

## NONRECORDING STATES

### Introduction

#### Nonrecording states between legibility and looking away

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*Abstract:* In this theme section we explore why and when states knowingly refrain from recording people and their activities. States are not simply in pursuit of enhanced “legibility”; at times they also need to be able to “look away.” In explaining strategies of nonrecording, our focus is on how subjects negotiate with state recording agencies, how nonrecording relieves state agents from the burden of accountability, how the discretionary power of individual state agents affects (non)recording in unanticipated ways, and how states may project an illusion of vigorous recording internationally while actually engaging in deliberate nonrecording. Presenting case studies from China, Greece, the Netherlands, India, and Romania, we show that strategies of nonrecording are flexible, selective, and aimed at certain populations—and that both citizens and noncitizens can be singled out for nonrecording or derecording. In analyzing this state-produced social oblivion, divergences between national and local levels are of crucial significance.

*Keywords:* civil servants, discretionary power, excluded citizens, population control, recording practices, state bureaucracy, state sovereignty, undocumented migrants

One of the most salient characteristics of the modern nation-state—as a political project of control over a demarcated territory and over a nationalized population—is an increased level of legibility. In ever more meticulous and technologically advanced ways, the modern state records its territory (borders, topography, geology, archaeology, seismology, etc.); its resources (energy reserves, natural resources, gross domestic product [GDP], taxable income, etc.); and its people (age, gender, health, education, lineage,

residency, income, property, racial/religious/ethnic identity, etc.).

As coined in the title of James Scott’s (1998) momentous book, “seeing like a state” has, in modern times, become the most essential gaze, which defines the world order in which we live. Referring specifically to states’ increasing triangulation between security, territory, and population, Michel Foucault coined the notion of biopower to assert that the modern state aims not only at disciplining bodies, but also at effec-



tively managing the entire population (Lemke 2001).

We recognize that the sweeping move toward carefully recording and watchfully “seeing” people is a crucial and constitutive element of state making. We also acknowledge that there is a prevailing ethos of recording among states worldwide. The post-9/11 era saw this recording urge get a boost as a result of the intensified securitization of mobility (Bigo 2002) and surveillance of society (Lyon 2003). A state’s (technological) capability to record, and its compliance with modern standards of security and population control, have become a yardstick for its development.

But recently scholars have begun paying attention to states’ policies and practices that produce *nonrecording*. Nonrecording can represent “implementation gaps” that are caused by, first, the national interest of states, for example, in irregularizing their labor force (Anderson 2010; De Genova 2002; Kalir 2010); second, the self-interest of state agents (Hoag 2010; Kalir and Sur 2012); third, the subversive or proactive strategies of to-be-recorded subjects (Nyers 2003); fourth, the spatial differentiation in states’ recording capabilities (Ferguson and Gupta 2002; Van Schendel and Abraham 2005); or, fifth, the disaggregated character of governing power within and beyond the state (Li 2010).

In this theme section we consider states as knowingly engaging in nonrecording as a deliberate strategy and an important modality of state making and nation making—not as a sign of an unsuccessful state project (High et al. 2012). In our view, nonrecording is not necessarily a sign of failure of the state, nor does it indicate that a state is lagging behind in its progress toward achieving complete legibility (Li 2010). We focus on intentional state practices of nonrecording and derecording that target certain populations in certain areas, and at certain moments in time. It is the instrumental, spatial, and temporal limitations of recording that interest us. We show how state agents employ nonrecording as a conscious strategy, allowing them to disregard, outsource, desert, expel, sanction,

exploit, or victimize nonrecorded subjects. We see state recording practices as strategic and selective rather than systemic and pervasive, and as episodic rather than continuous. And we explore contradictions and tensions in the nonrecording practices of state agents at different levels: local, national, and international.

From this perspective, one cannot easily make a distinction between states that record thoroughly (notionally: “the global North” or “the developed world”) and those that record poorly (notionally: “the global South”). Each state should be scrutinized for the ways in which it deploys recording as well as nonrecording: When? Where? Who is (not) recorded? To what end?

In trying to answer these questions, we identify four important dimensions. First, recording is a two-directional process. It should be understood in terms of negotiation rather than imposition, because it involves a complex dynamic between recording agencies and to-be-recorded subjects. Tracing the (non)recording practices of states needs to go well beyond tracing their technological capacities, their bureaucratic procedures, or the manpower involved in documentation. It requires taking stock of the agency of *all* who are involved in the process and analyzing the power relations that structure interactions between recorders and recorded subjects.

Second, recording is a double-edged sword in the hands of states. It provides states with improved legibility, but recording also brings with it responsibility: once the state creates an account of certain matters, it finds it harder to escape accountability in dealing with them. The burden of accountability that comes with state recording produces counterintuitive constellations—for example, when state agents attempt to derecord certain subjects while undocumented subjects fight for their right to be included in the state’s recording cabinet.

Third, discretionary power is crucial at every level in determining the shape, form, and content of what is (or is not) recorded. Tensions crop up between the recording practices of various state agents, leading to intrastate contention and divergent recording outcomes. It is essential

to realize that it is meso- and street-level bureaucrats who play a crucial role in (non)recording practices. These bureaucrats get their cues from politicians and high-ranking policy makers, but, at the same time, they deal directly with the to-be-recorded subjects. Given this double relationship with both higher-ups and “clients,” individual recording agents can execute even the most basic and standardized tasks, such as issuing birth certificates, in remarkably different ways.

Fourth, state practices of (non)recording are enmeshed in a worldwide regime in which states influence each other and in which interstate power differences are crucially important. Rather than leading to the mainstreaming of recording practices across the international state system, these power differences often generate simulated performances: externally, states may project an illusion of vigorous recording, while they actually maintain or intensify the arbitrary and exclusionary aspects of their bureaucratic procedures.

The articles in this theme section explore these dimensions as well as the motivations behind nonrecording practices (political, economic, cultural), the performativity involved in nonrecording, and processes of derecording and rerecording. Looking at states as varied as India, Romania, Greece, China, and the Netherlands, they show a range of circumstances in which states opt for nonrecording as a strategy.

Ajay Gandhi takes the example of India and its dealings with unauthorized migrants in the heavily policed city of Mumbai to demonstrate that standard explanations of nonrecording practices in terms of state failure or corruption are incorrect. He argues that the state template derived from Euro-American experience—an invasive, all-seeing, relentlessly recording entity—makes little sense here and should be rejected. Instead, we must take into account the specific historical evolution of each state and the consequent unevenness and contradictions built into it. In the case of India, its colonial antecedents are of crucial importance. State sanctions—both positive and negative—have long

been based on impunity for officials and local authorities to act with considerable discretionary power, allowing for strategic exemptions and high levels of improvisation and local variation. This leads to a double-edged official response to migrants from Africa and Bangladesh in the city of Mumbai: the state simultaneously permits and prohibits, observes and looks away—therefore Gandhi speaks of the “sanctioning state.”

Ioana Vrăbiescu takes us to Romania for an introduction into how this state deploys a variety of strategies—nondocumenting, dedocumenting, and redocumenting—to manage different categories of people. Her article does not deal with migrants but with Romanian nationals (especially those of Roma ethnicity and women in marginal situations) whom the state excludes from full citizenship by denying them documentation. Far from being a case of state failure, Vrăbiescu argues, the Romanian state constantly produces regulations that result in dispossession of citizenship. She describes two of these strategies in detail: how the state makes it impossible for certain parents to register their newborns and how it refuses to document people without a fixed domicile. In this way the state creates *de facto* stateless people who cannot prove their legal identity either at home, in Romania, or in the wider European Union—nominally a zone of free movement of persons. They cannot legally be employed, sign a commercial or civil contract, vote or be elected, or cross the state’s borders. State practices of nonrecording are effective tools in the hands of state agents: they free these agents from their obligations toward citizens whom they consider to be undeserving and undesirable. At the same time, practices of nonrecording help these state agents to control the mobility of excluded citizens both inside and outside the national territory.

Katerina Rozakou’s article considers nonrecording practices during the current “European refugee crisis.” A detailed ethnographic study of the interactions between migrants arriving on the Greek island of Lesbos and officials of the Greek state, the European Union, and various (international) nongovernmental organizations

leads her to conclude that the chaotic, improvised, and dubious ways in which bureaucratic procedures are carried out at the border are not a sign of state failure. On the contrary, she argues, they exemplify the general irregularity of state techniques to render societies legible. Nonrecording and misrecording are essential aspects of attempts at population control. The irregularities she found were numerous: registration forms lacked “essential information such as the photo of the holder, and fingerprinting was often omitted or selectively executed”; Syrian refugees were not recorded or were told to complete their registration in Athens; and “names were misspelled, families were filed under different surnames, years of birth were inaccurate, and even nationalities were mixed.” Rozakou points out that such failures of recording are not exceptional but commonplace. It is through improvised, dubious, often underfunded bureaucratic processes—sometimes carried out by foot-dragging, unwilling individuals—that states are actually produced: irregularity is an inescapable element of statecraft.

Shanshan Lan introduces the case of African traders and entrepreneurs in the Chinese city of Guangzhou. Many of them are considered *san-fei*—a Chinese term that means those who are triply illegal: those who enter illegally, stay illegally, and work illegally in China. She presents the different nonrecording practices of both national and local state authorities as conscious tactics to balance multiple and conflicting interests. But she warns against a rigid distinction between recording and nonrecording. Her fieldwork in Guangzhou revealed continual fine-tuning by means of discretionary shifts between state recording, nonrecording, and derecording in order to manage economic benefits, racial discrimination, and ideological anxieties. But these shifts cannot resolve the tensions: state agents’ refusal to legalize undocumented migrants not only devalues their “contributions to Chinese society, but tacitly endorses anti-African sentiments among the Chinese public.”

In the final contribution, Barak Kalir considers a distinct form of derecording in the Neth-

erlands. He describes how the state deliberately deserts asylum seekers whose applications have been turned down and who cannot be sent back to their countries of origin. The files on these “out-of-procedure” asylum seekers are closed and the state pulls away, redefining them as non-existing, and often literally abandons them on the street. In this way, the Dutch state creates an invisible population of illegalized undesirables with no sources of income except charity from nongovernmental organizations or friends, or from undocumented and illegal work. By abandoning these people, the state exposes itself to charges of irresponsibility. To counter this risk, it engages in public campaigns to criminalize and dehumanize “out-of-procedure” asylum seekers who do not (and often cannot) leave the national territory. However, a group of “out-of-procedure” asylum seekers has decided to challenge derecording and invisibilization: they have started their own counter campaign.

The articles in this theme section provide a joint exploration of the four dimensions identified above. The first—recording as a two-directional process that should be understood in terms of negotiation rather than imposition—is scrutinized in several articles, for example, the case of the We Are Here group and their refusal to be made invisible by the Dutch state (Kalir); Geta’s threat of violence against exclusionary state agents in Romania (Vrăbiescu); and African consular officials’ protests against an anti-immigrant raid in Mumbai (Gandhi).

The second dimension—recording as a double-edged sword, providing states with improved legibility but also responsibility—is addressed in all articles. Many examples reveal how exclusionary practices promote selective state “blindness” and turn civil society actors into key players in the configuration that renders nonrecording a prevalent state practice. NGOs, social or religious platforms, and self-organized collectives regularly take care of the basic needs of non- or derecorded people. Given that many of these civil society actors are either funded by the state or engage in close working relations with state agents, we can conceptualize nonrecording

as a way for states to outsource the responsibility for undesired subjects to nonstate actors. Such state avoidance tactics are obvious when Chinese officials use the Nigerian Union and underground Pentecostal churches in Guangzhou to inform undocumented migrants about a new law (Lan); Romanian civil servants pose as benefactors who might be willing to indulge the pleas of some selected individuals, preferably when accompanied by NGO workers (Vrăbiescu); and Dutch bureaucrats play “blaming the victim” when they upbraid derecorded asylum seekers for ending up living in the Netherlands with no status and no access to state provisions (Kalir).

Discretionary power is the third dimension of (non)recording that all articles deal with. It is not only that state agents can use their personal judgment to decide whether to record, and in what form, but also that the discretionary practices of state agents in different positions lead to tensions between them and to unpredictable outcomes. Greek police agents and coast guards in charge of registering border crossers in 2015 disapproved of the new government policy, longed for the more restrictive and punitive approach of yesteryear, and expressed their resistance by continuing to refer to border crossers as “illegals,” even though the official term was now “refugees” (Rozakou). Shabir, a police informer in Mumbai, explains that police officers have much personal freedom in deciding how to deal with unauthorized migrants from Bangladesh—they can raid the migrants’ houses, arrange a payoff, or just do nothing (Gandhi). Africans in Guangzhou complain about Chinese police officers’ everyday racism and racial profiling, despite China’s official policy of Sino-African friendship and its denial of antiblack racism in China (Lan). And in the Netherlands, mayors of major cities rebelled against the national asylum policy and devised their own solutions (Kalir).

The final dimension that the articles in this theme section address is the fact that state practices of (non)recording cannot be understood by merely considering individual states. States are enmeshed in a worldwide regime in which interstate power differences are crucially import-

ant. This is especially clear in the three articles dealing with tensions between member states and the European Union. The European Union reprimanded the government of the Netherlands for its harsh policy toward “out-of-procedure” asylum seekers and forced it to change course (Kalir). Border crossers in Lesbos faced not only agents of the Greek state but many others, including Frontex, the multistate agency in charge of guarding the external borders of the European Union (Rozakou). And Romania’s production of nonrecorded, *de facto* stateless citizens took a new turn as a result of European Union pressure to decentralize public services (Vrăbiescu).

Taken together, these articles invite us to consider states as engaging in deliberate strategies of nonrecording—strategies that are selective, episodic, and aimed at certain populations. This approach can enhance our understanding of how states square the pursuit of legibility with the need to look away—and how this balancing act leads to both intended and unintended outcomes.

In studying nonrecording states, all articles in this theme section point to the importance of paying close attention to differences in recording practices between the national and the local levels. Agents operating at the level of the central state can promote nonrecording policies without having to pay a high political price or assume direct responsibility for the consequences of nonrecording. These consequences manifest themselves mostly at the local level, where state agents meet non- or derecorded populations face-to-face. When agents at the apex of the state meet with their counterparts of other states, they can represent themselves as all-seeing and in control. Thus, the Romanian state can demonstrate full compliance with European Union requirements for working with advanced technology and applying procedures to document its national population fully and efficiently. The Dutch state can claim to have installed asylum-seeking procedures that comply with all European Union regulations and human rights conventions—and thereby demonstrate that it ensures both the rights of asylum seekers and their orderly departure in case of rejection. And yet,

nonrecorded or derecorded Romanian nationals and out-of-procedure asylum seekers in the Netherlands continue to lead their nonrecorded lives in their localities, regardless of the decisions taken at the apex of the state.

It is at the local level that police agents and municipalities need to interact directly with formally nonexistent subjects. Put differently, nonrecording is a strategic form of statecraft. It is viable because its benefits are reaped nationally, or even externally in relation to other countries or multistate agencies, while the price to pay is relegated to the local level. The national state can thus claim ignorance about, or show disinterest in, the social repercussions it produces, leaving these to the local state to deal with.

In an era of “neo-liberalism as creative destruction” (Harvey 2006), when the rule is retraction of the caring state and intensification of the coercive state (Wacquant 2010), it can be argued that nonrecording is an increasingly effective state policy for disowning populations that the state categorizes, and treats, as undeserving, undesired, and unproductive. In this light, we should perhaps consider the possibility that the “state of exception” (Agamben 2005) has by now become part and parcel of how central states manage ever more groups of people in their sovereign territories. Significantly, the “exception” is of a different nature than is usually assumed. It is not produced by separating condemned people, confining them to a designated geographical space, and dealing with them in extreme ways. Instead, the exception results from a not-dealing-with modality of governance. By non- or derecording certain populations—whether dispersed throughout the territory or at specific locations such as border entry points or major cities—the state sentences them to socially produced oblivion.

## Acknowledgments

This research was supported by the European Research Council, Starting Grant 336319 “The Social Life of State Deportation Regimes: A Comparative Study of the Implementation Interface.”

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