citizens did not alter larger structural factors—racism, gender inequality, government corruption, and high unemployment rates exacerbated by neoliberal economic policies that contributed to a rise to informal labor

(Moreno-Brid et al. 2016). The ongoing economic marginalization experienced by David's parents informed his desire to excel in his studies.

In 2017, after completing elementary school, David told his parents he wanted to return to the United States to continue his studies. His father and mother, aware of the poor educational training and lack of viable employment opportunities in the formal labor market in Mexico, began to consider how they could support their son's wishes. On the morning of 24 November 2017, David and his father surreptitiously crossed the US–Mexico border in the Mexican state of Sonora. Within 20 min, US “immigration” border officials apprehended them. Carlos, unsure if David's US citizenship (granted because he was born in the United States) would allow both to remain in the country, asked border agents what would be required for the pair to obtain lawful entry to the United States, allowing him to economically support the educational aspirations of his son. Instead, “immigration” agents placed them in a family detention center. The same day, a social worker gave Carlos a “voluntary agreement” form that allowed Customs and Border Protection (CBP) agents to place David in foster care with the Department of Child Services (DCS) in Arizona. Carlos remained in the detention center for several months while he faced deportation to Guatemala. David's case illustrates how his parent's lack of legal Mexican nationality was both caused by, and symptomatic of, systemic discrimination. Carlos and Evelyn, now no longer stateless following their receipt of Mexican citizenship, continued to face structural inequalities that had spillover effects on David.

3. A Relational Socio-Cultural Analytic Lens

Scholars have identified how younger children who are still undergoing their cognitive, social, and emotional development who live under the threat of “immigration” enforcement measures create significant burdens that are intensified following the arrest, detention, and deportation of one or both parents (Zayas et al. 2015; Dreby 2012). Others, however, have noted how ethnoracial hierarchies disadvantage the Indigenous vis-à-vis mixed-raced *mestizos* and Ladinos in Mexico, Central America, and Latinos in the United States that can exacerbate such burdens (Stephen 2015; Cervantes 2021; Blackwell et al. 2017). Hemispheric forms of institutional inequality has prompted scholars to identify how Indigenous youth foster forms of resilience, which simultaneously redefine cultural understandings of what it means to be Indigenous and a youth approaching adulthood (Cruz-Salazar 2012; O'Connor and Canizales 2023). Indeed, as Allweiss (2023) identifies in her research, Indigenous Maya youth in Guatemala and the United States create spaces that nurture forms of solidarity, which defy nation-state centered notions of belonging and the “immigration” enforcement measures used to inflict violence toward the Indigenous (Heidbrink 2022).

We incorporate insights from recent scholarship on youth migration, Indigeneity, and race to theorize a conceptual model that can illuminate the spillover effects of Carlos and Evelyn's statelessness, struggle to obtain naturalization, and multiple separations from David. To avoid replicating methodological nationalism, we propose the use of three frameworks: relational theory, settler colonial theory, and the theory of racialized legal status, which when combined, can produce a critical comparative analysis of cross-border mobilities in the Americas. Relational theory de-centers the idea that the nation-state and individuals are stable coherent entities—an idea premised on substantialist understandings of the world. Substantialist accounts rely on the assertion that “the basic units of and actors of inquiry are substances or essences: as in things, beings or even “systems”. These substances are treated as static agents; they [groups, nations, cultures, and other reified substances] do the acting and reacting and retain their identity throughout” (Go 2013; cites Emirbayer 1997, pp. 283–86). Hence, structural functionalist models that center individuals and nation-states as coherent entities fall into the substantialist category. One type of non-citizen subject that troubles the use of a substantialist lens for understanding human mobility is the stateless.

As an alternative to substantialist approaches, Julian Go (2013) proposed using a relational understanding of the social world.²⁰ Such an approach, according to Go (2013) “would track the processes and relations between diverse but connected spaces in the making and remaking of modernity” (p. 41, emphasis in original). Relational thinking corresponds to the anti-essentialist perspectives on culture advanced by anthropologists who call for a processual view of culture as dynamic and ever changing, which serves as an alternative to structural-functionalist understandings that view culture as fixed (Vertovec 2011; Hannerz 1999; Grillo 2019). The application of a relational anti-essentialist cultural lens offers an epistemic break from substantialist structural functionalist frameworks that have unwittingly reified the nation-state as a static agent that can retain the sovereign power to expel subaltern non-citizen and citizen others.

As the stateless are legally denied membership to the international system of nation-states, any relational analytic lens used to study this population must examine larger structural dynamics that exceed the boundaries of the nation-state. Settler colonial theory is one such social structural framework. According to Patrick Wolfe (1999), settler colonialism is an ongoing structural process. Shannon Speed (2019a) argued that this structural process is transnational in scope and continues to shape the lives of all who inhabit the Americas. In addition to expropriating land and labor, settler colonialism forces Indigenous peoples to forgo pre-Columbian ideas of nationhood and the corresponding forms of governance that fostered, but also restricted, cross-continental migration (Matthew 2012). In place of these pre-Columbian ideas, settler colonialism creates forms of governance that privilege the citizen-nationals of a state, while simultaneously creating obstacles that bar access to substantive national membership to racialized others (Glenn 2015; Pulido 2018). Settler colonial theory, when paired with a relational socio-cultural analytic lens, can elucidate the logics of the “immigration” control used to regulate forms of political inclusion/exclusion that resulted in the statelessness of Indigenous Maya.

3.1. *The Lasting Impacts of Racialized Legal Status*

To guide the interpretation of our findings, we employ a relational socio-cultural analytic that attempts to synthesize settler colonial theory and the theory of racialized legal status to shed light on the barriers stateless migrants face as they adjust to life throughout the Americas. Fundamentally, the theory of racialized legal status acknowledges the ways racial inequality is normalized by the law and reinforced through diverse forms of state-sanctioned violence that sustain racial capitalism and are co-constitutive of the state.²¹ Our use of these theories helps illuminate how states are implicated in the production of “immigrant” subjects and the putative “problem” of managing these mobile populations through the implementation of “immigration” policies.

Legal constraints and institutional racism jointly reinforce barriers that prevent noncitizens from accessing the formal political and economic processes (Waters and Pineau 2015) that shape their incorporation into society (Zhou 2016). The rise of punitive legislative measures across the United States, particularly in relatively new immigrant-receiving destinations, has created an unwelcoming environment for new arrivals as well as more established co-ethnics (Vargas et al. 2017; Armenta 2017). Migrant youth who settle in communities that have little history of receiving immigrants and have implemented increased “immigration” enforcement practices are likely to face greater obstacles to obtaining needed resources (Roth and Grace 2015).

A growing body of scholarship reveals how the merging of US “immigration” and criminal law criteria have contributed to the criminalization of immigrants and their descendants, who are often identified as Hispanic or Latino, for nonviolent offenses (Ewing et al. 2015). Scholars have also revealed how the criminalization of “immigration” reinforces systemic racial discrimination toward Indigenous migrants (Holmes 2013; Speed 2019b). This racialized system conflates the national origin of immigrants from Latin America with groups targeted for “immigration” enforcement. For example, nationals from Mexico, Guatemala, Honduras, and El Salvador are overwhelmingly targeted for

“immigration” enforcement violations and are subjected to detention and deportation (ICE 2020). As a result, Indigenous arrivals who may have legitimate human rights claims have limited legal options to gain asylum and avoid removal proceedings (Stephen 2017).

Building on these insights, scholars have applied the concept of “racialized legal status” to identify how the law exploits intersecting identities (race, ethnicity, class, sex, gender, religion, and “immigration” status) to reinforce systems of social stratification that disadvantage subaltern groups. For instance, Asad and Clair (2018) applied the concept to show how the law is used to both delimit immigrant incorporation and erode the rights of US-born nationals. Other researchers have used the term to illustrate how social marginalization can create a hybrid form of political consciousness, enabling those with racialized legal status to glean insider-and-outsider perspectives they can leverage to contest the structural conditions that reproduce inequality (Negron-Gonzales 2011). Joseph and Golash-Boza (2021) applied Du Bois’s concepts of the global color line and double consciousness to show how racialized legal status “generates cumulative disadvantages and exclusion for immigrants and citizens of color” (p. 3). To create a more nuanced understanding of the ways racialized legal status may help marginalized groups, the following section details how states throughout Latin America have leveraged racialized legal status to constrain human mobility and possibility throughout the Americas.

3.2. “Immigration” Policies and the Reinforcement of Racialized Legal Status of Migrants from Latin America

Migration to the United States is increasingly a more fragmented structural process that far exceeds the bounds of any single nation-state. Scholars and “immigration” policy experts have reported that in efforts to centralize human mobility, several states have adopted draconian enforcement measures that erode the human rights of citizens and noncitizens (Echeverria et al. 2015; Zayas 2015; Yates 2021). Several excellent summaries have explored how US “immigration” law furthers inequality among Mexican, Central American, and Caribbean families (Donato and Sisk 2015; Donato and Perez 2017; Menjivar and Abrego 2012; Loyd et al. 2016; Kretsedemas 2022). This section identifies the spillover effects of these policies, namely the reinforcement of the racialized legal status of migrants from Latin America.

In the twentieth century, the systematic denial of humanitarian entry to the United States for Central Americans served to frame non-White asylees as undeserving of entry, setting the tone for the criminalization of migrants for years to come (Kretsedemas 2022). In more recent decades, the externalization of “immigration” enforcement measures led to the adoption of “zero tolerance” policing in Latin America (Swanson 2013; Jones and Newburn 2007).²² Increased moral panic over heightened gang activity gave rise to punitive populists who leveraged public fear of crime and economic insecurities to pass *mano dura* policies (iron-fist policing). The US government financed and supported the spread of these policies, under the guise of improving security and human rights, throughout Mexico (Seelke and Finklea 2017). Steven Osuna (2020) and Kate Swanson (2013) found that zero tolerance and *mano dura* policing provided broad discretionary power to police and military forces to target the racialized poor. Paradoxically, the use of *mano dura* tactics throughout Latin America contributed to the criminalization of youth and deportees (Zilberg 2011; McGuire and Coutin 2013). These tactics also exacerbated violence and international migration to the United States among Indigenous and Black populations (Saldaña-Portillo 2017; Kretsedemas 2022).

Massey and Pren (2012) showed how the steady rise of anti-immigrant discourse and policies contributed to a shift toward a conservative anti-immigrant stance among US politicians and the overt endorsement of White nationalism by political leaders globally (Walia 2021). This global development has reinforced racialized legal status as a mechanism to maintain the subordination of “undesirable” populations, who are perceived as foreign and are violently targeted without concern for their well-being or that of their families. The aim of these antidemocratic, White nationalist movements is to undermine

attempts to dismantle inequality by reinforcing what W.E.B. Du Bois (2016) called the color line. In their review of W.E.B. Du Bois's writings, Itzigsohn and Brown (2020, 2021) argued that for Du Bois, colonialism and racism constituted a global color line that was foundational to contemporary capitalism. This global color line perpetuates global apartheid, a system that favors affluent White populations who can move freely while disparaged racialized groups cannot (Nevins and Aizeki 2008).

As this section illustrates, bolstered "immigration" enforcement efforts in the United States and throughout Latin America have contributed to the increased fragmentation of human migration. The spread of anti-immigrant policies places special burdens on young migrants and their families, who are subject to forms of racialized legal status that can produce extreme modes of marginalization, including statelessness. In the following sections, we explore how Indigenous Maya experience, and challenge the meaning of, statelessness and the spillover effects of immigration enforcement measures. To guide this exploration, we apply a relational socio-cultural analytic lens that synthesizes settler colonial theory and the theory of racialized legal status to not only identify how enforcement measures in different nation-state settings create obstacles for youth and families, but also illuminate how migrants actively mobilize to create conditions that foster resilience and belonging transnationally.

4. Synthesizing Settler Colonial Theory and the Theory of Racialized Legal Status

In this section, we apply a relational socio-cultural analytic to synthesize settler colonial theory and the theory of racialized legal status to examine how race-based statelessness (Blake 2017) shapes the lived experiences of Indigenous Maya. We focus on the case of David, a US citizen minor of Indigenous Maya descent with non-citizen parents who faced family separation after a 2017 attempt to cross the US–Mexico border (Gil-García et al. 2021). First, we outline David's history of family separation. Next, we identify how the application of settler colonial theory and the theory of racialized legal status creates a more nuanced understanding of David's complex transnational existence.

Application of a Relational Socio-Cultural Analytic Lens

Racialized hierarchies and "immigration" policies reverberate throughout the experiences of David and his family and created unwelcoming conditions for Indigenous Maya irrespective of "immigration" status. Indeed, David's social proximity to his father, who held a discredited legal status, made him vulnerable to the spillover effects of "immigration" enforcement burdens. Importantly, these burdens were not localized to one nation-state, but instead traversed the US–Mexico and Mexico–Guatemala borders, resulting in an ongoing fear of family separation across countries. Unbeknownst to the family, the Trump administration had broadened "immigration" enforcement priorities under "zero tolerance," a policy authorizing family separations, which resulted in the involuntary separation of David from his father.

Racial and class hierarchies manifested in the "immigration" enforcement arm of the state as well as the foster care system, which retained guardianship of David for two years. David's confinement to three group homes revealed the inability of these spaces to accommodate the cultural and linguistic backgrounds of Indigenous peoples. For example, upon returning to the United States, David only spoke Spanish and Indigenous Maya Akatek. Yet he was placed in a group home with six other boys who only spoke English. The language barrier negatively impacted his academic performance. The secondary school he attended while living in his first group home did not offer English as a Second Language (ESL) classes, which hindered David's English proficiency. Because the instruction in all courses was in English, he could not understand his teachers, and thus had difficulty learning.²³ While he was in school in Mexico, David had excelled in math and history, but when asked about his favorite subject in the United States, he replied: "None. Since I didn't know [English], it was difficult to understand". After graduating from eighth

grade, David was moved to a second group home and a new school that offered ESL classes, which helped him improve his English skills.

David tried to navigate multiple educational contexts that were persistently unreceptive to the Indigenous ways of life. For example, all three of the US-based schools he attended largely prioritized English or offered instruction in Spanish, and each privileged Anglo-American culture. Underlying this arrangement is a hidden curriculum that preserves colonial racial, gender, and class hierarchies that portray Indigenous languages and identities as backward. Giovanni Batz (2014) noted that such ideas can cause stigma, compelling some to disavow their Indigenous identity.²⁴ Fortunately, David's periodic phone conversations with his family served as a lifeline as he sought to maintain his linguistic heritage and identity.

Despite these occasional conversations, David's placement in the foster care system exacerbated the trauma of his family separation, resulting in psychosomatic symptoms such as sleeplessness, loss of appetite, and depression (Gil-García et al. 2021). The health effects David experienced are indicative of the broader harm caused by forced separations. Since July 2017, more than 5500 children have been separated from their families under zero tolerance (Habbach et al. 2020). While a class action lawsuit has been filed against the US government to seek legal remedy for minors separated from their families, the grievance originally excluded US citizen minors as class members (*Ms. L. v. ICE* 2023). New York Times reporter, Miriam Jordan (2023), obtained information from families and advocates identifying as many as 1000 US-born children who were impacted by zero tolerance.

The lack of a legal remedy that would allow family reunification for David and as many as 1000 other US-born children illustrates how settler colonialism and racialized legal status interact to reinforce White supremacy (Golash-Boza et al. 2019). Importantly, however, disenfranchised groups can also leverage racialized legal status to contest systems that legitimate their dehumanization. As Mander and Tauli-Corpuz (2006) argued, institutional forms of exclusion have been unable to supersede the forms of everyday resistance exhibited by Indigenous groups both locally and globally. Indeed, despite overwhelming obstacles, David and his family engaged in what Mayli Blackwell (2012) called an everyday practice of decolonization. Blackwell (2012, p. 731) defined the practice of decolonization as challenging normative forms of governing, through which the state maintains hegemonic control in determining political subjects, and promoting alternative forms of governing that allow Indigenous peoples to "multiply the spheres in which autonomy can be practiced". The decision David and his parents made to challenge multiple state governments to realize their right to family autonomy exposes "a fundamental contradiction of liberal democratic states: the discrepancy between the principle of national sovereignty, which implies the right to exclude anyone from citizenship or entry, and these states' professed commitment to universal individual rights" (Gil-García et al. Forthcoming).

For example, in late 2016, David's parents, along with 24 others who had been stateless for over 30 years, filed a grievance with the Mexican government, which resulted in their receipt of Mexican citizenship (Gil-García 2018a). Both parents, now Mexican citizens, were unsure if their identification as Guatemalan nationals on their son's birth certificate would place them in jeopardy. Specifically, they feared that requesting a passport at the U.S. embassy in Mexico could result in the loss of David's US citizenship and their Mexican citizenship. Carlos's inability to claim his Indigenous identity and his disinclination to claim affiliation to Mexico illustrates how a settler colonial logic shapes US and Mexican "immigration" politics, which racialize Indigenous migrants as a disposable "alien" labor force rather than perceiving them as Native Americans.²⁵ The complexity of Indigenous identities can easily be lost due to the all-too-common use of the nation-state as the principal marker of belonging. This usage obscures settler colonialism's continued construction of states throughout the Americas, thus hindering researchers from studying other forms of governance that determine affiliation to a place, which may exceed the

territorial contours of a state, among Indigenous peoples (Kuokkanen 2019; Nelson et al. 2019).

Indeed, David is part of the larger Indigenous Maya diaspora that, as Casanova et al. (2016) argued, has nurtured cultural and linguistic forms that not only predate the formation of nation-states in the Americas, but also continue to constitute contemporary transnational cartographies of resistance to state hegemony (Magaña 2020; Way 2021). For example, David continued to use the Akatek language to speak with his parents, who lived in Mexico following the family's separation (Gil-García et al. 2021). Their use of Maya Akatek illustrates their unwillingness to conform to hegemonic Eurocentric cultural notions of the "appropriate" language(s) spoken in each nation-state setting.

In addition to continuing to use Indigenous Akatek, David and his family decided (in 2022) to join a class-action lawsuit against the United States contesting the government's implementation of the zero tolerance policy that legitimated the separation of parents from their children.²⁶ This move was indicative of the family's resistance to the principle of territorial sovereignty, premised on the exclusion of others/outsideers from citizenship or entry to the nation-state. Joining the class-action lawsuit allowed the family to call into question liberal states' professed commitment to universal individual rights in the paradoxical context of the government permitting the violent separation of families.

5. Discussion and Conclusions

This article makes a novel contribution to the interdisciplinary field of migration studies. We proposed a relational socio-cultural analytic that synthesizes settler colonial theory and the theory of racialized legal status to comprehend the complex experiences of Indigenous migrant Maya youth and families throughout the Americas. Our use of a relational critical comparative analysis to study migration dynamics avoids limiting the application of the model to singular or multiple (transnational) nation-state contexts. Doing so would replicate a structural functionalist approach that involves bounding units of study within nation-state contexts (methodological nationalism) and would unwittingly sustain national membership in a state(s) as an aspirational emblem of belonging. We argue that a relational socio-cultural analytic lens serves as a powerful tool for understanding how nation-states co-produce stateless Indigenous populations and how these populations persist throughout the Americas and the world.

The global population of stateless people numbers 15 million, surpassing the 12 million undocumented immigrants in the United States (Kamarck and Stenglein 2019), and thus there is an urgent need for scholars to consider how bolstered "immigration" measures that target racialized groups will impact Black and Indigenous peoples who are relegated to conditions of statelessness. To begin to address this urgent issue, we drew from the theory of racialized legal status (Negron-Gonzales 2011; Asad and Clair 2018; Joseph and Golash-Boza 2021) to explain how enforcement measures shape the forms of marginality and resilience experienced by migrants from Guatemala, one of the poorest countries in the Western Hemisphere. Using original and secondary data provided an opportunity to show how racialized legal status functions as a structural determinant of health among Indigenous citizens and noncitizen co-ethnics who face statelessness throughout the life course (Torres and Young 2016; Philbin et al. 2018).

This synthesis of settler colonial theory and racialized legal theory, guided by a relational socio-cultural analytic lens, can be applied to reveal how racialized legal status creates conditions that can both delimit and nurture forms of resilience among migrant populations throughout the Americas and globally. How might the application of a relational socio-cultural analytic lens broaden the empirical scope of study to include the fields of interaction engaged by Indigenous Maya that foster forms of resilience against structural and everyday conditions that can produce race-based statelessness? A relational socio-cultural lens would direct its analytic optic to consider what Fernand Braudel and Wallerstein (2009) called the *longue durée* of historical events that led to the formation of nation-states, the legal architecture underlying "immigration" policies, and the role of the

international system of nation-states in normalizing the production of statelessness. While we applied this framework to Guatemala, Mexico, and the United States in the current article, we argue that the study of the relations established by these nation-states and others can demonstrate that the co-production of stateless populations is not an exception, but rather a fundamental tool used by states to reinforce sovereign rule over subject populations (Kingston 2017).²⁷

While race-based statelessness (Blake 2017) relegates Indigenous Maya and their families to a condition of rightlessness in any nation-state (Paik 2016), migrant populations' subaltern racialized legal status can also serve as an impetus to respond to institutional constraints. To survive in unwelcoming environments, Maya youth and families may resist demands to conform to the dominant cultural milieu. Our analytic framework accounts for such resistance by considering how individuals can access support that can help foster resilience among Indigenous people. This approach bridges anthropological narrative approaches that focus on resistance and agency, and those that favor the description of how material conditions can both limit and broaden opportunities to contest forms of oppression (Heine et al. 2017). While we agree that the combined weight of oppressive factors can be demoralizing, which has led some scholars to show how these factors can create conditions of "abjectivity",—a term "used to describe those in the lowest, most contemptible, and most wretched social status" (Gonzales and Chavez 2012, p. 256)²⁸—abjectivity need not be destiny.

We see great promise in the application of our relational socio-cultural analytic optic in studies of the complex factors that shape the race-based statelessness of disparaged social groups such as the Rohingya, who like the Indigenous Maya have been targeted by policies that legitimize their denial of citizenship and violence by the Myanmar government (Yusuf 2019). The framework can also be used to examine the resilience of stateless Rohingya in the face of ongoing forms of exclusion in places of transit and settlement throughout the life course (Bhatia et al. 2018; HRW 2023; UNHCR 2022). We can envision similar applications to other stateless populations such as Dominico-Haitians and Palestinians, who remain the largest stateless communities in the Americas and the world, respectively (Blake 2017; Shiblak 2006). Additionally, the proposed analytic lens is a timely tool for studying how the anthropocene—"the epoch in which human disturbance outranks other geological forces" (Tsing 2015, p. 19)—is shaping human mobility. Given that scholars have shown that climate change will increasingly compel populations in low elevation coastal zones to abandon their territories as they become uninhabitable, resulting in the possible loss of their country of nationality and the production of climatic statelessness, a relational socio-cultural analytic can guide ongoing conversations about how to avoid the rightlessness of these populations (Michel 2021; Piguët 2019).²⁹

To conclude, our relational socio-cultural analytic lens builds on a broader conversation about how researchers can better understand human mobility by acknowledging that the genocide and dispossession of Indigenous peoples, enslavement, and indenture were foundational in the formation of modern nation-states (Lowe 2015). This history, however, can be inadvertently disavowed when researchers rely on models that replicate methodological nationalism—the assumption that the nation-state is a natural social and political form of the modern world (Wimmer and Schiller 2003). Applying a critical comparative analysis—one that includes the nation-state as an object of social scientific analysis—to the study of migration can help researchers avoid reproducing social scientific frameworks that are complicit in the erasure of these histories (McKay et al. 2020, p. 12).

Indeed, migration scholars must not forget that historic and contemporary interventions by the United States in Latin America have created structural and economic conditions that compel families to make difficult decisions to leave loved ones behind or to join kin abroad. Recognizing how the past informs the present is a moral imperative for devising humane "immigration" policy at the local, national, and international level that both addresses the causes of migration and fosters the health and wellbeing of migrant communities. Failure to do so will result in persistent reductions in avenues for legal

migration and the continued adoption of draconian policies that seek to expel ever more migrants throughout Latin America, which will betray commitments to national and international laws, and lead to the production of ever-larger stateless populations who can be denied legal recognition as rights-bearing subjects of any nation-state.

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Notes

1. The term “migration” will be used in lieu of the state-centered legal term “immigration”. When referring to immigration law or policy, however, we will deploy quotes wherever the terms “immigration” or “immigrant” appear. This decision is informed by a larger body of scholarship that problematizes the use of the term immigrant for its unwitting ability to shore up national identities (De Genova 2002; Chock 1991; Honig 2001). We are also guided by scholarship that critiques dominant cultural frameworks that view non-White arrivals as settlers who are increasingly racialized for the purpose of reinforcing White nationalism globally (Golash-Boza et al. 2019; Walia 2021).
2. For the purposes of this article, we apply Leoussi’s (2013) definition of the modern state as “that agency within society which possesses the monopoly of legitimate violence, and is rationally, that is bureaucratically, organized” (p. 1967). While a nation is a “primordial community” that can be constitutive of a nation-state, nation and nation-state are not analogous.
3. Scholars have used the term “transnational migration” to refer to a process that involves both the licit and illicit cross-border movement of populations across nation-state settings, but also includes the forging of social networks throughout the migration continuum—origin, transit, destination, and increasingly, return (see Schiller et al. 1995; Frank-Vitale 2020; Gil-García 2018c).
4. As Daniel Chernilo (2006, p. 6) eloquently explained, “the equation between the concept of society and the nation-state in modernity is known as methodological nationalism”.
5. To avoid the reproduction of methodological nationalism in social scientific scholarship on transnationalism, we apply a critical comparative analysis to the study of migration that centers the nation-state as an object of social scientific analysis.
6. Our decision to focus on Guatemala is informed by the rise of outmigration from the country and the overrepresentation of Guatemalan migrants in U.S. “immigration” enforcement violations (ICE 2020).
7. Outmigration will be used in lieu of the state-centered legal term “emigration”. Emigration refers to the cross-border movement from one state to the territory of another state. Like the word immigrant, emigrant is a politically laden term that privileges the sending and receiving states with the sovereign right to determine the movement of domestic or foreign nationals across state territorial boundaries (see Waldinger 2015). Consistent with our goal of de-centering territorial state sovereignty as a principal ideology used to legitimate the exclusion of emigrant others/outsideers from citizenship or entry, we will deploy quotes when using the term “emigration”.
8. The United Nations Educational Scientific and Cultural Organization (UNESCO) declared that the diverse forms of lifestyles, forms of thought, and social representations that constitute culture “can no longer be reduced to a single model of fixed representations” (UNESCO 2009, pp. 4–5).
9. A critical comparative analysis of the study of migration dynamics involves using an interdisciplinary lens to examine how colonial forms of rule shaped contemporary global political dynamics, enabling nation-states to construct migrant “illegality” and forms of non-citizenship as social problems that require social scientific and policy interventions (see De Genova 2002; Lowe 2015; Sharma 2020). This critical analytic lens acknowledges the value and contribution of non-Western forms of knowledge, and in so doing welcomes the voices of marginalized groups within Western contexts but also “the relations *between*

- non-Western or southern societies and other spaces...*in the making and remaking of modernity*". (Go 2013, pp. 39–41, emphasis in original. Cites: Bhabra 2007, pp. 56–79. See too Said 1993, 2003).
10. There are up to as many as 27.1 million refugees, 53.2 million IDPs, and 15 million stateless people in the world, see (UNHCR 2021; ISI 2020).
 11. 1954 Convention Relating to the Status of Stateless Persons. Available online: <https://www.unhcr.org/media/31051> (accessed on 18 May 2023)
 12. Recent scholarship indicates that among the 2017 US resident population there are up to 204,000 "who are potentially stateless or potentially at risk of statelessness" (Kerwin et al. 2020, p. 153).
 13. Today, *Ladino* commonly refers to all Guatemalans who are not considered Indigenous.
 14. For a review of the impact of the Guatemalan war on Indigenous communities, see Nelson (2010).
 15. For a review of the repercussions of economic policies for Latin America, see Pastor (1989) and Robinson (2008).
 16. In Mexico, federal police and military are authorized to detain and repatriate unauthorized migrants (Aranda et al. 2014).
 17. Data on the national origin of migrants and the proceedings for each case assigned to the Migrant Protection Protocol program from its inception to the present are available at https://trac.syr.edu/phptools/immigration/mpp4/about_data.html (accessed on 14 November 2022).
 18. The total expulsions from Central America included 241,392 Hondurans, 252,310 Guatemalans, 5560 Nicaraguans, and 86,790 Salvadorians (see CBP 2022).
 19. Nationals from these countries represent the majority (94%) of the 1,721,035 migrants who faced Title 42 expulsions. By contrast, during the same period 1,850,049 people faced removal under Title 8 of the US Code ("immigration"), of which 723,091 (39%) were nationals from these countries (CBP 2022). For fiscal year 2022, Title 8 expulsions of nationals from other parts of the Americas and the Caribbean included 437,151 single adults and 256,954 individuals in a family unit (FMUA), totaling 694,105 removals from Brazil, Canada, Colombia, Cuba, Ecuador, Peru, and Venezuela (CBP 2022).
 20. For a review of other scholarship that applied a relational analysis of the material, cultural, and ideological systems that shape world events, see (Bhabra 2007; Magubane 2005; Patel 2006).
 21. The concept of racialized legal status builds on Omi and Winant's (1994) ideas on racial formation. According to Omi and Winant (1994), racial formation is a historical process whereby race functions as a "master category" that intersects with other forms of social stratification along the lines of class, gender, and sexual orientation for the dual purpose of maintaining and resisting white supremacy. Centering racial formation in our analytic optic acknowledges the scholarship inspired by the Black radical tradition, in particular the work of Cedric Robinson (1983), who traced the ways colonialism and white supremacy facilitated the development of capitalism, in a process he called racial capitalism.
 22. The term "zero tolerance" is often associated with policing strategies adopted in New York (Greene 1999), which involved using informal, extra-legal means to target minor offenses to dissipate community fear, prevent further crime, and uphold public order (Wilson and Kelling 1989).
 23. Similarly, schools in Latin America follow a mostly mono-lingual Spanish curriculum that diminishes the linguistic and historical contributions made by Indigenous communities throughout the continent (Popkin 1999). David's instruction in mono-lingual instruction in both countries has the cumulative effect of diminishing the value of maintaining fluency in Indigenous Maya languages.
 24. Other scholars have found how Maya youth can often face ridicule and outright prejudice from Latino peers in the US (Hiller et al. 2009; Holmes 2007).
 25. In this context, the term "Native Americans" is not equivalent to the term "American Indians". According to Dwanna L. McKay et al. (2020), the term "Indian" was coined by Columbus and used by the Spanish Crown to collapse all Indigenous polities into a single subordinate racial group. The United States, these authors noted, changed the term to "Indian Tribes" in the US Constitution to create a subordinate racialized minority within the US settler state (p. 4). By acknowledging Indigenous Maya as Native Americans, we challenge the US settler colonial logic of using blood quantum, relationship to land, and continuous existence as a polity as the only criteria to distinguish American Indians, and in turn deny Indigeneity to Maya peoples in the United States (McKay 2021).
 26. In August 2022, the lead author spoke to members of immigrant advocacy organizations who confirmed their pursuit of broader relief for parents separated from US citizen children who have not been able to benefit from the Ms. L. lawsuit. Ultimately, the threat of another lawsuit compelled the US government to amend the class definition of Ms. L. to include US citizen children. The Ms. L. v ICE settlement agreement is available at <https://www.aclu.org/documents/ms-l-v-ice-settlement-document-dec-1-2023?hidebanner> accessed on 10 January 2024. As of this writing, David and his family's reunification remains pending.
 27. According to Gündogdu (2015), the co-production of statelessness is also evidenced in international law mechanisms used to adjudicate human rights claims that rely on vague notions of "personhood" rather than forms of legal status, which can perpetuate conditions of rightlessness.
 28. For a review of other scholarship that use the concept of abjectivity, see (Kristeva 1982; Butler 1999; Chavez 2008; Ferguson 2002; Inda 2002, 2006; Willen 2007).
 29. Piguet (2019) estimated that as many as 600,000 people from the Maldives, Tuvalu, the Marshall Islands, Nauru, and Kiribati will face climatic statelessness by the year 2100. In an even grimmer assessment, Storlazzi et al. (2018) predicted that these islands will become uninhabitable by the mid-21st century as wave-driven overwash negatively impacts freshwater availability.

Amitov Ghosh (2016) argues that the discourse surrounding climate matters remains predominantly Eurocentric. Consequently, such conversations are unable to properly reckon with the implications climate change will have in island territories or South and Southeast Asia where “the lives and livelihoods of half a billion people... are at risk” (Ghosh 2016, p. 90).

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