Received: 28 September 2021 | Revised: 30 November 2022 | Accepted: 23 February 2023

DOI: 10.1111/lasr.12665

ARTICLE

Law & Society REVIEW

Hollow law and utilitarian law: The devaluing of deportation hearings in New York City and Paris

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Funding information
New York University Remarque Institute; Social Sciences and Humanities Research Council of Canada, Grant/Award Number: 752-2017-0320

Abstract

How is law made worthless to the marginalized? Drawing on ethnographic observations in Paris and New York City, I establish a typology of devaluation practices in deportation hearings. I analyze how informal court practices devalue court actors, the hearing, and the law itself. Despite different levels of formal protections for migrants, deportation adjudication is pared down and devalued in both cities. This devaluation, however, followed distinct logics. New York hearings were characterized by a *utilitarian law* logic, where process and ritualistic elements deemed inessential were shed, leaving a stripped-down core focused on case processing. The minimal protections available to migrants were weakened further. By contrast, *hollow law* emerged in Parisian hearings, where everyday court practices eroded the more generous protections granted to migrants through formal law. While analyses of immigration adjudication have focused on decision-making, determinants of legal outcomes, and the interpretation of formal criteria, I instead conceptualize the courtroom as a space where value is actively unmade through informal practices, drawing on insights from the sociology of valuation and evaluation.

INTRODUCTION

"Well, it's not seen as real law…. It's a mass docket."[1]

- P., immigration attorney in Paris.

"Out of 3800 [annual] motions to the court, 2500 are from the noncitizens' docket. And half of these are worth nothing…"

-Judge Françoise Sichler.[2]

I met P., the attorney quoted above, at an administrative court in the Paris region. P. had been practicing immigration law for a few years. He explained to me how deportation[3] cases were not

[1]All translations by the author.
[2]Quoted in Nicolas (2019).
[3]I use "deportation" and "removal" interchangeably in this article. "Removal" has been the technical term in US law since 1996 (see Asad, 2019), while "deportation" is used in the literature to refer to a political practice where state power is exercised to remove noncitizens (see Walters, 2002).

considered "real law" by courts. Administrative judges did not take them as seriously and it was an undesirable part of their work. These cases constitute a type of mass docket ("*contentieux de masse*"), where numerous claims are processed daily. In the second quote, the Nancy appellate administrative court president states how half of appellate cases in noncitizens' law are worthless. Other cases should be prioritized, given the court's limited resources.

What counts as "real law"? Put differently, what kind of law has worth and is deserving of the court's attention and resources? And how is law made worthless? In this article, I explore legal devaluation. I analyze the informal court practices that unmake the value of migrant litigants, legal professionals, and the law itself in deportation hearings in New York City and Paris. I conceptualize legal spaces as sites of valuation where certain legal settings, and types of law, are actively produced as less important than others. Not only are migrants devalued in deportation hearings, but court practices also devalued the legal process and legal professionals' roles. Relying principally on ethnographic data, this article examines the everyday court practices that enact deportation hearings as devalued legal spaces in both New York City and Paris.

New York and Paris make for a fruitful comparison. They are both highly populated cities with a large share of foreign-born residents (Castañeda, 2018). Deportation and migration are politicized in both countries (Pew Research Center, 2020; Mathieu, 2016) and reports of migration "crises" are recurring in media and political discourse (Nawyn, 2019; Rigoni, 2019). The United States and France are popular asylum destinations, ranking first and third, in the number of new asylum applications in 2019 among OECD countries (OECD, 2020). Yet, each country has a different approach to formal rights in deportation proceedings. France provides far more robust protections to migrants, in many of the ways that are currently lacking in the United States, and have been singled out by critics of the US deportation system. In France, the independence of administrative judges is constitutionally recognized. By contrast, American immigration judges do not benefit from the independence given to either Article III judges, or administrative law judges, which is more limited in scope (Kim, 2018). They can also be removed by the Attorney General (Legomsky, 2007). In France, migrants are eligible for legal aid and most are represented in deportation proceedings. In the United States, migrants appearing in removal proceedings do not have a right to counsel paid for by the state, and only about 37% are represented by an attorney (Eagly & Shafer, 2015). Lastly, migrants in France benefit from additional protections under the *European Convention on Humans Rights* (*ECHR*). There is no comparable human rights instrument applicable in the American deportation context.

In this article, I leverage a cross-national comparison to show that, despite differing levels of protections for migrants, deportation adjudication is pared down and devalued in both Paris and New York City. I establish a typology of devaluation practices in deportation hearings. In both cities, informal court practices devalue (1) court actors, (2) the court hearing as a legal space, and (3) the law itself. Yet, devaluation practices follow distinct logics in each city. New York hearings are characterized by a *utilitarian law* logic. Process elements deemed inessential are shed to move cases forward, morphing the hearing into a bureaucratic service. By contrast, a type of *hollow law* emerges in Paris, where everyday court practices erode the many rights and protections granted to migrants through formal law.

While existing accounts of valuation in the legal field have addressed status and prestige within legal specialities (Abbott, 1988; Laumann & Heinz, 1977; Sandefur, 2001), recent analyses of valuation in sociology have understood value differently, where it is actively made by agents, in particular moments and settings, instead of stemming from certain objective characteristics, such as professional purity or client type. Following this approach, I analyze how informal practices and elements of court atmosphere such as spatial experience, sound, depth and scale (Bens, 2018; Mulcahy et al., 2018) shape mundane legal experiences and, ultimately, how value is made in legal settings. I build on recent work on state bureaucracies that shows how everyday informal state practices ascribe worth to citizen claimants, particularly the urban poor, and teaches them what to expect from the state (Auyero, 2012; Soss, 1999).

https://doi.org/10.1111/lasr.12665 Published online by Cambridge University Press

LITERATURE REVIEW

Formal aspects of immigration adjudication and the recognition of migrants' rights

Research on immigration courts has principally focused on the more formal aspects of adjudication. It has addressed variation between cases, whether it be in judicial decision-making outcomes, in asylum grants or other forms of relief, or how different types of cases, and migrants, become subject to legal classifications. This scholarship compellingly documents how immigration courts offer little in the way of substantive justice for migrants in deportation proceedings. American immigration judges exercise large amounts of discretion and can be conceptualized as street-level bureaucrats (Asad, 2019). There are substantial variations in asylum grant rates between different judges and courts (Keith et al., 2013; Ramji-Nogales et al., 2009). Policy predispositions of judges (liberal or conservative) have been found to correlate with asylum grant rates (Keith et al., 2013). Asylum decisions are also significantly related to judges' personal characteristics such as gender, and work experience in immigration enforcement or as immigration attorneys (Ramji-Nogales et al., 2009). And, by contrast with politically and legally similar countries that are popular asylum destinations, the United States has been shown to have overall high fluctuations in its asylum grant rate over time, for the same group of asylum applicants (Hamlin, 2014). Moreover, the majority of migrants who appear before the nation's immigration courts are unrepresented (Eagly & Shafer, 2015). Unlike in criminal proceedings, migrants facing deportation do not have an affirmative right to counsel and the state does not provide them with legal services (Legomsky, 2007). Yet, having access to an attorney is influential, both for being granted asylum and for a positive bond determination in immigration court (Eagly & Shafer, 2015; Miller et al., 2015; Ryo, 2016).

Formal criteria used in deportation proceedings to sort migrants are characterized by malleability. This often creates an asymmetry among those seeking immigration-related benefits or relief from penalties. Formal criteria can be interpreted restrictively, to reproduce dominant understandings of race, gender, class and sexual orientation, or to minimize evidence of belonging, such as family and community ties (Coutin, 2003; Farrell-Bryan, 2022; Newstead & Frisso, 2013). Over time, certain grounds of admission have been favored over others. The importance of political asylum has faded, in favor of claims based on humanitarian and medical considerations, chiefly, physical illness, and the role of seemingly objective biomedical factors has grown (Fassin, 2005; Lakhani & Timmermans, 2014; Ticktin, 2011). As migrants and their attorneys carefully devise strategies to expand and challenge formal legal categories, they sometimes encounter flexibility in state determinations, partly because of the discretion around and indeterminacy of immigration law (Galli, 2020; Kim, 2011; Shiff, 2020; Vogler, 2016). At the same time, humanitarian relief in the United States remains restrictive and formal eligibility criteria narrow. This leads attorneys assisting migrants to sort and assess the legal strength of cases by quantifying their clients' suffering, an overall dehumanizing process (Galli, 2020). In contrast to much of the current literature which analyzes formal criteria and case outcomes, this article focuses instead on informal practices in deportation hearings.

Informalization and marginalization

By focusing on the informal aspects of deportation hearings that produce marginalization in both the United States and France, this article adds to the discussion on the role of informalization in the legal system. Whether informal justice offers better access to substantive justice or reproduces inequality has been vigorously debated. Informal justice institutions offer alternatives to formal courts and have been described as decentralized, less coercive, nonprofessional, distanced from state power, and having flexible, ad hoc substantive and procedural rules (Abel, 1982). The delegalization of minor disputes has occurred within a particular mode of rationalization: one where technocratic

https://doi.org/10.1111/lasr.12665 Published online by Cambridge University Press

and managerial rationalities emphasizing speed, efficiency, and judicial intervention are used to deal with order maintenance issues involving the urban poor (Harrington, 1982). Because they deal with a wider range of minor disputes, often involving the marginalized, critics argue that informal justice institutions expand state social control over the "economically, socially and politically oppressed" (Abel, 1982, p. 274). A related concern is the bifurcation of cases where certain cases, particularly involving marginalized people, would be relegated to informal alternatives while formal courts adjudicate cases deemed worthy of their time, such as those involving business interests (Abel, 1982; Heydebrand & Seron, 1990). Other work has highlighted the subtle coerciveness of mediation, as well as the power imbalances that operate in mandatory consumer and employment arbitration (Hensler, 2003; Nader, 1993). Problem-solving courts have also been scrutinized for failing to respect due process protections and their potential net-widening effect in their efforts to divert defendants from the formal criminal justice system (Castellano, 2011).

The study of informalization and inequality has also extended to the informal practices and informal legal cultures that arise within the course of traditional, formal court proceedings, particularly within the criminal justice system. A robust line of inquiry examines plea bargaining. While roughly 95 percent of misdemeanor and felony criminal cases are resolved through plea bargaining (Natapoff, 2015), the process is inequitable and is shaped by a number of extra-legal factors, notably, demographic ones, and penalizes Black and Latino defendants (Bibas, 2004; Kutateladze et al., 2016). Accounts of the day-to-day operations of criminal courts have compellingly shown how informal practices emerge in high-volume dockets to create courtroom cultures that vitally shape defendant outcomes (Feeley, 1992; Kohler-Hausmann, 2018; Natapoff, 2015; Van Cleve, 2017). In Feeley's seminal study of a lower criminal court, interactions between members of the courtroom workgroup, usually repeat players, were instrumental in determining the "worth" of a case (Feeley, 1992). Natapoff describes how the misdemeanor system "jettisons the core procedural provisions that ensure accuracy," through "assembly-line courts" that speed through cases, resulting in unreliable convictions (Natapoff, 2015, pp. 258–259). Van Cleve (2022), in analyzing Chicago criminal courts, explains the role the court environment plays in the racial degradation ceremonies defendants become subject to; she conceptualizes these as a type of pre-trial punishment. Informal court norms that constitute courtroom cultures are thus powerful and meaningful, and can even mete out punishment. They also actively shape whether defendants can invoke due process rights. In misdemeanor courts, where speed and efficiency are key, hostile courtroom cultures discourage defense attorneys from raising legal arguments (Natapoff, 2015). Van Cleve (2017) shows how courtroom culture is a fundamental part of a system which sorts defendants according to moral worth, this sorting also determines the amount of due process that will be extended to them. As this literature illustrates, informal practices are a powerful vehicle for moral assessments in court proceedings, and impacts how litigants' rights are recognized. This is a dynamic that has not been extensively examined in the current scholarship on deportation adjudication.

Valuation in legal spaces

As granular accounts of the day-to-day operations of high-volume criminal courts have shown, moral assessments often underpin informal courtroom practices and courtroom cultures. These dynamics are consequential for the recognition of litigants' dignity, their due process rights, and their overall outcomes. Understanding how valuation operates in immigration courts, how certain legal proceedings and litigants are actively made to be of less value, sheds light on the conditions of adjudication in deportation proceedings. It is to uncover the everyday moral evaluations that inform the dynamics and practices of deportation adjudication and consequentially shape this process. Perspectives that highlight the atmospheric, situated, and interactional nature of value-making are especially relevant to the analysis of informal courtroom practices and courtroom cultures.

https://doi.org/10.1111/lasr.12665 Published online by Cambridge University Press

Recent literature in the sociology of valuation and evaluation (SVE) distinguishes between the study of what has value, or worth, and valuation as an activity, where practice, instead of evaluative criteria, becomes the focal point (Heuts & Mol, 2013). This body of work analyzes the situated, concrete process of valuation (Heinich, 2020). Value is no longer viewed as intrinsic to the object, but a quality that needs to be performed, where the agent of valuation actively participates in manifesting this value (Heinich, 2020; Hutter & Stark, 2015). Within this framework, value is understood to be contextual, interactional, spatially, and temporally localized, and emerges in "moments of valuation" (Heinich, 2020; Hutter & Stark, 2015, p. 4). Through this lens, the value assigned to different types of law or legal settings is made by actors in specific moments that are delimited in time and space, such as the courtroom, and is not indicative of certain characteristics, such as the complexity of a body of law. This literature invites us to take seriously the processual, interactional, and performative nature of valuation. This perspective adds to existing accounts of valuation in the legal field that have taken a sociology of professions approach, addressing status and prestige within legal specialties (Abbott, 1988; Laumann & Heinz, 1977; Sandefur, 2001). While illuminating, this work conceptualizes prestige as stemming from objective characteristics of the specialties, such as professional purity or client type.

Legal theorists and legal geographers have also paid attention to the constitutive dimensions of value in legal spaces, highlighting the significance of courtroom atmosphere and legal ritual for value-making in this context. Literature in legal geography has recognized how "spatial experience, scale, depth, sound and tactility" converge to shape mundane legal and political experiences (Bens, 2018; Mulcahy et al., 2018, p. 199). They have examined how formal, non-substantive legal aspects of the court hearing such as the decorative, the ornamental, and the ritualistic carve out the legal in time and space. Formalism, enacted through spatial and temporal indicators "demonstrat[es] the symbolic significance of the hearing" (Hynes et al., 2020, p. 5). Judicial ritual creates a proper frame for the legal process, demarcating its space as distinct from the ordinary (Garapon, 2001; Rowden, 2018). This is accomplished through a choreography of space, time, dress, behaviors, language, and procedure (Barker, 1995; Garapon, 2001; Rowden, 2018). This physical and symbolic separation from the mundane communicates a seriousness and solemnity to the court process that is intertwined with concerns of legitimacy in the exercise of state power. Rituals seek to bolster legitimacy and emphasize principles of objectivity, impartiality, and the rule of law (Barker, 1995; Garapon, 2001; Rowden, 2018) Judges wear robes, for example, to eclipse their identities as individuals and to highlight their institutional role (Garapon, 2001). Court rituals also cultivate attitudes among court actors. They inscribe the importance of the legal process, and prepare and embody the court event for litigants (Rowden, 2018).

Largely missing in the literature on valuation is a focus on legal and state institutions. Yet, recent work on state bureaucracies has confirmed the salience of valuation practices in these settings. Auyero, in his ethnography on how the urban poor are made to wait at length in Buenos Aires, reveals that waiting is a political tool that communicates a message of inferiority, where "state officials are effectively telling the poor that their time and therefore their worth is less valuable than the time and worth of others" (Auyero, 2012, p. 21). These everyday experiences with state bureaucracies "leave vivid impressions" and are pivotal in how citizens come to understand their relationship and positioning vis-à-vis the state (Soss, 1999, p. 376). This work shows how everyday informal state practices ascribe worth to citizen claimants, particularly the urban poor, and teaches them what they can expect from the state (Auyero, 2012; Soss, 1999). Frontline workers, such as the police, public school teachers, and employment counselors apply policy restrictively or flexibly, depending on the perceived worth and deservingness of the individuals before them (Maynard-Moody & Musheno, 2003). A focus on state agencies would elucidate how techniques of valuation operate on the ground and shed light on the systemic practices that construct certain settings, institutions, and citizens as more or less valuable. Unlike for art, peer review, or the pricing of goods, some of the topics that SVE has examined (see Lamont, 2012), valuations in these sites are far less obvious, sometimes illicit, and the differentiations they create must be articulated against an outward

https://doi.org/10.1111/lasr.12665 Published online by Cambridge University Press

commitment to norms such as equality. And, as Auyero's work suggests, legal and state spaces are also promising place to observe how *devaluative* practices unfold, something which the valuation literature has not extensively examined (Heuts & Mol, 2013). These practices may be especially relevant in state institutions that need to determine how to allocate limited resources and largely interact with the racialized poor.

METHODS AND DATA

The analysis in this paper is primarily based on ethnographic observations of 503 deportation hearings, carried out in both New York City and Paris, France from 2015 to 2020. My data collection concluded before the beginning of the COVID-19 pandemic. I supplemented my observations with ethnographic interviews, court decisions, governmental reports, documents from non-profit organizations and media articles. Drawing on the work of legal anthropologists, I conducted an "ethnography of a legal process" (Cabot, 2014; Coutin, 2000, p. 23). I explored how law unfolds on the ground, through routine encounters between people and state institutions that "would be normally invisible in nonethnographic ways" (Baiocchi & Connor, 2008, p. 140). In line with a focus on how day-to-day, informal interactions shape the experience of law, I focus on atmosphere, "the affective tonality, the overall 'feel' or the mood that enfolds at a specific time and place" (Bens, 2018, p. 343). The various dimensions of court atmosphere include spatiality, visual practices, materiality, and sound (Bennett & Layard, 2015; Bens, 2018). Ethnography is uniquely situated to capture the atmospheric elements of courts and shine a light on conditions of adjudication (Bens, 2018; Gill et al., 2021; Walenta, 2020).

In New York City, I observed 265 deportation hearings from 2015 to 2020. I carried out the bulk of my observations at New York City's two main immigration courts. The first is the largest immigration court in New York, where cases with non-detained respondents are heard. In New York, distinct courts hear cases of detained and non-detained migrants. To capture a fuller picture of immigration adjudication in the city, I also did fieldwork in a second, much smaller court, with detained migrants. Legal professionals and immigration advocates regularly shuttled between both courts, which are the two main sites of deportation adjudication. In addition, I spoke with immigration attorneys and activists during my fieldwork in New York.

I concentrated on three types of hearings in New York: master calendar hearings, merits hearings, and bond hearings. The first are preliminary hearings where migrants plead to the charges against them, state the form of relief they are seeking, and deal with procedural matters. Migrants who fail to attend can be ordered removable in absentia. Merits hearings are longer, more substantive hearings, where both migrants and the Department of Homeland Security (DHS) present evidence and testimonies. At bond hearings, judges decide whether to release detained migrants who are awaiting trial. Although American immigration courts are legally open to the public,[4] in practice, access was restricted, particularly at the court with detained migrants. I negotiated access challenges by accompanying immigration attorneys to hearings, or asking permission from parties prior to attending hearings. As I became more interested in court ritual and atmosphere, I observed 10 naturalization hearings in federal court. I sought to better contextualize the (de)valuation practices in deportation hearings, by witnessing state processes that were both exclusionary and inclusionary. During hearings, I was able to generate handwritten field notes, which I later transcribed. I then coded my field notes, identifying salient devaluation practices.

I attended 238 Parisian deportation hearings, principally at two administrative tribunals (*tribunal administratif*) in the Paris region from 2018 to 2019. There are five lower administrative courts in the area, two with a large volume of cases, and three with relatively smaller caseloads. I chose to observe one of each type, to add geographic variation to my site and to match the relative case

[4]See 8 CFR §1003.27.

https://doi.org/10.1111/lasr.12665 Published online by Cambridge University Press

volumes of the courts I observed in New York. Access was simpler in Paris, which allowed me to gather a larger amount of data within a shorter timeframe. Court hearings are genuinely open to the public and staff allow for public observation. During my fieldwork, I also talked to immigration attorneys, court staff, interpreters, and immigration advocates. As in New York, I took copious notes during hearings and transcribed them for coding purposes.

I focused on three main types of removal proceedings in Paris: cases involving (1) obligations to leave the territory (*obligation de quitter le territoire français* (OQTF)) *with* a voluntary departure delay, (2) OQTFs *without* a voluntary departure delay, and (3) Dublin Regulation transfers. Migrants with a voluntary departure delay are required to leave within a specified time frame, otherwise they may be detained and removed by the state. Those without a departure delay must leave the country within 48 hours of receiving the OQTF. OQTFs with a delay are heard before a panel of three judges who conduct a judicial review of the removal order. Dublin transfers and OQTFs without a delay are expedited proceedings (*procédures d'urgence*) and are heard by a single judge. Those with an OQTF without delay are mostly detained. They have 48 hours to file a motion to contest the order, otherwise they cannot go before the court. In Dublin proceedings, migrants ask not to be transferred to another European country where the Regulation applies[5], while France argues that a different state is responsible for their asylum claim. Under the Dublin III Regulation,[6] only one European state is eligible to process a migrant's asylum application, often the first one the migrant set foot in. There are, however, many exceptions to this rule. Migrants generally have 15 days to contest this type of order.

American immigration courts are highly specialized and only adjudicate deportation cases. They are part of the Executive Office of Immigration Review (EOIR), which is in the Department of Justice. American immigration judges, unlike their French counterparts, lack judicial independence. They do not benefit from protective measures such as lifetime tenure and can be removed by the Attorney General (Legomsky, 2007). This has been especially controversial as the executive sought to expand its power over immigration adjudication under the Trump administration (Kim, 2018). American immigration courts are also plagued by a lack of resources, and an enormous backlog of cases (Kim, 2018). Immigration adjudication has been characterized as legislatively chaotic and inconsistent; there are broad, often unclear provisions, allowing for high amounts of judicial discretion (Lakhani, 2013). Asylum grant rates vary widely between different judges and courts; some have linked these differences to judges' individual characteristics, such as gender, career experience, and political orientation (Keith et al., 2013; Ramji-Nogales et al., 2009). Calls for immigration court reform abound from attorneys, activists, politicians and the media (American Immigration Lawyers Association, 2020; Editorial Board, 2021; Ramji-Nogales et al., 2009).

French judges who adjudicate removal cases, in contrast, are administrative court judges and benefit from an independence from the executive branch that is enshrined in the law.[7] They work on a range of other administrative matters, including tax, urban planning, and public benefits. In 2018, 35.6% of lower administrative courts' overall decisions were in noncitizens' law (*droit des étrangers*) (Conseil d'État, 2019). This roughly matches the share of noncitizens' cases in the courts I observed, though one had a slightly smaller proportion of such cases. While the devaluation of immigration adjudication is largely ignored in the American context, studies show how these cases are not valued by French judges. Cohen (2009), analyzing *arrêtés préfectoraux de reconduite à la frontière*, a now mostly defunct deportation procedure, found that judges consider these cases to be a "dirty job" and "false law." Yet, judges' grant rates in these cases were used to assess performance, undermining their ability to remain neutral and impartial (Cohen, 2009). El Qadim (2013) argues that the devaluation of noncitizens' law made this docket the target of managerial-type organizational reforms in a French administrative court. Many judges interpreted this as a threat to their autonomy (El Qadim, 2013).

[5]These are the EU member states, with Iceland, Liechtenstein, Norway and Switzerland.
[6]Regulation (EU) No 604/2013.
[7]Conseil constitutionnel, decision No. 80–119 DC, July 22, 1980. (France).

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ANALYSIS

New York

Migrants in New York deportation proceedings are entitled to few protections. They do not have a right to an attorney provided by the state, nor do they benefit from supranational human rights instruments, unlike their French counterparts. Their cases are heard before immigration judges who lack independence, in under-resourced, backlogged immigration courts (Asad, 2019). In this part, I describe the informal practices that devalue deportation hearings in New York. These make conditions of deportation adjudication worse, in a context with already sparse formal protections. First, this devaluation operates spatially. A lack of value is actively made within the hearing space through an informal court atmosphere with little judicial ritual, and hidden hearings. Second, the law itself in deportation hearings is stripped down according to a *utilitarian* law logic. Elements of the process that are considered inessential to moving cases forward are removed or pared down, including both symbolic and due process elements. In New York, courts use collective hearing practices, distribute hearings over space, and restrict individualized interactions with migrant litigants. Third, court actors are also devalued. Migrants are cast as undeserving and dishonest, while the labor of immigration judges was minimized and even replaced by technological means.

Devaluing the hearing: Informality of place, absence of judicial ritual, and secrecy

A lack of formality of place erodes the conditions of adjudication in New York deportation hearings. New York's largest immigration court feels dated and bureaucratic. It houses dozens of small, dilapidated, courtrooms. The rooms are drab, the furniture worn, and the carpeting aged. Poor acoustics make it difficult to hear. The whirring of printers and other equipment drown out court actors' voices. Courtrooms and waiting rooms are small and lack sufficient seating. Migrants in Master Calendar hearings before a given judge are summoned to appear at the same time and must wait their turn. They form queues in the hallway, many with young children, as security guards control the traffic in and out of overfull courtrooms. They must stand beside courtroom benches, or lean against walls. Absent are the formal markers of sacrality—and potency—of a legal space, the "veritable debauchery of symbols and majesty," and "sumptuous expenditure of space," (Garapon, 2001, p. 39). It is nothing like the federal court nearby, where naturalization ceremonies occur, adorned with geometric-patterned golden doors and vivid paintings in its hallways.

Court actors also adopted a posture that produced an informal court atmosphere. Cultural geographers, building on phenomenological traditions, use the concept of affective atmospheres to capture the "affective tonality, the overall 'feel' or the mood that enfolds at a specific time and place" (Bens, 2018, p. 343). Here, the informal atmosphere takes away from the solemness of the hearing. Judges often arrived late, even when over 50 Master Calendar cases had been scheduled. At these hearings, judges mechanically call respondents forward by referring to their case number, without much pausing. Many do not make much eye contact with migrants, but look at documents, or screens. Court clerks speak to and direct other migrants or attorneys and print documents. In the gallery, people whisper, small children play, and babies cry and fuss. Once, an interpreter waiting in the gallery was filing their nails. Attorneys dress informally and coordinated suits were not common. Attorneys' briefcases were often worn, discolored, and sometimes peppered with holes. At one summer hearing, an attorney wore a strappy dress, athletic sandals, and carried a wheeled shopping trolley in lieu of a briefcase.

Integral to these spatial devaluation dynamics, is how these courts remain hidden from public view. Some courts vigorously announce themselves through architectural features, iconography and other symbolism; the white marble US Supreme Court building is instantly recognizable. By contrast,

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New York immigration courts are not in clearly marked courthouses, but on specific floors of multi-purpose federal buildings. The courts have no exterior signage; a passerby would be hard-pressed to identify a court there. Not only are these courts hidden, access is restricted, despite the longstanding principle of open courts and a federal regulation providing that hearings are open to the public.[8] Yet, New York courts routinely deny access to hearings. Hearings with detained migrants are closed to the public. Court clerks act as gatekeepers, standing by closed courtroom doors. Where respondents are not detained, judges restrict access to merits hearings. Judges and attorneys state that these hearings are closed and eject interlopers.[9] Throughout my fieldwork, I periodically tried to attend merits hearings without being accompanied, to assess court practices.

> I see an open courtroom door where a merits hearing will begin. I walk into the courtroom, quietly, and sit at the back of the empty gallery. No one notices me. I reach into my bag and the judge, the DHS attorney and the migrant's attorney all turn towards me. The judge asks who I am and what I'm doing. I respond that I'm a student observing hearings. The DHS attorney then gets up, walks towards me and tells me that these hearings are "not open to observation" and that I "can't just walk in." I apologize and get up to leave. The judge, seeming annoyed, adds that these hearings are confidential and that I cannot walk in. She says that I should contact court staff, and attorneys if I want to observe specific hearings. She repeats that hearings are confidential and I cannot walk in. The migrant's attorney chimes in that he would like to support students and future lawyers, and gives me his card. He says I can contact him later but did not agree to me observing the rest of the hearing. After I leave, they close the courtroom door.

Devaluing law: Utilitarian law in New York

The law that emerges in New York immigration courts is a downgraded *utilitarian law*. Court proceedings are reconfigured as a bureaucratic service, stripping away many of the ritualized, symbolic and infrastructural components that lend it legitimacy. In Master Calendar hearings, substantive goals are met: migrants appear, plead to charges against them, request time to find counsel, documents are filed, and future court dates are set. It is in *how* these markers are met that devaluation becomes apparent. Elements of the legal process considered inessential are pared down, including individualized interactions between migrant litigants and other court actors. These dynamics informed the use of both collective hearings, where multiple migrants' cases were grouped together, and remote hearings, where legal professionals attended remotely, while migrants appeared in person. This occurred long before the COVID-19 pandemic.

Different types of collective hearing practices were used in New York courts, where several unrepresented migrants appeared before a judge simultaneously. In smaller collective hearings, two or three unrelated migrant parties sat at the respondents' table while the judge asked them a single question and solicited answers from each one.

> All three respondents are mothers with young children. Two have toddlers and one has a baby with them today. They all sit at the main table, with a Spanish interpreter. Judge A asks each of them to state their name and address. He asks the court clerk to pull all three files. He says to them: "To the ladies for whom we are about to start, are all three of you looking for a lawyer?" Each says yes. The judge then turns on the recording and declares: "This is a group proceeding for a Master Calendar for the following three

[8] 8 CFR §1003.27.
[9] This occurs in other cities as well. See Stevens (2010).

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> respondents." He then states each respondent's name, their children's names, and case number. After a few more questions, and a brief exchange with the DHS attorney, the judge emphasizes that they should persist in finding an attorney. He warns them they will be deported if they don't show up next time. The respondents then pack up their things. The judge exclaims: "Ladies, just a moment, I need you to wait…Ladies, just a minute." The judge fills out some paperwork. He hands it to the DHS attorney from the bench, who steps up to take it, to then hand it to each respondent. She struggles to pronounce their names.

Larger collective hearing practices involved speeches about migrants' rights and duties to entire courtrooms; judges called these "group rights advisals." On days with large numbers of pro se litigants, migrants form a queue outside the courtroom. A security guard lets a first group in, filling the room. The judge, through a Spanish interpreter, gives a speech about rights and obligations, explaining how they can be deported for non-attendance, or penalized for baseless asylum claims. The judge then asks each respondent individually to confirm their understanding and current address.

Even before COVID-19 struck, legal procedures were "distributed" over space (Hynes et al., 2020), minimizing in-person interactions between migrants and other court actors. At the larger court, non-detained migrants were required to be physically present, while legal professionals were not. Here, a migrant respondent's attorney appears via telephone.

> The judge asks the migrant if his attorney is present. He answers succinctly that he is not, and is not given an interpreter. The judge looks over the file and places a call that is amplified through the courtroom's speakers. After a few rings, someone answers.

Attorney (via phone): Law offices of X, Y, and Z. This is S.
Judge: This is Judge G.
Attorney: Good morning, your honor.
Judge: We are ready for the Master hearing. Let me get on the record.

> The judge then states the case number, date, court location, the migrant's name and the attorney's name, adding that he is "calling in," for the record. The attorney agrees to waive interpreter services for this hearing. The judge goes through the usual steps of the hearing, talking with the attorney over the phone. The judge hangs up and adjourns the hearing. The migrant then waits to speak to the clerk and collect documents.

While attorneys routinely waived interpreter services for clients in Master Calendar hearings, the migrant here could not functionally communicate with anyone during the hearing, including his attorney. Though a common practice, its impact becomes different when the attorney cannot act as a mediator. Additionally, the migrant dealt with paperwork and interacted with the clerk, tasks usually done by attorneys. The attorney's absence also disrupted the symbolism and solemness of a court hearing. Yet, case processing goals were still met.

Like attorneys, judges could appear remotely. In 2019, the main New York court began implementing video-teleconferencing (VTC) dockets in certain courtrooms, where the judge, located at an off-site "adjudication center" appeared remotely for all cases.

> A little before 8:30 am, the benches are already full, mostly with younger adults and their children. A boy tries to get his father's attention, exclaiming: "Papi, papi!" The father unzips the boy's vest, and gives him a bottle. By 8:42, the hearings have not started. The DHS attorney chats with an interpreter and says he doesn't know why the judge hasn't called yet. The hearings could start at nine, though migrants were told to

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be there by 8:30 am, or there may be technical issues. The interpreter turns to the gallery and says in Spanish that she will provide simultaneous interpretation during the hearing. No one checks if some may not understand Spanish. Moments later, the interpreter stares at a man in the gallery and says: "la gorra." The man removes his cap.

At 9:10, a chime plays. The judge appears on the screen. The interpreter asks the audience to stand. The judge is white, in his sixties. His words are hard to hear. The audio breaks up and the video freezes. The interpreter announces that they are having technical difficulties and will resume soon. The hearings then proceed, but the sound keeps cutting out. The judge states his name and that he is at the "adjudication center" in Falls Church, Virginia. As usual, the court clerk sits by the judges' bench, which is empty today. When migrants come to the respondents' table, they are given an earpiece, the Spanish interpreter by their side.

The devalued court hearing de-centers law and process to focus instead on meeting case processing signposts; devaluation operates by shedding elements extraneous to the aim of moving cases forward. What is then lost? Here, individualized in-person exchanges between the migrant and the court actors are discarded. Judges are not in courts but in "adjudication centers," blurring the boundaries between law and bureaucratic service, the legal and the non-legal. But individualized interactions serve a dignitarian function, for both the migrant and the legal process. Law is not merely functional but "a mode of governing people that acknowledges that they have a view…of their own to present on the application of the norm to their conduct or situation. Applying a norm to a human individual is not like deciding what to do about a rabid animal or a dilapidated house" (Waldron, 2012, p. 210). To be recognized as a participant in one's trial, to be listened to by the court as a person with a valid perspective and the ability to explain oneself, is how law affirms dignity through the hearing process (Waldron, 2012). And some courts and scholars have also held that due process requires the physical presence of court actors, including the ability to confront evidence and witnesses face-to-face, and in-person assistance of counsel (Haas, 2006).

Devaluing court actors: Responding to opportunism, belittling professionals

The devaluation of court actors in New York was multifaceted. Practices devaluing migrants also assigned a lesser status to legal professionals. New York migrants encountered a range of subtle practices casting them as opportunists, undeserving of court resources, and needing to be prevented from abusing the system. These spoke loudly, not only about the value of migrant litigants but also legal professionals' labor, which was trivialized through certain court practices. While parallels could be drawn with similarly under-resourced criminal courts, this posture towards migrants as exploiting the state is particularly consistent with the deportation adjudication context. While migrants there are subject to coercive measures, they may also access meaningful benefits, including work permits and permanent residence. The trope of undeserving immigrants who abuse the welfare state is also longstanding (Cohen, 2011; Fujiwara, 2005). Conditions of adjudication may also be worse in immigration court where procedural protections available to criminal defendants are inapplicable to migrants (Legomsky, 2007).

Walk into the largest immigration court in New York and you will see many types of proscriptive signage. It is forbidden to take pictures, and to use your cell phone, even in waiting areas. Bathrooms near courtrooms are locked, reserved for court staff. Pieces of paper cover electrical outlets, making them unusable. The following vignette illustrates how costs related to witness participation are outsourced to migrants. Here, the migrant respondent must provide a calling card to have his nephew, M., testify from the US embassy in Santo Domingo.

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> The judge needs to call the US embassy where M. is located. He requests a calling card from the respondent's attorney. The attorney is prepared and hands him one with the strip scratched off. The judge begins to dial the number on the calling card, using the telephone at his bench. The call is amplified over the speakers; the sound of the dial tone fills the courtroom. A recorded message prompts the judge to enter the calling card code. He enters some numbers, with the tone of each pressed key echoing throughout the room. When he finishes entering the sequence, a message alerts him that the call cannot be placed. He tries twice more, to no avail. His interactions with the calling card's automated system come across clearly through the court's speakers. Frustrated, he asks the attorney if the calling card is active. The attorney, apologetically, responds that the card should be functional, but hands the judge a second card. The judge tries again. Finally, the call goes through. A staff member from the US embassy picks up the phone. He informs the judge that the respondent's nephew is ready to testify.

The court refuses to cover the cost of calling a US embassy to hear the migrant's witness, despite the inconvenience it may cause. This positions migrant respondents as undeserving political subjects. Political subject creation occurs not only through repressive but also through routine state practices (Roseberry, 1994). Everyday interactions with the state "socialize citizens to expectations of government services and a place in the political community…" (Lipsky, 2010, p. 4). Such practices convey a message about the worth and status of these litigants (Auyero, 2012). Here, migrants are being taught that they can expect very little from the state in terms of legal process, and that they are unworthy of state resources.

These practices have additional consequences for legal professionals, and the legal process itself. In the vignette above, the role of the judge both shifts and is devalued. The judge as a professional with expertise in immigration law must negotiate, very publicly, the bureaucratic hassle of the use of a calling card, for an arguably small benefit to the state. This also disrupted the solemnity and formality associated with the court hearing. Court practices were thus intertwined and acted on multiple planes, simultaneously devaluing different types of court actors, as well as the court hearing and the overall process.

Other practices also trivialized the labor of judges. As explained previously, collective hearings were frequent in New York. Judges would give groups of unrepresented migrants a collective "rights advisal," about the process in immigration court. This information, however, could be given by screening a video produced by DHS as illustrated in the following vignette.

> The judge pulls up a computer file and the video starts. The DHS attorney returns from lunch, and asks about it. The judge says, skeptically, "This is what they want us to do. Just following orders." The DHS attorney declines his offer to watch, and leaves. The video opens with the Department of Justice logo, an eagle on top of an American flag. An older, white immigration judge goes over migrants' rights and obligations. He warns them of the consequences of not showing up to court and of filing a "frivolous" asylum claim. The video mentions the need to check in with ICE regularly, and describes how to get a work permit. The video plays twice, once in English, once dubbed in Spanish. The video is projected onto a screen on the right side of the room. The respondents watch attentively. A few minutes into the video, the judge leaves the courtroom. The judge only returns shortly before the video ends, twenty minutes later.

Migrants are devalued by an impersonal, automated collective hearing practice. The same practice also minimized the judge's labor, who had his role eclipsed by a video recording. In the previous vignette, the judge dealt with bureaucratic hassle for, arguably, a small economy of court resources. It seems unclear what benefit can be derived from the use of video recording. It appears particularly salient as the judge could have easily given the "group advisal" himself. Deportation hearings are a

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legal space where judges, just as migrants, are devalued despite their higher status. In this setting, devaluation operates against process, migrants, and professionals alike.

PARIS

Migrants in France benefit from a wider range of formal rights in deportation proceedings than their American counterparts. They are able to invoke the procedural and substantive rights of the *ECHR*. They have access to state-sponsored legal aid. Almost all were represented by counsel in my fieldwork. Independent judges, who preside over a range of administrative matters, hear their cases. These administrative courts also contend with growing caseloads, and limited resources, but have a smaller case backlog than American immigration courts (Conseil d'État, 2019). Yet, despite stronger formal protections, deportation proceedings were also devalued in Parisian hearings through informal practice. Spatially, these hearings were characterized by invisibility and absence, where key court actors often failed to attend. Devaluation followed a *hollow law* logic in Paris: informal court practices gutted formal protections, including migrants' right to an attorney. This right could even be leveraged to their disadvantage, to hasten court proceedings. Court actors were also devalued, as in New York. Unlike New York, where migrants were constructed as suspicious and needing to be monitored, Parisian migrants were marginalized and sidelined as bit players in their own proceedings.

Devaluing the hearing: Informality, invisibility, absence

> The emergency removal hearings were in the larger courtroom, per usual. It was mostly empty, except for migrant litigants, attorneys, interpreters and court staff. After a few cases, the judge announced the removal hearings would be relocated to the smaller courtroom across the hall. A sea of people waited to enter the courtroom as I left. The gallery was completely full within fifteen minutes. Around 80 to 100 people were in attendance, squeezing together to allow for more to wedge in. As people waited in the gallery, they chatted boisterously. When the court was ready to proceed, one attorney hadn't arrived yet. His client reassured the court he would be there shortly, attempting to ease the tension. Ten minutes later, the attorney, a middle-aged white man dressed in a dark suit, walked in with all eyes on him and apologized. The case today concerned the fate of the Ferris wheel in a large public square. The owner was contesting the city's decision disallowing the wheel. It was his attorney who arrived late.
>
> Across the hall, the emergency removal hearings resumed in the smaller courtroom. The twenty or so people in attendance had migrated over by then. Interpreters, attorneys and their clients sat in the gallery, scattered here and there, waiting for their cases to be called. This room was quiet. The judge asked the security guard to close the door, to not be disturbed by the noise from the other courtroom. The hearings continued seamlessly. In one of the first cases heard after the move, the spot for the prefecture attorney remained empty. They had not shown up to the hearing.

That day, two different kinds of cases were adjudicated in a Paris administrative court. The hearing of one case is public, where it is not merely open to the public, but actually seen by the public. It becomes an event which people attend to witness how law unfolds. They expect the spectacle of law to occur before them, which is meaningful beyond case outcome. This attributed significance allows for a dynamic that accentuates the distinction between legal and non-legal. We see the legal being carved out in time, space, and atmosphere. Put differently, this hearing is clearly demarcated and recognized as a space of law.

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If the Ferris wheel hearing has the capacity to disrupt and draw our attention to law, the opposite can be said of deportation hearings. They continue seamlessly, as a non-event, unimposing, and unseen. This lack of recognition is reinforced through an informality that shapes the practices of court actors. Standards in court practice were relaxed and allowed for reduced expectations around something as basic as the attendance of government and migrants' attorneys at hearings. If the public did not show up to deportation hearings, neither did the attorneys in their cases.

In Paris, migrants and attorneys on both sides could opt out of attending deportation hearings. This was common in regular, namely non-expedited, proceedings. These migrants were not detained and, typically, the local prefecture issued a removal order after denying them a residence permit. Often, government attorneys did not attend these hearings, especially those representing certain prefectures. Judges could use their written briefs in this situation. The state would sometimes also fail to send a written brief and judges would proceed without the government's arguments. Likewise, migrants' attorneys, with their clients, would sometimes choose not to attend non-expedited hearings. Non-attendance as a practice was commonplace. On any given day, about half of the removal cases on the docket would not be heard because none of the parties showed up, and court ended early. Judges would decide on the basis of briefs, if submitted, and any available evidence.

This absence reflects how attorneys do not value the oral hearing in the process. For them, written arguments, were far more important. This is consistent with French administrative law's written tradition. For many, the hearing was mostly performative, aimed at impressing clients. However, in my fieldwork, hearings were not inconsequential. Judges used them to clarify legal arguments and relevant facts. Judges were not passive but posed questions to both attorneys and migrants, systematically giving the latter the opportunity to speak. Interpreters were also present at hearings, facilitating direct communication between migrants and judges. Migrants could tangibly show their integration into French society, if friends, family, or employers accompanied them. This could bolster a claim that deportation compromises their right to respect for their private and family life under section 8 of the *ECHR*, which was frequently invoked as a defense. Judges viewed migrants' attendance favorably, even when their attorneys did not attend, sometimes saying so explicitly.

The absence of attorneys at expedited hearings was particularly significant. These hearings happened very quickly, and many involved detained migrants. Motions and briefs were often skeletal and sent at the last minute. The oral component was thus integral in allowing parties to present their arguments. Even so, government attorneys sometimes did not attend. This was fairly routine for certain prefectures. Migrants' attorneys, on the other hand, always attended expedited hearings. Migrants were almost never pro se. This was due to a key structural feature—the state hired attorneys to stand by and represent migrants who did not hire private counsel. In practice, these attorneys represented the majority of migrants in expedited hearings, rarely did they choose their own attorneys.

Migrants' attorneys would, however, frequently leave before expedited hearings ended. They attended the hearing, but left during the recess, before the judge announced the decisions for detained migrants.

> After a two-hour recess, the clerk announces the hearings will resume. Interpreters, scattered around the courthouse, rush back to the courtroom. Neither the government attorneys, nor the four migrants' attorneys returned after the break. The judge reads out the short decisions, with reasons omitted. Many aren't straightforward, particularly when motions are partially granted. In a Guatemalan migrant's case, the judge released him from detention, but maintained his deportation order. In another case, the removal order stood, but the migrant was given an additional month to leave. As the judge departs, the courtroom is bustling with activity. The clerk, interpreters and police get up and work efficiently. The court clerk calls each migrant forward, handing them a copy of their decision. The interpreters and clerk answer migrants' questions, providing further clarification. The migrant from Guatemala stands around, looking confused. One of the police officers tells him he is free to leave, since he is no longer detained.

https://doi.org/10.1111/lasr.12665 Published online by Cambridge University Press

The informality within the hearing process allowed the attorneys' roles to shrink and be filled by non-legal personnel. The attorneys' absence left other court staff-court clerks, interpreters, and even the police—with having to explain court decisions to migrants who sometimes could not fully understand them.

Devaluing law: Hollow law in Paris

In Paris, *hollow law* manifests as a tension between robust, formal rights for migrants and the use of informal court practice to hollow these out. Migrants here benefit from a relatively protective legal framework, compared with the United States, yet formal rights are only superficially recognized and court practices are deployed to disrupt their enactment. Hollowness has been used to describe states where government services are delivered by networks of third parties, distancing the state from the services it provides, and destroying governing capacity (Milward & Provan, 2000). Comparably, hollow law operates through a formal state framework, but involves the weakening of law through everyday practice. The formal legal cadre masks how, internally, law is made thin. As with the state, cost-saving can inform the hollowing process. Below, Judge Sichler, the Nancy administrative appellate court president, weakens migrants' guaranteed right to appeal through "storing" their cases, and diverting resources to more deserving ones.

At a court opening ceremony in 2019, Judge Sichler lauded the responsiveness of Nancy's administrative appellate courts. This was being threatened, however, by a growing caseload and limited resources.

> This situation preoccupies me a lot, because, unlike the noncitizens' docket that can wait—a little—at the appellate stage without harming anyone, this is not the case for the dockets [on public service, tax, urban planning] nor those on public contracts, labor, hospital liability, which are currently stable but …in which the concerned individuals… expect quick responses.[10]

She shared with the media that she prioritizes other types of administrative law cases over migrants' cases in managing court resources.

> These appeals arrive without any added value, which allows us to judge half of them via an order, because they are manifestly unfounded. The right to appeal is guaranteed, we cannot do anything about it, but, for us, it is a burden… As we have fewer resources, it is fine with me to store some of the noncitizens' docket…I have decided to prioritize other matters…[11]

Hollowing dynamics play out against a backdrop of scarce and contested institutional resources. France's deportation regime appears to afford migrants greater protections than in the United States, partly because of the *ECHR*. The reality is more nuanced. Rights take on a performative aspect, and can even be leveraged against migrants to speed up case processing. Rights on the books act like a shell, structuring deportation hearings, but concealing how rights are eroded through informal practice. These dynamics unfold in migrants' right to counsel in expedited removal hearings, a hearing type that significantly contributed to the recent growth in noncitizens' cases.[12]

[10]For a transcript of this speech, see Sichler (2019).
[11]Quoted in Nicolas (2019).
[12]The increase in Dublin hearings, a type of expedited removal proceeding, has partly fueled the growth in expedited cases before French administrative courts. In 2012, France issued about 5400 of such transfers, increasing to 41,000 in 2017 (La Cimade, 2018). In 2018, about a third of asylum applicants were placed in Dublin proceedings (Groupe d'information et de soutien des immigrés (GISTI), 2019). France is one of the top users of the Dublin system (AIDA, 2019).

https://doi.org/10.1111/lasr.12665 Published online by Cambridge University Press

Migrants in France, regardless of immigration status, are eligible for legal aid in deportation proceedings (GISTI, 2017; GISTI, 2019). Legal aid may fully or partially cover a chosen attorney's fees, depending on one's financial situation. Additionally, government-appointed counsel is available for migrants who do not hire an attorney (GISTI, 2017; GISTI, 2019). In Paris, migrants were overwhelmingly represented by counsel, whereas in the United States, government-appointed attorneys are not provided,[13] and only about 37% of migrants have attorneys (Eagly & Shafer, 2015). Despite these formal protections in Paris, the right to an attorney could be thin in practice, particularly for detained migrants in expedited removal hearings. For them, attorney representation was restricted, impersonal, and devalued.

Detained migrants will largely use the services of government-appointed counsel (*avocat commis d'office*). These attorneys are assigned to specific hearing days at a given court and are the attorneys on duty (*avocats de permanence*). They typically represent most detained migrants in court that day. For this, they are paid a flat daily fee,[14] regardless of the number of clients involved. They meet with their client for the first time on the day of the hearing, at the courthouse. Non-profit organizations operating in detention centers write the motion to contest the removal order and help assemble relevant documents. The state-appointed attorney is not involved in this process, and receives the migrant's file the day before the actual hearing, sometimes late at night. About an hour before the hearing begins, the police escort the detained migrants to the courthouse where they meet their attorneys, usually, for 10 to 15 minutes. This setup leads state-appointed attorneys to have minimal interactions with their clients and a limited role in managing their cases. In the following vignette, a state-appointed attorney misidentified her client at his hearing.

> The judge calls the next case. A state-appointed attorneys comes forward. She gestures to a migrant in the gallery to come up with her. It is the migrant from the previous case. Surprised, he points to himself as if to say "who, me?". The attorney signals affirmatively. He comes up, next to the Arabic interpreter. The judge, remembering him, says his name.
>
> The state-appointed attorney realizes her mistake. The interpreter interjects: "I do not know him," it was not the client she spoke with before the hearing. There is chuckling in the gallery. The state-appointed attorney says to the judge that she's not sure where her client went but he is here today. The judge decides to return to this case later.

One attorney expressed how shallow this right could be, when migrants worked with state-appointed attorneys. He considered his private legal aid clients as genuinely *his* clients, differentiating them from those he represents as state-appointed counsel. In both situations, though, he is remunerated by the state.

> [For a client with legal aid], I meet with him, put together his file and do the motion. In that case, I have one client and I will really be his attorney. Because really when I am a state-appointed attorney, I substitute the Paris bâtonnier[15] and I am designated to be the attorney…it is different…I meet the clients at the court very quickly, it's an emergency defense because it is people who are stuck in expedited proceedings. But, well, they have a right to an attorney.

This near universal access to counsel could be coopted to serve the court's purposes, to speed up case processing. In the case below, the prefecture issued a removal order against a migrant, who then filed

[13] 8 U.S.C. § 1362.
[14] An attorney shared with me that the daily rate in 2019 was 370 Euros, roughly 415 USD.
[15] The bâtonnier is the elected representative of a regional bar and is responsible for assigning attorneys to litigants who do not have their own counsel.

https://doi.org/10.1111/lasr.12665 Published online by Cambridge University Press

for asylum that same day. At the hearing, the migrant says he hired an attorney, but they did not show up. The state-appointed attorney stepped in:

> Government-appointed attorney: He chose a private attorney. I tried reaching the attorney, but they did not answer. He says he has paid this attorney and he wants the one that he chose.
>
> Judge: I do not see any request for a postponement, or any exhibits in the case. I'm sorry, but why has nothing been produced by this attorney?
>
> Migrant: But I paid them.
>
> Judge: Yes, but your attorney did not make an appearance and the case is ready to be heard. You have an attorney here [referring to the state-appointed attorney], so there is no reason to postpone. At the minimum, you need a letter from this attorney.
>
> The judge then officially begins the hearing. The judge asks the migrant why he seeks asylum. The migrant says quietly, with a thick accent, that he is tired. The judge replies, brusquely: "One does not ask for asylum because they are tired." The prefecture's attorney argues that the motion contesting the deportation order was submitted late and repeats how the migrant applied for asylum "only because he is tired." During this exchange, the government-appointed attorney says very little. The judge rejects the claim after the recess.

The court could have postponed the case to clarify the situation. Instead, the court uses the presence of the state-appointed attorney to proceed, regardless of the migrant's desire to have his private attorney assist him.

Devaluing court actors: Not making time for migrants and their attorneys

If hearing practices cast New York migrants as undeserving opportunists, Parisian migrants were, instead, made peripheral through the manipulation of time resources. Time was mobilized to deny initial access to hearings, time spent in hearings and with legal professionals was restricted, and court hearing rhythms marginalized migrants. The cadence of deportation proceedings also denatured legal and court professionals' work. Efficiency pressures related to time were felt in both New York and Paris courts, hindering due process. While New York courts were also focused on moving cases forward, their approach to time resources was different, and much less strict than in Paris.[16] Integral to Parisian court dynamics was the systematic restriction of time allotted to migrants' cases, this erased and sidelined them in their hearings. Moreover, despite intense time pressures, many judicial rituals were preserved in Paris, unlike in New York.

An initial time restriction encountered by Parisian migrants limits access to courts. In France, migrants must submit a motion for administrative review to contest a deportation order. Otherwise, they cannot contest the order before the courts, and it stands. French law sets strict time limits on these motions, ranging from 30 days to 48 hours.[17] Depending on the immigration violation, or specific immigration status, time limits are contracted or expanded, reflecting enforcement priorities and migrant deservingness. For example, those denied a residence permit usually have 30 days to

[16]New York courts approach time differently. New York migrants are required to make repeated appearances before the court, sometimes over the course months, and even years. Postponements are routine, particularly for pro se migrants looking for an attorney, or to give attorneys more time for case preparation.

[17]Code de l'entrée et du séjour des étrangers et du droit d'asile (CESEDA), L-512-1 during my fieldwork (now repealed, and replaced by L614-1 to L614-8 of the current CESEDA). See also GISTI, (2019).

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contest their removal order, while those with a rejected asylum claim have 15 days. Migrants in expedited proceedings, many of whom are detained, only have 48 hours. The United States, by comparison, does not require motions to challenge removal orders in court.[18]

When migrants do contest removal orders, their interactions in court are limited. They appear once, in hearings that rarely last more than a half hour. For detained migrants, judges announce their decisions at the end of the hearing, following a recess, though written reasons are sent subsequently. Migrants are also made liminal to the process. If they were unable to appear because of health issues, or breakdowns in transportation from detention centers, their attorneys could proceed without them, even in expedited hearings where the oral, in-person component was paramount. Continuances in deportation hearings were rarely issued; such requests were routinely interpreted as a dilatory tactic. Courts would often not take the time to wait for interpreters either, functionally excluding migrants from parts of the hearing, as the following vignette shows.

> The judge calls the next case, involving a Dublin transfer to Italy for an Ivorian migrant. The migrant's attorney steps forward, as does her client. The attorney pauses and looks around the courtroom. The judge does not stop and continues to ask questions and discuss the contents of the case file. The attorney, tentatively, mentions: "There, there is an issue because the [Dyula] interpreter is not here." The court clerk then interjects: "Yes, he is here, he is here. I do not know where." The case proceeds, without the interpreter. The interpreter rushes in, five minutes later, while the migrant's attorney is in the middle of her arguments about procedural rights. Police had failed to provide her client with a Dyula translation of the mandatory Dublin informational pamphlet.

Interpreters must check in with the court clerk before hearings begin. This is why, in this case, the court clerk could confirm that the Dyula interpreter was there that day. Yet, the court chose not to wait for him. While these restrictive practices around time de-center the participation of the migrant, they also minimize the contribution of court interpreters. They, however, are crucial in facilitating migrants' understanding of and participation in the process.

The cadence of these court hearings also shaped how legal professionals understood their role. Attorneys acknowledged that these rhythms, though routinized, are striking, particularly to judges and attorneys who are new to this type of law, and undermine due process. They felt both constrained and devalued by them, particularly as they, and judges, had to deal with the complexity and ever-changing nature of noncitizens' law. One attorney remarked: "We have a brain, and we are not only machines that close cases ("*des machines à abattre du dossier*"). And yet we earn less than attorneys in other public matters. And attorneys and judges are less interested in the subject."

CONCLUSION AND DISCUSSION

France makes for a compelling comparison with the United States. Each country has a different approach to migrants' rights, with France offering more robust formal protections. In many ways, French deportation adjudication includes several of the features American immigration court reformers seek. French administrative judges benefit from judicial independence, while American immigration judges do not, as the latter work under the Attorney General. This lack of independence has been the subject of longstanding criticism, only intensifying following policy changes under the Trump administration (Kim, 2018; New York City Bar, 2020). Most migrants in American immigrant courts lack legal representation (Eagly & Shafer, 2015). Conversely, migrants in France rarely go unrepresented and are eligible for free or reduced-cost legal services. Other meaningful differences include protections for migrants under the *ECHR*. The right to family and private life, in

[18]The US, however, restricts access to court in different ways, see Koh (2017).

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particular, is commonly invoked in French deportation proceedings. There is no American counterpart to this supranational framework. France and the United States also have distinct legal cultures with divergent orientations towards international law, which has more legitimacy in France (Jouannet, 2006).

Despite these differences, deportation hearings in both New York City and Paris are a site of devalued law where informal practices constructed the hearing, court actors and the law itself as less worthy. However, devaluation followed distinct logics in each city. New York hearings were characterized by a *utilitarian law* logic, where process elements deemed inessential were shed, bringing them closer to a bureaucratic service. Hearings were informal, devoid of judicial ritual and often de facto closed to the public. Court practices devalued migrants by constructing them as undeserving opportunists, and devalued the roles of attorneys and judges. By contrast, *hollow law* emerged in Parisian hearings, where everyday court practices eroded the strong rights and protections granted to migrants through formal law. Parisian hearings were devalued through an atmospheric informality, reflected in informal court practice, such as legal professionals not attending court hearings. If New York migrants were viewed as suspicious, Parisian migrants were instead marginalized in their own proceedings through the restrictive allocation of time resources. In other words, the devaluation of deportation proceedings made the recognition of rights and the conditions of adjudication even more challenging in New York, while they concretely weakened the relatively robust formal protections that existed in Paris.

Studying how value is made in legal settings is a fruitful endeavor. With regard to studying courts, it implies taking conditions of adjudication seriously, and not focusing principally on adjudication outcomes. Physical space, atmospheric elements, the deployment of informality, court rituals, and informal court culture all play a role in creating legal experiences and producing the legal. In deportation proceedings, process matters and the implementation of rights on the ground becomes crucial. My findings reveal the limitations in centering formal legal protections while ignoring everyday practice. These informal practices are in a mutually constitutive relationship with the devalued legal site; informal practice constructs the devalued legal site, just as the devalued site allows for such practices to be acceptable. Formal due process protections can be hollowed out in devalued legal settings, with unexpected consequences. The right to an attorney was manipulated in Paris to serve case processing efficiency goals, leaving little in the way of advocacy for detained migrants. This line of inquiry thus complements court ethnographies that emphasize the subtle ways courts work to mete punishment and reinforce racial hierarchies, and the significance of courtroom culture and informal dynamics (Feeley, 1992; Kohler-Hausmann, 2018; Van Cleve, 2017). For scholarship on immigration adjudication, focusing on valuation as an activity adds to a dynamic literature on the exercise of discretion, the determinants of legal outcomes, and the classification of migrant litigants. This study also reveals potential shortcomings of proposals around American immigration court reform that focus exclusively on formal law and policy, suggesting these may be insufficient to bring about a robust recognition of migrants' rights in deportation proceedings.

Studying legal devaluation is also worthwhile in allowing us to conceptualize legal spaces as having differing amounts of perceived worth. Why is it relevant to identify devalued legal spaces? Firstly, legal processes are taken less seriously in devalued legal sites. Respect for the law is eroded and extra-legal concerns, such as efficiency and speed, become paramount. In deportation hearings, this creates obvious challenges for the recognition of migrants' rights. Deportation hearings may not be unique as devalued legal spaces, as accounts of practices in courts with high-volume, routinized dockets, and largely marginalized litigants suggest (Feeley, 1992; Kohler-Hausmann, 2018; Lazerson, 1982; Natapoff, 2015; Steinberg, 2017; Van Cleve, 2017). Yet, deportation hearings may be distinct in the extent that devalued legal processes converge with very high-stakes outcomes, in addition to marking alterity.

Secondly, as these legal processes are considered less valuable, it becomes easier to chip away at them, to remove elements deemed extraneous be they procedural guarantees, or infrastructural and ritualistic elements. In New York immigration courts, individual hearings become group hearings

https://doi.org/10.1111/lasr.12665 Published online by Cambridge University Press

and in-person hearings turn into virtual ones, long before the COVID-19 pandemic. In Paris, migrants' cases are subordinate to other types of cases, and their hearings become invisible, where even attorneys do not show up. Legal devaluation is also a relevant lens to understand how the implementation of new organizational techniques and logics are distributed across legal sites and unfold within them (El Qadim, 2013). Devalued legal sites might be the first targets for new legal technologies and managerial practices under the guise of cost efficiency (El Qadim, 2013). Moreover, it can be difficult to articulate what is lost through these changes since respect for the formal law remains, and what appears to be essential, at the core of the process, seems undisrupted. I argue, however, that many of these process elements, these trappings of court hearings are, in fact, substantively important. They summon a sense of legality, valorize these legal spaces, and form an integral part of these legal proceedings.

Third, many of the type of interactions that transpire in devalued legal sites communicate an informal, but strong state message about the status and dignity of not only the migrants who appear in these courts, but also the court actors that work there. This devaluation teaches litigants in these spaces about what to expect from the state (Auyero, 2012; Lipsky, 2010). And these lessons are being taught overwhelmingly to people of color, particularly poor people of color, who disproportionately find themselves in deportation hearings in New York and Paris, and in devalued legal spaces as a whole. In other words, examining the devaluation of legal sites is also about examining how inequality is embodied and exacerbated in these settings, particularly through informal practices and everyday interactions with the state that, nevertheless, leave a lasting impression of the state and constitute an important, but neglected part of an individual's multi-faceted relationship with the state. Future work could focus on examining what dignity-affirming conditions of adjudication could look like for deportation adjudication, and, more broadly, shed light on the possibilities around valorizing devalued legal sites like deportation hearings.

ACKNOWLEDGMENTS

Lynne Haney, Gianpaolo Baiocchi, Alex Barnard, and Ann Morning provided invaluable guidance throughout this project. The author thanks Alessandro Corda, Gabriel Morales Sod, David Brotherton, Kate Henne, Rebecca Hamlin, and the anonymous reviewers for their insightful comments. The author would like to acknowledge the financial assistance of the Canadian Social Sciences and Humanities Research Council, and the support of the New York University Remarque Institute.

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How to cite this article: Dao, Lili. 2023. "Hollow Law and Utilitarian Law: The Devaluing of Deportation Hearings in New York City and Paris." *Law & Society Review* 57(3): 317–339. https://doi.org/10.1111/lasr.12665