

The Border as Administered Illegalism

I the Border is a line

The border is a line that runs between places. In our current conception of the border, the places enclosed by these lines are constituted as a sphere of sovereignty; they mark a limit point, outside of which the imposition of law can no longer be exercised by the power sovereign within the sphere. It is within the area of these lines that the subject population submits to this sovereign power. The border thus marks the territorial limit of the exercise of sovereignty, and, by reciprocal acknowledgement of others sovereign right to territory, marks the creation of a system of territorial control.

In such a conception, the nation-state is identified with its borders, and with the continuation of these borders, and anything that threatens these borders is seen as a challenge to the very idea of the nation-state.

The border that we have outlined is interested in producing differences; when you cross the line, you consent to be under the power of a different system of sovereignty; that sovereignty concerns itself with articulating a series of categories under which people can live: migrant, visa national, national. In such a framework, the illegal immigrant can only be seen as abhorrent – he has violated the articulation of legal difference by slipping it without the consent of the sovereign power.

This paper will suggest that if even if such a conception of the border was once congruent with the way borders are organised, it is certainly not so today.

Part of the reason for this is a change in the structure of our borders.

The national border contains within it two over-lapping but distinct functions. Actually, these two functions, which seem unified, are in constant tension. This tension is becoming increasingly apparent as the proper space allocated to each breaks down.

The border functions to produce a people, an ethnos, for whom the border designates the limit point of the ability to say “We”.

And so produces a nation.

This function – the border as the creation of an inner unity – I call its internal function.

This internal function is not bound up with the exercise of state power in a simple way. The internal consistency of a population that responds to a “We” requires that there be an outside, but how this outside is constituted is not pre-determined by the internal function of the border – the need for a “we” is never a sufficient condition for the creation of an immigration policy, though it may well play a role.

The border, at least in Europe, allows this ethnos to have rights, access to social security – to be citizens; part of a demos. To be citizens requires that there are non-citizens, and they are located outside of the border.

The border marks the extent of sovereignty. It controls, admits and denies; it organises the flows of non-citizens who want to enter sovereign space. Ultimately, it creates subjects as legal or illegal.

And so produces a state.

This function, the border as the creation of the distinction between citizen and non-citizen, the creation of a demos which is the subject of representation and rights, I call its external function.

This external function is bound up with the state in a seemingly much more direct way than the internal function. Borders, Balibar argues: “make populations themselves the ultimate reference of the constitution of political powers in a framework of recognized territorial limits.” (Balibar 2004, 109). The organisation of the population in a territory is the basis of sovereignty in the nation-state system.

These two functions are of course aspects of the same border, but it is important to understand the tensions and differences between, on one hand, a network of identification and filiation, and on the other, a network that organises flows according to the concerns of sovereign power.

A simple example will suffice. Flows that are considered beneficial to the state, and to the demos they represent – such as immigrants entering a country and boosting the economy, might be seen as highly undesirable by the ethnos; by a group which is defined as a “We” in contrast to a “they” which is kept far away.

It may be the case, as Anderson¹ has spelled out, that the communities produced by the internal function of the border are imagined, and thus, correspondingly, the institutions that maintain these borders are also imagined. Now, I suppose this is true as far as it goes, but it misses the one important way that the border is experienced as natural; as a space in which people exist before the entry of a subject into a system of sovereignty in which he is, in some way, a citizen.

The tension between the external and internal function of the border is exemplified at the border itself. The border is the sole place where the ethnos experiences itself as a subject: the illegal and the legal alike are shepherded into the same queues.

The border is absolutely undemocratic. All the other institutions of the state may change – the border, and here I speak of its structure, not its particular territorial arrangement, does not. One does not take part in a negotiation at the border – unless you are in Africa – there is no contract with the state at the border. There is the state. Even the transnational frameworks we have today – precisely because they are still organised along state lines – do not change the phenomenology of this encounter.

¹ See (B. Anderson 1983)

II the Line is breaking

It is these borders that are supposed to be collapsing today. One of the most common arguments is to claim that the border of the nation-state is increasingly circumscribed by capital; as the president of Volkswagen famously claimed: politics is now a field of manoeuvre limited by the economy, and the economy is now constrained by the stock market.² It is not just capital that has supposedly rendered nation-state borders less important: others claim to see a wave of reterritorialisation: transnational phenomenon, ethnic identities and local divisions crystallising in the wake of the state³.

My problem with all these theories, which we will develop later, is that they leave untouched the assumption that the state is interested in the border as a place where it has total control; all these theories leave in place the idea that legal and illegal, state and non-state, are somehow opposed.

They are not.

Before I develop why they are not, it is important to understand what is valuable in all these theories of globalisation. Our borders are changing. Even if we agree with Susan Strange (1986) that it is certain states who are orchestrating these changes, enabling capital flows to bypass the state. The point is, nonetheless, the borders are changing.

Before the onset of mass migration and the correlative political anxiety, the external border, to the ethnos, was something far away, something one could forget about, or occasionally invoke, in order to live as a citizen. The exterior function of the border, in relation to the ethnos of the community, reminds one of the thought game in which a community keeps a suffering young child locked in a basement while the rest of the community live happy lives and your task as an undergraduate is to decide whether this is ethically justifiable.

Well the suffering child is definitely out of the basement, and he is living among us, and no one is happy.

The exterior function of the border is increasingly felt in the interior.

Borders no longer occur at the physical border itself: they are not simply passport checks at Dover, they are also the holding centres for asylum seekers; they are checks on the street for illegal immigrants – and this means, if you recall our emphasis on how the border is experienced as natural, that citizens are increasingly experiencing life as a subject, and not a citizen, within the state.

What is happening could be summed up as follows: the borders of the state are increasingly incongruous, in a complicated way, with the borders of the nation. There are whole series of flows – capital flows, labour flows, and transnational agreements such as human rights acts and organisations like the EU – that now call into question the previously settled relationship between the exterior and the interior border: I am not suggesting it was every practically settled, I hope to

² For an excellent analysis of the political strata hidden below such claims, see (Balibar 2004, 101-114), and (P. Anderson 1992)

³ For one of the most vocal advocates of such a perspective, see (Masao 1993).

have gone some way to suggesting that this relationship will always be in tension, but it was conceptually agreed upon, and now that agreement is breaking down.

The ethnos is not taking this lying down – there is, in much of Europe, an increased hostility to flows – crucially of people – and much moaning about the threat to our way of life (the way of the “We”). What is happening now seems to fit perfectly into the old scheme of Frederick Barth (1969): there is a tendency for lines to become more important to people at the moment they are under threat, at the moment, to go one step further than Barth, that they are the least viable. Today, the borders of the ethnos are crystallising around lines both encouraged by the state, *and* inimical to the states development.

I will give one example of these lines. One of the biggest concerns of the British public, if you believe the *Daily Mail*, is benefit fraud by illegal immigrants. There is a line of entitlement here that is primarily one of ethnos – we don’t want health tourism, as it is called in a Home Office booklet (Home Office 2007) - but this internal claim is always expressed within the legal framework of the exterior border. Health tourism, in the *Daily Mail*, is a practice of illegal immigrants, it deprives the national ethnos, and yet the law that is asked to help restrain these exploitative immigrants stealing the British patrimony is one already criss-crossed by entitlements, like that for EU citizens, which complicates any claim that British health care is for the British alone. This confusion between the two types of claim – juridical and ideological, if you will – finds its way into government publications.

If we pursue this line of argument, then it would seem that the resolution would be: we need new border-institutions that are not rooted in a discourse of the nation-state, that are not nationalistic, but adapted to the situation in which we live: that form a new notion of demos, and situate that within the changing ethnos of Europe. Such an argument says, simply, the ethnos and the demos are in tension today, and we must heal the gap.

Now I might even agree with this, but something is not quite right. This resolution assumes that states are being damaged by the fact that their borders are in question – that they doesn’t want these changes, and then, it also assumes that states have not already adapted, that their practices are not increasingly bypassing the territorial border, and that the apparent state failure – to borrow a word we use more happily about Africa - is not actually something desirable to the state.

The problem with the theories of globalisation outlined at the beginning of this section is not so much in the arguments about the borders of the nation-state changing, but the conclusions they draw from it with regard to the state. All the ideas of states being challenged by immigration, bypassed by capital, and increasingly constricted by the economic have a fairly unproblematic view of the relationship between the state, the law, and the border. We could sum up their position as follows: the border determines relationships of legality: illegality, which are consonant with the law, and which are decided by the state.

But, to return to our original distinction in the function of the border – the external function does not simply delimit the legal and the illegal – it organises flows of things: life, labour, and language.

III the Organisation of rupture

In the first of the Collège de France lectures (2007) that begins his series on security, territory and population, Foucault outlines an example in three modulations. The first, the penal system, is relatively simple - there is a prohibition, “you shall not steal” and there is a punishment – a fine, a hanging. The second is a slight variation on the first model. You have the same law, and the same punishment, but now you have a whole series of checks and controls that frame the law, and a whole series of techniques – moralisation, correction – that frame the punishment. This he calls the disciplinary system.

He then outlines the third modulation, which is identical to the first two, except that now there are a whole series of other questions determining the application of law and punishment. Questions like: (Foucault 2007, 4) “what is the average rate of criminality for this type? How can we predict statistically that number of thefts in a given moment, in a given society, in a given town, in the town or in the country, in a given social stratum?”

So if we were to sum up the difference between this third modulation, which Foucault calls the apparatus of security, and the other two, we would say that in the third modulation, the phenomenon in question, be it theft, illegal immigration, or military service, is inserted into a schema of probable events. Rather than having, like in our first modulation, an absolute line between legal and illegal, we have a situation in which the outcome of probable events exists as a field of options, which range from the optimal to the thoroughly undesired.

It is important to emphasise that this is not a historical scheme: it is not as if we pass from the penal to the disciplinary, and then we get to the apparatus of security. They may all be historical phenomenon, but they can all exist at the same time: we still have the penal and the disciplinary in our societies today, along with the apparatus of security. One of the major differences between the three mechanisms is that while the first two are concerned with law, and then its imposition, the field of probable events that is the concern of the apparatus of security does not concern the law as such, but rather its articulation. It does not follow, from the schema Foucault outlines, that all undesirable events have to be banned – some may be tolerated as unfortunately necessary evils, others may be encouraged.

Now if we return to the border with this sort of scheme in mind, it makes us redraw the sketch we created above, where the border is the determination of the legal. Rather than seeing the border as that which decides who is legal and who is illegal, Foucault’s scheme would encourage us to see the border as the place where the event (in this case the immigrant, or citizen, trying to enter the country), is placed within a field of probable events, costs and benefits. The field of security would then elaborate a whole series of options to respond to these probabilities. We could include here: visa nationals, work visas, the Seasonal Agricultural Workers Scheme (SAWS) and the Worker Registration Scheme (WRS) in the UK, student visas, points-based schemes that tie to you to an employer (regardless of exploitation), asylum, and deportation.

But this is not be enough, for it leaves our field of options at the legal level, the first of Foucault’s modulations, and while, to be sure, these are a definite field of options – the apparatus of security acting through the penal – they are not the only ones, as we are dealing with an apparatus, rather

than a body of law. We would have to add to our list: work visas and harassment, deportation of illegal immigrants and wilful neglect of the duties of work place inspection for illegal immigrants. These sorts of options also enter into the field of probabilities – the calculation of the costs and benefits of the event. The continuity between the various probabilities is made admirably clear by a diagram produced by the Home Office.

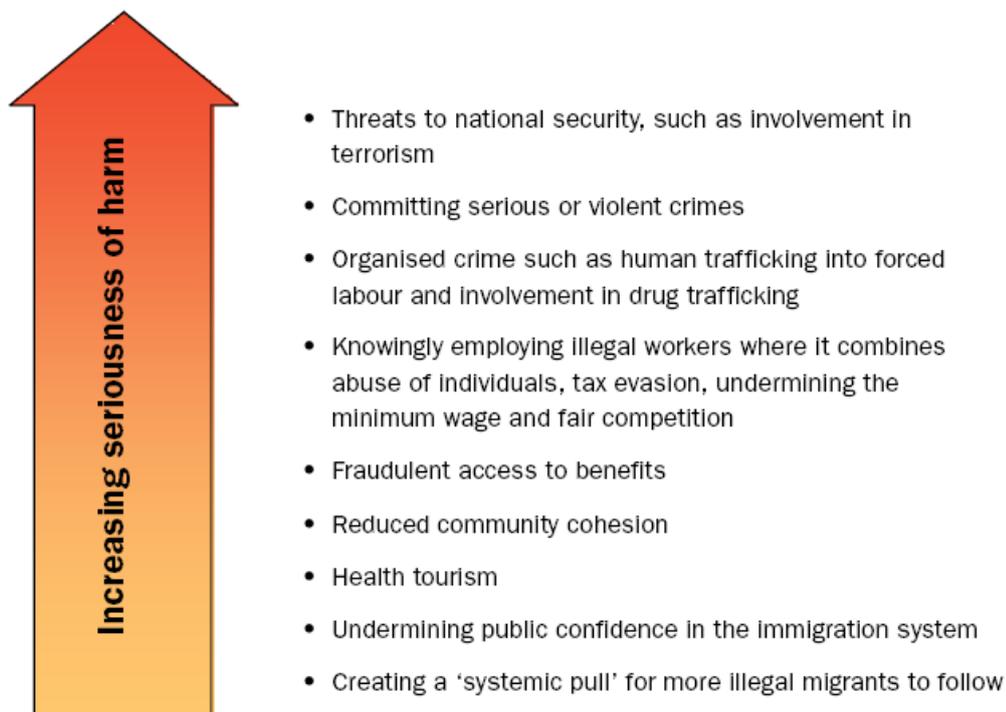


Figure 1: Increasing Seriousness of Harm (HO 2007: 11)

This diagram arranges a series of possibilities on the right. Some of them, such as violent crime, definitely have a place within a legal framework. However, others, such as undermining public confidence in the immigration system, are not legal measures, but questions of affect. What is important to note is that they are here made equivalent: the apparatus of the state does not differentiate the activities according to their legality; rather, it puts them all on the same gradient, and ranks them according to their effect on the state – with threats to national security being the most worrying, and the fact that more migrants might arrive the least. So this is a perfect example of something I suppose is everyday in our societies, but worthy of consideration. While there is a legal code of immigration, and also a disciplinary mechanism about surveillance, arrest and so on, this leaflet is not concerned with either of them, though it uses them – it is concerned with acting against the largest perceived threats.

For those activities which are not perceived as significant threats, the Home Office Paper announced that it will (HO:2007:18) “In relation to less serious harm, where swift removal is less likely, we will deploy a range of sanctions and penalties against illegal immigrants, in order to make their ongoing

stay here *increasingly frustrating and difficult*, to encourage them to leave.” There is a second Home Office diagram I think it is interesting to consider here.

Figure 4: Enabling compliance, combating abuse and reducing harm

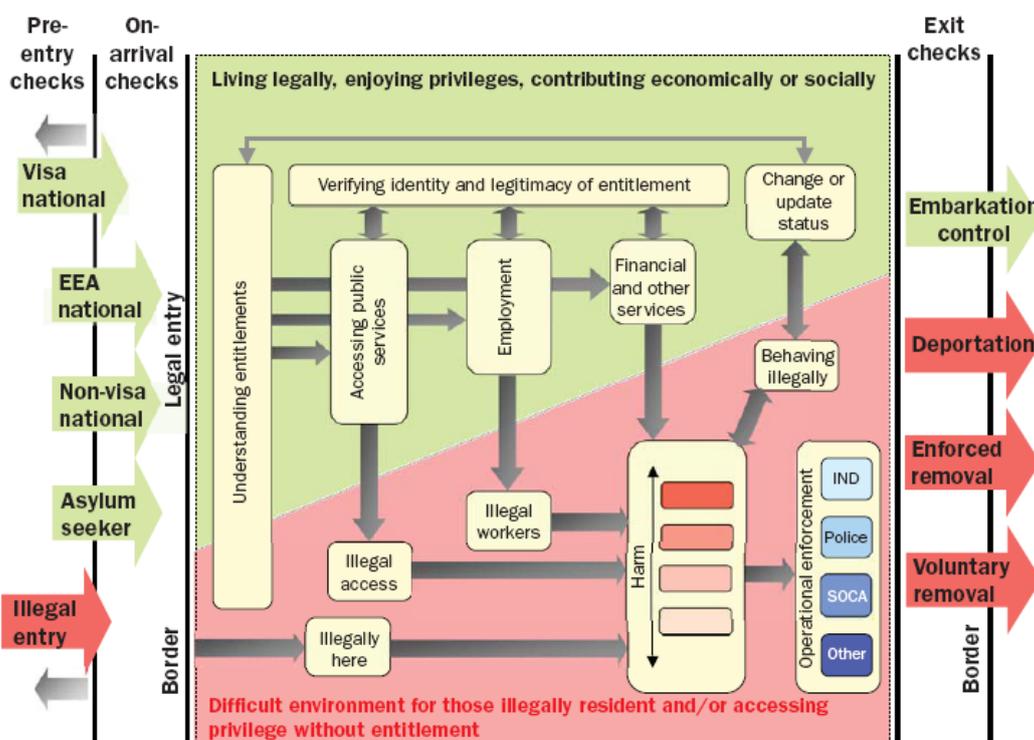


Figure 2: Enabling compliance, combating abuse and reducing harm (Home Office 2007: 18)

The first thing to note about this diagram is that the checks begin before the border; the state controls exceed the normal territorial reach of sovereignty. Then, there are a series of ways one can enter the country, that are represented as a continuous series. Note also that they obey a hierarchy: with visa national at the top, then EEA national, all the way down to illegal entry. This hierarchy is a political construction that has no legal basis – it is not as if one does not have a right to enter as an asylum seeker: the UK is a signatory to the '51 convention and the '67 protocol. Yet this hierarchy is organised as a continuous series – this is all the ways the government organises immigration: it even organises illegal immigration, through its penal system, but also through the practices of the state.

We then have the red side of the square slowly getting bigger: the redness refers to the “difficult environment for those illegally resident”, that I have referred to above. It is here that the diagram leaves the juridical system.

But saying that the paper leaves the juridical system, I do not mean to suggest that the British government is doing anything unlawful, only that what they are doing – making someone’s life as uncomfortable as possible – is not given by any legal sanction, but by an apparatus of security that wants to be seen to be doing as much as possible to combat illegal immigration. And so we here have another example of the presence of the exterior border in the interior, as immigrants are made to constantly feel outside the state, and we also note that this effect is not a legal one, it is not a

question of legal status solely, but of the state trying to organise flows of people across the border in a certain way, and of the state trying to *appear* to be organising flows of people across the border: it is these types of organisation that are paramount; the use of law is a tool here, rather than a final arbiter.

When Foucault is discussing the reform of the French penal system, the question arises of the set of reasons that are used by the various actors who act under the name of the state, and Foucault is forthright, (Foucault 2007, 9): “Basically, the fundamental question is economics, and the economic relation between the cost of repression and the cost of delinquency.” But while the language of harm might be a language that expresses itself in terms of cost and benefit (or in this case, just harm – cost), British immigration policy simply does not make sense when looked at from an economic point of view.

What I am going to look at, to try and make it make sense, is the way two contradictory movements function to support each other. One of these movements demands that the excluded are just that – excluded, the other brings these excluded into the society as an included-excluded class without political representation. And yet, while contradictory, each of these movements is necessary to the functioning of the other.

IV non-Sense and the State

In 2005-6, the British government spent £288 million a year on trying to prevent immigration (Home Office 2006, 48). The money is spent on a whole variety of different mechanisms – including heartbeat detectors for trunks coming from France, biometric identification, new uniforms for staff, and, I quote, “making it easier to obey the rules.” What is noticeable about the allocation of funds here is that it is almost entirely directed *at* the border – the amount of money spent on a physical presence at the border dwarfs the amount spent on workplace immigration enforcement.

At the same time, in Britain as elsewhere in Europe – we have an increasing opening up of the labour market to immigration. So we have the following odd situation – which seems contradictory at first. Millions being spent on enforcing checks at border, but relatively little being spent on checking workplaces for illegal immigrants, and farcical penalties if one is caught employing them (a maximum penalty of £5,000), and at the same time, an increasing opening up of the UK labour market.

The question, then, is as follows. If we are serious about stopping illegal immigration – which is what government rhetoric would suggest, why do we not check workplaces more thoroughly, and why do we not have a more punitive system in place to punish those who use illegal immigrants?

The obvious answer is that we need illegal immigrants: the Home Office estimates there are between 310,000 and 570,000 illegal immigrants in Britain; migrants fill 90% of the low paid jobs in London. On the scale of harm I previously showed you, such a conclusion would make some sense: they don’t cause much harm, and they do some good, so the priority is not stopping illegal immigrants working.

Then we come to the second question, if the reasoning of the British state is purely economic, why do we not legalise the illegal immigrants? They would pay, the Home Office estimates, over £1 billion in tax each year. This is where a solely economic argument does not get us anywhere.

What I am going to suggest to you is the following: the effect of the state excluding immigrants from a legal status has two aspects:

- 1) It allows their inclusion as excluded, and so allows the maintenance of a class of workers who can be employed in industries almost entirely reliant on their below minimum-wage labour.
- 2) It allows the government to create the illegal immigrant as its object and means of domination. This is to say, as long as the government has illegal immigration to 'fight', it can maintain a discourse of absolute territorial sovereignty that supports the increasingly belaboured ethnos of the UK.

So to return to the apparatus of security, we could say the following. There are two principle ways in which the apparatus of security functions in terms of illegal immigration. There is a massive overdetermination at the border, and this is not done for economic reasons, but for political ones – to, ultimately, prevent a debate about the redrawing of the lines demarcating ethnos and demos, by creating an enemy against which the country can seem to need to be strengthened. Then, within the country, there is the wilful neglect of a whole class of economic immigrants who prop up the economy: this, despite the fact it is not a legal procedure, is no less a part of the apparatus of the state. These spaces, in the function of the illegal immigrant exists in the margins of the legal framework, I will call zones of indetermination.

I know want to go through both aspects of this contradiction: it is the discourse of nationalism that allows these zones of indetermination, and it is the zones of indetermination that permit the creation of the discourse, and that this contradiction must be seen as a unity.

V the Zone allows the discourse

The importance of looking at both the legal and the illegal as domains where the state is articulated finds persuasive expression in Deleuze's (Deleuze 1999, 26) small book on Foucault, where he says:

Law is always a structure of illegalisms, which are differentiated by being formalised. We need only look at the law of commercial societies to see that laws are not contrasted worldwide with illegality, but that some are actually used to find loopholes in others. Law administers illegalisms: some it allows, makes possible or invents as the privilege of the dominating class; others it tolerates as a compensation for the dominated classes, or even uses in the service of the dominating class; others again it forbids, isolates and takes as both its object and its means of domination.

The border here is not a line distributing legal and illegal identities, it is the nexus in a series of differences the state articulates; they include legal identities to be sure, but even these legal identities (work visa, student visa, visa national) cannot be understood solely in terms of the legal status they give; they must be understood as part of a network of relations, which also includes non-legal relations.

One of these sets of relations is given by illegal immigration, and, given the constraints of time, it is the one I am focusing on today: it fulfils three of the possible functions of the illegalism given by Deleuze is the quote I just read. Illegal immigration is tolerated as a compensation for the dominated classes, it is used in the services of the dominating class, and, illegal immigration is something the state forbids, isolates and takes as both its object and its means of domination.

It is this third point that I want to explore. How does the creation of these zones of indetermination allow the government to reconcile the contradictory demands of capitalism and nationalism, and how do these zones allow the construction of a discourse that vilifies the very thing the state is reliant upon for survival?

We have already seen that the creation of this class is necessary to the functioning of a whole series of economic assemblages for which it is increasingly hard to find labour within Britain. The difficulty here lies in proving that these zones are *necessary* for the state. For instance, a reasonable criticism could be to ask – if we simply had more checks in the workplace, if no illegal immigrants worked, then surely the state would not cease to exist?

I will not talk about intentionality here; my point is not that there is a government conspiracy to have illegal immigrants working in the black market: my point is that this is what happens given a conjunction of processes of the state. Intentionality is largely a moot point: there are assuredly some in government who want every illegal immigrant out of the UK, others who acknowledge their necessity – I am instead looking at the state effect.

To respond to the question, let us imagine what would happen if the British government genuinely tried to remove all the illegal immigrants from Great Britain – all half a million of them. It is noticeable the vast majority of government expenditure is spent at the physical border itself, or, as we shall see, beyond that physical border. This continued emphasis on the border being a territorial entity lets the external function of the border be kept as far away from the internal function as possible. If we were to round up every illegal immigrant it would require a series of checks and supervisions which would make this impossible; it would make the system of internal checks they currently have in Germany look like child's play. The government knows this. It cannot do it – to do so would be to call into question the very notion of the territorial border they want to emphasize, and which is undermined today. To attempt to expel every illegal immigrant would be to admit the failure of the system according to which they are called illegal, and it would mean that the ethnos would increasingly feel themselves as subjects, rather than citizens, in the interior of the country.

So this is the first point. The second is as follows: the creation of these zones of indetermination – the included-excluded - allows not simply the economic buttressing of the state, but also the creation of a discourse that justifies the state in its present form: it is taken as the object and means of domination.

This is to say, an economically coherent argument is to claim – legalise the illegals, tax their tax revenue, shut down the people traffickers. But this will never do. Even the Liberal Democrats don't suggest this; they suggest instead an amnesty, followed by the ambiguous "strengthening of the borders". The reason this will never do is that to legal illegal immigration would call into question the entire framework of the nation-state. Correspondingly, the illegal immigrants, which let us not forget have been created as such – the determination illegal is a determination of the state – allows

the creation of a discourse where they are unwanted. Correspondingly, it allows the creation of an ethnos, who, if it wasn't for those damn illegals, would be coherent and strong and receiving what they are entitled to. In doing so it prevents any frank discussion about the way our borders have changed, and the ways in which we must redraw them.

VI the Discourse allows the zone

As much as these zones of indetermination allows the creation of a nationalist discourse, so too does the nationalist discourse allows the creation of these zones. As long as the state is presented in constant conflict with these zones – as long as we maintain that we are trying to eradicate them, and that they harm the state, then we do not need to have a debate about how to handle immigration, or, stated more exactly, the way in which immigration is constituted as a problem.

These zones are created because we pretend we are trying to wipe them out – and the facts here speak differently. This discourse prevents a debate occurring. With the emergence of the external function in the internal function of the border, both are being brought into question. To realise Balibar's hope, that we can have a new image of the relation between membership in historical communities (*ethnos*), and the continued creation of fundamental rights to existence and work, would require an acknowledgment of these changing borders, and the way the state is complicit in these changes.

I am not going to suggest new institutions. I simply want to point out how our discourse prevents these suggestions from occurring. This doesn't make economic sense, but it makes political sense: it allows the continuity of the relationships between state and capital that enshrine state power within a recognised territory.

VII new Borders

The fact that the discourse is so solidly centred in nationalism does not mean, by any stretch of the imagination, that the government has not already created new notions of the border. This paper has been focused on one of those – the wilful neglect of the enforcement of workplace immigration checks.

I want to suggest another, briefly, to show that this is not simply a question of the apparatus of security exceeding the penal system, but involves the indetermination of the penal system itself.

If we return to our opening definition, we are reminded that the border by reciprocal acknowledgement of others sovereign right to territory marks the creation of a system of territorial control.

The case of R⁴ (on the application of European Roma Rights Center et al.) v. Immigration Officer at Prague Airport and Anor (UNHCR intervening) raises questions of this model. The case concerns the legality of procedures adopted by the British authorities at Prague airport. In 2001, the Czech and British government made an agreement to allow British immigration officers to stop passengers

⁴ See (Kesby 2006) for a detailed exposition of this case.

boarding planes to the UK: the explicit justification of this action was to stem the flow of asylum seekers to the UK.

Six claimants, five of whom wanted to claim – in varying ways – asylum in the UK were denied access to the planes, and brought a case, through a Roma human rights centre, against the British government, alleging that such measure are incompatible with Britain's obligation under the 1951 convention relating to the status of refugees. They also brought a second charge of racial discrimination.

Thankfully, the House of Lords upheld the second charge, but its reasoning on the first is interesting. Lord Bingham of Cornhill dismissed the first charge on the basis that the *defendants were in their country of origin*, and so the UK's obligations under the '51 treaty and its '67 protocol were not engaged.

What I want to take from this example is that the British state is increasingly acting in ways that exceed the traditional definition of sovereignty, which is precisely rooted in a territory as the limit point of sovereignty. Yet when we come to make legal decisions, our institutional framework is rooted in a territorial decision, as in the decision of the House of Lords over the Roma asylum claimants.

This again introduces a zone of indetermination – the external boundary is no longer identified with the edge of a territory: so what becomes of a state's power here? I give this example because I think it shows the other side of the story of illegal immigration. In one half of the story, the external border moves into the internal border – because, in part, we maintain the fiction that the two borders are intact. In the case of the British Immigration officials, the external border moves outside of its own constituting power, and so bypasses the legal framework meant to contain it.

So far from the state being threatened by the end of borders – these transnational movements of culture and capital, the state is able to harness its power to them, and to exceed its traditional domains.

VIII private Indirect government

Finally, I want to put these changes in our borders in terms of a broader perspective.

Let us not forget at this point that the balance of power, the notion of territory which triumphs at the Congress of Vienna, is absolutely bound up with the hegemonic position of Europe in the 17th and 18th centuries. The border here is a project of multiple divisions: it is a way of dividing up Europeans, of dividing up Europe, but also dividing up the world – both between European countries; dividing up the Earth along the same lines as Europe is divided; both in terms of colonial occupation and the structures through which these divisions are expressed.

In one of the first models of sovereignty Foucault deals with in the Collège de France lectures, he speaks about a text written in the middle of the 17th century, *La Métropole*, written by Alexandre La Maître. In this text, La Maître constructs a model of the ideal country, which reflects the social divisions within it: the capital is the third estate, the sovereign and his associates, the artisans are in the small towns, the peasants, the foundations of the edifice, in the country, and so on. What is

interesting in the example is that the structure of sovereignty is read back into a definite organisation of space.

Today, the new indeterminate borders that we have been seeing emerge, are also a model of a new type of state sovereignty – or at least a new form of implementation of state power, and it requires a new organisation of space.

What is interesting in this new set of borders, with their deliberate indeterminations, is that we have seen them before; they resemble nothing as much as African post-colonial borders, nothing as much as the post-colonial situation reproducing its structure around the rest of the world.

To give a brief example, one might consider Chad. People often talk, in Africa, about the informal economy - which is contrasted to the official, taxed economy, and takes part in the binary non-state: state. This is highly inaccurate. Activities – gun running, smuggling – that circumvent state economic regulation are not distinct from state power (Roitman 2004): these new economic zones are dominated by the state, which searches, in impoverished circumstances partially brought on by the type of capital movements and international regulatory frameworks that also affect the UK, for means to fill its coffers. This example is not intended to be a sufficient basis for an entire theory, but merely points out that the mechanisms of indetermination we have observed in Britain in this paper, of the state acting in an extra-legal way, have been anticipated by the development of the post-colonial state in Africa.

If one developed this example into a theory, what this suggests is that the global south is moving increasingly into the north. I want to conclude by offering three versions of this hypothesis.

The first, suggested by the economist Greg Vobruba (Vobruba 1994), argues the following. Mass immigration is a fact. We can't stop it – in fact, he quotes a US-immigration official at the Mexican border who says "it is impossible to stop mass migration without the unemployed policeman from East Berlin and import them together with the deadly wall, and the minefields." This is a thoroughly untenable equivalence, but just the equivalence gives you an indication of how desperate things are getting. The countries of the North know this (and the unspoken assumption of the hypothesis is, they don't want it). And because they know, the hypothesis continues, they know the only way to stop migration is to solve the economic problems of the south, and so the South's problems become the North's problems, and so the south is in the north. This is a lovely idea.

But, as this paper has shown repeatedly, the global north certainly does want immigration, even if you follow my reasoning; they want it in order to refuse it. So we arrive at the South in the North, hypothesis two.

It is repeated, ad infinitum, that the great irony of globalisation is that increasing flexibility of movement for capital has been paralleled by an increasingly localised labour market and more rigid border controls. For reasons that are immediately evident, I don't think that is true. I don't think you can take border controls as Ceuta and Mellila, large walls between Palestine and Israel and so on, as borders to keep people out. Borders have never, will never, keep people out. That is not their point. Their point is to create two types of subjectivity – an internal subjectivity, a people satisfied they are that people and not another (thus the importance of constructing walls against the Africans), and a people on the outside who can only enter – though they can enter, the door, like in Kafka's parable,

is open - as outsiders. The contradictions of the two borders are the type of contradictory necessity this paper has been about.

So the second version states: the global south is now in the north because due to the organised economic disadvantage, we are seeing a reverse colonisation for economic reasons (much like the first)...Expressed simply: first we needed their resources, now we need their labour as well.

But they have brought something with them – as should be evident from the Chad example, the types of security apparatus (and non-security apparatus) we are now developing resembles nothing as much as mechanisms, originating in colonial rule, now being used by post-colonial government. So the third version states: the governmentality of the south is becoming the governmentality of the north.

Bibliography

Anderson, Benedict. *Imagined Communities: Reflections on the Origins and Spread of Nationalism*. London: Verso, 1983.

Anderson, Perry. "The Ends of History." In *A Zone of Engagement*, by Perry Anderson, 294-308. London: Verso, 1992.

Balibar, Étienne. *We, The People of Europe: Reflections on Transnational Citizenship*. Princeton: Princeton University Press, 2004.

Barth, Frederick. "Introduction." In *Ethnic groups and boundaries: the social organisation of culture difference*, by Frederick Barth (ed), 1-25. Illinois: Waveland Press, 1969.

Deleuze, Gilles. *Foucault*. London: Continuum, 1999.

Foucault, Michel. "11 January 1978." In *Security, Territory, Population: Lectures at the Collège de France 1977-1978*, by Michel Foucault, 1-23. Hampshire: Palgrave Macmillan, 2007.

Home Office. *Departmental Report*. London: Home Office, 2006.

—. "Enforcing the rules: A strategy to ensure and enforce compliance with our immigration laws." *Home Office*. March 2007. www.bia.homeoffice.gov.uk/6353/aboutus/enforcementstrategy.pdf (accessed July 19, 2007).

Kesby, Alison. "The Shifting and Multiple Border and International Law." *Oxford Journal of Legal Studies*, 2006: 1-19.

Masao, Miyoshi. "A Borderless world? From Colonialism to Transnationalism and the Decline of the Nation-State." *Critical Inquiry*, 1993: Vol. 19, No. 4. Summer, pp.726-751.

Roitman, Janet. "Productivity in the Margins: the Reconstitution of State Power in the Chad Basin." In *Anthropology in the Margins of the State*, by Veena & Poole, Deborah (eds) Das, 191-225. Oxford: James Currey, 2004.

Strange, Susan. *Casino Capitalism*. Oxford: Blackwell, 1986.

Vobruba, Greg. "The Limits of Borders." In *Social Policy Beyond Borders: The Social Question in Transnational Perspective*, by Abraham (ed) de Swaan, 1-18. Amsterdam: Amsterdam University Press, 1994.