Limited Relief: Cause Lawyering on Behalf of Unaccompanied Chinese Youth

Michele L. Statz

A dissertation
submitted in partial fulfillment of the
requirements for the degree of

Doctor of Philosophy

University of Washington

2014

Reading Committee:
Stevan Harrell, Chair
Roberto Gonzales
Arzoo Osanloo

Program authorized to offer degree:
Sociocultural Anthropology

University of Washington

Abstract

Limited Relief: Cause Lawyering on Behalf of Unaccompanied Chinese Youth

Michele L. Statz

Chair of the Supervisory Committee:
Dr. Stevan Harrell
Sociocultural Anthropology

Each year, approximately 1,500 Chinese youth migrate alone and clandestinely to the U.S. While most intend to advance themselves and their families socially and economically, not all are immediately successful: a number are apprehended and placed in removal proceedings. Here, immigration cause lawyers are tasked with presenting clients who might otherwise be termed "economic migrants" as uniquely vulnerable and deserving of legal status.

Drawing on nearly three years of ethnographic research, this dissertation details the goals and responsibilities youth manage through multiple transitions of legality, labor and age alongside attorneys' negotiations of personal motivation and professional constraints. The "cause" that emerges, namely advocacy on behalf of unaccompanied Chinese youth, proves far-reaching and obligatory in largely unconsidered, and I believe unintended, ways.

I argue that the lawyers in this study maintain their subjective jurisdiction (Abbott 1988) of this "cause" by constructing Chinese youth as uniquely vulnerable—and their parents as uniquely culpable—through normative narratives of age and morality alongside Orientalist economics and the "spectacular case." Cause lawyers further establish their responsibility and, in a sense, worthiness to "treat" this population of migrants through a rhetoric of care—i.e. by ambiguously conflating "welfare and safety" with legal status, best interest with rights, and guardianship with legal representation. At the same time, however, the actions, expectations and very presence of Chinese clients unsettle these understandings of care. As I evidence, unaccompanied youth challenge presumptions of passivity or dependency by being "overtly agentful" (Coe, et. al 2008) in their management of migration journeys and legal needs.

By attending to the legal strategies of attorneys and youth, this dissertation illuminates the limiting choices attorneys make on behalf of a "cause." In so doing, it also points to the limited choices *available* to immigration cause lawyers, and thus to broader contradictions in the institutional practices, rights frameworks and political ideologies that govern the management and care of unaccompanied young migrants.

TABLE OF CONTENTS

LIST OF FIGURES

LIST OF ACRONYMS AND ABBREVIATIONS

BIA	Board of Immigration Appeals
BID	Best Interest Determination Panel
CAFTA-DR	Dominican Republic-Central America-United States Free Trade Agreement
CAT	Convention Against Torture
CBP	U.S. Customs and Border Patrol
CNCS	Corporation for National and Community Service
CPC	Country of Particular Concern
CRC	Convention on the Rights of the Child
CRN	Collaborative Research Network
DACA	Deferred Action for Childhood Arrivals
DCFS	Department of Child and Family Services
DOJ	Department of Justice
DUCS	ORR's Division of Unaccompanied Children's Services
EOIR	Executive Office of Immigration Relief
ESL	English as a Second Language
GAL	Guardian *ad litem*
GED	General Educational Development test
ICAP	Immigrant Children's Advocacy Project
ICE	U.S. Immigration and Customs Enforcement
IJ	Immigration Judge
INA	Immigration and Nationality Act
INS	U.S. Immigration and Naturalization Service
IRCA	Immigration Reform and Control Act of 1986
KIND	Kids in Need of Defense
LPR	Lawful Permanent Residency, Lawful Permanent Resident
NGO	Non-governmental Organization
NTA	Notice to Appear
ORR	Office of Refugee Resettlement
PSA	Public Service Announcement
SIJS	Special Immigrant Juvenile Status

TIP	Trafficking In Persons Report
TVPRA	William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008
UAC	Unaccompanied Alien Child
UDHR	Universal Declaration of Human Rights
UMP	Undocumented Migration Project
UNHCR	United Nations High Commissioner for Refugees
UNLV	University Nevada, Las Vegas Conference on Representing Children in Families
UNODC	United Nations Office on Drugs and Crime
URM	Unaccompanied Refugee Minor
USCRI	U.S. Committee for Refugees and Immigrants
USCIS	U.S. Citizenship and Immigration Services
VAWA	Violence Against Women Act of 1994
VTPRA	Victims of Trafficking and Violence Protection Act of 2000

ACKNOWLEDGEMENTS

This dissertation only exists because of the extraordinary generosity and insights of others.

I am profoundly grateful to everyone who participated in my research. These individuals entrusted me with their personal hopes, professional frustrations, and their complex and often very intimate life stories. They also shared their time, networks and knowledge. With humility and deep respect, I have done my best to weave together these expert perspectives; any shortcomings in organization and analysis are mine alone. Special thanks in particular to the Sullivan family, Maria Woltjen and Jajah Wu, as well as those friends (and friends of friends) who provided me shelter and food and helpful directions on my many research stops.

As a graduate student, I have had the incredible gift of an attentive, stimulating and truly caring committee. My warmest thanks to Arzoo Osanloo, who in our afternoon conversations in her office introduced me to the satisfying challenge of meaningful intellectual exchange. In the spirit of her father's academic pursuits, she always "left the lights on" for me; it remains my heartfelt goal to do the same for my students. I am similarly grateful to Roberto Gonzales. Like so many others in and beyond academia, I have had the good fortune to experience Roberto's wise perspective, good humor and steadfast support. My deep appreciation goes as well to George Lovell, who introduced me to and exemplifies the dynamic and truly collegial world of law and society studies. And finally, I offer my deepest thanks to Steve Harrell. I am a better anthropologist because of his careful attention, high standards and trustworthy mentorship. This dissertation is written to him.

My gratitude also extends to the amazing network of colleagues and friends I have found at the University of Washington. I feel fortunate to have begun my graduate studies in 2008, for it placed me in what is likely the best cohort in the world. It has been the truest pleasure to experience the intensity of life—friendship, marriage, loss, birth, and the delights and disappointments of graduate school—with Jennifer Carroll, Marlaine Figueroa Gray, Stephanie Maher, Kenny Robinson, and Shanna Scherbinske. I am infinitely blessed by their lives. My thanks to Mimi Kahn for generously sharing her home, wisdom and even furniture with my family; she has become a treasured mentor and friend. Thanks also to Catherine Zeigler and John Cady. Beyond the Anthropology Department, I feel extremely fortunate to have found a second university home in the Comparative Law and Society Studies (CLASS) Center. Here are among the best educators, researchers and mentors at the UW; I benefitted greatly from their wisdom and guidance. Thanks in particular to Steve Herbert, Rachel Cichowski, and my dear friend Anne Greenleaf.

I am also indebted to Kathleen Adams, the d'Ambruoso family, Marc and Katy Sanford, Alison Szopinski, Beth Higgins, Josh Clark, and Amy Burke. My deep appreciation as well for Lauren Heidbrink, a trusted collaborator and friend.

This project received generous financial support from the U.S. National Science Foundation, the American Association of University Women, and the Department of Anthropology and the Graduate School at the University of Washington. It also benefited greatly from the enthusiasm and incisive insights of those at the Chicago Area Law and Society Writing Seminar at the

American Bar Foundation, and from rigorous, exciting and always fun workshops hosted by the Association for Political and Legal Anthropology, the Law and Society Association, and the West Coast Law and Society Retreat.

Finally, my deep thanks to my family. My sister, Jennifer, has supported me with her wise perspective and presence in more ways than I can articulate. I will always look up to her. My parents' kindness and confidence led me to this journey and carried me through it, from sharing their patient, hard-won wisdom to offering prayers and groceries and childcare. As a parent, I will feel lucky if I can match even a fraction of their love and selflessness.

This dissertation is for Bijan Warner, who more than anyone has exemplified the courageous, joyful and necessary pursuit of knowledge. Since our drive from Chicago to Seattle in 2008, he has been my wise counsel and a source of laughter, music, strength and growth. The birth of this dissertation was paralleled by the birth of a baby and in both endeavors he sustained me to an extent I will never fully understand. He is my truest friend.

This dissertation is also for Zona, who gave me perspective and a sense of wonder, even while *in utero*. I love you.

CHAPTER 1
INTRODUCTION: "I DIDN'T THINK IT WAS IN HER BEST INTEREST"

I: Protection from What? Research Questions and Objectives

In April, 2012, I attended a conference in Washington, D.C. "On Their Own: Protecting the Rights of Immigrant Children" was billed as an opportunity for government representatives and advocates from private and nonprofit organizations to examine policies impacting Unaccompanied Alien Children, or UACs.[1] It additionally promised immigration attorneys a chance "to learn more about legal issues facing immigrant children, build useful skills, and brainstorm new ideas on ways to further the *protection* of unaccompanied immigrant children in the United States" (emphasis added).[2] Relatively unfamiliar with legal advocacy and interested in a particular subset of unaccompanied minors, namely Chinese youth, I was eager to learn more about the actors and practices that shaped their legal experiences.

The first day's proceedings were held at the Organization of American States, an imposing building that boasted curving marble staircases, fountains and palm trees. In the main hall, the audience sat below long, heavily-curtained windows. We craned our heads toward the stage, where throughout the day dignitaries and liaisons from various U.S. agencies spoke, flanked by colorful bunches of the OAS member states' flags. With a few exceptions, including some social workers and researchers, the audience was comprised of immigration attorneys representing various immigrant advocacy organizations around the U.S. There were directors and staff attorneys from the Brooklyn Family Justice Center, the U.S. Conference of Catholic Bishops' Migration and Refugee Services, Kids in Need of Defense (KIND), the Immigrants'

[1] U.S. legal code defines "unaccompanied alien children" (UACs) as those under age eighteen who have no lawful immigrant status in the U.S. and are without a parent or legal guardian in the U.S. who is available to provide care and physical custody (6 U.S.C. §279 (g)(2)).
[2] http://www.nn4youth.org/news/network-news/2012/03/08/conference-their-own-protecting-rights-immigrant-children-april-24-26-2. Accessed 10/8/2013.

Rights Project of Los Angeles, the ProBAR Children's Project in Texas, and on and on. While ostensibly there with a common purpose, I nonetheless encountered a steadily murmured—and sometimes uncomfortably unconcealed—grumbling from my acquaintances about the other actors and organizations present. "This is being put on by USCRI,"[3] a social worker whispered to me. "Nobody likes USCRI. And everybody knows that USCRI is always at odds with KIND."

As we fumbled with headsets providing a simultaneous English translation of the plenary talk, a woman muttered, "Why are we doing this? It was stupid to invite the first ladies of Honduras and Mexico and Guatemala to [speak]. They'll just keep toeing the party line."

"The strategies the folks from New York suggested would never work in Chicago," another lawyer commented, shaking her head. "This isn't helpful."

Alongside the buzzing discontent were more overt displays of tension, as during an opportunity to submit questions to the government agencies responsible for managing apprehended UACs in the U.S. As representatives from the U.S. Customs and Border Patrol, Immigration and Customs Enforcement, the Department of Homeland Security, the Executive Office of Immigration Relief and the Office of Refugee Resettlement spoke in turn, attorneys busily wrote questions on small slips of paper and passed them forward. Demanding a shift from the "agency speak" that clearly frustrated the crowd members, the discussant shuffled through the slips and asked: "What is the time-frame for adjudicating UAC asylum cases? Is there any guidance for IJs[4] on how to deal with aggressive trial attorneys? Why don't we have court-appointed representatives for UACs?" Here, the audience laughed. "Why aren't there statistics available to the public on UACs? Is there training for IJs on eliminating bias? Given the influx of

[3] U.S. Committee for Refugees and Immigrants. For the remainder of this document, I primarily refer to these and other agencies via their acronyms. See that Acronyms and Abbreviations Dictionary (Appendix X) for further reference.
[4] Immigration Judges.

kids, do you see an increase of funding?" Again, more laughter. Rarely did these questions receive a straightforward answer. Audience members glanced furtively at one another, shaking their heads.

I was weary from the first day of the conference. The constant swirl of acronyms overwhelmed me, and I felt unprepared for the tension and antagonism that seemed to fill the lofty room. As I walked alone into the humid D.C. night air, I was perhaps most unsettled by what seemed an *absence* of purpose in so well intentioned an event. Instead of providing timely, policy advancing information, agency representatives presented incomplete data and skirted audience questions—many of which were admittedly only thinly veiled attacks—with a rehearsed vagueness. The attorneys in the audience offered up a different sort of ambiguity: Where I had expected a more altruistic focus, a more demonstrable concern for young migrants, the only sentiments I observed were impatience, frustration and even hostility, and they were directed against state actors and, sometimes, one another.

During the second and third days of the conference, to which only legal advocates (and the occasional researcher) were invited, it was less the atmosphere than the discussions that surprised me. In crowded conference rooms at the Carnegie Endowment for International Peace, immigration attorneys presented on and listened to panels like "Particular Social Group: Updates and Strategies"; "Permanency for Unaccompanied Undocumented Children"; "SIJS[5] Hot Topics"; and "Strategies for Incorporating Best Interests Determinations into Decisions Involving Unaccompanied Alien Children." Audience members, the majority of whom were young to middle-aged women, sat together at round tables, drinking coffee, listening intently. Many typed or jotted down notes, and it wasn't unusual for someone in the crowd to raise her hand and interrupt a speaker.

[5] Special Immigrant Juvenile Status.

This was a small world, it was clear: Panel members and audience members addressed one another comfortably by first name. As I would discover later, this familiarity often extended to one another's employment history, involvement with notable cases, law school education, and (acceptable or threatening) affiliation with other organizations. "Our work does become a turf issue," a conference attendee told me later. "It's always a turf thing."

It's worth noting, of course, that this was very much an *elite* and *urban* turf thing. Many of the attorneys I met elsewhere, those who worked for small nonprofits in less traditional immigrant destinations, knew only vaguely of meetings like the "On Their Own" conference. When I asked about these professional gatherings, they were typically disinterested or frustrated by the disconnect between regional advocacy efforts and capabilities. "Here in Arkansas, we don't go to conferences, we don't go to trainings, we have no money!" stated one attorney. Scornfully, another echoed, "We just don't have the money or time to go to Angelina Jolie conferences."[6]

"She didn't show," I replied.

She laughed. "Well, she's probably too busy with the UNHCR. I'm busy, too. For us, immigration court is five hours away in Memphis."

Grateful for my anonymity at the "On Their Own conference," I watched carefully as New York attorneys greeted their colleagues from San Francisco or Chicago warmly, sharing hugs and friendly banter, while others unabashedly sized up peers from across the room. The absence of a clear "opposition" (namely, federal and state agency representatives) made the intricacies of these professional relationships more apparent. Yet as each panel commenced and

[6] Angelina Jolie is a founder and co-chair of KIND, an advocacy organization for unaccompanied minors based in New York City, NY. There is often inter-agency tension with KIND, due in part to its relatively large budget, as well as its structure, mission, and self-promotion. From www.supportkind.org (accessed 10/11/13): "KIND serves as *the leading organization* for the protection of unaccompanied children who enter the US immigration system alone and strives to ensure that no such child appears in immigration court without representation..." (emphasis added).

novel—and presumably successful— legal goals and strategies were introduced, conference attendees were again keenly united. I looked around the room. Nearly everyone was engrossed in the information shared:

> *If youth are in criminal proceedings, make an SIJ motion. It recategorizes the child's history as a child who has been abused, abandoned, or neglected.*
>
> *I always like to talk about my "10k kid," a client who had ten kilo of marijuana on him. If you're successful with a client like this, they get URM and stay in Seattle or go to Michigan. But it was really frustrating to deal with ORR, with case workers who didn't understand.*
>
> *Some of our families* [the families of unaccompanied clients] *have never accessed these educational services, and they're not very good advocates for themselves.*
>
> *There was a case in New Jersey where the judge ruled that the child wasn't abandoned or neglected in Guatemala, because it's okay for youth to be working in Guatemala at age 12. But no judge in the U.S. should be assessing the standards in a foreign country… This was* child labor! *But the judge saw it as okay.*
>
> *I was supposed to advocate for her expressed legal interest—it was a girl who wanted voluntary departure. But I didn't. I didn't think it was in her best interest to go back to her country.*
>
> *The question is: How to get SIJ when one parent is deceased? In a regular state court, the mom would never go to court to get custody. Sometimes you can get SIJ if dad was abusive... But the judges are suspicious: "Why do you need this?" they ask. "You're not supposed to pursue SIJS for immigration benefits."*

Though routine to the immigration attorneys in the room, these statements baffled me, revealing and casting doubt upon the easy assumptions I held about legal advocacy and immigration relief. Why did no one discuss rights, only "best interests?" Why were clients' parents and home countries discussed in such a patronizing and disparaging way? Why was so little attention paid to youth from regions other than Central America, even among the attorneys I knew who claimed Chinese UACs as their professional niche?

More profoundly, what was the point of immigration relief? Was someone worthy of it simply by virtue of being an unaccompanied minor? What about *other* rights and protections?

The questions I formulated in this space largely propelled my research. They remain forefront to this dissertation, an inquiry into professional demands, personal motivations, and legal "success."

The Professional "Niche": An Introduction to Unaccompanied Fujianese Migration

Each year, approximately 1,500 Chinese youth (typically age 15-17) migrate alone and clandestinely to the U.S.[7] The majority of these young people arrive from Fujian Province and, more specifically, from the region surrounding the provincial capital of Fuzhou. While often characterized as a "small, poor province" by cause lawyers, Fujian has a population of approximately 37 million[8] and is one of China's wealthier provinces.[9] This is largely due to its location: Situated on China's southeast coast, Fujian is an attractive site for national development and international investment. This location matters for another reason, namely as regards Fujian's unique and widely recognized history of emigration among China's provinces.

I explore the broader historical, political and socioeconomic context of Fujianese migration in more detail in Chapter 3. For now, I wish to briefly identify the transnational negotiations youth themselves recognize as important. The clandestine migration of these individuals to the U.S. is an increasingly complex and sophisticated process, one by which people and enormous sums of money—fees average $80,000 USD—are moved by smuggling networks (typically termed "snakeheads" or *she tou*) through multiple nations. As youth recounted, their journeys are influenced by local norms and family expectations, national policies and overseas connections, documented details and rumored incentives.

[7] This estimate is based on data analysis (and deduction, as the Department of Homeland Security does not share information regarding the age of apprehended migrants) conducted by Human Rights Watch (n.d.:87-92). The amount includes youth who are apprehended along with those who enter the U.S. undetected.
[8] 2011 Fujian Statistic Bureau. Accessed 8/19/14. http://www.fujian.gov.cn/.
[9] In 2013, Fujian had the 11th highest GDP of China's Provinces. China Statistical Database: http://219.235.129.58/welcome.do. Accessed 8/19/14.

Despite the high economic costs of migration, unaccompanied Fujianese minors migrate in part because of local "regimes of value" (Chu 2006). As Chu argues, these are often entangled values tied to status, gender, kind and religious hierarchies and, as evidenced in so many extravagant homes and temples, are overtly influenced by the social and financial capital overseas migration provides. Youth are also aware of the ways in which they "lag" behind other Chinese nationals in P.R. China, behind Chinese-Americans and other young migrants, and behind distinctly Western markers of age-appropriate success (see Chapter 3).

These impressions exert a very immediate kind of pressure, one that may motivate even a relatively "secure" family to consider supporting the migration of a daughter or son. Often, youth see only the effects of remittances and perceive migration as the best, or only, way to advance themselves and their families socioeconomically. In some villages in Fujian, almost 90 percent of youth have gone abroad (Liang and Ye 2001:200). While the young people in this study are not immediately "successful" by virtue of being apprehended at the border, they must nonetheless be recognized as savvy transnational actors, individuals who manage and lead kin networks, employment opportunities and legal pursuits in the U.S.

II: Evaluating "Success": A Theoretical Framework

However disconcerting, the "On Their Own" conference proved a valuable introduction to what emerged as and ultimately remains a complex, uneasy cause. The cause I document here is most popularly and persuasively understood as *the provision of free legal advocacy to vulnerable Chinese children who are held in federal facilities and called into removal proceedings alone*.[10] Yet I argue that it is decidedly more charged, involving attorneys' powerful

[10] I've synthesized this definition from policy reports, organizational websites, fundraising promotions and conversations with attorneys.

reliance upon professional and Orientalist discourses in which the client, up until now a largely independent transnational actor, is newly cast as a child vulnerable to Chinese culture and wholly dependent on an attorney's legal expertise and personal support. To cause lawyers, these characterizations are successful: they secure legal status. They are also to a certain extent necessitated by bureaucratic constraints and competing legal regimes, and they are most certainly consequential, particularly in regards to the rights and protections youth need and often prioritize beyond the immigration context.

This dissertation, then, is a discussion of *rights, responsibility* and *expectations*. It considers rights as they relate to age, citizenship and labor, and to cultural practices and culture as explanations (Kuper 1999; Osanloo 2009). It examines the ways in which lawyers' sense of their professional and moral responsibilities defines and perpetuates a certain type of cause and, I argue, a certain type of client. It concurrently recognizes young people's ongoing contributions to household economies and transnational migration networks—responsibilities that are managed through and from the legal realm. Finally, it explores the expectations youth and attorneys hold for one another, expectations guided by disparate understandings of age, efficacy and success.

Accordingly, this dissertation draws on such diverse bodies of scholarship as sociolegal studies, the anthropology of law, the anthropology of youth, China studies scholarship, the sociology of new immigrant destinations, and interdisciplinary research on transnational migration. Predictably, my research also relies on the Cause Lawyering Project. Largely attributed to and shaped by the work of Austin Sarat and Stuart Scheingold, the project produced five edited volumes as well as conferences and journal articles dealing with the significance, influence and contested parameters of cause lawyering. From it, I recognize the attorneys at the center of my study as cause lawyers—individuals who self-consciously commit themselves and

their skills to a political cause, and for whom lawyering is not value-neutral (Sarat and Scheingold 1998; see also Luban 1988).[11]

In what follows, I introduce my engagement with and contributions to the aforementioned fields. This literature is considered in more depth throughout my substantive chapters.

Rights

My research identifies the management of Chinese youths' legality as predicated on a powerful, contradictory definition of rights. Having compromised her or his own citizenship by leaving China unauthorized, a Chinese youth who is apprehended in the U.S. is at once positioned between two opposed rights practices. Because she or he is under age 18 (usually age 15-17), the state acts as a discretionary guardian, providing the youth food and shelter as inalienable rights. At the same time, having not ratified the Convention on the Rights of the Child and thus not required to provide youth with comprehensive guardianship or legal representation (Bhabha 2009), the state normalizes the youth's detention and weakened ability to claim citizenship rights.

It is the stateless individual, here the unaccompanied minor, who exposes the limits of these supranational "inalienable" rights. The young person's presence doesn't break the presumed continuity between human and citizen, nativity and nationality (Agamben 1998). Instead, it evidences a "continuum" of citizenship—one in which youth experience different

[11] I have deep admiration for Sarat and Scheingold's collaboration and have found the cause lawyering literature enormously helpful. At the same time, I recognize its limitations, most obviously its lack of an explicit conceptual framework.As Austin Sarat himself admitted of the Cause Lawyering Project, "Stuart [Scheingold] and I were mere facilitators… we believed in a kind of scholarship in which the boundaries would be continuously negotiated, in which participating in a collective project was not like joining a fraternity, in which you had to pledge an allegiance to a particular conception… Some of the strength [of the Cause Lawyering Project] is the openness and the contestation around the boundaries, and some of the weakness of the work is the openness and the contestation around the boundaries." "The Cause Lawyering Project: Honoring Austin Sarat and Stuart Scheingold for Nurturing Careers, Critical Scholarship, and Collegiality" panel, Law and Society Association Annual Meeting 5/29/14.

degrees of membership that distinguish undocumented immigrants, legal residents and citizens (Calavita 2005; Ngai 2004; Schuck 1998). Though no longer experiencing the socioeconomic and emotional constraints of deportability (Gonzales and Chavez 2012; Willen 2007), the youth on one end of the continuum—those who have lawful permanent residency or even citizenship—still embody "illegal life" in regards to their labor. That cause lawyers do little to acknowledge or address this reality implicitly challenges the holistic nature of the cause at hand and likewise conveys a bounded understanding of "best interest."

In this context of rights and regulation, immigration attorneys who assume the cause of representing youth without court-appointed representation must make an unaccompanied youth "legible" before the law (Scott 1998). To understand this process, I've asked: How and why do cause lawyers, for whom lawyering is a "deeply moral or political activity" (Scheingold and Sarat 2004:2), frame the cultural and economic realities of their Chinese clients to guarantee them some measure of legal relief? My research suggests that as lawyers advocate for what they perceive to be in a youth's best interest—avoiding repatriation—the persuasiveness of these claims is contingent on the defendant's age and the "narrowed" narrative told about her in court (Mather and Yngvesson 1980). The youth's legal status largely depends on the extent to which she is portrayed as a rights-worthy child from a patriarchal culture and authoritarian state who did not consent to her migration journey, as opposed to a much-less defensible or pitiable economic migrant. It is chiefly through this essentialized conflation of cultural identity with discrete nation-states (Chu 2006) that attorneys successfully appeal to the reality of rights that constrains them as well as their clients.

Responsibility

To most of the cause lawyers I interviewed, these tactics are successful. They permit attorneys to contend with the complex nature of unaccompanied youths' rights and the limited number of legal protections available to them, and to maintain "principled" altruistic goals and responsibilities (Menkel-Meadow 1998). I argue, however, that these strategies also deny youths' voices and the agentive roles they take in their own migration journeys and may compromise youths' own long-term financial commitments and personal responsibilities. Moreover, attorneys' understanding of "best interest" emerges in these practices as rooted in a Western, legally dominant view of childhood, one that presumes an apolitical, sacrilized child, families', schools', and professionals' responsibility for children, and "a general presumption against [youths'] paid labor" (Appell 2009:709; Nieuwenhuys 1996). Significantly and unsurprisingly, these ideas conflict directly with many of the reflections that Chinese youth have shared with me.

To illuminate this dissonance, my dissertation deliberately explores the practices and aims of attorneys alongside—and sometimes against—the agency and age-specific positionalites of young Chinese migrants in removal proceedings. Without diminishing a youth's tenuous legal status or her social and emotional needs (Atkins, et. al 2008; Gozdziak 2008), this research follows the argument that identities are "forged in relation to law, in accommodation and in resistance to it" (Coombe 2006:53).

The unaccompanied youth's internalization of and responses to the law emerge on multiple levels. For one, her or his autonomous and unauthorized presence in the U.S. implicitly challenges conceptualizations of children as exclusively dependent (Coutin 2005). Following that "passive states… are not seen as lacking in intentionality" (Das 1989), this project also pays particular attention to interactions between persons conceived as active legal agents (attorneys, judges) and youth themselves. Challenging the presumption of youths' passivity or dependency,

it focuses on the deliberate decisions youth make—often alone—in the course of their legal journeys, thereby explicitly demonstrating their "overtly agentful" roles (Coe, et. al 2008). Finally, it examines the "spatialized networks of practice" (Jeffrey and Dyson 2008) by which youth develop new forms of social mobility. These networks, often forged with other youth in shelter care or with unapprehended acquaintances through various technologies and social media, allow youth to attend to personal and economic responsibilities even before legal status has been secured.

Expectations

Complicating the "narrowed" migration accounts that attorneys present in removal proceedings, relevant research situates Fujianese migration trends in Chinese state reform policies and economic development (Kwong 1997; Chin 1999;) as well as in established migration networks in the U.S. (Massey, et. al 1994). The picture of emigration is further complicated by Julie Chu, who argues that Fujian Province has a distinct "politics of destination" (2006) by which the expectations of "emplaced" Fujianese—those who have not yet migrated—are remade in relationship with others' actual (or showy displays of) transnational migration (see also Massey 1993). Taken together, this scholarship creates a more detailed picture of the economic and socio-cultural motivations for Fujianese migration. However, it grants little specific attention to youth. While other recent anthropological research specifically examines how youth in China navigate and reconfigure networks of family, finance and tradition in domestic settings (Fong 2004; Ikels 2004; Ngai 2006), still no one has asked how young Chinese uniquely negotiate quickly changing filial and economic obligations in and beyond the unfamiliar spaces of U.S. law and regulation.

No longer a "dependent" charge of the state, the Chinese youth becomes (or resumes being) an independent, transnational economic actor once legal relief is secured. Even with a successful legal claim, however, young people often reassume tremendous economic obligations connected to smuggling fees (currently about 80,000 USD) (Liang and Ye 2001). While cause lawyers are certainly aware of this reality, it remains at odds with the expectations they express for their clients, that youth will go to school, learn English, and otherwise lead lives appropriate to their age and legal status in the U.S.

To shed light on this tension, this dissertation examines the experiences and expectations of youth who have obtained legal status, recognizing youths' "semi-autonomy" post-release (Jeffrey and Dyson 2008) as evidenced in the identities they maintain or make for themselves as family members, consumers, and individuals who perform valuable work. Here, my research engages with literature on "new destinations," communities in the South and Midwest that in recent years have experienced the highest relative immigrant population growth in the U.S. (Marrow 2011; Portes and Rumbaut 1996). Because primarily Mexicans, and also Central and South Americans, have driven this process, new destinations scholarship tends to focus on Hispanics/Latinos (see Donato, et. al 2005; Lichter and Johnson 2009; Massey and Capoferro 2008; Fennelly 2008; Millard and Chapa 2004). While the youth in this study are not nearly as concentrated or visible as their Latino counterparts, they pursue or are directed to "new destinations" for a similar reason, namely that labor-market opportunities in these areas are more attractive than saturated immigrant niches in gateway cities (Light 2006). Accordingly, their experiences in these spaces deserve attention. So also do attorneys'.

As an understudied contrast to cause lawyering in immigrant gateways, the advocacy practiced by attorneys in new destinations evidences a unique form of localized and long-term

advocacy on behalf of unaccompanied minors—and also, and perhaps correspondingly, a compelling *lack* of an explicit professional "cause." As this dissertation demonstrates, the shifting demographic and socioeconomic context of new destinations facilitates novel ways by which both lawyers and Chinese youth forge professional relationships, legal identities, and "insider" experiences of belonging.

III: To Understand a Necessary Cause

This dissertation represents nearly three years' worth of research. It emerged from a volunteer position I accepted in the summer of 2009 at the Unaccompanied Children's Project (UCP),[12] a nonprofit organization/law clinic at a prominent university in Chicago. At this time, UCP consisted of two attorneys, a social worker and a number of law students, all women. Its foremost goal was to train students and lay volunteers like me to serve as guardians *ad litem* or "Child Advocates" for unaccompanied youth in shelter facilities in Chicago. As someone who could speak Mandarin and had lived in China, I played a relatively valuable role in UCP's pool of volunteers, the majority of whom spoke Spanish.

Since then, the organization has expanded to Texas. In addition to providing Child Advocates, it contributes to federal immigration policy, particularly as it pertains to the substantive best interests standard,[13] and hosts regular Best Interest Determination (BID) panels, "multidisciplinary forums" for reaching decisions about the best interests of youth in removal proceedings. As I detail in Chapter 5, this volunteer position not only connected me to a number

[12] With the exception of this chapter's opening vignette and Chapter 5, the names of all individuals and nonprofit organizations featured in this dissertation have been changed to maintain anonymity. Of course, a scholar or activist involved in the cause at hand will likely recognize the world behind these pseudonyms.

[13] Despite being a fundamental principle in U.S. domestic child welfare law and the Convention on the Rights of the Child, there is no statutory best interests standard for youth in immigration proceedings. As a result, complex questions of family, safety and well-being may not be considered when decisions are made regarding removal.

of the attorneys and youth who would come to feature prominently in my scholarship, but it also illuminated the many facets of a form of "help" I found both admirable and perplexing.

I returned to UCP for preliminary fieldwork in 2010. There I volunteered once more as a child advocate, visiting a young man in a federal shelter once a week and accompanying him to immigration court. I also participated in the organization's work at the university, contributing to legal documents and reports, helping organize and manage data on youths' migration journeys, and sitting in on BID panels. During this time I also conducted formal interviews with UCP staff and volunteers, as well as with other immigration attorneys and immigration law professors in the Chicago area. I additionally telephonically interviewed many of the attorney "experts" the organization consulted with across the U.S. Later that summer, I participated in the Undocumented Migration Project (UMP) field school on the U.S.-Mexico border, tracing some of the routes smugglers and migrants take across the Sonoran desert, observing Operation Streamline[14] court proceedings in Tucson, and visiting shelters for deported migrants in Nogales, Mexico. Though a fascinating, often devastating experience, I increasingly sensed that for me, the true "puzzle" of this project originated—or at least operated—in the UCP offices. What I observed and *felt* in this space, including the warmth and productivity of the individuals around me, the frenetic nature of their work, and the palpable sense of frustration and compulsion, largely shaped my dissertation methods and data.

I continued to familiarize myself with unaccompanied and undocumented migration the following academic year amidst coursework at the University of Washington. This included sustained observations in immigration courtrooms in Seattle and at the Tacoma Northwest Detention Center, interviews with Customs and Border Protection officials at the U.S.-Canada

[14] Operation Streamline is the controversial fast-tracked, federal criminal prosecution of undocumented migrants who are apprehended at the U.S.-Mexico border. http://www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf. Accessed 7/15/14.

border, attendance at local anti-trafficking task force meetings and visits to migrant youth shelter facilities in Seattle. With my experiences in Chicago as a baseline, I began to see how the institutional management of unaccompanied youth shifted from place to place and how local politics, economies and histories shaped the forms it took.

While these regional differences interested me, I remained most concerned with the intentions and efforts of attorneys and youth—endeavors that extended forward in impact and to the past in commitment, and that spanned and animated national advocacy networks and labor trajectories. What demands and motivations influenced immigration cause lawyers? I wondered. How might an attorney' goals and self-identity impact the life, labor and success of a young client? Asking the inverse was equally meaningful and perhaps more destabilizing: What demands and motivations influenced these youth? How might a young person's goals and self-identity impact the life, labor and success of her or his attorney?

Fieldwork with Youth: What Didn't Work

My aim in recognizing the power of youth—and in particular, their power in and beyond the attorney-client relationship—was two-fold. As I developed my methods, it was important to me to reduce the estranging effects of much child-focused scholarship by considering how unaccompanied youths' lives intersect with attorneys' social and professional worlds, rather than focusing on the differences between "adult" and "child" (Cheney 2007). Of course, even a casual reader will likely note that the "children" in this study are individuals whose experiences, skills and achievements signal a transition to adulthood or "emerging adulthood" (Arnett 2000; Rumbaut 2005) in both their country of origin and country of reception. The active and accepted dismissal of this fact by cause lawyers indicated a critical elision, one that necessitated further

inquiry. To this end, I sought to illuminate the broader context of a young person's migration journey, family and employment. The result would be a child-centered ethnography.

That this document does *not* center on youth is significant; indeed, I believe it meaningfully reveals the "invisibility" of a certain population of youth, as well as its agentive mobility. It likewise indicates the ways in which these young people are linked to and often restricted by larger structures—like the institutional management of UACs—that define the parameters of their legal experiences in the U.S. (see Laerke 1998). This institutional management also impacted the initial parameters of my fieldwork.

I expected to begin my research in federal shelter facilities.[15] Here, attorneys and paralegals offer "Know Your Rights" presentations and conduct legal intakes with youth to gauge whether or not they might qualify for legal relief. The federal shelter is thus a locus for the initial elicitation or "scripting" of a legal narrative, as well as an introduction to new conceptions of family, age and culture. Yet as I observed in my volunteer visits, it is also a "dialogical site" (Bakhtin 1981; see also Osanloo 2009) in which unaccompanied Fujianese youth, together with Guatemalan, Honduran, Indian, and Salvadoran UACs, interpret and exchange information about their legal identities.

I was naïve. In 2003, the care and custody of unaccompanied minors was officially transferred from Immigration and Customs Enforcement (ICE) to the Office of Refugee Resettlement (ORR). The shift represents a considerable conflict of interest and agenda: ORR is tasked with caring for "unauthorized" youth, yet it must still regularly collaborate with ICE, mandated to *remove* unauthorized migrants. As Lauren Heidbrink details, the transition from ICE to ORR has led to an institutional bias in which the security and safety concerns of the nation

[15] While conducting fieldwork in Fujian Province would have contributed much to this project, I was limited in both time and funding.

outweigh the safety and welfare concerns of this population (2014:11).[16] The heightened control of ORR shelters extends as well to researchers; these spaces are notoriously difficult to access (see Terrio 2015), and there is little transparency regarding the data ORR presumably collects on youth.[17] Some eleven months after submitting the necessary institutional review paperwork to conduct research in an ORR-contracted shelter, I received a call: Did I still want to conduct research? The woman on the phone was apologetic. "You can resubmit your paperwork," she said, "but I can't give you any guarantees." By this time I had recalibrated and curtailed my research with youth. However disappointing, the institutional impasse now represented *data*.

With research in federal shelters an unlikely possibility, I chose to focus on youth who had been released from shelter care and whose removal proceedings were ongoing or had concluded. I was deliberate in working only with unaccompanied youth who had been apprehended, both because my dissertation emphasized youths' *legal* journeys, but also for ethical reasons. When I observed research participants in the Chinese buffets where they worked, I often encountered coworkers who were eager to speak with me in Mandarin. Such exchanges were always friendly, yet because I suspected these individuals were undocumented,[18] I regretfully but deliberately kept our exchanges brief. I recognized that my transparent but

[16] For example, reflecting the growing demand for detainment of youth with some juvenile justice involvement, a number of staff-secure and secure facilities have opened in recent years. Staff-secure care is for youth with a history of nonviolent or petty offenses or who present an escape risk; secure care is for youth with a history of violent offences or who pose a threat to themselves or others (Byrne and Miller 2012). Similarly, Susan Terrio (2014) writes, "ORR regulations call for children to be held 'in a non-institutional home-like atmosphere of care.' But… custody is not anything like home. All facilities are locked and organized on a penal model that requires controlled entry, exit and movement within the premises, as well as continuous supervision via surveillance cameras and line-of-sight checks. Children attend school inside the shelter, play sports within fenced areas and only leave the facilities for court appearances, special medical or psychiatric treatment and occasional community outings. They are subjected to rigid behavioral management programs that are both punitive and infantilizing."

[17] A 2008 report from the Office of the Inspector General notes that case files from the Division of Unaccompanied Child Services (DUCS) lacked documentation—"We could not determine whether lack of documentation in case files was a result of poor record keeping or failure to provide services"—and that little oversight of facilities (or of methods to track the safety of youth who have been released to sponsors) exist (Levinson 2008).

[18] Many of the youth who invited me to their workplaces shared that they were part of a minority of "legal" workers there.

nonetheless mystifying (or mistrusted) presence as a researcher could feel threatening to management fearful of government officials or ICE raids. Likewise, I did not want to risk the safety, job security or status of unauthorized individuals working in what was likely an "invisible" workplace, a space in which employers or coworkers might be undocumented and/or below the legal working age, and that may not comply with labor laws and safety regulations (see Chapter 6).

Economic Migrants and Rights-Worthy Children

Unable to conduct research in shelter facilities and unwilling to work with unapprehended young people, I thus relied heavily on the contacts I had gained in my preliminary fieldwork. These included youth I volunteered with or had casually met, as well as shelter staff who were willing to connect me with released youth with legal status. I was also introduced to young people by the attorneys who were working or had worked on their behalf.

In the end, twenty five unaccompanied, once-apprehended Fujianese youth participated in this project in some way, whether in extended informal conversations (sometimes with other unaccompanied youth of various nationalities) at law offices or immigrant service centers, or in more formal, open-ended narrative interviews. Interviews were conducted at locations young people chose ahead of time, typically a restaurant or coffee shop, and once in the basement of New York's Grand Central Terminal. These interviews usually lasted about an hour, though occasionally much longer. Because I often traveled cross-country to meet with young people, a formal interview was typically followed by more casual, sustained conversations throughout my visit—and with a few participants, periodic phone calls, texts and mail long after.

Since most of these individuals had been introduced to me through a trusted peer or adult, I expect I was more careful than necessary in detailing the project before and as we met together.

I always described their role in my research, and I clarified that youth would not experience any tangible benefits from this study. It would not help youth with their financial obligations, nor would it influence anyone's legal case. If anything, and very abstractly, it might help other Fujianese youth in the future.

Still, youth were overwhelmingly interested in the project and eager to share their reflections about their migration journeys, their families and communities of origins, their motivations and plans and their experiences in the legal realm. A number of the individuals I spoke with exhibited a kind of reflexive helpfulness and expertise as they recounted these things: "You should know about…" or "Has anyone mentioned… to you? No? Let me explain it…" In hindsight, I believe the youth I spoke with were meaningfully representative of the uneasy "cause" of unaccompanied Fujianese migration.[19]

Though the content of our conversations was invaluable to me as a researcher, the logistical challenge of arranging and completing them was equally meaningful. Formal interviews were often delayed, day after day, sometimes until just before I needed to leave to return to Chicago. Phone numbers changed. I expected to meet with three individuals and was met by one, and occasionally the opposite. The youth in this project are *mobile*, a descriptor that extends beyond individual migration histories. As I detail in Chapter 6, Fujianese youth typically journey from shelter care to New York City, then to employment in a "new destinations" community. Most of the young people I interviewed stay at a workplace for a year or two,

[19] Within *any* population of unaccompanied youth, there exist individuals who enter the U.S. to escape specific, often very private hardships including political, religious or ethnic persecution or situations of abuse. Some youth additionally suffer trauma during their migration journeys. It is obvious that I would not include these individuals in my research out of respect for their privacy and well-being. Yet I also recognized that a Fujianese youth with an explicit, genuine claim for asylum or another form of legal relief is in a sense an outlier. The majority of unaccompanied Fujianese in removal proceedings have—or have to have—fuzzier stories. Relatively straight-forward economic obligations and mundane migration accounts are unsatisfying in the legal realm; the straight-forward is thus strategically destabilized, the mundane made sensational or tragic. This process was part of the puzzle. I thus needed a "boring," i.e., legally problematic, baseline.

sometimes just months. It may be unsafe or not lucrative. It may be too exhausting or too boring. The cycle continues.

While youth can't control the economic obligations urging and perpetuating this movement, they are largely responsible for the decision of when and where to move next. Thus, just as the inaccessibility of ORR shelters represented meaningful data, so also did the sporadic silences between casual phone conversations, funny text messages, and research-related meetings with youth. I recognize these gaps as indicative of the full reality of youths' transnational lives—their work; their involvement in Chinese household economies; their management of kin and social networks; and their unique, geographically-expansive pursuits in the U.S.

Between interviews and casual correspondence, I accompanied a number of research participants to immigration court, noting in particular the participation of youth, judges, and lawyers in hearings, the availability of translation services, and the ways in which youths' personas shifted in these spaces of institutional power and legal intervention. After proceedings were concluded, I recorded youths' reflections and questions about the process.

I additionally traveled with youth to those spaces they noted as important: workplaces, grocery stores, shopping malls, restaurants. This portion of fieldwork familiarized me with the tacit realities of a young migrant's life—realities that are ostensibly "extra-legal" but nonetheless remain uniquely impacted, and sometimes constrained, by legal advocacy. It also introduced me to the relevance and broader context of communities of reception, and to the regionally-specific challenges and benefits youth navigate in "new destinations."

Creating and Critiquing a Cause: Attorneys' Reflections

The data I collected from my fieldwork with Fujianese youth creates a compelling counter to the legal portrayal of unaccompanied minors as vulnerable, dependent children. Of

course, this portrayal matters. Indeed, its production and dissemination is the current that prompted my initial discomfort as a volunteer and later wound through the conversations, media promotions and courtroom observations I collected during preliminary fieldwork. This current contained the uneasy quality of a "cause," and to understand it, I needed to understand its arguable necessity, as well as what—or who—was "produced" through attorneys' "subjective jurisdiction" of it.

Following Abbott (1988), I believe lawyers establish their professional expertise, obligation and indispensability via subjective jurisdiction—the practice of defining a problem, reasoning about it, and taking action on it. As this dissertation demonstrates, the mechanisms by which cause lawyers define the "cause" (unaccompanied Fujianese migration); reason about it (as a matter of deviant parents, coercive culture, and so on); and take action (by providing legal relief) not only produce and perpetuate a certain "type" of migrant/youth (vulnerable/child) but also a certain type of lawyer. More simply, in a profession uniquely vulnerable to bureaucratic constraints and political shifts, immigration cause lawyers not only answer a need, they also *need* a need.

Knowing youths' individual yet reasonably representative life stories and the historical, political and socioeconomic grounds for their migration would help me understand the background of a "cause." To understand its impetus, however, I needed to talk with attorneys. I began in Chicago, where I conducted longer and more formal interviews with those individuals I met through preliminary fieldwork. Now that I was relatively familiar with the process of and possibilities for legal advocacy on behalf of Fujianese minors, my questions were focused. I inquired into the process by which an attorney determines a young person's eligibility for legal relief; the relative significance of a client's economic obligation, family, age, and national and

cultural background as a claim is developed; the benefits and drawbacks of various legal protections for a client and the client's family; the perceived consequences of attorneys' legal strategies; and the attorney's hopes and expectations for young clients. I also moved beyond practice to practice *site*, examining the ways in which organizational mandates, institutional structures, state and federal policies and local economies, histories and demographics grounded and formed the "conditions of possibility" (Foucault 1994) for their work, and likewise impacted clients, volunteers, and researchers like myself.. I also explored the opportunities attorneys had or forged—or sometimes disregarded—for creative partnerships and sustained, extensive advocacy.

In the end, I interviewed nearly a hundred attorneys for this project: eighty during my dissertation fieldwork and fifteen during preliminary fieldwork. Many of these interviews occurred in Chicago or New York, gateway cities where lawyers practiced at or directed large nonprofit organizations that serve immigrant youth. Other interviews took place in new destination communities in Alabama, Tennessee, Arkansas, Oklahoma, Missouri, Texas and Wisconsin. There, lawyers worked for regional branches of national nonprofits, had small private practices, or worked for large firms and took on unaccompanied minors' cases pro bono.

More than once did an attorney laughingly tell me, "You won't have any trouble getting a lawyer to talk for your research!" And while this ultimately proved true, there were of course attorneys who were short on time, preoccupied, or, as was most often the case, ready with what felt like stock introductions to unaccompanied child migration. No longer a newcomer to the phenomenon, it was critical, if not occasionally uncomfortable, to evidence my familiarity with these issues and the relative depth and preparedness of my inquiry. Comfortably mentioning a practice advisory or a recent case elicited a visible shift in attorneys; so also did admitting my

shaky knowledge of substantive immigration law. I was overwhelmingly met with a level of openness, helpfulness and candor that I never could have anticipated.[20] Thus, while this dissertation is often critical of attorneys' practices, it is worth underscoring that elements of my critique were largely illuminated by attorneys' own reflections about their work.

In addition to practitioners, I also interviewed legal scholars and clinicians at New York University, CUNY, Washington University, Fordham University, the University of Arkansas, the University of Oklahoma, Northwestern University and the New York Bar Foundation. A number of these individuals are experts in immigration law, child welfare or children's or parents' rights; as such, they were keen to discuss the theoretical context and broader ramifications of the cause at hand. Lasting an hour or more, our conversations moved at what felt like break-neck speed. They were among my most challenging, stimulating and fruitful interviews.

During my fieldwork, I observed attorneys in removal proceedings, organizational fundraisers, media events and conferences. Because this project intersects with child welfare, I also attended relevant professional gatherings such as the annual National Child Welfare, Juvenile, and Family Law Conference. I additionally collected and analyzed the practice advisories and policy reports research participants had published, as well as the case documents a

[20] I am not a lawyer, a fact I imagine was painfully obvious in my earliest conversations with attorneys. My questions were stilted and the responses short. When I began fieldwork, I felt relatively confident in my *anthropological* understanding of law—i.e., law as norms, legal orders, and styles of dispute resolution; as indigenous legal categories and concepts; as influenced by history, power, ideology; as practiced, shaped and contested by individuals and groups within the legal realm and extra-legally (among others, see Geertz 1996; Goodale 2010; Greenhouse 1988; Nader 2002; Starr and Collier 1989). Yet it was soon clear that I knew very little about law itself; about substantive immigration law; about the complex and changing immigration and adjudication process; and about the applications, photocopies, emails, court dates, explanations, and translations that occur between an eligibility interview and lawful permanent residency. Thus began a rather ad hoc, individualized immigration law education. I began keeping a list of the acronyms I heard every day. I lugged around a used copy of *Black's Law Dictionary* and read it on the train. On my birthday, the UCP attorneys gifted me a slim edition of *25+ Human Rights Documents*, and during an interview with a University of Arkansas law professor I was given an extra copy of *Immigration Law and Procedure*. I remain grateful for this generosity, and for the patient, often spontaneous instruction I received from other lawyers I interviewed.

number of attorneys shared with me. These documents represented a particularly illuminating if not daunting source of data. As an example, the legal briefs and collected correspondence pertaining to Young's case (Chapter 5) filled over eleven bankers' boxes.

Figure 1.1: Case files

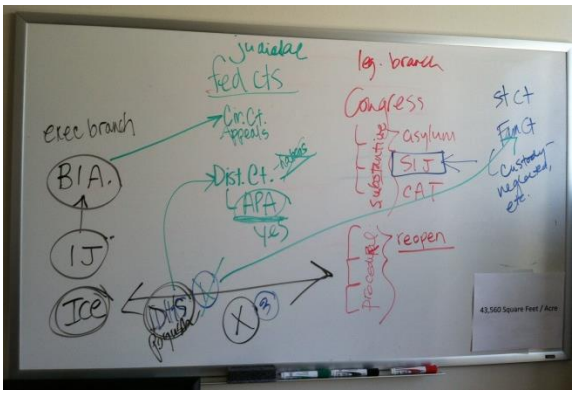


Figure 1.2: Attorney's "explanation" of Young's case

I performed a content analysis on all of the documents I collected, coding for key terms and seeking definitions for the many I didn't understand. Analyzing documents in this way allowed me to critically compare institutional and legal discourses about Fujianese youth with the articulations of individual youth and attorneys I acquired elsewhere.

With attorneys and young migrants at the center of my research, I traced outward to the individuals who impact youths' legal and labor journeys in subtle but significant ways. I visited Chinese service organizations in gateway cities, as well as relevant public assistance centers, immigrant advocacy nonprofits and religious organizations in "new destination" communities. I was often given tours of these spaces, during which I had informal conversations with staff members. I also conducted more formal interviews with eighteen ESL teachers, social workers, and program directors in charge of employment or youth services. This portion of fieldwork allowed me to better evaluate the rightful (or right-filled) provision of services beyond the

immigration context, like language training and job development, accessible health care, and housing and citizenship assistance.

IV. Legal Fictions, Anthropological Fictions: Some Thoughts on Positionality

"Everyone wants to be an anthropologist, but it's not that easy" (Nader 2002:69)

In 1969, Laura Nader published "Up the Anthropologist—Perspectives Gained from Studying Up." In it, she calls for anthropology to examine the cultures of the powerful as well as the powerless, and for ethnographic studies of institutions at the heart of capitalist stratification like banks, law firms, corporations, and government regulatory agencies. Doing so will shed light on processes of domination in U.S. society, she writes, and it will help revitalize American democracy (Nader 1974(1969); see also Gusterson 1997).

The immigration cause lawyers at the center of this study would likely distinguish their work from what Nader identifies as "up." Indeed, these individuals often identify themselves and their "cause" as a moral fight *against* the bureaucratic, contradictory "controlling processes" (Nader 2010) that govern the management of unaccompanied youth. As this document details, their identities and motivations often appear as responses to—or outcomes of—their observations and frustrations with dominant professional and social structures.

Yet from another perspective, these individuals are very much "up," both in regards to their young clients and, as I discuss here, to me. Just as my research was shaped and constrained by more powerful external institutions—institutional review boards, the inaccessibility of ORR shelter facilities, and so on—so was it, or I, more intimately influenced by both the support and *expectations* of those attorneys at the center of the project. Having entered this sphere as a volunteer, I struggled with and at times resisted what proved a necessary, somewhat distressing transition to "researcher."

When I initially conceived of this project, I aimed to advance relevant conversations within sociolegal scholarship and anthropology, and also to contribute to more informed, comprehensive legal advocacy efforts—efforts I admired but recognized as ultimately incomplete, cursory and consequential. It was not long before I realized that a number of the attorneys I worked with in Chicago approached my research—and anthropology more generally—with a pragmatism that proved instructive, if not disappointing. *I feel so used*, I wrote more than once in my fieldnotes.

As the "China person," I was often asked to look over relevant policy reports that attorneys were developing on Fujianese UACs. I took the task seriously, writing careful comments in the margins, adding historical context if requested, introducing more complex "push" and "pull" factors in overviews of youths' migration journeys. I also highlighted attorneys' "expert" utilization of relatively outmoded or extraneous anthropological concepts and referenced other relevant studies of Chinese kinship, political economy and migration.

I'm hardly surprised now, but later editions of these reports omitted my contributions, and attorney authors always subsumed my comments with their own. It was clear that this was about more than efficiency, authorship and, as one attorney admitted, getting a report out before another agency did; it was about what information mattered—or, more simply, what would win a case. I suspect this isn't particularly remarkable to the reader, but recall that these individuals do more than legal advocacy—or at least self-identify as attorneys who do more than legal advocacy. I so respected attorneys' efforts to contribute to legislation and advance the "best interests" of youth that I was reluctant to question the efficacy of efforts done so quickly, haphazardly and perhaps even unethically at times.

An example:

As the deadline for an attorney-authored policy report neared, a number of attorneys decided to convene a "focus group" of Fujianese youth to review the policy recommendations they had developed. I was asked to attend, and also to participate in a conference call to discuss the format of the meeting. So far as I knew, I was the only individual who had ever organized a focus group. While it seemed woefully late to begin inviting young participants, I was hopeful that we could still facilitate a productive, honest conversation.

"The idea behind the report is to get some change so that young people like this can find some [immigration] protection," stated the attorney directing the call. "Joann," she said to a colleague who would be leading the group, "you need to tell these youth, 'You're the expert, you have lived through this. So we really need you to tell us what you think.' …But the legal nuance questions, we can just give those a general overview."

I was dumbfounded. "I don't think so," I interrupted, surprising myself. "I think this is a chance to talk about labor and families and about the complexities of these forms of legal relief. I mean, there's a section on the report detailing SIJS, but nowhere does it acknowledge that there's no chance for a derivative visa for SIJ recipients.[21] I don't think a lot of young people realize that." This was important, as many youth had expressed that they intended to facilitate a parent's migration to the U.S. in the future, a hopeful expectation they associated with legal status. "It's too personal for the kids," she replied. "We don't want to talk about that here."

"But wouldn't this be a good time to tell them about it?" I pushed. "To gauge their responses, and maybe adjust the recommendations?"

[21] Immigration law is very clear that a child granted SIJ status cannot petition for his or her parent(s), stating "no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter" (INA, 8 U.S.C, §1101(a)(27)(J)(iii)(II)).

There was silence, then talk quickly moved to flight schedules and conference rooms. I was confused and admittedly hurt. One by one, the attorneys got off the call. One woman, a research participant and friend, stayed on to talk to me. "We're so glad you're participating in this," she said, "because you teach, too! Do you have any good ice-breaker activities you can suggest?"

I include this anecdote here not as the cynical or slighted anthropologist who "gets the last word," but because this incident demanded that I rethink the role of my own expectations, and my ego, in this research. I was studying up. I might view cause lawyers' advocacy as constrained and often short-sighted—attributes a number of attorneys themselves recognized—but I could contribute neither legal expertise nor an explicit capacity to work in, and against, relevant networks of power. Attorneys already had these things. What these individuals wanted from my research was different from what I aimed to contribute. I was a scholar whose presence validated policy reports and helped establish the "multidisciplinary" nature of their advocacy—through my participation in BID panels, for instance. Moreover, urged many participants, my research would be even more beneficial after I had my PhD, when I could serve as an expert witness and testify about the "real" nature of Chinese culture and Chinese families.

These anticipated contributions mlattered. In the end, the discomfort and disappointment they incited in me was freeing; no longer did I struggle to reconcile my own altruistic goals with what felt like an increasingly fraught cause. Instead, I came to value my training, skills and this project as a way to unsettle attorneys' subjective jurisdiction of a "cause." I now see my research as a way to spark meaningful conversations with legal advocates about power and responsibility—the "democratizing project" to which Nader called anthropologists over forty

years ago—and about what exists *beyond* the cause, namely the actual lived experiences, opportunities and relationships of young migrants.

Studying Down

Of course, these young migrants signal the spaces where both legal advocacy and anthropology fall short. As I detail in this dissertation, attorneys have authority over Fujianese youth as necessary legal experts and as adults, authority that flows from and is bolstered by a set of institutional and ideological arrangements (Best 2007:12). My role in young people's lives was different: it was neither imposed nor essential. Indeed, I was most often recognized by youth as a student (see Chapter 3), and sometimes as a friend or "big sister." Yet there was still an imbalance of power between me—an adult, upwardly mobile citizen—and youth who will likely remain "illegal" in certain spheres of life and labor (see Heidbrink 2014). Moreover, I, like attorneys, am a collector of stories. While this dissertation is largely about lawyers' strategic elicitation and "scripting" of narratives as legal claims, I would be remiss if I didn't acknowledge my collection of youths' narratives as data. Likewise, I recognize the power I hold as an interpreter and, thus, author of my observations and participants' reflections (Clifford 1988; see also Bamo, et. al 2007).

Without a set objective such as establishing an individual's qualifications for legal relief, the narratives I present here are markedly less tragic than those included in the legal reports, claims, advisories and editorials I analyzed. This reflects my selection of participants (see above) but also the freedom I had as a non-lawyer. As a trusted "student," I could ask about young people's histories, legal experiences and long-term plans, and I could invite reflections about obligation and family that when discussed with neutrality or even optimism might thwart a case.

This freedom allowed me to complicate attorneys' practices through clients' perspectives, thereby lending weight to my broader argument.

Still I, and I suspect a number of the attorneys I interviewed, recognize that my initial goal of helping young people; my selections, omissions and ultimate arrangement of their and attorneys' accounts; my epistemological or "expert" authority; my utilization of disciplinary and theoretical resources; and my ultimate crafting of a convincing narrative may at times look an awful lot like *lawyering*. Drawing on Yngvesson and Coutin (2008), I recognize that my prioritizing of evidence among potential interpretations, and also the spaces and substitutions in my ethnography, are in a sense like legal fictions—fictions that enhance attempts to convey social truths.

I conclude, then, with an attorney's mention of these professional parallels. Perhaps more than anyone, Lisette succinctly described their profound significance:

> Lisette: *It's been great having Kyle as a partner, because we've been great friends, but we've also been able to bounce ideas off each other all the time. He'll say, "No, don't do that. What about this?" And you have to go back and think, well, this is what the government might say—*
>
> Michele: *So it's very creative.*
>
> Lisette: *It can be. In some ways. In the nerdy kind of way. [laughs.] But that's anthropology too, right? The way you write, the framework you put something into, it completely changes the thing. It's really freeing and also really scary, and a big responsibility.*

V: Dissertation Overview

This dissertation is divided into five substantive chapters. In Chapter 2, I introduce the reader to the contradictory context of cause lawyering on behalf of unaccompanied Chinese youth. This chapter examines the tenuous reality of the rights that immigration cause lawyers

must negotiate, including the "natural rights" of children, the "inalienable" rights of immigrants, and the suspect "rights worthiness" of youth whose age, origin and independence do not fit neatly within the expectations of legal advocacy. It also provides a detailed exploration of the work and beliefs of the attorneys at the center of this study. This section includes the relevance and restrictions of immigration policy, the scales of bureaucracy, time and funding that attorneys must navigate, and the personal successes and disappointments that motivate—and often delineate—specific advocacy efforts. Chapter 2 thus provides a more comprehensive consideration of the legal context, ideologies and strategies that, foreshadowing Chapter 4, necessitate and contribute to putting Fuzhounese youth "in the right box."

To understand the physical and very personal reach of emigration, Chapter 3 examines the ways in which the youth at the center of this study situate their migration stories within a broader regional history and a complex present in the U.S. The chapter provides a detailed, factual overview of Fujianese emigration alongside youths' nuanced reflections on their migration experiences and valued and/or resented identities. I argue that Fuzhounese UACs are in a sense like Fujian Province itself, the "leading and lagging edge of China" (Chu 2010). They are often the "leaders" of their families in China, and of their relationships, employment, and legal pursuits in the U.S. Yet unaccompanied Fuzhounese minors are also keenly aware of the ways in which they simultaneously "lag" behind other Chinese nationals in P.R. China, behind Chinese-Americans and Chinatown peers, behind other young UACs, and behind distinctly western or American presumptions of developmental stages and age-appropriate markers of success. This chapter returns to and complicates my earlier discussion of autonomy, migration and age, and it begins to illuminate the limited, consequential nature of attorneys' strategic reframing of youths' relationships, obligations and identities.

Chapter 4 describes the collision of complex histories, motivations and strategies (i.e., Chapters 2 and 3) that occurs in the specific context of removal proceedings. Drawing on observations in immigration courtrooms, interviews with youth and attorneys, relevant case law and social science literature, this chapter examines attorneys' evaluation and bifurcation of otherwise intricate tensions. It traces cause lawyers' arguably necessitated reduction of family, age, and culture to simple either/or calculations—parents as bad/not that bad; youth as agents/victims; youth as alone/in relationship—and their confident selection, or production, of an unequivocal moral narrative. By presenting lawyers' reflections on and deliberate attempts to elicit, interpret and reframe complex realities, this chapter simultaneously recognizes powerful undercurrents of American exceptionalism and constructions of professionalism and expert knowledge. It also forewarns of the confining and consequential nature of attorneys' strategies, including the reification of negative cultural stereotypes, the fracturing of kin relationships, and the considered diminishment, if not rejection, of youths' valued identities. Chapter 4 concludes by suggesting that the attorneys in this study are aware of the fraught nature of legal advocacy and rely largely on what I call "The Spectacular Case" to legitimate their work to themselves and others.

Chapter 5 examines the structure, utilization and value of "The Spectacular Case" in more detail. It considers one Fuzhounese youth's unusually dramatic legal and personal journey through a variety of lenses, including interviews I conducted with the young man, his adoptive parents and members of his legal team, legal documents pertaining to his case, depictions of his migration journey in nonprofit fundraising and publicity campaigns, and ongoing references to his story in public media presentations on unaccompanied youth or immigration reform. My aim in this chapter is to challenge attorneys' suspicion of Fuzhounese youth as "using the system" by

carefully outlining the ways in which youths' stories are themselves "used" or commodified by attorneys to gain positive press, garner funding, and perhaps, returning to the conclusion of Chapter 4, to mitigate or atone for the strategies some attorneys privately question and grieve.

Chapter 6 concludes my substantive chapters by considering the employment, relationships and rights of Fuzhounese youth who have obtained legal status. Drawing together the professional restrictions cause lawyers describe in Chapter 2 and the unique structure and fragmentation of Chinese enclaves in Chapter 3 (including suspicion of Fuzhounese youth), Chapter 6 offers a final instance of "limited relief." It considers lawyers' and Chinese communities' inability or reluctance to extend advocacy efforts to Fuzhounese youths' labor rights or access to healthcare, mental health services or education, particularly in less traditional contexts of reception. While this chapter is my most deliberate consideration of and conversation with new destinations literature, it simultaneously serves as a more broad reflection on lawyers' inconsistent views of age, citizenship and responsibility, and (now clearly provisional) "best interest."

CHAPTER 2
THE CAUSE IN THEORY AND PRACTICE

Chapter Overview

In this chapter, I unpack the cause at hand, beginning with the political ideologies that underlie the contradictions of children's rights today. I trace these principles to normative legal understandings of age and autonomy (or rather its opposite, dependence), and to the primacy many immigration attorneys grant to youths' "natural right" to be protected. I then evaluate the influence and role of contemporary constructions of childhood and youth in cause lawyers' work. By examining presumptions of vulnerability and victimization alongside the unconcealed independence, relatively "old" age and "suspicious" behavior attorneys attribute to Fujianese clients, the tension this population of UACs represents is illuminated, adding another complex layer to a fraught moral and professional cause. Finally, I explore two related but still powerfully disparate legal approaches to young people's rights, that from the field of immigration law and that of child welfare. As I demonstrate, an attorney's professed role and relationship with a client may be guided by the attorney's perception of the client's young/vulnerable age, but the form this advocacy takes is also uniquely influenced, and constrained, by the legal rights available to undocumented youth in the U.S.

As I establish in Section 1, the cause lawyers at the center of this study are in a sense like their UAC clients, occupying and negotiating a tenuous reality of rights. These rights include the "natural rights" of children, the "inalienable" rights of immigrants, and the suspect "rights worthiness" of youth whose age, origin and independence do not fit neatly within the expectations of legal advocacy. In Section 2, I explore in more detail the work and beliefs of the attorneys at the center of this study, including the relevance and restrictions of immigration policy, the scales of bureaucracy, time and funding attorneys must navigate, and the personal

successes and disappointments that motivate—and often delineate—specific advocacy efforts. Though I believe this subject matter is compelling in its own right, my broader goal for this chapter is to detail the context, ideologies and strategies that, in the words of one attorney, ultimately put Fujianese youth "in the right box." "As a lawyer, you can't be unethical, you can't be dishonest," stated Bernard. "But real life situations have shades of grey. And so what the lawyers are doing, well, they're being deliberate. The law forces you—the law defines the box. The lawyering task is to put you in the right box."

I. The Cause as Unaccompanied Alien Children

Consent and Care: A Theoretical Groundwork for (Moral) Rights and Protection

For the immigration attorneys at the center of this study, the obligation to advocate on behalf of Unaccompanied Alien Children is professional as well as moral. The compound nature of this obligation is arguably what establishes these individuals' work as cause lawyering, and what distinguishes it from conventional lawyering and from the dominant conception of the legal profession.[22] Though a contested concept, cause lawyering is generally recognized as a "public profession," one in which priority is given to political ideology, public policy and moral commitment (Scheingold and Sarat 1998; see also Menkel-Meadow 1998). Cause lawyers are characterized as working *beyond* their professional roles and duties, and as self-identifying as activists who share with their clients responsibility for the ends they promote in representation (Scheingold and Sarat 2005; Luban 1988, Polikoff 1996).[23] In many analyses of cause lawyering,

[22] Of course, cause and conventional lawyering are in some ways not all that different: Both cause and conventional lawyers utilize their technical expertise to advocate for clients, and both are committed to law and to their identity as lawyers. While the majority of the lawyers I interviewed were employed by or directed nonprofit immigrant advocacy organizations, a few were private attorneys, using their law practices to finance their pro bono or "low bono" representation.

[23] Further clouding the perimeters of cause lawyering, it should be noted that not all of the attorneys I interviewed self-identified as activists. Some represented Fujianese youth in removal proceedings simply because they were familiar with immigration law and felt compelled by the urgency of a case. Others expressed something of resignation when they discussed their advocacy: there were simply no other properly-trained and funded *pro bono*

and certainly in the case at hand, cause lawyers take sides. They combine litigation with political mobilization on behalf of the movements to which they are loyal, and their work tends to closely involve them with, and often against, the state and other interests (McCann 1994; Sarat and Scheingold1998).

Central to much of this literature is the notion that attorneys partner with their clients (Sarat and Scheingold 1998). Here emerges a central tension in the "cause" of advocacy on behalf of migrant youth, as well as a shortcoming in this body of scholarship: namely, the significance of a client's age and, correspondingly, her perceived autonomy in the attorney-client relationship. As many attorneys observed, advocacy on behalf of unaccompanied minors is both demanded and constrained. It is demanded in that undocumented youth have no guaranteed court-appointed representation,[24] and constrained by the limited scope of legal protections available to UACs. It is further restricted, I argue, by lawyers' own "moral commitment" to working with a population that, despite being termed teenagers or young adults elsewhere, is and must be identified as *children* in the legal setting. It is necessary to consider the constructed nature of this identity, for I believe it powerfully figures into lawyers' understanding of their professional roles toward, and the "appropriate" rights and interests of, their clients.

The following passage is selected from a Human Rights Watch report, *No Choice for a Child : Abuse and exploitation of unaccompanied migrant children from Fujian, China to the United States* (forthcoming). While containing many lengthy, firsthand accounts from unaccompanied Chinese youth, the majority of the report was authored and edited by a group of immigration cause lawyers well-known for their advocacy on behalf of Fujianese UACs. I

---

advocates in their region. "I have too much to worry about," complained one attorney. "I can't be the main person doing these [Fujianese] cases, who's doing all these meetings and all this stuff… It's not my job! You just get too burnt out."

[24] Removal proceedings are civil proceedings. Undocumented youth are thus allowed to have counsel but are not entitled to it at government expense, as in criminal proceedings (INA §240(b)(4)(A); see also Haddal 2007).

include an excerpt from the "Recommendations" section here, as it not only represents lawyers' approach to the issue but also helps introduce the ideological complexities and legal contradictions of young immigrants' rights:

> *As equal emphasis should also be put on… upholding the rights of the children who were trafficked or sent without their full informed consent, ensuring there is an avenue for legal relief from deportation, providing access to legal representation and guardians (child advocates) and protecting the best interest of the child. These actions should be at the forefront of all efforts to protect, assist, and provide redress to children who are sent unaccompanied from China to the United States… both China and the United States should prioritize protecting the human rights and dignity of Chinese children abused and exploited…* (Human Rights Watch n.d.:9)

Here, children's rights are associated with: 1) legal relief from deportation; 2) access to legal representation and, significantly, to guardians; and 3) the guaranteed protection of children's best interests. Evidencing what Kristen Cheney identifies as the distinction between the legal and moral rights of children (2007), we find in this excerpt a version of children's rights that, *while never fully specified*, remain inherently connected to consent (or lack thereof), to dignity, and to the legal provision of "protection" and "assistance." "What is categorically meant to be 'in a child's best interest,'" writes Cheney, "is really what adults deem to be best for maintaining social cohesion through the constructed boundaries of childhood as a particular stage of innocence and dependency" (Cheney 2007:14).

While a number of works of political philosophy evidence the ideological underpinnings of children's rights in the U.S. today (including Hobbes 2010[1651]; Jefferson 1954[1788]; Wollenstonecraft 1975[1792]), I want here to focus on John Locke's theory of property and Henry Maine's study of "status to contract." This is for the sake of brevity, of course, but also because I believe these two theories uniquely reflect and underlie the knotty, contradictory nature of legal advocacy on behalf of young migrants. Attorneys' conflation, celebration and denial of

notions of childhood and rights are to some extent strategic appeals to the limited legal remedies available to UACs. At the same time, however, these practices also perpetuate a power-filled dynamic that is rooted in an historic, Western understanding of youth as having negotiable reason, agency, and, therefore, freedom.

According to Locke, it is because of property, or "lives, liberties and estates," (1988:II, §123) that humans moved from the "state of nature," an abstract state of freedom governed individually, rationally and through natural law, to the state of society, a concrete world in which individual political liberties are guaranteed by political arrangements. While the state of society may not transcend the state of nature or offer full peace and justice, it does protect property, enabling individuals to maximize their own utilities, power, and possessions.[25] Individuals thus "consent" to limited governance and what C.B. Macpherson (1962) calls a "possessive market society," one based on unequal relationships of power. Reason remains at the center of this transaction, for while all humans have reason, it is according to Locke *the exercise of reason* (which only occurs with age) that qualifies an individual for the exercise of freedom. "For Locke, [it is] the natural right of children to be cared for and protected. Its warrant is the temporally bounded state of natural incapacity which defines childhood" (Archard 2004:10). As I demonstrate in this chapter, it is this presumed "right" of children to be protected—as opposed to a right to consent, which is powerfully connected to autonomy—that underlies what can best be understood as the "gradations" of freedom permitted young migrants in the U.S.

[25] In this view of property there emerges a central contradiction, one that comes to be reflected in the case at hand. The logic of classical liberalism or "possessive individualism" celebrates the individual's right to be free from the constraints of the state (Wallerstein 2001:17) while the value of an individual's labor or ability to sell labor in the market economy deteriorates; it grants a right to self-determination, yet it is used to justify colonialism; and in the immigration context, it solves the "problem" of refugees while facilitating the context in which the property-less, right-less "bare life" (Agamben 1998) of refugee status is created. As we begin to see here, the autonomy associated with consent proves especially fraught.

Adding specificity to Locke's views on consent and age is the work of Henry Maine. Recognizing the transition that occurred in English and American law in the late eighteenth century, Maine describes the legal definition of individual rights, duties, and relations as having shifted from "status" (e.g., primogeniture, the primary basis for authority in England) to "contract." While the increased emphasis on political contract granted legal equality to many in the early nineteenth century, the "legally unequal" remained, namely married women, slaves, and laborers for whom contractual relations, including consent to government, were not permitted. The prioritization of contract also raised new questions about age: If choice, not status, was politically privileged, then who could choose, and under what circumstances? If consent was presumed at birth or soon after, could a person change her or his mind later, when she or he was more mature? And if anyone could choose, even a small child, then was consent rendered meaningless? It is no surprise, perhaps, that children come to be completely excluded from the realm of "contract":

> *The apparent exceptions [to this shift] are exceptions of that stamp which illustrate the rule. The child before years of discretion, the orphan under guardianship, the adjudged lunatic, have all their capacities and incapacities regulated by the Law of Persons. But why? …The great majority of Jurists are constant to the principle that the classes of persons just mentioned are subject to extrinsic control on the single ground that* they do not possess the faculty of forming a judgment on their own interests… (Maine 1969:181, emphasis added)

Like Locke, Maine emphasizes rationality, arguing that children cannot make contracts because they lack the ability to form their own judgments. Instead of being based on social order or the inheritance of property and title, the status Maine detailed was determined entirely by age. An "age of reason" was again the determinant of political legitimacy and the ability to consent (see Brewer 2005).

From Theory to Practice: Using, and being Used by, Age

As I evidence in this chapter, the influence of these two theories in the U.S. legal realm, and in the more specific field of immigration law, is significant. It is also abstract. Moving forward, I introduce the more practical dimensions of Fujianese clients' age that attorneys identify as hindrances to their advocacy efforts. As my data demonstrate, these migrants are at once too young and too old; their motives are both unfamiliar and uncomfortably clear. Thus, the presence of Fujianese UACs helps illuminate—precisely by thwarting—the philosophical understandings that underlie attorneys' presumptions of children's dependence and limited capabilities and freedoms.

In our conversations, cause lawyers often contrasted their work on behalf of UACs with past experience representing adults—in this case, anyone age 18 or older. "I love working with adults," one woman said. "Because they're adult, they're grown up, they tell you, 'This is what I want, this is what I will pay you for, and if you achieve that, then I will be happy.' And then you don't think about it anymore. But with kids it's different. Because kids can say, 'This is what I want, this is what I want you to do,' but who knows if this is what they want—or even if it really is what they want, who knows if it's the best thing for them?"

Similarly, another attorney stated, "With adults, really, I mean—you just don't argue. They tell you what they want and you say, 'Do you understand the risks?' You know, you can't make decisions for them." Once the age of majority was reached, in other words, legal advocacy could be more straightforward. However subtle, the relief attorneys expressed evidenced a sort of moral reliance on professional codes and immigration statutes governing age. It simultaneously portrayed advocacy on Fujianese minors' behalf as an imprecise, unruly task, a weighty endeavor of interpretation and responsibility. *Who knows if it's the best thing for them?*

Yet it's worth noting, of course, that many of these young people are nearly adults in the legal sense. With a few exceptions, the majority of the Fujianese migrants I interviewed were age 17 when apprehended. Alongside the pressure attorneys experienced with the impending "age out"[26] of their clients was a certain apprehension about the suspected "adult" motives of Fujianese youth.

In our conversations, lawyers often admitted to feeling suspicious of Fujianese UACs, complaining that their time and efforts had been abused by individuals "who just want to get out of detention and start working." As we met for dinner one night in Chicago, I asked Joan, a young attorney, "How would you describe your work with Fujianese youth?" She was quiet a moment, then said,

> *It's hard. I think they just bring morale down [for legal advocates] a lot faster than the other kids in shelter care. The Fujianese kids in the shelter now are older than they were a few years ago. They're all about to age out, as opposed to other kids who are a lot younger or come when they're around 14 or15. The other kids in shelter care act like kids—they're more emotional, they open up. It might have something to do with age, but Chinese kids also more closed-off.*

She took a drink of her beer and continued:

> *And I had a recent [Fujianese] client who just made me feel so used. I visited her twice a week and even found a laptop she could use, since the shelter computers don't have Chinese capabilities. And then when she was released from shelter care and went to New York, she called me to get help with her legal documents. And she called me later—I mean, as soon as* that afternoon*—to see if I had done anything.*

Joan shook her head and sighed heavily, her fingers toying with the label on the bottle. "What's worse," she said, "she and her family ended up deciding to go with *a private attorney*. After I did all that. She only told me about it when I called to see if she had received the documents I sent."

[26] Turn 18. Attorneys must often rush to schedule home visits (if family reunification is a possibility) and evaluate legal remedies before a young person turns eighteen, at which point she or he is no longer eligible for certain protections and is transferred from shelter care to an adult detention center.

As Joan recounted this experience, it was clear that the actions of her client represented all that was wrong, or could be wrong, with Fujianese UACs more generally. Though legally unable—and professionally/morally unwilling—to regard these individuals as adults, Joan nonetheless recognized her clients as older in age and in action. They didn't "act like kids." They were *independent*. Joan's disenchantment and hurt also revealed much about what cause lawyers believe regarding the value of their own work, and what they hope, and perhaps expect, from their clients in terms of vulnerability, appreciation, and commitment.

It is additionally significant, but not at all unusual, for Joan to contrast Fujianese youth with other UACs in shelter care. Here, the "cause" of Fujianese UACs is muddied. When attorneys' make their experiences representing Central American UACs a reference point, Fujianese youths' language, culture of origin, families, and goals emerge even more dubious and obscure. No matter how "uncomfortably clear," their motives are simultaneously deplored as unfamiliar.

As nearly every attorney emphasized, work on behalf of Fujianese minors is peripheral to most of their advocacy efforts. The majority of unaccompanied youth in the U.S. arrive from Honduras, Guatemala, and El Salvador (Byrne and Miller 2012), and, accordingly, the legal advocates who work with UACs tend to speak Spanish or work closely with Spanish-speaking colleagues. Like Joan, many of the attorneys I interviewed contrasted their familiarity with these populations with the discomfort they felt in working with Fujianese youth. Besides the obvious inconvenience of using a telephonic translator, more broad cross-cultural barriers to communication were discussed with impatience, like Joan's mention of clients "being closed off." "Our entire team speaks Spanish," said Elena, another Chicago based lawyer. "And there's

just a whole different style with Chinese. [You] can't make eye contact with them. It's hard to understand what their answers really mean… the Chinese kids are difficult."

Occupying a particularly uneasy legal threshold, it is perhaps no wonder that this population of UACs so often emerged in conversations with attorneys as a maddening challenge, and sometimes as an afterthought. Represented as vulnerable and resented as autonomous, Fujianese youth are alternately viewed by their attorneys through an ideological lens of childhood dependence, through a racialized hierarchy of legal advocacy,[27] and through the stressful professional maneuvering necessitated by these clients' relatively "old" age and impending "age out."

"What's Best for Kids": The Categorical Significance and Utility of "Children"

As Joan and others recounted, Fujianese youth act "like adults," making choices independent of their attorneys' plans and expectations. This independence is often disconcerting—and at times even an affront—to the cause lawyers I interviewed. Yet it is important to emphasize that the tension attorneys described involves more than a young person's legal age, economic goals and country of origin. Harkening back to Locke and Maine, it also presents a pervasive ideological understanding of "children" and the corresponding conviction many cause lawyers hold, namely that they, not their clients, are responsible for young people's legal interests, personal well-being and *choices*.

While some critical legal attention has been paid to the statutory definition of "Unaccompanied Alien Children," most of it focuses on the inconsistent nature of the

[27] Greta Lynn Uehling introduces the "racialized hierarchy of treatment" in her discussion of unaccompanied youth in ORR shelter facilities, arguing that Latin American youth are positioned "lower" on the hierarchy of services than their Chinese and Indian counterparts. Unlike Asian youth, she argues, Central American and Mexican youth do not necessarily receive suitability assessments when released to family members, and they rarely receive transition or follow-up services (2008:839-40) My work evidences a more specific racialized hierarchy of *legal* services, one in which Chinese youth are viewed as peripheral to what attorneys present as more demanding (numbers-wise) and familiar advocacy on behalf of Latino youth.

Department of Homeland Security's determination of "unaccompanied"[28] and, to a lesser extent, determinations of age. Attorneys working on behalf of this population utilize and naturally adopt the language of the UAC label, and few, if any, expressed concern about the state's and their own professions' reliance on the "Children" category in particular. Indeed, in over sixty interviews with immigration attorneys, only one individual explicitly noted the conceptual varieties of age: "In working with children," Uchechi began, then corrected herself. "I suppose we would call them youth. Or young adults." Later in our conversation, Uchechi admitted that she herself had been an unaccompanied migrant, journeying as a young girl from West Africa to the U.S.

"Do you think this personal history affects your view of UAC clients?" I asked.

"I'm not sure," she replied. "I don't feel like my clients are one dimensional or vulnerable. I see them as complex, dynamic. I'm open to that."

Yet Uchechi's thoughtful perspective remained distinctive: Nearly every other attorney I spoke with unhesitatingly employed the term "child" in courtrooms and in our less formal conversations. And in the policy reports and practice advisories these individuals published, "child" was often, and meaningfully, preceded by "*vulnerable*."

I believe this reflects what Greta Lynn Uehling calls "the economy of affect" surrounding unaccompanied children. "Precisely because of their vulnerability, they are especially malleable symbols, susceptible to being used for a variety of political purposes" (2008:851-2). Consider

[28] The standard practice of classifying a young migrant as "unaccompanied" is based upon the statutory definition of "unaccompanied alien juvenile" from the Homeland Security Act. The HSA amended the United States Code in 6 USC §279(g)(2) to provide the following statutory definition: The term 'unaccompanied alien child' means a child who: (A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom —(i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody. Regarding inconsistencies in DHS determinations of age and "unaccompanied," see Bhabha and Crock 2006; Haddal 2007; Nugent 2006.

these statements, each featured prominently on the websites of national nonprofits that provide legal advocacy for unaccompanied youth:

> *These are unusually vulnerable children. Many are fleeing violence, extreme poverty, abuse or abandonment in their home countries of Mexico and Central America. Some have been trafficked… Regardless of why they come, they deserve basic protection as children and should not lack representation in a U.S. court of law.* From "Children Alone and Lawyerless in a Strange Land" (Wood and Young 2013:1. Note that Wendy Young is President of KIND.)

> *These children often have nothing; no money, no support and no family, yet they come to America seeking its promises of a better life*. (https://www.supportkind.org/en/)

> *HARROWING JOURNEYS CALL FOR HEROIC MEASURES. HELP US PUT CHILDREN'S BEST INTERESTS FIRST.* (http://theyoungcenter.org/)

As Sharon Stephens points out, when coupled with the spread of the "universal child" model put forth by international organizations, the popular imagery of disappearing, lost or stolen childhoods perpetuates a compelling imaginary of the childhood domain as threatened or invaded by adult worlds (1995:9; see also Cheney 2007). This imagery is rife in the preceding statements, where UACs are generalized—and sensationalized—as "unusually vulnerable children" whose opportunities for "normal" childhood are threatened by violence, poverty, and families or home countries. Recall that these are organizational publicity efforts: It is implicitly the "heroic" cause lawyer who can solve the "nothing" of unaccompanied minors by providing legal representation and guarding the (however indeterminate) best interests of children.

Yet when we recall Fujianese UACs as also "too old," an attorney's political and professional relationship with a client emerges as markedly different from that put forth in fundraising campaigns or removal proceedings. Like "children," "youth" are often constructed as victims of circumstance and the manipulations of adults in power. At the same time, however, they are additionally perceived to be disruptive, destructive, and dangerous forces needing containment, those who "enter political spaces as saboteurs" (Durham 2000:113). When their

actions and inactions are discussed by attorneys beyond the legal realm, Fujianese minors are very much regarded as "youth":

> *They're 16! Of course they're irresponsible! By their nature they're irresponsible! If I go to a kid and say, "I got you a green card," they're like, "Eh."* [laughs] *You know, like that. Later on, they'll probably thank us. But at their age? They don't care.*
>
> *Minor clients are difficult for us. Like all teenagers, they have strong opinions and don't always want to listen to advice or act in their own best interest. I was the same way.*
>
> *As lawyers, we tend to sometimes not give our clients enough credit. You know. I think our clients, for the most part, despite how difficult and how confusing immigration law is, our clients know in general what's going to get a judge on their side… Most of them know to say migrating to the U.S. wasn't their idea. I'm not ignorant of the fact that it helps their immigration case for them to not take agency or ownership over that decision. …But still I think they're not old enough to make the decision* [to migrate]. *They're not old enough to take ownership over that decision.*

Taken together, these reflections evidence the humor, cynicism, empathy and ambivalence so present in this form of cause lawyering. Though certainly a response to challenges beyond the ambiguous (and also relatively indulgent) theoretical bounds of childhood and youth, I believe attorneys' frustration nonetheless includes the uncomfortable tension that exists between the two categories. Clients are irresponsible, like teenagers everywhere; they are independent, "like I was at that age"; they may know how to work the legal system, but they're still *not old enough* to control all aspects of their lives or stories. In this sense, Fujianese UACs are only conditionally "youth." While almost amusingly untrustworthy and unwieldy when they act in "familiar" teenage ways, they are recast as victims and manipulations—as children—when their autonomy unpredictably extends beyond the expected bounds of youth, and beyond the limits of U.S. immigration law.

The Legal Rights and Social Entitlements of "Arendt's Children"

As evidenced, many of the immigration attorneys in this study uphold an "avuncular" or paternalistic stance toward UACs. Yet while an attorney's professed role and relationship with a

client may be guided in part by the attorney's perception of the client's young/vulnerable age, the form her or his advocacy takes is also influenced by the legal rights available to the client as an unaccompanied and undocumented youth. Following Jacqueline Bhabha, this young person is one of "Arendt's children," a minor[29] who is separated from her or his parents or customary guardians and who is either a noncitizen or the child of noncitizens.

It was Hannah Arendt, writes Bhabha, who recognized "the fundamental rights challenge of our age: supposedly 'inalienable' rights are unenforceable for individuals who 'lack… their own government' (2009:411). Having compromised her or his own citizenship by leaving China unauthorized, a Chinese UAC is one of Arendt's children, positioned between two opposed practices of rights. Because she or he is under age 18, the state acts as a discretionary guardian, providing the youth food and shelter as "inalienable" rights. At the same time, because the U.S. never ratified the Convention on the Rights of the Child (CRC) and is thus not required to provide youth with comprehensive guardianship or legal representation, the state normalizes the youth's detention and weakened ability to claim citizenship rights. It is the stateless individual who exposes the limits of these supranational "inalienable" rights.

The unaccompanied minor's "right to have rights" is tenuous at best: Twenty years after the near universal ratification of the 1989 UN Convention on the Rights of the Child, and several generations into an "age of rights" (Henken 1990), still no political consensus exists on the rights accorded to UACs. Access to basic shelter, subsistence level welfare programs, education and health care, as well as protection from violence, are viewed as fundamental to modern conceptions of rights. Yet in practice, argues Bhabha, these social entitlements are not officially confirmed. As observed in the behavior of the many actors who manage unaccompanied minors

[29] Bhabha uses "minor" interchangeably with "child," following the definition of a child in Article 1 of the 1989 UN Convention on the Rights of the Child: "a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier" (CRC, *supra* note 5, art. 1).

in the U.S., including border patrol and immigration officials, such social rights can be easily curtailed or denied.

The negotiable nature of these presumably "inalienable" rights presents a unique challenge for cause lawyers, evidencing the tenuousness in which they are also caught up. Consider, for instance, the significance of the Office of Refugee Resettlement (ORR), the official custodian of UACs. While they discuss ORR with frustration at professional gatherings, most lawyers are loath to overtly contest its practices. These include ORR's funding and oversight of "UAC care provider facilities," many of which are significantly understaffed and fail to provide adequate "entitlements"—social, educational and health services—to unaccompanied youth (see Heidbrink 2014; Kennedy 2013;). As it detains UACs, ORR simultaneously, and paradoxically, provides funding to many of the nonprofit organizations that advocate for youths' release and employmost of the cause lawyers. Describing her contributions to what she hoped would be an influential policy report on Fujianese youth, one attorney concluded impatiently, "In the end, though, I just can't be affiliated with anything that challenges ORR practices. My hands are tied."

While state and federal public policy approaches differ, international human rights law presents an unequivocal approach to the rights of undocumented youth: "Everyone is entitled to all the rights and freedoms set forth in the Declaration [the Universal Declaration of Human Rights, or UDHR], without distinction of any kind such as… social origin,… birth or other status" (UDHR, *supra* note 3, art. 2).[30] The Convention on the Rights of the Child grants further specificity to the UDHR's general acknowledgement of children's rights as human rights. "If the UDHR laid the foundation for acceptance of Arendt's children's human rights vis-à-vis the state," writes Bhabha, "then the CRC, albeit cautiously, added the platform for these children to

[30] All thirty articles in the UDHR are age-neutral except Article 16, which concerns marriage and family.

assert their human rights vis-à-vis their families, their teachers, and their communities." (2009:420-1).

Yet while the CRC establishes children's rights as protection against the exercise of state power and promotes them in international migration and social welfare policy, it simply cannot guarantee that these rights are enforced effectively. As highlighted above, this has particular implications for unaccompanied minors in the United States. Just one of two nation states to not ratify the CRC, the U.S. has only limited obligation to bring domestic law into conformity with the convention. Thus, despite the CRC's expectation that comprehensive guardianship and legal representation be provided unaccompanied minors, undocumented youth in the U.S. are not guaranteed the right to counsel. This illustrates not only the discrepancy between the rights guarantees of international law and the domestic realization of access to rights, but also between the substantive and procedural rights of documented versus undocumented youth in the U.S, as I detail in the following section. It also underscores the unique dilemma faced by legal advocates.

During a research interview with an immigration attorney in Nashville, I admitted, "I was surprised at the D.C. conference that the catch words seemed to be 'prosecutorial discretion' and 'best interest.' And 'best interest' was synonymous with 'avoiding deportation.' There's clearly a tension that exists here, particularly if a youth's expressed interest is to go back to her or his home country. Would you be willing to talk about that?"

"Welcome to the swamp!" said Anastasia. She leaned back in her tan, lumpy office chair and laughed. It was a steamy July afternoon, and we sat together in a disorganized cubicle on the main floor of a loud, dimly lit social services office. The director of a small legal services center, Anastasia wore a violet, short-sleeved blouse and loose tan capris. Her blond hair was snarled, and a green scarf was tucked haphazardly around her neck. In dress and conversation,

Anastasia quickly emerged an outlier among the immigration cause lawyers I interviewed, the majority of whom wore dark, tailored professional clothing and responded abruptly, and somewhat distrustfully, when I inquired about issues like best interest. Anastasia was unpredictably unguarded; she spoke thoughtfully and at length about these things, admitting only near the end of our conversation, and with startling nonchalance, that she had recently concluded a Ph.D. in International Refugee Law at Oxford.

> *Now the best interest of the child is customary international law, according to the Harry v. Reno. And according to me! Because every country in the world except the United States and Somalia has signed the CRC. The best interest of the child should be a no-brainer, and... I think we can all agree that whenever possible we want to help the child, you know, we want to adhere to the best interest of the child. But then when it comes to practice, the best interest of the child and international human rights law in general is only something that I've seen a wink and a nod given to in the South, just a general acknowledgement. But the realities of the policy and how we keep our job, how we don't get fired and how we think down here… is almost always going to trump the best interests of the child. Because at the end of the day, international law is going to be as political in its enforcement as any other discretionary aspect…*
>
> *But* is *it international law? Absolutely. Is customary international law binding on immigration judges? Yes it is... I can send you a brief I've written on that. Nobody ever takes it seriously.* [She laughed.] *But is it actually applied, is it recognized as binding, is it recognized as binding by ICE, who's making the decision for prosecutorial discretion? No. ICE—and this is anecdotal, but I'm pretty sure it's right—ICE is going to look at, okay, if we give [prosecutorial discretion] to this kid who has undocumented parents because it's in his best interest to be here, well then, all undocumented parents are going to be able to anchor their kids. So we're not going to give prosecutorial discretion. So that's what you're competing with, the reality is that the politics on the ground [matters more]. So is international law useful? Not yet. Should we try to make it useful? Hell yes. Here's where I curse on your tape. Is it relevant legally? Yes, and we should be paying attention to the law and treating it as law and not just politics.*

Anastasia's reflections thoughtfully summarize the inconsistency by which international law is applied in the U.S. In her experience, immigration judges' and trial attorneys' application of "best interest" for Arendt's children is entirely political, discretionary and regionally

specific.[31] Yet "best interest" as it is argued for by immigration cause lawyers is *also* political, discretionary, and regionally-specific, as I discuss elsewhere. For now, it's worth noting that the tension an attorney like Anastasia must hold in balance, namely between her extensive knowledge of a modern, "universally-accepted" conception of children's "inalienable" rights and her experience of the arbitrary enforcement and provision of these rights, is weighted further by her own personal conceptions of UACs' "rights worthiness" as children. The aforementioned "natural rights" of individuals whose status is uniquely connected to *age* thus prove even more fragile, and more vulnerable, when tied up with state apparatuses that actively and capriciously act in spite of the pervasive construction of childhood as a protected, dependent, innocent space.

"On what grounds do you take a case?" I asked Anastasia.

> *It's a matter of 'worst worses,'" she replied. "Sometimes it's if I have an attorney available. Basically, we try—I try—to take as many of the kids as I can. I have kind of a system, although it's informal, of preference. So I take children who I can do something for, who have a shot. Really, I take any and all children I can. And any and all persecution-based relief I can, and any and all domestic-based relief I can. And then after that I take court cases when they qualify for relief, like we'll take some tenure cancellation, men and women, or LPR cancellation. I sometimes have taken kids just to help them with their voluntary departure, when you just know that nothing else is an option. Because, you know, they're a kid…*[32]

A Comparison: The Rights of the Child of Child Welfare

I conclude Part One by turning to pertinent conversations occurring in the fields of child welfare and family law. Much of this literature attends to the complex and dynamic nature of

[31] Regarding the "regionally-specific" nature of best interest, recall Anastasia's brief mention of people "anchor[ing] their kids" in this excerpt. Elsewhere in our conversation, she described how the "anchor baby" phenomenon has uniquely influenced attorneys' work in southern states: "There was an INS representative who was head of all the prosecutors, and we started talking about [immigrant] kids, and the first thing he said to me- this was before the phrase anchor baby even existed- he said, 'Well the main thing I'm concerned about is that I don't want these'- and we didn't even use the phrase illegal immigrants yet—he said, 'the main thing I'm concerned about is I don't want these undocumented immigrants to try and use their kids as bait so that they get to stay in the U.S. I don't want them exploiting these kids to try and stay here.' So there's been the anchor baby mentality among officials down here for dozens and dozens of years. It's a big part of what I deal with."

[32] And the data matched up. Of 117 individuals who sought legal assistance (on dates I randomly selected from the intake records Anastasia shared with me), nine were children. All nine were accepted for placement, as were four adult males and three adult females.

representing children, to the idea of childhood as it had been interpreted, understood and institutionalized for children by adults, and, significantly, to the role of a young person's lawyer (see Appell 2004, 2006; Kell 1998; Koh Peters 1996, 2001; Guggenheim 1980, 1985). I refer to this scholarship not only to highlight its value, but also to underscore the relative lack of these conversations in immigration law. [33]

As already mentioned, youth with legal status in the U.S. have different and certainly more substantive and procedural rights than do undocumented youth. For example, *In re Gault* holds that a juvenile (citizen) accused of a crime in a delinquency proceeding must be afforded many of the same due process rights as an adult, including the right against self-incrimination and the right to counsel.[34] This decision has particular consequence for youth *and* lawyers, particularly as regards an attorney's role.

But first a bit of background: In the 1960s and '70s, attorneys for children were largely expected to play a guardian *ad litem* role, and to represent a client's best interests rather than the client her- or himself.[35] It was arguably Martin Guggenheim's *The Right to Be Represented But Not Heard* (1984) and the 1995 Fordham Conference on Representation of Children that signaled a fundamental shift in legal thought. The function of any attorney, these scholars argued, must be

[33] The relevance of and relationship between child welfare and immigration law is rarely recognized. Part of this has to do with the allocation of power between state and federal courts: Federal courts have authority in matters of immigration, whereas the primacy of the states in family law has long been accepted (Thronson 2007-8:456; see also Frankel 2011). Likewise, undocumented youth have different, and certainly fewer, procedural rights than youth with legal status.

[34] In re Gault, 387 U.S. at 41. Significantly, like deportation proceedings delinquency proceedings are civil, not criminal, hearings.

[35] This was largely reflected in and influenced by the passage of the Child Abuse Prevention Treatment Act of 1974 (CAPTA), in which federal grants were made to states contingent upon the provision of guardians *ad litem* (GAL) in child protective proceedings. At this time, many legal scholars set out to establish the proper role of the GAL, identifying it variously as an investigator, advocate, guardian, counsel, protector, mediator or informant to the court (Brooks 1990; Fraser 1976; Sneider 1990).

to pursue the legal objectives chosen by the client, so long as the client is above a certain age.[36] "To the greatest extent possible, legal representatives for children… should undertake a true lawyering role that is distinct from either a specialized guardian-like role or a hybrid lawyer-guardian role" (Guggenheim 1998:312). Accordingly, writes Jean Koh Peters, "[v]ery few authors currently suggest that a teenage child, for instance, should be represented in the mode espoused by the early writers on the guardian *ad litem*" (2001:48).

While this hard-won shift established clear principles regarding the proper roles and responsibilities of child welfare practitioners, little debate around the respective merits of the "traditional attorney model" (in which a lawyer advocates for a client's expressed wishes) and the "guardian *ad litem* model" (where she or he advocates for the client's best interests), has occurred among immigration advocates who work on behalf of UACs. Indeed, many of the cause lawyers with whom I spoke vehemently espouse the GAL model, arguing that guardians *ad litem* should be assigned to every detained UAC, no matter the youth's age. In many cases, immigration attorneys themselves serve as guardians *ad litem*. Yet attorneys who represent unaccompanied children," writes Olga Byrne, "… face complex ethical questions about the nature of their role as advocates… At the crux of [this] is the question of whether unaccompanied children are able to judge their own best interests; it sometimes happens that an unaccompanied child wishes to be removed to his or her home country, but the attorney feels strongly that this is not in the child's best interests (2008:37, see also Nugent and Schulman 2003). Here, recall one of the statements I included in Chapter 1 from the "On Their Own Conference": "I was supposed to advocate for her expressed legal interest," Clarissa, a well-

[36] Guggenheim originally proposed a cut-off of seven, arguing that children under this age should be deemed incapable of directing representation. Since his 1984 piece, scholarly debate has largely centered on how to determine when the child has reached an age of requisite majority. (See Koh Peters 2001).

known attorney based in California, told the audience. “It was a girl who wanted voluntary departure. But I didn’t. I didn’t think it was in her best interest to go back to her country.”

In a sense, the shift from the GAL model to “true lawyering” in the field of child welfare was undergirded by *In re Gault*. Not only did the Supreme Court case give youth a constitutional right to counsel, but it also gave them certain substantive rights, including the right to remain silent. As one law scholar stated during an interview,

> *[This right] turns out to be deeply, deeply connected to autonomy… Children have the substantive right not to coordinate. Now, I’m assigned to represent a child who has that right, and the question is, what would be best for that child? To plead guilty, or to deny the charges but maybe win where you are factually guilty but the proof isn’t sufficient? A best interest lawyer would say, “It’s not best for my client to win merely because the evidence isn’t sufficient, because my client’s going to return to a life that’s dangerous.” But that’s a lawless choice. That is violating the constitution, because the court already held that children have limited autonomy rights. …So my job as a lawyer is to enforce my client’s rights. Now flash forward to immigration. What are my client’s rights?*
>
> *There’s nothing*, I replied.
>
> *There is no* Gault *decision. Therefore, the lawyers in the community, the professionals random who find their way doing this work say, “I’m going to advocate for what’s best for my child ward.” They are not in any obvious way doing anything impermissible… [Immigration lawyers] don’t think of themselves as dangerous. They think of themselves as reasonable. So children do not get professionals who strive to achieve their objectives. They get professionals who try to change their life in some way, for what they believe is best. That’s the world*.

I present this conversation because it evidences a convincing argument, one that ties together age and citizenship with the absence of legal rights and the moral commitment of cause lawyers. Yet it is important to note that in this research, immigration attorneys’ understanding of Fujianese “children” and, correspondingly, of attorneys’ own perceived roles as guardians and best interest advocates are often distorted by the qualities their young Fujianese clients “mirror” in and beyond the legal setting. The independence and ambivalence of these youth were often described to me as disconcerting by attorneys; I discuss this, and attorneys’ corresponding

reliance on a "spectacular case" in Chapter 5. Likewise, while a lack of certain rights may motivate many attorneys, other absences may matter more, particularly the actual geographic and perceived emotional distance of clients' parents. As one attorney observed, "We have lots of kids who weren't born here. Those are the kids who need SIJS. But you're not supposed to bring a kid into juvenile for the purpose of getting them SIJ.[37] It's not what it was for. [But] in my opinion, all of those kids sitting in the shelter, they're all abused and neglected." Laughing in disbelief, she continued, "Somewhere along the line they had a parent that let them come to this country by themselves!" I explore this sentiment in more detail in Chapter 4. When combined with the incongruous and isolated position Fujianese youth occupy in the state management of UACs, the cause, and the cause lawyers' understanding of it, extends beyond age to include questions of professional relevance, culture, economic obligation, and lawyers' multiple- and ultimate-commitments.

II. The Cause as Profession

As I've outlined above, the restricted legal rights of unaccompanied, undocumented minors in the U.S.—including the absence of guaranteed court-appointed representation—help establish a relatively clear "need" for immigration cause lawyers, and a need for a uniquely savvy, creative, and forceful approach to lawyering. A pervasive ideology of children's dependence adds another layer of responsibility to this work. Here, lawyers do not dispassionately work for their clients, as in the "client service" model of conventional lawyering. Nor do they explicitly *partner with* clients to achieve moral and political ends, or necessarily pursue objectives that transcend client service, the definitional "cause" of cause lawyering.

[37] Before USCIS can adjudicate an SIJS case, a state juvenile court has to declare the child abused, abandoned or neglected by one or both parents and determine that it is not in the best interest of the child to return to his country of citizenship (William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 §235, supra note 9; see also Martorell 2012:2).

Instead, the cause lawyers in this study work *on behalf of* the legal and presumed "best interests" of UACs, accepting unaccompanied Fujianese youth as legal clients because they believe no one else will, and taking on a paternal or "guardian" role in the perceived absence of kin ties and client autonomy.

These attitudes contrast significantly with what many scholars argue are the essential features of cause lawyers: "They expressly seek clients with whom they agree and causes in which they believe," write Stuart Scheingold and Austin Sarat. "[C]ause lawyers often argue that the more closely they identify with their clients' values, the better advocates they will be…" (2004: 9). Significantly, however, the authors continue, "Cause lawyers tend to transform the nature of legal advocacy- becoming advocates not only, or primarily, for their clients but for causes and, one might say, for *their own beliefs* (Scheingold and Sarat 2004: 9; see also Simon 1984; Sterett 1998). Scheingold and Sarat's attention to lawyers' beliefs is significant, for it permits an additional layer of explanation regarding the work and motivations of the attorneys in this study.

While these beliefs certainly include the aforementioned "impulse" of legal and paternal responsibility, I argue that they are animated as well by bureaucratic and political structures, and by personal disappointments and successes external to direct client service. In what follows, I explore the beliefs immigration cause lawyers maintain about the specific legal protections available to UACs, the levels of bureaucracy in which they daily maneuver, the unique structure of immigration courts in the U.S., and the limited financial compensation afforded for their work. This provides a necessary introduction to a unique form of legal advocacy, of course, but it also lends a more specific insight into the boundlessly intricate "uncontrollables" that cause lawyers navigate. As I demonstrate here, such challenges prove to both provoke and stimulate. Attorneys'

encounters with what they describe as so many maddening, intersecting scales of time, management, and funding often appear to delineate a specific course of action, and to undergird professional identity and pride. While I am not arguing that these "uncontrollables" necessarily legitimate the strategies attorneys describe as so constrained that they must be obligatory, I do wish to incite the reader to consider critically, and perhaps sympathetically, the complex, often very restrictive context in which cause lawyers work.

Motivating the "Cause": Legal Protections and the Adversarial, Suspect Cause Lawyer

Just as opposition to federal and state agencies appeared to unite the cause lawyers who attended the On Their Own conference, so did it emerge in my research as an energizing force in lawyers' individual lives and practices. Talking with Russell, an attorney in his 60s, and Maria Teresa, Lupe and Gloria, three young women on the staff of a small Arkansas immigration law office, I began to understand this opposition not simply as the likely outcome of lawyers' frustration with "the system," but as what many attorneys identified as a truly moral and political stance. It began with a casual mention of "adversarial." "I'm a lawyer. I'm adversarial," said Russell, as the five of us sat in a haphazard circle, eating pizza. The office's cinderblock walls were painted a dull yellow and lined with colorful Mexican tapestries and hanging plants. "My reaction is, 'Well, of course!'" he continued. "Everybody wants to stay in the United States. But what's interesting is to learn, and something you don't learn very easily in an office like this, is that no, a lot of people don't want to stay here. Give 'em the choice, and they'll get up and go back home- if they didn't have a good job or something. And, you know, some people want to stay, some people want to go back, some people are on the fence… And with kids, it's even worse, because they don't really know what they want and may not necessarily exercise good judgment about what they want. It's tough."

I responded, "You said just now that you're adversarial. Is that something that's a personality trait, or is that part of your training?"

"I think people are adaptable," he replied. "You fall into the world you're in. So yeah, it's us against the government. And I think it's partly self-selection, like, this is what we do. We fight the government all the time. We try to wheedle the government into giving us what we want. It's not adversarial like a criminal trial where you are really fighting. More often, it's more like persuading." He laughed. "Or attempting to persuade. And you know, it's exasperating when it doesn't work."

Until this conversation, I was most familiar with "adversarial" as regards asylum procedures: When someone requests asylum as a defense against removal from the U.S. (as an apprehended youth might), proceedings are typically adversarial. Significantly, this version of adversarial is not unrelated to Russell's characterization of himself and his profession. After all, what attorneys believe to be the needless or counterproductive adversarial management of UACs in asylum proceedings largely contributes to the "us against the government" approach he described. In this section, I explore this connection, as well as the ways in which attorneys' adversarial or "persuasive" interpretations of asylum and Special Immigrant Juvenile Status (SIJS) result in even more, and more abstract, barriers to *their own work*, including distrust, tenuous affiliations, and diminished success in securing now-suspect, "abused" protections.

An adversarial asylum procedure includes a trial attorney representing the government, taped proceedings, cross-examinations and a formal courtroom set-up, often including court-provided interpreters. Asylum law generally makes no distinction between unaccompanied youth and adults, though some changes did occur with the passage of the William Wilberforce

Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA).[38] The TVPRA granted U.S. Citizenship and Immigration Services (USCIS) initial jurisdiction over all asylum applications filed by unaccompanied youth. Thus, even those UACs issued a *Notice to Appear* in immigration court, or UACs who have not previously filed for asylum with USCIS and have a pending claim in immigration court on appeal to the Board of Immigration Appeals, can have their asylum claim heard and adjudicated by a USCIS asylum officer in an affirmative hearing in a "non-adversarial setting," typically the asylum officer's office. Yet if the officer denies the petition, as many attorneys reported happens with Fujianese youth, the UAC must then pursue the case in immigration court, through the defensive asylum process.[39] This is extremely frustrating for attorneys who find themselves working against ICE trial attorneys in an adversarial setting they believe their clients don't deserve. "[You then have to] take down ICE," described one attorney. "They come to be the common enemy, I guess."

Most of the lawyers I spoke with identified asylum as a particularly "bad" or nonexistent option for Fujianese clients. In his office's analysis of over 5,000 case appeals in the Second Circuit,[40] one attorney in New York reported that 4.96% of non-Chinese alien appeals and 2.33% of Chinese alien appeals were granted. "It is hard to avoid the conclusion that the Second Circuit does not carefully consider and evaluate the records, particularly in Chinese cases," he wrote.[41] Yet as other attorneys pointed out, this is perhaps not surprising given the relatively large numbers of fraudulent Chinese asylum cases filed by "snakehead lawyers" in New York (see Amon 2002). While this well-known racket certainly impacts the experiences of *subsequent* Fujianese asylum applicants in the Second Circuit, I believe it hints at another related, and

[38] See Chapter 4 for a more thorough overview of TVPRA.
[39] (TVPRA, Sec. 235, (d) (1) (C))
[40] The Second Circuit includes New York, Connecticut, and Vermont.
[41] Cox, personal correspondence 8/16/2012.

perhaps more relevant, issue, namely the ease by which immigration lawyers, conventional or cause, come to be viewed with suspicion by immigration judges, trial attorneys, and other public and private actors involved in the management of UACs. While every cause lawyer I interviewed would be loath to be compared to snakehead attorneys in New York, particularly given the exorbitant fees, deceitful practices and impossible guarantees they associate with this community of lawyers, they must likewise work "strategically" against a limited, adversarial, often unreliable range of protections. They must also simultaneously navigate the current and consequences of distrust associated with lawyers who work on behalf of young migrants.

"What about the segment of immigrants who are fleeing persecution?" an audience member asked during a panel at the On Their Own Conference.

"The attention to this population is often very negative due to fraudulent asylum claims," replied the presenter. "*The New Yorker* had a very damaging article for us[42]. …When you bring up these issues, it's very tricky. You don't want it to seem like we're exploiting the system. With UACs, you have to increase attention to kids in the media, but you must present the many positive sides of the issue…For instance, there's a growing interest in gang cases [as "membership in a particular social group"[43]]. In the right hands, that's wonderful. But if someone focuses on one bad story, it could be bad."

When I returned to Chicago, I asked a local immigration attorney to clarify this. "Someone at the conference asked why no one was talking about asylum," I said, "and the panelist responded, saying it's sort of a protection of last resort. There have been so many abuses

[42] Likely "The Asylum Seeker: For a chance at a better life, it helps to make your bad story worse." Mehta, Suketu 8/1/2011. http://www.newyorker.com/magazine/2011/08/01/the-asylum-seeker. Accessed 8/4/14.
[43] Non-citizens who are present in the US or who arrive at its border may be granted asylum if they qualify as refugees. A refugee is defined as "any person who is outside any country of such person's nationality or… any country in which such person last habitually resided, and who is unable or unwilling to return to… the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." (INA §101(a)(42)(A).

of it, she said, that no one trusts asylum claims anymore. I was a little befuddled, because at a separate panel on SIJS, it seemed like it was just another protection being used, manipulated, potentially abused."

The attorney nodded vigorously. "Everybody's waiting for the jig to be up with SIJS. For now, you just want to get as much relief for as many kids as possible."

From this statement, it is perhaps unsurprising that many of the cause lawyers I interviewed acknowledged the role and impact of *suspicion* in their work. As demonstrated with the case of Second Circuit Chinese asylum claims, this suspicion is both regionally and remedy specific. Consider SIJS claims in Chicago. To be eligible for SIJS, 1) the applicant must be unmarried & under age 21; 2) a state juvenile court must find that reunification with one or both of the youth's parents is not viable due abuse, abandonment, neglect, or similar basis found under State law; 3) a state juvenile court must find that it would not be in the child's best interest to return to that child's country of origin; and 4) a state juvenile court must declare the child dependent on the court or place the child under the custody of an individual, entity, agency or department of a state.[44] It is thus a three-part process to secure SIJS: an attorney must get an SIJS predicate order from a state court, then petition for SIJS status (through USCIS, a federal agency), and finally file for lawful permanent residence with USCIS (if filing affirmatively) or federal immigration court (if filing defensively). What this *really* means is that many immigration attorneys rely on well established, trusted connections in local juvenile courts—courts that very rarely encounter immigration issues—to secure an SIJS predicate order. For some, this is surprisingly easy. In my conversation with Anastasia, she mentioned, "We did have a case recently in Mississippi where we were able to get the order. The dependency and neglect order. We were able to get that in Mississippi from a judge, because we happened to know the

[44] INA §101(a)(27)(J) and TVPRA §235(d)(1).

judge well." An attorney in Texas described, "I'm usually able to do an SIJ case in a few months, from start to finish. We had a nice arrangement with the state court, where we could file a declaratory judgment.[45] It's a remedy that exists in other states, but not all."

Yet when trusted connections do not exist, or when immigration attorneys are locally distrusted for the well-known, deliberate "waiting for the jig to be up" approach to SIJS, the legal protection is nearly impossible to secure. This is the case in Chicago. The courts are really resistant to SIJ in Chicago," stated one lawyer. "There are judges in Chicago and the state's attorney in Cook County who have been burned."

Jill, a child welfare attorney, explained further, "We see very few unaccompanied kids [in juvenile court]…We did have maybe 3 or 4 unaccompanied kids way back when, before the immigration world pissed off the child welfare world and the cases stopped coming in."

"Why did they stop coming in?" I asked. "I know with SIJ cases, you need a predicate order. So wouldn't those come through you?"

"Funny you should ask," she continued.

> *So what* should *happen is that immigration attorneys should be in the shelter interviewing kids, right? "Ok. You, you, and you. It looks like you should qualify for SIJ, let's go in and get that predicate order." And how do you get that predicate order? You've got to call DCFS* [Department of Child and Family Services]*, you've got to have somebody screen the case in the state's attorney's office. You call up DCFS, and DCFS says, "I'm sorry, they're in a shelter. What do you mean they're abused? Someone's caring for them! The federal government's caring for them!" So, the state sees it as passing the buck, as the federal government wanting the state to pay for the care of these kids. And the state says, "No! You have these kids in your care! We're not taking them."*

She shook her head and sighed. "Of course, family court did take some cases…but then we had three cases in a row with really bad facts. One kid claimed to be the kid of a migrant farmworker from Honduras, spoke no English, and it turned out later she was a runaway from Washington

[45] Intended to resolve legal uncertainty, a declaratory judgment is the conclusive, legally-binding determination of a court. In an SIJS case, a declaratory judgment action is filed to establish that the child has been abused, abandoned or neglected and is declared dependent upon family court.

state. But the immigration lawyers brought her case up anyway!" Incidentally, she added, these lawyers were affiliated with a powerful immigrant rights advocacy organization in the area.

"And the judges found out about this." I responded.

"Yeah," Jill said. "And [cases like that] put a really bad taste in all the judges' mouths, and they said, 'Uh-uh.'" She knocked her fist on the table. "Like, 'No f-ing way.'"

"So Many Uncontrollables": Scales of Time, Conflict and Compassion

Three scales of tension emerge in the above narrative . There is the local conflict between immigration attorneys and juvenile judges in Chicago, the willful presenting of "bad facts" that damaged the reputations of *all* immigration attorneys in the area, no matter their affiliation with the major nonprofit. There is the broader "immigration world pissed off the child welfare world," a conflict that continues to limit advocacy efforts on behalf of undocumented youth. And finally, there is tension in the highest reaches of immigration policy, namely the state's perception of federal reliance on local juvenile courts as "buck passing." From so many observations and interviews, I believe these intersecting tensions explain (though don't necessarily legitimate) many of lawyers' suspect practices.

The attorneys I spoke with must operate within these multiple, divergent scales every day, and they must do so *quickly*. To better evidence the demands of this role, I draw in this section on a lengthy interview I conducted with Roberta and Evelyn, two attorneys who oversee the "Children's Project" division of a large immigration nonprofit in Chicago.

The Children's Project is located in a tired-looking office on the fourteenth floor of an imposing building near the Chicago Stock Exchange. I arrived to our interview a bit before two, and the waiting room was crowded. Around me sat two small boys who whispered to one another in Spanish, their mother, another Latino couple with a daughter, and a tall black man.

Signboards were lined up haphazardly along the smudged white wall behind us. On each was a close-up photo of a dark-eyed child, the agency's logo, a statement about human rights. One of the signs had toppled over. The fluorescent lights above us were achingly bright. A current of nervousness filled the room, all of us waiting to be called inside by the so-far absent receptionist. "If one person leaned forward or motioned to stand up, I think we all would have," I scribbled in my notes. When the receptionist finally arrived, she slowly turned the scribbled "at lunch, I will be back at 2" sign over. "Who has appointments?" she asked in a flat voice. Simultaneously, the two women stood and walked hurriedly toward the desk. Ignoring them, the secretary went through the list before her, calling our names in some mysterious order. All told, it was nearly the same experience I had as in 2011, when I waited to interview a separate attorney at the agency. "It's clear that morale is not—ever?—really great here," read my notes.

But with friendly welcomes, Roberta and Evelyn ushered me into their bright office. Both in their late-20s or early 30s, Roberta was energetic with a quick, wide smile, and Evelyn, though a bit more reticent, offered particularly wide-angle responses to my questions. Repeatedly, she reframed the details Roberta offered "to better fit," in her words, "your research question."

Turning on my voice recorder, I asked, "How many youth does your program see?"

"Well, there are currently 448 beds [in shelter facilities] in the Chicago area," Roberta answered with a vigorous nod. I wondered if she, as a relatively new hire, had experienced the burn-out her predecessors described. Remarkably, in less than three years of research, Roberta was the third staff attorney I had interviewed to hold the position. "So at any given point, there's a max of 448 kids."

Evelyn shook her head. "There are *always* 448 kids. And there have been since, well…" her voice trailed.

"Forever," concluded Roberta. "In a given month, we usually see approximately three hundred unique individuals. *Every month*." Roberta estimated that over 80 percent of these youth would reunite with family, with the help of staff from the "Family Reunification" branch of the Children's Project. This left people like Roberta and Evelyn to help with local legal cases or connect youth to *pro bono* attorneys across the country. But things have changed, Roberta stressed. "Right now, we've seen the release times [decrease] a lot," she stated. Her colleague nodded. "About a year ago, we saw kids in facilities about four to eight weeks, generally, sometimes ten weeks. Now we're seeing them anywhere between one and three weeks, flipping over." In 2011, it should be noted, the number of unaccompanied minors brought to federal detention facilities began to increase dramatically, from fewer than 400 in 2011 to nearly 1,300 in 2012. There are now seven child detention facilities in the Chicago area alone (Yousef 2013).

Evelyn leaned forward. "So that means a lot of them are released before they even have a court date. And in areas like Houston, New York, L.A., places where there's usually more of a pool from which to pull the *pro bono* attorney, because of the influx, they also don't have capacity. So where it might not necessarily be difficult to place them with the *pro bonos*, the length of time it takes to actually get an appointment or to start a case with them could also negatively affect their legal options. So now it's more difficult in certain areas, just because there aren't any attorneys familiar with these issues in certain states, and then where they are familiar, they're just totally inundated."

Coupled with growing numbers of detained youth, the limited nature of attorney networks that Evelyn described (a reduced pool of attorneys, insufficient training) created a palpable sense of urgency among the cause lawyers I interviewed. This urgency is often exacerbated as attorneys move beyond the "local" scale of advocacy.

"There are so many unexpected things that can happen," said Roberta.

> *Things can change from one hour to the next, where a child might need something of you in a relatively quick amount of time. Unexpected things. An added layer of challenge is that we're constantly running up against deadlines. So attorneys, obviously, all have deadlines. But I feel like with this project, it's just* always *there. There's* always *someone that's going to turn 18, and if you don't make a decision, that's going to impact them. And that is a challenge that others may not face in their practices. And then of course, there's all the players that are involved with unaccompanied children. You know, you have to be very conscious of the fact that your role needs to play nice with the role of another individual in order to have a good end result. Having that really smooth communication between all the players is critical. And because there are* so many *players, the moment that one thing falters, it's just like a domino effect. That's a real challenge.*

"And it's compounded by the time," added Evelyn.

"Right," answered Roberta. "It's compounded by the time. So I think if I could change anything, it would be developing [better] communication with the stakeholders in the area."

"When you say 'stakeholders,'" I asked, "who are you thinking of?"

Roberta paused, then began listing "stakeholders" while Evelyn looked on: ORR representatives in Chicago, individual staff at the shelter facilities, immigration judges, trial attorneys, juvenile officers of the enforcement and removal operations, officers that bring kids from the border to Chicago. "And even if we don't interact with the officers at the border," she concluded, "the decisions they're making at the border [impact us]."

"Yeah," agreed Evelyn, "I would echo those things." She paused, then added:

> *I think for me, it's also the time. It's kind of the quality versus quantity argument. Anytime that quantity increases, and especially so dramatically, there's always an inevitable sacrifice of quality. And not to say that we don't do quality service with the limitations that we have but, you know, we are legal service providers, and it can be frustrating to not see that case through. And once the kid leaves, we don't always know what happens.*

She stopped and looked over at Roberta, who nodded eagerly. "There's just so much," she continued, "and like Roberta said, it's like you're running, running, running, and then boom.

Wall. So you divert and… [She smacked her palm against the desk.] Another wall. So you just keep going, you know? There's just door after door after door."

Introducing yet another "scale" of advocacy, Evelyn continued, "And I think also, not only is it the different actors, but the different steps that each kid has to go through. You know, we give the 'Know Your Rights' presentation and try to explain to a kid who might not have a government system and who might not have the social structures back home. [Here she began to thump the table with her palm.] And so we have to explain DHS [thump] and the border patrol [thump] and ICE [thump] and the court and us and the advocates [thump, thump, *thump*]. And there are just *so many layers of the system*. From the best interest perspective, it could be good, you know, because there are different people looking out for them. But there are a lot a lot of people involved, and a lot of that has to do with control. What can we control, and what can't we control? Or what can we- you know, as legal service providers, as attorneys, we like to control things, right? And there's so many uncontrollables. And when it's a kid's life, it just makes it that much more sympathetic or compassionate or whatever word you want to insert there."

Another Level of Urgency: The Unique "Layer" of Immigration Court

There are just so many layers of the system.

Rather than detail each of the "layers" Evelyn introduces above, I want here to focus on immigration court. Perhaps the most obvious "contact zone" (Pratt 1992; Merry 2000) through which attorneys and unaccompanied minors move, the immigration courtroom is a space in which novel and taken-for-granted understandings of Chinese family, age and rights intersect; I discuss this in more detail in Chapter 4. For now, I want to focus on what immigration court means to *attorneys*, how its unique structure constrains these individuals' work in some ways but

permits surprising practices in others. I also want to highlight the powerful role of immigration judges, and attorneys' impatience, but also considerable empathy, toward these actors.[46]

As Roberta and Evelyn detailed, the growing number of apprehended unaccompanied minors in the U.S. has resulted in a rapid turn-around time: Instead of being in shelter care for one or two months, youth are released as early as one week after arrival. This puts a heavy strain on attorneys who must evaluate youths' cases and connect youth to appropriate *pro bono* services in their destinations. For immigration judges, including those who oversee juvenile dockets, this contributes to an already dramatic overload. A historic backlog is to blame, as are recent Immigration and Customs Enforcement (ICE) agency goals of 400,000 deportations per year- about 1,700 cases per judge.[47] Increased immigration enforcement means that immigration judges' workload is the highest it has ever been—three to four times larger than caseloads in other federal courts (Hsu and Becker 2010).

Of course, immigration courts are unlike federal courts in other significant ways. Unlike federal courts, immigration courts are run by an agency of the Justice Department,[48] the Executive Office for Immigration Review. And as many attorneys pointed out, particularly those with legal experience elsewhere, these courtrooms operate at a much faster pace than federal and state courts. "The last trial I had before I left civil rights practice was one month long," said Russell. "An entire month in front of a human rights commission judge about a woman's failure to get promoted because of her disability."

"And that was a long time?" I asked.

[46] The Department of Justice (DOJ) oversees the Executive Office of Immigration Relief (EOIR), which conducts immigration court proceedings, appellate reviews, and administrative hearings. Because the DOJ has a very strict policy regarding immigration judge contact with the media and public, I only had brief, informal conversations with IJs in my research.
[47] In 2012, the Obama administration removed 409,849 immigrants. In the 2011 fiscal year, the administration removed 396,906 immigrants. http://voxxi.com/2013/02/16/ice-planned-increase-deportations, accessed 11/7/13.
[48] Immigration court is not part of the U.S. judicial branch but the Department of Justice (DOJ), which reports to the president.

"It was a *really* long time," he replied. "I walked away from it thinking, that's way too much time to spend on an issue like that. And then I went to immigration court, where you get two hours over a person's claim that they're going to be murdered if they get sent back to their homeland. Two hours. Over a death penalty case, basically."

Similarly, during an interview with an attorney in Wisconsin, I asked, "Do you think there are regional differences between immigration courts?"

"They're all pretty similar," Carl answered. "And they're all pretty isolated from real life, you know, what law practice is like outside of immigration court. There's just no comparison. People who work in immigration court forget that trials in the real world last longer than two hours. And you know, you have actual certified translators instead of—"

"—the phone," I interrupted.

"The phone, or whatever guy was hired who comes in and doesn't even speak the same dialect. And people go, 'Eh, close enough. It's fine.'"

These complaints were not exclusive to immigration attorneys. In "Inside the Judges' Chambers: Narrative Responses from the National Association of Immigration Judges Stress and Burnout Survey," Lustig, et. al report that immigration judges (IJs) share similar sentiments about bureaucratic constraints and subsequent moral questions about their work. IJs who face constant pressure to evaluate "which asylum claims are genuine: who has truly suffered horrors, and who has been coached by "travel agents" (Miner 2010:1) suffer significantly from symptoms of secondary traumatic stress and job exhaustion. In the narrative responses that researchers collected from nearly 60 immigration judges, most included complaints of an overwhelming volume of cases with insufficient time for careful review, a shortage of law clerks and language

interpreters, and failing computers and equipment for recording hearings (Lustig, et. al 2009; Preston 2009).

The attorneys who regularly work with these judges were often very sensitive to the exhaustion, and exhausting demands, they observed. Describing the anti-immigrant climate of her southern state, Abigail stated,

> *Our EOIR court has one of the highest if not the highest number of deportations per judge in the whole country. Because of the ICE glut, because of 287(g).*[49] *All of a sudden everybody pulled over for stopping a red light is now in immigration court. So there are two judges, and they have something like over 5,000 cases on their docket. That means each judge is responsible for more than 2,700 immigration cases* at once*. I don't know how they keep it in their heads without their heads exploding. And they're both very good judges. We're really, really glad to have them here. They're very just and fair and smart, but they have 2,700 cases.*

Erika, the director of a university immigration law clinic, explained further, "Because immigration court is an administrative court, IJs don't have the kind of freedoms they might have in a regular civil court. And they actually sit on the bench for something like 35 hours per week. And so that leaves very little time for admin work. And within that time, they have to not only prep for all the cases that are coming up, they also have to review all the cases that are going up on appeal. They're really constrained. I have a lot of sympathy towards the judges. I mean, they have huge time constraints put on them." She shook her head. "So a lot of the work in immigration is all up front… For instance, in an asylum case, you'll hand in something that's like, this big." She held her hands about eight inches apart. "It will have all the exhibits, and if you have witnesses, you submit something that indicates specifically what they'll testify to. You'll usually have an affidavit from the client that lays out specific details. So all the

[49] Section 287(g) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1357(g), authorizes the Federal Government to enter into agreements with state and local law enforcement agencies and permits designated officers to perform immigration law enforcement functions. Under 287(g), ICE provides state and local law enforcement officers with the training and authorization to identify, process, and detain immigration offenders they encounter during their regular, daily law enforcement activity. See also Chapter 6.

information that's going to come up in court will probably have been submitted before the actual hearing. And the theory behind it is that the judge would have reviewed all that information beforehand, so then they can ask more specific questions about what they have concerns over.

"In theory," I responded, "but in practice? I mean, if you're putting in 35 hours on the bench…"

> *Yeah, it doesn't always work out that way. I do think judges are familiar with similar cases, like a domestic violence case we recently had from El Salvador. I think once they get used to that type of case, they know what issues to look for. But no, I don't think that they have a chance to look through everything. But there are ways- like when we submit a packet like this, we highlight all the articles, and in our table of contents we put a sentence or two of what is most important from there, so they sort of have a synopsis of everything. So yeah, it's a lot of prep work for us.*

Like Abigail, Erika was considerate, and strategic, regarding immigration judges' work load, instructing her students to prepare, organize, and structure their arguments to best appeal to the insufficient time and consideration she knew judges could grant each case. Other lawyers took more explicit advantage of IJs' limits and the distinct structure of immigration court. "Think about how evidence is considered in immigration court," said James, an attorney in Arkansas. "In state or federal court, civil or criminal, you've got really specific rules about admitting evidence. There are very strict rules about what can be considered. In immigration court? I don't know of any rules. There are guidelines, but..." He laughed and looked out the window.

> *I mean, I've gotten reports off the internet, from the State Department, human rights reports, articles, you know, whatever I can find. I try to keep it to a reputable source, but if I can't find one, I've got to do something! In a state court, there would be an issue with hearsay, because you can't cross-examine who wrote it. You can't challenge anything in it. So from a respondent's point of view, it's good to send all this stuff in. Like the last removal proceeding I had in Memphis- I didn't have a very good case. And so we were trying whatever. I was trying to compare the child's hometown in Mexico with our community, the great education, great economic opportunities she'd have here. I was taking things from chamber of commerce websites,* Forbes *magazine, rankings of the region, saying, 'Judge, this is a top ten place in America—virtually the world—versus, you know, what is probably a tiny rural place in Mexico without potable water.' I was able to use those things, at least submit them. And they- I guess they could argue against*

them, but they don't have the opportunity to challenge the offer ever… There's not discovery like in civil cases, no haggling over secret documents. And there's just no time.

Here, James highlights the sort of creative license attorneys have in immigration court, particularly in his presentation of a small town in Arkansas as "a top ten place in America" alongside the seemingly *indisputable* association of Mexico with rurality and dirty water. That this practice is acceptable, or at least is unlikely to receive a thorough assessment, illuminates the significance of attorney-authored practice advisories and policy reports like the Human Rights Watch report I referenced earlier. During my research, I was perpetually struck that lawyers could contribute to or even *create* the very documents they would later use and distribute as evidence, and that the resources James laughingly described—chamber of commerce websites, rankings, magazine articles—might actually substantiate someone's claim for asylum. Of course, as we consider the broad parameters regarding hearsay and evidence that James detailed above, [50] along with the well-known (and mounting) burdens placed on immigration judges, perhaps I should not have been so surprised.

Yet not everyone lauded the permissibility of such savvy, creative techniques. After all, argued Russell, it's not an attorney's job to help immigration judges make their decisions, no

---

[50]According to the EOIR Immigration Judge Benchbook, "The rules of evidence applicable to criminal proceedings do not apply to removal hearings. The Supreme Court in United **S**tates ex rel. *Bilokumsky v. Tod*, 236 U.S. 149 (1923), noted that a failure to abide by judicial rules of evidence does not render a removal hearing unfair. A.) Evidence is admissible when it is probative and its admission would not be so fundamentally unfair as to deprive the alien of due process. *Trias- Hernandez v. INS*, 528 F.2d 366, 369 (9th Cir. 1975). B.) Evidence during a removal proceeding is controlled by the Code of Federal Regulations; any type of evidence is admissible so long as it is material and relevant to the issues before the hearing. 8 C.F.R. § 1240.7(a). Regarding hearsay, the Federal Rules of Evidence define hearsay as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Fed. R. Evid. 801(c). A.) Hearsay evidence is admissible in deportation proceedings unless its use is fundamentally unfair. *Matter of Grijalva*, 19 I&N Dec. 713 (BIA 1988). Hearsay evidence may be relied on, even if contradicted by direct evidence. *Calhoun v. Bailar*, 626 F.2d 145 (9th Cir. 1980). B.) The corollary is also true: where an asylum applicant's testimony consists of hearsay evidence, the statements by the out-of-court declarant may be accorded less weight by the trier of fact when weighed against non-hearsay evidence. *Xiaoguang Gu v. Gonzales*, 454 F.3d 1014, 1021 (9th Cir. 2006). http://www.justice.gov/eoir/vll/benchbook/resources/sfoutline/Hearsay.htm, accessed 11/8/13.

matter how advantageous it may be for the client. "What's most important is to empower these kids," he stated, furrowing his thick eyebrows, "to have somebody who takes seriously what they want, who looks out for them, and who keeps their confidences, who counsels them, who stands up for their desires in court. It's an abdication by judges, I think, to say, 'I just want a lawyer to tell me how to do my job.'" Lana, a young attorney in New York, was similarly flabbergasted: "And so I wonder, what is our role, really? Is our role to- I don't know. I don't know. Often, I see myself up against the IJs. It's like they just don't want to listen to me. But if the IJs actually asked the *kids* more questions, not us…" Likewise referencing her UAC clients, and certainly drawing us back to the earlier discussion of youths' presumed "dependence," one attorney in Missouri commented, "And if you try to talk about children's legal rights versus their best interest versus their objectives, it can get quite tense. As adults, we don't trust children. That's why you have GALs [Guardians *ad litem*] and attorneys acting as GALs all over the place. Judges *love* GALs, by the way. They love GALs because the judges have to make the decision of what's in the best interest in the child. And they want someone else to tell them what to do, and someone else to be giving them that information."

As Evelyn recounted in the previous section, immigration judges are but one element of a many-layered immigration system: there are also ICE trial attorneys, border patrol agents, ORR officials, and on and on. Yet my focus on immigration judges is deliberate. As I've evidenced here, to cause lawyers, immigration judges not only evoke the broad problems inherent in the U.S. immigration system, but they also symbolize opportunities to work creatively within it. Additionally, by exploring the "layered" strains placed upon immigration judges, including a historic backlog, expanding federal quotas (euphemistically classified as "agency goals") of hundreds of thousands of deportations per annum, and regional collaborations between ICE

officials and local law enforcement, we can begin to recognize the knotty, intertwined context of U.S. immigration and its influence on what cause lawyers believe are the necessary practices and possibilities of their work.

The Funding Game

As I explored the many "uncontrollables" of immigration cause lawyering, the financial side of advocacy—namely, the overt *lack* of financial reward—was often referenced as a notable constant. In addition to its predictability, I believe the relatively low pay cause lawyers receive is significant, and in a sense celebrated, as a form of professional identity and *legitimacy*. Many of the attorneys I spoke with presented their work as something of a public sacrifice. As they described their "persuasive" and creative maneuvers within so many levels of bureaucracy, introducing the financial sacrifice they had made "on top of everything else" (ostensibly by pursuing work in the nonprofit world rather than the corporate sector) appeared a more recognizable and reconcilable form of compassion. The sentiment helps lawyers position their work in relation to wealthier conventional lawyer colleagues, and it bolsters a more "altruistic" sense of satisfaction and pride, one that money may not necessarily provide. June, a lawyer in Chicago, explained: "Oh *god,*" she said theatrically. "I *wish* I was making the kind of money my friends at big firms make. I wish my office wasn't a dump. Nobody cleans. It's disgusting! And I wish I had a car allowance and a beautiful view. I mean, I work in an environment that my friends from law school would be horrified at. But," she shrugged her shoulders, "they all hate their jobs… So I feel at least happy that my eyes are open to these things, even if I can only fix or help the tiniest, tiniest bit in my little part of the world." She stopped. "I do a book group," she continued, nodding at me slowly. "And it's all north shore women [a wealthy suburban area of Chicago]. And they're *so* sheltered. They have no idea. I sit there and I think, 'You are the

dumbest bunch of people I have ever met in my whole life.' I mean, they don't know their ass from their elbow. They have no idea what they're talking about. I want to say, like, spend a day in my office, and then you can talk."

As other attorneys pointed out, however, this satisfaction was neither easily-won nor especially sustainable. Lana commented, "It's interesting being a public interest lawyer when you're 26 and you go into it being like, 'I want to be the most altruistic person in the world.' But now, you know, I'm living on a public interest salary. Literally, every day, I think, do I have to eat today? Do I have ten dollars? Fifteen dollars?"

In addition to these personal constraints, most cause lawyers stressed the impact of limited public and private funds on their individual work, and on broader national advocacy efforts on behalf of UACs. Supporting what Sara De Jong calls "a crisis of legitimacy" (2011:25; see also Pupavac 2006) in the nonprofit world, attorneys identified funding restrictions to be a key aspect of the bureaucratic structures they must navigate in their daily work, often with considerable frustration. Even if these lawyers perceived their limited income as indicating personal and moral commitment, "sacrifice," social awareness, and so on, they remained critically aware that tenuous funding also signaled broader fissures in the image and efficacy of nonprofit immigrant advocacy organizations.

> *In Chicago, we just don't have any resources to continue. It's a big challenge, and I think it's a challenge for most of the legal service providers that work with unaccompanied kids.*
>
> *So we're subcontractors with the VERA Institute of Justice, which is contracted by ORR to make sure children in their care receive legal orientation presentations and are screened for legal relief. We have some limited funding that allows us to do representation, but it's outside funding. And funding restrictions have changed in the last year, so we have to be really careful not to mislead the kids into thinking that we're actually their attorneys. For the most part, our funding isn't to represent these kids, it's just to determine if they're eligible for relief, to provide them with this information, to place them to a pro bono lawyer. It's confusing for them. It's confusing for* us.

> *The managers in each project are focused on direct service, but it's hard when you're government funded to be more creative. Budget cuts mean more intra-agency urgency and reaction. We have to be very reactive.*

Taken together, the limited funding and time attorneys experienced contributed to a narrow, pre-delineated course of action: "The short-term option always wins out," said Lana. "I'm not blaming anyone for 'taking advantage' of the system, because it's so messed up and broken. People do what they have to do." She paused, scanning through the messages on her phone, then nonchalantly added, "Immigration lawyers- it's interesting, you know. If your only tool is a hammer, then the problem looks like a nail."

* * *

However glib or offhand, Lana's comment efficiently summarizes this chapter. Not only do the ideologies, legal rights, and bureaucratic constraints I've outlined influence the "tools" available to cause lawyers, but they also shape the problem itself. As lawyers work to put Fujianese youth "in the right box," as Bernard described at the beginning of the chapter, the problem—or perhaps, the *cause*—is at once a matter of age, of citizenship, of legal rights and protections. Yet as we see here, it is also very personal, involving more ambiguous questions of responsibility, identity and proper (or *necessary*) action.

CHAPTER 3
"THE FUTURE DOESN'T COME TO ME": THE DIFFERENTIATED MOBILITY OF FUZHOUNESE YOUTH

A Note to the Reader:

An obvious shortcoming of this research is that I conducted no fieldwork in Fujian Province itself. Due to limited funding and time, I instead familiarized myself with the historical and geopolitical context of Fujian Province through relevant scholarship and popular writing and films, as well as through the detailed descriptions youth provided of their daily life in local communities of origin. While none of these things replaces the value and richness of empirical research, I believe my interest in and unconcealed lack of knowledge about Fujian ultimately garnered a depth of perspective I would not have achieved during a brief fieldwork trip overseas. When I admitted to youth that I only had experience in *western* China and that I was perpetually baffled by the *Mindong* dialect many youth used, and by Mandarin that seemed utterly incomprehensible to me when spoken with a Fuzhou accent, they often responded with good-natured laughter and then an earnest, lengthy explanation. However uncomfortable it felt at the time, sharing my insecurities about language and place was typically, and rightly, interpreted by young research participants as an invitation for meaningful collaboration.

As youth began to self-identify as valued experts, the reflections they shared were increasingly vibrant, critical, nostalgic, challenging and heartfelt. I remain compelled by and accountable to their accounts, and thus present extended vignettes in this chapter, as opposed to the shorter interview excerpts I feature in the previous one. Doing so not only foreshadows the significance and shortcomings of attorneys' simplified portrayals of Fujianese clients (Chapter X), but I believe these individual portraits also illuminate local processes of change, reveal insights into wider social segment(s), and necessarily emphasize youths' own knowledge and

influence in their families, communities, and this project (see Arnold and Blackburn 2005; Jeffrey and Dyson 2008).

While I draw largely on Julie Chu's excellent discussion of Fujian Province as "a lagging or leading edge of China" (2010:25), it is ultimately the intimate accounts youth shared that guide my editorial choices and analysis in this section, and even my utilization of Chu's work. As ethnographic "bridge builders," it is their voices, not mine, that facilitate a "'crossing' into the sensibilities and sensitivities of others. [These] ethnographic bridges… allow the reading public [and indeed, the researcher herself] to cross over to new understandings, new understandings of others and perhaps of themselves" (Saler 2003:209). I want to begin, then, with a particularly vivid excerpt from a lengthy conversation I had with Bingwen, a young man in Texas.

"There's Always the Mountain": Bridging Timelessness and Change from Texas

When we met, Bingwen was finishing his senior year of college. He had lived in the U.S. for nearly eight years and was more comfortable speaking English than Mandarin, he said. Short and broad-shouldered, Bingwen wore cargo shorts and a blue t-shirt. He kicked off his flip-flops as we began talking and adjusted his glasses frequently. Accustomed to sharing his migration story but rarely ever the story of his life *before* emigration, he appeared startled and pleased by many of my questions. When this happened, he straightened his back and leaned forward. He pressed his palms together and shut his eyes before answering.

"Can you tell me about your life in Fujian?" I asked.

"Ok," he said. He closed his eyes. I waited. "Ok. You know when you are in a certain place, everything is just…" his voice trailed. "Every day is just Monday, Tuesday. There's nothing special about it. Now I think back to the place I grew up, it's really quite pretty. You

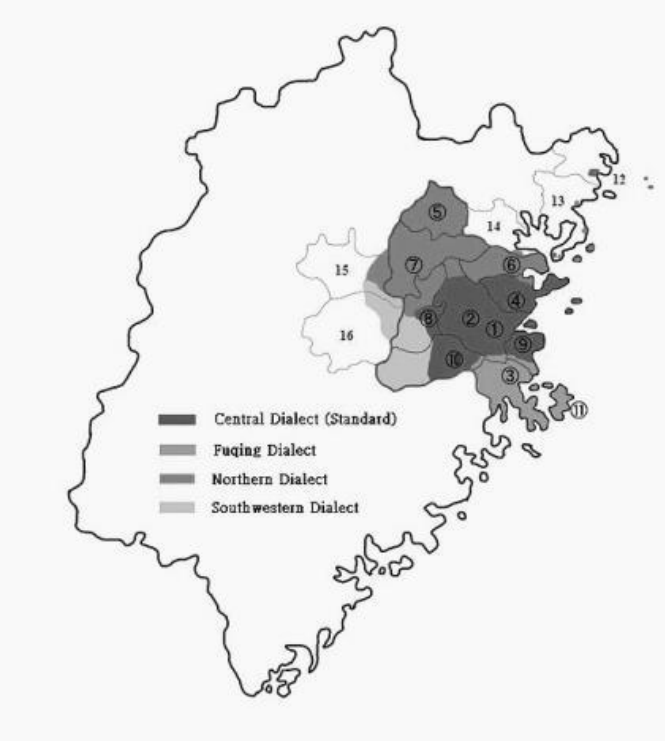
know, China's had this economic boom, but it doesn't reach the little towns and cities until right about when I was coming to the US. So basically I grew up in a pretty pristine China, before the pollution kicks in. I used to remember the river was clean, but by the time I was thirteen, fourteen, it's black, you don't want to touch it. It's really sad. Now, my childhood? Ok, let me think. How do I put it? My village is very small."

"How small?"

"There are about 2,000 people in the entire village. It's really a town. So the way the place I live at is structured, it's a whole bunch of villages, joined together. They become a town."

"What was the name of it?"

With a heavy accent, Bingwen said the name of a village near the coast of central Fujian. The village was in Changle, a county-level city over which Fuzhou has direct jurisdiction.



1. Fuzhou City Proper
2. Minhou
3. Fuqing
4. Lianjiang
5. Pingnan
6. Luoyuan
7. Gutian
8. Minqing
9. Changle
10. Yongtai
11. Pingtan

Figure 2.1 Fuzhou Dialect Map

"So basically," he continued, "it's kind of backward relative to other parts of China. It's still an old fashioned village setting. And there's pretty much no traffic when I was little. There's maybe two streets. Two concrete streets in the entire area. Now, I understand, everything's concrete."

"I bet."

"Yeah. So, everything else was, you know, gravel or dirt road. I remember that between my village and the hill, there was a stretch that's maybe half a mile, just essentially clay and gravel. You just picture yourself walking from your house, all the way to where the mountains and the hill are. Everything to your left, everything to your right is rice paddies. It's kind of cool, actually. To me, the rice paddy has always been there, there's always the dirt road, there's always the mountain. That's just everyday life. But now when I think about it, you know, a lot of people in this country pay thousands of dollars to go to a place like that! But if that's all you know your whole life, there's nothing special about it."

"Were you living in a house?"

"It was a really small house, like a giant rectangle. Pretty basic amenities. Pretty much everything is on the bottom floor, and then you sleep on the second floor. You work and you cook here." He traced an outline on the couch cushion. "It's like I'm working here and someone's cooking there, some kids are running around outside. Dogs and chickens and cats everywhere. It's weird, it makes no sense, but everyone just runs around like nothing's going on. Nobody cares. And you know," he added, "I actually worked in the rice paddy."

"You did?" I asked. "What did you do?"

"So, when you see the Travel Channel…"

"Was that you I saw?"

He laughed. "Yeah, I did that! I actually did that. So they had these, what do you call it? It's like a blade you use to…"

"Like a sickle, or a knife?"

"You can look it up. But you bend down, you grab the rice, you cut it down."

"How old were you?"

"Eleven or twelve. It's completely normal, actually, because no one considers it underage working. It's just how life is."

"Did you mind doing it?"

"I don't mind. Well, when everyone else is doing it, you don't complain. It never even comes to you that something you should complain about. It's not like the next door neighbor has a kid who has a Mac computer or anything, you know? So there are frogs jumping around, some leeches try to suck your blood... It's like that. And pretty much everybody in my extended family, my village, owns a piece of the land. You know," he said, "it's actually pretty cool. I think western visitors would enjoy seeing something like that. It's seeing how life has always been, for thousands of years.

"My work on our farm was kind of a gradual thing. As you get older, you start to do more stuff. By the time I was twelve years old, we were outside, selling." He paused. "Man, now that I think about it, I pretty much did all kinds of third world stuff." He laughed. "I'm just joking. Then for about three years during the summer time, my job was selling watermelon. I had a giant watermelon stand. It's fun. It's like a workout for me. I had *a lot* of watermelons. My dad would go to purchase a watermelon from farm outside. He brought an entire truck of watermelons. So

maybe once a week or once every other week I sleep where the watermelon is on the street. Just so no one would steal it! I have my mosquito net over me, sleeping."

"Were you going to school then, too?"

"I actually was. But in China, school is not free. You have to pay for it. And especially once it's high school, you're pretty much on your own. Even then, it's considered expensive." [51].

Later in our conversation, Bingwen mentioned he hopes to return to his home village to visit.

"How do you feel when you think about that?" I asked.

"I worry about whether I'm going to be able to find my way there!"

"Of course!" I replied. "I'm imagining if there were rice paddies when you left, what is there now?"

"I heard there's no rice paddies anymore in the area. Everything's gone. It's like the city's growing out and it's growing into my village. So slowly it's becoming more and more like a city. It's almost *part* of the city now because of all that growth, all the concrete and buildings and expansions. The mountain is still there, though. You can't move the mountain. It's actually funny, because when I was a little kid, living in that third world," he winked, "that has rice paddies everywhere, you know," he stopped. "Kids in China don't—at least where I came from, when I was little—you don't get toys. There's no such thing. Okay, you might get one toy on Chinese New Year. So if I have too much time and I'm not doing anything, I just walk up the mountains for a couple hours. Hopefully you don't step on a snake or run into a wild pig. That would probably not be a good day. I would find fruit trees and just climb up, sit on the tree and pick up the fruit. Life is very simple."

[51] In China, primary and middle school is free, though there are fees for books, uniforms and sometimes room and board. There is a relatively small cost to attend high school, and some parents pay money for private tutors, particularly to help young people prepare for *gaokao*, the National Higher Education Entrance Examination.

A Leading and Lagging Province, Its Leading and Lagging Migrants

I was captivated by Bingwen's rich, straightforward descriptions of life in his home village, and by the almost deceptive ease with which he "bridged" disparate worlds, expectations, and temporalities. Though certainly valuable for their own sake, Bingwen's words also lend clarity to what Julie Chu argues is a "nested set of inferiority complexes" typical of Fujianese villages like Bingwen's. In his memory, Bingwen's village is a community with a unique landscape and history. *It's seeing how life has always been, for thousands of years.* With pride and a twinge of wistfulness, Bingwen recalls harvesting rice on family land with immediate and extended kin, sleeping on his pile of watermelons in the market, enjoying fresh fruit while hiking the nearby mountain. Yet Bingwen's words aren't unconsidered nostalgia. With characteristic directness, he describes the ways in which the village had been absorbed into a broader metropolitan area, in this case Changle City. *I heard there's no rice paddies anymore in the area. Everything's gone. It's like the city's growing out and it's growing into my village.* He also identifies the village, or the city, as *kind of backward relative to other parts of China*. Though a transnational community, it is simultaneously a region that can't compete with the remarkable economic growth of nearby provinces.

Borrowing from Julie Chu, I believe we find in Bingwen's description a place that is both "a backward and outward edge of the nation" (2010: 26). It's not just Bingwen's village, of course: The "edginess" and the insecurity—and arguable inferiority—Chu describes also extends to Fujian Province more generally. On the national level, it falls behind the arguably more influential and cosmopolitan north, which includes Shanghai and Beijing. Regionally, Fujian is largely outpaced and overshadowed by the expansion of its southern coastal neighbor, Guangdong (2010:27-8).Fuzhou, the region from which most contemporary outmigration occurs,

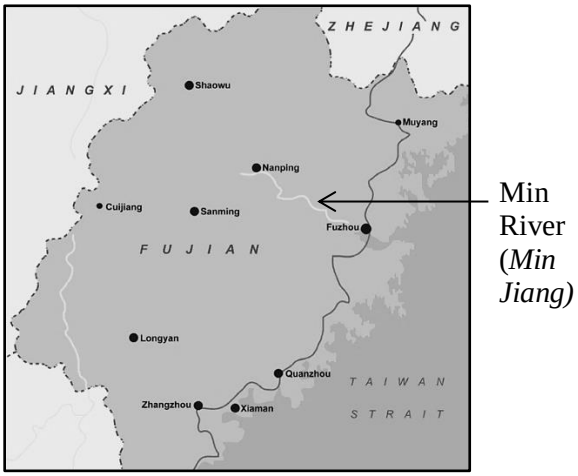
"has been the mediocre disappointment among the initial target areas of a modernizing China, lagging behind not only the special economic zones in Guangdong Province but also Xiamen in its own province" (2010: 28). Finally, at the most local scale, villages like Bingwen's and the "Longyan" Chu studies stand in both close physical proximity and significant social distance from metropolitan areas like Changle City. As Bingwen's reflections illustrate, his community "fall[s] between all boundaries as neither a proper, idyllic 'peasant village' nor a welcomed extension of urban life" (2010: 30).

Why does this matter? As I demonstrate elsewhere, the migration of Fujianese youth is often attributed by attorneys and popular media to deficient or dysfunctional parents, poverty, sophisticated smuggling networks, or political or religious persecution. And in certain individual cases, one or some of these explanations may be relevant. Yet I believe that to understand *why* youth like Bingwen left, we must first know *what* Bingwen left, how he and other migrant youth experienced and now imagine their communities of origin as profoundly connected to, yet somehow still on the "edge of," local and global processes of change. It is also necessary to understand the physical and very personal "reach" of emigration, how the youth at the center of this study situate their personal migration stories within a broader regional history and a complex present in the U.S. While I earlier employ a rather poetic view of these youth as "ethnographic bridges," I also recognize the very real bridges these individuals become as young migrants. Perceived and self-identifying as valued conduits of money, status and information, these youth are in a sense like Fujian Province itself, the "lagging and leading edge of China." As my data demonstrate, unaccompanied Fuzhounese minors are keenly aware of the ways in which they "lag" behind other Chinese nationals in P.R. China, behind Chinese-Americans and Chinatown peers, behind other young UACs (ch. 2), and behind distinctly western or American

presumptions of developmental stages and age-appropriate markers of success. Yet there is potential in this precariousness, for the young people with whom I spoke are simultaneously often the "leaders" of their "emplaced" families, and of their relationships, employment, and legal pursuits in the U.S.

In what follows, I expand and evaluate this comparison by moving between a detailed, factual overview of Fujianese emigration and youths' more nuanced reflections on their relationships with this place, its reputation, and its influence on their lives abroad. My goal in doing so is to illuminate and challenge the limitations of the narrative of these young people, their families, and their home province, all of which tend to be simplified as "Chinese" in immigration court. This chapter also returns to and complicates ongoing conversations about autonomy, migration and age.

Clarifying "Fujianese Migration": An Overview



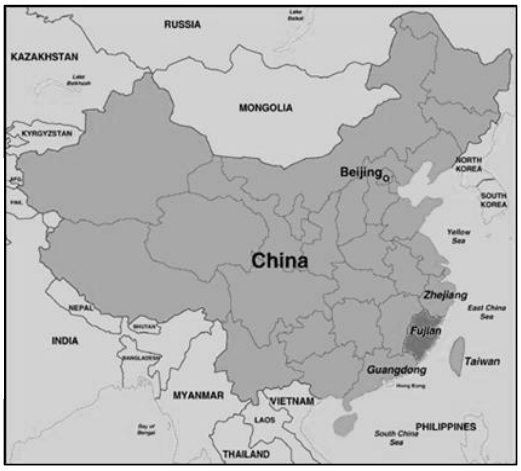


Figure 2.2 Map of Fujian Province[52] *Figure 2.3 Map of P.R. China, Fujian highlighted*[53]

Located in southeast PR China, Fujian Province has a population of nearly 37 million.[54] One of the most mountainous and forested provinces in China, it is bordered to the east and south

[52] http://www.chinatourusa.com/china-map/fujian-s-map.shtml, accessed 11/18/13
[53] http://www.tianmingcn.com/fujian.html, accessed 11/18/13.

by the East China Sea, the South China Sea, and the Taiwan Strait. Geographically, it is the closest province in China to Taiwan, and is also relatively near Singapore, Malaysia, the Philippines, and Indonesia. Unsurprisingly, this location underlies Fujian Province's unique and widely recognized history of emigration among China's provinces. Today, approximately 80 percent of diasporic Chinese in the Philippines and 55 percent in Indonesia are of Fujian origin (Liang and Ye 2001:193). New York City boasts a Fujianese population of over 200,000 (Macabasco 2005).[55]

Fuzhou, the administrative capital of Fujian Province, is the source of most recent flows of migration. Yet as Chu points out, to fold this massive population of migrants into the broader "Fujianese" category is misleading, given the unique regional histories, and regional *migration* histories, of the populations divided by the Min River. Along this river, she writes, mountain ranges managed not only to isolate Fujian from the rest of China, but also to divide its internal population into distinct regional groups. Fujian Province has the most heterogeneous dialects of any province in China, and

> *…as it has turned out, the "Fujianese" tradition of emigrant flows has been largely a phenomenon of the populations speaking in the Minnan dialect, groups situated south of the Min River… Fuzhou, which lies north of this region in an area usually termed Mindong, meaning east of the Min River, has played only* a minor role *in dispersing "Fujianese" overseas for most of the province's starry history as the "home" of diasporic Chinese* (2010:28, emphasis added).

The first documented instance of emigration from Fujian Province took place in the Han Dynasty (226 BC-220 AD), when "some people from a district in Eastern Ye county sailed off into the wind, and migrated to Chanzhou [today known as the Philippines]" (Zhu 1990:233).

---

[54] Fujian Statistical Bureau. http://www.fujian.gov.cn/, accessed 11/20/13.

[55] The Fujianese presence in New York's Chinatown(s) and in other U.S. Chinese communities has created tension between these relatively new arrivals and their more established and dominant Cantonese neighbors, migrants from the eight counties surrounding the City of Canton in Guangdong Province (see Kwong 1997).

Fujian's port regions became increasingly important during the Tang Dynasty (618-907), and overseas trade flourished in the Ming Dynasty (1368-1644). Sea trade extended from Fujian Province to nearly every Southeast Asian country at this time, with particularly strong ties to the Philippines. As Chu's work indicates, most of these connections were to the Minnan region.

In 1842, the Treaty of Nanjing (1842), which marked China's loss to Great Britain in the first Opium War, stipulated that five Chinese port cities, including Fujian's Fuzhou and Xiamen (known at the time as Amoy, an approximation of the pronunciation of the city's name in its local vernacular), be opened for residence by British subjects and their families. Interestingly, and returning us to the notion of Fuzhou as a "mediocre disappointment," the British were apparently so frustrated with Fuzhou's performance as a commercial port that there was discussion of swapping it for another city with better prospects (Fairbank 1969; Spence 1999). Fuzhou and Xiamen nonetheless became major sites from which Fujanese were transported to Southeast Asia as contract laborers, as well as to the U.S. to work in mines and on the railroads. It was Xiamen, not Fuzhou, that that exported the majority of these migrants.

External trade factors certainly influenced Fujianese emigration, but a powerful "push" came also from within China during the nineteenth century. Between 1779 and 1850, the Chinese population grew from 275 million to 430 million (Hsu 2000:65). This created unprecedented pressure on Chinese production, particularly in Fujian Province, where 80 percent of the region was mountainous and elite merchants and landlords operated the remaining arable tracts. Because of these conditions, growing numbers of Fujianese began emigrating overseas as contract laborers or debtor laborers.16,683 people left Fujian in 1875 and 43,613 more in 1885 (Liang and Ye 2001:193). The majority of these emigrants settled in Southeast Asia.

Though the contract labor system gradually diminished and was later abolished in the early twentieth century, emigration from Fujian continued. Chinese labor was exported via a recruitment system by foreign governments, and a significant increase occurred during World War I, when contracted laborers were imported from Fujian to the U.S. Other major waves of emigration occurred with the start of the second Sino-Japanese War in 1937, and when China's civil war intensified in the mid-1940s. With the establishment of the People's Republic of China in 1949, strict controls were placed on emigration. For the next thirty years, Chinese citizens encountered chaotic realities that would ultimately shape and underlie later waves of migration. The agricultural collectivization and industrialization of the Great Leap Forward (1958-1961) brought about a catastrophic famine that resulted in as many as 35 million deaths, and the Cultural Revolution (1966-1976) produced further social, political and economic upheaval. Very little out-migration occurred during this time.

As Deng Xiaoping consolidated leadership in the 1970s, China adopted a policy of "reform and opening up" (**改革开放**), in regards to both its economy and to international immigration. While comparatively restrictive, an exit visa system was established in 1980, and approximately 50,000 individual applications were approved between 1979 and 1985 (Liu 2009:316). In 1979, formal diplomatic relations were officially established between the U.S. and the PRC, and the subsequent passage of the *Law on the Control of Exit and Entry of Citizens* (1985) importantly underscored emigration as the right of every citizen. The law remained restrictive, however, requiring work unit approval, household registration (*hukou*) documents, official overseas invitation(s) and financial guarantees before a passport might be secured. While subsequent reforms made it relatively easier for a Chinese national to secure a passport, important limitations remain, particularly for government officials, managers of state-owned

enterprises and, significantly, the residents of small cities and rural areas, including those in Fujian. Many provincial governments also establish their own separate regulations and reform measures, thus further complicating the national government's power to control exit and entry (Liu 2009:320).

Differentiating *Fuzhounese* Youth: Complicating or Compromising the Cause

> *The profound Fuzhounese feeling of marginalization—brought on by the combination of their geographic isolation, distinctive dialect, and seagoing vocation—all contributed to the equally profound Fuzhounese spirit of independence and political autonomy… Yet for all their prowess and prestige in China as world travelers, very few Fuzhounese came to the United States before the late twentieth century* (Kwong 1997:26-7).

The first record of Fuzhounese migrants in the U.S. involves a few hundred seamen who worked on U.S. merchant marine vessels during World War II. After the war, many of these individuals gained residence in the U.S. as reward for their service, and most settled in New York. A much larger contingent arrived in the 1970s, when Fuzhounese who worked on foreign vessels started jumping ship in the New York harbor. Few ever obtained legal status, and those who did often did so through bogus marriages to American-born Chinese women. Regardless of status, as soon as the sailors became economically established, they began to bring members of their families from China to the U.S. "This was the beginning of the Fuzhounese human smuggling network," writes Kwong, "a few primitive, simple schemes concocted by enterprising travel agencies to exploit this eager market of merchant mariners" (1997:28). The modern era of Fuzhounese smuggling accelerated with the 1986 passage of the U.S. Immigration Reform and Control Act (IRCA), which offered one-time amnesty to all previously undocumented migrants and enabled subsequent chain migration among the Fuzhounese (1997, 2001; cf. Chin 1999, 2001; Chu 2006).

This migration was not, of course, motivated exclusively by economic opportunities in the U.S. Reiterating the unique position of Fujianese in China, and of Fuzhounese within Fujian, Chu writes,

> *As state classified peasants for four decades, the rural Fuzhounese were precisely not the kind of subjects authorized to charter moral careers as mobile cosmopolitans in China. In turn what they revealed through their persistent aspirations and dissonant strategies for going overseas was not only the normativity of mobility per se but also the power relations inherent in what Doreen Massey (1993) called "differentiated mobility"—that is, the uneven and unequal positioning of different groups and persons in relation to various flows and movements. Fuzhounese efforts to inhabit a more mobile and cosmopolitan style of life are struggles over such "differentiated mobility"* (2006:403).

As Chu goes on to argue, present-day Fuzhounese migration is shaped by multiple regimes of value. These are economic, of course, but are also rooted in state-building projects and in local political, kin and religious hierarchies. To foreshadow both the inadequacy and significance of the legal strategies I explore in the following chapter, I consider in this section the intersecting "regimes of value" that may contribute to the decision Fuzhounese youth make to emigrate. I also examine the unique ways in which Fuzhounese youth evidence and struggle with fluctuations of power and movement (i.e., Massey's "differentiated mobility") occurring in and beyond Fujian Province.

The possibilities I detail are too intricate to substantiate a legal claim, of course;[56] if anything, the complex, varied, and often unanticipated motivations illustrate the limits of the U.S. immigration system and of cause lawyers' understanding of the "cause" itself. As a brief example, consider some of the formal recommendations attorneys drafted in an earlier version of *No Choice for a Child: Abuse and exploitation of unaccompanied migrant children from Fujian,*

[56] I always concluded my interviews with attorneys by asking, "In what ways do you think my research could be helpful to your work?" With very few exceptions, the response I received included an exhortation to serve as an expert witness once I had my PhD and/or a request to "find out why Fujianese kids are *really* coming to the U.S."

China to the United States (forthcoming), the Human Rights Watch report I discuss in Chapter 1/X:

> (1.)
> *A complete end to unauthorized migration from China to the United States is unlikely as long as the current socioeconomic conditions exist in both countries. Policies which address the root causes of migration may be effective over the medium to long term, but are outside the scope of this report and Human Rights Watch's remit. These recommendations, therefore, must focus on policies that can curb trafficking, lead to the elimination of its worst forms, and stress the importance of better protecting the best interests of these children* (p. 82).
>
> (2.)
> ***To the [U.S.] Department of Homeland Security:***
> *Ensure that derivative T visa status is not provided to parents who chose to send their children to the United States.*
>
> (3.)
> ***To the [Chinese] Ministry of Public Security:***
> *Make public statements affirming a commitment to provide security to families threatened with physical violence for failure to pay debts to snakeheads or any other financiers of illegal migration. Also affirm the legal unenforceability of all debts related to financing illegal migration* (p. 99).

What follows are the responses a lawyer recorded during a focus group Human Rights Watch hosted with Fuzhounese youth in New York City to discuss the recommendations:

> (Response to 1.):
> *The focus group was adamant that life in the U.S. was better than life in China. None of them would elect to go back to China, even if there were economic opportunities and even if there would be no retaliation against them by the government or other agents…*
>
> (Response to 2.):
> *The focus group spent a while discussing this issue, but the consensus was that if a child wanted to bring their parents over to the U.S., she should be allowed to… They stressed that the bond between parent and child was absolute, and should not be jeopardized because a parent sent her child to work…*
>
> (Response to 3.):
> *The focus group noted that they would not trust any PSAs from the government or the news, citing the ubiquitous propaganda released by the state through media outlets.*

Youths' reflections surprised the drafters of the report, particularly since the responses neither explicitly supported the characterization many attorneys suspect is true but actively work against (namely, that Fuzhounese youth are economic migrants), nor did they help validate cause lawyers' claims of trafficking, of severed kin ties and parental abandonment, or of fears of persecution for illicit immigration and unpaid smuggling fees. As yet another uneasy outcome, these and other responses evidenced a savvy, sometimes cynical understanding of Chinese and American policies, global economic realities, and cause lawyers' own strategies. "I think the popular thing attorneys do is put everyone in a group," one young man told me later. "It's much more difficult to evaluate individual cases. Even cases that are very similar are *still individual cases*. There's always some reason back home that causes [youth] to be there to begin with. Many of them are similar, and many of them are different. Everybody experiences different stuff. It sucks for me that I was put in a group that's [seen as so] desperate."

To underscore the never-so-neat intersection and communication of information, expectations, and values in Fuzhounese migration—and, likewise, the differentiated mobility of these individual cases—I begin here by thinking about economic change and social status.[57] Consider, for instance, the "reform and opening up" I mentioned in the previous section. While the program presented new economic opportunities for the nation, it had complex and at times ambiguous effects on Fuzhou. The rapid development of new industries and Special Economic Zones in the early 1980s, including Xiamen and Fuzhou, introduced significant foreign investment into the province. By 1992, the per capita income of Fujian's rural households had

[57] This section focuses on Chinese policy and economy, and subsequent sections continue on with more detailed analyses of local pressures and family decision-making. While this is intended to be a clear organizational scheme, it should not be interpreted as a scalar or nested "explanation" of the phenomenon, one that grants precedence to one scale (global economic change, national-level politics) over another (the role of parents). Instead of creating a hierarchy of influence, my goal is to present these phenomena as interrelated and in tension, and to throughout emphasize the ways in which individual youth grapple with, interpret and weigh these realities in their decisions to emigrate.

risen to eighth place among China's thirty-one provinces (Liang and Ye 2001:195). At the same time, however, Fujianese farming and fishing communities, already limited by the aforementioned shortage of arable land, were largely displaced. As China's Special Economic Zones became destinations for millions of displaced inland Chinese—particularly those without permanent household registration (*hukou*) status at their place of destination—job competition and unemployment rates continued to rise in Fujian's urban areas with the influx of temporary migrants.

Though Fujian Province is not considered "poor" in relation to other Chinese provinces, its GDP per capita is lowest among China's coastal administrative divisions. More narrowly still, forty percent of Fujian's GDP is accounted for in just three municipalities , those of the "*Minnan* Golden Triangle": Xiamen, Quanzhou and Zhangzhou. Here we see more clearly what is meant by "differentiated mobility." Whatever "deprivation" Fuzhounese emigrants or sending families experience, it is largely understood in relation to Fujianese in the province's urban core, to individuals in other coastal areas, and to Chinese with wealth elsewhere in China and/or abroad. Simply put, some Fujianese and other Chinese nationals are more in charge of certain kinds of mobility than others—intra-provincial mobility, national mobility, upward mobility. For Fuzhounese, it tends to be *international* mobility that is perceived of as easiest and most lucrative.

While grappling with local-level economic insecurity rooted in national reforms, some Fuzhounese individuals may also be motivated to migrate by state practices and purported human rights violations. Claims of political and religious persecution were often a considered—and contentious—issue with earlier waves of Fujianese migrants, including those involved in tragic, highly publicized smuggling and rescue attempts like the 1993 Golden Venture boat

drownings off Long Island and the 2000 Dover, England truck suffocation deaths.[58] As I note in Chapter X(1), however, "the jig is up" regarding claims of forced sterilization, abortion, and persecution for religion or involvement in the pro-democracy movement, largely owing to fraudulent Chinese asylum cases and the diminished credibility of so many familiar stories.

Of course, it's never so simple. For instance, even though the Fujianese immigrants Ko-lin Chin interviewed did not elaborate on the political aspect of their decision, "it seems clear that lacking the right to vote, being deprived of freedom of speech and opportunity, being subject to exploitation by government officials, and the dismal prospects for those without *guanxi* all are significant forces in the decision to migrate," he writes (1999:27). Likewise, while the youth I spoke with never explicitly linked national- or provincial-level policies to their migration stories, their experience of differentiated mobility was clearly shaped by these forces in conjunction with other economic and social changes. Consider Ruolan, a 22-year-old woman I interviewed in Wisconsin. Having emigrated at age 16, China's birth-planning policy[59] wasn't a personal concern for Ruolan when she lived in Fujian. Still, as we find in Ruolan's nuanced reflections, the socioeconomic *outcomes* of the policy maintain its (however legally indefensible) ongoing relevance to clandestine migration.

"I was at the crossing point," she told me. "The older generations still have the mentality where kids are supposed to work, to be obedient, to do everything your parents tell you. If I do something wrong, or if I didn't do something wrong, my parents beat me up. I'm not even supposed to complain, even if it was a mistake. It's because they beat you up for your own good, it's that idea. But there were also people in my village at that point, they disobey."

"So there was some push-back?" I inquired.

[58] http://www.nydailynews.com/news/golden-venture-tragedy-hell-sea-american-dream-article-1.294299; http://www.goldenventuremovie.com/; http://www.wsws.org/en/articles/2000/06/immi-j21.html. Accessed 11/6/14.
[59] Commonly referred to as the "one child policy."

She nodded.

> *[These kids] want pork instead of eating veggies. They don't want to eat their rice, they want some noodles instead. You know, it's like, I'm not that, but I was at that crossing point of a generation, or half a generation. It really depended on when the system was installed. By the time my parents were young, it was a really bad time. [Local officials] used to come in, break your house in, take your property if you're having more than one kid. But by the time I was little it wasn't as bad.*
> *Because the system has been in for some years, a lot of people only have one kid. So anytime you only have one kid, he's your treasure. If it's the first one, it gets spoiled and becomes disobedient. So I'm sure five years after me, every kid is like that. I was at that crossing point. You know, little kids in China, they call them 'little emperors'* [小皇帝; see Fong 2004] *because you give them what you want. You give them the best education. You hire tutors, even though not everyone goes to college in China. I was reading the newspaper, some webpage on Google. It's very weird. It's like, you send your kids off to prepare for test, just to get into college, and you hire these educated people to live with them, do their chores, make their food, buy them clothes, buy them groceries, teach them…* She shook her head. *You know, take care of them. Down to, like, flushing their toilet. And their parents, when they were growing up, they were completely obedient [to their parents]. But their own kids are treated completely different. It's because that's their only kid. That's how everyone else is doing it… In just one generation, such a dramatic change. I think it's a combination of the one-child policy and the incredible economic boom.*

"Ok, but here's a question," I said. Ruolan smiled expectantly. She pushed her long bangs away from her forehead, revealing eyes heavily traced with eyeliner. "I understand how you were right at the cusp of this big change, and so it makes sense that if your parents came from a particular generation, they might push you to go to the U.S. And you would take part in this by being a very obedient child." She nodded. "But then what about these youth who are now 16, 17 and still come to the U.S. from Fujian? Do you think they're coming for a similar reason? Do you think it's because they're obeying their parents?"

She faltered, "I—I think it might be—I'm not sure, because I'm not in China right now." After pausing for a moment, Ruolan continued,

> *But I would say, from what I understand, the future is going nowhere if you are in a village in Fujian. All the growth you hear about, all these people. Chinese are becoming billionaires, which was incredibly rare, but now it's a common phenomenon in all the big cities. All these people driving cars, people with bigger houses, et cetera, et cetera. These*

things would never go to the part of China I came from. All these buildings, all these middle class people. And most of them live in big cities. Not just in big cities, but big coastal cities. And get government benefits. The majority of China is still, you know… I mean, the place I came from, you might have some growth, some towns growing… But for the most part, the future doesn't come to me. So a lot of people from Fujian or, you know, most of China in general, they flock into the cities. Most of the people in Chinese cities are migrant workers, really. You can't even become registered in the city. They have limitations and certain procedures. They make poor, unprivileged migrant workers incapable of becoming registered in the city. And if you are a migrant worker, you might always be a migrant worker. That's not a future you want, either. Some [recent migrants] from China told me, it's actually even worse now. You used to have everything you want, everything you need, your village, everyone else in your village. But now, you know, you can't even buy a house because the growth of the big city, the growth of the economy, land becomes more expensive, property becomes more expensive. You can no longer afford these things.

As Ruolan evidences, even what is comfortably categorized as "contemporary Fuzhounese migration" is at once individual and relative, differentiated by political and economic policies, changing forms of status, and intersecting—and conflicting—intergenerational expectations.

Moving Beyond the "Family Firm":
Status, Success and the Semi-Autonomy of Global (Fuzhounese) Youth

When young Fuzhounese independently or with peers or family members begin to consider migration, they naturally evaluate their own experiences in their communities of origin. "I knew that in the U.S. I would just work, work, work," said one young man. "I would not rest. I would be tired. But it would be much better than [where I grew up]. There, you have to work, but it's not really good. You can't afford anything." Though youths' communities of origin are often compared to and found lacking against wealthier areas of Fujian, China, or the U.S., it is in these same communities that youth simultaneously encounter a more global or cosmopolitan impetus to emigrate, what Chu calls a unique "politics of destination" (Chu 2006). The identities of these "emplaced" Fuzhounese—those who will not or have not yet migrated—are remade in relationship with others' narratives and showy displays of transnational migration, including the vacant mansions of overseas families. "Emplaced" individuals present persistent aspirations and

varied strategies for migration, thus representing and continuing the normative yet differentiated mobility of Fujianese emigrants. Alan, a Fuzhounese migrant who works for IBM in the U.S., demonstrates this in a comment he posted on a blog about Fujian Province:

> *My siblings* [in Fujian] *are all doing well, but they still want to sneak into America to work in Chinese restaurants, just like many other Changle* ren *or Tingjian* ren*. I told them I don't own a Chinese restaurant and hence it's impossible for them to live with my family and have me drive them to a Chinese restaurant to work each day. They thought I wasn't being brotherly…*
> *I must say that my siblings are very familiar with NYC even though they have never been there. They know exactly which street our relatives' restaurants are on. They even know that traveling from Queens to Chinatown in Manhattan, you have to pay a toll. They basically have no desire to stay in Fuzhou. All they want to do is to sneak into America and work in a Chinese restaurant. It's not just for money. It's also about status for a family. Suburbs in Fuzhou are known for overseas Chinese or expatriate Chinese households. They are the status symbol of success. Yes, almost all of the old illegal migrant workers plan to return to Fuzhou after working here for 15 to 20 years. But they do want their kids (those who come at a young age) to stay in America for a better life for their next generation. Sadly many of the young kids who came with their Fuzhou parents (in these cases, they are usually legal) suffer a great deal in America. They have no friends except for their own Fuzhou* ren*. Their parents don't speak English. Other more successful Chinese in school won't hang out with them. We all have heard stories of some overachieving second-generation Chinese Americans. But rarely do any of these second generation Chinese Americans belong to Fuzhou* ren *whose parents came here illegally.*[60]

A 2010 research interview with Len, a Chinese-American law professor and immigration attorney in Chicago, revealed similar beliefs about the relative influence of economic and social status in Fuzhou. "Why do you think Fuzhounese youth emigrate to the U.S.?" I asked.

After a moment, he replied, "They're motivated by new opportunities—and definitely by money!" He laughed and continued:

> *I think Fujianese are like the rest of the working folks in China, in the way that modernization and globalization has promoted this mass-migration of Chinese people within China. There's hundreds of millions of people moving from countryside to the city to find work, because the pay disparity is so, so great. And the Fujianese demonstrate that, not by migrating to a bigger city, but they actually go abroad… So that's sort of their motivation, I feel, in coming. It's really to make money. And because there's so much cultural attachment to status and money, that you have made it as a person if you—and the kids say this themselves—that you've made it. You've been successful. You were*

[60] May 23, 2007 comment on http://benross.net/wordpress/illegal-immigration/2007/05/22/. Accessed 12/10/13.

> *not cowardly. You could proudly hold your head up with your relatives and their friends. There's definitely a lot of cultural attachment to that.*

Len and other attorneys often portrayed Fuzhounese minors as the necessary tools of an otherwise economic unit, what Susan Greenhalgh calls the "Chinese family firm" (1994). According to Greenhalgh, the Chinese family firm exemplifies "traditional Confucian culture," namely, China's supposed culture of familism, collectivism and mutual benefit.[61] Arguably the dominant image of China in American eyes (1994:769), the Chinese family firm was often implicit in lawyers' words, particularly when they confidently expressed that Fuzhounese youth do not and must not act independently of their families. In a sense echoing Fei Xiaotong,[62] family relationships emerged in these reflections as ritualistic and institutionalized: Young migrants were the unquestioned "subordinates" in normative ties of obligation to parents or other community elders. Consider the words of Margaret, another cause lawyer in Chicago:

> *You know, it's the same story, different kid. There are different circumstances that led to the child being smuggled, but the story has the same overtones, including financial pressure and filial piety. It's a cultural issue, for sure. Honor is so prevalent in Fujian, it's a tenet of daily life in ways we don't think of. Kids are doing something their parents ask of them without admitting it's unfair.*

At the time of these interviews, I was studying the role of the Chinese family firm in lawyers' cultural defense. Understandably, Margaret's comments, as well as Len's—"*[T]here's so much cultural attachment to status and money*"—were particularly meaningful to my research. Just as

[61] See also Dos Santos' work on the "orthodoxy of the lineage paradigm" (2006). Largely developed by anthropologists in the 1960s, the lineage paradigm puts forth a male-centric, politico-jural model of the "Confucian family"; it is founded on shared norms (such as patriarchy and filial piety), shared resources, and a common ritual base of ancestral duties and obligations (Fei 1947; Freedman 1958, 1966; J. Watson 1982). Though subtly challenged by Wolf's "uterine family" (1972), R. Watson's attention to social inequality (1985), and Judd's emphasis on women's relationships within natal families (1989), the lineage paradigm put forth an influential, arguably static understanding of "Chinese Culture," one that persists today.

[62] There is not space to explore this here, but I hope to later pursue a more in-depth comparison of "western" and "Chinese" understandings of age and childhood. Writes Fei Xiaotong: "[Chinese] children come into a world that is made not for their convenience, but rather for that of adults" (1992[1947]:116).

the reflections of migrants like Alan and attorneys[63] on youth, economic status, and parental power were used to develop a promising cultural defense, so too did they help *me* substantiate my own argument about the possible limits and shortcomings of this strategy.

Yet when I return to Len's comments three years later, I find something different. Len may have fixed youths' "cultural attachment" to status and money in accordance with what he understood to be the traditional, dominant Chinese family firm, but his words simultaneously reveal broader attachments and an understanding of status that is unique but not entirely limited to Fuzhounese migration. After all, Fuzhounese youth aren't *only* like "the rest of the working folks in China"—migration spurned by economic inequities and social disruption is not a new or regional phenomenon. Nor are Fuzhounese youth particularly unique among working poor or marginalized youth in the global south or north for choosing migration as a response to socioeconomic, political and familial realities (Jeffrey and Dyson 2008; see also Gans 1995; Ignatiev 1995; Newman 1999).

Consider Len's and Alan's words, respectively, again:

> *And the kids say this themselves—that you've made it. You've been successful. You were not cowardly. You could proudly hold your head up with your relatives and their friends. There's definitely a lot of cultural attachment to that.*

> *It's not just for money. It's also about status for a family. Suburbs in Fuzhou are known for overseas Chinese or expatriate Chinese households. They are the status symbol of success… Sadly many of the young kids who came with their Fuzhou parents (in these cases, they are usually legal) suffer a great deal in America. They have no friends except for their own Fuzhou* ren. *Their parents don't speak English. Other more successful Chinese in school won't hang out with them. We all have heard stories of some overachieving second-generation Chinese Americans.*

These two comments are valuable in that they evidence a broader global tension that illuminates, and is illuminated by, the complex realities of young migrants. As I described in the previous

[63] Recall that a number of immigration cause lawyers contribute to and even create the documents they later use and distribute as evidence in removal proceedings (Chapter 2).

chapter, Unaccompanied Alien Children are variously considered subversive teens and vulnerable, dependent children in the legal realm. And while comments like Len's may indicate a correlation between migration and self-worth, I find more significance in his mention of pride alongside Alan's careful description of migrant youths' suffering in the U.S. Taken together, these two statements succinctly demonstrate a tension familiar to unaccompanied youth—and legal practitioners—namely, youths' complicated status as "terrain[s] of *semi*-autonomy" (Jeffrey and Dyson 2008:6) and as intentional actors, even in passive or "dependent" states (see Coutin 2005; Das 1989). Yet Alan and Len's comments also introduce a more specific, though certainly related, tension, that which exists between the identities Fuzhounese youth maintain as valued members, and even leaders, of their "emplaced" families and youths' simultaneous, conscious "lagging" behind other Chinese nationals, internal and international migrants, and second-generation Chinese-Americans.

The Migrant, the Employee, the Child, the Undocumented: One Youth's Encounters with Fujianese-ness

I was first connected to Hua, a young woman in Arkansas, through Roberta, an attorney who was applying for a T-visa for Hua on the grounds that she had been trafficked by her parents and smugglers to the U.S. Interestingly, Roberta had never met Hua: the turnover rate at the nonprofit where Roberta worked was so high that she had simply "inherited" the case. Hua and I met in Jonesboro, where she lived first with her boss's family and then with her boyfriend, all Fuzhounese migrants. After being apprehended at the U.S.-Mexico border in 2008, Hua had been placed in shelter care in Chicago. She was seventeen at the time. Hua was released for "family reunification" (though reunification with which family member, it was never clear), and soon after found work at a Chinese buffet in Arkansas. During a phone call to plan my visit, Hua and I agreed to meet at the McDonalds next to the buffet.

"I was monkeying around on my phone," my notes read,

> *when I heard a nervous, "Hello, Michele?" One look at Hua, and I felt completely at ease. Her bangs were pulled back in a barrette, and she had a long-ish ponytail, pretty eye make-up, a white Hollister t-shirt, tight dark blue capri jeans and little navy blue Keds. We hugged tightly and both admitted to being hungry. I drove us to IHOP, where she ordered orange juice and a meal billed as "Under 600 calories": whole-wheat pancakes and egg-substitute. She didn't care about the calorie content, she said, but ordered it because with heavier meals she gets through the eggs and is too full to eat anything else. I laughed. (But it's a good point.)She told me during the drive that when she Skypes with her mom, her mom tells her that she's looking fatter. Her mom is happy—Hua was too skinny when she was in China. We sat at IHOP for about two hours, me asking questions and she sharing openly.*

As the setting sun tinted the strip mall outside the window a rainbow of oranges and pinks, I asked Hua about her journey to the U.S. "So you're from Fujian," I began.

"Yeah, from Fuzhou. I'm from this little, little town."

"And you left when you were in high school? *Gaozhong?"*

"No, *jizhong*. Middle school."

"Were there a lot of people in your town who had come to the U.S.?"

"Yes." She nodded. "Like, a lot of them are older, like 30, or 24. A little bit are like me, younger. They have family here. They don't have green cards. So they have to…" She paused, searching for the English equivalent. "They have to *feifa yimin* [emigrate illegally]. You know?" she asked. I nodded. "They don't have parents here," she continued, "but they want to go out. They don't want to stay in China."

"Do most of the people in your hometown work in factories, or do they work in other businesses?" I asked.

"They always do something like seafood because our town is close to the sea. Just little businesses."

"How old were you when you came to the US?"

"Almost 17."

"Is this something you thought about doing for a long time? You wanted to do it? Or, was it like, 'I'm going to go!'" I clapped my hands, indicating a rush decision.

Setting down her coffee, Hua tilted her head to the side. "It was just…" she paused. "Just my parents asked me, 'Do you want to go to America?' And I'm like, 'Whatever.' I don't really understand what is different about here and China. I know it's different, but I'm young so I don't really understand. They say, 'You don't want to go? We're not going to push you.'"

"Do you think they knew about America? Did your parents know people who came to the US?"

"A lot of people."

"What did they hear about the US?" I asked.

"Just work, work, work. And tired. Not rest, just work for everything. Tired, but it's much better than China. In China you have to work, but it's not really good."

"I understand," I replied. "You probably won't make as much money. And the working conditions might be worse."

"Mm-hmm. Right."

"So then you said, 'Okay,'" I continued. Hua nodded. "Can you tell me what happened after that?"

"The smugglers help us to do everything. Chinese New Year is coming, and they said, 'We are all ready.' And in the second day, there's some guy, he's Chinese. We *huo che* [take a train] to Guangzhou."

"That's not too far, right?"

"Right." She added, "Guangzhou is really rich. Fujian is not as rich, but the people who have family members in the US are very wealthy. In Guangzhou we buy airplane ticket to Beijing. And to Frankfurt. And, and we go somewhere like Mexico. Honduras. And then we go to Cancun."

"To Cancun? Really? That's like a vacation." I winked.

Hua looked up, startled. She began to laugh. "Yeah, a lot of people go there for vacation. It's a big city. We get close to America somewhere. Mexico. Then we… just walked."

"Hua, is it okay if we back up a little?" I interrupted.

"Okay."

"Did your parents go with you to the bus station?"

"Yeah. My mom."

"Just your mom? Did your sister go?" Hua's sister was ten when Hua left Fuzhou.

"No. She was at school."

"Did she know that you were leaving?"

"Yeah, she know."

"How did she feel?"

"She is really young. She didn't really understand. She said, 'Oh great! My sister is going to America! I have a sister going to America!'" Hua laughed.

"How did your parents feel, do you think?"

"My dad was just a little bit worried and sad. My mom is sad, so worried. And when I left, we cried. For a long time. And when I ate my lunch, before I left, I just cried."

Hua looked down, quickly wiping her eyes with the back of her hand. She pushed the remains of her pancake back and forth on the plate with a fork.

I waited until she was again comfortable. “When you were flying from Beijing to Frankfurt,” I asked, “what were you thinking about?”

Hua’s eyes brightened. “This was my first time on an airplane. I was like, ‘Wow! I’m on an airplane!’”

“I understand!” I replied. “When I studied abroad in China, it was my first time on a plane. I was nineteen.”

“Nineteen,” she echoed. “You were older. It’s exciting, right? Wow! Different people! Different food! Everything was different.”

“And then you flew from Honduras to Cancun.”

“Cancun is a big city. But by then, I was just tired. And then we go by little bus to the Mexican and American border. We stayed there almost one week. It’s hot! Very hot. We stayed in a house. There were a lot of Mexican people.”

“So then how did you feel? You were there for one week.”

“It was so boring! Just, I want to go to America!

“Did they feed you? Did they give you food?”

“No, you have to do everything by yourself. They’ve got a kitchen and some food over there. And we don’t know how to cook!” she laughed. “So sometimes we asked the Mexican smuggler, and then they bring some food for us. Hamburger, or chicken. But we don’t eat a lot, just a little bit. After one week, they say, ‘We can go to America right now.’ And more Chinese came. One older. Three younger. The total is three woman including me, and three guys.

“Did you like them? Could you talk with one another?

“Yeah. We can talk. They say to me, ‘*Ni zui shao de’* [You’re the youngest]. They take care of me. We go at night. They said, ‘We can go to America right now.’ But then we just

moved to another house. And there were lot of Mexicans there. Maybe more than twenty. And then we left after two or three days. We were with the smuggler and a lot of the Mexicans together. And there was this big, big mountain. A lot of trees and a lot of bugs. It was hot, really hot. It's afternoon. 12 o'clock. We walked about three hours. Then we stayed in another house for about one week." She paused, trying to remember details. "We were there one week, and then we have to walk again. Twelve hours. They told us twelve hours. It was night. At four o'clock, we go. Maybe four o'clock. But after three hours, at seven o'clock, the police."

"Was it the border patrol?" I asked. Hua looked confused. "Were they wearing green?"

"Mmm…" she replied, thoughtful. "Green or blue. Or black." Hua lowered her voice, "They were STRONG American guys." She laughed. "And really tall, and not really nice. They were like, 'You have to stay here.' And so we are just quiet. The lady and me. We are just quiet. And the police tell us, 'Don't cry! Don't cry!' And we still cried."

"I bet that was really scary! And then they handcuffed you?"

"Yeah."

"And then did you get into the truck?"

"Yeah, the truck. They just got five people. And one ran away. All Chinese. No Mexicans. The smuggler ran away first."

"Where did they take you?"

"Like immigration jail or something. They do everything. Take your picture, ask you some questions. They use the Chinese translator. On the phone," she added.

"Did you understand the translator?"

"Yeah. They asked me, like, 'Do you want to speak Mandarin? Or Fujianese?'" Suddenly, Hua changed her voice to a whiny whimper. "I said, 'Mandarin is fine.' I still *ku* [cry]."

"What did they say on the phone?"

"They ask you some questions, like, 'In China somebody hurt you?'"

"And what did you say?"

Here, Hua took on a pitiful, almost mocking tone. "Yes, somebody hurt me!" Recounting the phone call to me, she began snickering. I stared at her, startled. "'I *have* to come to America!'" She sniffed twice, still imitating herself, and all but winked. Recalling Hua's (supposed) eligibility for a T-visa, I perhaps should not have been so surprised by the quick transition I witnessed, from Hua's quiet, discrete tears as she described saying goodbye to her mother, to her shrewd, almost brash production of abuse in China during the telephonic intake with a legal aid provider. I discuss this and other youths' skilled preparation for, and arguable manipulation of, legal advocacy in more detail in the subsequent chapter. For now, I want to focus on the ways in which Hua's migration journey, her work experience in the U.S., and her individual plans represent the "leading and lagging" of Fuzhounese migrants.

Hua's migration story was not unlike others I collected. The details were different, of course: Some youth travelled through the U.K., Cuba, Russia, or Thailand. Others flew directly to New York. Some described their journeys with relative nonchalance; others were evasive; still others struggled to recall very many details, citing, "I didn't really understand what was happening at the time." In the latter two instances, I never inquired further.[64] While many of the

[64] As in other populations of clandestine migrants, there are some Fuzhounese minors who suffer trauma during their migration journeys. I thus draw only on narratives like that of Hua and others, youth with whom I had sufficient rapport and who exhibited comfort and candor as they reflected on their experiences. This decision arises from my personal concern for individuals' privacy and well-being, as well as my ethical responsibilities as a researcher. Yet, I

attorneys I interviewed would vehemently argue this point,[65] most of the young people I spoke with took responsibility for the decision to migrate or, like Hua, explained it as a joint familial decision, one couched in feelings of ambivalence, grief, and excitement.

Yet Hua was also unique, and in ways she herself identified. When we talked later about her work situation, she said, "The staff isn't very big at the buffet. It's the boss and his wife, a hostess, six waitresses, and three *amigos*. [She consistently referred to the Mexican cooks as *amigos*, a fact that made me smile.] The *amigos* can speak some Fuzhounese. Everyone here is older than me. The boss told me to tell customers that I'm 21, even though I'm 19, so that no one will ask why I'm not in school.

"I'm the only one here who doesn't want to keep working in a buffet. I've been working really hard to learn English. You know," she said, rolling her eyes, "something besides, 'More water?' I talk to my customers a lot, and I watch a lot of American movies."

"What do you think you'll do after you pay off your debt?" I asked.

"You know about the debt?" she responded.

I told Hua more about my research with other youth. "Most of the people I spoke with said that their debt is about $80,000 US," I said, carefully.

"That's exactly it," she replied. "Wow! You know a lot! I have $30,000 paid and another year and half to cover the remainder and interest. After that, I want to leave Arkansas and maybe go back to Chicago and get my GED and go to college. I'm different from everyone else here."

---

also believe that the youth I consider in this dissertation are fairly representative of their counterparts around the U.S., including those unaccompanied Fujianese who arrived in the U.S. with similar goals and responsibilities but were never apprehended.

[65] The most obvious, if cynical, explanation for this is the relative impossibility of gaining legal relief for a young adult who maintains she or he independently chose to come to the U.S. Consider even the *title* of a legal practice advisory on constructing SIJS and trafficking arguments for Fuzhounese UACs: *It Was(n't) My Choice: Identifying Human Trafficking in the Unaccompanied Chinese Youth Population* (Burke 2011). While I appreciate the author's extensive work on behalf of Fuzhounese youth and do not doubt she has encountered individuals with legitimate trafficking or SIJS claims, the document is at the same time yet another instance of selective, attorney-generated evidence (see Chapter 2). I consider the advisory in more detail in Chapter 5.

"I think I understand how you're different from your coworkers, but what about other Fuzhounese kids, like the ones you were friends with in shelter care?" I asked.

"I think I'm different from them, too. Most of those kids want to go to New York and not leave. I'm happy to visit New York, and I mail things to my family from there because it's so much easier. But I don't want to live there. There are too many Chinese. It's too crowded; there are so many restaurants. But other kids like Chinatown. They have a lot a lot of fun. A lot of Chinese, they can go to the bars because they don't have to show their IDs. And they can sing karaoke and eat a lot of Chinese food. A lot. And there are a lot of friends. And so they want to stay in New York. But I don't. When you stay in New York it's just a little bit tip [you are only nominally tipped], not a lot."

"Oh?"

"And when you go out, you have to spend a lot of money."

"Yeah, New York is expensive."

"I just—I don't want to stay in New York. I want to stay away. Make more money. Finish my debt, and then I can do everything I want to do. My friend asks me, 'Do you want to come to New York?' I say, 'No, I have to work.' She's like, 'Relax, take vacation. Come on with us.' And I'm, 'No. I need money. I don't want to go. You want to pay my tip?'" Hua laughed. "They say, 'Okay, you win! You just stay there.'" She gave me a wide smile, then looked down at her plate. "No, I just want to work."

Later, I asked Hua about her plans for the future. "What do you want?" I asked. "What are your goals?"

"So I really want to get my documents. I really want that."

"And then once you get them, what happens?"

"I will have to pay the tax. I won't have to worry that. Now," she lowered her voice. "Somebody will check me, I say I don't have a job… I want to show the manager I got the document right now. I don't want to worry about that. And I want to try to get a license. A driver's license. And…" She began fidgeting with her napkin and smiled at me with excitement. "And a green card. And I want a debit card. I think that's fun, you know? Like, when I go shopping, I don't have to pay with money! And… I just want to… It should be more easy. I don't want my boss to be afraid, like when they talk to me, they are afraid. 'You know,' they say, 'we don't want to be afraid, but you make us afraid [because you're undocumented].'"

Sensing her discomfort, I changed the subject. "Hua," I asked, "do you think that most other Fuzhounese youth want to stay in the U.S.? Or do some want to go back to China?"

"Um, I think a lot of people want to stay in America. And they got a green card, so go back to China and…"

"Just visit," I finished. She nodded. "What do *you* want to do?"

She paused. "I want to stay in America."

"Yeah? Why?"

Because it's different. Here it's more people, more friendly. Before I stay in China, I didn't have anything. I couldn't do anything. No restaurant, nothing."

"What about school, or college?"

"Yeah. Well, if you are old like me—if I go to school, it's not easy right now because in China, I'm old. But here, you can go anywhere. If you want to go to school, you can go to school. Like GED.

"If you had never come to the US, if you had stayed in China, what would have happened?"

"Maybe I would've gone to the middle school. Or high school. But probably no more. No college, because it's expensive. Even if I went to college, and I graduate, and I look for a job? Nothing. Because a lot of children with college [in China], might not even find a job."

I asked Hua about her parents. "Do you think they're proud of you?" She looked at me quizzically and shook her head. "I mean," I faltered, caught off-guard by the sudden need to switch to Mandarin. "Um, *Tamen wei ni gandao jiaoao,*" [lit.,They feel proud of you, pride for you] I said, awkwardly. "Like, I might tell you, *Wo jiu de ni hao ban* [coll., I think you're doing really well] now that you're in the US…"

"Oh, yeah," she replied. She nodded quickly.

"Think about when your parents are talking to their friends. What do you think they say about you?"

"They say, 'Oh, your daughter in America? Amazing! You don't have to worry about your life right now. Much better right now.' My mom say, 'I hope so.' Hua slowed her speech. Imitating her mother, she shrugged weakly. "'But she's tired. My daughter's tired.' And somebody say [to my mother], 'You no good. Your daughter is so young, and you send her—'"

"People say that?" I asked, admittedly surprised.

"But not to my mother's face. Just—"

"Really?" I interrupted. "I guess I thought that…" I hesitated, keenly aware of my own assumptions about Fuzhounese migration.

"*A lot* of people say that," she answered, "and to me, too. 'Why go to America?' A lot of Fujianese ask me, 'Your dad and mom sent you to here? And you so young! Sixteen, seventeen? Why you have to come?' I say, 'I want to come! I want to come! I like it here!'"

I looked at her carefully. "Is that true?"

"That's true," she replied, her voice steady. "They say, 'Really?' I say, 'Yeah! I like here!' That's true."

"But not always," I replied slowly, thinking about the long hours and working conditions she had earlier described.

"Yeah," she agreed. "Sometimes somebody's not very friendly, and I'll be alone, and I'll feel so bad. I don't like here. I want home then. Sometimes. Sometimes."

"Do you think your mom knows that people talk behind her back?"

Hua nodded. "She knows. Before I come to here, she said to me, 'If somebody ask you, why you come to America? Your dad and mom so bad. What do you think about that?' 'That's fine,' I tell her. 'I want to go. You don't have to worry.' My mom say, 'Really? Are you sure?'"

To clarify, I asked, "YOU say, 'It's fine?'"

"Yeah. I just don't want them to worry."

"You know, Hua," I responded, "I'm listening to you, and you want your boss and your manager to be safe and not worry about your documents. And you want your mom and dad to not worry and not feel bad. What about you? Are you okay?"

She smiled wanly. "Just fine. I don't want—Sometimes I just think a lot. I don't want to think a lot. Just give me two more years and everything's good. I'm not afraid. I can do everything I want."

Hua was tired, I could tell. "I think we should stop talking and go to the movies." We had planned earlier to see *The Avengers* in 3D, Hua's choice. She grinned and nodded. "Before we do, Hua, is there anything else you think I should know?"

She squinted and looked out the window. "Yeah," she said abruptly, and with surprising energy. "I think lots of people, like from China, or maybe from Fujian, they're *yimin*. *Yimin*.

"Mm-hmm," I agreed. "They're immigrants."

"Yeah. *Feifa yimin*. [Undocumented immigrants.] They know about the system. No good. *Feifa yimin*. One time I talked with my [Chinese] friend, he's not from Fujian. He said, 'Do you know Fujianese always *feifa yimin* to America?"

"He said that?"

"Yeah." With some hesitation, she admitted that she had lied to him. "I just told him I go to school, I don't work. I don't have to pay the debt. And he said, 'A lot of Fujianese, a lot of people know Fujianese come to America and always [emigrate illegally].' I said, 'Really? How do you know that?' He said, 'Everybody know that, okay?'" She laughed. "I say, 'Oh, really?' And then I think about it. A lot of Fujianese come here with family. Father, mother, and they just *yimin* here. It's good. They go to school. I have a lot of friends like that.

"Friends who came here legally."

"Right. Like, they had a passport.

"So do you think," I stopped. "So you're telling me that you think it's important for people to know that some Fujianese are not *feifa yimin*. *Youde Fujianren hefa yimin.* [Some Fujianese migrate legally.] Is that right?

"Yeah." Hua furrowed her thin eyebrows and said gruffly, "Fujianese in America so bad." She shook her head. "I think that a lot of American think that. Like, they know. Fujianese come, no good."

"But you're good!" I felt desperate.

"I try to be. I try to be nice."

"Do you feel like that puts pressure on you? You know, *ya li*."

"Yeah. A little bit. Like when I go out and meet somebody from Beijing or something, they ask, 'Where you from?' 'I'm from Fujian.' 'Oh, Fujian?'" She wrinkled her nose. "So I want to finish the debt. Be something different. I don't want to be, oh, Fujianese, restaurant, restaurant, restaurant."

Legal—and Personal—Interpretations of Age, Choice and Success

Since this dissertation centers on the legal representation of culture, age, and youths' individual experiences, it is important to me to let Hua's words stand for themselves, without unnecessary layers of explanation or analysis. Of course, the reader will recognize that even my most "distanced" or "objective" anthropological intentions are fraught. After all, Hua was responding to the questions *I* asked on a Tuesday afternoon in July, 2011. I selected the interview excerpt above, and below, I reiterate what I find important in it today. The political and poetic aspects of this ethnographic "moment" are perpetually, and very self-consciously, in flux.

Similarly, my ongoing friendship with Hua continues to reveal to me my own assumptions about individual success and normative pathways to adulthood. A year after I spoke with Hua in Arkansas, she called me on the phone to share that she was making significant progress paying off her debt. "Hua, what's next?" I asked. "This is so exciting! You can do so many different things once your debt is paid off. Will you start going to school?" As we already know from the above interview, getting her GED was one of Hua's goals. Yet at the time of this phone call, I had forgotten. Asking about school was simply my own assumption about what she *should*, rather than could, do next.

Hua didn't hesitate: "No," she replied. "I want to keep working. All this time I have been saving up money to pay off the debt and interest and to send money to my family. *Now*," she said energetically, "I want to make money for myself! And I want to learn how to drive and have a

car." A few months later, when Hua received word from her attorney in Chicago that she had been granted a T-visa, she sent me a text: "I got my visa!! I can have a drive lisence [*sic*]! ☺☺ so luck!!"

E*veryone's allowed to change their minds*, I sheepishly wrote in my notes later, a reminder.

It would be unfair to claim an explicit connection between the change in Hua's goals and the vague pressures and desires of economic independence, to her transition to adulthood, to peer pressure or to the derogatory "Fujianese, restaurant, restaurant, restaurant" reputation she wanted so badly to counter. Instead, I include the incident here because it evidences a tension Hua continues to embody, namely the simultaneous "leading" and "lagging" of young Fuzhounese migrants. I believe it also reflects what Shao-hua Liu identifies as the "two layers of individualism" present in migrant youths' pursuit of modernity (2011:20-1). As Liu argues, young migrants demonstrate a "consumption-oriented individualism" that is shaped by China's market reform and the corresponding growth of youths' desire for autonomy and purchasing power (Yan 2003; see also Chin 2001). Yet as the young people in this and Liu's research come of age through migration, they also experience what Ulrich Beck calls "institutionalized individualism," a precarious, constrained freedom in the context of late modernity (Beck and Beck-Gernsheim 2002).

The individual accomplishments Hua identified include paying off a debt of $80,000 US (plus interest), obtaining a visa and, eventually, Lawful Permanent Resident status, and getting a driver's license. Related, though less unambiguous, achievements include Hua's courage and equanimity as a young migrant; her savvy navigation of the legal process; her industrious work

at Comet Buffet—and indeed, her deliberate choice to seek out employment and remain in Arkansas; her determination to master English.

To Hua, her friends and family, these successes are incredibly meaningful. They are a source of personal, as well as collective, pride and status. Yet in the particular context of U.S. law, they signify an uneasy reality of economy and age. Consider, for instance, how the "reason" and autonomy (see Chapter 2) that Hua demonstrates—which in my case also include the simple, but somehow still disconcerting, act of *changing her mind*—clash with popular and institutionalized assumptions about maturity, innocence and dependence, and with the corresponding legal provision of "protection" and "best interest" by cause lawyers. As Hua's attorney successfully argued in her T-visa claim, it was an extraordinary and sad thing for Hua to have *had to* do the things detailed above, alone, before she was twenty.

Lana, a cause lawyer in New York, similarly stated, "We're talking about, like, sixteen, seventeen, eighteen, nineteen, twenty-year-olds, right? And that's what drives me. People are always like, 'Well, the kids, they chose to come here.'" She leaned toward me and raised an eyebrow. "You were *sixteen years old*, and you just got up to go to another country where you don't speak the language, you don't know anyone, you're not going to be able to go to school, you're working twelve hours a day?" Lana shook her head. "Something had to be going on to make you choose that, right? That's the premise we [lawyers] come from. Something's *wrong* if a 16 year old feels they need to pack up and move across the world. Usually, in our cases, it's because they were forced to, basically. They just don't call it forced."

Like Hua, Bingwen serves as an ethnographic bridge, here reiterating, complicating, and subtly challenging lawyers' interpretations of success and choice:

> *As a migrant, you might be thirteen, fourteen years old. Well, twenty years ago, people had kids when they're fourteen years old! So in a way, you're almost an adult now. And if*

> *you try to go somewhere, make yourself a better future, then* [he raised his forearms in a gesture of defeat, imitating a Fuzhounese parent]*, "My hands are off, you're on your own. If you cannot make it, come back, bring me some money. Otherwise, I've raised you to a certain point and now you can be on your own." So I think it's done with parenting* [i.e., a cessation of parenting]. *Now that I think about it, from a westerner's standpoint, what my parents or any parents from the area did might be almost evil, like sending your little kids out abroad to work. But I think, you know, part of that, it's the local culture playing to the mentality of the parents. It's like, if you stay in this place, you're just going to be stuck here, your worth is like everybody else. And there's more stuff out there. And, you know, you're on your own out there. You're on your own to explore. You make it out alive, maybe you can come back a "wealthier person." Because in the U.S., even a very poor person makes far more money than a very wealthy person where I came from.*

As Hua and Bingwen's reflections suggest, Fuzhounese youth must continuously evaluate and move between conflicting expectations of age and status at each step of their migration journeys, journeys that notably coincide with youths' transition to adulthood (see Gonzales 2011; Rumbaut and Komaie 2010). Consider the balancing act Hua detailed. As we return to her statements below, we see that she steadily situates her and/or her family's decisions against or within broader regional, national and global phenomena. Not only does this demonstrate the aforementioned differentiated mobility of Fuzhounese, but I believe it sheds new light on *youths*' particular experience of this mobility.

Here, Hua considers national- and provincial-level economies, comparing underground employment in the U.S. with work in China, and Guangzhou with an ostensibly "lagging" Fujian, its exception being those citizens who chose migrate:

> [Fuzhounese migrants] *just work, work, work. And tired. Not rest, just work for everything. Tired, but it's much better than China. In China you have to work, but it's not really good.*
>
> *Guangzhou is really rich. Fujian is not as rich, but the people who have family members in the US are very wealthy*.

There are also local interpretations of success that Hua and her parents must confront. (Recall here Rongyan's description of being "at the crossing point," the intersection of regional and

generational beliefs that either children should support their parents, or parents impacted by the one-child policy should sacrifice everything for their "little emperor" children):

> *Do you think your mom knows that people talk behind her back?*
>
> *She knows. Before I come to here, she said to me, "If somebody ask you, 'Why you come to America? Your dad and mom so bad.' What do you think about that?" "That's fine," I tell her. "I want to go. You don't have to worry." My mom say, "Really? Are you sure?" …Yeah. I just don't want them to worry.*
>
> *[My parents' neighbors say,] "Oh, your daughter in America? Amazing! You don't have to worry about your life right now. Much better right now."*
>
> *[Other neighbors say,]* "*You no good. Your daughter is so young, and you send her…"*

Note the role of age in these statements. Like Hua's lawyer, the neighbor above tells her parents, "Your daughter is so young." So also do the migrants Hua meets during her journey say, "*Ni zui shao de"*. As Hua describes her workplace in Arkansas, she herself admits, "Everyone… is older than me. The boss told me to tell customers that I'm 21, even though I'm 19."

Though clearly sensitive to the ways in which her young age was used by others to disparage her parents' intentions or downplay her independent labor, Hua also drew on her age to reiterate the unique freedoms and opportunities she has as a young migrant. The youngest employee at her workplace, she maintained, "I'm the only one who doesn't want to keep working in a buffet. I've been working really hard to learn English... I'm different from everyone else here." Later, she stated, "I can do something different. I'm young. I'm just—really, I'm not afraid of anything. I want to try something different. But I don't know what's different yet. I only know right now!"

To Hua, then, her young age was at once a liability, particularly with regard to her parents' and boss' reputations, and a boon, a clear symbol of skill, individuality, and a long future rife with possibility. Yet there's one more level of significance in Hua's reflections,

namely the responsibilities and identities she independently managed as a not-entirely-independent Fuzhounese migrant.

"Be Something Different": Identity and Responsibility in Communities of Reception

> *I want to show the manager I got the document right now. I don't want to worry about that. And I want to try to get a license. A driver's license. And… a green card."*
>
> *…So you're telling me that you think it's important for people to know that some Fujianese are not* feifa yimin. Youde Fujianren hefa yimin. *[Some Fujianese migrate legally.] Is that right?*
>
> *Yeah.*
>
> *…Do you feel like that puts pressure on you? You know, ya li.*
>
> *Yeah. A little bit. Like when I go out and meet somebody from Beijing or something, they ask, "Where you from?" "I'm from Fujian." "Oh, Fujian?" So I want to finish the debt. Be something different. I don't want to be, oh, Fujianese, restaurant, restaurant, restaurant.*

Here, we see Hua as undocumented but striving to act lawfully—securing her visa, a driver's license, a green card—so as not to threaten her boss' credibility or her own position at Comet Buffet. This resolve was not unique: many of the youth I spoke with described the ambitious efforts they took to accurately record earnings and remittances, to file taxes, to seek out educational opportunities and medical services that did not request proof of legal status or employer information. Above, we also find another sort of obligation, one connected to an identity of being *different,* of countering the image Hua believes Chinese nationals, Chinese-Americans and even American restaurant-goers hold of Fujianese migrants. Think also of Alan's comments: "[Fuzhou youth] have no friends except for their own Fuzhou *ren*… Other more successful Chinese in school won't hang out with them. We all have heard stories of some overachieving second-generation Chinese Americans. But rarely do any of these second generation Chinese Americans belong to Fuzhou *ren*…"

The reputation Hua and Alan described is pervasive, an identity of isolation, something I encountered often in my visits to Chinese service organizations in Chinatowns in New York City and Chicago.[66] Having volunteered with a Chinese mutual aid association in college, I was at once familiar with and baffled by these spaces. Each was a study in contrasts: the relative disrepair of a structure against the liveliness of the (typically elderly) people inside; the sweet smell of incense in the entryway against the abrasive bleach used to clean the stairwell; the perpetually evasive responses to my questions against the genuinely warm welcome I received throughout. While I was offered many cups of tea and even more business cards, insight into the status of and response to Fuzhounese youth in established Chinatowns was rarely forthcoming.

Fig. 2.4

Fig. 2.5

Fig. 2.6

Figure 2.4 Little Fuzhou, Manhattan
Figure 2.5 Changle American Association, East Broadway, Manhattan
Figure 2.6 5th floor window advertisement (from Figure 2.5): Yimin Lushi *[Immigration Attorney]*

Some of the organizations I visited were private, founded and funded by donations from Hong Kong, China and/or Taiwan. Some were consolidated Chinese benevolent associations,

[66] I limited my research to Chinatowns in Manhattan and Queens in New York City, and to the south and north side Chinatown neighborhoods in Chicago. Significantly, Manhattan's Chinatown includes "Little Fuzhou" on East Broadway, and another Fuzhounese enclave recently developed in Brooklyn's Chinatown. The most established residents of these Chinatowns arrived from Guangdong Province, Hong Kong and Taiwan. They also include immigrants of Chinese origin from Vietnam and Cambodia, as is particularly the case in Chicago's north side Chinatown. (See Lee 2003; Skeldon 1994.)

originally organized around regional loyalties as *huiguan* (see Lai 2004). Others were broader social service organizations, receiving local funds to aid immigrant groups including, but not exclusive to, Chinese. Many offered after school help to first- and second-generation students, as well as ESL classes and citizenship assistance with naturalization and green card renewal. (For legal aid beyond filling out forms, I was told staff members typically directed visitors to non-profit or private legal services.) It was usually quite easy for me to learn about the structure of these organizations, but information about their work on behalf of Fuzhounese youth was vague at best, uncomfortable at worst. At one mutual aid association, I asked a staff member, "Can you tell me about your youth programs?"

Enthusiastically, she listed off the music and dance classes the center offered, along with math and ESL tutoring and a Saturday SAT preparation course.

"Do you primarily help youth who have legal status?" I asked.

"Oh, yes," she nodded.

I told her more about my research. "Right now," I said, "I'm trying to understand what sort of services might be available to Fuzhounese teens here in Chinatown, like healthcare, education, legal assistance."

As I said "legal assistance," she looked at me quizzically, then shrugged. "They work in a restaurant," she responded. "They don't really *need* legal status."

Interestingly, and perhaps not surprisingly, the most helpful information I received came from individuals who worked with these organizations but were themselves relative "outsiders" to Chinatown communities: Ernesto, a Spanish youth program director at a Chinese settlement house, Ming-Yue, a second-generation Chinese social worker, and Sal, a Chinese-American labor rights advocate.

"One of the major reasons we can't help the Fuzhounese kids," said Ernesto, "is funding. We get a lot of grants, including state and federal grants, and so we can only help in-school [enrolled] youth. Other programs are evaluated and tracked through a person's documents. Or with our work readiness program, we help kids who have a social security card, a residency card, an alien card—you know, whatever they need to be considered for a job.

"But there are social aspects to it, too," he added. "I mean, things were a lot different back in 2000, like the fact that the Fujianese *are* an established community now. They're more established than they were before in Manhattan. They're being heard more as a collective group. So, you know, they support us, we support them, local politics. It's not like back in the day. Of course," he paused, "there are still people [who say], 'Oh, you're Fujianese? Uhhhh.'" Ernesto groaned, imitating the skepticism and hostility he observed. His dark eyes flashed and he waited, then shifted his body and settled back comfortably in his chair. "But now it's like, 'Oh, you're Fujianese. You look pretty decent, whatever.' Still, even [at this organization], Fujianese are not looked upon in the most graceful light. Even when we saw a spike in the number of Fujianese people seeking services from us. The Chinese here have a very stereotypical view of them, as thugs, gangsters, you know, nasty people."

Like Ernesto, Sal also identified bureaucracy, legality, prejudice and insularity as powerful inhibitors of community support for Fuzhounese UACs. "I think the Chinese service organizations are not very successful in connecting with undocumented people. Undocumented migrants think [these organizations] are connected to the government. It's hard for people from mainland China to understand the difference between a government-funded and a government-directed agency. A lot of these places are sympathetic to undocumented individuals, but services

just aren't accessible. An agency might be Hong Kong-centric, or the Mandarin competence of staff is below-average.

"But there's also a kind of 'legal' attitude among clients and staff," he added. "China is so large, and the Chinese people here tend to be very provincial. Like, to the Cantonese people I work with, anyone who is not Cantonese is suspect. Anyone north or west of Canton is a northerner. And there are also a lot of negative stereotypes of Fujianese. They're aggressive, abrasive, ruthless. They would do whatever it takes to get what they want. I mean, of course there are also positive stereotypes; they're seafaring, adventurous."

While Ming-Yue identified tension between Fujianese and more established Chinatown residents, she extended the disconnect further, namely between Chinese immigrants in Chinatown and those elsewhere, what Peter Kwong distinguishes as "Uptown Chinese" and "Downtown Chinese." The Uptown Chinese, Kwong writes, can be American-born or new immigrants. Typically, they have legal status and more education and higher incomes than the national U.S. average. They do not live in concentrated ethnic communities, unlike the Downtown Chinese. The Downtown Chinese tend to be new immigrants, speak little English, and work in unstable industries or in an underground economy not protected by American labor law (Kwong 1996:5-6). Ming-Yue referred to Uptown Chinese as "mainstream."

"I think the people in Chinatown, they are not only separate from American mainstream, but also from the Chinese immigrants mainstream," she said. "They're so different from that mainstream."

"You mean immigrants who came here legally?"

"Yeah," she responded. "For example, the kids [Fuzhounese youth] might go to a church in Chinatown, and then everybody ask, 'How can you come? How did you come?' You know

what I mean? They have to hide it. They feel uncomfortable being asked, 'Oh, your family's here?' No. 'You come here to study?' No. 'How did you get in then?' They don't want to talk about it. It's difficult. [Before emigrating] they cannot imagine how difficult it might be to get a connection with fellow countrymen. They don't understand your reason for coming, and you don't want to expose what the facts are of how you came."

"So it's like you made your family proud, but you still feel ashamed," I responded. "You're always *different*," I added, thinking of Hua.

"Exactly. You know, it's great when you go back to Fuzhou, but then here, there is no, no support in the mainstream Chinese community… Most of my friends, they ask, 'Why do you help this group of kids? They're illegal. They just make up stories.' I mean, you can imagine, there are a lot of rumors, and it might be true, too. I can imagine this. The kids are told to get a story. But if you are not in [my] field, it's so difficult to explain your feeling of attachment to this group of kids because they are caught. They are caught by the environment. The whole environment."

* * *

In identifying Fuzhounese youth as "caught," Ming-Yue's words are compelling, and not inaccurate. Yet they are also incomplete and, as this chapter demonstrates, do not necessarily reflect Fuzhounese youths' own interpretation of their emigration experiences. After all, while the motivations and ongoing migration journeys of Bingwen, Hua and Ruolan share certain characteristics with those of other Fuzhounese UACs, and with global youth more generally, the mobility of these individuals is differentiated by time, region, economy and politics. It is also uniquely impacted by age, social and familial values, multiple (shifting) identities, and regionally-specific experiences of semi-autonomy and independence.

Just as this chapter begins with Bingwen's reflections, so also do I want to close it in his voice. Below, Bingwen is once more a thoughtful "ethnographic bridge," this time linking a view of Fuzhounese youth as vulnerable, dependent, or "caught" (read: lagging) to another, equally-real version of himself as transformed, successful, and leading:

> *I feel bad, but I think through my entire life, I'm always very obedient. People used to think I'm a big nerd. Now I'm an educated nerd. But essentially, everybody* [in my village] *thought I'm almost like a dumb-headed person. I don't do anything. That's because I'm not a sneaky person... I'm actually well known in my village, because I'm the fruit guy. I'm the watermelon guy. I'm the guy you see cutting rice in the paddy. Other kids weren't doing it. Only a small group of me—a small group of Bingwens are doing all these things. Everybody else is—you know, they already pass through the transition. I'm still in the middle process. No one would ever think of me as being a person to think of other options, but—I think I came to the U.S., I realized I'm alone, I realized how desperate I am, and I changed... I'm no longer so obedient to my parents, because they're not there. I'm on my own, and I start to do things differently. And I think back now, I made some pretty damn smart decisions.*

CHAPTER 4
SELECTING IDENTITY, REJECTING CONTEXT: CHOICE IN THE LEGAL REALM.

"The Child in Her Context" and Collapsing the Cause

> *I don't mean to sound callous, but I think a lot of the kids come in with the mentality of, like, anything for a green card. And you can kind of see the difference between the ones who are coming at it that way and the ones who are really devastated by what's happened to them, or by having to come face to face with the fact that their parents have done this to them.*
>
> -Giana, immigration attorney in Chicago

M.S.: *And then you met with a lawyer?*
Lixue: *Yeah.*
A man or a woman?
A woman. She's young.
Did she speak Mandarin?
No. They use a phone translator. We just talked about 30 minutes. Not really long. When I left, she told me, "You have to write down something about this, why you came to America."
What did you write?
I write down, "In China, it's not very good. I have to come to America. If not, I will die."
[She laughs.]
Really? What did you say was not good about China?
I'm the—Do you know ji du*?*
Oh, like Christ. Christian.
Christian. Yeah. They don't—The Chinese, they don't really like Christian. [So I write], "We have to go. We can't stay there. They hurt me."
So you said you're a Christian.
Yeah, but I really am *Christian*. [Laughs.]
Oh, okay, so that is true.
Yeah.
When you said that, though, did you really feel that that's why you came?
[Shakes head.] *I was lying! I feel really bad, but I have to say I want to stay here.*

> *In the law… there is always conflict and always loss: the stories of the two parties conflict or compete… Neither story, neither language, is the sole source of authority; at some points choices will have to be made that favor one of the other. And both must yield, in much if not in all, to a third force, the language of the law that governs the process as a whole. (James Boyd White 1990:262)*

In 2006, legal practitioners and scholars, judges and mental health professionals convened in Nevada to address the complexities of representing children "while accounting for [their] deep connections to their families and communities" (Green and Appell 2006:571). This

gathering, the 2006 University of Nevada, Las Vegas Conference on Representing Children in Families (UNLV Conference) was the second of its kind. It followed the 1995 Fordham Children's Conference which, as I discuss in Chapter 2, examined questions of lawyering on behalf of children—whether children need lawyers, for instance, and whether children's lawyers should pursue their clients' expressed wishes (the "traditional attorney model") or substitute their own judgment for that of their clients. Where the 1995 conference concluded and the 2006 conference picked up was with a professional call to recognize "the child in her context." As outlined in the Fordham Conference Recommendations, this meant "a detailed understanding of the child client's unique personality, her family system, history and daily life" (Green and Dorhn 1996:1310; see also Brooks 1999).

During my fieldwork, I interviewed a group of child welfare scholars at Washington University Law School, nearly all of whom were influential contributors to the UNLV and Fordham conferences. In the course of our conversation, we discussed the difference between the two gatherings. The first conference, one individual stated, was really about recognizing and representing children's objectives as clients. The second, she continued, was—and in a sense, *had*—to be more detailed: "We weren't moving away from the [client's] objectives, we were affirming them. We were trying to figure out ways that we could represent children and families in their context, which is often antithetical to children's attorneys, partially because lawyers represent individuals, generally, or agencies. Or organizations. But they've got a client and not usually this organic, messy group of people, right? Or a child who's got a variety of allegiances."

As I established in Chapter 2, child welfare and immigration law are substantively and procedurally different in the U.S., as are the rights of citizen youth and the rights of

undocumented youth.[67] In addition, immigration law is one of the most complicated and ambiguous form of law (Einhorn 2009; Legomsky 2010). While recognizing these complications, I wish to analyze the relevance of "context" to these two realms of law. As my data demonstrate, child advocates attend to "context" in order to highlight its) relevance to the case at hand. Immigration cause lawyers, on the other hand, often strategically collapse or reject the concept of context in removal proceedings, reducing the individual youth, her or his relationships, and the unique circumstances of migration to either/or calculations. This permits the employment of other, more abstract dichotomies. Attorneys select "family" as an explanatory tool instead of inequality or socioeconomic change; they emphasize "wrongs and needs" instead of—or in contrast to—rights and rights protections (see Chanock 2000). Selecting the appropriate "choice" (parents as bad/not bad; youth as agents/victims; youth as alone/in context) not only satisfies the legal frameworks available to UACs, but I believe it implicitly and more profoundly allows attorneys to reconcile their own professional and moral goals.

It's important to note that what I trace in this chapter is not the *creation* of an identity. Instead, it is the careful negotiation and *selection* of an identity or "front,"[68] one that emerges discursively through the questions cause lawyers craft, the responses youth offer, and attorneys' subsequent "scripting" of a legal narrative (Heimer and Staffen 1998:5). The author of an influential policy report described the process more simply, and with audible bitterness: "It's attorneys' conforming of kids' stories. That's what it is." While the process generally abstracts the young person from her or his broader context, I argue it simultaneously *distorts this context*,

[67] This distinction is most clear when the rights of youth in the juvenile justice system are contrasted with the rights of undocumented youth in the immigration system. There is of course overlap between the two; see Georgopoulos 2005; Terrio 2008 and also Angie Junck's (2011) "Immigration Issues in the Juvenile Justice System" webinar, http://www.nclr.org/images/uploads/pages/Immigration%20Issues%20in%20the%20Juvenile%20Justice%20System_Angie%20Junck.pdf. Accessed 8/7/14.,

[68] "It will be convenient to label as 'front' that part of the individual's performance which regularly functions in a general and fixed fashion to define the situation for those who observe the performance… [F]ronts tend to be *selected, not created*…" (Goffman 1959:22, 28, emphasis added).

normalizing an image of Chinese parents as dysfunctional and Chinese children as uniquely needy (Timmer 2010), and throughout upholding the U.S. as an implicit standard, one in which childhood is maintained as a private, familial, developmental stage of dependence (see Appell 2009). The "front" that is produced is institutionalized; it comes to form a collective representation of "Fuzhounese UACs" and an unequivocal moral narrative, the consequences of which I discuss in Chapter 5.

This, then, is a chapter about choices. It identifies the choices lawyers make as they interpret and disaggregate the shifting challenges, accomplishments and identities of Fuzhounese UACs (Chapter 3), and the ways in which "the language of the law" demands and reinforces these decisions. It also recognizes the choices Fuzhounese youth themselves make. Unlike Roger Zetter, who emphasizes the "extreme vulnerability" and "non-participatory nature and powerlessness" of immigrants in processes of bureaucratic legal labelling (1991:39), I recognize most unaccompanied Fuzhounese youth as informed, and sometimes misinformed, active participants in the selective scripting of legal narratives and identities (see Calavita 1998; Menjivar 2011).

In a sense, this participation is akin to mirroring: Fuzhounese UACs' accounts lend detail and depth to what is often put forth as a sure image, "The Fujianese Child" or "The Chinese Family," in legal representation. Depending on place and proximity, the metaphorical mirror takes on a variety of curvatures: As a plane mirror, youth directly and deliberately reproduce attorneys' expectations, sometimes lending the account a sharper, more tragic focus. At other times, the mirrors are concave or convex: In their ambitions, negotiations and spatial strategies, youth complicate and powerfully distort the image, "the cause," of their own selves. As in the

introductory quote from James Boyd White, their stories are in part magnified, disguised, and even lost in the conflicts and competition inherent in law.

Of course, there is a final level of representation, or misrepresentation, to consider. For just as the youth in this project implicitly—and sometimes resolutely—thwart attorneys' strategic portrayals of a singular Fujianese Child, so too do cause lawyers emerge in their professional and personal relationships with Fujianese youth as upholding a frustratingly ambiguous cause. While the constraining choices of lawyers point to the constrained choices *available to* lawyers, and more obviously to the prevalent characterizations of America's dysfunctional immigration system,[69] in the following chapter I demonstrate how these choices also indicate other, more uncomfortable realities about expert knowledge, professional achievement and American political ideology.

Privileging the Child Victim: An Examination and Simplification of Trafficking

> *But who's scamming, right? The whole question of scamming doesn't focus as much on the child as on the child's family… So there's sort of a division: there's the good child, and then there's the scheming parent.*
> -Michael, law professor in New York

As I demonstrate in Chapter 2, the legal protections that immigration cause lawyers can seek for unaccompanied minor clients are limited. They include asylum and Special Immigrant Juvenile Status, as well as T nonimmigrant status. First introduced with the 2000 passage of the Victims of Trafficking and Violence Prevention Act (VTVPA), the T visa was reauthorized in

[69] When presenting aspects of my research at scholarly conferences, my project was often reframed by audience members as *actually* being about "the dysfunctional U.S. immigration system." While I found this interpretation frustratingly superficial, it is also relevant given the confusing nature of immigration law and the pervasive view of the U.S. immigration system as chaotic, inconsistent and, ultimately, dysfunctional. Consider, for example, the results of a basic internet search for "U.S. immigration system": "US: Fix Dysfunctional Immigration System. New Legal Framework Needed for Reform." Human Rights Watch July 9, 2010 news release. http://www.hrw.org/news/2010/07/09/us-fix-dysfunctional-immigration-system. Accessed 1/13/14. "Our dysfunctional immigration system disrupts the education of too many young people." Educationvotes.org post 10/10/13. Accessed 1/13/14. "How the sequester would affect our dysfunctional immigration system." Suzy Khimm. WashingtonPost.com 2/24/13. Accessed 1/13/2014.

2008 through the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA).[70] Intended to enhance federal activity to combat trafficking, the TVPRA allows victims of trafficking to remain in the U.S. to assist in the investigation or prosecution of human traffickers.[71] To qualify for T nonimmigrant status, a person must: 1) Be or have been a victim of a severe form of trafficking in persons; 2) Be physically present in the U.S. on account of trafficking; 3) Comply with a request from a federal, state or local law enforcement agency for assistance in the investigation or prosecution of human trafficking[72] (significantly, qualifying individuals under age18 are not required to cooperate in order to receive immigration benefits); 4) Demonstrate that extreme hardship involving severe and unusual harm would be suffered if removed from the U.S.[73] Once a T nonimmigrant visa is granted, a victim can apply for permanent residence after three years.

The passage and continued reauthorization of the VTVPA reflects growing political and public awareness of trafficking. Yet while state and non-governmental organizations have

[70] It's important to note the distinction made between smuggling and trafficking. Child smuggling takes place when an informed adult moves a child across an international border clandestinely. Once across the border, the relationship typically ceases. Trafficking in persons, on the other hand, involves the transport of an individual for the purpose of subsequent exploitation, including forced labor or commercial sexual activity. It is often described as a contemporary version of slavery (Byrne 2008:32).

[71] The three prongs of the VTVPA (reauthorized as the TVPRA) are "protection, prosecution and prevention." As protection, the legislation makes foreign trafficking victims eligible for federally funded or administered benefits and services; it mandates U.S. government protections for foreign victims of trafficking and, where applicable, their families; it outlines protections from removal, including T nonimmigrant status for trafficking victims over the age of 18 who cooperate with law enforcement in the investigation and prosecution of trafficking; and it allows T nonimmigrant status holders to adjust to permanent resident status. As prosecution, TVPRA creates new crimes and enhanced penalties for existing crimes, including forced labor, trafficking with respect to peonage, slavery, involuntary servitude, sex trafficking of children, sex trafficking of adults by force, fraud or coercion, and unlawful conduct with respect to documents; it criminalizes attempts to engage in these behaviors; and it provides for mandatory restitution and forfeiture. Finally, as prevention, the bill provides assistance to foreign countries in drafting laws to prohibit and punish acts of trafficking and strengthen investigation and prosecution of traffickers; creates programs to assist victims; expands U.S. Government exchange and international visitor programs focused on TIP (Trafficking In Persons); and it created the President's Interagency Task Force to Monitor and Combat Trafficking to coordinate the U.S. Government's anti-trafficking efforts. See "U.S. Laws on Trafficking in Persons" www.state.gov/j/tip/laws/.

[72] A common critique of this stipulation is that while trafficked/migrant persons are designated "victims" under various policies and laws, unless they become informants to the police they are often treated as illegal immigrants and criminals, and as threats to national security (Kempadoo 2005:xv).

[73] 8 U.S.C. § 1101(a)(15)(T)(i).

increasingly allocated resources to anti-trafficking campaigns and counter-trafficking activities, their efforts to identify and support youth in particular are often criticized as inadequate, *ad hoc,* and a failure (Gozdziak and MacDonnell 2007; see also Maloney 2002; Nugent 2006). It's worth noting that many of these assessments ubiquitously employ the "universal child" model I discuss in Chapter 2, relying largely on the popular imagery of disappearing, lost or stolen childhoods, and the childhood domain as threatened or invaded by adult worlds (Cheney 2007; Stevens 1995). In "Closing the Gaps: The Need to Improve Identification and Services to Child Victims of Trafficking," Elzbieta Gozdziak and Margaret MacDonnell write, "The particular vulnerability of child [trafficking] victims, related to biophysiological, social, behavioral, and cognitive phases of the maturity process, distinguishes them from adult victims and underscores the necessity of special attention to their particular needs." The authors also place a specific emphasis on sex trafficking:

> *Human trafficking for sexual exploitation and forced labor is believed to be one of the fastest growing areas of criminal activity. The vast majority of victims of severe forms of trafficking are women and children. Women and children are most vulnerable to trafficking for sexual exploitation, including prostitution and sex tourism. Child sexual exploitation has grown exponentially in all countries, but is believed to be especially rampant in Asia and Latin America. Many women and children who are trafficked for bonded labor and domestic work end up being sexually exploited as well* (2007:171).

While there has been a marked increase in the federal prosecutions of cases involving the trafficking of young people for sex,[74] there is also much *more publicity* surrounding sex trafficking than labor trafficking. Indeed, there is a recognized tendency of state and non-profit agencies, as well as researchers who examine these agencies' work (like Gozdziak and MacDonnell), to focus uncritically on sexual exploitation in reports, journal publications and publicity efforts. The bias extends to gender and age, as well: The majority of studies are likely

[74] "Fourfold Increase in Prosecutions of Child Sex Trafficking Crimes Since 2008." Transactional Records Action Clearinghouse (TRAC). Trac.syr.edu/whatsnew/email.130821.html. Accessed 1/14/2014.

to center on females and children, while still relatively little is known about the trafficking of adult males for labor or sexual exploitation (see Gozdziak and Bump 2008). Accordingly, the United Nations Office on Drugs and Crime's (UNODC) Factsheet on Human Trafficking admits: "Human trafficking has many faces: forced or bonded labor; domestic servitude and forced marriage; organ removal; and the exploitation of children… However, *probably due to statistical bias and national legislation*, sexual exploitation (79%) is by far the most commonly identified form of trafficking in persons [in the 2006 and 2009 Global Reports on Trafficking in Persons], followed by forced labor (18%)."[75]

Yet trends in awareness and, correspondingly, detection have changed. The 2012 UNODC Report now acknowledges that women comprise 55-60% of all trafficking victims detected globally. Trafficking for the purpose of sexual exploitation accounts for 58% of all trafficking cases, and trafficking for forced labor accounts for 36%. Significantly, the number of detected cases of trafficking for forced labor doubled between 2008 and 2012 (2012:7)[76]

This is not a dissertation about trafficking. Yet the topic is significant, for just as cause lawyers (and anti-trafficking advocates) utilize popular, "universal" constructions of childhood as an apolitical stage of dependence and development, so too do they rely on what Jyoti Sanghera compellingly describes as the "dominant anti-trafficking discourse" to position or "script" youth as eligible for a T visa. "The dominant anti-trafficking discourse," Sanghera writes, "is not evidence-based but grounded in the construction of a particular mythology of trafficking… [It] is based on a set of assumptions. These, in large measure, merely flow from

[75] "Factsheet on Human Trafficking," United Nations Office on Drugs and Crime (emphasis added). http://www.unodc.org/documents/human-trafficking/UNVTF_fs_HT_EN.pdf. Accessed 1/14/14.
[76] 2012 Global Report on Trafficking in Persons. United Nations Office on Drugs and Crime (UNODC). http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf. Accessed 1/14/2014.

unexamined hypotheses, shoddy research, anecdotal information, or strong moralistic positions…" (2005:6). The assumptions include:

> *Most trafficking happens for the purpose of prostitution;*
>
> *Poverty is the sole or principal cause of trafficking;*
>
> *Trafficking within the Asian subcontinent and the region is controlled and perpetrated by organized crime gangs;*
>
> *Police-facilitated raids and rescue operations in brothels will reduce the number of victims of trafficking in the prostitution industry;*
>
> *Absence of stringent border surveillance and border control is the principal reason for facilitation of transborder trafficking;*
>
> *Strategies which club women and children together will be equally beneficial to both in extending protection against trafficking and redress after being trafficked;*
>
> *All persons under 18 years of age constitute a homogenous category—children, devoid equally of sexual identity and sexual activity, bereft equally of the ability to exercise agency, and hence in need of identical protective measures…*(Sanghera 2005:4-5)

As Sanghera and others point out, the factors to which the growth of global trafficking has been attributed—poverty, lack of sustainable livelihoods, structural inequities, gender discrimination, armed conflict, natural disasters—are not in themselves the causes of trafficking. Rather, they simply exacerbate the vulnerability of marginalized and disadvantaged groups (Sanghera 2005:8; see also Ruggerio 2003). Despite offering focused, highly-publicized advocacy efforts on behalf of the world's "most vulnerable," presumably poor women and children of the Global South, the framework of international anti-trafficking organizations like the UNODC implicitly supports the economic interests of corporations, multilateral agencies, policy experts, and national governments. Very little, if any, critical consideration is granted to global economic policies that call for free trade and the unqualified access of large transnational corporations to natural resources and raw materials, policies that "guarantee, and defend, the

rights of social powerful elites—the propertied, managerial, cosmopolitan, and professional classes—while they limit the access, movement, and rights of [others]" (Kempadoo 2005:xiv-xv). It is thus unsurprising that the majority of anti-trafficking interventions continue to emphasize the rescue, repatriation, and rehabilitation of victims (recall the TVPRA's three goals of "protection, persecution, and prevention," Footnote 4) and target the supply side of trafficking. Rarely, if ever, do these efforts recognize the trafficking of persons as a demand-driven phenomenon.

If we follow Sanghera and others' critiques of anti-trafficking discourses and interventions, as opposed to the federal definition of "severe form of trafficking in persons"—"the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery"[77]—some questions naturally arise. Are Fuzhounese youth "victims of trafficking?" Are they marginalized and disadvantaged, their opportunities for social and economic advancement restricted or denied by neoliberal interests and powerful elites? Is there *demand* for unaccompanied Fuzhounese youth?

Yet significantly, these questions actually *do not have to be answered*. Instead, writes Lauren Burke, a cause lawyer, attorneys must simply "fit Chinese clients into a [dominant] trafficking framework":

> *Utilizing [the federal definition of trafficking] can be difficult... A filially pious mindset is deeply ingrained in many Chinese youth and convincing a youth to open up about the pressures that they had been placed upon her by an adult to come to the U.S. is often a lengthy process… In my experience, however, there is an entire world that lies beneath the surface of these youth and often, their experiences fit into the trafficking framework.* (2011:9)

[77] 22 U.S.C. § 7102(8)(b).

The author next details the step-by-step process by which attorneys might delineate and satisfy the statutory language of this framework:

> *The Chinese youth I have worked with are* recruited, harbored and transported, *by their parents and/or the snakeheads in charge of bringing them from their homes in Fujian province to the United States. Some Chinese youth are packaged by their parents as a way to make easy money, others are targeted in their communities as being easy victims to the snakeheads' exploits. All these children are brought between border lines, often locked in rooms, kept at gunpoint and under constant physical threats to their safety. The youth are* obtained *by the snakeheads, or* provided *by their parents or other adult caregivers, for the express purpose of earning capital - first for their captors in the form of debt exchanged for their passage, then for their parents in future earnings from working in the U.S. The element of* force, fraud, and coercion, *can be found by exploring the false pretenses, idealistic promises, physical violence and outright psychological force, placed upon the children by adult caregivers, snakeheads, and "middle men" in order to get them to "agree" to come to the U.S. Finally, nearly every Chinese youth encountered is forced to pay off unthinkable debt, now often ranging close to one hundred thousand dollars, in exploitative working conditions for most of their young lives.* (Burke 2011:8-9, emphases in original.)

In this legal practice advisory, "It Was(n't) My Choice: Identifying Human Trafficking in the Unaccompanied Chinese Youth Population," Burke selectively codes, interprets, and highlights her clients' experiences in accordance with the U.S. federal law (see Goodwin 1994; Mann 1999). While underscoring the challenge of tracing and defining this shadowy phenomenon—how to obtain and expose the family realities of reticent, "filially pious" children, for instance, or how to recognize the "false pretenses and idealistic promises" of adults—the report provides a number of instructive, presumably sufficient solutions. As we see below, these solutions hinge upon very specific ideological and legal understandings—or productions—of age, childhood, culture and family, and on the pervasive mythologies of the dominant anti-trafficking discourse.[78] Consider the following excerpts:[79]

[78] While I believe anti-trafficking discourses deserve critical attention, I also recognize the tenuous identification that may emerge from this position, namely being "anti-anti-trafficking." A possible approach is Clifford Geertz's (1984) stance on anti-relativism: He identifies his attack on it as a rejection of anti-relativism but not a commitment to or defense of what it rejects (relativism). See also Engle 2001. My thanks to Steve Harrell for helping me confront this issue.

With the Chinese child population, there are a number of aspects which make them unique from their adult counterparts. Most notably, of course, is the fact that they are children. Often under the age of 18 at the time of their recruitment and smuggling, such children are thus legally incapable of consenting to assume any sort of debt obligation and, arguably, intrinsically unaware of the consequences of utilizing the snakehead network. Thus, even in the instances where the child claims it was *his/her choice and he/she* did *agree to the conditions imposed upon him/her… the scenario of straightforward smuggling as applied in the adult context does not work due to the simple fact that we are discussing a* child *who is protected under the law.* (2011:8, emphasis in original.)

If the child is under the age of 18 at the time of trafficking, then given current standards of contract, labor, and sexual consent laws, as well as international standards on child capacity, *they cannot legally consent to the migration, contract of transportation, and lifetime of exploitation.* (2011:30, emphasis added.)

Many unaccompanied Chinese youth are also eligible for T-nonimmigrant visas for victims of human trafficking as provided by federal law, as they have been victimized by either their parents… or snakehead smugglers to prospect off of the children's coerced labor. …[C]hildren who are coerced or forced to come to the U.S. with snakeheads for the purpose of making money to send home once the debt has been paid off, are arguably victims of human trafficking at the hands of their parents. (2011:29)

Many Chinese children report fearing their families will be killed or report instances of actual violence and harm used against the relatives of those who come to the U.S. and fail to pay their fees. This pressure tactic is even more effective on Chinese youth as, in Chinese culture, the family clan is the most important unit in society. An individual's identity is closely linked to her family. This Confucian tradition of taking care of one's parents is reflected not only in Chinese moral life but also in the practice of Chinese laws. Thus, children who have had not only their lives but those of their family members threatened and the children reasonably believe such threats will be materialized should they not continue to work, it can be found that the children are coerced into their involuntary servitude and debt bondage. (2011:34)

In the previous chapter, I discuss the shifting, often unexpected roles and identities of young Fuzhounese migrants. As youth independently make respected improvements to the economic and social status of "emplaced" family members, they come to self-identify as leaders

[79]While initially reluctant to rely so heavily on *one* document, "It Was(n't) My Choice" remains representative of, and indeed a trusted resource for, many attorneys' trafficking claims on behalf of Fuzhounese UACs in removal proceedings. (See Chapter 5 for cultural interpretations and legal strategies similar to those Burke provides.). I also feel particularly confident in my understanding of why and how the report was developed, having interviewed the author in 2010 and again in 2012, during which time we talked extensively about her goals for and misgivings about the document. I also observed Burke's interactions with Fuzhounese youth and legal practitioners on a number of occasions.

in their communities of origin. They similarly take pride in their increasing autonomy and purchasing power, as well as in their own skilled management of employment, taxes, healthcare, language acquisition, friendships and romantic relationships in the U.S.—valued markers of success and of successful transitions to adulthood. Of course, Fuzhounese youth concurrently experience other, often negative understandings of self and responsibility. In certain contexts and communities, "Fuzhounese" emerges a pejorative label, one associated with regional inferiority and illegality. Youth are often isolated or "caught." They are semi-autonomous and in legal limbo.

Yet as Burke's report suggests, in the legal realm these complex negotiations, endeavors and constraints are extraneous, at best. They are processually dismissed or rejected as cause lawyers "fit" Fuzhounese clients within the "right box" of the trafficking framework, and more specifically within the "homogenous category" Sanghera includes in her list of the assumptions. They constitute the nameless class of those "bereft equally of the ability to exercise agency, and hence in need of identical protective measures" (Sanghera 2005:5). Under age 18 at the time of apprehension, they are *children*, writes Burke, protected under law, unable to consent to migration. They may have been coerced by snakeheads. They are "victims… at the hands of their parents" (2011:29). They remain financially and culturally obligated to their *ultimate* identity, that of the Chinese family firm (see Chapter 3).

Child Victim, Deviant Parent: From the Trafficking Framework to the Grand Narrative

The fact of and process by which immigrants' complex negotiations are flattened or standardized to satisfy legal categories is relatively well-documented in law and society scholarship. Perhaps most relevant to this project is Sarah Morando Lakhani's (2013) article on

the dual narratives immigration attorneys craft on behalf of petitioners for U visa status,[80] namely "clean" victimhood and migrants' civic engagement as contributing members of society who deserve legal status. Consider also Susan Coutin's (2000) study of Salvadoran immigrants' struggles over the legitimacy of lawyers' asylum claims and Berger's (2009) examination of the "cultural restructuring" of battered women as worthy of immigration relief through VAWA[81] provisions.

Other scholars have examined the multiple "legal registers" through which citizen and rights-worthy subjectivities are discursively formed (Comaroff 1995; Osanloo 2006) and the processes of citizen subject-making as necessitated by the modern nation-state (Fitzpatrick 1992; Ong 1996). As Aiwha Ong argues, citizenship is itself "subject-ification," the dual process of self-making and being-made via power relations of surveillance, discipline, control, and administration (Ong 1996:737-8; see also Foucault 1991). This process is made clear as we recall a necessary qualification for T nonimmigrant status and the U visa, that the applicant complies with law enforcement for assistance in the investigation or prosecution of the crime experienced. Here, establishing an individual as a protection-worthy subject (see Footnote 5, above) simultaneously—and most importantly—contributes to ensuring the security and prosperity of the nation-state, the political justification for this "subjectif-ification" (Ong 1996:738).

[80] Another VTVPA remedy, the U visa was designed for undocumented victims of violent crimes who, as with T nonimmigrant status, collaborate with U.S. law enforcement in the investigation and/or prosecution of the crimes they experienced. (22 U.S.C. 7101§1513(b)(3)(iii); see also Morando Lakhani 2013).

[81] Violence Against Women Act of 1994. The law provides immigration relief to family members abused by their citizen or legal permanent resident spouse or parent. Recognition as a battered immigrant through VAWA provisions significantly advances the legal path to citizenship for battered immigrants, allowing them to bypass family sponsorship regulations and file to regulate their immigration status independent from their abuser. (See Berger 2009:201).

The phenomenon of legal scripting or framing is not *new* to law scholars, nor is it to legal practitioners. Yet as my data demonstrate, however standard—and ostensibly obligatory[82]—the selective creation of a legal fiction,[83] the practice is neither straightforward nor consistent. In this section, I attend to lawyers' oppositional understandings and uneasy utilization of youths' families as they "fit" their Fuzhounese clients into the trafficking framework.

First, it is important to highlight cause lawyers' fluctuating, sometimes apprehensive interpretations of trafficking itself. Most of the attorneys I spoke with were not so firmly convinced as Burke maintained of the nearly indisputable applicability of T nonimmigrant status for Fuzhounese youth. Often, lawyers' understanding of trafficking had less to do with statutory definitions and more with bureaucratic constraints and associations. Leona, a lawyer in San Francisco, stated, "When I first started doing it, we weren't seeing the cases as trafficking… But over time we looked at them and were like, this is really an issue of trafficking."

---

[82]A common argument is that this process simply reflects the accepted professional commitments of lawyers. "Lawyers," one law professor stated flatly, "are obligated under ethical rules to make the best argument possible." This is underscored in "A Lawyer's Responsibilities" from the American Bar Association's *2013 Model Rules of Professional Conduct*: "[2] As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others..." Of course, referencing the "ethical rules" of professional conduct is not necessarily the most relevant, convincing or straightforward argument, particularly as regards the legal representation of UACs. Consider ABA Model Rule 1.14: "Client with Diminished Capacity": (a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, *the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client* [emphasis added].
http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents.html, accessed 1/20/14.

[83] A "legal fiction" is most commonly understood as an assumption of fact made by the court as a basis for deciding a legal question (see Black's Law Dictionary, sixth edition). While ultimately an ad hoc remedy to meet an unforeseen situation, many legal fictions are nonetheless institutionalized, preserved to advance public policy and the rights of certain individuals and groups. "Legal fiction" has a complex, often contested history in jurisprudence, but at the risk of oversimplifying things, I draw on a common example of legal fiction—the granting of personhood to a corporation—to extend the term to this research, where the law and legal practitioners understand a group as a unit, strategically disregarding the group's individual members. I believe this is evidenced in the static category of "Chinese UACs" and, among other things, in attorneys' assertions of childhood as an "immutable status" (see following page).

"How did this shift occur?" I asked, recalling the often slow, tentative process by which cause lawyers try out and network new strategies with others.

Surprisingly, Leona listed an actual year. "It was 2004," she stated matter-of-factly. "That's when the Office of Refugee Resettlement came," she added, referencing the dissolution of the INS through the Homeland Security Act, after which responsibility for the care and custody of UACs was transferred to the Office of Refugee Resettlement (ORR).[84] "The Office of Refugee Resettlement is who does the initial approval of benefits for trafficking victims," continued Leona. "And so when it was them instead of the Justice Department, we had a more friendly regime. So…" she paused. "Well, now it's related to trafficking. We have to frame it that way. So anyway. That's when things started to change."

Like Leona, a number of other cause lawyers based their choice to pursue T nonimmigrant status in broader administrative shifts that influenced the popularity and perceived viability of various forms of legal relief. Yet the majority of those I spoke with included but moved beyond the language and oversight of federal regulation to situate their understanding of trafficking within the explanatory paradigm of the Chinese family. "The definition of trafficking is codified in law," said Damien, another attorney in California. "However, every helper, every attorney, every social worker, every advocate has a different personal view on what trafficking is. And the biggest snag is whether they feel that the youth coming from Fujian are being trafficked… If the child is honest enough, they'll say, 'I came here because I wanted to make money.' This is hard, because if the person looks at the law, there has to be an element of coercion, or being forced to come here to work, for trafficking to be defined as trafficking… So

[84] ORR assumed this role on March 1, 2003 and subsequently created the Division of Unaccompanied Children's Services (DUCS). Between then and 2005, ORR began to focus on options for legal services, eventually contracting with the Vera Institute of Justice (see Byrne and Miller 2012; Haddall 2007).

people think [these youth] are just immigrants like anyone that will cross the borders. But my view is that would be missing a lot of cultural and family dynamics."

Many of these cultural and family dynamics were presented as unequivocally *bad*. This, I believe, powerfully reflects and extends what Matthew Fraidin calls "the Grand Narrative of Child Welfare" to the immigration context. "The narrative is one of brutal, deviant, monstrous parents and children who are fruit that doesn't fall far from the tree" (2012:98-99). The narrative, Fraidin writes elsewhere, has little to do with parental authority and instead emphasizes parental culpability; unsurprisingly, it often has an implicit corollary, the portrayal of youth as "child-victims" (2010:14; see also Best 1993).

We find this coupling of the "deviant parent, child-victim" narrative in an early draft of the Human Rights Watch report: "Children should not be made to take primary responsibility to provide and support their parents. Instead, it is parents who have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for a child's development" (forthcoming:9). Elsewhere, the report reads: "It is the snakeheads who are abusing the immigration system, not the children *who are only acting at the adult's direction*" (n.d.:75, emphasis added). Consider also the comments I collected during interviews with cause lawyers:

> *Childhood is an immutable status at the time that you migrate. Eventually you'll outgrow this, but at the time that you're a child, you can't change that. And that vulnerability is certainly part and parcel to why you're the target. And the fact that a child's been sold to snakeheads? They don't make that decision. It's the parents that make the decision for them.*
>
> *And this is the difference: If a parent chooses to come—if you are an adult and you want to sacrifice everything to come to America and work to the bone and send money back to your kids, fine. You chose to have those children. If you're an adult and you say, "My child's obligation is to do that for me," well, I think that's the fundamental difference… The idea that you belong to and for your parents is very strong, that's a big cultural thing.*

> *A lot of the kids, when we talk about trafficking, it's like they're [unable] to think that their parents would put them through something like this. So I say to them, you know, "People are people. Your mom might be a good person, but once parents choose to have children, that's a job they're choosing to fulfill. And so we're not saying anyone's a* bad person*, we're saying that maybe they just weren't as good at this specific job in their life."*
>
> *I do think the snakeheads are very predatory. But I think that coercion happens less often than the parents being the ones who take advantage of their kids.*

In these reflections, we trace the development of a "grand narrative," one that unhesitatingly assigns blame to parents and suggests they are the *real* danger to a young person (see Bernstein 2000). Returning to the "front" or identity I discuss at the beginning of this chapter, recall that the narrative is never created but *selected*. This is plainly evidenced below, as attorneys describe the process by which they elicit necessary, ostensibly predicted details about their clients' families.

In an interview with Marsha, a cause lawyer in Chicago, I asked, "As an attorney, what do you need? What do you think would help provide better legal services to youth?"

Marsha was still for a moment, then she thoughtfully adjusted the heavy beaded necklace that hung over her green blouse. "I think it would be helpful to show coercion," she said. "You know, to prove coercion, to be able to have a better understanding of 'family tells child to do this, child does that, if child argues with parents, then this is what happens so the child would never argue.' So to be able to prove duress or coercion…" She tilted her head at me, waiting for a response. Knowing Marsha well, and knowing her expectation for my research to *supply* this required evidence (see Chapter 2, Footnote 5), I was silent. Finally, she continued: "I think it's different in Chinese culture. In our culture, if a parent wants a kid to do something they don't want to do, they're probably going to say, 'I hate you. I don't want to do that.' But it seems like

that doesn't happen in these cases." Looking toward her window, she asked distractedly, this time not expecting a response, "Does it not happen in Chinese culture?"

Unlike Marsha, Lana was certain—and explicit—in her moral interpretation and legal "selection" of Chinese family dynamics:

> *I have kids [clients] whose legal argument I've written, that their parents trafficked them. But their parents don't see it that way. And that can be hard, where legally this is what happened, but perceptually, that's not what took place in the kid's mind. I still have clients who I think are in complete denial about their parents' involvement. I think there are parents who are over-exaggerating* [sic] *the snakehead threat and are over-exaggerating how much money needs to be sent back every month. So basically the kids have been put into this really horrible situation by their parents who only talk about the snakeheads… And the kids are in total denial about it. Or it's just not their reality yet. They're just not ready…*
> *So I do my intakes with Chinese kids the opposite of how I was trained (where it's all open-ended questions, and you're supposed to never want to make the kid feel like they're agreeing with you). There have been times when I've asked a kid a question and they've agreed with me and I've tried to get more detail, and it turns out they were just agreeing with me. So now it's, "Who did you come to America with?"*
> *"My* ayi[85]*—my auntie, my uncle."*
> *"Oh, is your auntie's name* Snakehead*?"*
> *And they'll laugh, but they're not going to tell me it's a snakehead… So you have to really dig into it. You can't just ask a kid, "Was it your choice?" Instead, it's, "Who was the first person who ever brought up America? How did you learn about what America was? What were your perceptions of what America was like? How did you have those perceptions?" You know, it's about building it that way…[Because] they're* kids*, and that's what people forget.*

A similar narrative of parental blame and child vulnerability occurs when attorneys evaluate and choose to pursue Special Immigrant Juvenile Status (SIJS) on behalf of their Fujianese clients. Recall from Chapter 2 that to be eligible for SIJS, a state juvenile court must find that reunification with one or both of the youth's parents is not viable due abuse, abandonment, neglect, or similar basis found under state law.[86] A number of attorneys described

[85] *Ayi* translates as "maternal aunt," but it is also a designation for a paid helper, like a housekeeper or nanny, and also a common term children use to address adult women. Attorneys often suspect the person a youth describes as an *ayi* is affiliated with snakehead smugglers and only posing as an aunt.
[86] INA §101(a)(27)(J) and TVPRA §235(d)(1).

the process by which they "fit" clients within the SIJ framework, namely by satisfying the language of "neglect" and "abandonment":

> *I told this kid, "I don't see any relief for you. I really think you might have to go back; how do you feel about that?" And he said, "Bad, because my mom needs back surgery and she sent me here to work so she could get the surgery." And I was like, THAT'S abandonment! I'm sorry, but you don't send your kid who is school age to work! For your back surgery! That kid was neglected, abused, or abandoned by his mom.*

> *An approach I've started to take is saying that parents who send young people with snakehead smugglers to come to the United States just in and of itself is a form of neglect. So even if there isn't any past history of abuse, or even if the kids are still talking to the parents, the fact that the parents would put them in such a precarious situation and expose them to such dangers, that… should be enough to win a Special Immigrant Juvenile Status case in family courts.*

"Does Intent have to be Malicious?": Uneasy Interpretations of Parental Involvement

Of course, other attorneys were less convinced of, though no less reliant upon, the image of Chinese parents as neglectful or coercive. (As a potentially significant aside, all of these attorneys were themselves first- or second-generation immigrants to the U.S.) Lisette, a particularly warm, heartfelt individual who had emigrated to Missouri from Germany, openly admitted her doubts about the families of her clients. "It's hard for me to understand why anyone would pay to smuggle their child across so many countries," she said as we sat together in a loud, humid coffee shop. She fanned her face with her hand and shook her head. "On the other hand, I haven't lived a day in the shoes of those parents. We're easy to judge and we're easy to not actually look at the picture… I mean, you're the parent, you're the boss, and you know what's best for your child and you make that decision. But sometimes [lawyers] are very patronizing of families."

While rare, the notion that smuggling a child to the U.S. could actually reflect foresight or a parent's devotion was introduced by other attorneys, as well. "Does intent always have to be malicious?" asked Uchechi, a cause lawyer who was herself an unaccompanied young migrant.

"I don't know. Think about parents who may be smuggling their kids in their kids' best interest." She tilted her head and raised an eyebrow emphatically. Shaking her head, she leaned back in her chair. "But it's still substantive law, and we have kids that are circles in square pegs. They don't fit, and so we have to create these elaborate cultural accounts."

Leon, a Chinese-American attorney in Chicago, was similarly uneasy with the "Grand Narrative" I traced above:

> *If we take seriously the idea that each family can only have one child, what's going on with them sending that one child off? It could either be that they're doing it for the family's interest, but that seems a little odd because now you're sending your one child far away. Or you might really think the child being sent away is going to have a better life, in which case it fights this idea of neglect. They're doing it as a way to have a better vision for their child's future… I have a hard time, you know, condemning parents, saying that they're doing it purely for their own fiscal interest. I think older models of Chinese culture would say, yeah, of course. You use your children; the family unit is number one; the children's interests are not as important, right? But I think it might be different nowadays.*

Nelson, a lawyer who had emigrated as from Hong Kong to New York City, offered perhaps the most unambiguous interpretation of Fujianese families. "Fujian is different," he said. "You seldom see a person from Sichuan send a child halfway around the world. The Fujianese have a different kind of culture. It's not like the parents don't care about the welfare of the kids. They care too much—enough to smuggle a kid to the U.S. alone." It was August, and we sat together in Nelson's stifling fifth-floor office on Bowery Street in Manhattan's Chinatown. The space was brightly lit and dingy. When I first arrived to the building, Leslie, Nelson's secretary, had walked me along a low-ceilinged hallway to his office. In each of the rooms we passed there were desks piled high with papers and older Chinese women steadily working and chatting. Metal fans whirred loudly. "Here, Mr. Wei's office," Leslie said unceremoniously as she left me at the lawyer's door. I stood abruptly before Nelson. He wore a light button-up shirt and black slacks, and his hair was white and crew-cut. He did not smile.

I remain unsure about the nature of Nelson's work, though I suspect most of the cause lawyers I interviewed would readily identify him, along with other Chinatown-based private attorneys, as allied with smuggling organizations. Still, he remains a trusted contact, and something of a wrench in the professional dichotomy many cause lawyers extol—namely themselves as needed moral and political activists, and conventional lawyers as value-neutral (or, worse, sinister snakehead) "hired guns" (Sarat and Scheingold 2008:2). Nelson was introduced to me by a highly-regarded scholar of Fujianese emigration, and throughout our conversation he exhibited clear warmth and concern for Fuzhounese youth, even if he had little warmth or concern for me. "The conversation didn't really start well, and I'm not entirely sure if it finished well, either," I wrote in my notes later. "Nelson was willing to talk, and the more he talked the more I liked him. It's clear that he is concerned for his young clients' well-being and is very troubled by families that are (willingly) broken up by migration."

"Do you think parents know how dangerous the smuggling journey is?" I asked.

"Yes," Nelson replied flatly.

"What about working conditions?" I asked. "Are parents aware of that?"

"Yes." His face softened. "But when kids arrive in the U.S. and they find out how hard they have to work, that's hard. Most are good kids. They work hard. Some even go to school. A lot are doing well. But some—I just saw on a Chinese newspaper, some become criminals. Some have legal status; some don't."

I described my research in southern states, and the long hours the youth I interviewed worked in Chinese buffets. Nelson nodded sympathetically. "The goal for most is to make money and pay off fees. My sense is that most don't have a long term plan. The parents just want

to send the kid here and pay off the smuggling fees. Their thinking is that the U.S. will be better for their kids."

Selecting—and Playing—the Victim

In the previous sections, I examine one way in which attorneys reduce the "context" of Fuzhounese youth, namely the introduction and selection of oppositional moral claims about a client's parents. On one side, there are attorneys for whom Fuzhounese parents are brutal, deviant, and entirely responsible—i.e., to blame for—their (victim) child's migration to the U.S. It is the "Grand Narrative" of Fuzhounese families: *The parents [are] the ones who take advantage of their kids; The kids have been put into this really horrible situation by their parents; The parents… put them in such a precarious situation and expose them to such dangers.* On the other side, there are attorneys who identify the sending of a young person to the U.S. as an act of compassion and sagacity, a decision parents make in their child's best interest: *You're the parent, you're the boss… you know what's best for your child and you make that decision; [Parents'] thinking is that the U.S. will be better for their kids; [Parents are] doing it as a way to have a better vision for their child's future…*

This dichotomy of interpretation reveals much about the language of immigration law, perhaps most obviously the limited, demanding nature of the trafficking and SIJ frameworks. Yet if we look carefully at these statements, we see something else. Both views selectively dismantle or dismiss *youths'* participation in their migration journeys and often reveal a deliberate disregard for youth themselves. Squarely situating unaccompanied Fuzhounese migration as the *parents'* choice—whether malicious or altruistic—abstracts young people from the narrative, and elides the complex circumstances, responsibilities and relationships underlying their individual migration journeys (see Chapter 3). It is a subject-ification that recasts the young person as a

child-victim and delimits and fractures her or his broader "context."[87] Even for attorneys like Lisette, who were cautious in their evaluation of parents and uniquely aware of the "patronizing" tendencies of legal advocates, the young person remains largely unconsidered as the lawyer attempts to locate the responsibility (or blame) and motives for her or his migration journey.

I believe that this absence evidences what many cause lawyers may unconsciously categorize as a second opposition, an "either/or" choice that is in their strategic interest not to make. Though youth or, more specifically, youths' volition are omitted from the family narratives attorneys craft, every cause lawyer I interviewed grappled with the role their clients played in their migration journeys, journeys that extended prominently into the legal realm. Not only were attorneys unsettled about youths' insistence on their participation and management of migration—and, naturally, by the fact that these assertions could inhibit or undermine a lawyer's own work *on a youth's behalf*—but some lawyers were also frustrated, and perhaps threatened, by the legal knowledge and skilled maneuvering their young ("victim") clients demonstrated. "Half of the kids I work with never thought they'd be apprehended [at the U.S.-Mexico border]," said one lawyer. "But half of the kids tell me they were ready to be caught because, like they say,

[87] This is a personal but also legal fracturing. For instance, reframing parents as traffickers or abusive will most likely exclude them from obtaining derivative nonimmigrant status. A person who becomes a Lawful Permanent Resident through SIJ status is no longer considered the child of his or her parents for immigration purposes, even if parental rights were not terminated. The individual is thus not able to use the lawful status attained through SIJ status as a means to obtain lawful status for his or her parents. This bar applies to both parents, even if SIJ status was obtained due to abuse, neglect, or abandonment by only one parent (sji.gov/PDF/SIJ_Status.pdf). Currently, family members are eligible for derivative T nonimmigrant status. (http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status/questions-and-answers-victims-human-trafficking-t-nonimmigrant-status-0). An early draft of the Human Rights Watch Report recommends to the Department of Homeland Security: "Ensure that derivative T visa status is not provided to parents who chose to send their children to the United States." During a subsequent focus group conducted with Fuzhounese youth, a contributing lawyer noted, "The focus group spent a while discussing this issue, but the consensus was that if a child wanted to bring their parents over to the U.S., she should be allowed to, no matter what the parents had done in the past. They stressed that the bond between parent and child was absolute, and should not be jeopardized because a parent sent her child to the U.S. to work."

they wanted to get an asylum case." Whether her expression conveyed disbelief or defeat, I couldn't decide. "I guess some of them know the system really well."

During a conversation with Leon, an attorney I came to know well during my fieldwork, I asked, "What is your sense of the role of youth in making the decision to migrate?"

"I don't know," he replied. "That's a good question. It's always difficult because the children themselves are always going to say it wasn't their idea."

"Yes?"

"Because it helps their case." He shrugged, indifferent. "I mean, you know, if you say, 'It's my idea,' it's not, 'Oh, you were afraid to come.' I mean, obviously the argument can be made: It doesn't matter if they wanted to come, they're not adults. They don't have that agency to make that decision. But I, you know, I've said before, I am always confronted with this notion that it is a strange, paternalistic view of a people to say that they would deliberately put their children in harm's way, without at least some sense that it's for the children's good." Leon thumped the table as he said it—they would *deliberately* put their *children* in *harm's way.* He was quiet for a moment, then continued, "I think most [youth] say it's not their idea. And do I think most of the time they're sincere? Probably. But I am not ignorant of the fact that it helps their immigration case for them to not take agency or ownership over that decision."

"Which is interesting," I noted, "because the very fact of a young person deliberately not taking agency is a pretty savvy move."

"Yeah. And that's the thing, too. As lawyers we tend to sometimes not give our clients enough credit. You know. I think our clients, for the most part, despite how difficult and how confusing immigration law is—and it certainly is—our clients know in general what's going to get a judge on their side. And they know that if they say, 'It's my idea,' it makes it very difficult

to make the argument about fear and abandonment. It makes it very difficult to make this argument about being a victim, as traumatic as [migration] is. I'm certainly not placing any kind of blame or any kind of judgment on it… They sort of know a little bit [about law]. Now, it doesn't matter to me, right? I think they're not old enough to make that decision. They're not old enough to take ownership over that decision, so it shouldn't matter to me whether or not they want to do it, or they have agency to do it."

While Leon rather swiftly solved this tension by relying on social or legal standards regarding youths' capacity to consent, other attorneys were less convinced by this argument, noting the relatively older age of unaccompanied Fuzhounese minors.

"If the child has never disclosed any sort of red flag for trafficking," one attorney stated, "We could talk [again] to the child and say, 'Look, are you sure there's nothing going on, do you want to tell us more?' in the hopes that they will kind of put their guard down... But if the child very solidly maintains that everything is fine… our hands are tied and we can't move forward with anything at that point."

Her colleague added, "When working with minors, there are certain ethical provisions that do allow us to kind of dig a little bit more and kind of collaborate with other actors and with other stakeholders [such as ORR shelter staff]. But because the Chinese minors are sixteen—you know, fifteen to seventeen, they have the sufficient capacity, and they have the competency to make their own decisions and to speak for themselves. Because of the age of these minors and the capacity and competency levels, we have to work with what they give us."

Rather than be dismissive or wary of the "capacity" or "competency" their Fuzhounese clients demonstrated, a few of the attorneys I interviewed appreciated these qualities, and even admired them. "Framing kids [as victims] has been going on for a long time," said Angela, an

attorney in Alabama. "For the lawyers representing kids, a T visa is great! It's excellent that we can use it. And [the youth you're studying] play the victims, right?"

"Right!" I said, startled and delighted by so forthright a question. "And to me, doing so is the opposite of victimhood."

"Yes," Angela replied. "In this case, children are the interpreters of the law, and the ones with power."

"The Ones with Power": Collaborating, Mirroring, and Rejecting Legal Advocacy

Recall here the abuse Hua described during a telephonic intake with a legal aid provider, detailed in the previous chapter—*Yes, somebody hurt me*! She imitated her earlier self and smirked. Later, I asked, "Can you tell me a little bit about what you shared with your attorney?" We were discussing Hua's smuggling debt, and how her mother turned all of the money Hua wired her over to the snakeheads.

Hua nodded. "Yeah. My mom never keeps the money. But when I talk to my lawyer—" She altered her tone once more; this time it was strained, distraught. "'She used *all* the money! She doesn't pay the smuggler, and I have to work a *long* time.'"

"You change your voice like that?"

"Huh?" She squinted at me.

"Whenever you tell me about how you talk to your lawyer, you say, 'Ohhhh, ohhhh, ohhhh,'" I mimicked Hua's mournful cadence.

"Oh. Yeah. A little bit." She sat back thoughtfully, then tried again: "My mom… *Many* years they got to give the money to smugglers. I have to work a *long* time. I'm *tired*."

"Do you think your lawyer believes you?"

"I'm not sure," Hua answered. She laughed. "But it's good for me!"

In this instance Hua is a mirror, cleverly putting forth the account she knows her attorney needs, one in which her mother can be reframed a trafficker and that emphasizes the crushing smuggling (now trafficking) fees for which she is obliged to pay. Still, it's necessary to emphasize that Hua clearly never intended or expected to dupe her lawyer. During another conversation with her, I mentioned, "When I talk to attorneys, many of them say the same thing: 'Chinese kids come here because they're Christian. Or because they have bad parents.'"

"No," she quickly replied. "No. They know more. I think they know more. Because, you know, they know that's not true, but they're doing their job."

I waited.

"They do a lot of different cases," she added. "A lot different. So I think they know why you come to America. It's because you're poor. You don't have a lot of money. And you don't have choices in China. Coming to America is a good choice. It's much better than China. I think they know."

In Hua's reflections, we see what Foucault calls "the modern attitude," an attitude of self-production within shifting fields of powers.

> *It is a mode of relating to contemporary reality… a way, too, of acting and behaving that at one and the same time marks a relation of belonging and presents itself as a task… It [is] an attitude… in which the critique of what we are is at one and the same time the historical analysis of the limits that are imposed on us and an experiment with the possibility of going beyond them.* (Foucault 1984:37, 50)

In the process Hua described, becoming a citizen is not a top-down process; it depends on how Hua is constituted by attorneys, and how she reconstitutes herself and her family *to* attorneys (see Ong 1996). Lixue, another young migrant, similarly identified the scripting of a migration and family narrative as a shrewd, collaborative process between herself and her lawyer, a

specific "self-making" that engaged with the T visa framework as both a limitation and a source of possibility.

"The first time I met with my attorney," Lixue told me, "we didn't talk. We just go to court. Bonnie [Lixue's attorney] said, 'I'm your lawyer.' That's it. Later we talk."

"What did you talk about?" I asked.

"She said to me, 'You don't have to be a Christian.' You don't have to lie. We can help you do your case."

"What did she mean?"

"She said, 'We can try to get a visa for you.' It's the—" Lixue looked toward the ceiling, trying to recall the name of the legal protection.

"SIJ?" I volunteered. "T visa?"

"Yeah! T visa."

"Is that what you're trying for now? The T visa?" Her removal proceedings had not yet concluded.

"Yeah."

"What do you know about the T visa?" I asked. She tilted her head at me quizzically.

"I mean…" I paused, trying to explain. "So, pretend you are Bonnie, and I'm Lixue."

She laughed.

"Bonnie, can you tell me what a T visa is?"

"Okay!" Her dark ponytail bounced as she leaned forward. "The T visa is something for children."

"Yes?"

"Not adults. And it's because in China, your parents—or somebody—hurt you. You can't stay in China anymore. So you have to go to America. It's something like, your parents don't like you. They hurt you. They try to kill you. Or it's like, nobody wants you. You don't have anywhere you can stay. You have to go to America."

"Okay," I said, "But what if my parents were nice to me? Then what?"

Lixue nodded knowingly. "Bonnie didn't ask me, 'Are your parents good or not?' She just asked, 'Why did you come to America?' And I say, 'I need money.' Or 'My parents are bad.' You can say, 'If you don't send money, the smuggler will hurt your parents and your brother. And the smuggler is bad. If you do not give them money, then they will hurt you.'"

Significantly, many youth garnered these strategies *from* smugglers. Aware of the legal options available to youth travelling alone, some snakeheads instruct young migrants to lie about their age if apprehended, and to prepare a specific narrative of abuse or exploitation for the telephonic intake evaluation they will receive from an attorney, as Hua did. A number of youth recounted how smugglers diminished or even celebrated the threat of apprehension, describing to their charges the free legal aid they would receive if deemed UACs, and the provision of food and shelter to youth in ORR custody.

Uniquely positioned between and able to access a variety of perspectives, youth continuously evaluate lawyers' and smugglers' advice against the transnational connections and communication they maintain with other Fuzhounese. Not only does the information youth obtain from other migrants include discursive strategies for "collaboration" with attorneys, but it also contains a variety of perspectives on legal advocacy more broadly. While the majority of the youth I interviewed did utilize an immigration cause lawyer, some declined these advocates' offers of free assistance. Explaining the decision to me, one individual recalled the advice of

peers who had already migrated to the U.S. and with whom she communicated on QQ, a Chinese instant messaging site. It's better to hire a private attorney, warned her friends. Private attorneys might cost more, but they work faster and they're more successful than *pro bono* advocates.

Chaoxiang, a young man I first met in shelter care in Chicago, decided with his father to hire a private attorney when he aged out of an ORR detention center (turned 18) and moved to New York. "It's such a bad decision!" Joan, Chaoxiang's legal advocate in Chicago, told me when she heard the news. "He's going to go with Marty Davis, I know it." Davis, a private attorney in Manhattan's Chinatown community, was infamous among immigration cause lawyers for dispensing misleading advice and ignoring the particular forms of relief for which unaccompanied Fuzhounese clients could be eligible.

Chaoxiang *did* go with Marty, and things proceeded as Joan predicted. The attorney was evasive with Chaoxiang, rarely returning the young man's calls. He never asked Chaoxiang for information and only gave vague assurances when they did finally speak, usually in a waiting area outside an EOIR courtroom in New York City. Sitting beside Chaoxiang on one of his court dates, I listened as Marty leaned toward the young man and said confidently in English, "You have a seventy-five percent chance of winning your case." Chaoxiang nodded, not understanding. He sat stiffly below the buzzing fluorescent lights, his gelled hair swept carefully across his forehead, his navy suit snug and new. It was an impossible claim, but Chaoxiang seemed too tired to care when I whispered it to him in Mandarin.

It was clear that whatever impatience Chaoxiang felt in New York was matched by his frustration and regret about the time he spent in Chicago. To Joan's chagrin, Chaoxiang was never particularly concerned about the quality, cost and overall altruism of an attorney—he simply wanted to work and obtain legal status. "The person I was smuggled here with was

twenty-one," he told me. "She didn't have to go into UCP [an ORR shelter facility in Chicago] like me. And she's been working for years. She got asylum right away because of a Falun Gong claim."[88] He wrinkled his forehead, "She's already legal. I had to wait in Chicago, and now I have to wait here. I'm losing a lot of time."

Between Status and Care: The Fraught Cause and Professional Purpose

While Joan was grieved and frustrated by Chaoxiang's decision to partner with Marty, she was also not particularly surprised. Like other cause lawyers who work almost exclusively with Fuzhounese youth, Joan often felt "used" by this population of UACs (see Chapter 2). She had frequently encountered youths' singular urgency to work and their individual or shared family resolve to pursue certain legal outcomes. This was a doggedness that might lead to creative youth-attorney "collaborations," as with Hua, or in the case of Chaoxiang, an outright rejection of what Joan identified as the better prepared, more sympathetic and *free* advocacy that she and other immigration cause lawyers could offer.

This reality introduces another important tension, most simply: What is the purpose of the legal protections attorneys so aggressively vie for, and of cause lawyering on behalf of UACs more broadly? Is it for the provision of legal relief, or for youths' welfare and safety? In many cause lawyers' minds, a choice can—and must—be made between the two. At the 2012 "On Their Own" conference, an attorney presenter stated, "Immigration judges aren't bad people, but there's confusion among them about whether SIJ is just for immigration benefits or for *the right thing*—the protection and care of the child." Audience members nodded in agreement.

[88] A spiritual discipline of meditation, qigong exercises and moral philosophy, Falun Gong has also been described as a religion; a cult; and a dissident spiritual movement (see Porter 2003; Lum 2006). In the 2005 Report on International Religious Freedom, the U.S. State Department designated China a "country of particular concern" (CPC) owing to the continued arrest, detention, and imprisonment of Falun Gong practitioners (http://www.state.gov/j/drl/rls/irf/2005/). A popular and often suspect asylum claim, a number of attorneys referenced Falun Gong as another instance of "the jig is up."

In a later conference panel on the benefits of U visas and T nonimmigrant status, another lawyer described her experiences with local law enforcement. “I don’t know about you,” she said to her colleagues, “but law enforcement is very hesitant to sign certification of the victim.[89] They’re worried it’s all about giving benefits, but it’s not! And it’s the same thing with DCFS [Department of Child and Family Services]. In Chicago, they won’t sign for anyone who’s not in their care and custody, and it’s rare that they do for the children who are! And DCFS has authority to do this because they have investigative powers. The people at DCFS are afraid that they’re granting them immigration [status].”

In these and other instances, attorneys publicly diminished the relatively concrete outcome of legal advocacy, namely Lawful Permanent Residence (LPR), in favor of a more ambiguous objective, the professional and ethical provision of *care*[90]. While some attorneys continued to emphasize best interest over LPR when discussing Fuzhounese youth, it was clear that the appreciation and deservedness they expected from their clients was neither straightforward nor wholly satisfying. As I have traced in this chapter, Fuzhounese UACs present a series of uneasy, oppositional choices attorneys must make, both as they fit their clients

[89] A petition for U nonimmigrant status must contain a certification of helpfulness from a certifying agency. That means the victim must provide a U Nonimmigrant Status Certification from a U.S. law enforcement agency that demonstrates the petitioner "has been helpful, is being helpful, or is likely to be helpful" in the investigation or prosecution of the criminal activity. In the case of T nonimmigrant status, if the victim is under the age of 18, he or she is eligible for certain benefits without the requirement of certification. http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/questions-answers-victims-criminal-activity-u-nonimmigrant-status. See also: http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status/questions-and-answers-victims-human-trafficking-t-nonimmigrant-status. Accessed 2/5/14.

[90] I evaluate various interpretations of “care” in more detail in Chapter 6. For now, it’s important to note that no attorney ever explicitly connected “care” to tangible immigration benefits like the permission to apply for Temporary Assistance for Needy Families (TANF); Supplemental Security Income (SSI); Medical Screening; One-Stop Career Center System; Housing Choice Vouchers; and so on. This evidences what I believe is a deliberate, context-specific interpretation of care: In the legal realm, cause lawyers defend their work as the provision of care to set themselves apart from “other,” presumably private attorneys who apply for asylum, t visas, or SIJS for legal status and benefits, rather than to “protect” individuals who would be unsafe in their countries (or families) of origin. Of course, cause lawyers recognize that skepticism exists as to whether or how different their work really is from these practices: Recall here IJs’ “confusion” regarding attorneys’ motives. Yet elsewhere, particularly as attorneys grapple with the shortcomings of advocacy (namely an inability to extend protection to other, meaningful areas of youths’ lives such as labor), “care” is equated with legal status.

into the appropriate legal framework and as they ostensibly identify and address these youths' best interests. Are these youth—*and should these youth be selectively framed as*—alone (unaccompanied) or in context? As children or young adults? As child victims or as agents of their own migration journeys? As dependent upon legal advocacy or "collaborative" or—more unsettling yet—independent clients? Are Fuzhounese parents neglectful and coercive, or are they acting in their daughters' or sons' best interest?

To many cause lawyers, Fujianese UACs' anticipated "worthiness" of legal relief is unsettled by their relatively older age, language(s), economic goals and transnational relationships. Likewise, they do not always appear to merit—or want—lawyers' best interest advocacy. After all, writes Kristen Cheney, "what is categorically meant to be 'in a child's best interest' is really what adults deem to be best for maintaining social cohesion through the constructed boundaries of childhood as a particular stage of *innocence* and *dependency*" (2007:14, emphasis added).

Why, then, do cause lawyers continue to advocate so diligently on behalf of Fuzhounese UACs? In the next chapter, I suggest that this advocacy is rooted in a vision of professional success that privileges best interests—and the best interests of the child standard[91]—as its most marketable political and moral purpose (see Scheingold and Sarat 2004). By looking carefully at the development of a "spectacular" Fuzhounese UAC case in the legal realm and its deployment elsewhere, most notably in media and fundraising campaigns, I argue that lawyers undergird this professional purpose by relying on a form of American exceptionalism—and, correspondingly, the generally disparaging portrayal of Chinese families I introduce in this chapter. Not only does

[91] Many of the lawyers I interviewed direct or participate in a national campaign to incorporate the best interests of the child standard "as a universally accepted principle" (for its codification in the UN Convention on the Rights of the Child, or CRC) in the Immigration and Nationality Act. http://theyoungcenter.org/learn/best-interests-policy-advocacy/. Accessed 2/5/14.

the spectacular case continuously establish these lawyers' own subjective jurisdiction, i.e., construction and "treatment," of an increasingly public population of young migrants (see Abbott 1988), but it likewise reveals the necessity of maintaining professional legitimacy, particularly within the unique, often restrictive context of organizational missions and mandates. As I demonstrate, however, while this case allows attorneys to successfully substantiate their "cause" to themselves and others, it proves fraught beyond the legal realm, in the broader context of family, employment, and well-being (or *best interest*) of Fuzhounese youth themselves.

CHAPTER 5
"I'LL LET YOU TELL THE NEXT PART OF THE STORY": THE SPECTACULAR CASE

I. From Case to Cause: An Introduction to the Tragic Account
"And then there was that Chinese kid who beat his head against a pillar"

On a July afternoon, I rode with an attorney from her office in Chicago to an ORR shelter facility on the north side of the city. It was a long drive, nearly an hour, and we were quiet as she steered her minivan away from the tree-lined avenues of the Midway Plaisance toward Lake Shore Drive. The heavy whir of cicadas echoed into the open windows, and we passed men fishing on the footbridge above the Columbia Basin, its still water mirroring the white façade of the Museum of Science and Industry. While Maria[92] haphazardly grabbed for her sunglasses at a stop light, I watched as students walked along the shadowy paths of the university. Beyond them, young children shouted to one another, careening after soccer balls on a worn grass field. A clanking, powder blue city garbage truck screeched to a stop behind us, and ahead, Lake Michigan was a swelling streak of indigo, pulsing and crashing in the midday sun.

It was a quintessential Chicago summer day on all sides—yet how surreal, I thought, to be traveling to an unassuming, sealed off *detention center*. Still in the early stages of my research, I wasn't sure what to expect. To conceal my apprehension, I began asking questions.

> *How many Chinese kids are usually in the shelter?*
> *Why do you think they're here?*
> *How did you first learn about them?*
> *What were you doing before you started your organization?*
> *Did you always want to practice immigration law?*

Nearly five years later, I think about these questions with some chagrin. Their predictability was signaled by the ease with which Maria answered them, the natural outcome of

[92] Much of the data I draw on in these introductory sections are based on media reports, firm profiles and legal briefs. Because these are public documents, some of which were authored by or contain interviews with Young, Maria, John and Hannah, these four actors are not assigned pseudonyms in this chapter.

so many conversations with reporters and board members and potential funders throughout the years. But still she complied, and with characteristic steadiness and conviction her responses began to meld together into a gripping narrative. Unaware of how familiar it would soon be to me, I was captivated.

There was this boy named Young Zheng.[93] She never said his surname correctly; it was always a silky "shang" instead of something closer, like "jung." *There was this boy named Young Zheng. He was from a small province in China. He was smuggled by ruthless traffickers at the age of 14, and expected to work off a debt of $60,000.Zheng was the second child born to his family—he was an involuntary lawbreaker subject to government punishment. His mother was dead, and his father had decided it was time to get him out of the home he shared with his new wife. He made a deal with the snakeheads, promising that Zheng would work to pay the debt.*

Out my window, cyclists in colorful jerseys and shorts sped along the lakefront path. Our car fell under the heavy shadow of Soldier Field then eased into the bright light, now filtered by low trees and the sails of yachts bobbing and dipping in the harbor.

But instead he was nabbed at Newark Liberty International Airport and spent a year at a Berks County, Pennsylvania, detention center, where conditions were so bad that the place was later shut down. Then Zheng was transferred to the Chicago shelter, where staff members

[93] In this section I re-present Young's story by juxtaposing the multiple retellings of it I encountered throughout my research. These include interviews and informal conversations with Maria as well as news stories, fundraising campaigns and organizational promotions in which she—and sometimes Young—recounted his migration and legal journey. See Youseff, Odette. "Number of unaccompanied immigrant youth coming to U.S. rises." 6/4/13. WBEZ Afternoon Shift. https://soundcloud.com/ afternoonshiftwbez/immigrant-minors-beyond-the. Accessed 2/9/14; http://theyoungcenter.org/. Accessed 2/10/14; Gibson, Lydialyle. "Nobody's Child." University of Chicago Magazine. Mar/Apr 08 (100):4. http://magazine. uchicago.edu/0834/features/nobodys_child.shtml. Accessed 2/12/14. I also include excerpts from relevant case files and news articles detailing Young's case. These citations are footnoted. My deep appreciation to John Sullivan and Hannah Sibiski for sharing so many legal, and often very personal, documents with me.

summoned me. He was terrified and traumatized. He didn't understand why he was in the U.S. He thought he was here to go to school. When he was transferred to Chicago, we started serving as his child advocate and advocating on his behalf so he could be reunified with his uncle. We were also advocating with the lawyer who was representing him at this time. This lawyer would not return any of his calls. He would send letters to the lawyer, and the lawyer wouldn't call him back. Sometimes the lawyers are associated with the smugglers and the traffickers, they'll hire the lawyers to get kids out of custody.

We were able to get Young released and reunified with his uncle in Ohio. There, he attended school and received straight A's. He also had to go and meet with immigration officials once a month. He did this dutifully. He would ride two buses and a train to get there. And one month they told him, "You can wait three months before you come back." But then the next month they called and said, "Where are you? You're supposed to be here." Young went to their offices and he was handcuffed and shackled and the very same day flown to Chicago, which was where we were able to meet with him again. And we put him on the phone with the lawyer who had been representing him, and the lawyer basically said, "There's nothing I can do, there's nothing I can do, but you need to pay me more money, but there's nothing I can do."

A mile north, we neared the unique upward expansion of 300 E. Randolph, where heavy steel beams jutted from the office building's roof and loomed over the edge of Millennium Park. In three years, I would hear this story again, now from the 50th floor of the completed building. It would be told by Maria to a crowd of colleagues, friends and benefactors seated along a wall of windows in Baker and McKenzie's new law offices, joined together for a fundraiser on behalf of the organization Maria directed. Beyond the glass doors by the elevator, there was a small reflecting pool. Below us, the streetlights along Lake Shore Drive blinked on in the dusk.

In Chicago, they took him to the airport to deport him to China and he was so upset. He kept throwing up on the way there. And once they arrived there, he was still shackled and he was so panicked about returning to China that he hit his head against a concrete pillar at the airport. He hit his head so hard that he passed out.

> *He was so scared to return. He bashed himself against a wall to avoid being sent back to China.*[94]
>
> *In a desperate attempt to stay in the U.S., [he] beat his head into a wall to avoid deportation back to China, where his unpaid smugglers awaited his arrival.*[95]
>
> *And then there was that Chinese kid who beat his head against a pillar…*[96]
>
> *He was so terrified of being deported back to China that he… smashed his head into a wall, knocking himself unconscious and requiring a brief hospitalization. "I will be killed if I return to China," Zheng told The Associated Press in a phone interview from a federal juvenile detention facility.*[97]
>
> *Young's fear [was] so great that during a deportation attempt in April, he repeatedly hit his head against a wall in an effort to stop authorities from putting him on a plane to Hong Kong. "I was trying to kill myself because I was so scared," Young told Reuters. He said he didn't know whether he would do something similar if U.S. authorities tried again to deport him.*[98]
>
> *Handcuffed and escorted by U.S. immigration officers to a plane bound for China, the teen momentarily escaped and slammed his head into an airport wall so hard that he blacked out and had to be hospitalized. So intense was his fear of returning to face his smugglers in China that Zheng said he was willing to do anything to stay here.*[99]

---

[94] Blumenthal, Ralph. "After 3-Year Battle, Chinese Teenager Is on Road to U.S. Citizenship." New York Times 4/11/06. http://www.nytimes.com/2006/04/11/us/11smuggle.html?_r=0. Accessed 2/10/14.
[95] Business editors. "Fulbright Attorneys Successful in Getting Green Card For Young Zheng." Business Wire. 9/27/06. http://www.chron.com/news/article/BW-Fulbright-Attorneys-Successful-in-Getting-1865827.php
[96] Interview with immigration cause lawyer in Memphis, 5/14/12.
[97] Rieken, Kristie. "China Teen Fears He Will Face Death if Deported to China." Associated Press. http://archive.kare11.com/news/news_article.aspx?storyid=99017. Accessed 2/12/14.
[98] Hurdle, Jon. "Smuggled Chinese boy pleads to stay in U.S." Reuters. 7/11/05. http://www.alipac.us/f12/chinese-teenager-who-faced-deportation-gets-green-card-5403/. Accessed 2/13/14.
[99] Hegstrom, Edward. "Teen from China sees asylum as only hope." *Houston Chronicle* 6/8/05. http://www.freerepublic.com/focus/f-news/1418757/posts. Accessed 2/13/14.

Maria continued: *He'd been told he was better off dying in the United States than coming back to China and putting everyone at risk. After all, he hadn't been working to pay the smugglers, and men had shown up at his father's house to ask for the money.*

The concussion didn't kill him, but it did prevent him from flying to China. Zheng was sent to a secure facility in Houston, where we found him pro bono *attorneys. He remained under constant threat of immediate deportation… During his first two weeks in lockup, he was closed, quiet, blank.*

It was a tragic case, and also one of redemption. As I would come to know Maria better, along with Young and Young's team of lawyers in Houston, my admiration for the tenacity, creativity and commitment these individuals shared would only grow. Incredibly complex, the case revealed the exhausting intricacies and contradictions of the U.S. immigration system, as well as the almost incomprehensible dedication and legal skill needed for success.

Yet the *story* of Young and his family, or, more specifically, the telling of it, continued to unsettle and perplex me. Encountering it again and again, whether at fundraisers or in media reports (of which there are many, as demonstrated in the citations above), my unease grew in proportion to my familiarity with the narrative.

I began to visit the shelter on my own as a volunteer, meeting with a young man from Fuzhou once a week. We talked about his family, and about how we each liked to run and swim. Li described his running route in his hometown, tracing it with his finger on a piece of paper. I told him about seeing a fawn on my run that morning, mimicking and then drawing a deer when my efforts to recall—or really, invent—its Mandarin equivalent failed. He laughed easily as we sat in sunlight filtered by mirrored, one-way glass.

When Li had a court date, I took the train downtown and sat beside him and other young men from shelter care, nearly all of whom were from Guatemala. In the gray light of the waiting room, I sneaked pieces of gum to everyone and Li translated my questions to his friends from Mandarin to Spanish, which he was learning in the shelter facility. He was relaxed as we waited. Older and considerably taller than those lined up beside him on the heavy wooden bench, he cracked jokes quietly, a clear endeavor to interrupt the anxiety around him, the nervousness betrayed by wrinkled foreheads and wane half-smiles.

Every child has their own story, Maria said, *although I will say the situation of all of the kids coming from China actually is nearly identical to Young Zheng's story. They're all coming from one very small province in China… from very similar situations of having debt, not really choosing to come here but being sent here by their families and coming from cultures where they can't say no to their parents.*

The Story of Young, the Story of His Lawyers:
Conventional Lawyering and the Origins of a "Cause"

As discussed in the previous chapter, the explanatory paradigm of youth "being sent" to the U.S. by deviant, abusive parents, and of youth being financially and culturally obligated to the Chinese family firm (Greenhalgh 1994; Dos Santos 2006), is prevalent and arguably *necessitated* as lawyers attempt to fit Fuzhounese clients into limited legal frameworks, i.e., "the right boxes." Yet how to explain the circulation of strategic narrative elements—the "selected identities and rejected contexts" of Chapter 4—*beyond* the legal realm? How to explain the pervasiveness of brutal details as well as the collapse of nuanced personal histories and the breezed through political and geographic inaccuracies? How, I wondered as I and Maria came to know Li better, could it be appropriate or even ethical to compare his and other Fuzhounese

youths' relatively mundane migration experience to Young's, even to say they're "nearly identical?"

In the previous section, the circulation of "selected identities and rejected contexts" is perhaps most compellingly evidenced in media reports that, while otherwise differing in content, never fail to mention Young's visceral, frantic moment at the airport. *And then there was that Chinese kid who beat his head against a pillar… He bashed himself against a wall… [He] beat his head into a wall to avoid deportation…* Yet the titillating focus on a heartrending act of desperation is not simply a tactic of sensational journalism. As I argue in this chapter, it is more significantly a facet of a legal narrative strategically introduced by cause lawyers to a public audience, a motif intended to reveal tragedy and need and, as I discuss later, a very specific remedy.[100]

Consider, for instance, a Chicago public radio program in which Maria was interviewed about the recent influx of unaccompanied youth to the U.S.[101] Young, now a graduate student, was also asked to participate in the conversation; his story, noted Maria and the program host, would give listeners a picture of UACs. After sharing some introductory statistics on unaccompanied minors, Maria began to narrate Young's migration journey and experience in the U.S., a recounting I draw on heavily in the preceding section. As the dramatic tension grew— *he was handcuffed and shackled and the very same day flown to Chicago*—she paused expectantly. "Young, I'll let you tell the next part of the story." With an almost audible nudge, she added, "Which is when they took you to the airport." It was a telling moment. Not only did Maria

[100] The "solution" is almost always the cause lawyer. See Section 2.
[101] The U.S. Department of Homeland Security estimates that more than 60,000 unaccompanied minors will enter the United States during 2014. Significantly (particularly when we consider Young as the "representative" case or anecdote), El Salvador, Guatemala and Honduras have the highest numbers of UACs arriving at the U.S.-Mexico border (see Millman and Jordan 2014).

demonstrate an uncomfortably conspicuous reliance on Young to provide the painful details *in his own words*, but her cagey reminder—*which is when they took you to the airport*—exposed a watchful determination that the story follow a specific, tragic path.

There are easy explanations for such a deliberate retelling, of course. Most obviously, the dramatic storyline sells, both as compelling legal testimony (and evidence, see Chapter 2) and in the popular press. Yet how it sells a *cause*, and why, is the more uneasy and meaningful question this chapter considers. To do so, I first introduce the "Young Team," the group of attorneys who agreed to take on Young's case *pro bono* when he was moved to a secure shelter in Houston. While interesting in their own right, these lawyers' candid recollections also underscore the relevance of practice site,[102] the meaningfulness of sustained, relatively autonomous advocacy, and the unique "entitlement" they and Young have of this legal and deeply personal account.

I then move to a more factual overview of the case. Drawing extensively on court documents, I trace the discursive development of many of the oppositional categories I examine in Chapter 4—the vulnerable child and the suspect parent, for instance—but I also highlight other moral judgments and perceived cultural values about education, citizenship and justice that emerge as the case progresses. While this "scripting" is important in qualifying Young for SIJ status, the Young Team's primary struggle ultimately proves less about appealing to the limited *language* of legal relief than about *access* to pursue legal relief. Indeed, these attorneys' eventual success reveals much about the bounds and possibilities of professional practice, the opaque nature of the U.S. immigration system and the rewarding potential of legal advocacy.

[102] By "practice site," I mean the specific setting in which lawyers practice, such as a large private firm or a small, regional nonprofit that relies on state and federal funding. "Practice sites help shape cause lawyering by providing different opportunities while imposing different costs. They make certain strategic decisions possible, while foreclosing others." (Sarat and Sheingold 2005:11).

Yet however critical these hard-won insights are to Young's migration and legal journey, they are for the most part absent when the story is taken up and disseminated by cause lawyers. I explore the ramifications of the spectacular, and almost exclusively tragic, version of this account in more detail in the final section, when I return to the "Chinese kid who beat his head against a pillar."

I met Young in the spring of 2012 and, later that summer, visited him and his team of attorneys in Houston. At a sandwich shop near the shimmering glass tower where their firm was located, I met with the three attorneys who comprised "the Young Team." While Audrey, Hannah and John had been quite formal when we first met in their offices, the three grew disarmingly animated as they began to describe Young's case. They shook their heads with frustration, sighed, waved their arms across the table, interrupted one another. I asked very few questions, furiously taking notes and the occasional bite of a sandwich. "We had three days to file an application for a stay of deportation," Hannah recalled. "We filed under emergency basis, and when we received the letter that had the stay, I'll *never* forget that moment." She unclenched her clasped hands and stretched open her fingers. "I wasn't breathing. It was our first victory, and at a really difficult time." Suddenly, she laughed loudly. "Both John and I had car wrecks that summer! We were driving everywhere, and often with other attorneys in the car." John, the lead attorney on the case, and a tall, staid man I would come to know as particularly warm and generous, rolled his eyes. "We drove everywhere," Hannah continued, "and every person in the car would be on the phone, trying to get information and file papers."

"The second step," she added, "was a publicity campaign. There was a story about him on NPR, and we got Young listed on the first page of the *New York Times*."

> *He earned a 4.0 grade-point average in high school, his teachers wrote the courts, and arrived late only when he took the bus to report to the immigration office.*

Meanwhile, his uncle, a cook, said in a separate sworn statement that he began getting calls from "one of the snakeheads" demanding payment of $60,000. Finally, he said, he quit answering the phone.
In February, the uncle said, Young told him that he had been directed to report only every three months.
But when Young showed up in April, Mr. Sullivan said in federal court on Friday, "they handcuff him, they shackle him, they throw him on an airplane, they fly him to Chicago to catch a connecting flight to Hong Kong."
On the phone, Young said he broke free in the van. "I just run two blocks in the street," he recalled. Recaptured and taken to the airport, he said, "I saw the airplane in front of me, and I was so afraid I hit the wall."
Mr. Sullivan said in court, "He smashes his head against the wall three times and knocks himself unconscious." That put off the deportation, which Mr. Sullivan urged the court to stay further. But Judge Melinda Harmon said she doubted that she had the authority to do so.[103]

"So we stayed deportation," Hannah continued. "But what we were trying to do with the third circuit and the BIA [Board of Immigration Appeals] was never going to work. It was so hard. I remember being on the floor in my kitchen, crying. I called John. 'You'll think of something,' he told me." She shook her head and smiled. "He was always so calm. He and Young were always so calm and full of faith."

John, who was indeed the most composed of everyone at the table, smiled slowly. "I don't know how calm *I* was," he said, "but Young always surprised us."

Everyone laughed, nodding. I waited.

"We would always have to find the perfect time to talk to Young about his case," he said. Young was in a Houston detention center during this period. "And I would explain it to him very carefully and tell him everything we were planning, and then I would ask, 'Is there anything you need? Anything I can get for you?' It was such a complicated case, and I knew I was giving him a lot of information. And Young would simply reply—" At this point, everyone leaned in, smiling with anticipation.

[103] Blumenthal, Ralph. "Chinese Boy Asks for Stay of Deportation, Citing Fear." New York Times June 8, 2005. http://www.nytimes.com/2005/06/08/national/08deport.html?pagewanted=all&_r=0. Accessed 2/17/14.

"'Yes, can you get me some lotion? My skin is really dry.'"

The laughter was raucous. Quickly, however, John's face grew dark. "At the time, John Pogash was the National Juvenile Coordinator at DHS and ICE,[104] and the only person who could grant consent for Young to enter juvenile court. He was the czar. I did everything I could with this guy. At a conference we both attended, I took him out for drinks, and at the end of the meeting, I said, 'Please. This case is legitimate. This is serious.' And Pogash, who was clearly all about power, loved it. You could see that. We would have very cordial, informative email exchanges, but then at crunch time, he would pretty much say, 'Mmm… No.'

"A key factor in this was that I got someone to ask Pogash about the criteria he followed in making a decision, and on the record he said something like, 'Well, it's on an individual basis, and if someone seems [to be like this], I decide yes.' This allowed us to later appeal under an Administrative Protection Act, arguing that Pogash was acting in an arbitrary and capricious manner. Young should have had permission to go to state court [to get a dependency order for SIJS], and he wouldn't grant it." Here, John looked at me directly. With uncharacteristic emotion, he added, "Until you get into something like this, you think the government operates fairly. But this is third world dictatorship—dragging people and putting them on a plane." He scowled. "At this point in the proceedings, the government became just *vindictive*. We were granted permission to go to state court, but an ICE lawyer followed us there and filed an opposition! I mean, he didn't even have standing in family court! But still, the judge allowed it." John shook his head.

John's disgust with ICE, and his frustration with the U.S. government more generally, was familiar. When I travelled to Houston it was near the end of my fieldwork; I had already

[104] In 2005, Pogash was chief of the national juvenile coordination unit of U.S. Immigration and Customs Enforcement (ICE), a branch of DHS. As such, it was necessary to secure his consent for Juvenile Court Jurisdiction.

encountered many cause lawyers who expressed and appeared motivated by impatience for what they identified as an inconsistent, ineffective and ultimately unjust immigration system.

Still, it is important to point out that John and the others at our table that day would most likely *not* self-identify as cause lawyers, a detail most prominently indicated by their practice site (see Sarat and Scheingold 2005). At the time of our interview, they worked together at a private Houston firm known for its success in oil and gas litigation. John's primary practice was commercial disputes, and he also specialized in energy projects and transactions. Hannah's focus was business litigation and appeals. Audrey eventually left the firm to work for ExxonMobil. When Maria contacted John and he agreed to accept Young's case pro bono, "it was without any experience working on behalf of unaccompanied youth," he told me. "We were so naïve. We didn't know what we were getting into." Hannah nodded vigorously. According to one time summary of the case, John logged over five hundred hours on it, Hannah nearly four hundred. Combined with other attorney and timekeeping personnel, the firm granted 1,651 hours (worth $466,481) to Young's asylum appeal alone.[105]

"It was financially and emotionally grueling," said John. "And we've since done other [related] pro bono work—Know Your Rights presentations with unaccompanied youth, screenings, you know. And there are compelling, sympathetic stories, but they're not all perfect cases. There was an Indian kid, he was like a Young from India, but he wasn't truthful. He was convinced of his story. It's like it *became* true to him." John was sympathetic. "But we were disappointed. We lost some credibility with the court. With pro bono work, you have to be careful, and successful, because you're being paid by the firm and you have your own other *paying* clients."

[105] Time Summary for Client 040906 Pro Bono. File accessed 7/20/12.

"And pro bono work changes all the time," added Hannah. "At Fulbright [the firm where John and Hannah worked when they took on Young's case], they wanted us to do pro bono, because it was good publicity and would be attractive to potential new hires. But at the smaller firm we're at now, they can't really support it. The attitude is just, 'Do it if you can.'"

For John and Hannah, then, cause lawyering was not so much an identity as it was an opportunity, a choice weighed against other commitments, strategies, firm demands and professional relationships and reputations (e.g., John's mention of credibility). Accordingly, write Austin Sarat and Stuart Scheingold, "Pro bono programs in *corporate firms* entail the greatest constraints. In return for a more than comfortable income, the time open for cause lawyering is very confined, as is the choice of causes and the means to pursue them" (2005:12, emphasis in original).

Still, John's advocacy on behalf of Young extended far beyond the general expectations of a pro bono program in a corporate firm. As I spent more time with him and his family, it was clear that Young's case had become a particularly meaningful endeavor, one that represented and profoundly integrated his personal life, faith and legal practice. Once Young turned 18 and was eligible for a green card, he was offered temporary housing through Catholic Charities. He was also invited by John and his wife to move in with them and their four daughters. He accepted. Young continues to live with the family when not in school, and in 2011 he changed his surname to Sullivan. "My parents [John and Kriste] really have a great heart," he told me. "They are—and I'm not, you know, dramatic—they are two of the best people I've ever known. In my entire life. Two people with great heart and genuine desire to help out a person. There's no way I could say no. So I came and lived with them. After a little bit, I start mixing right in, sort of became one of the kids… And I got baptized. And when I was baptized, they were listed as my parents."

Yet however intimate and sustained his relationship with Young, never did John's legal advocacy appear to incite a deliberate reorientation of his career for the singular promotion of "a cause" (see Sarat and Scheingold 2005). He is now the partner of a firm that specializes in oil and gas transactions and, while still a proponent of pro bono service, also actively presents and publishes on the Work Product Doctrine, contractual risk management, indemnity, and trade secret litigation.

II. Whose Story?: Empathy and Entitlement

Of course, the question this chapter explores is not whether someone *is* or *isn't* a cause lawyer. Instead I am more concerned with the *production of a cause*, and what I believe to be both its impetus and its outcome, the considered *production of a cause lawyer*. Consequently, the Young Team, comprised of conventional lawyers, is important to consider: After all, their presentation and re/presentation of Young's story compellingly underlies this productive process.

As private attorneys, the professional identities and success of John and Hannah were not entangled with or dependent upon a cause in the same way as Maria, the director of a legal advocacy nonprofit, or most of the other lawyers I interviewed for this research. Yet their role in shaping an account that took on a larger meaning, what Amy Shuman calls "the process of transvaluing the personal to the more than personal" (2005:4) is significant.

> *In listening to or even retelling other people's stories, narrators become witness to others' experiences, and storytelling provides some hope for understanding across differences. But I propose a caution. The appropriation of stories can create voyeurs rather than witnesses… Appropriation can use one person's tragedy to serve as another's inspiration… Storytelling offers as one of its greatest promises the possibility of empathy, of understanding others… Empathy offers the possibility of understanding across space and time, but it rarely changes the circumstances of those who suffer. If it provides inspiration, it is more often for those in the privileged position of empathizer rather than empathized.* (Shuman 2005:5).

The Young Team's shared experience with Young permits a sort of entitlement claim to his story, an intimate understanding evidenced in the assured, profoundly heartfelt retelling I encountered at the sandwich shop in Houston and during later conversations with Young, John and the rest of the Sullivan family. Yet in the course of my fieldwork—and indeed, even in my first conversation with Maria—many cause lawyers also exhibited or claimed a sense of "ownership" of Young's story, including those who had only anecdotal knowledge of his case. In an ironic, troubling twist, I believe this reappropriation reveals fissures in—and perhaps even thwarts—the relationship and moral commitment presumed intrinsic to cause lawyering (Scheingold and Sarat 1998; see also Menkel-Meadow 1998). "The use of entitlement claims [to others' personal stories]… sometimes undermines empathy and the possibility of understanding across differences in experience," writes Shuman. "Often, entitlement claims are alibis for a failure of empathy" (2005:4).

The Spectacular Case: The Threat of Smugglers, the Threat of Family

> *A "cause" is not an objective fact "out there." A cause, rather, is a socially constructed concept that evolves… The assumed social type of a lawyer for a cause may misleadingly signify an unproblematic acceptance of the cause as a reified fact that one simply promotes through legal means. Yet… it is in the very act of legal representation that a cause… is asserted or defused, comprehended or dissolved, recognized or silenced. Cause lawyers, in short, are not simply carriers of a cause but are at the same time its producers: those who shape it, name it, and voice it.* (Shamir and Chinski 1998:231, emphasis added).

As we find in in the strategic recounting of Young's story, the case was gripping, infuriating, truly spectacular.[106] While the actual motivations underlying Young's migration journey were likely not so different from those of Li or other Fuzhounese youth—as opposed to the brusque "cultural" explanation Maria offered—it was what he encountered in the U.S. that so vividly initiated and intensified the dramatic storyline. There was a conniving attorney in

[106] My thanks to Heather Turcotte for this phrasing.

Chinatown, a youth detention center in Pennsylvania that was eventually closed,[107] shackles at the airport, vicious John Pogash. Yet as the Young Team began considering different legal strategies, and as so many elements of Young's story were correspondingly "asserted or defused, comprehended or dissolved" in the legal realm and later deployed beyond it, I believe the case came to represent all that *could* be wrong with Chinese families, the Chinese state, and "Chinese values"—and more certainly, all that *was* wrong with the U.S. immigration system. Ultimately, and with varying degrees of subtlety, it also signified all that was right about cause lawyers.

In what follows, I trace the development of Young's case—and correspondingly, the legal "framing" of Young, his parents, and his nation of origin—from its inception as a matter of suffering from and resistance to the Chinese government to its eventual conclusion as a narrative of parental neglect and American justice (and injustice). I draw almost exclusively on court documents made available to me by John Sullivan.

Young's father was born in Fujian in 1961, his mother in 1963. When Young, their second child, was born in 1988, his mother was forced to pay a 5000 *yuan* fine and undergo a forced sterilization procedure. She was killed in a car accident in 1996. Young's father remarried in 1996. According to Young, sometimes his stepmother beat him.[108]

Young left China in 2003. On January 24th he arrived in the U.S., where immigration officials quickly identified the passport and green card smugglers had given him as counterfeit.

---

[107] Maria attributed this closure to bad shelter conditions, and a *New York Times* article made mention of a child abuse scandal (Blumenthal, Ralph. "Chinese Boy Asks for Stay of Deportation, Citing Fear" 6/8/05). I remain unable to verify these claims. This is not to say, of course, that the Berks County Youth Center was not a stressful or unsafe environment for immigrant youth. As Young noted, "I was locked up in Reading [where the shelter was located], which was a high-security facility... The facility was for juveniles who break laws. So they were all criminal kids. …They had a separate section just for the immigrants, but we were in the same building. We don't see each other, because they have staff that make sure they don't see each other. So it sucks. You can't even get out. When you do get out, there's fence around, you don't know what else is going on out there." In an affidavit (5/2005), Young stated, "The Pennsylvania facility staff treated the children badly. The facility staff sometimes forced us to stand facing a wall for an entire day."

[108] Blumenthal, Ralph. "Chinese Boy Asks for Stay of Deportation, Citing Fear." New York Times 6/8/05.

He was detained at the Berks County Youth Center for a year, during which time a private Manhattan Chinatown-based attorney, Henry Zhang, applied for asylum, withholding of removal and protection under Article 3 of the Convention Against Torture (CAT) on Young's behalf. Zhang's argument centered on the "persecution and discrimination" Young and his family encountered from the government's one-child policy (namely the fine and forced sterilization of Young's mother), as well as the "even more prevalent" persecution incurred when Young started school. *His parents had to pay at least double the tuition that other students had to pay…*[109] There would also be persecution if Young returned to China, added Zhang. Because he left unauthorized, Young would be forced to pay heavy fines and be placed in jail.

The Immigration Judge was not convinced. Acknowledging *In re C.Y.Z.,*[110]which extended the scope of refugee protection to include the spouses of one-child policy victims, he stated, "I see the Board's decision in C.Y.Z. as being based upon the special relationship, or kinship if you will, of one spouse to the other. Essentially they're the nucleus of the family and share that special relationship, thus persecution to one… would be accorded deference to the non-persecuted spouse as persecution. I don't believe a child, even a juvenile in this matter, would fit within these parameters." The judge further noted that the forced sterilization took place when Young was a baby and that he had grown up and "seemingly prospered" in China. After all, while Zheng's parents were required to pay increased school tuition, never did Young

[109] Petition for Review of Decision of the Board of Immigration Appeals, U.S. Court of Appeals for the Third Circuit. Zheng Young (Petitioner) vs. John Ashcroft, Attorney General of the United States (Respondent). 12/22/03.
[110]Before 1996, the U.S. government did not recognize China's population control policy as persecutory. However, 1996 legislative amendments to the Immigration and Naturalization Act reversed this stance, broadening the definition of refugee to include those people forced to undergo abortion or sterilization owing to their government's population control regime. In *In re C.Y.Z.,* administrative interpretation of the newly amended immigration law further extended the scope of refugee protection to include the spouses of one-child policy victims (see Nortick 2007).

assert that he was not able to attend school at all.[111] The Immigration Judge denied the application for asylum and withholding of removal that September, and Zhang filed an appeal of the decision with the Bureau of Immigration Appeals (BIA) days later. The BIA dismissed the appeal in December, 2003. The attorney then filed a petition for a review of the BIA's decision. It included the following:[112]

> *Arguments 5*
> *… The IJ agrees that one spouse's persecutory act of forced sterilization can flow to the other spouse, but only because they have a special relationship or kinship of one spouse to the other. The IJ does not find that a relationship between a mother and child fits within these parameters of a special relationship. The IJ did not find that* the persecutory act suffered by the Petitioner's mother flowed to Petitioner. *However, parents and children also have a special relationship or kinship with each other. China's coercive family planning policy does not only affect the mother in a household, but also, the rest of her family… If it were not for* Petitioner's mother's resistance toward China's coercive family planning policy, *Petitioner would not have been persecuted and discriminated against at all.*
>
> *…B.3. Petitioner has a well-founded fear of future persecution if he is returned to China. …If he returns to China,* he will continue to be persecuted solely on account of his mother's resistance to the coercive family planning policy… (Emphasis added.)

While Zhang's argument is not particularly convincing, the above sections are still significant. As the first instance or "draft" of a legal and family narrative, I believe we find here the tentative creation and delineation—however contradictory—of Young's mother's role. There is a special relationship or kinship between a mother and child, writes Zhang, enough so that "the persecutory act" suffered by Young's mother intimately impacted Young. Yet almost immediately, Young's mother is no longer presented as a victim of persecution. Instead, she is portrayed as culpable, someone who *resisted* China's family planning policy and left a son vulnerable to ongoing discrimination. The blame shifts.

[111]Discussed in Petition for Review of Decision of the Board of Immigration Appeals, U.S. Court of Appeals for the Third Circuit. Zheng Young (Petitioner) vs. John Ashcroft, Attorney General of the United States (Respondent). 12/22/03

[112]Petition for Review of Decision of the Board of Immigration Appeals, U.S. Court of Appeals for the Third Circuit. Zheng Young (Petitioner) vs. John Ashcroft, Attorney General of the United States (Respondent). 12/22/03.

In June, 2004, the U.S. 3rd Circuit Court of Appeals upheld the BIA and Immigration Judge's ruling. In the government's response, Young's asylum claim was reexamined. Still in the early stages of the case, it is significant that the decision to migrate was here presented as one Young and his father made together.

> *Zheng did not learn that his mother had been forcibly sterilized until approximately 2000 or 2001, after asking his father why he had to pay higher tuition rates at school. Zheng thus told his father that he did not want to stay in China because of the discrimination to which he was subjected, and his father found a way to help him get to the U.S. in 2003. He was planning on living with an aunt and uncle who resided in the U.S. Zheng is afraid that if he goes back to China, he will be put in jail, beaten, and will have to pay a fine because he came to the U.S. illegally.*

Ultimately, the government confirmed that the Immigration Judge and BIA properly denied Young's requests for asylum and withholding of removal to China. "Zheng was merely a young man who sought to leave China because he did not like paying higher tuition fees for his education and felt he was discriminated against as an extra birth child," the document states. "To rule otherwise would, as at least one Circuit has recognized, 'effectively open our borders to unlimited immigration.'[113]"

After the Pennsylvania facility was closed down, Young was moved to an ORR-managed shelter in Chicago. He remained there until July 22, 2004, about a month and a half after the U.S. Third Circuit Court of Appeals affirmed the denial of his original asylum claim. In July, Young was released to his uncle in Ohio, with monthly reporting requirements to the Department of Homeland Security (DHS) office in Cleveland, Ohio. He began attending school and earned a 4.0 grade point average.

According to an affidavit Young made in May, 2005, as soon as he was reunited with his uncle in Akron, snakehead smugglers began calling the uncle and demanding immediate

[113] Citing Li v. INS, in which an individual's claim of a well-founded fear of future persecution based on unauthorized departure from China was rejected by relying in part on documentation that 118 undocumented migrants repatriated to Fujian were only detained "for initial screening and a fine."

payment of Young's smuggling debt. Young also learned that smugglers had begun visiting his father and stepmother in Fuzhou. "My father told me that my parents are very afraid the smugglers will torture and/or kill them. My father also explained to me that the police visited him and demanded that he pay the smugglers. Smugglers have little impact in the United States and my father explained to me that as long as I remain in the United States, I would be safe. My understanding is that my uncle and my father are being threatened because they are my sponsors in the smuggling agreement."

In February, 2005, Young was told by DHS officials he only needed to report to them every three months. When he did not arrive to the office in March, an officer called Young and requested that he come to the Cleveland office. An appointment was set for April 5, 2005. When he arrived in Cleveland, Young was informed he would be deported to China. He was shackled and taken to the shelter he previously stayed at in Chicago, where he met with Maria and was able to speak with his attorney and family members in China.

The next day, Young was transported in a van to the airport. Upon arriving, he hit his head against a wall and blacked out. He spent that night in Chicago and the next day was flown to Houston, Texas, where he was placed in a Southwest Key secure immigrant youth shelter.

His affidavit continues:

> *My father has explained to me that if I returned to China my life will be in danger. If I return, the smugglers will try to kill my family and torture me. The thought of returning to China and placing my family and me in danger terrifies me. I fear for my own life and the lives of my family… My father and stepmother have told me that they are terrified of the smugglers. They also told me on May 19th, 2005 not to come home. If I am deported to China, the smugglers will find me, torture me and could eventually kill me. The smugglers have also threatened my family and I fear for their lives and safety…*[114]

[114] Affidavit made by Young Zheng, May 24, 2005, included in Motion to Stay Appeal Pending Resolution of Motion to Re-Open and Remand and Motion to Stay Removal, submitted by Sullivan, et. al (5/26/05).

With its considerable emphasis on the threats posed by snakehead smugglers, this affidavit was included in the "Petitioner's Motion to Stay Appeal Pending Resolution of Motion to Re-Open and Remand and Motion to Stay Removal before the BIA"[115] submitted to the U.S. Court of Appeals for the Third Circuit by the Young Team on May 26, 2005. Young had been in the Southwest Key facility for over a month and a half. He had fired Henry Zhang and Maria had located John Sullivan in Houston. John agreed to take on the case pro bono.

The first thing John did was submit a Brief in Support of Respondent's Motion to Re-open and Remand[116] and Motion to Stay Removal (5/25/05). It begins:

> *Every once in a while, a case comes along that truly cries out for justice in a crowded judicial system and tugs at the heart strings of us all. In such a case, the bar waits with bated breath in the hope that justice will indeed be served. In such a case, those raised in America expect that our system of justice will indeed do honor to the unalienable rights that we all believe to be self-evident. This is such a case.*
> *Young Zheng is an exemplary seventeen-year-old boy who, if deported, will not be greeted by the warm embrace of his parents who have now abandoned him, but rather by the wrath of unpaid "snakeheads" (human smugglers) who brought him to the United States and who have repeatedly threatened his torture and death.*

The primary argument in this brief was that new facts, namely the smugglers' threats, had been raised since the BIA's original decision that could form the basis for a new CAT claim. "Young demonstrates a reasonable likelihood of prevailing in a re-opened hearing before the Immigration Judge":

> *It is reasonably likely that Young will prove to the IJ that it is more likely than not that he will be tortured and murdered by the smugglers if he returns to China.*
>
> *Young Zheng lived in Fujian Province in China. In an effort to provide Young with better opportunities and to free him from continued discrimination, Young's father and uncle arranged for him to be smuggled out of China. Young's family agreed to pay the snakeheads approximately $60,000 to help Young escape.*

[115] This motion was submitted to stay (i.e., hold off or forbid) the appeal that Henry Zhang had put forth to the U.S. Court of Appeals for the Third Circuit.
[116] Remand here refers to a court procedure, an action by an appellate court in which it sends a case back to the trial court or lower appellate court for further action.

Young is truly terrified of the smugglers. His father told him on May 19, 2005 not to come home, that Young is not his son anymore. If Young is deported to China, the smugglers have said that they will find him, torture him, and eventually kill Young and his family. Young has nowhere to turn for help other than this Board, through this motion to re-open and remand and motion to stay removal.

It is well-established that torture and murder by smugglers in China occurs and occurs with the acquiescence and support of the Chinese government… Within Fujian, family pride and community pressure have led to a general complacency by local officials and the community toward snakehead activities…

Moreover, Young also has recently been diagnosed with "major depressive disorder, single episode, mild severity" and "anxiety disorder." Young is so fearful of being deported to China that in the initial attempt to deport him, he hit his head repeatedly against the wall in the Chicago airport until he lost consciousness… Young has stated that he would rather die in the U.S. than be deported to China and suffer torture at the hands of the smugglers.

Sadly, in a recent telephone call with Young and his father in China, Young's father stated that he cannot return home and that Young is no longer his son. Young's father told Young never to call him again. Young's counsel therefore is proceeding to confirm Young's father's intent to abandon his child and is working to secure SIJS for Young. Young has no one to return "home" to in China if he is deported. Young will be homeless. Further, Young will be confined by the government and tortured by the smugglers with no one to even attempt to protect him or to help him try to escape.

Our own constitution protects children from death, even as punishment for their own heinous crimes. Young has committed no crime. His father and uncle arranged to have him smuggled to the U.S. Even if Young played a role in the decision to come to the U.S. via smugglers, which he did not, Young was only fourteen years old at the time. In the U.S., we do not allow fourteen-year-olds to be sentenced to death for their crimes… The U.S. should protect all children within its borders from the evils of torture and murder. Young is an unaccompanied child in need of and eligible for protection under U.S.' asylum law and the CAT, as well as the U.S. constitution.

He is a child with a dream—the American dream—and he has shown this Board and every person he has interacted with, from his teachers to his detention officers to his attorneys, that he has the perseverance, dedication, resilience, and heart to achieve it.

As a rousing, melodramatic incitation— *a case comes along that truly cries out for justice… the bar waits with bated breath… He is a child with a dream*—as well as a frenetic portrayal of Young and his family, I believe this document is particularly significant in the development of the "spectacular case." Before moving forward, however, it is important to

consider the context in which the brief was produced. Recall John's description of the early days of the Young Team: "We were so naïve; we didn't know what we were getting into." In just over a month, they familiarized themselves with Young's story and compiled and filed the Motion—all of this done in addition to other professional obligations. Their strategy was largely based on the advice of an immigration professor at the University of Texas. "Emphasize that there are death threats against Young if he returns," he told them.

This tactic is overwhelmingly apparent throughout the Motion to Re-open and Remand and Motion to Stay Removal (5/25/05) and the Motion to Stay Appeal (5/26/05), which included Young's affidavit. A compelling, urgent argument is made: *It is reasonably likely that Young will prove to the IJ that it is more likely than not that he will be tortured and murdered by the smugglers if he returns to China.* Alongside a variety of other supplemental evidence,[117] an affidavit made by Young's uncle further underscores the danger posed by snakeheads:

> *[The smuggler] told me that if Young returns to China, he will be killed and they will also cause trouble to Young's family in China… The smugglers are extremely connected in China. I am aware that the smugglers are very powerful and are able to bribe certain government employees. I am also aware that they have weapons and many people who are assisting them in China. They use all of their contacts to track individuals who are deported back to China… Young and the family would only be safe if Young stayed in America...*

So also does Maria's letter of support:

> *I am writing to express my extreme concern about Zheng, Young's situation… Young is a good, well behaved teenaged boy… I am very concerned that it is not safe for Zheng, Young to return to China…Young's family [told him] "you must not come back to China; because the smugglers will know about your case and they will kill you and will kill us."*

[117] Documents include: "Alien smuggling: elements of the problem and the U.S. response" (usinfo.state.gov); "Smuggling dispute ends in man's death" (Zeke Minaya, Houston Chronicle 5/21/05.http://www.chron.com/news/houston-texas/article/Smuggling-dispute-ends-in-man-s-death-1937206.php. Accessed 3/5/14.) Significantly, this article includes no mention of the nationality of the shooting victim; "China: treatment of returnees to Fujian by organized crime groups involved in illegal emigration, including whether they extort or threaten returnees…" (UNHCR research/evaluation website September 1999).

Yet alongside the largely anecdotal and insistent, almost tedious emphasis on snakehead threats, I believe we find in this document the development of a parallel and progressively more dominant family narrative. Similar to the "Grand Narrative" of child welfare detailed in Chapter 4, the account outlines two corresponding tropes: the deviant parent and the vulnerable, dependent child. Yet here, these characters are still underdeveloped. Their existence is peripheral, malleable.

At one point, Young's family members appear to act in Young's best interest: *In an effort to provide Young with better opportunities and to free him from continued discrimination, Young's father and uncle arranged for him to be smuggled out of China.* As the smugglers' threats escalate, both his father and uncle stress that Young must stay in the U.S.: *Young and the family would only be safe if Young stayed in America... His father told him on May 19, 2005 not to come home, that Young is not his son anymore. If Young is deported to China, the smugglers have said that they will find him, torture him, and eventually kill Young and his family.*

Now obviously, such urgent directives can be interpreted in a number of ways. For one, we can continue to identify the father and uncle as acting out of concern for Young. To keep Young safe, his father renounces him. He releases him from kin or debt obligations. A more cynical response might focus on the perceived "obviousness" of Young having to stay in the U.S. (i.e., Isn't that the point of the smuggling journey?). A third view, one we see developed further as the case is prolonged—and, significantly, as the Young Team becomes more familiar with SIJS—is that Young's father is responsible for Young's smuggling and accordingly suspect. *His father told him… that Young is not his son anymore… If deported, [he] will not be greeted by the warm embrace of his parents who have now abandoned him…*

Together with the (increasingly) deviant parent, we also find the emergence of a dependent child. *Young has nowhere to turn for help other than this Board… Even if Young played a role in the decision to come to the U.S. via smugglers, which he did not, Young was only fourteen years old at the time… Young is a good, well behaved teenaged boy…* Of course, even though this document clearly indicates that John and his colleagues intend to pursue SIJS, Young is not just a child "who is only acting at the adult's direction," as many Fuzhounese youth tend to be characterized in the legal strategies I discuss in the previous chapter. Indeed, to reiterate the smugglers' threats, Young is at times here celebrated for acting independently, for *not* doing what was expected of him: "In the eyes of the smugglers, Young squandered [by attending school]his opportunity to go underground and work off the terms of the smuggling contract." Elsewhere, his attorneys emphasize, "Young is not like most smugglees who are returned to China because he was released from detention and *could have* gone underground, worked illegally, and paid the snakeheads but *did not,* instead going to school…" (emphasis in original).[118]

Interestingly, while Young's counsel was working to demonstrate to the government Young's "perseverance, dedication, resilience, and heart" in spite of the tremendous fears he had about the smugglers, Young was himself strategically emphasizing a fear of the U.S. immigration system to justify attending school to his family. As he explained to me, "Fortunately enough, my record was with immigration. I actually *had* to go to school. It's not an option. It worked out in my favor. Because otherwise I would not have an excuse to tell all the people in my family why I go to school, because I was supposed to be working, pay back the money. So I never told them that. I kept it secret. I'm really happy that [I was apprehended]. So I get up at

[118] Young Zheng v. Alberto Gonzales, Brief of Young Zheng, Petitioner, On Petition for Review of a Final Order of the Board of Immigration Appeals (p. 15). 7/6/05.

six, I go to school, take the bus to Akron, come back, take the bus, you know—snowy day, same thing."

Expectations and Exceptionalism

Used by the Young Team to incite sympathy and admiration, and by Young to deflect family expectations and economic obligations, Young's American education is clearly a significant component in the development of his case. This is not surprising: School is a recognizable space in which to chart developmental markers and, as we see in the supplemental letters of support provided by Young's teachers in Ohio and Southwest Key, to distinguish an individual's propensity for hard work, cooperation, responsibility, rationality—and other qualities associated with good citizenship. *Young Zheng is a very ambitious young man who has great educational plans for his future...* [119]

As a more abstract link between education, self-/control and the presentation of a "qualified" or "deserving" individual, consider the ways in which schools arguably promote "self-management." Not only are these institutions nexuses of internal discipline, surveillance, and order (Foucault 1991:165) but increasingly, writes Michael Peters, they are sites in which contemporary "entrepreneurial selves" are cultivated. Here, the entrepreneurial self represents a necessary cultural—or in the case at hand, moral or civic—shift from dependency to self-reliance, a "responsibilising [sic] of the self":

> *...[I]t is the relationship, promoted by neo-liberalism, that* one establishes to oneself *through forms of personal investment... that becomes the central ethical component of a new individualised and privatised consumer welfare economy... At one and the same time enterprise culture provides the means for analysis and the prescription for change: education and training are key sectors in promoting national economic competitive advantage and future national prosperity* (2001:60, emphasis in original).

[119] Submitted letter of support written by Ruby Roman, Southwest Key (May 24, 2005).

Peters' argument is here appropriate, for in tracing Young's case documents we can distinguish between what is clearly a "proper" kind of "responsibilising," namely the fostering of a self-controlled, globally competitive, highly skilled citizen (or citizen aspirant) via education—*Young is a good, well behaved teenaged boy…*[120] *Young [wishes to] finish school and chase his dream of becoming a biologist*[121]—and "improper" responsibility, the illicit, underground employment Young would otherwise pursue, a commitment that would benefit neither the state nor, presumably, the individual.

The emphasis on education also extends to and permits an inherent moral claim about Young's family. Recall from Chapter 4 the comment one cause lawyer made: *"*I say to [Fuzhounese clients], you know, 'People are people. Your mom might be a good person, but once parents choose to have children, that's a job they're choosing to fulfill. And so we're not saying anyone's a bad person, we're saying that maybe they just weren't as good at this specific job in their life.'" By expecting Young to work rather than pursue an American education, Young's parents do not fulfill their role as parents. They are *different* from Young; their personal goals are not as commendable as his.[122] It is a singular interpretation, one that effectively rejects other conceivable claims about Young's family, including the notion that if Young performs well in school, a symbolically "American" endeavor, [123] his parents could be presumed to have helped

[120] Submitted letter of support written by Maria Woltjen. 5/11/05.
[121] Blumenthal, Ralph. "After 3-Year Battle, Chinese Teenager is on Road to U.S. Citizenship." New York Times 4/11/2006.
[122] As a relevant aside, consider the *persistence* of the moral valuation, specifically the marking of parents as "worthy" in accordance with their apparent affirmation or rejection of western education. Citing Johan Jansonius's *Academia sive speculum vitae scholasticae* (1602), Philippe Aries writes: *"* 'Those parents,' states a text of 1602, 'who take an interest in their children's education [*liberos erudiendos*] are more worthy of respect than those who just bring them into the world. They give them not only life but a good and holy life…[T]hey will become the architects of their own fortune, the ornaments of their native land…'" (Aries 1962:413).
[123] Family commitment to education in China is, of course, overlooked in these statements, and is arguably a more pervasive and strongly-held social value than in the U.S. (see Fong 2004).

cultivate their child's character and aspirations (Morando Lakhani 2013:463).[124] It also puts forth and perpetuates an arguably western, "sacrilized" childhood ideal, one that negates the socially-specific value accorded youths' labor and may even render youth more vulnerable to underground employment and exploitation (Nieuwenhuys 1996; Zelizer 1985; see also Qvortrup 1999). Consider here a recorded statement made by Young's father, Yu Ping:

> *...I do not want to talk to this son anymore and I don't want to have anything to do with this one because he put my family in a jam, not just financially... I need to tell you the mistake he make* [sic]*, because, you know, we are living in the village. You need members of the family to support the family. He only want*s *to go to school. In reality, in our village, if you cannot support yourself, you are not going to school. And we have a lot of difference of opinion, you know, so he did not want to accept the fact and reality to help and work instead of going to school.*[125]

Listening to John's telephonic interview of his father, recalled Young's attorneys, was incredibly distressing to Young. Without dismissing the very intimate consequences of arguably necessitated legal strategies such as this (see Chapter 6), I want here to briefly consider the unique context from which Yu Ping's words may have emerged. Recall again the complex negotiations of Fuzhounese UACs as "lagging" and "leading" (Chapter 3): As unaccompanied migrants, these youth are often identified as leaders in their "emplaced" families and communities of origin via their own skilled management of their migration, legality and labor. Yet in both Fuzhou and in the U.S., youth like Young may simultaneously and somewhat despairingly self-identify as lagging behind other Chinese nationals and their American peers, and behind distinctly western markers of adulthood and success[126].

[124] It's worth noting, of course, that this tack is one Morando Lakhani identifies in her study of immigration lawyers who work on behalf of *adult* U Visa applicants.
[125] Telephonic Statement and Answers of Yu Ping Zheng by John Sullivan, 6/11/05
[126] Of course, higher education is also a marker of adulthood and success in China, just as there are distinct but arguably parallel expectations and constructions of childhood/youth as a sacrilized educational stage. What is significant here is the belief put forth by cause lawyers and advocates that higher education is a particularly "Western" marker of success and that Chinese don't value education. My thanks to Stevan Harrell for this reminder.

In Young's father's statement, we find frustration over the fact that Young has rejected what is most likely a locally valued identity, the opportunity to "lead" by providing his family with a particular kind of social and economic capital. Yet at this point, Young has been in the U.S.—and for the most part, in U.S. detention centers—for two years. To the reader, it is perhaps unsurprising that his new solution to financial, social, and perhaps even legal success is in the savvy, resolute pursuit of education. *Fortunately enough, my record was with immigration. I actually* had *to go to school… otherwise I would not have an excuse to tell all the people in my family why I go…* In the shifting spaces of expectation and opportunity that Young and his father occupy, Young has, in a sense, "abandoned" his father. And in the realm of law—and I believe to Young's sorrow—his father's own abandonment of him is amplified: Yu Ping is inscrutable and aberrant, a criminal.[127]

Throughout the two briefs examined in the above section, including the following excerpts from supplemental evidence, Young is portrayed as uniquely suited for and representative of the western, legally-dominant view of childhood I discuss in Chapter 2.

> *Young Zheng is a bright young man who spends most of his time reading and doing extra homework. He is very well behaved… If given an opportunity to stay in the United States he will be very successful in life*. [128]

> *Young Zheng is a well behaved, cooperative young man… [He] has voiced his significant desire to reside in the United States… this is part of his life-long goal (to obtain a better education…)*."[129]

[127] A particularly scathing description of Young's father is found in an amicus brief filed by Thomas H. Burton (8/02/05): "Young's father voluntarily allowed his son to be transported to the United States by murderous smuggling gangs… Young's father's conduct would also classify as *criminal* abandonment because *no reasonable adult* (with any regard for his child's safety) would refuse all contact with their son when the son is facing torture and death threats from others… Young has been traumatized by his father's conduct…" (emphasis added).
[128] Submitted letter of support written by Ruby Roman, Southwest Key (May 24, 2005).
[129] Submitted letter of support written by Adriana Macias Chamorro, Southwest Key Clinician (May 20,2005).

Yet there is an inherent corollary to the depiction of Young as deserving and wanting of an American education, a future, a dream— *a child with a dream—the American dream.* What Young has "found" in the U.S. is indisputably lacking in Fuzhou.

Recall the "universal child" model put forth by UAC advocacy organizations, the popular imagery of disappearing, lost or stolen childhoods (Chapter 2; Stephens 1995:9; see also Cheney 2007). Though Young is only *sometimes* an "unusually vulnerable child," most obviously in relation to dangerous snakehead smugglers, the possibility of a "normal" childhood in China remains perpetually unimaginable. "The bar waits with bated breath" to ensure it is not stolen now.

As Young is celebrated in these documents as capable, resilient, and worthy of American education and justice (i.e., citizenship), his family and, more broadly, his community and culture of origin are inferred as negligent, dangerous, corrupt. For instance, this parallel:

> *It is well-established that torture and murder by smugglers in China occurs and occurs with the acquiescence and support of the Chinese government…Within Fujian, family pride and community pressure have led to a general complacency by local officials and the community toward snakehead activities…*
>
> *In the U.S., we do not allow fourteen-year-olds to be sentenced to death for their crimes… The U.S. should protect all children within its borders from the evils of torture and murder.*

While not always so pronounced, this comparison is also not new. Much of the data I collected exhibits an inherent strain of American exceptionalism, [130] a (mostly) unspoken confidence in an

[130] Following Ian Turrell, I recognize that the theory of American exceptionalism is not based on one particular narrative but is rather a composite of claims about American national identity that are used for a variety of purposes (1991). The version I utilize here can be traced in part to Alexis de Tocqueville, who identified America as different from Europe largely because of its revolutionary and Puritanical origins, its relative equality, and, relevant to the following HRW report excerpt, its dominant ethic of *hard work*. "Amongst a democratic people, where there is no hereditary wealth, every man works to earn a living… The notion of labor is therefore presented to the mind on every side as the necessary, natural, and honest condition of human existence. Not only is labor not dishonorable amongst such a people, but it is held in honor: the prejudice is not against it, but in its favor… In America no one is degraded because he works…" (Alexis de Tocqueville, *Democracy in America*, Volume II, Chapter 18 http://www.gutenberg.org/files/816/816-h/816-h.htm. Accessed 1/30/14.)

ideology of individuality and individual freedoms; in opportunities for social and economic mobility; in American education; and in the "American Dream" alongside a more disparaging portrayal of Chinese families and/or society. Consider this description of "Mei" in the Human Rights Watch Report:

> *In so many ways, Mei is an American success story. She is a success because of her courage, her resilience, and her hard work. And a success because in her case, the systems set up to protect children in the United States eventually worked.*
>
> *Mei was born into the family of two unemployed parents in Fujian province, China. My mom is illiterate [Mei said]. She doesn't even speak Mandarin Chinese…* (forthcoming:11).

Although Mei is significantly *not* presented as a child victim in this vignette, it is equally significant that she, like Young, is celebrated for her "American" qualities of courage, resilience, and hard work while her parents are simultaneously castigated as poor and illiterate Fujianese. The narrative is familiar: In my research, an image of Chinese parents as allegedly "un-American" (i.e., not valuing education, unemployed, financially dependent on their children) was as pervasive as—and certainly connected to—the legally "necessary" framing of parents as deviant, coercive, neglectful. An amicus brief[131] supporting Young's petition for BIA review and eligibility for SIJ (8/2/05) correspondingly states, "It is in Young's best interest to terminate Young's father's rights because… Young [should] be cared for by individuals who, unlike his father, desire to have Young be a part of their family… Young has plans to eventually become a

[131] An amicus brief is filed by an *amicus curiae* (lit. "friend of the court"), someone who is not party to a case but has been solicited by a party to assist a court. This assistance typically takes the form of a legal opinion, testimony, or learned treatise (the amicus brief, a text that is sufficiently authoritative to be considered admissible evidence). It is a way to introduce the possibly broad legal effects of a court decision and is often particularly helpful in appeals, as appellate cases are normally limited to the factual record and arguments coming from the lower court case under appeal.

biologist and those who seek his custody [in the U.S.] are likely to help him pursue those goals…"[132]

While likely loath to consider it, I believe lawyers' assertions of American exceptionalism are powerfully rooted in a history and ideology of American gatekeeping—a history and ideology that is, of course, intimately connected with early Chinese migration to the U.S. After all, the first instance of immigration restriction in the U.S. was the Chinese Exclusion Act of 1882, [133] and it depended largely on stereotypes of Chinese as racially inferior, crafty, dishonest, and unwilling and incapable of assimilation (Lee 2003:24-29; see also Leong 2000).[134] Just as these stereotypes reinforced white supremacy in the early 20th century, so also do the claims lawyers make about Chinese parents reinforce implicit assumptions of the superiority of U.S. law, education, and family systems today. "Chinese families don't trust pro bono help," one attorney told me. "They don't understand that shelter care is good, that even if it delays kids working it gives them the opportunity to learn English. I don't think families quite get that. Or they may not value education, which is a big issue, too."

In a sense underscoring the significance of the "entrepreneurial self," Annette Appell writes, "The [American] legal regulation of children assigns responsibility for their development

[132] Brief of Justice for Children, Amicus Curiae, Filed on Behalf of Petitioner Young Zheng. (Young Zheng v. Alberto Gonzales, In the U.S. Court of Appeals for the Third Circuit, on Petition for Review of a Final Order of the Board of Immigration Appeals). 8/2/05.

[133] As Erika Lee argues, Chinese exclusion laws reinforced the role the federal government was beginning to play in controlling race relations, immigration and citizenship in the late 1800s. State mechanisms used to regulate immigration such as the INS, passports, green cards and illegal immigration and deportation policies can all be traced to this era (2003:10). This relates to the aforementioned discussion of subject-ification and governmentality in Chapter 4, which explores how state regulation of populations (here via admission, documentation, surveillance and deportation) serves to protect and promote the needs of the nation state (Ong 1996; Foucault 1991).

[134] Of course, these stereotypes were also perpetuated beyond the realm of law, perhaps most insidiously in popular media portrayals of Chinese. "Representations of China began to appear on the American movie screen in the nineteen-twenties," writes Evan Osnos. Even then, "the country was generally cast in the role of a beguiling, reflective, and fundamentally dangerous counterpart." ("A New China in 'House of Cards,'" 3/11/14. http://www.newyorker.com/online/blogs/comment/2014/03/a-new-china-in-house-of-cards.html. Accessed 3/12/14.) See also Kenneth Chan's study of U.S. film studios' manipulation of Chinese identity, culture, and popular film genres (2009).

to families, schools, and professionals, with regulations primarily operating through… educational standards and assessments, safety requirements, and a general presumption against paid child labor… All of these regulations aim to shepherd children into a self-sufficient, democratic, productive, and autonomous adulthood" (2009:709). Accordingly, when individuals cannot meet their responsibilities as parents, as introduced above and in the previous chapter—*We're not saying anyone's a* bad person*, we're saying that maybe they just weren't as good at this specific job*—it is presumably up to someone else, here the cause lawyer, to shape (and script) the youth as having the capacity for education, good citizenship, and the "responsibilising" that produces an independent adult with national value.

When I described my frustration with attorneys' claims to a prominent law scholar at New York University, he nodded knowingly.

> *What you're finding meets a narrative that's an important part of American culture… It's all about an American savior, particularly [when it comes to] immigrant kids. We use children for broader purposes, and demonizing parents is a well-worn idea. Atomizing children and seeing them as unconnected to family is part of what we do… That's why repatriation [sending a youth back to China] is not an option, right? Children are better off in the United States.*

Whether unambiguously or subconsciously rooted in American exceptionalism, attorneys' patronizing attitude toward clients' parents was also, I believe, somewhat strategic: If parents are uneducated, devious and coercive, then they don't have to be and indeed *shouldn't* be included in the legal process. "I don't talk to the parents," one attorney told me and laughed. "What holds these kids back from being able to succeed are their parents, sometimes. Now other times, that's not the case whatsoever. There are some instances where I think the parents didn't know what they were getting the kids into, and they're devastated as well."

"How do you establish a relationship with a client's parents?" I asked Rachel, another cause lawyer.

"Well," she said, "the relationship between the attorney and the child is going to be between the attorney and the child. The parent is, you know, somebody who can be useful to provide information that may be helpful to the claim… And it's tempting to want to keep the parent apprised of the situation. The parent will often seem to be acting in the child's best interest, but you never know—we might discover later that there was a bad situation going on."

Unlike Rachel, who was merely suspicious of Fuzhounese parents, Joan explicitly dismissed them altogether: "It's hard, because parents have a really heavy Fujianese accent when they're speaking. And most of them are uneducated. It's hard to get through to them the idea of like, the legal benefit or whatever. And I feel like with them…" She paused. "This sounds bad. With the kids, I tell them as much information as they need to make a good decision. With the parents, I try to push them a little bit, to be like, 'No. This is good for [your kid.] If your kid doesn't do this legally, then…' And there are less qualifiers that go into it. Because I think they would just get confused. They wouldn't understand."

While these portrayals of Chinese parents certainly help substantiate a case, an implicit understanding of the U.S. as simply being *better* often seemed the most influential motivation for attorneys' advocacy. Describing her relationship with a Chinese-American social worker in California, Marsha stated, "I argue with him a lot. I mean, he doesn't see these kids as eligible for some form of legal relief. He looks at it like, 'No, they wanted to come, and they want to be here.' And he has a kid who was in touch with him and who was asking for voluntary departure. And he was fine with it! I was like, '*No*! You can't send that kid back!' I've seen a number of Chinese people who think that way."

"Young Saved Me"

Many of the documents the Young Team submitted in the course of Young's case rely on the binaries I discuss in the above sections: Young's parents as not "proper" parents and Young as accordingly vulnerable and dependent (on the Board, the legal system, American justice); Young as resilient, courageous, educable, a child with an *American* dream and his Chinese parents as mysterious and suspect; Fujianese culture as presumably complacent and corrupt and the U.S. as safe and just.

Still, as evidenced in our conversations and case documents, the Young Team avoided any vigorous condemnation of Young's family. This may in part owe to these (private) attorneys' lack of familiarity with—or professional commitment to—Fujianese UACs as a "cause," but I believe the conventional practice setting matters for another reason, as well. While every cause lawyer I interviewed expressed frustration with U.S. immigration, their critiques were often restrained. This, of course, is not surprising: As I have already discussed, most of these attorneys are generally constrained by their reliance on funding, and therefore the management, of federal bureaucracy (See Ch. 2). The Young Team, on the other hand, had the relative luxury of being private practitioners and therefore the independence to identify the opaque, exasperatingly erratic dealings of DHS—as well as a more broad failing of American justice in the immigration system—as an explicit and even inspiring motivation for legal advocacy.

In *The American Lawyer,* this motivation for pro bono immigration work—and, however implicit, the autonomy of private practice—was celebrated in a series titled "The Asylum Wars: The Am Law 200's favorite pro bono cause is now a morass of arbitrary decisions, angry federal judges, and dubious policy choices." One article, "Winning asylum has never been so difficult.

As more firms take on cases, can their zealous advocacy overcome the obstacles?" (Feb., 2006), features John Sullivan:

> *…[O]ther lawyers say they are galvanized by the injustice they see in the system. Fulbright's John Sullivan is one of them. Since taking on Young Zheng's case, he's helped organize about two dozen lawyers at his firm to take on six more cases. And he has no plans to back down. 'If anything, it's made me feel like there need to be firms with resources to go against the government,' he says. …'[Immigration officials] wouldn't talk to us… It was pretty unbelievable that the government was doing what it was doing. I'm used to dealing with professional lawyers. We may disagree, but at least they'll talk to me'* (Amon, 2006:18-20).

As discussed earlier in this chapter, what was arguably his most maddening encounter with the U.S. government was John's experience with John Pogash, then the chief of the National Juvenile Coordination Unit of ICE and the only individual who could consent for juvenile court jurisdiction. When they submitted the briefs examined above in May, 2005, Young's counsel simultaneously began to pursue Special Immigrant Juvenile status, which would require a Texas family court to determine Young was eligible for long-term foster care due to abuse, neglect, or abandonment and because it was not in his best interest to return to China. Since Young was initially detained by DHS, only DHS—or more specifically, John Pogash—could consent to this dependency hearing. Without offering any evidence to refute Young's claims of abandonment or neglect or to support his own denial, Pogash nonetheless refused to consent.[135] As Young neared his 18th birthday, the legal options and time available to his counsel became increasingly limited. (At this point, Young would be ineligible for SIJ because Texas family court would no longer have jurisdiction over him.) Young's lawyers requested consent to proceed in state court four times. Pogash denied every request.

[135] Zheng v. Pogash, 416 F. Supp.2D, p. 551.

In January, 2006, the Young Team appealed Pogash's conclusion and sought a preliminary injunction[136] to apply for SIJ status to the federal district court in Houston. DHS sought dismissal of the action, arguing that the court lacked subject matter jurisdiction to consider Zheng's injunction[137] and that Pogash's denial of consent was not an abuse of discretion. Yet at a preliminary injunction hearing on February 13, 2006, District Judge Hittner determined that DHS had indeed abused its discretion in denying Young's requests for specific consent to pursue SIJ status. Young's appeal of the denial of specific consent and his request for a preliminary injunction were granted.

What is perhaps most significant about Zheng v. Pogash, at least as regards this chapter, is the relatively straightforward presentation of Young's SIJ claim that emerged from it, specifically the establishment of parental neglect and Young's best interest. When discussed in West's *Federal Supplement*, a case law reporter that includes select opinions of the U.S. district courts, the gripping narrative of family and childhood, culture and nation, morality and justice is absent. There is some understated sympathy, but the analysis ultimately presents Young's case through an explicit, almost *simple* legal framework, in this instance tracing its successive fulfilment of the requisite elements for a preliminary injunction, including a likelihood of success in Texas family court.

[136] An injunction is a prohibitive, equitable remedy (a court order) issued or granted by a court that prohibits someone from doing some specified act or commands someone to undo some wrong or injury. A preliminary injunction is an injunction entered by a court prior to a final determination of the merits of a legal case in order to prohibit a party from moving—or compel a party to move—forward with a course of conduct until the case has been decided.

[137] A key procedural question in this case was whether the REAL ID Act (8 U.S.C. § 1252(a)(2)(B)(ii)) precluded a district court's jurisdiction to review the DHS's decision to deny consent. DHS argued that the REAL ID Act furthered congressional intent that discretionary decisions like Pogash's remain within the exclusive purview of the Attorney General and the Secretary of DHS. Young's counsel argued that the provision of the statute DHS highlighted did not apply to the process of obtaining SIJ status. Instead, the provision only limited judicial review of the executive decisions arising under Subchapter II of the INA, whereas a decision regarding specific consent arose from Subchapter 1 of the INA. The Court agreed with Young's counsel. Another procedural question raised in Zheng v. Pogash was whether DHS's decision was reviewable under the Administrative Procedure Act. Judge Hittner held that it was reviewable (See Zheng v. Pogash, 416 F. Supp.2D.)

> *…Zheng presented ample evidence supporting his father's abandonment of him, including his father's testimony from China. While a transcript loses some of the speaker's inflection, his father's testimony is sadly unmistakable: Zheng's father has publicly disowned his son.*
>
> *Zheng's father shipped him to the United States via international smugglers, arranging for Zheng to be responsible for paying his journey here… It is substantially likely a state court would determine that Zheng's situation constitutes neglect.*[138]
>
> *Next, Zheng must convince the state court it is not in his best interests to return to China. Zheng's father testified that he had received threats—albeit some of them veiled—about Zheng's failure to begin repayment. These threats were sufficient to cause Zheng's father to publicly disown his son. DHS argues the Snakeheads will leave Zheng alone in China because he did not successfully enter the United States, thereby never incurring a smuggling debt. However, the Court agrees with Zheng's arguments that his situation is somewhat atypical; most immigrants detained and deported do not have to repay their smuggling fee because the smugglers were not successful in securing the immigrants' entry into the country. However, after his detention, Zheng was released to his uncle's care. Zheng contends his release triggered the Snakeheads' belief that they had completed their end of the smuggling bargain… he will be in danger if he returns to his home country.*
> (Zheng v. Pogash, 416 F. Supp.2D, pp. 558-560).

Of course, at this point in Young's case, "fitting" the client into the statutory demands of the SIJ framework (as I discuss in Chapter 4) had already occurred much earlier, perhaps most compellingly and convincingly in the translated transcript of John's phone call with Young's father—*Young's father stated that he cannot return home and that Young is no longer his son.* Now the issue was less about appealing to the limited language of legal relief than about *accessing* an opportunity for legal relief.

In an email he sent to me describing this intense period, John wrote with characteristic equanimity, "The judge reversed it and ordered the DHS to allow us to proceed to state family court. We had to do this before Young turned 18 so it was a bit of a rush down the stretch but all worked out of course in the Lord's providence."

[138] This satisfies one of the requisite elements for a preliminary injunction, namely a substantial likelihood of success upon merits.

Hannah was less composed. When we talked together in Houston, she reflected, "Once we finally made it to family court, Young had a small army of Fulbright attorneys behind him!" She laughed, delighted. "There were twelve attorneys packed into the associate judge's quarters during the hearing.[139] Of course, this was when Young was about to turn 18, and I had heard through the grapevine that Pogash was angry and planning to move Young to adult detention. I mean, we had already prevailed; we were just waiting on a visa! John had to show up at the shelter himself. He picked up Young, who was carrying the box of everything he owned, at 12 a.m. on his 18th birthday. My dad was visiting at the time, and so we surprised them at John's house with a birthday cake." She laughed again. John smiled, remembering, and shook his head. "And there was John, clearly weary, shuffling down the street in the dark toward his house with Young. But Young was thrilled to see us, and to see the cake! And he asked right away, 'Do you have any milk?'" Hannah's grin grew wider.

"We had really good publicity and press at this point in the proceedings," John added. "Tons of letters, gifts. Lots of letters saying, 'I'll adopt Young!' People were so generous that we were able to set up a trust for Young, the money of which is paying for most of his college education."

Hannah nodded. Her expression turned pensive. "This was a really tough time for me," she stated. Her colleagues looked down, respectfully. "I remember praying with my son at night, 'Please help Mama help Young.' My faith really faltered—my faith in law, and my faith-faith. I had gone through a divorce and stopped going to church, but this time I started going to church again. I didn't save Young; Young saved me. It was mutual."

The Remedy to Tragedy: Explaining the Cause and the Cause Lawyer

[139] On April 7th, 2006, Young was found neglected and abandoned and a dependent on a Texas family court, and that it was not in his best interest to return to China (Cause No. 2006-14477).

As I demonstrate in the above sections, the Young Team portrayed their experience as legal (and certainly personal) advocates for Young as a sustained and extraordinarily meaningful endeavor. Though their work on the case was increasingly spurred by the arbitrariness—more expansively framed as *injustice*—they encountered from the Department of Homeland Security, John and Hannah ultimately attributed their success to hard work, faith, the support of other colleagues and legal experts and, as we see above, to the optimism, good humor and trust of Young himself.

In tracing case documents and sharing so many conversations with Young, his attorneys and the Sullivan family, Young's story emerged as heartrending but also redemptive. It was an intimate narrative of frustration, suspicion and contempt but also one of clarity, purpose and empathy. And while the Young Team certainly employed the selective "scripting" of family and community I explore in Chapter 4, most overtly in their emphasis on and interpretation of Young's father's testimony, I believe their overwhelmingly positive presentation of Young within and beyond the legal realm is here most significant. *He is a child with a dream… and he has shown every person he has interacted with… that he has the perseverance, dedication, resilience, and heart to achieve it.*

This and similar claims are arguably their own sort of strategic framing, but they also remain intimately *known* by Young's attorneys. Nearly ten years after they took on his case, Young is still present in these individuals' lives, and is still considered unique. As a young, undocumented migrant, the Young Team identified Young's pursuit of education as savvy and independent. Now a graduate student with citizenship, John and the others continue to extol Young's ambition and self-sufficiency—but this time as friends, mentors, a guardian. Young is

as droll now as in Southwest Key, reported John, and as easygoing with the Sullivan family as when he first joined them in 2006.

How startling, then, to return to the simple (and ostensibly absolute) version of Young's story detailed at the beginning of this chapter:

> *And then there was that Chinese kid who beat his head against a pillar…*
> *He… smashed his head into a wall, knocking himself unconscious…*
> *He was terrified and traumatized…*
> *He bashed himself against a wall…*
> .

"The promotion of personal narratives as 'real,'" writes Amy Shuman, "is particularly common in popular uses of local narratives that have been removed from their local contexts and that are then used to persuade or inspire distant listeners. Those uses of personal narratives make an unapologetic claim to the reality of personal experience and often *an equally unapologetic display of pathos in their invocation of others' experiences as pitiable to evoke sentimentality*…" (2005:10, emphasis added). In the above descriptions, those almost exclusively constructed and circulated by cause lawyers, we find an "unapologetic display of pathos," a tragic quality largely absent from Young and Young's lawyers' (however passionate) account of his migration and legal journey. This absence, I argue, is attributable not only to the intimately felt complexity and span of the Young Team's shared experience with Young—one in which his despair at the airport was but one of many facets of a personal narrative—but also to the fact that this grief was not *necessary* to their immediate or long-term professional goals.

As I establish above, by virtue of their practice site and the resources it provided, these attorneys did not rely on a cause for personal or professional validation. More specifically to Young's case, as conventional lawyers they had the autonomy to focus less on ambiguous understandings of age, Chinese family and culture and to instead aggressively and explicitly challenge the erratic dealings of the Department of Homeland Security. Immigration cause

lawyers, on the other hand, many of whom receive funding and diffuse but often very dominating oversight from the Office of Refugee Resettlement,[140] are often loath to overtly contest the practices of ORR or other federal agencies. Correspondingly, as legal advocacy is increasingly directed to the rapid influx of apprehended Central American UACs in the U.S.—and by more advocacy organizations, all vying for federal funding and private support—I believe unaccompanied Chinese youth are something of a niche, a space in which cause lawyers establish expertise and subjective jurisdiction (i.e., the construction and treatment of a particular population of UACs; see Abbott 1988) in an otherwise competitive "cause market."

Yet I am not convinced that funding limitations and professional dependence fully explain the "representative anecdote" (see Burke 1989:153) cause lawyers publicize of Young, one that actively downplays or dismisses the role of the government and instead relies almost exclusively on a figure of Young as tragic and dependent. Consider, for instance, the specific, determined account we find on the website of The Young Center, the organization Maria directs.

> *The Young Center for Immigrant Children's Rights pays tribute to the children we serve by naming the organization after one of our first clients, Young Zheng, a young man from China who was smuggled by ruthless traffickers at the age of 14… In fear for his life, Young endured more than two years of detention and legal battles to remain in the U.S. All the while, his Child Advocate* [presumably Maria] *stood by him, advocated for his release and against deportation. Young Zheng has finished college, was granted citizenship, and has been accepted in the biotechnology program at Texas A&M University. He has graciously lent his name to this organization.*[141]

It is a perfect instance of the personal narrative Shuman describes, one stripped of context and intended to inspire and evoke sentimentality. And despite Maria's relative distance from the actual progression of Young's legal case and his life since age 14, her "entitlement" to his story

[140] The Office of Refugee Resettlement (ORR) is granted the "care and custody" of UACs by the Department of Homeland Security (DHS). Recall from Chapter 2 that as it detains migrant youth in "UAC care provider facilities," ORR simultaneously, and somewhat paradoxically, provides funding to many of the nonprofit organizations that advocate for youths' release and with which many of the cause lawyers I interviewed are employed.
[141] http://theyoungcenter.org/. Accessed 3/19/14.

is presented here as indisputable. Indeed, it is Maria *herself* who as Child Advocate signals or effects the critical transition from ruthlessness, isolation and despair to freedom, justice and success.

A similar "entitlement" claim is featured on the website of another legal advocacy organization that works on behalf of UACs:

> *"Mei" is a young girl from China...Mei's family is very poor. They told Mei that she could "help" to pay back the money by working off the debt in the U.S. In other words, it appears that Mei—a child with no skills and no English ability—was sent to the U.S. for forced labor.*
> *Mei's case* is now being handled by a well-respected law firm. And, her situation has improved considerably…
> *Mei is going to a local high school and is learning to speak English. She is very happy… "I am very proud of the results that we've obtained so far," the attorney said. "I believe that KIND's efforts literally have saved a life..."*[142] (Emphasis added.)

Instead of the deeply personal, collaborative experience the Young Team described as they recalled their work on behalf of Young—*I didn't save Young; Young saved me. It was mutual*—we see in the above excerpts a different version of legal advocacy—or, more accurately, a more pronounced version of the *legal advocate*.

Undoubtedly, the narrative coupling of an endangered, unhappy, poor child with a steadfast, prepared, altruistic attorney certainly helps establish the worthiness of an organization for funding and public support. Yet I believe the pathos we find highlighted in lawyers' presentations of Young and Mei's stories also underscores the critique of empathy I highlight on page 15: "The use of entitlement claims … sometimes undermines empathy and the possibility of understanding across differences in experience. Often, entitlement claims are alibis for a failure of [or, I might add, the impossibility of] empathy" (2005:4).

[142] KIND (Kids In Need of Defense) "Success Stories." Zuno, Ariana. "Escaping the Traffickers' Grasp." http://www.supportkind.org/en/kind-in-action/success-stories/in-their-own-words/108-escaping-the-traffickers-grasp. Accessed 3/19/14.

I devote this chapter to Young's case because it evidences the most unsettling and "impossible" aspect of immigration cause lawyers' assumed empathy. As we find in Section 1, Young is featured in nonprofit publicity campaigns and popular press because he is meant to be representative of Fujianese UACs: T*he situation of all of the kids coming from China actually is nearly identical to Young Zheng's story.* A victim to his family and culture, Young demonstrates the utter despair and panic that Fuzhounese youth are presumed to feel about their personal lives and migration journeys, as well as their utter reliance on legal advocacy.

Yet as we move from Maria's and other media accounts to Young and the Young Team's retelling of the story, it proves entirely exceptional. Young was an unaccompanied migrant with unique, sustained legal advocacy, advocacy that wasn't limited in time, resources or autonomy or preoccupied with strategically proving itself as a "cause." And in the American imagination, Young's was also a relatively straightforward success story: He independently—or together with his (now savior) lawyers—left a seemingly corrupt nation and a coercive family to achieve explicit markers of adulthood and success like education and citizenship. The majority of Fuzhounese UACs are not like these portrayals of Young. Indeed, even *Young* may not be like cause lawyers' descriptions.[143] Instead, many unaccompanied Fuzhounese youth tend to be more similar to Li, demonstrating an ambiguous but comfortable *and even confident* understanding of migration, legality and labor to their attorneys.

As most of the cause lawyers I interviewed acknowledged, Fuzhounese UACs—including those who have successfully obtained legal status—will likely work off their smuggling debt in underground and/or exploitative work settings. Many will continue to send remittances to family members in Fuzhou, including those parents framed as "coercive and

[143] The reader will notice that in this chapter I rely almost exclusively on the accounts of Young's attorneys and very little from Young himself. The strategy is deliberate: Not only is Chapter 5 about the telling of Young's story by others, but much of what Young shared with me was done so off the record.

neglectful" in the legal realm. Many will not pursue an American education, choosing instead to pay off debt, save money and possibly open their own restaurants or nail salons. And perhaps most unsettling, the majority of these youth are often relatively forthright about such uneasy existences. They identify nothing tragic about their journeys or goals.

This absence of tragedy leaves no room for empathy, for sentimentality, for marketability. More important still, I believe it leaves immigration cause lawyers with a fraught cause—or perhaps sometimes with no cause at all. As Young's story is re/constructed by these lawyers and circulated beyond the legal realm to journalists, prospective donors, volunteers, political actors and colleagues, it is "owned" as a mission, not a memory. It is a way in which legal advocates establish the worthiness of the cause to others and, in the face of so many "impossible," ambiguous and far more *representative* cases, to themselves.

CHAPTER 6
LIMITED RELIEF

> *It may also be the case that the* same *lawyers simultaneously pursue different—and perhaps—competing projects. For instance, their actions may both enhance civil and political rights while undercutting economic and social ones; they may both promote access to justice through pro bono service while undermining it through practice restrictions. This duality also leaves open the possibility that individual lawyers may* believe *that they are advancing the cause of justice, when other observers would argue that they are in fact thwarting it* (Cummings 2011:2, emphasis in original).

Subverting Legal "Success"

That legal status matters to immigration cause lawyers is axiomatic, almost insultingly so. Yet *why* it matters, and what it provides Fujianese clients, emerged in my research as uneasy and destabilizing questions. In some interviews, I received only bright, pithy responses: "As immigration attorneys, we're just protecting the child," maintained one New York lawyer. "That's really our mission." Others were more on point, though no more forthcoming: "In our world, I guess success means residency. Or it means a legal form to stay in the country where [youth] don't have to worry about being picked up."

For Lana, legal success was intrinsically connected to choice. "I think I've maybe had two successful cases, *ever*," she said coarsely. "And I've probably won a hundred. And I consider two successful. Like, I've never lost one case. My two successful ones are my two girls who are going to college, and who are doing what they want to do with their own lives. And that's it. And you know, it's so grand that you get a green card. It's like, great, good, you got a green card, you got a visa. I'm not helping your life. Your life is still this horrible cycle, and maybe I've alleviated one part of the pressure, and it's—to be honest, it's really hard for me to think about. It just makes me really depressed."

While Lana's definition of success interests me, so also does her unguarded admission at the end: "…to be honest, it's really hard for me to think about." I suspect Lana and others were

reluctant to discuss or think about "success" for a few reasons. The first, and simplest, is time. Recall from Chapter 2 my interview with Roberta and Evelyn, two attorneys with the Children's Project in Chicago. As the number of unaccompanied youth arriving at regional shelters increased, they told me, release times correspondingly decreased. Advocacy efforts were likewise abbreviated, with uncertain conclusions.

. Later in our conversation, I said, "A number of the attorneys I've spoken with have implied or stated outright, 'Great, we got the kid legal status, job done.'"

Both women nodded. "It's a challenge," stated Roberta. "Some of the kids I've had successes in obtaining their legal relief, it's like you're saying. You know, a part of me is like, 'Great. Done. Next kid.'"

I understood. "And you have to be, right?"

"Right," she continued. "But then part of you as a human is like, can they survive on their own? …Some of these kids were fortunate and have good structure back home of adults guiding them, but I think a number of them, a large part of them might not have [that]. I don't think they're equipped to deal with adulthood here, you know, with the added challenges of not only adulthood, but you're an immigrant, you don't know the language, you don't have the skills. That's worrisome. Because a lot of these kids, while they're in custody and as soon as they're released, they're *supposed* to go to school…" her voice trailed. "But if they're out there working or doing whatever they can to survive, *they're so vulnerable to exploitation*."

Here, Roberta introduced what I believe is a more accurate and uncomfortably—or even subversively—complicated reality of legal "success." Most of the attorneys I interviewed were like Lana, pleased by and proud of those rare clients who could "do what they want," namely pursue an age-appropriate marker of good citizenship, education (Chapter 5; see also Fyfe 1989;

Weiner 1991). The majority of Fujianese clients, however, Lana's "unsuccessful" cases, *worked*. Recall here the moral and ideological underpinnings of modern childhood I discuss in Chapter 2, specifically the deeply-felt Lockean view that children have the "natural right" to be cared for and protected but not a right to consent, which is powerfully connected to autonomy. In what follows, I extend this discussion to young people's post-release lives and, more specifically, to their labor—the thing Lana and others didn't want to think about.

Given the broader ideological context of childhood and children's rights, this reluctance is not surprising—nor is it without consequence. "The moral condemnation of child labor assumes that children's place in modern society must perforce be one of dependency and passivity," writes Nieuwenhuys (1996:238). Denying young people's capacity to "*legitimately* act upon their environment by undertaking valuable work makes children altogether dependent upon entitlements guaranteed by the state.[144] Yet we must question the state's role… in carrying out its mission" (1996:238, emphasis added). As I demonstrate below, to condemn or go silent about Fujianese clients' post-release employment is of profound professional and legal significance.

Vulnerability in the U.S.: Labor and the Limits of (Legal) Care

Significantly, a draft of *No Choice for a Child: Abuse and exploitation of unaccompanied migrant children from Fujian, China to the United States*, the Human Rights Watch report I discuss throughout this dissertation, included formal recommendations attending to youths'

[144] Nieuwenhuys' argument is relevant here, though in other contexts it might be fairly critiqued for overlooking young peoples' dependence on the labor of parents, relatives and/or guardians in addition to—or instead of—state entitlements. Moreover, even though Fujianese youth without the capacity for "legitimate" work are ostensibly now reliant upon the state, the young people in this study rarely sought out these supposed entitlements. My thanks to Steve Harrell for recognizing the limits of this citation.

labor. Yet equally significant, this attention was devoted almost exclusively to the *identification* of trafficked youth in the workplace—not to rights and safety.

> ***To the United States Department of Labor:***
>
> *Utilize the Wage and Hour Division's worksite inspections as opportunities to identify instances of child labor exploitation and issue U-visa certification.*
>
> *Operate under the assumption that an under 18 undocumented Chinese worker in situations where federal and state labor laws, including wage and hour provisions, were violated, is a victim of trafficking. Ensure that the child has access to legal support and child trauma experts before a determination of his or her status is decided.*
>
> *Institute victim identification training for Wage and Hour Division personnel.*

There is a good, ostensibly altruistic reason for this: locating undocumented, unapprehended Chinese youth broadens the reach of cause lawyers'—i.e., the report's primary authors'—legal advocacy. And of course, the provision of legal status is a meaningful, valued form of protection whether someone is apprehended and in removal proceedings or unauthorized and undetected in the U.S.[145] As many young people mentioned in my interviews, legal status most significantly eliminates the persistent, stressful threat of deportation (see De Genova and Puetz 2010; Gonzales 2011). "There was one young man," said Ming-Yue, "who came to the U.S. from Fujian and worked on a construction crew in Michigan. He worked there for ten, fifteen years. He got married to a Fujianese girl. They had a baby. I stayed in touch with them. And then he got deported. He had worked so long, paid off his debt, had a family and then he was sent back to China. That's happened to other people, too. You don't want anyone to have that happen to them, especially after their lives are *here*."

[145] As I've noted elsewhere, legal status ensures freedom of mobility, and it permits individuals to apply for financial aid, Social Security benefits, driver's licenses, and the right to vote. [Note: the right to vote is available only to U.S. citizens. Green card holders have eligibility to apply for U.S. citizenship, or they can indefinitely maintain green card status. http://www.immihelp.com/greencard/benefits-of-permanent-resident-card.html. Accessed 6/20/14.]

As it specifically pertains to labor, lawful permanent residence also offers some protection. It provides work authorization and, in certain circumstances, defense against workplace citizenship discrimination[146] and employer retaliation if a workplace violation is reported.[147] "A lot of people here who are from Fujian tend not to be high school graduates or have little bit lower educational standing," said Len. "So the work that they can do is going to be brutal, right? I mean, they're going to be working in the restaurant or factory industries, and I think in those situations, that's just…" He paused. "You know, especially if you don't have status. You're going to be extremely vulnerable."

Securing youth T visas (and T visa benefits[148]) is arguably a tangible form of "care," one that eases the vulnerability Len discussed. Yet facilitating the perceived "rescue" of "victims of trafficking" through legal relief markedly ignores the reality that most Fujianese youth with

[146] According to the Immigration and Nationality Act's (INA) anti-discrimination provision (8 U.S.C. § 1324b), lawful permanent residents who do not apply for naturalization within six months of eligibility and work-authorized individuals on employment visas are not protected from citizenship status discrimination. http://www.justice.gov/crt/about/osc/htm/facts.php#overview. Accessed 6/20/14.

[147] Although current law protects unauthorized immigrants who report a workplace violation from employer retaliation, reinstatement is not available as a remedy to someone who is not working legally in the country. As a result, unauthorized employees hesitate to take the risk of exercising this basic workplace right.
Under current law, unauthorized immigrants who have suffered substantial physical or mental harm as a result of being a victim of crime may qualify for a crime victims' visa (U visa). But the U visa does not apply to *workplace* violations. http://www.hrw.org/news/2013/06/03/qa-senate-immigration-bill#16. Accessed 6/20/14.

[148] Individuals who are granted T visas and have a certification or eligibility letter are permitted to *apply for* benefits like Temporary Assistance for Needy Families (TANF); Supplemental Security Income (SSI); Refugee Cash Assistance (RCA); Supplemental Nutrition Assistance Program (SNAP); Women, Infants and Children (WIC); Medicaid; Children's Health Insurance Program (CHIP); Refugee Medical Assistance (RMA); Medical Screening; One-Stop Career Center System; Job Corps; Housing Choice Vouchers; and the Unaccompanied Refugee Minors (URM) Program. http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-victim-assistance-english.Accessed 6/19/14.
Of course, the caseload for many of these services exceeds what funding and personnel resources can manage. In other words, the opportunity to apply for a service does not guarantee its timely or satisfactory provision, nor do applicants necessarily pursue these services. As youth and even some attorneys pointed out, young people will often travel great distances to seek out (privately-funded) healthcare, medicine, or other daily life necessities in Chinese enclaves, usually in Manhattan's Chinatown.
The choice to access visa benefits additionally enters into the debate around the meaning of "unaccompanied." Many of the youth who journey alone into the U.S. and receive T or SIJ visas refuse visa benefits because they ultimately reunite with family—and thereby utilize kin and community networks of assistance. Almost immediately enmeshed in these local networks, the question emerges: are these youth truly "unaccompanied?" [My thanks to Lauren Heidbrink for shedding light on this tension. See also Carlsen (2009), who invites us to consider whether youth whose parents deliberately—i.e., with thought to a "successful" as well as "safe" migration journey—hire smugglers to accompany youth over the border are "unaccompanied" (Carlsen 2009).]

status still have smuggling debts and consciously *return* to exploitative work situations. "It may seem that the discussions on legality of work and freedom of movement are irrelevant for minors because, in principle, they should not be migrating as jobseekers," writes Jyoti Sanghera. "However, the reality is that minors… are marked most by the illegality factor because they too are an integral part of the vast pool of mobile jobseekers. Their inherent vulnerability as minors is often exacerbated several-fold by the formal and informal sanctions against child labor…" (2005:8).

In other words, in the workplace *even "legal" Fujianese youth lead "illegal" lives.* A young person's age may be below the legal age of employment; workplaces may not comply with labor laws and safety regulations; employers or coworkers may be undocumented. As a result, with delayed repayment of debt[149] and in the absence of safe, secure and lawful employment, a recipient of a T visa—or any other relevant remedy, like SIJS or asylum—experiences only a limited juridical reality of membership (see Ngai 2004). "In being compelled to lead 'illegal' lives… [youth are] kept from accessing most of the freedoms and rights that are extended to all as human beings." (Sanghera 2005:8-9).[150] And Fujianese UACs know this.

During the focus group Human Rights Watch hosted with youth in New York City, many of the attendees concentrated on the report's recommendation to the U.S. Department of Labor, mentioned above. It was soon clear that identifying victims of trafficking in the workplace was an insufficient recommendation. "Most all the members of the focus group worked or had worked in Chinese restaurants," a lawyer noted. "They cited across the board long hours, poor

[149] Most loan sharks or community banking networks charge interest on smuggling debts, sometimes as much as $15,000.

[150] While I agree with this claim, I also recognize the "myth of rights" Sanghera relies upon, most simply the gap between the guarantees expressed in formal law and the ways in which these guarantees are (or are not) met on the ground (Scheingold 2004; see also Lovell 2012).

working conditions, and the use of tips in lieu of hourly wages. They would like more safety protections and health care in restaurants as well as actual hourly wages."

"You commit your life to it," said Jian, a young man I met in Alabama. "Whether you want it or not. By the time you come here, it's too late. …You're destined to be a third-class worker for the rest of your life. You start working in restaurants, maybe a thousand dollars a month—a lot of money for China. But no one considers living expenses in the U.S., even a really poor person. Ten thousand dollars to have a used car, and you're making a thousand dollars a month?" He widened his eyes and raised his eyebrows. "You're living in shitty apartments, most likely sharing an apartment with a whole bunch of strangers, also migrant workers. Most of them don't have papers. And if you're unfortunate to live in big cities like New York City, this *room* probably has six people living in it. This is your life for ten years. And then ten years later, assuming nothing goes bad, you don't get sick, you don't get injured, you don't get fired—"

"You don't get caught," I interjected.

"You don't get caught," he continued,

> *You might make enough money, you pay back what you owe. That's ten years later. That's assuming you're not spending anything either. So after ten years, you got to work for another five years, no, another six, seven years. At this point you're probably making two thousand dollars a month, assuming you become a chef, versus just doing the dishes. Best case scenario, you make more than two thousand, or three thousand, very rarely, in big cities. But it's fifteen, sixteen years later. You can't change anything anymore, because it's too late. It's not like you can go back, go to school, because* even if you have identification, you have legal rights to stay in the U.S., you're thirty or older. *You might be afraid to change anything because now it's everything you know. You might have enough money to buy a tiny apartment. But you can't change anything, you're stuck there.*

Like Jian, many of the young people I spoke with had a tenuous or almost *restless* view of legal status, particularly when discussed in light of their working lives. It appeared to offer certain

social benefits,[151] but was never identified as a form of care, as so many attorneys touted. Most simply, it was better to have status to avoid deportation, and to have it quickly. Recall Chaoxiang's frustration (Chapter 4): "The person I was smuggled here with was twenty-one. She didn't have to go into UCP [an ORR shelter facility in Chicago] like me. And she's been working for years. I had to wait in Chicago, and now I have to wait here. *I'm losing a lot of time*."

"I have an uncle here," another young man told me. "He's in the Midwest. I've seen him a couple of times. He's legal. His wife is here. Life sucks for him. I mean, a migrant worker with identification is not much better than a migrant worker without one. You don't speak English, you're uneducated, you come here, you don't have a future. [But] it's still better than running around without I.D."

Trafficked to Commodity, Eldridge Street to Middle America

> *They've got their green card. Our work is done, right? But they're not survivors… And that's what makes the Chinese trafficking cases the one that people want to shy away from. It's a GIANT onion. It's the biggest onion ever. It's like, great. We get them a green card. Okay, but now they have this debt. Okay, their debt's gone. Now they're living with trauma. Now their trauma's gone, now they still see themselves as a commodity. It's just,* where does it end*? I think that's what's really unique in these Chinese kids' cases*.

Nuanced and unusually forthright, this comment reiterates the uneasy, and here lamentable, limits of legal relief, particularly as it pertains to young people's labor. Yet to borrow from the speaker, I wish to peel the onion a bit more, to interrupt the supposedly self-evident sequence this attorney put forth—trafficking, debt, trauma, commodity—by considering the broader context around young people's working lives. While the data I collected often appear to substantiate the relative "endlessness" of the economic and emotional challenges Chinese

[151] One oft-mentioned social benefit was freedom of mobility, namely the ability to visit family in Fujian and then return to the U.S. Of course, this is something youth never mentioned to their attorneys, for it powerfully thwarts cause lawyers' assumption that youth *should* and presumably want to stay in the U.S., even at the cost of legally severing kin ties (by declaring a youth a ward of the state, as in SIJS).

youth face, they also hinder attempts to ground these challenges in youths' families or "Chinese culture"—a tactic so popular among the attorneys I interviewed. These data also introduce a concurrent reality, one in which working for pay offers youth opportunities for self-respect, as well as occasions to confront the childhood ideology that places a higher value on economically useless work, like school. (Recall here my conversation with Hua about pursuing a GED, Chapter 3.) (See also Black 1995; Fyfe 1989). Finally, I believe attorneys' chagrin, suspicion and even hopelessness regarding the "giant onion" of Fujianese clients illuminates a more profound trend—namely the prioritizing of the (presumably more straightforward) autonomous individual over family life in American law and society. [152] Made particularly clear in lawyers' interpretations of "care," this orientation ultimately disregards clients' prolonged kin and community commitments, effectively divorcing young people's "belonging" from their "becoming" (Barlett 1988). Not only does it demonstrate a short-sited regard for Chinese families, but also for the social embeddedness of transnational youth more generally. After all, writes Deborah Boehm, "the increasingly translocal experiences of children highlight the ways

[152] The shift from family and community interests to the individual is not new, of course. Consider once more Henry Maine (1861): "The movement of the progressive societies [Western, unlike what Maine termed the "stationary societies" of China and India, pp. 18-19] has been uniform in one respect. Through all its course it has been distinguished by the gradual dissolution of family dependency and the growth of individual obligation in its place" (1986: 139-140).
Taking natural rights as its premise, U.S. Constitutional doctrine reflects this individualistic approach. Yet as Hafen (1983) points out, the concepts embodied in the Bill of Rights were originally intended to define the political relationship between individual citizens and the state—not the domestic and personal relationships among citizens themselves (1983:3). Indeed, Hafen (1991) later argues that American laws and judicial decisions remained largely premised on the family through the 1950s, even as economic and political thought were more grounded in individualistic self-interest. He links the relatively recent reorientation in family law toward the individual to the social movements of the 1960s and 70s in which the family was viewed as an authoritarian and role-oriented tradition (see also Adams 1971; Hamilton 2006). Glenden (1989) likewise highlights this shift as situated in family law's simultaneous recognition of the nation's heterogeneity and a declining confidence in the "ideal family patterns" in which so few families appeared to fit. While arguably stimulating the profession's increased attention to tolerance and individual liberty, certainly a positive change, in the study at hand we see that abstracting young people from their family relationships and responsibilities confuses decision makers in both immigration and family law about the relationship between individual and community interests.

that migration itself is driven by, and cannot be separated from, social and familial reproduction" (2011:166-7).

In what follows, I present an overview of the broader context of labor that youth encounter during and after their removal proceedings,[153] attending throughout to youths' "semi-autonomy." These sections thus consider the opportunities and identities youth make for themselves as individuals who perform valuable work and acquire valued forms of adulthood, thereby contesting notions of them as *children outside* the realm of politics and the market (Stephens 1995). Yet they simultaneously acknowledge that Fujianese youth are marginalized in these communities, often by virtue of their work; that the acquisition of particular forms of adulthood is often partial and reversible (Furlong and Cartmel 1997); and that youths' social and geographic mobility is powerfully constrained by economic change and political policies.[154]

The brunt of my fieldwork focused on young people's experiences in the legal realm, a space where a youth's labor was and to an extent *had to be* separate from the self she or he presented to an attorney. (Consider, for example, that many youth denied or never disclosed to their attorneys that they worked and sent remittances home to—now abusive, neglectful, trafficking, etc.—family members.) As a result, this overview is just that—a broad, surely incomplete synopsis of the intricate, dynamic, intimately-experienced realities of life and labor. Yet however cursory, I focus on the contexts of work and community because I believe young

[153] Some of the young people I interviewed had been released from shelter care to reunite with a family member (though attorneys typically doubted the legitimacy of these kin connections). Most, if not all, youth in this situation worked while their removal proceedings were ongoing and continued working after legal status was secured.

[154] Of course, the context I detail here hardly captures the complexities of a community, a workplace, or a young person's negotiations within the two. To do so would require attending to the multifaceted interface of local and global markets, historic and contemporary demographic shifts, economic restructuring, federal immigration policy and regional sentiment. Moreover, neither local populations nor immigrant groups are ever homogenous; as Zuniga and Hernandez-Leon (2005) argue, newcomer-local resident interplay is made all the more complex by divisions within these populations along ethnic and class lines. These phenomena are difficult to capture in one community, let alone in a multi-sited ethnographic project—and a project that additionally involves youth who frequently move from job to job.

people's experiences in the legal realm powerfully shape their labor outside it. As I detail below, economic obligations are uniquely impacted by the strategies of cause lawyers, as well as by the choices youth make in accordance with, and sometimes in spite of, their perceived "best interest."

As hinted at by Jian, Fujianese youth don't generally work—and don't always *want* to work—in major immigrant gateways: *And if you're unfortunate to live in big cities like New York City...* Instead, the majority travel by bus to communities that might be termed "new destinations."[155]

Though most new immigrants still settle in traditional gateway cities such as New York, Los Angeles, Houston, Miami and Chicago (Portes and Rumbaut 1996), the greatest *relative* immigrant population growth has taken place in a variety of urban, suburban and rural areas across the South and Midwest (Marrow 2011:3). Because primarily Mexicans, and also Central and South Americans, have driven this process, literature on "new destinations" tends to focus on Hispanics/Latinos (see Donato, et. al 2005; Lichter and Johnson 2009; Massey and Capoferro 2008; Fennelly 2008; Millard and Chapa 2004. One exception is Griffith 2008, who also considers the experiences of Somalis and Hmong migrants). The youth in this study are not nearly as concentrated or visible as their Latino counterparts, yet I believe they seek or are directed to "new destinations" for a similar reason, namely that labor-market opportunities in the

[155] While certainly a helpful and compelling term, I believe "new destinations" problematically overlooks complex and *extended* regional histories of immigration. As one lawyer in Wisconsin stated, "You know, [my town] is really *not* new and different. My ancestors moved here in the 1890s; they spoke German. The Germans were farmers and the Irish worked on the railroad, and they went to the Catholic church. And now [Latinos] are moving to this region to milk cows. And they're living on these same little farms as the same folks who came a hundred years ago and literally sitting in the same church. They made German illegal in the schools, same thing now [with Spanish]. It's a little sad, this stuff, you go through the same sort of thing again." Further complicating matters with a thoughtful spin on "gateway cities," an attorney in Rogers, Arkansas commented, "And what's fascinating is these places are the middle of nowhere…Originally, migrants would move to Los Angeles. Everybody would move to L.A. But then they'd get sick of it and move here, because they have relatives here. But what's interesting is for a lot of people, Rogers is their gateway city. It's their border city. Because they came here straight from Guatemala. They crossed the border and went straight to Rogers. It's fascinating: the rural southern towns—and these are rural southern towns—they're gateway cities." See also Portes and Rumbaut 2006.

South and Midwest are more attractive than saturated immigrant niches in gateway cities (Light 2006).

Of course, for many young Fujianese, the labor journey begins in New York. Where and how it progresses signals what may be a key difference between youth who are apprehended and placed in removal proceedings and those who enter the U.S. undetected.[156] Most detained youth are like Chaoxiang, frustrated by the sluggishness of shelter care and indignant at the relative lack of Mandarin-speaking staff and the "meaninglessness" of daily assignments and activities. Yet although ORR shelter facilities are woefully lacking in adequate social and health services (see Heidbrink 2014; Terrio forthcoming), they also represent a space in which young migrants share advice about legal processes and job opportunities; acquire some English, and often Spanish, skills; and are introduced by shelter staff to public resources that may be available to them once they are released. These youths' employment may be initiated in the same place as their undetected counterparts, but I suspect their opportunities and ability to make informed decisions are significantly broadened by the knowledge and social networks they acquire in shelter facilities.

That "same place" is Eldridge Street in New York. Here, employment is sought out in the heavy din of cars crossing the Manhattan Bridge overhead. "You haven't been to Eldridge Street yet?" Lana asked me during one of our conversations. I shook my head. "You've got to go," she continued. "Of the hundred kids I've worked with, maybe five actually live in New York. You know, they go to those job centers in Eldridge Street, and they get—they pay fifty bucks and they get given a ticket, and a bus picks them up at the street corner and drives them to Arkansas

[156] This is a *suggested* argument. For participant safety, I only informally interacted with youth I assumed were undocumented. Most of the information I collected on their experience in the U.S. was anecdotal, shared by (apprehended) friends and peers who participated in my research.

and Virginia, Indiana, Illinois, North Dakota, literally everywhere. Check it out!" The next day, I did. In a sense concealed by its obviousness, I grew frustrated as I walked the length of the street on a gray, humid afternoon. I passed fruit stands and young women holding hands, fanning themselves and chatting. Trucks rumbled by. My discomfort heightened by both heat and conspicuousness, I walked on.

In hindsight, I'm not sure I particularly *wanted* to find these "job shops." It was easier to talk with a lawyer *about* this phenomenon, to sit with a young person as he carefully, and with evident pride, pinpointed the various stops on his migration journey while I echoed the place names, shaking my head admiringly. Eldridge Street, on the other hand, was gritty and loud; to me it represented an unnervingly meaningful, distressing threshold. I had lived in middle America and already visited so many Chinese buffets. Could the young people around me *imagine* this? "It was always 'the uncle in New York,'" Ming-Yue had told me a year earlier. "The kids think New York is equal to the U.S. 'Actually,' I tell them, 'It's not.' But then finally it's, 'Oh, your uncle is in *South Dakota*.' They don't know what South Dakota is. The only word for them is New York. Because anything their uncle do, he'll do it from New York…" I heard her words as I walked slowly to the end of the street, shadowed by store awnings and the heavy bridge above.

Here were the job shops: like tiny bus station ticketing counters, inside each open door was a long glass window with white slips taped to it. Young men stood in the neon light, crowded together and peering carefully at the pieces of paper. A group of teenagers sat on the steps of one shop, talking and smoking. A boy had his arm around a young woman; she wore short jean shorts and was laughing. A girl and an older woman walked by, arm in arm. Both looked disappointed. I passed a young man on his cell phone; his black shoes were scuffed and

worn and he carried a stiff black satchel. Another young man wore flip flops and a navy polo. The air smelled of cigarettes and ripe fruit. A tall teenage girl trudged by slowly, preoccupied, with two other girls. She was on a cellphone and held a sheet of paper with a business card clipped to it. Inside another shop was a sign advertising internet plans and New York employment agencies law. It was in English. "That's what I have," read my notes.

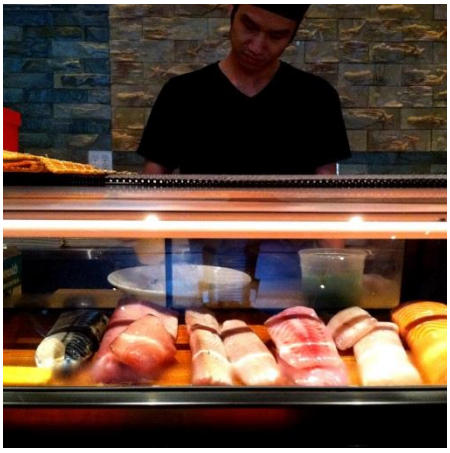
> *In my memory, [Eldridge Street] was a long, almost feeling-less moment. I wanted to talk to those girls, to find out what was on the slip of paper. I probably could've muddled through, but I didn't try. I felt so out of place… As I stood there and then began to walk back up Eldridge, I noticed a pair of middle-aged men pass me at least three times. They seemed very cognizant of everything going on, looking around, looking at me. They wore black shoes and one had on a caramel-tan summer jacket with dark pants. I'm sure they were snakeheads or affiliated with them. They were also middle-aged Asian men who had more of a "place" there than I ever could, despite having read so much about it. That's just it—it was strange to be in the thick of it, to know about this thing, this neighborhood so well that I felt like it wasn't my first time there. It was entirely natural, but still uncomfortable and unfamiliar for anyone—myself included, or maybe just me—who was newly arrived.*

The young people I observed that day now most likely work elsewhere in the U.S. Some may have found employment in factories or nail salons, but the majority are on what one attorney termed "the restaurant circuit." They work—and sometimes live—in Chinese buffets, quitting one restaurant and securing employment at another, often through word of mouth or by returning to Eldridge Street.

While youths' experiences in broader communities of reception differed widely, their employment situations were often quite similar. Consider my notes after visiting the restaurants where Hua (in Arkansas) and Dewei (in upstate New York), worked:

> *Hua works from 9:30 am to 10 pm at Comet buffet six (sometimes seven) days a week. She was actually quite positive about the restaurant—she lives with the boss and the manager (husband and wife) and their five young children, who she had photos of on her phone. The parking lot was crowded when I visited, and every worker I saw, save the hibachi cook (a middle-aged Chinese man) and some Latinos filling up the buffet, was a fast-moving young Chinese woman. Hua introduced me to the manager, who seemed friendly and also a little suspicious. The uniforms were nice—black pants, black shirt,*

black shoes, deep red ties. There was no mifan *on the buffet, only fried rice with peas and corn. There were a lot of families, a lot of older folks, all white and some with heavy southern accents.*



Dewei lives and works for his "aunt and uncle." They're Fuzhounese and own four "Japanese" restaurants. He laughed when he told me. The one where Dewei works has thirteen employees, all Fuzhounese and two men from Honduras who do the dishes. Dewei is the youngest there. He works six days a week with Sundays off, usually. He works from 10 or 11 am until 9 pm—"but sometimes it's 10 pm, sometimes 11." On his day off, he goes swimming at the gym.

Figure 5.1 Dewei at work

Most of the young people I interviewed were insulated in and by their working lives, with long hours at a buffet and then most spare time spent in the homes or apartments they shared with coworkers. These living situations almost seemed an afterthought in our conversations: exhausted after such long days (and nights), most youth said they just wanted a place to sleep, "and cook, and sometimes watch Chinese videos." Some had friends with cars and/or driver's licenses, enabling them to go shopping or to the movies on the occasional day off. Most were like Hua, who rode to and from work with her boss and coworkers and walked everywhere else. Significantly, this "everywhere else" was considerably reduced by the hot Southern sun, the distance from her bosses' home to town, and an absence of sidewalks along the busy roads.

"Here I'm tired," said one young man. "I stay in my house. If I have time off, maybe I'll go to New York." Like Hua, he mentioned New York's karaoke and Chinese food.

"I'm going to wedding there next month. Two weddings in one day!" a young woman in Illinois told me. "I take a bus. In New York, they have funeral homes, and they have weddings."

The relative ease and confidence by which youth travel to and from New York notably thwarts the image of Fujianese in new destination communities as isolated and remote, an

assumption I held prior to conducting research. Yet this is not to say that living in a small town is easy; indeed, the resoluteness by which youth venture to New York is most likely an indication of what is lacking, or what feels unobtainable, in the communities where they work.

Reiterating the reflections I collected from youth, an attorney in northwest Arkansas commented, "Think about this group of people. They may work in Oklahoma, and then when they need a blanket, they may take a bus all the way to New York to get a blanket. You know what I mean?" He was nonchalant.

I nodded.

"If they have needs," he continued, "They're not met in Oklahoma. Oklahoma can get them a job, because there's a Chinese restaurant. So normally, the owner will give them a place to stay. They may have laundry machines in their facilities, their so-called home, but there may be twenty people in the house. And then when they're off, they will have Chinese tapes to look at."

"It's a little bubble," I added.

"Yeah," he agreed. "But when they are talking about, okay, when you are sick? They don't know where to get a doctor in Oklahoma. Because nobody can speak their language. So they have to take a bus all the way to New York. Or if they have to send money, like some of the money they earn. Same thing."

Figure 5.2 Street in Manhattan's Chinatown

Figure 5.3 Happy Café, northern IL

Figure 5.4 Dragon Buffet, southwest WI

Figure 5.5 Sign on edge of buffet parking lot: "God says… He loves us all!"

Legal, with an "Illegal Life"

As already mentioned, my interviews and informal conversations with young people centered primarily on their legal experiences; consequently, the data I collected in and about workplaces is limited. Though some authors have attended to the labor of unaccompanied Fujianese youth or Fujianese migrants more broadly (Kotlowitz 2006; Kwong 1996, 1997), this work has focused on urban spaces, primarily Chinatowns. Indicating a shortcoming in my own research, as well as a frustratingly familiar urbanormative bias (Pruitt and Showman 2014; Boso 2013) in other studies, I believe the dearth of knowledge about young Chinese migrants' lives in "new destinations" represents a compelling, necessary direction for future research. As we recall Lana's comment—*Of the hundred kids I've worked with, maybe five actually live in New York*—possibilities (and possible sites) for this research are vast.

For now, I return more confidently to the broader interplay of legality, labor and space, the relationship that emerges when my data from fieldwork in new destination communities are considered in light of broader legal realities. After spending a number of days with Wenyun, a young woman in Alabama whose removal proceedings were ongoing, she confided that she had a terrible toothache and wasn't sure what to do about it. "Too much American candy!" she said

with a quick laugh, yet it was clear the pain worried her. More worrisome was the seeming remoteness of a possible remedy. "I don't know how to talk to a dentist," she admitted in Mandarin, "or where to find one." She paused. "And how would I get there? And pay?"

Later that day, I reached out to some attorneys I had already interviewed in the area. They suggested a free and sliding scale community dental clinic thirty miles away. "All they need is a proof of address and a proof of income," I told Wenyun over the phone. "I would be happy to drive you there, if you want to go." She sounded hopeful and promised to call me the next day. In the meantime, I told her, I would reach out to Amy, her attorney who was based in Chicago. I knew Amy quite well; indeed, it was she who prompted me to visit Wenyun in Alabama. "She's a fantastic girl," she had said. "I'm sure you'll learn a lot from her."

Always warm and considerate, Amy was excited to hear I was in Alabama. She asked after Wenyun, then about my research.

"It's really different down here," I admitted. "You know, HB 56—and you can feel it."

She was silent. "What's HB 56?"

Surprised that Amy—an attorney who heartily self-identified as an immigrant rights advocate—had never heard of the Alabama bill, I faltered. Passed a month earlier, HB 56[157] now represented the nation's strictest "anti-illegal immigrant" legislation; it was even tougher than Arizona's SB 1070.[158] Among its provisions, it prohibited undocumented immigrants from receiving any public benefits at either the state or local level and from attending public colleges or universities. It required school districts to submit annual tallies of the suspected number of

[157] Beason-Hammon Alabama Taxpayer and Citizen Protection Act. http://alisondb.legislature.state.al.us/acas/searchableinstruments/2011rs/bills/hb56.htm. Later in 2011, significant portions of the law were blocked or invalidated following legal actions taken by the Obama administration and religious and immigrant-rights organizations.

[158] The Support Our Law Enforcement and Safe Neighborhoods Act, introduced in 2010 as Arizona Senate Bill 1070, was until HB 56 the broadest anti-undocumented immigration measure in U.S. history. It included an incredibly controversial (and consequential) provision requiring immigration status checks during law enforcement stops.

undocumented grade-high school students, and it prohibited landlords from renting to undocumented individuals. Though it had only been in effect for a month, many of the attorneys I interviewed had already observed changes in their communities.

"The educational provisions are fairly devastating," an attorney with the Southern Poverty Law Center told me. "There are invisible communities everywhere, of course, but it's now less easy to hide in Alabama. The law enforcement is more vindictive." She paused. "What we've learned is that the ag workers are leaving and there's no one there to replace them. I mean, the economic repercussions of this are terrible! And they're something people talk about all the time. The crops are rotting. One of my colleagues told me he visited an Ace Hardware in Alabama and there was a sign on the door that said, 'There are no pine straw bales' [for bedding in gardens]. It's such a taken-for-granted thing, that to suddenly not have any is really unusual. We're all noticing it."

I briefly described what I had learned about the bill to Amy, then mentioned the anxiety and visible pain I observed in Wenyun. "I talked to some immigration attorneys in the area, and they suggested this dental clinic. It's free or sliding scale, and run by a private nonprofit. She just needs proof of address and a pay stub, which she can get from her boss. Nothing that deals with her legal status. I'm happy to take her there."

To my surprise, Amy resisted. "There's really only a slim chance that this could be an issue for her case," she said, "but whatever issue might come up would be a real pain." Audibly uncomfortable, she ended the conversation abruptly. Initially I felt ashamed: Had I exceeded the bounds of our professional relationship, or of my "freedoms" as a researcher? I would not go against Amy's wishes, but as I imagined telling Wenyun about our call, I felt grieved. Taking notes in the dim evening light, I wrote, "Amy *cares* about Wenyun, I know." But extending this

care to a client's health simply could not cost a legal case—or, more likely, given the bureaucratic context of Amy's work, cost the *speed and efficiency* of a legal case. More profoundly, while Amy apparently felt it was "safe" for Wenyun to work some eighty hours a week in a restaurant not unsusceptible to an ICE raid[159]—labor that would help establish Wenyun's eligibility for a T visa[160]—it was chancy, or at least not beneficial to her case, for Wenyun to venture into the broader community and access available health services.

Though revealing to me as a researcher, Amy's decision ultimately didn't matter. When I next spoke with Wenyun, her tone had changed. "I'm just waiting," she said, "I have to wait. It's important to go a little bit slowly. Because, you know, my work here? When Amy says something like, 'You have to send that to me, you have to send proof that you are sending money home,' I give her that but my bosses—maybe they don't like it. Because they're afraid. You work in my restaurant but you don't have—" she struggled for the word.

"Documents?" I asked in English.

"Documents, uh-huh. So they're afraid." I wasn't surprised, given all I was learning about the state. "Yesterday I asked them for the [proof of] address, they say, 'We can't give you that.'"

The matter concluded; her pain did not.

A Different Kind of Practice Site

[159] While less rare than raids on factories and poultry processing plants, ICE has in the past targeted Chinese buffets, particularly in the South. See Draper 2013.

[160] Many attorneys rely on exploitative workplace conditions—and the notion that no one would ever *consent* to these conditions—to indicate that a Fujianese client is a victim of trafficking. One practice advisory states, "Being released and feeling forced to work in hazardous, exploitative with no care or social support….can often be some of the best indications of a trafficking scenario… Many children, in fact, explicitly state that, had they known what their life would really be like, they never would have come. This sentiment goes to the heart of combating those who claim their experience is just smuggling gone awry: without knowledge of what actually was to happen, how could they consent to what [one youth] describes as 'a kind of hell.'?" (Burke 2011:16-18)

Overwhelmingly, the attorneys I interviewed in the South and Midwest were considerably more informed about and sympathetic to the realities of youths' working and social lives than those who practiced in gateway cities. This is not surprising, given the stark regional differences between case loads, bureaucratic demands, and meaningful, sustained exposure to the extra-legal lives of their clients.[161] Many "new destination" attorneys were intimately aware of and involved in local immigrant communities simply by virtue of a town's size, what Freudenberg (1986) calls the "high density of acquaintanceship" [162] that tends to mark rural places.[163]

Unlike the competitive nature of cause lawyering in gateway cities, most notably as attorneys vie for funding, federal contracts, publicity, and "subjective jurisdiction" over a particular "cause" (see Chapters 2 and 5), the immigration attorneys I interviewed in less traditional contexts of reception were in a sense unified by their limited numbers and resources, as well as by the relative remoteness of their practice sites.[164] Significantly, many attorneys noted that these were challenges they often shared *with their clients*.

---

[161] This represents yet another compelling direction for research, namely a more thorough comparative study of immigration cause lawyers in gateway cities and new destinations, or of lawyering in rural areas more broadly (see Pruitt and Showman 2014).

[162] See also Pruitt (2006), who highlights both the positive and negative aspects of the closeness of community among rural residents while also illuminating the presence of these popular "close-knit" stereotypes in judicial opinions.

[163] I argue in this chapter that immigration attorneys in "new destinations" are better-equipped, and often more willing, to extend "care" to youths' work, health and social lives than gateway attorneys. A notable exception to this argument is Lana, a lawyer who deliberately pursued work at the New York Asian Women's Center because the organization offers legal assistance *alongside* counseling services. Another compelling example of "holistic" legal advocacy is the Bronx Defenders. http://www.bronxdefenders.org/who-we-are/.

[164] These attorneys generally practiced out of small, private immigration offices; some worked in the regional offices of national nonprofits. In their sustained advocacy and willingness to provide young or low-income clients pro bono or "low bono" services, this class of attorneys certainly fits within the categorical definition of "cause lawyer." Yet as another wrinkle to the term, these attorneys rarely self-identified as "cause lawyers" and, unlike their urban counterparts, were uninterested in establishing their subjective jurisdiction over a particular cause. This was most likely due to geographic constraints that, among other things, impacted exposure to the more competitive "cause" market of gateway lawyering (see Chapter 1: "Here in Arkansas, we don't go to conferences, we don't go to trainings, we have no money!"). I think the experiences and measured perspectives of these attorneys represent a particularly interesting (and understudied, save Pruitt and Showman 2014; Blacksell, et. al 1991; Landon 1990) direction for future research. Unlike urban or gateway immigration cause lawyers, for which lawyering was at once

"What is the immigration climate in Arkansas?" I asked Russell.

"It's bad from place to place," he said. "The chicken industry is big here. Tyson, Cargill, Simmons, Butterball… they moved to this area because labor costs were low, except there wasn't enough labor. So Mexicans and Central Americans began magically appearing back in the mid-90s. So that's been booming. But Rogers [a neighboring town] has always been bad. The police—they do road blocks and stop everybody and ask for driver licenses. Without one they turn you over to immigration."

"No," interrupted his colleague, Maria Teresa, "they give you a ticket and you have to appear in court."

"And then ICE is there waiting," concluded Russell.

"I know you used to practice in Chicago, Russell," I stated. He nodded. "How is your immigration work here different?"

Without pausing, he said, "The biggest issue is just logistics. In Chicago, I was three blocks from court. Here, I'm three and a half hours from Kansas City and four and a half hours from Memphis [where EOIR courts are located], assuming the weather is good and there's not road construction. That's the big issue. The nearest immigration office is Fort Smith, which is an hour and fifteen minutes' drive over a mountain pass. So just the distance is a huge issue. You know, people get letters that they have to go to court in Memphis, and they don't know where

---

a paycheck, a mission, and an invested identity, a significant number of the attorneys I interviewed in the South and Midwest exhibited a deep awareness of and compassion for their clients and clients' families but were relatively ambivalent about practicing law. One attorney in Arkansas commented, "I'm not going to be a lawyer who works until he's 80. I've got a lot of other interests. I like my job. It's satisfying, but you know, if I never went back, it wouldn't be the end of the world. …Some of it is real paperwork oriented, it's kind of boring. It's very rote. But the result is—if you get a good result is pretty phenomenal. …I'm not really passionate, not like some [immigration attorneys] are… you know, the ones 'to take down ICE'… I do sometimes think that, as a group, [these attorneys] kind of lose sight, too, of the real issues that immigrants need. …I think sometimes when you have all the anger against the bad guy, however legitimate it is, it kind of clouds your view of, well, what are those other community issues that are legitimate and we'll need to all be a part of, especially because you're kind of integral in that realm of immigrant…" Another attorney in Wisconsin admitted that he works one day of construction every week. "It's good for my mind and my body. …There's some real nice thing—you don't have 7,000 emails a day."

Memphis is. And they don't have driver's licenses, so they have to find people to drive them who wants money, and sometimes they miss court because, you know, the car will break down or nobody will take them or they're afraid to take them."

"Or they're afraid to go," added Maria Teresa.

"Or they're afraid to go," echoed Russell. "Yeah."

"Because they get a lot of misadvice," she continued. "You know, like, 'Don't go to court, they'll arrest you and deport you.' So they don't go. And months pass and they—"

"Or years—" Russell interrupted.

She nodded. It was quiet.

While sympathetic to and personally familiar with many of the logistical concerns and surveillance their clients faced, these attorneys were likewise aware of—and markedly linked into—the community services available undocumented Latino youth. This represented yet another difference with lawyers in gateway cities, many of whom reported heavy caseloads or bureaucratic constraints as impediments to connecting youth with assistance beyond legal aid. Most of the new destination attorneys were themselves members of the communities in which they worked; some had even grown up there. The familiarity and connections this positionality provided mattered, permitting an extension of *care* beyond legal status.

"My family is from a small town nearby," Erin, a lawyer in Missouri, told me. "There are people who are like, 'Yeah, the Mexicans are running over the town…' There's definitely that. But also in that same town, I mean, the Catholic church started doing a Spanish mass years and years ago. And so you see different factions... I also have met some surprisingly pro-immigrant, or at least not anti-immigrant people that are typically kind of conservative because they see that we need the workers. I think it's kind of schizophrenic. I think you get a lot of people that are

anti-immigrant that are really loud, but I don't know that they're a majority, if that makes sense? And most of the nonprofits in the area are very aware of the immigration issue." Erin listed a number of nearby agencies and religious organizations, detailing the housing and health services and legal assistance they provided undocumented immigrants. "The community is definitely one of the biggest draws to being here," she added, "as opposed to being in a big city. I feel like I can actually make a difference."

"You don't think you'd be able to do that in a bigger area?" I asked.

"I think it would probably be a lot more difficult. I think there's a lot more red tape when you're working—You know, when I worked in D.C…." her voice trailed and she sighed with exasperation. "God, I remember we had these coalitions of immigrant service providers, and it was just a huge mess because there were so many people. It's harder, I think, to make connections, and it's harder to set up systems. [Here] it was just like, I called somebody and I said, 'We're going to do this.' …And then bam. It just happened. And it was super successful. I couldn't have done this in D.C… When you have seven different organizations doing the same thing, and then they end up fighting with each other, or like, you know, this is my turf, or this is my territory. And you're like, 'But you're all—why aren't you just one organization?" She laughed. "Why do you have to have seven? Yeah." Still laughing, she added, "You definitely don't have that here!"

A number of other attorneys mentioned the partnerships that they had initiated and developed with local law enforcement that participated in 287(g), a truly surprising, novel discovery in the course of my research. Until this point, ICE was the handy if not enigmatic "bad guy" discussed at professional meetings, the trial attorney who sat on the other side of the courtroom in removal proceedings. Here was outreach, local task forces—concentrated, collegial

efforts that moved beyond legal strategizing (and grumbling) to on-the-ground education about the needs and rights of undocumented community members.

Chris, an attorney in northern Wisconsin, likewise appreciated his ability to partner with area schools—including his alma mater. "A lot of the schools are really helpful. We did a pile of DACA,[165] and the schools were really great. If you're in a tiny rural school, then [migrant youth] are a significant part of the population. You work on a farm, you come to school and you run track. You're kind of like all the other kids who go to this school…"

Valued Freedom(s)

Of course, Fujianese youth are arguably *not* like all the other kids, nor do the regional possibilities many new destination attorneys celebrate necessarily translate to better or sustained advocacy on their behalf. This in a sense documents these youths' very "adult" lives, as well as the ways in which they may be relegated to "illegal" existences by virtue of their location. Challenging the aforementioned vision of youth as *children outside* the realm of politics and the market (Stephens 1995), I detail above the ways in which undocumented minors in new destination communities are impacted by geographic remoteness (particularly as it pertains to the inaccessibility of EOIR courts), state immigration policies, local law enforcement, and a regional tendency to equate "undocumented migrant" with—and likewise direct labor advocacy and social services to—more visible Latino populations (see Lee 2003).[166] I believe Fujianese are

[165] Deferred Action for Childhood Arrivals. In 2012, the Secretary of Homeland Security announced that certain individuals who came to the United States as children and meet several guidelines may request consideration of deferred action (a use of prosecutorial discretion to defer removal action against an individual) for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action does not provide lawful status. http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca. Accessed 7/1/14.

[166] In my research, I did seek out the availability—or even existence—of human services and labor rights' advocacy directed to Chinese youth, both in gateway cities and in "new destinations." There was an obvious disparity in services available urban documented and undocumented (or unprotected laboring) immigrant communities (Kwong's "uptown and "downtown" Chinese, see Chapter 3), and even moreso between urban and rural populations. After research with community leaders in New York and Chicago's Chinatowns and non-Chinese labor

additionally rendered *semi*-autonomous through the complicated and shifting context of local rural economies.

Though available information, linguistic isolation and smuggling networks ostensibly shape the employment opportunities available to youth,[167] the propensity of youth to work in Chinese buffets may simultaneously reflect the broader influence of global markets and regional economic change (Jeffrey and Dyson 2008; Stadum 1995). As an example, the employment director of a Chinese mutual aid association in Chicago told me that in the past meat packing companies from Iowa and Tennessee would come to him to recruit Chinese migrants. "But these days," he said, "they've really stopped recruiting in the city. Locals there are now willing to take those jobs." Youth are thus in a sense doubly-restricted to the "restaurant circuit" as they navigate the subtle challenges wrought by demographic shifts and rural economic and industrial restructuring (see Brown and Schafft 2011). "Fujianese youth are treated a little better and there's less competition [in smaller communities], but they're still at the mercy of their employer," said Len. "They try different places, looking for a place they feel is safe, trying to make a living, trying to not be exploited. Life goes on; people try to make the most of it."

Len's ambivalence is significant: however apathetic—*life goes on*—it also signals the choices youth make again and again as they seek safe, worthwhile employment. Often as riddled with "stops" as their migration journeys, these employment paths are noteworthy in being largely directed by youth themselves. When I interviewed Hua in Arkansas, for instance, it was her second stop; before that she was in northern Illinois, and later she worked in Ohio. By the time she received her green card, she was in Rhode Island, where her boyfriend had located two positions at a Chinese buffet outside of Providence. As I've mentioned elsewhere, Hua was

---

organizers in the rural Midwest, I only encountered one organization, the hospitality workers' union, that advocated on behalf of undocumented Chinese laborers in Chicago and its outlying areas.

[167] Many attorneys suspected snakehead involvement in the Eldridge "job shops" and transport of youth to job sites.

proud of her economic successes and excited to talk about the plans she and her boyfriend were making together.

I do not wish to diminish the very real economic demands and social obligations shouldered by the youth in this research. Nor can I disregard the unsafe conditions in which these demands are met or the physical and emotional toll of doing so. Yet as a consideration of—and sometimes a counter to—attorneys' portrayals of youth and their families, it is necessary to highlight the sincerity and satisfaction many youth feel about their skills, employment and economic achievements.

"I think people don't always understand kids' life here," shared Chengjie, a young man I first met in Chicago. "When Fujianese kids think about their future, they always—there's an old Chinese saying, like, when you are young, if you work hard you're actually saving something for the future. So we always say, you should not be afraid of working hard, you know, *bu yao pa xinku*." He looked at me expectantly.

"Yeah, I understand," I said.

"Yeah," he nodded. "Don't be afraid of that, because that's something that's good for your future. And when you're young, you need to do some kind of—to prove yourself, like, to show that you can kind of support your family." He paused. "You are still young, it doesn't matter that you're working hard from the morning to the night… And so [youth] actually make a lot of money, and maybe that's something the family had in mind—because when they are in their hometown, they cannot have a lot of chances to receive a better education. It's different from other areas. You know, maybe compared to more urban cities, you know, like Beijing or Shanghai—like, it's a different expectation. So a lot of people before they came here, they have nothing to do in their hometown. Like maybe they were working in local grocery shops, or

maybe in the restaurant to learn how to be a chef. But it's much less than what they can earn in the United States."

Of course, employment also represented something *beyond* earning power. With it and in the pursuit of it, youth familiarized themselves with money transfers and management, regional and international travel, self-subsistence, local economies, other immigrant populations, and long-term planning—skills valued by youth as markers of adulthood, success and a sort of global cosmopolitanism (see Nussbaum 2006). Describing one of her Fujianese clients, an attorney stated, "I have one awesome kid. He is *so* smart and speaks Mandarin and Cantonese and Spanish and Portuguese and is brilliant and strong, and a total punk—" She started giggling. "I remember I was prepping him for court, and I was like, 'What are you going to say if the judge asks you why you aren't in school?' And he's like, 'I'm going to say, *Fuck you!*'"

I laughed.

"And I was like, great. Great. Let's rephrase that. He's hilarious. And he shows up to court with a mohawk, and I'm like, *Oh my god*. But look, he wants to work. And that's where he sees value in himself. He loves working on a construction site because he can speak to the Chinese guys and he can speak to the Spanish guys and he has respect." It was the first and only time an attorney mentioned respect. Yet for many youth, the hard work Chengjie described generates a prized respect—and self-respect—in the U.S. as well as in families and Fujianese communities of origin (see Chu 2010).

Joan's rare acknowledgment of the economic and social value Fujianese youth accord to their work is significant; indeed, I believe it largely stands at odds with most cause lawyers' inclination to abstract young people from their prioritized relationships and financial obligations. Not only does this tendency have ideological roots, what Haven (1991) calls "the emergence of

autonomous individualism" in U.S. law and society (see footnote 148), but it also evidences a more recent tension between production and reproduction in U.S. immigration policy (Chavez 2008; Wilson 2000, 2006).[168]

Most of the attorneys I interviewed were like Lana, interpreting a Fujianese client's dogged pursuit of employment—rather than education—as an "unsuccessful case." Yet as detailed in the previous chapter, what attorneys assert to be a familial or cultural disregard for education is, in a sense, largely what makes a case *successful*: the young person's presumed inability or disinclination to seek schooling persuasively reveals the extent of their parents' ignorance, exploitation and/or neglect. Of course, this interpretation effectively forecloses the chance that the money a young person earns through employment may support a sibling's education in China through remittances, or it may be saved to support future children—*if you work hard you're actually saving something for the future*.[169] So also does it deny the ways in which work confronts, and in a sense *frees* young migrants from both the real and strategic "dependence" they experience in the legal realm. Indeed, little else so succinctly marks the transition between these youths' (i.e. "children's") legally-accentuated vulnerability and passivity to their actual agency, independence and autonomy as the economic and social gains achieved through employment (see Orellana 2009; Gozdziak 2008; Lancy 2008; Qvortrup 1999).

The Consequences of Care

This is not to say, of course, that a young person simply *resumes* being a transnational economic actor, now with legal status, once removal proceedings are concluded. The provision

[168] As Boehm (2011) argues, the U.S. depends on and supports migrant labor, yet "U.S. state policies push family life outside the borders of the nation-state… A focus on migrations as solely labor migrations obscures the reality that unauthorized migration takes place to support families" (172-73).
[169] My thanks to Steve Harrell for noting the significance of this tension.

of legal status is consequential, but not just for easing the threat of deportation or for the freedoms and protections this process ostensibly provides.

Recall the conference call Young's attorneys placed with his father (Chapter 5). During the conversation, Yu Ping stated, "I do not want to talk to this son anymore and I don't want to have anything to do with this one because he put my family in a jam, not just financially…" While heralded by John and Hannah as establishing parental abandonment (a qualification for SIJS), they later and with visible distress recalled Young's behavior during the tense phone call. The young man sat at a distance from the group, listening to the attorneys' questions and his father's increasingly agitated responses. Slowly, he slumped in his chair and began to cry. While no doubt a singularly poignant anecdote, I believe this incident signals the extent to which the pursuit of *one* form of status, namely legal, confronts and may even collapse others.

During their removal proceedings, youth carefully satisfy the schizophrenic demands of legal protections[170] as they simultaneously navigate shelter facilities, national employment networks and full-time jobs, sending remittances home to family. Yet in the legal realm, these independent accomplishments have no value; if anything, they would compromise a case. When the diminishment or denial of youths' abilities is combined with the well-intentioned chiding of attorneys—*you're too young to work; you need to go to school*—and attorneys' (however strategic) disparagement of families and culture of origin, many youth are profoundly unsettled. I thus argue that the celebrated provision of legal "membership" may fracture or isolate youth

[170] Recall that exploitative labor conditions and proof of remittances establish qualifications for a t visa (a more successful remedy in New York), as with Wenyun. Yet exploitative labor conditions and proof of remittances would have no value to and may even thwart another youths' eligibility for SIJS in Chicago (where t visa is less of an option, see Chapter 1/X). As with Hua, who shrewdly presented the account she knew her attorney needed, one in which her parents could be reframed as traffickers and which emphasized the crushing debts for which she was ostensibly obliged to pay, youth quickly learn what they should and should not disclose to attorneys. Similarly, although many youth told me that they were excited to have a green card because it would enable them to visit family members in Fujian, this was a treasured goal that they *never* shared with attorneys (see footnote 11).

from the valued, often intimate transnational memberships they have until now so skillfully managed.

When considering the shifting, interrelated constellation of family, labor and legality these youth navigate, a new tension in lawyering on behalf of Fujianese youth emerges. For while the youth I interviewed receive free advocacy from cause lawyers, they are uniquely positioned to accept, but never openly reject, the claims legal advocates make about their families and communities of origin. Although many youth are like Hua, who was confident and even boisterous in her description of her "bad guy" mom (Chapter 4), they, also like Hua, are troubled by these portrayals of family members. After all, amidst the loneliness and stress Hua experienced in Arkansas, her relationship with her mother represented a most valued experience of belonging. Yet as an additional stress, this relationship was simultaneously still "wrong" in the legal realm, and something that had to remain secret.

Other youth were more devastated by lawyers' claims. Confronted with the notion that his parents had abandoned him, one individual shared that his ties with his family deteriorated. "It is only now," he said, "*ten years later,* that I feel okay and want to send remittances again. I'm even starting to think about visiting my parents and sister in Fujian."

Interestingly, "abandonment" here overlaps compellingly with attorneys' understanding of "success." Establishing parental abuse, neglect or abandonment helps an attorney successfully obtain SIJ status on behalf of a client. Yet as we see above, doing so may fracture valued kin ties. And in the case of Young not meeting his father's expectations,[171] a successful claim may also

[171] Chapter 5, p. 29: *In Young's father's statement, we find frustration over the fact that Young has rejected what is most likely a locally valued identity, the opportunity to "lead" by providing his family with a particular kind of social and economic capital. Yet at this point, Young has been in the U.S.—and for the most part, in U.S. detention centers—for two years. To the reader, it is perhaps unsurprising that his new solution to financial, social, and perhaps even legal success is in the savvy, resolute pursuit of education. Fortunately enough, my record was with immigration. I actually had to go to school… otherwise I would not have an excuse to tell all the people in my family*

introduce the sorrowful possibility that a youth has simultaneously "abandoned" her or his family, through testimony or by the young person's individual economic, educational or social choices. Still another form of abandonment emerges, one that returns us to the limits of legal "success" introduced in the beginning of the chapter.

"I feel like a lot of our Fujianese clients are definitely—not to their own faults—limited by bureaucratic restraints," shared Christine, an attorney in Chicago. "Meaning that a lot of contract funding limits their services. For example, our agency can only serve youth. And a lot of agencies working with youth can only serve them up to the age of eighteen. But I personally feel that—and this goes with the other youth who are not Fujianese that I work with, too—I still think of youth as youth even after they turn eighteen. Meaning that it's fairly obvious that they would need assistance as far as adjustment in their immigration process. And I think that we—" She caught herself. "I think *someone* could systematically abandon them [like that]. …I mean, through the notion that once you turn eighteen you're an adult and you don't need any more help… It's sort of a timeline of experiences and the things that they would need help with, right?"

"Yes!" I couldn't hide my appreciation.

"And that doesn't end once you turn eighteen… Unless we can address those issues for them, I feel we're only doing truncated work."

Between the undisputed reality of truncated work and the largely unconsidered—or unacknowledged—possibility of abandonment are the persistent questions of age, rights and legal success this dissertation examines. Most of the attorneys I interviewed knew about youths' likely trajectory from "trafficking to commodity" or, more accurately, from Eldridge Street to,

---

why I go… In the shifting spaces of expectation and opportunity that Young and his father occupy, Young has, in a sense, "abandoned" his father.

say, North Dakota, but rarely did anyone acknowledge youths' need for—and indeed *right to*—safe, secure and lawful employment. Some attorneys identified schooling as an antidote to labor; others simply diminished the financial obligations youth still shouldered after obtaining legal status. "Do they still have to pay it?" asked one attorney. "I don't think so. I've heard that parents tell the smugglers it was a failed migration journey because the kid ended up in shelter care. That's how they get out of the debt." This of course ignores the reality that smugglers are paid *up front* by community banking networks and loan sharks. Every youth I interviewed, including those even Lana would identify as "successful," intended to pay off tens of thousands of dollars of debt.

With the exception of many of the "new destination" attorneys I interviewed, most cause lawyers were likewise indifferent to their clients' *other* needs and rights, including access to health care, language training, and other social services. This certainly reflects the limitations attorneys often lamented—high caseloads, insecure funding, the bureaucratic, competitive and inefficient "cause" market of gateway cities. Yet I believe that dismissing youths' very real need for fundamental rights and protections beyond residency, or *prioritizing* legal relief at the cost of other needs, as in the case with Wenyun, implicitly calls into question cause lawyers' understanding of "care." This "care" is likewise destabilized when we consider the intimate consequences of the suspicion attorneys strategically cast on youths' relationships, valued identities, and social and economic successes, all in the name of "best interest."

* * *

"What does a successful case look like?"

"Well, you just hope you've made the right choice," the attorney answered. And with a swift dismissal of her young clients' voice, ability and agency, she continued, "…Because kids can say, 'This is what I want, this is what I want you to do,' but who knows if this is what they want. Or even if it really is what they want, who knows if it's the best thing for them. *You just hope you've made the right choice.*"

CHAPTER 7

CONCLUSION

In 2011 the U.S. government began to record a rise in the number of unaccompanied minors arriving in the U.S. That year 4,059 young people, the majority from El Salvador, Guatemala and Honduras, were apprehended and placed in removal proceedings. In 2012, the number increased to 10,443 and in 2013, 21,537.[172] Commonly described as a "surge," an estimated 70,500 UACs are expected to be apprehended at the border in 2014 (Lind 2014). Most news sources cite violence and the threat of gang recruitment in home countries as reasons for the increase, as well as economic necessity, a desire to reunify with parents or family members already in the U.S., and a perceived—not actual—change in U.S. policy that favors child immigrants (Carlson 2014; Semple 2014). Little attention has been given to the broader historical, economic and sociopolitical context for this migration, including the CIA's historic involvement throughout Central America, asymmetrical economic agreements such as the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) and failed foreign policy in the region (see Heidbrink 2014).

In both the mainstream liberal press and state policy reports, a hasty conclusion appears to be drawn: These young migrants are vulnerable, and they need lawyers. Employing uncomfortably militaristic (or sexualized, see Cohn 1987) language, "Innocents at the Border: Immigrant Children Need Safety, Shelter and Lawyers," a *New York Times* editorial, notes,

[172] These figures do not include unaccompanied Mexican youth, whose numbers are likewise substantial: In 2011, approximately 13,000 Mexican children were apprehended. In 2012 there were 15,709, and in 2013 the number reached 18,754. Unlike unaccompanied youth arriving from nations non-contiguous to the U.S., most of these young people were immediately returned to Mexico. Though the TVPRA established that the Border Patrol must screen unaccompanied children from Mexico to determine that a youth is not a trafficking victim and has no claim to asylum, only a small number of Mexican children are transferred to ORR. Prior to passage of TVPRA, unaccompanied minors from Mexico were nearly always automatically given voluntary return. (Chishti and Hipsman 2014). See also "Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection." 2014. United Nations high Commissioner for Refugees. www.unhcrwashington.org/sites/default/files/UAC_UNHCR_Children%20on%20the%20Run_Full%20Report.pdf.

"President Obama needs to mount a surge of humanitarian care to handle the explosion of young migrants fleeing violence in their home countries... "[173] Consider also the U.S. Department of Justice's recent statement regarding the creation of "justice AmeriCorps," a partnership between the Corporation for National and Community Service (CNCS) and the Department of Justice's Executive Office for Immigration Review (EOIR).[174] A grant program that will enroll approximately 100 attorneys and paralegals as AmeriCorps members "to provide legal services to the most vulnerable of these [unaccompanied] children," justice AmericCorps "reaffirm[s] our allegiance to the values that have always shaped our pursuit of justice," stated Attorney General Eric Holder.

> *We empower new generations of aspiring attorneys and paralegals to serve their country and stand on the front lines of this fight. And we bolster both the efficacy and the efficiency of our immigration courts…*
>
> *How we treat those in need, particularly young people who must appear in immigration proceedings—many of whom are fleeing violence, persecution, abuse or trafficking—goes to the core of who we are as a nation.* [175]

While much could be written about the lauded provision of 100 additional legal advocates to address an influx of *70,000* unaccompanied minors, my aim is not to underscore what are often woefully—and very obviously—shortsighted, limited policy solutions. Instead, I recognize this ceremonial recognition of legal advocacy as part of, if not *the*, necessary "humanitarian care" as

[173] "Innocents at the Border: Immigrant Children Need Safety, Shelter and Lawyers." 6/16/14, by the Editorial Board, *nytimes.com*, http://www.nytimes.com/2014/06/17/opinion/immigrant-children-need-safety-shelter-and-lawyers.html?emc=edit_tnt_20140616&nlid=59710877&tntemail0=y&_r=0. Accessed 6/17/14.

[174] And "vulnerable" has an age limit: justice AmeriCorps will serve children in the immigration court locations where grants are awarded and will be limited to children under the age of 16 who are not in the custody of the Office of Refugee Resettlement or the Department of Homeland Security; who have received a notice to appear in removal proceedings before an immigration court; and have not had their cases consolidated with removal proceedings against a parent or legal guardian. http://www.nationalservice.gov/build-your-capacity/grants/funding-opportunities/2014/justice-americorps-legal-services.

[175] "Justice Department and CNCS Announce New Partnership to Enhance Immigration Courts and Provide Critical Legal Assistance to Unaccompanied Minors." Department of Justice Office of Public Affairs press release, 6/6/14. http://www.justice.gov/opa/pr/2014/June/14-ag-609.html. Accessed 6/17/14.

evidence of immigration cause lawyers' successful but fraught (self-)promotion and public image, an image that relies largely on the figure of the Chinese UAC.

Most publicity around the recent influx of unaccompanied minors does not consider young people from regions other than Central America and Mexico. And this makes sense: in fiscal year 2013, youth in the "Other" category comprised just 3% of total UACs, or approximately 780 individuals.[176] Yet as I demonstrate in this dissertation, the numerically-insignificant "other" of Fujianese UACs nonetheless represents a powerful challenge to immigration cause lawyers—as well as a compelling, and perhaps more convincing, component of their "caring" identity.

Indeed, I suggest the frustratingly opaque or uneasy goals, family expectations, culture and age of Fujianese clients are at once a professional boon. When interpreted as shadowy and desperate, the "spectacular" accounts of Fujianese youth arguably provide a more compelling, convincing cause than Central American youth, a population believed to be known all too well as a result of nativist politics and racialized public discourse. Consider the aforementioned descriptions of a "surge" or "flood" of these UACs, for instance; as Chavez (2001) and others argue, this language taps into prevalent, deep-rooted anxieties about an invasion of "illegal aliens," no matter their childhood "innocence" (see also Heidbrink 2014; Lee 2003; Rodriguez 1997).[177] It is perhaps no surprise, then, that immigration cause lawyers rely so heavily on "other" youth to establish the unquestioned worthiness of their work. Examples of what Greta Lynn Uehling (2008) calls a "racialized hierarchy of treatment" or, perhaps in this case, *a*

[176] My thanks to Perla Trevizo, border reporter at the *Arizona Daily Star*, for sharing these statistics with me.
[177] As Erica Lee points out, the anti-immigrant sentiment that identifies Latinos as "perpetual foreigners," and the government crack-down that places the entire Latino community at risk are significantly similar to—and certainly outcomes of—the plight of Chinese exclusion era policies (2003:249).

racialized hierarchy of advocacy are widespread,[178] evidencing a strategic distancing of "care" from the majority of those who need and receive it.

* * *

To reiterate what I've argued in this dissertation, the lawyers in my study maintain their subjective jurisdiction of a "cause" by constructing Chinese youth as uniquely vulnerable—and their parents as uniquely culpable—through normative narratives of age and morality alongside Orientalist economics and the "spectacular case." I believe cause lawyers further establish their obligation and, in a sense, *worthiness* to "treat" (Abbott 1988) this population of migrants through a rhetoric of care—i.e. by ambiguously conflating "welfare and safety" with legal status, best interest with rights, and guardianship with legal representation.

Of course, lawyers' use and interpretation of "care" must be recognized as situational. As I discuss elsewhere, in the legal realm immigration cause lawyers stress that their work is the "provision of care": legal status is pursued as a form of safety and protection for children who would otherwise be unsafe in their countries (or families) of origin. This, I believe, permits lawyers to distinguish or distance themselves from the potential suspicion that they apply for asylum, T visas or SIJS solely for legal status and benefits. Recall the statement an attorney made at the On Their Own Conference (Chapter 4): "Immigration judges aren't bad people, but there's confusion among them about whether [we pursue] SIJ…for immigration benefits or for *the right thing*—the protection and care of the child." Another woman stated, "Law enforcement

[178] For example, in its introduction to child migrants, the Young Center website lists only an orphan from Ethiopia and a girl from China. (http://theyoungcenter.org/learn/child-migrants/. Accessed 8/16/14). And of the testimonies included in KIND's "In Their Own Words" webpage, the stories of young people from Poland, Trinidad, China and Guinea are featured alongside just two accounts of Central American youth. (http://www.supportkind.org/en/kind-in-action/success-stories/in-their-own-words. Accessed 8/16/14).

is very hesitant to sign certification of the victim[179] [to pursue a U visa]. They're worried it's all about giving benefits, but it's not!"

Yet as I argue in this dissertation, "care" takes on a different meaning outside of the legal realm, perhaps most notably in the private moments when cause lawyers do not need to champion or defend their cause to relevant audiences including funders, immigration judges, trial attorneys, cause lawyers, and others. In conversations with me and with one another, attorneys often grappled with the limitations of their advocacy, specifically the inability to extend protection to other, meaningful areas of youths' lives such as labor. Here, "care" was no longer explained as safety and protection but as legal status. And legal status was, and had to be, enough. What is lost and what is imposed in this strategic, situational interpretation of care is important. Indeed, I believe that equating "care" with legal relief, i.e., the right to stay in the U.S., not only disregards other critical rights and protections but may additionally compromise intimate forms of status youth themselves value.

Yet as my research also recognizes, implicit in these tensions is the broader, more constraining context of rights, responsibility and expectation in which immigration cause lawyers work. After all, even the juridical category of "unaccompanied alien child" forces cause lawyers and their clients into an impossible space. "[I]t demands recognition by laws that view children as inherently or biologically incapable of assuming responsibility for their migration decisions and yet simultaneously and indiscriminately accountable for their (il)legality" (Heidbrink 2014:159). And while human rights law offers an alternative to this image of unaccompanied youth, namely as individuals who inherently possess rights regardless of socioeconomic status, ethnicity or age, these rights are not consistently recognized. Recall Anastasia's comment in

[179] This demonstrates cooperation with law enforcement, a necessary prerequisite when applying for U Nonimmigrant Status (see Chapter 4).

Chapter 2: "Is customary international law binding on immigration judges? Yes it is... But is it actually applied, is it recognized as binding, is it recognized as binding by ICE, who's making the decision for prosecutorial discretion? No."

Beyond their negotiations of the "natural rights" of children, the "inalienable rights" of immigrants, and the "rights worthiness" of UACs who are understood as accountable yet somehow lacking agency, the immigration cause lawyers in this study must navigate multiple scales of bureaucracy, time and funding. And in the specific realm of advocacy on behalf of Fujianese youth, additional tensions emerge. As I have detailed in this dissertation, the actions, expectations and very presence of Fuzhounese clients unsettle attorneys' professional responsibilities and motivations. Challenging presumptions of passivity or dependency, these youth are "overtly agentful" (Coe, et. al 2008) in their management of migration journeys and economic responsibilities. And in the legal realm, Fujianese minors' nuanced, creative practices complicate one-dimensional portrayals of *The Fujianese Child* in legal representation—even, or particularly, when youth reproduce the tragic accounts they believe their attorneys expect.

At once "leading and lagging" in their communities of origin and destination, I believe the complex social worlds of Fujianese youth should cause us, and cause lawyers, to more critically consider the reach and possible consequences of legal advocacy on clients' relationships, obligations and identities. Of course, while the youth in this project illuminate and implicitly unsettle the constraining choices attorneys make on behalf of a "cause," their presence also points to the constraining choices *available* to immigration lawyers. Recall Bernard's description of legal advocacy: "The law forces you—the law defines the box. The lawyering task is to put [the client] in the right box."

As I have evidenced, the task of putting unaccompanied Fujianese youth "in the right box" requires a reduction of family, age and culture in the legal realm. While certainly meaningful to this study, these routinized oversimplifications simultaneously call for more expansive, critical attention to the forms of legal relief available immigrant youth, the contradictory bureaucratic practices of "caregiving," and the contestations of age, agency and rights occurring in the current "deportation regime" (De Genova and Peutz 2010). In this political landscape, cause lawyers' situational interpretation of "care" is demanded—and perhaps even warranted. At the same time, however, the limited, consequential and often contradictory nature of this care is not simply the outcome of immigration laws and policies. I argue that it also reflects lawyers' successful claims over the "cause" of unaccompanied Fujianese minors.

Utilizing the "spectacular case" and asserting an "expert" understanding of the cultural and kin obligations of Fujianese UACs, cause lawyers establish their subjective jurisdiction over the rarely contextualized phenomenon of unaccompanied child migration. As I've traced, these attorneys largely promote and rely upon the power-filled appearance of intimacy with young migrants—*I'll let you tell the next part of the story*—to legitimize their exclusive expertise, obligation and indispensability to the cause at hand. The outcome of this is glaringly apparent in media and publicity campaigns (as above), where lawyers are overwhelmingly portrayed as *the* solution to the legal needs and wellbeing of unaccompanied youth. I believe this signals a profound impasse. Indeed, the elevation of attorneys as "humanitarian care" effectively forecloses opportunities to enhance—or better, redefine—advocacy efforts by granting equal voice to child welfare authorities, social workers, researchers, parents, guardians, and most importantly, youth themselves. Only by recognizing the rights, responsibilities and expectations

young migrants identify as important will lawyers' best intentions more comprehensively converge with youths' own best interests.

,

REFERENCES

Abbott, Andrew
1988 The System of Professions: An Essay on the Division of Expert Labor. Chicago: University of Chicago Press.

Adams, Paul
1971 Children's Rights: Toward the Liberation of the Child. Santa Barbara: Praeger Publishing.

Agamben, Giorgio
1998 Homo Sacer: Sovereign Power and Bare Life. Stanford: Stanford University Press.

Amon, Elizabeth
2002 The Snakehead Lawyers. The National Law Journal, 7/17/02.
2006 Winning asylum has never been so difficult. As more firms take on cases, can their zealous advocacy overcome the obstacles? The American Lawyer. 28:13-21.

Appell, Annette
2004 Uneasy Tensions between Children's Rights and Civil Rights. Nevada Law Journal 5:141.
2006 Children's Voice and Justice: Lawyering for Children in the 21st Century. Nevada Law Journal 6:692-723.
2009 The Pre-political Child of Child-Centered Jurisprudence. Houston Law Review 46:703-756.

Archard, David
2004 Children: Rights and Childhood. New York: Routledge.

Arendt, Hannah.
1966 The Decline of the Nation-State and the End of the Rights of Man. In The Origins of Totalitarianism. New York:Harcourt.

Aries, Philippe
1962 Centuries of Childhood: A Social History of Family Life. New York: Random House.

Arnett, Jeffrey
2000 Emerging Adulthood: A Theory of Development from Late Teens Through the Twenties." *American Psychologist*, 55, 469-480.

Arnold, David and Stuart Blackburn
2005 Telling Lives. Indiana: Indiana University Press.

Arnold and Porter LLP
2010 Reforming the Immigration System: Proposals to Promote Independence, Fairness, Efficiency, and Professionalism in the Adjudication of Removal Cases. Report prepared

for the American Bar Association Commission on Immigration. Washington, D.C.: American Bar Association.

Atkins, Marc, Angela Kim, Stephanie Pituc and Christine Yeh.
2008 Poverty, Loss, and Resilience: The Story of Chinese Immigrant Youth. *Journal of Counseling Psychology*. 55(1):34-48.

Bakhtin, M.
1981 The Dialogic Imagination: Four Essays. Michael Holquist, ed. Caryl Emerson and Michael Holquist, trans. Austin: University of Texas Press.

Bamo, Ayi, Stevan Harrell and Ma Lunzy
2007 Fieldwork Connections: The Fabric of Ethnographic Collaboration in China and America. Seattle: University of Washington Press.

Bartlett, Katharine
1988 Re-expressing Parenthood. Yale Law Journal 98:293-340.

Beck, Ulrich, and Elisabeth Beck-Gernsheim
2002 Individualization: Institutionalized Individualism and Its Social and Political Consequences. London: Sage.

Berger, Susan
2009 (Un)Worthy: Latina Battered Immigrants Under VAWA and the Construction of Neoliberal Subjects. Citizenship Studies 13(3):201-17.

Bernstein, Nina
2000 Press Coverage and Public Perception: In child welfare reporting, even good daily coverage can be distorting. Nieman Reports Winter 2000. http://www.nieman.harvard.edu/reports/article/101815/Press-Coverage-and-Public-Perception.aspx. Accessed 1/22/2014.

Best, Amy, ed.
2007 Representing Youth: Methodological Issues in Critical Youth Studies. New York: New York University Press.

Best, Joel
1993 Threatened Children: Rhetoric and Concern about Child-Victims. Chicago: University of Chicago Press.

Bhabha, Jacqueline
2009 Arendt's Children: Do Today's Migrant Children Have a Right to Have Rights? Human Rights Quarterly. 31:410-451.
2014 Child Migration and Human Rights in a Global Age. Princeton: Princeton University Press.

Bhabha, Jacqueline and Mary Crock
2006 Seeking Asylum Alone: A Comparative Study. Unaccompanied and Separated Children and Refugee Protection in Australia, the U.K. and the U.S. Sydney: Themis Press.

Black, Maggie
1995 In the Twighlight Zone: Child Workers in the Hotel, Tourism and Catering Industry. Geneva: International Labor Organization.

Blacksell, Mark, Kim Economides and Charles Watkins
1991 Justice Outside the City: Access to Legal Services in Rural Britain. London: Longman Scientific and Technical.

Boehm, Deborah
2011 Here/Not Here: Contingent Citizenship and Transnational Mexican Children. *In* Everyday Ruptures: Children, Youth, and Migration in Global Perspective. Cati Coe, et. al, eds. Nashville: Vanderbilt University Press.

Boso, Luke
2013 Urban Bias, Rural Sexual Minorities, and the Courts. UCLA Law Review 60(3):562-637.

Brewer, Holly
2005 By Birth or Consent: Children, Law and the Anglo-American Revolution in Authority. Chapel Hill: University of North Carolina Press.

Brooks, Katherine
1990 When a Child Needs a Lawyer. Creighton Law Review 23:757.

Brooks, Susan
1999 Therapeutic Jurisprudence and Preventive Law in Child Welfare Proceedings: A Family Systems Approach. Psychology, Public Policy and Law 5:951.

Brown, David and Kai Schafft
2011 Rural People and Communities in the 21st Century: Resilience and Transformation. Cambridge: Polity Press.

Brummett, Barry
1984 Burke's Representative Anecdote as a Method in Media Criticism. Critical Studies in Mass Communication 1:161-176.

Bucholtz, Mary
2002 Youth and Cultural Practice. Annual Review of Anthropology. 31:525-552.

Burke, Kenneth
1989 On Symbols and Society. Joseph R. Gusfield, ed. Chicago: University of Chicago Press.

Burke, Lauren

2011 It Was(n't) My Choice: Identifying Human Trafficking in the Unaccompanied Chinese Youth Population. Legal Practice Advisory.

Byrne, Olga
2008 Unaccompanied Children in the United States: A Literature Review. New York: Vera Institute of Justice.

Byrne, Olga and Elise Miller
2012 The Flow of Unaccompanied Children Through the Immigration System: A Resource for Practitioners, Policy Makers, and Researchers. New York: Center for Immigration and Justice.

Calavita, Kitty
1998 Immigration, Law, and Marginalization in a Global Economy: Notes from Spain. Law and Society Review 32(3):529-566.

Carlson, Laura
2014 US mainstream press notices child migrants, tells half the story. Americas MexicoBlog. 6/9/14. http://americasmexico.blogspot.mx/2014/06/us-mainstream-press-notices-child.html?m=1. Accessed 6/17/14.

Chan, Kenneth
2009 Remade in Hollywood: The Global Chinese Presence in Transnational Cinemas. Hong Kong: Hong Kong University Press.

Chanock, Martin
2000 "Culture" and human rights: orientalising, occidentalising and authenticity. *In* Beyond Rights Talk and Culture Talk: Comparative Essays on the Politics of Rights and Culture. Mahmood Mamdani, ed. Cape Town: The Rustica Press.

Chavez, Leo
2001 Covering Immigration: Popular Images and the Politics of the Nation. Berkeley: University of California Press.
2008 The Latino Threat: Constructing Immigrants, Citizens, and the Nation. Stanford: Stanford University Press.

Cheney, Kristen
2007 Pillars of the Nation: Child Citizens and Ugandan National Development. Chicago: University of Chicago Press.

Chin, Elizabeth
2001 Purchasing Power: Black Kids and American Consumer Culture. Minneapolis: University of Minnesota Press.

Chin, Ko-Lin
1999 Smuggled Chinese: Clandestine Immigration to the United States. Philadelphia, PA:

Temple University Press.
2001 The social organization of Chinese human smuggling. In Global Human Smuggling: Comparative Perspectives. Kyle and Koslowski, eds. Baltimore: The John Hopkins University Press. Pp. 216-235.

Chishti, Muzaffar and Faye Hipsman
2014 Dramatic Surge in the Arrival of Unaccompanied Children Has Deep Roots and No Simple Solutions. 6/13/14. Migration Policy Institute. http://www.migrationpolicy.org/article/dramatic-surge-arrival-unaccompanied-children-has-deep-roots-and-no-simple-solutions. Accessed 6/17/14.

Chu, Julie
2006 To Be "Emplaced": Fuzhounese Migration and the Politics of Destination. Identities: Global Studies in Culture and Power. 13:395-425.
2010 Cosmologies of Credit: Transnational Mobility and the Politics of Destination in China. Durham: Duke University Press.

Coe, Cati, Rachel Reynolds, Deborah Boehm, Julia Meredith Hess, and Heather Rae-Espinoza, eds.
2011 Everyday Ruptures: Children, Youth, and Migration in Global Perspective. Nashville: Vanderbilt University Press.

Cohn, Carol
1987 Sex and Death in the Rational World of Defense Intellectuals. Signs 12(4):687-718.

Comaroff, John
1995 The Discourse of Rights in Colonial South Africa: Subjectivity, Sovereignty, Modernity. *In* Identities, Politics, and Rights. Austin Sarat and Thomas R. Kearns, eds.Pp.193-236. Ann Arbor: University of Michigan Press.

Committee on the Rights of the Child, 39th Session
2005 General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin. CRC/GC/2005/6, 1 September 2005.

Coombe, Rosemary
2000 Contingent Articulations: A Critical Cultural Studies of Law. *In* Law in the Domains of Culture. Austin Sarat and Thomas Kearns, eds. Ann Arbor: University of Michigan Press.

Coutin, Susan.
2000 Legalizing Moves Salvadoran Immigrants' Struggle for U.S. Residency. Ann Arbor: University of Michigan Press.
2005 Being En Route. American Anthropologist. 107(2):195-206.

Cummings, Scott
2011 The Paradox of Professionalism: Lawyers and the Possibility of Justice. Scott Cummings, ed. Cambridge: Cambridge University Press.

Das, Veena.
1989 Voices of Children. Daedalus. 118(4):262-294.

Davis, Deborah and Stevan Harrell, eds.
1993 Chinese Families in the Post-Mao Era. Berkeley: University of California Press.

De Genova, Nicholas and Nathalie Peutz, eds.
2011 The Deportation Regime: Sovereignty, Space, and the Freedom of Movement. Durham: Duke University Press.

De Jong, Sara
2011 False Binaries: Altruism and Selfishness in NGO Work. Inside the Everyday Lives of Development Workers: The Challenges and Futures of Aidland. Anne-Meike Fechter and Heather Hindman, eds. Sterling, VA: Kumarian Press.

Donato, Katharine, Mellisa Stainback, and Carl Bankston III
2005 The Economic Incorporation of Mexican Immigrants in Southern Louisiana: A Tale of Two Cities. *In* New Destinations: Mexican Immigration in the United States. Zuniga, Victor and Ruben Hernandez-Leon, eds. New York: Russell Sage Foundation.

Dos Santos, Goncalo Duro
2006 The Anthropology of Chinese Kinship: A Critical Overview. EGEAS 5.2:275-333.

Draper, Bill
2013 Charges against restaurant owners part of crackdown on illegal immigration: U.S. Attorney working to target businesses that employ undocumented workers. Topeka Capital Journal 11/9/13. http://cjonline.com/news/business/2013-11-09/charges-against-restaurant-owners-part-crackdown-illegal-immigration. Accessed 6/30/14.

Durham, Deborah
2000 Youth and the Social Imagination in Africa: Introduction to Parts 1 and 2. Anthropological Quarterly 73:113-20.

Einhorn, Bruce
2009 Consistency, Credibility, and Culture. *In* Refugee Roulette: Disparities in Asylum Adjudication and Proposals for Reform. Jaya Ramji-Nogales, Andrew Schoenholtz, and Philip Schrag, eds. Pp. 187-201. New York: New York University Press.

Engle, Karen
2001 From Skepticism to Embrace: Human Rights and the American Anthropological Association from 1947-1999. Human Rights Quarterly 23(3):536-559.

Fairbank, John King
1969 Trade and Diplomacy on the China Coast: The Opening of the Treaty Ports, 1842-1854. Stanford: Stanford University Press.

Fei, Xiaotong
1992[1947] From the Soil, the Foundations of Chinese Society: A Translation of Fei Xiaotong's Xiangtu Zhongguo. Gary G. Hamilton and Wang Zheng, trans. Berkeley: University of California Press.

Fennelly, Katherine
2008 Prejudice Toward Immigrants in the Midwest. *In* New Faces in New Places: The Changing Geography of American Immigration. Douglas Massey, ed. New York: Russell Sage Foundation.

Fitzpatrick, Peter
1992 The Mythology of Modern Law. London: Routledge.

Fong, Vanessa L
2004 Only Hope: Coming of Age Under China's One-Child Policy. Stanford: Stanford University Press.

Foucault, M.
1984 What is Enlightenment? *In* The Foucault Reader. Paul Rabinow, ed. New York: Random House.
1991 Governmentality. *In* The Foucault Effect: Studies in Governmentality. Graham Burchell, Colin Gordon, Peter Miller, eds. Chicago: University of Chicago Press, 87–104.
1994 The Order of Things: An Archaeology of the Human Sciences. New York: Vintage Books.

Fraidin, Matthew
2010 Stories Told and Untold: Confidentiality Laws and the Master Narrative of Child Welfare. Maine Law Review 63(1):2-59.
2012 Changing the Narrative of Child Welfare. Georgetown Journal on Poverty Law and Policy. 19(1):97-109.

Frankel, Elizabeth
2011 Detention and Deportation with Inadequate Due Process: The Devastating Consequences of Juvenile Involvement with Law Enforcement for Immigrant Youth. Duke Forum for Law and Social Change 3:63-107

Fraser, Brian
1976 Independent Representations for the Abused and Neglected Child: The Guardian ad Litem. Cal. W. L. Review. 13:16.

Freedman, M.
1958 Lineage Organisation in Southeastern China. London: Athlone Press.
1966 Chinese Lineage and Society: Fukien and Kwangtung. London: Athlone Press.

Freudenburg, William

1986 The Density of Acquaintanceship: An Overlooked Variable in Community Research? American Journal of Sociology 92(1):27-63.

Furlong, Andy and Fred Cartmel
1997 Young People and Social Change: New Perspectives. New York: Open University Press.

Fyfe, Alec.
1989 Child Labour. Cambridge: Polity Press.

Gans, Herbert
1995 The War Against the Poor. New York: Basic Books.

Geertz, Clifford
1984 Distinguished Lecture: Anti Anti-Relativism. American Anthropologist 86(2):263-278.
1996 Off Echoes: Some Comments on Anthropology and Law. PoLAR: Political and Legal Anthropology Review. 19(2):33-38.

Georgopoulos, Areti
2005 Beyond the Reach of Juvenile Justice: The Crisis of Unaccompanied Immigrant Children Detained by the United States. Law and Inequality 23:117-155.

Gilroy, Paul
1993 The Black Atlantic: Modernity and Double Consciousness. Cambridge: Harvard University Press.

Giroux, Henry
1996 Fugitive Cultures: Race, Violence, and Youth. London: Routledge.

Glendon, Mary Ann
1989 The Transformation of Family Law. Chicago: University of Chicago Press.

Goffman, Erving
1959 The Presentation of Self in Everyday Life. New York: Doubleday.

Gonzales, Roberto
2011 Learning to be Illegal: Undocumented Youth and Shifting Legal Contexts in the Transition to Adulthood. American Sociological Review 76(4):602-619.

Gonzales, Roberto and Leo Chavez
2012 "Awakening to a Nightmare": Abjectivity and Illegality in the Lives of Undocumented 1.5-Generation Latino Immigrants in the United States. Current Anthropology 53(3):255-281.

Goodale, Mark, ed.
2010 Human Rights: An Anthropological Reader. Malden: Blackwell Publishing.

Goodwin, Charles
1994 Professional Vision. American Anthropologist 96(3):606-33.

Gozdziak, Elzbieta
2008 On Challenges, Dilemmas, and Opportunities in Studying Trafficked Children. Anthropological Quarterly. 81(4):903-923.

Gozdziak, Elzbieta and Micah Bump
2008 Data and Research on Human Trafficking: Bibliography of Research-Based Literature. Report prepared for the Institute for the Study of International Migration. https://repository.library.georgetown.edu/bitstream/handle/10822/551495/Data_research_trafficking.pdf?sequence=1. Accessed 1/14/2014.

Gozdziak, Elzbieta and Margaret MacDonnell
2007 Closing the Gaps: The Need to Improve Identification and Services to Child Victims of Trafficking. Human Organization 66(2):171-184.

Green, Bruce and Annette Appell
2006 Representing Children in Families—Foreword. Nevada Law Journal 6(3):571-590.

Green, Bruce and Bernardine Dohrn
1996 Foreword: Children and the Ethical Practice of Law. Fordham Law Review 64(4):1281-1294.
1996 Recommendations of the Conference on Ethical Issues in the Legal Representation of Children. Fordham Law Review 64(4):1301-1323.

Greenhalgh, Susan
1994 De-Orientalizing the Chinese Family Firm. American Ethnologist 21(4)746-775.

Greenhouse, Carol
1988 Courting Difference: Issues of Interpretation and Comparison in the Study of Legal Ideologies. Law and Society Review 22(4):687-707. Special Issue: Law and Ideology.

Griffith, David
2008 New Midwesterners, New Southerners: Immigration Experiences in Four Rural American Settings. *In* New Faces in New Places: The Changing Geography of American Immigration. Douglas Massey, ed. New York: Russell Sage Foundation.

Guggenheim, Martin
1980 The Rights of Parents. New York: Bantam Books.
1985 The Rights of Young People. New York: Bantam Books.
1998 Reconsidering the Need for Counsel for Children in Custody, Visitation, and Child Protection Proceedings. Loyola University Chicago Law Journal. 29:299.
2005 What's Wrong with Children's Rights. Cambridge: Harvard University Press.

Gusterson, Hugh

1997 Studying Up Revisited. PoLAR 20(1):115-119.

Haddal, Chad
2007 Unaccompanied Alien Children: Policies and Issues. Washington, D.C.: Congressional Research Service Report (RL33896).

Hafen, Bruce
1983 The Constitutional Status of Marriage, Kinship, and Sexual Privacy: Balancing the Individual and Social Interests. Michigan Law Review 81(3):463-574.
1991 Individualismm and Autonomy in Family Law: The Waning of Belonging. Brigham Young University Law Review 3(1):1-42.

Hamilton, Vivian
2006 Principles of U.S. Family Law. Fordham Law Review 75(1):31-73.

Heidbrink, Lauren
2014 Migrant Youth, Transnational Families, and the State: Care and Contested Interests. Philadelphia: University of Pennsylvania Press.

Heidbrink, Lauren and Michele Statz
2014 "Real help for immigrant children." Letter to the Editor in the *LA Times,* 6/11/2014. http://www.latimes.com/opinion/readersreact/la-le-0611-wednesday-immigrant-youth-20140611-story.html. Accessed 6/17/14.

Heimer, Carol and Lisa Staffen
1998 For the Sake of the Children: The Social Organization of Responsibility in the Hospital and the Home. Chicago: University of Chicago Press.

Henken, Louis
1990 The Age of Rights. New York: Columbia University Press.

Hobbes, Thomas
2010[1651] Leviathan: Or The Matter, Forme, & Power of a Common-Wealth Ecclesiasticall and Civill. Ian Shapiro, ed. New Haven: Yale University Press.

Hsu, Immanuel C.Y.
2000 The Rise of Modern China (sixth edition). Oxford: Oxford University Press.

Hsu, Spencer S. and Andrew Becker
2010 ICE officials set quotas to deport more illegal immigrants. Washington Post. March 27, 2010. http://www.washingtonpost.com/wpdyn/content/article/2010/03/26/AR2010032604891.html, accessed 11/7/13.

Human Rights Watch
Forthcoming The Ungilded Road: Abuse and exploitation of unaccompanied child migrants from China to the United States (1st draft with edits). Bede Sheppard, ed. New York:

Human Rights Watch.

Ignatiev, Noel
1995 How the Irish Became White. Milton Park, U.K.: Routledge.

Ikels, Charlotte, ed.
2004 Filial Piety: Practice and Discourse in Contemporary East Asia. Stanford: Stanford University Press.

James, Allison and Adrian James
2004 Constructing Childhood: Theory, Policy and Social Practice. New York: Palgrave Macmillan.

Jefferson, Thomas
1954[1788] Notes on the State of Virginia. William Peden, ed. Chapel Hill: University of North Carolina Press.

Jeffrey, Craig and Jane Dyson
2008 Introduction. *In* Telling Young Lives: Portraits of Global Youth. Craig Jeffrey and Jane Dyson, eds. Philadelphia: Temple University Press.

Judd, Ellen
1989 *Niangjia*: Chinese Women and their Natal Families. Journal of Asian Studies. 48(3):525-544.

Kell, William
1998 Ties that Bind?: Children's Attorneys, Children's Agency, and the Dilemma of Parental Affiliation. Loyola University Chicago Law Journal 29:353.

Kempadoo, Kamala
2005 From Moral Panic to Global Justice: Changing Perspectives on Trafficking. *In* Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights. Kamala Kempadoo, Jyoti Sanghera and Bandana Pattanaik, eds. Boulder, CO: Paradigm Publishers.

Kennedy, Elizabeth
2013 Unnecessary suffering: potential unmet health needs of unaccompanied alien children. JAMA Pediatrics 167(4)319-20.

Koh Peters, Jean
1996 The Roles and Content of Best Interests in Client Directed Lawyering for Children in Child Protective Proceedings. Fordham Law Review 64(4):1505-1570.
2001 Representing Children in Child Protective Proceedings: Ethical and Practical Dimensions. Newark:LexisNexus.

Kotlowitz, Alex

2006 The Smugglers' Due. The New York Times Magazine 5/11/06.

Kwong, Peter
1996 The New Chinatown. New York: Hill and Wang.
1997 Forbidden Workers: Illegal Chinese Immigrants and American Labor. New York: The New Press.
2001 Impact of Chinese human smuggling on the American labor market. In Global Human Smuggling: Comparative Perspectives. Kyle and Koslowski, eds. Baltimore: The John Hopkins University Press. Pp. 235-256.

Laerke, Anna
1998 By Means of Re-membering: Notes on a Fieldwork with English Children. Anthropology Today 14:3-7.

Lai, Him Mark
2004 Becoming Chinese American: A History of Communities and Institutions. Walnut Creek, CA: AltaMira Press.

Lancy, David F.
2008 The Anthropology of Childhood: Cherubs, Chattel, Changelings. Cambridge: Cambridge University Press.

Landon, Donald
1990 Country Lawyers: The Impact of Context on Professional Practice. Santa Barbara: Praeger.

Lee, Erika
2003 At America's Gates: Chinese Immigration During the Exclusion Era, 1882-1943. Chapel Hill: The University of North Carolina Press.

Legomsky, Stephen
2010 Restructuring Immigration Adjudication. Duke Law Journal 59(8):1635-1722.

Leong, Karen
2000 A Distant and Antagonistic Race: Constructions of Chinese Manhood in the Exclusionist Debates, 1869-1878. *In* Across the Great Divide: Cultures of Manhood in the American West, Laura McCall, Matthew Basso and Dee Garceau, eds. Pp. 131-48. New York: Routledge.

Levinson, Bradley and Dorothy Holland
1996 The Cultural Production of the Educated Person: An Introduction. *In* The Cultural Production of the Educated Person: Critical Ethnographies of Schooling and Local Practice. B. Levinson, D. Foley and D. Holland, eds. New York: SUNY Press.

Levinson, Daniel, Inspector General
2008 Division of Unaccompanied Children's Services: Efforts to Serve Children. Department

of Health and Human Services Report. March 2008: OEI-07-06-00290.

Liang, Zai
2001 Demography of Illicit Emigration from China: A Sending Country's Perspective. Sociological Forum 16(4):677-701.

Liang, Zai and Wenzhen Ye
2001 From Fujian to New York: Understanding the New Chinese Immigration. *In* Global Human Smuggling. David Kyle and Rey Koslowski, eds. Baltimore: The Johns Hopkins University Press.

Lichter, Daniel T. and Kenneth M. Johnson
2009 Immigrant Gateways and Hispanic Migration to New Destinations. International Migration Review 43(3):496-518.

Light, Ivan
2006 Deflecting Immigration: Networks, Markets, and Regulation in Los Angeles. New York: Russell Sage Foundation.

Lind, Dara
2014 13 Facts that help explain the US' child migrant crisis. Vox.com. 6/16/14. http://www.vox.com/2014/6/16/5813406/explain-child-migrant-crisis-central-america-unaccompanied-children-immigrants-daca

Liu, Guofu
2008 The Right to Return in China. International Migration 46(1):191-230.
2009 Changing Chinese Migration Law: From Restriction to Relaxation. International Migration & Integration 10(3):311-333.

Liu, Shao-hua
2011 Passage to Manhood: Youth Migration, Heroin, and AIDS in Southwest China. Stanford: Stanford University Press.

Locke, John
1988[1689] Two Treatises of Government. Peter Laslett, ed. Cambridge: Cambridge University Press.

Lovell, George
2012 The Myth of the Myth of Rights. Studies in Law, Politics, and Society 59:1-30.

Luban, David
1988 Lawyers and Justice: An Ethical Study. Princeton: Princeton University Press.

Lum, Thomas
2006 China and Falun Gong. Congressional Research Service Report for Congress, Order Code RL33437. http://fpc.state.gov/documents/organization/67820.pdf

Lustig, Stuart, Niranjian Karnik, Kevin Delucchi, Lakshika Tennakoon, Brent Kaul, Dana Leigh

Malkki, Liisa H.
1995 Purity and Exile: Violence, Memory, and National Cosmology among Hutu Refugees in Tanzania. Chicago: University of Chicago Press.

Marks, Denise Slavin
2009 Inside the Judges' Chambers: Narrative Responses from the National Association of Immigration Judges Stress and Burnout Survey. Georgetown Immigration Law Journal. 23:57-83.

Macabasco, Lisa Wong
2005 New York's Chinese Language Schools Growing in Popularity. Racewire. Retrieved 5/10/2010. http://www.arc.org/racewire/050120l_macabasco.html.

Macpherson, C.B.
1962 The Political Theory of Possessive Individualism: Hobbes to Locke. Oxford: Oxford University Press.

Maine, Henry
1969[1861] Ancient Law. New York: Dutton.

Maloney, Sarah
2002 TransAtlantic Workshop on "Unaccompanied/Separated Children": Comparative Policies and Practices in North America and Europe. Journal of Refugee Studies 15 (2002):102-119

Mann, Kenneth
1999 Beyond the Law of Evidence: Facts and Inequality in Criminal Defense. *In* Social Science, Social Policy, and the Law. Patricia Ewick, Robert Kagan, and Austin Sarat, eds. Pp. 101-36. New York: Russell Sage Foundation.

Marcus, George and Michael Fischer
1986 Anthropology as Cultural Critique. Chicago: University of Chicago Press.

Marrow, Helen
2011 New Destination Dreaming: Immigration, Race, and Legal Status in the Rural American South. Stanford: Stanford University Press.

Martorell, Maria Virginia
2012 Special Immigrant Juvenile Status: Problems with Substantive Immigration Law and Guidelines for Improvement. Immigration Daily 3/28/12.

Massey, Doreen
1993 Power-geometry and a progressive sense of place. In Mapping the Future: Local Cultures,

Global Change. Jon Bird, Barry Curtis, Tim Putnam, George Robertson, and Lisa Tickner, eds. New York: Routledge. Pp. 59–69.

Massey, Douglas and Chiara Capoferro
2008 The Geographic Diversification of American Immigration. *In* New Faces in New Places: The Changing Geography of American Immigration. Douglas Massey, ed. New York: Russell Sage Foundation.

Mather, Lynn and Barbara Yngvesson
1980-1 Language, Audience, and the Transformation of Disputes. Law and Society Review. 15:3-4.

McCann, Michael
1984 Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization. Chicago: University of Chicago Press.

McRenolds, MaryAnne
2008 The Trafficking Victims Protection Act: Has the Legislation Fallen Short of its Goals? Policy Perspectives 15:33-56.

Menjivar, Cecilia
2011 The Power of the Law: Central Americans' Legality and Everyday Life in Phoenix, Arizona. Latino Studies 9(4):999-1037.

Menkel-Meadow, Carrie
1998 The Causes of Cause Lawyering: Toward and Understanding of the Motivation and Commitment of Social Justice Lawyers. *In* Cause Lawyering: Political Commitments and Professional Responsibilities. Austin Sarat and Stuart Scheingold, eds. Pp. 31-68. Oxford: Oxford University Press.

Merry, Sally Engle
1985 Concepts of Law and Justice Among Working-Class Americans: Ideology as Culture. Legal Studies Forum. IX:1.
2000 Colonizing Hawai'i: The Cultural Power of Law. Princeton: Princeton University Press.

Millard, Ann and Jorge Chapa
2004 Apple Pie and Enchiladas: Latino Newcomers in the Rural Midwest. Austin: University of Texas Press.

Miller, Eric T.
2004 Filial Daughters, Filial Sons: Comparisons from Rural North China. *In* Filial Piety: Practice and Discourse in Contemporary East Asia. Charlotte Ikels, ed. Stanford: Stanford University Press.

Millman, Joel and Miriam Jordan
2014 Flow of Unaccompanied Minors Tests U.S. Immigration Agencies. Wall Street Journal

1/29/14. http://online.wsj.com/news/articles/SB10001424052702303743604579351143226055538. Accessed 2/26/14.

Miner, Casey
2010 Judges on the Verge of a Nervous Breakdown. Mother Jones. November/December 2010.

Minow, Martha
1985 Forming Underneath Everything that Grows: Toward a History of Family Law. Wisconsin Law Review 759(4):819-898.

Morando Lakhani, Sarah
2013 Protecting Immigrant Victims' "Right" to Legal Status and the Management of Legal Uncertainty. Law and Social Inquiry 38(2):442-473.

Morill, Calvin, Christine Yalda, Madelaine Adelman, Michael Musheno, and Cindy Bejarano
2000 Telling Tales in School: Youth Culture and Conflict Narratives. Law and Society Review 34(3):521-566.

Nader, Laura
1974 (1969) Up the Anthropologist: Perspectives Gained from Studying Up. Reinventing Anthropology. Dell Hymes, ed. pp 284-311. New York: Vintage Books.
2002 The Life of the Law: Anthropological Projects. Berkeley: University of California Press.
2010 Controlling Processes Reader. Course reader printed in Berkeley: Zee Zee Copy.

Newman, Katherine
1999 No Shame in My Game: The Working Poor in the Inner City. New York: Russell Sage Foundation.

Ngai, Mae
2004 Impossible Subjects: Illegal Aliens and the Making of Modern America. Princeton: Princeton University Press.

Nieuwenhuys, Olga
1996 The Paradox of Child Labor and Anthropology. Annual Review of Anthropology 25:237-251.

Nortick, Raina
2007 Singled Out: A Proposal to Extend Asylum to the Unmarried Partners of Chinese Nationals Fleeing the One-Child Policy. Fordham Law Review 75(4):2153-2191.

Nugent, Christopher
2006 Whose Children Are These? Towards Ensuring the Best Interests and Empowerment of Unaccompanied Alien Children. Boston University Public Interest Law Journal 15:219-235.

Nugent, Christopher and Steven Schulman

2003 A New Era in the Legal Treatment of Alien Children: The Homeland Security and Child Status Protection Acts. Interpreter Releases 80(7):233-236.

Nussbaum, Martha
2006 Patriotism and Cosmopolitanism. *In* For Love of Country: Debating the Limits of Patriotism. Joshua Cohen, ed. Boston: Beacon Press.

Ong, Aiwha
1996 Immigrants negotiate racial and cultural boundaries in the United States. Current Anthropology 37 (5), 737–762.

Orellana, Marjorie Faulstich
2009 Translating Childhoods: Immigrant Youth, Language, and Culture. New Brunswick: Rutgers University Press.

Osanloo, Arzoo
2006 Islamico-civil "rights talk": Women, subjectivity, and law in Iranian family court. American Ethnologist. 33(2):191-209.
2009 The Politics of Women's Rights in Iran. Princeton: Princeton University Press.

Peters, Michael
2001 Education, Enterprise Culture and the Entrepreneurial Self: A Foucauldian Perspective. Journal of Educational Enquiry. 2(2):58-71.

Polikoff, Nancy
1996 Am I My Client?: The Role Confusion of a Lawyer Activist. Harvard Civil Rights- Civil Liberties Law Review 31:458.

Porter, Noah
2003 Falun Gong in the United States: An Ethnographic Study. Dissertation.com

Portes, Alejandro and Ruben Rumbaut
2006 Immigrant America: A Portrait. Berkeley: University of California Press.

Pound, Roscoe
1910 Law in Books and Law in Action. American Law Review 44(12).

Pratt, Mary Louise
1992 Imperial Eyes: Travel Writing and Transculturation. New York: Routledge.

Preston, Julia
2009 Immigration Judges Found Under Strain. New York Times. 7/11/09, A11.

Pruitt, Lisa
2006 Rural Rhetoric. Connecticut Law Review 39(1)159-240.

Pruitt, Lisa and Bradley Showman
2014 Law Stretched Thin: Access to Justice in Rural America. Forthcoming law review article.

Pupavac, Vanessa
2006 Humanitarian politics and the rise of international disaster psychology. Handbook of International Disaster Psychology, 15-34. Westport, CT: Praeger.

Qvortrup, Jens
1999 Childhood and Societal Macrostructures. Working Paper No. 9. Odense: Department of Contemporary Cultural Studies, the University of Southern Denmark.

Rodriguez, Clara
1997 Latin Looks: Images of Latinas and Latinos in the U.S. Media. Boulder: Westview Press.

Ruggerio, Vicenzo
2003 Global Markets and Crime. *In* Critical Reflections on Transnational Organized Crime, Money Laundering, and Corruption. Margaret Beare, ed. pp. 171-182. Toronto: University of Toronto Press.

Rumbaut, Rubén
2005 Turning Points in the Transition to Adulthood: Determinants of Educational Attainment, Incarceration, and Early Childbearing among Children of Immigrants. Ethnic and Racial Studies 28(6):1041-1086.

Rumbaut, Ruben and Golnaz Komaie
2010 Immigration and Adult Transitions. The Future of Children 20(1):39-63.

Said, Edward S.
1978 Orientalism. New York: Random House.

Saler, Benson
2003 The Ethnographer as Pontifex. *In* Translating Cultures: Perspectives on Translation and Translation and Anthropology. Paula G. Rubel and Abraham Rosman, ed.s. New York: Berg.

Sanghera, Jyoti
2005 Unpacking the Trafficking Discourse. *In* Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights. Kamala Kempadoo, Jyoti Sanghera and Bandana Pattanaik, eds. Boulder, CO: Paradigm Publishers.

Sarat, Austin and Stuart Scheingold
1998 Cause Lawyering and the Reproduction of Professional Authority: An Introduction. *In* Cause Lawyering: Political Commitments and Professional Responsibilities. Austin Sarat and Stuart Scheingold, eds. Pp. 3-28. Oxford: Oxford University Press.
2005 The Worlds Cause Lawyers Make: Structure and Agency in Legal Practice. Austin Sarat and Stuart A. Scheingold, eds. Stanford: Stanford University Press.

2008 The Cultural Lives of Cause Lawyers. Austin Sarat and Stuart Scheingold, eds. Cambridge: Cambridge University Press.

Scheingold, Stuart
2004 The Politics of Rights. Ann Arbor: University of Michigan Press.

Scheingold, Stuart and Anne Bloom
1998 Transgressive cause lawyering: Practice sites and the politicization of the professional. International Journal of the Legal Profession 5(2-3):209-253.

Scheingold, Stuart and Austin Sarat
2004 Something to Believe In: Politics, Professionalism, and Cause Lawyering. Stanford: Stanford University Press.

Scheper-Hughes, Nancy and Carolyn Sargent.
1998 Small Wars: The Cultural Politics of Childhood. Berkeley: University of California dPress.

Schneider, Carl
1985 Moral Discourse and the Transformation of American Family Law. Michigan Law Review 83(8):1803-1879.

Schuck, Peter H.
1998 Citizens, Strangers, and In-Betweens: Essays on Immigration and Citizenship. Boulder, CO: Westview Press.

Semple, Kirk
2014 As Surge in Child Migrants Reaches New York, Advocates Brace for Impact. New York Times. 6/17/14. http://www.nytimes.com/2014/06/18/nyregion/immigration-child-migrant-surge-in-New-York-City.html?emc=edit_tnt_20140617&nlid=59710877&tntemail0=y. Accessed 6/17/14.

Shamir, Ronan and Sara Chinski
1998 Destruction of Houses and Construction of a Cause: Lawyers and Bedouins in Israeli Courts. *In* Cause Lawyering: Political Commitments and Professional Responsibilities. Austin Sarat and Stuart Scheingold, eds. New York: Oxford University Press.

Shuman, Amy
2005 Other People's Stories: Entitlement Claims and the Critique of Empathy. Urbana: University of Illinois Press.

Simon, William
1978 The Ideology of Advocacy. Wisconsin Law Review 1978:30.
1984 Visions of Practice in Legal Thought. Stanford Law Review 36:469.

Skeldon, Ronald, ed.

1994 Reluctant Exiles?: Migration from Hong Kong and the New Overseas Chinese. Armonk, NY: M. E. Sharpe, Inc.

Sneider, Jennifer
1990 Guardians Ad Litem: Speaking for the Child. WM Mitchell Law Review. 16:1253.

Spence, Jonathan
1999 The Search for Modern China. New York: W.W. Norton.

Spivak, Gayatri Chakravorty
1987 In Other Worlds: Essays in Cultural Politics. New York: Methuen.

Stadum, Beverly
1995 The dilemma in saving children from child labor: reform and casework at odds with families' needs. Child Welfare 74(1):20-33.

Starr, June and Jane Collier, eds.
1989 History and Power in the Study of Law: New Directions in Legal Anthropology. Ithaca: Cornell University Press.

Stephens, Sharon
1995 Children and the Politics of Culture. Princeton: Princeton University Press.

Sterett, Susan
1998 Caring about Individual Cases: Immigration Lawyering in Britain. *In* Cause Lawyering: Political and Professional Responsibilities. Austin Sarat and Stuart Scheingold, eds. New York: Oxford University Press.

Terrio, Susan
2008 New Barbarians at the Gates of Paris?: Prosecuting Undocumented Minors in the Juvenile Court—The Problem of the 'Petits Roumains.' Anthropological Quarterly 81(4):873-901.
2014 Life ended there: Rare interviews with the children of America's border disaster. Politico Magazine 7/10/14. http://www.politico.com/magazine/story/2014/07/children-border-detention-108788_Page2.html#.U8b0fPldUuc.
2015 Whose Child Am I? Unaccompanied, Undocumented Children in U.S. Immigration Custody. Forthcoming, Berkeley: University of California Press.

Thorne, Barrie
1987 Re-Visioning Women and Social Change: Where are the Children? Gender and Society 1(1):85-109.

Thronson, David
2007-8 Custody and Contradictions: Exploring Immigration Law as Federal Family Law in the Context of Child Custody. Hastings Law Journal 59:453.

Timmer, Andria
2010 Constructing the "Needy Subject": NGO Discourses of Roma Need. PoLAR 33(2):264-281).

Tyrrell, Ian
1991 American Exceptionalism in an Age of International History. American Historical Review 96(4):1031-1055.

Uehling, Greta Lynn
2008 The International Smuggling of Children: Coyotes, Snakeheads, and the Politics of Compassion. Anthropological Quarterly 81(4):833-871.

Wallerstein, Immanuel
2001 Unthinking Social Science: The Limits of 19th-Century Paradigms. 2nd ed. Philadelphia: Temple University Press.

Watson, James
1982 Chinese Kinship Reconsidered: Anthropological Perspectives on Historical Research. Chinese Quarterly. 92:589-622.

Watson, Rubie
1985 Inequality Among Brothers: Class and Kinship in South China. Cambridge: Cambridge University Press.

Weiner, Myron
1991 The Child and the State in India: Child Labor and Educational Policy in Comparative Perspective. Princeton: Princeton University Press.

Weller, Robert
2000 Living at the Edge: Religion, Capitalism, and the End of the Nation-State in Taiwan. Public Culture 12(2):477-98.

White, James Boyd
1990 Justice as Translation: An Essay in Cultural and Legal Criticism. Chicago: University of Chicago Press.

Willen, Sarah
2007 Toward a Critical Phenomenology of "Illegality": State Power, Criminalization, and Abjectivity among Undocumented Migrant Workers in Tel Aviv, Israel. International Migration 45(3):8-38.

Wilson, Tamar
2001 Strapping the Mexican Woman Immigrant: The Convergence of Reproduction and Production. Anthropological Quarterly 79(2):295-302.
2006 Anti-Immigrant Sentiment and the Problem of Reproduction/Maintenance in Mexican Immigration to the United States. Critique of Anthropology 20(2):191-213.

Wolf, Marjorie
1972 Women and the Family in Rural Taiwan. Stanford: Stanford University Press.

Wollenstonecraft, Mary
1975[1792] A Vindication of the Rights of Woman. Miriam Brody Kramnick, ed. London: Penguin Books.

Wood, Julie Myers and Wendy Young
2013 Children Alone and Lawyerless in a Strange Land. Wall Street Journal, September 23, 2013.

Yngvesson, Barbara and Susan Coutin
2008 Schrodinger's Cat and the Ethnography of Law. PoLAR: Political and Legal Anthropology Review 31(1):61-78.

Yousef, Odette
2013 Sharp rise in young, unaccompanied illegal immigrants tests U.S. www.wbez.org, accessed 11/4/2013.

Zelizer, Viviana
1985 Pricing the Priceless Child: the Changing Social Value of Children. Princeton: Princeton University Press.

Zetter, Roger
1991 Labelling Refugees: Forming and Transforming a Bureaucratic Identity. Journal of Refugee Studies. 4(1):39-62.

Zhu, Guohong
1990 A Probe into Reasons for International Migration in Fujian Province. Chinese Journal of Population Science. 2(3).

Zuniga, Victor and Ruben Hernandez-Leon, eds.
2005 New Destinations: Mexican Immigration in the United States. New York: Russell Sage Foundation.

Cases Cited

U.S. Supreme Court
In re Gault, 387 U.S. 1 (1967)

Statutes Cited

Child Abuse Prevention Treatment Act of 1974.

Homeland Security Act of 2002, 6 USC §279(g)(2).

Immigration and Nationality Act, §240(b)(4)(A).

Immigration and Nationality Act, §1101(a)(15)(T)(i) and (a)(42)(A).

REAL ID Act, 8 U.S.C. § 1252(a)(2)(B)(ii)

Violence Against Women Act, 42 U.S.C. 136, Subchapter 3.

Victims of Trafficking and Violence Protection Act of 2000, 22 U.S.C. 7102 § 7102(8)(b).

Victims of Trafficking and Violence Protection Act of 2000, 22 U.S.C. 7101 §1513(b)(3)(iii).

Universal Declaration of Human Rights, *supra* note 3, art. 2.

UN Convention on the Rights of the Child of 1989, CRC, *supra* note 5, art.1.

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, §235.