"A Beating Worse than Death:
Imagining and Contesting Violence in the U.S.-Mexico Borderlands"

By Joseph Nevins[1]



Nogales, Sonora, Oct. 2005, by Mizue Aizeki

It is conservatively estimated that more than 3,600 "illegal" immigrants lost their lives between 1995 and 2005 while trying to cross from Mexico into the United States.[2] The estimate is conservative in that it only includes confirmed deaths. Many bodies are never found or, if they are discovered, not reported as migrant fatalities. As such, the grim toll is undoubtedly much higher.

Entering the United States from Mexico without authorization has long been potentially fatal. As early as the late 1800s, for example, many unauthorized Chinese immigrants died while trying to circumvent boundary enforcement resulting from the Chinese Exclusion Act of 1882.[3] During the 1980s and the early 1990s, before the boundary buildup initiated during the early years of the Clinton administration, large numbers of

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[1] I would like to thank the two anonymous readers of an earlier version of this manuscript for their constructive comments.

[2]Richard Marosi, "Border Crossing Deaths Set a 12-Month Record," *Los Angeles Times*, Oct. 1, 2005; available online at http://www.dailynewspaper.ws/29995-border-crossing-deaths-set-a-12-month-record.html. See also Wayne Cornelius, "Controlling 'Unwanted' Immigration: Lessons from the United States, 1993-2004," *Journal of Ethnic and Migration Studies* 31.4 (July 2005), 775-794.

[3]Erika Lee, *At America's Gate: Chinese Immigration during the Exclusion Era, 1882-1943* (Chapel Hill: University of North Carolina Press, 2003).

deaths occurred on an annual basis.[4] Since that time, the number of crossing-related fatalities has grown considerably. Along the entire Southwest boundary, documented deaths increased from 87 in 1996 to an annual average of approximately 360 for fiscal years 2000 through 2005, a time during which boundary enforcement significantly intensified.[5]

Incidents of migrant fatalities and the growing death toll more broadly have received a good deal of attention in the press over the last several years. Nonetheless, given the huge number of deaths, it is striking how little scrutiny the fatalities have incurred—especially when compared with other incidents of human suffering, including those involving unauthorized migrants.

Incidents of direct, physical violence against unauthorized immigrants by U.S. authorities or civilians—when documented with video footage or photographs—can and often do attract a good deal of scrutiny from both the public and scholars. The April 1996 videotaped beating of unauthorized immigrants by two deputies from the Riverside County Sheriff's Department following a highway pursuit serves as an example.

Video footage of the incident captured the attention of the country. Newspapers prominently featured reports of the incident and national television networks carried it as a lead story. [6] Newspaper editorials and opinion pieces criticized the Riverside County officers for their actions.[7] Within California, there were a number of large demonstrations protesting the state-perpetrated violence.[8] And a national poll found that

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[4] Stanley R. Bailey, Karl Eschbach, Jaqueline Maria Hagan, and Nestor Rodriguez. "Migrant Deaths at the Texas-Mexico Border, 1985-1994," Center for Immigration Research, University of Houston, January 1996; Bill Curry, "Hunt for Better Life Leads Aliens to 'Season of Death'," *Los Angeles Times*, June 16, 1986, 1; Karl Esbach, Jacqueline Hagan, and Nestor Rodriguez, "Causes and Trends in Migrant Deaths along the U.S.-Mexico Border, 1985-1998," Houston: Center for Immigration Research, University of Houston, 2001; and Joseph Wambaugh, *Lines and Shadows* (New York: William Morrow and Company, Inc., 1984).

[5] Derived from Leslie Berestein, "460 Border Crossers Died in Past Year, *The San Diego Union-Tribune*, October 1, 2005; and California Rural Legal Assistance Foundation website, available at http://www.stopgatekeeper.org. See also Wayne Cornelius, "Death at the Border: Efficacy and Unintended Consequences of U.S. Immigration Control Policy." *Population and Development Review* 27. 4 (2001), 661-85.

Regarding the difficulties associated with assessing migrant deaths over time, see Joseph Nevins, "Thinking Out of Bounds: A Critical Analysis of Academic and Human Rights Writings on Migrant Deaths in the U.S.-Mexico Border Region," *Migraciones Internacionales* 2.2 (July-December 2003), 174.

[6] See, for example, Eric Milnic and Edward J. Boyer. "Deputies Clubbing of 2 Suspects Taped," *Los Angeles Times*, April 2, 1996, A1+; Associated Press, "2 Clubbed After Chase; Is it 'Another Rodney King'?" *The San Diego Union-Tribune*, April 2, 1996; and Kenneth B. Noble, "Videotape of Beating by 2 Deputies Jolts Los Angeles, *The New York Times*, April 3, 1996, A10.

[7] See, for example, Stephen Yagman, "An Outbreak of Mad Cop Disease," *Los Angeles Times*, April 4, 1996.

[8]See, for example, Eric Slater, "6,000 March to Protest Beating of Immigrants," *Los Angeles Times*, April 7, 1996, A3+; and Stacy Finz, "Marchers Protest Beatings," *The San Diego Union-Tribune*, April 13, 1996, A-1. There was also a least one demonstration in support of the deputies. See Tom Gorman, "Don't Condemn, Gates Tells Rally for Deputies," *Los Angeles Times*, April 16, 1996, A1+.

71 percent of U.S. adults felt that the beating by the two sheriff's deputies was unjustified.[9]

Later that same week of the Riverside County beating, another terrible incident related to unauthorized immigrants took place in southern California. On April 6, 1996, a truck loaded with Mexican immigrants lost control and careened off the road while fleeing the United States Border Patrol in Temecula, California, resulting in the deaths of eight unauthorized migrants, including three brothers.[10] Although the Temecula crash—and even the funeral of the three Chávez Muñoz brothers in Cherán, Michoacán, Mexico[11]—received high-profile coverage in the *Los Angeles Times* and *The San Diego Union-Tribune*, it never became a national-level story. Even among California newspapers, the coverage of the fatal crash in Temecula was far less than that of the Riverside case. And in terms of political response—on the part of activists and advocates—there was none of note.

There are undoubtedly numerous reasons why there was such a large gap in media attention and public scrutiny—the parallels between the Riverside County beating and the videotaped brutality inflicted upon Rodney King by Los Angeles Police Department in 1991 being one obvious explanation. In addition, a videotape of police brutality admittedly makes for far more titillating footage than that of dead bodies lying on the side of the road. Nonetheless, there are considerable limitations to such explanations in helping us to understand why migrant deaths—not only those in Temecula in April 1996, but the many hundreds of deaths that have occurred in the U.S.-Mexico borderlands over the last decade—receive so little attention.

In this paper, I want to suggest that, while factors such as the resemblance to the Rodney King beating and the titillating footage are important, there are far more significant reasons. They take the form of three processes that intersect to produce a particular worldview that results in the deaths of unauthorized migrants not received the scrutiny they deserve from a human rights perspective. They are: "social spatialization," which refers to the process by which members of a society learn to think spatially—in terms of national territory, for example[12]; "illegalization," a process that involves the construction of the unauthorized immigrant—principally ones from Mexico and Central

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[9] Duke Helfand and Stephanie Simon, "71% Say Beating of Immigrants Was Unjustified," *Los Angeles Times*, April 18, 1996, A1+.

[10] Tony Perry, Josh Meyer and Henry Weinstein, "7 Die as Truck Evading Border Agents Crashes," *Los Angeles Times*, April 7, 1996, A1+; and Bill Callahan and Lisa Petrillo, "7 Immigrants Killed in Wreck," *The San Diego Union-Tribune*, April 7, 1996, A-1+. See also Ruben Martínez, *Crossing Over: A Mexican Family on the Migrant Trail* (New York: Metropolitan Books, 2002). Seven individual migrants died in the immediate aftermath of the crash, while one of the 18 individuals injured died a week later, raising the death toll to eight.

[11] Mark Fineman, "For Migrants, Desperation Still Outweighs Risks," *Los Angeles Times*, April 28, 1996, A1+; and Valerie Alvord, "Probe of Temecula Tragedy Continues," *The San Diego Union-Tribune*, April 13, 1996, B-8.

[12] Anssi Paasi, "The Social Construction of Peripherality: the Case of Finland and the Finnish-Russian Border Area," in Heikki Eskelinen and Folke Snickars (eds.), *Competitive European Peripheries* (Berlin and New York: Springer, 1995), 236-258; and Anssi Paasi, *Territories, Boundaries and Consciousness: The Changing Geographies of the Finnish-Russian Border* (Chichester, U.K. and New York: John Wiley and Sons, Ltd. 1996). Paasi borrows the concept of social spatialization from R. Shields, *Places on the Margin: Alternative Geographies of Modernity* (New York: Routledge 1991).

America—as lawbreakers, violators of national territory, and threats to the national social fabric; and the normalization of violence, specifically structural or embedded forms of violence. These factors come together to produce particular "ways of seeing" the world[13], and manifest themselves on the landscape, which, in turn, helps to reproduce these ways of seeing. They demonstrate the power of the state, "the nation", and "the law" to define for us what is right and wrong, what is "ours" and "theirs", who belongs to a particular political-territorial entity and who does not, and, thus, who deserves security of personhood and who does not.

The paper contends that migrant deaths result from acts of violence and human rights violations even though society in general does not normally understand the fatalities in such a light. Because the vast majority of people do not see the deaths as resulting from violence and human rights violations, society as a whole does not react to them in the same way it responds to what is conventionally seen as violence against migrants—including those of the "illegal" variety. As such, the key factors that bring about the deaths remain largely unchallenged.

Social Spatialization



Jacumba, California, March 2001, by Mizue Aizeki

Effective immigration and boundary enforcement are practices of recent origin in human history, ones tied to the rise of the modern territorial state. Until the twentieth century, state controls over the movement of peoples—with few exceptions—were relatively weak.[14] The history of the U.S.-Mexico boundary and its associated enforcement

[13] John Berger, *Ways of Seeing* (Harmondsworth: Penguin, 1980).
[14] Alan Dowty, *Closed Borders: The Contemporary Assault on Freedom of Movement* (New Haven: Yale University Press, 1987); Nigel Harris, *Thinking the Unthinkable: The Immigration Myth Exposed* (London: I.B. Tauris Publishers, 2002); and John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge: Cambridge University Press, 2000).

practices reflect this. Since the establishment of the U.S.-Mexico boundary by the Treaty of Guadalupe Hidalgo in 1848, the boundary has shifted from being a mere Cartesian ideal with only modest bearing on people's lives to having a powerful material impact on people on both sides of the international divide. Perhaps even more important, there has been a dramatic shift within the United States in terms of perception of the boundary. Locally, within the border region, the boundary as a line of control has gone from being highly contested to being generally seen as legitimate. On a national level, the boundary has evolved from being a territorial marker of little concern to a highly important geographic divide that defines national territory and thus who belongs and does not, and also protects that territory and those contained within.

That said, the making of the boundary on the ground and within people's minds was a slow, gradual process. Boundary policing in terms of immigration did not begin until 1882 as a result of passage that year of the Chinese Exclusion Act. In 1907, there were only eight inspectors for the California-Mexico boundary. As of 1919, there were only 151 immigrant inspectors for the entire U.S.-Mexico divide; they were responsible for more than 2,000 miles of boundary and most of them were obligated to remain at one of the twenty official ports of entry.[15]

It was not until World War I that discussions began about establishing a permanent patrol force along the U.S.-Mexico boundary. Thus, the roots of the Border Patrol are to be found not only in concerns about unauthorized immigration, but also (and perhaps more so) in a preoccupation with matters of national security as related to the boundary. The number of unauthorized entries—by Chinese, and by Europeans fleeing the devastation brought about by the war—increased quickly following the end of the conflict and intensified as Congress placed additional restrictions on immigration. It was in this context that Washington created the U.S. Border Patrol in 1924. Over the next few decades, the boundary grew slowly as a physical line of enforcement in the form of a gradually increasing number of Border Patrol agents, watch towers, and fences. As a result, the boundary and its associated practices became more "real" and "normal" over time. Yet, the boundary and related enforcement matters rarely received sustained national scrutiny prior to the 1970s. There were points when the boundary and unauthorized immigration from Mexico became matters of national importance—such as the years of the Depression and 1954 when the federal government engaged in the deportation of hundreds of thousands of people of Mexican origin (including many U.S. citizens)[16]—but, in general, what is striking is how shallow and ephemeral attention was.[17]

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[15] Ernesto Galarza, *Merchants of Labor: The Mexican Bracero Story* (Charlotte and Santa Barbara: McNally & Loftin, Publishers, 1964), 61; Lee, pp.151-187; and Joseph Nevins, *Operation Gatekeeper: The Rise of the "Illegal Alien" and the Making of the U.S.-Mexico Boundary* (New York: Routledge, 2002).

[16] Francisco E. Balderrama and Raymond Rodríguez, *Decade of Betrayal: Mexican Repatriation in the 1930s* (Albuquerque: University of New Mexico Press, 1995); Juan Ramon García, *Operation Wetback: The Mass Deportation of Mexican Undocumented Workers in 1954* (Westport, Connecticut and London: Greenwood Press, 1980).

[17] Media coverage is an important indicator of this phenomenon. For an analysis of media coverage related to unauthorized immigration and the U.S.-Mexico boundary since the 1920s, see Nevins, *Operation Gatekeeper*.

Nonetheless, the growth of the development of the boundary and its associated practices and mechanisms helped to lay the ideological groundwork for a significant intensification of consciousness related to the boundary and unauthorized immigration that begin in late 1960s and early 1970. A growing public and official perception arose of the international boundary with Mexico as "out of control," as a dangerously porous line of defense against unprecedented numbers of "illegal" immigrants entering the United States from Mexico. The decade of the 1970s thus saw a noticeable increase in immigration- and boundary-restrictionist sentiment on the national level.[18]

As a result, there was a hitherto unprecedented growth in federal resources dedicated to boundary policing. These increases began in the latter half of the administration of President Jimmy Carter (1977-1980) and grew even more rapidly during the presidency of Ronald Reagan (1981-1988). Between 1978 and 1988, the U.S. Immigration and Naturalization Service (INS) budget grew 185 percent. Unauthorized immigration and a border region "out of control," in particular, fueled the political sentiment for immigration enforcement which climaxed with the passage of the Immigration and Control Act of 1986, or IRCA.[19]

While IRCA led to a rapid decline in Border Patrol apprehensions (largely due to a program that legalized upwards of three million "illegals"—the vast majority of whom were Mexican—living and working in the United States), apprehensions along the southern U.S. boundary quickly began to rise again, beginning in 1990. The perceived failure of IRCA to sufficiently address the issue of unauthorized boundary crossing from Mexico helped to fuel a resurgence of anti-immigrant sentiment (again, with a focus on "illegals"), especially in California, a state experiencing at the time a serious recession, the breakdown of local government, a widening gap between rich and poor, and a massive ethno-racial recomposition. Combined with California's long and sordid history of anti-immigrant sentiment, these factors provided fuel for demagogic politicians, most notably California Governor Pete Wilson, and a host of anti-immigrant groups.[20] As California's anti-immigrant sentiment infected the U.S. body politic, unauthorized immigration became an issue of national importance, arguably to a degree never seen before. Given the electoral importance of California, it was not possible for the Clinton administration to ignore the vote-rich state. The waging of an "immigration war" by

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[18] Barry Edmonston, Jeffrey S. Passel and Frank D. Bean, "Perceptions and Estimates of Undocumented Migration to the United States." In *Undocumented Migration to the United States: IRCA and the Experience of the 1980s*, eds. Frank D. Bean et al., (Washington, D.C.: The Urban Institute Press, 1990), 11-31; Thomas J. Espenshade and Charles A. Calhoun, "An Analysis of Public Opinion toward Undocumented Immigration," *Population Research and Policy Review* 12 (1993), 189-224. See also Nevins, *Operation Gatekeeper*, especially regarding the key factors that led to this shift.

[19] Timothy J. Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home* (Austin: The Center for Mexican American Studies, the University of Texas at Austin, 1996); and Nevins, *Operation Gatekeeper*.

[20] Richard Walker, "California Rages Against the Dying of the Light," *New Left Review* 209 (January/February 1995), 42-74; and Richard Walker, "California's Collision of Race and Class," *Representations* 55 (Summer 1996), 163-183.

congressional Republicans was also putting the Clinton administration and the Democrats at a disadvantage in the face of upcoming elections in 1994.[21]

Pete Wilson and anti-immigrant politics in California, as well as Republican efforts in Congress, however, were not the only factors explaining why unauthorized immigration became an issue of such national importance, arguably to a degree never seen before. A number of other contextual factors and high-profile events in early to mid-1993 helped to bring the issue quickly to the fore. These included: a large-scale influx of refugees from Haiti fleeing that country's repressive military junta[22]; a persistent economic recession; the bombing of the World Trade Center by suspected unauthorized immigrants[23]; and the assassination of two Central Intelligence Agency employees in Virginia by an unauthorized immigrant from Pakistan.[24] If any single issue helped create the popular image of the U.S. under invasion from foreign hordes, however, it was the discovery offshore of ships carrying unauthorized Chinese immigrants—first, in April and May, off of the coast of Ensenada, Baja California and of San Diego.[25] Soon thereafter, on June 6, 1993, the *Golden Venture* and its cargo of 286 smuggled Chinese immigrants were discovered off the coast of New York City. This brought the issue of unauthorized immigration to the forefront of national attention as national media prominently featured the story.[26] While such events had nothing to do with unauthorized immigration from Mexico, they significantly contributed to a growing perception of a country under siege from without.[27]

Together, these developments, combined with Congressional pressure and Clinton's desire to garner favor in vote-rich California for his re-election bid, led to a significant shift in White House policy. Thus, while the Clinton Administration's first budget proposal called for cutting the size of the Border Patrol by 93 agents, Bill Clinton voiced his support for a Republic proposal to add 600 agents to the Border Patrol a few

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[21] Fred Barnes, "No Entry: The Republicans' Immigration War," *The New Republic*, 8 November 1993, 10+; Ruth Conniff, "The War on Aliens," *The Progressive*, 22 October 1993, 22-29; Patricia King and Donna Foote. "Across the Borderline," *Newsweek*, 31 May 1993, 25; and Andrew Murr, "A Nasty Turn on Immigrants," *Newsweek*, 23 August 1993, 28.

[22] Norman L. Zucker and Naomi Flink Zucker, *Desperate Crossings: Seeking Refuge in America* (Armonk, New York and London: M.E Sharpe, 1996), 114; see also Linda Robinson and Kenneth T. Walsh, "Riding a Tide of Hope," *U.S. News & World Report*, 18 January 1993, 47-49.

[23] Pat Milton, "Trade Center Plotters May Have Left U.S.," *The San Diego Union-Tribune*, March 6, 1993, A-1+.

[24] See James Popkin and Dorian Friedman, "Return to Sender—Please," *U.S. News & World Report*, June 21, 1993, 32.

[25] U.S. authorities discovered a shipload of 198 smuggled Chinese immigrants off the coast of San Diego. Just two weeks prior, Mexican authorities had apprehended a shipload of 306 Chinese immigrants--all of whom reportedly intended to go to the United States—off the coast of Ensenada, south of Tijuana. Gregory Gross, "300 from China Found in Ensenada," *The San Diego Union-Tribune*, April 28, 1993, A-1+; and Angela Lau, "Boatload of Chinese Seized Here," *The San Diego Union-Tribune*, May 13, 1993, A-1+.

[26] Peter Kwong, *Forbidden Workers: Illegal Chinese Immigrants and American Labor* (New York: The New Press, 1997).

[27] Kwong; see also Sebastian Rotella, *Twilight on the Line: Underworlds and Politics at the U.S.-Mexico Border* (New York and London: W.W. Norton and Company, 1998), 73-85.

months later in mid-1993.[28] And, on October 1, 1994, the Clinton administration initiated Operation Gatekeeper in San Diego as the centerpiece of a new boundary enforcement strategy. As a result of this, the U.S. government's capacity to monitor and regulate the boundary has grown significantly. In terms of the number of Border Patrol agents, for instance, it expanded from 4,200 in 1994 to about 11,200 in 2005.

Not only does the U.S. public largely accept these changes as indicated by opinion polls over the last 15 years, many people actively demand them as a way of maintaining and enhancing national territorial sovereignty. While there is debate about specific immigration and boundary control measures, a strong majority within the political establishment and among the public as a whole generally perceive a need to enhance immigration and boundary enforcement.[29] As such, the current boundary-enforcement regime (migrant deaths aside) is strikingly uncontroversial within the United States. This largely reflects a widespread perception that boundary control is a necessary endeavor of the state, one deserving of extensive resources. As discussed earlier, the presence of such sentiment has not always existed, however. The shift reflects, among other things, a normalization of boundary enforcement in the American politico-geographical imagination. It thus illustrates how successfully the space of the border, and the boundary as a line of control and division, has been socially spatialized, mentally—as well as physically—constructed, and accepted by the public at large. As this has occurred, the "illegal" immigrant has become more of an outlaw, the topic of the next section.

Illegalization



Los Angeles, California, May 1996, by Joseph Nevins

[28] Fred Barnes, "No Entry: The Republicans' Immigration War," *The New Republic*, November 8, 1993, 10+.

[29] Nathan Thornburgh, "Inside the Life of the Migrants Next Door," *Time*, Feb. 6, 2006. As the polls demonstrate, however, people's views are complicated, at times somewhat contradictory, and, over time, in flux as they are affected by the socio-geographical and political-economic contexts in which the polls are conducted. See also Nevins, *Operation Gatekeeper*, Chapter 4; and Nicholas Riccardi, "Arizona Torn on Immigrants," *Los Angeles Times*, March 5, 2006.

Associated with the actual construction of the U.S.-Mexico boundary and its concomitant enforcement apparatus has been the production of a set of legal instruments that have increasingly defined the unauthorized immigrant as "illegal"—a social category of very recent origins in human history, one tied to the rise of the modern territorial state.[30] Similar to the making of the actual boundary, this process has been a very gradual one, albeit, one that has intensified dramatically over the last few decades.

With the exception of the Alien Act of 1798, there was no federal legislation restricting immigration into the United States until 1875.[31] From that time until the early twentieth century, Congress passed a whole host of laws barring the entry of non-U.S. citizens on the basis of qualitative characteristics such as race, national origin, physical and mental health, and political beliefs. As legislative prohibitions against certain types of immigrants increased, so did the efforts of would-be immigrants to enter the United States without authorization, thus the origins of the "illegal" immigrant.[32] The rise of these unauthorized immigrants led to the emergence of immigration enforcement and, concomitantly, boundary policing.[33] That said, enforcement was not an effective barrier to entry for the vast majority of people trying to enter the United States in the late-1800s and early 1900s. From 1880 to World War I, the Immigration Service denied entry to only one percent of the 25 million immigrants arriving from Europe.[34] In terms of efforts to restrict Chinese immigration, many Chinese men and women adopted successful tactics to negotiate their ways around and through the laws. From 1910 to 1924, 93 percent of Chinese who applied for admission to the United States were allowed entry.[35]

The passage of the Immigration Act of 1917, while exempting Mexicans (until a new law in 1921), led to a formalization of immigration control procedures; it also led to an increase in the number of U.S. authorities and immigration inspection sites along the U.S.-Mexico boundary. The new practices applied to Mexican migrants attempting to cross the boundary included (depending on the assessment and dictates of the U.S. immigrant inspectors at official ports of entry) vaccination, bathing, and delousing. Medical experts hired by the Immigration Service designated the migrants as either "desirable" or "undesirable" based on their health, thus excluding many migrants.[36] The

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[30] Nevins, *Operation Gatekeeper*.

[31] Nonetheless, it is incorrect to infer from this that U.S. boundaries were effectively open until the late nineteenth century as states attempted to regulate immigration through the implementation of qualitative criteria. U.S. Supreme Court decisions of 1849 and 1875, however, declared all such laws unconstitutional, interpreting them as attempts by states to regulate foreign commerce, a function of the federal government. See Gerald L. Neuman, "The Lost Century of American Immigration Law (1776-1875)," *Columbia Law Review* 93.8 (December 1993), 1833-1901.

[32] See Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, New Jersey: Princeton University Press, 2004).

[33] Nevins, *Operation Gatekeeper*.

[34] Ngai, p. 18.

[35] Lee, p. 141. That said, it is unclear to what extent the Chinese exclusion regime succeeded in lowering the number of Chinese who even tried to enter the United States given the high costs involved in circumventing the laws and associated control mechanisms.

[36] George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture, and Identity in Chicano Los Angeles, 1900-1945* (New York: Oxford University Press, 1993), 54-56. Regarding the medical

implementation of a literacy test, mandated by the 1917 legislation, further complicated the process of crossing the boundary from Mexico, as did the imposition of an $8 head tax for all immigrants.[37] Nonetheless, it was not until the passage of the Act of March 4, 1929 that the entry into the United States of non-citizens at locations other than those designated by the federal government became a misdemeanor, and that the reentry of a previously deported "alien" became a felony. As a result of the legislation, both acts became punishable by fine as well as by imprisonment.[38]

Combined with the growth of the boundary and immigration enforcement apparatus, such legal developments have been significant in establishing and hardening the juridical, political, and ideological distinctions between "citizens" and "aliens", and "legals" and "illegals." While this process continued in the period from the 1940s through the 1970s, "illegalization" really began to grow significantly in the 1980s due to the passage of a whole series of legislative measures and court decisions[39], and it has only intensified in the post-9-11 era. Combined with the growth of the boundary and immigration enforcement apparatus, such legal developments have been significant elements of a process of establishing and hardening the juridical distinctions between "citizens" and "aliens", and "legals" and "illegals."

Along with a growing body legal instruments that increasingly criminalize unauthorized immigrants, there has been a dramatic increase in the amount of public discussion of the border and unauthorized immigration over the last few decades as evidenced by press coverage. This is illustrative of the fact that a preoccupation with "illegal" immigrants and boundary enforcement—at least in a sustained manner with widespread popular support—is of relatively recent origin. The national platform of the Republican Party, for example, did not mention immigration enforcement for the first time until 1980. It was not until four years later that the party affirmed the right of the United States to control its boundaries and voiced concern about illegal immigration. In like fashion, the Democratic Party's national platform did not even mention illegal immigration until 1996 when it took a similar stand to the Republicans.[40]

At the same time, there has been a substantial rhetorical shift entailing a growing emphasis on the legality of migrants. Through the 1930s, the categories employed to describe unauthorized immigrants were such that they differentiated largely between

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inspections and forced bathing and delousing, see David Dorado Romo, *Ringside Seat to a Revolution: An Underground Cultural History of El Paso and Juárez: 1893-1923* (El Paso: Cinco Puntos Press, 2006), 223-244.

[37] See Sánchez.

[38] Entry by means of "a willfully false or misleading representation" was also made a misdemeanor. U.S. Immigration and Naturalization Service, *Laws Applicable to Immigration and Nationality* (Washington, D.C.: U.S. Government Printing Office, 1953), 459-461.

[39] See Aleinikoff, T. Alexander. "The Tightening Circle of Membership," in *Immigrants Out!: The New Nativism and the Anti-Immigrant Impulse in the United States*, ed. Juan F. Perea (New York: New York University Press, 1997), 324-332.

[40] For sections relating to immigration in political party platforms from 1798-1964, see Edward P. Hutchinson, *Legislative History of American Immigration Policy, 1798-1965*, (Philadelphia: University of Pennsylvania Press, 1981). The author conducted the analysis of the Democratic and Republican party platforms from 1968-1996. Copies of these platforms are on file with the author.

"legitimate" and "illegitimate" or "ineligible" immigrants.[41] The contemporary emphasis on "illegals" (as opposed to "wetbacks" or "undesirables") is of relatively recent origin. A database search of judicial decisions, for example, found no reference to the term "illegal" (in regards to immigrants) prior to 1950.[42] Over the last few decades, however, public discourse has increasingly employed the term "illegal" to describe unauthorized immigrants to the point where, today, it is almost exclusively the term of choice.

This rhetorical shift reflects a strengthening embrace of national territorial sovereignty, one informed by a rejection of those who challenge it by attempting to traverse national boundaries without authorization. This is because the "illegal alien" is someone who is officially out of place—in a space where she or he does not belong. Just as the boundary and its enforcement practices have come normal, so, too, have it associated identities (such as citizen, "alien," "legal," and "illegal"). And as the capacity to monitor and regulate immigration has grown, the unauthorized immigrant has increasingly become an outlaw in the eyes of the state and the public at large.

This development is not a mere point of narrow academic interest. As Foucault and many others have argued, power is present not only in formal organizations and institutions, but also in routine social practices such as everyday discourse. The language of public discourse reflects and reproduces our thinking and being and, as such, constructs socio-geographical boundaries and their associated identities.[43]

A significant rise in public concern about the U.S.-Mexico boundary and associated phenomena such as unauthorized migrant entries emerged in the early to mid-1970s. A number of factors dovetailed to precipitate the perception of a crisis of "illegal" immigration, one associated mostly with immigrants from Mexico. The advent of a Chicano civil rights movement in the late 1960s, whose most notable accomplishments took place in the border region, led many American elites to fear the rise of an "American Quebec" in the U.S. Southwest.[44] At the same time, the early and mid-1970s saw the emergence of the energy crisis and an economic downturn in the United States. Simultaneously, apprehensions of unauthorized immigrants by the U.S. Border Patrol were rising rapidly, approaching the levels that preceded the implementation of Operation Wetback in 1954. It was in this fertile context that ex-Marine general Leonard Chapman became INS Commissioner. Chapman greatly contributed to the perception of a "border crisis" through

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[41] As a 1927 issue of the *Imperial Valley Press* (the precise date of which is not visible on the photocopy) reported, "[T]he large number of arrests of ineligible aliens made by the border patrol prove that it is very much on the job. Occasionally citizens may happen to get through to San Diego or the coast without being stopped, but it is nearly a safe bet that the border patrol knows they are citizens." (The article is on file with the author.)

[42] Neuman, "The Lost Century of American Immigration Law (1776-1875)," 1899.

[43] Hugh Mehan, "The Discourse of the Illegal Immigration Debate: A Case Study in the Politics of Representation," *Discourse & Society* 8.2 (1997), 250; and Paasi, *Territories, Boundaries and Consciousness,* 12.

[44] Dunn, 17-18. U.S. academics such as Arthur Corwin helped raise the specter of irredentism. Corwin sent a letter to Secretary of State Henry Kissinger in 1975 claiming that the U.S. was becoming a "welfare reservation." Corwin called upon the U.S. to deploy the military along the boundary and upon Congress to appropriate $1 billion to the INS so that it could hire an additional 50,000 Border Patrol agents. He also advocated the construction of an electrified fence along the boundary. See Rodolfo Acuña, *Occupied America: A History of Chicanos* (New York: Harper Collins Publishers, 1988), 374-375.

his outspokenness about unauthorized immigration and the problems allegedly associated with it (such as poverty and unemployment), and his effective use of the media platform afforded by his position.[45] All the major media, beginning in the 1970s, featured stories highlighting the putative problems associated with a boundary "out of control," and unauthorized immigration, and largely that from Mexico,[46] thus helping to make the boundary more "real" in the public mind and contributing to a collective sense of crisis.

The cover of the December 1974 issue of *The American Legion Magazine*, for example, contained a cartoon image of U.S. territory being overrun by an influx of immigrants for an article entitled "Our Illegal Alien Problem." The cover depicted the vast majority of the immigrants on the cover by means of a throng of cartoon-like Mexicans with sombreros smashing through U.S. boundary blockades, overrunning boundary inspectors, and flooding into buildings with descriptive signs such as "schools," "welfare department," "medical aid," and "jobs."[47] And a 1977 *Time* magazine report described ominously:

> The U.S. is being invaded so silently and surreptitiously that most Americans are not even aware of it. The invaders come by land, sea and air. They fly commercial and private aircraft; they jump ship or sail their own boats; they scale mountains and swim rivers. Some have crawled through a mile-long tunnel; others have squeezed through the San Antonio sewerage system. No commandos or assault troops have shown more ingenuity and determination in storming a country that tries to keep them out.[48]

The "invasion," according to *Time*, was largely Mexican in nature. The report erroneously stated that "[s]ome 80% of the illegal aliens now living in America come from Mexico." The article quoted INS Commissioner Chapman warning that "We have become the haven for the unemployed of the world. I think it's going to be catastrophic."[49]

Such representations illustrate how the category of "illegal" intersects with highly racialized, cultural ones. Negative, racist stereotypes about Mexicans, and Latin

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[45] Chapman assumed the position of INS Commissioner in December 1973.

[46] Gilbert Cardenas, "Critical Issues in Using Government Data Collected Primarily for Non-Research Purposes," in *Quantitative Data and Immigration Research*, eds. Stephen R. Crouch and Roy Simón Bryce-Laporte (Washington, D.C.: Research Institute on Immigration and Ethnic Studies, Smithsonian Institution, 1979), 83; Dunn, *The Militarization of the U.S.-Mexico Border*,18; Celestino Fernandez and Lawrence R. Pedroza, "The Border Patrol and News Media Coverage of Undocumented Mexican Immigration during the 1970s: A Quantitative Content Analysis in the Sociology of Knowledge," *California Sociologist*, 5.2 (Summer 1982), 1-26; Sasha G. Lewis, *Slave Trade Today: American Exploitation of Illegal Aliens* (Boston: Beacon Press, 1979), 137-141.; and Jana Walters, "Illegal Immigration: The Making of Myth," unpublished paper completed for a graduate seminar in sociology at the University of Texas at Austin (1990), 10.

[47] See also Harvey Ardman, "Our Illegal Alien Problem," *The American Legion Magazine* 97.6 (December 1974), 6-9+.

[48] Time, "Getting Their Slice of Paradise," *Time*, May 2, 1977, 26+.

[49] Time, "Getting Their Slice of Paradise." Media coverage of unauthorized immigration reached such a level in the 1970s that the Gallup Organization found in a 1976 poll conducted for the INS that over half of those polled had recently read or heard something about "the problem of illegal aliens." The figure was particularly high—over two-thirds—in the West and in states that bordered Mexico. Fernandez and Pedroza, "The Border Patrol and News Media Coverage of Undocumented Mexican Immigration during the 1970s," 4.

Americans more generally, have long history in the United States.[50] It is impossible to cleanly separate these deeply rooted stereotypes from support for measures favoring more restrictive measures against immigrants—legal or "illegal.[51] The focus on unauthorized immigration is part and parcel of a more general restrictionist sentiment, one rooted historically in notions of undesirable "Others" who have typically been non-white, non-English-speaking people from relatively poor countries. Fear or rejection of "illegals" is often fear and rejection of Mexicans or, more generally, non-white, non-English-speaking persons. Analysis of the term "illegal alien" in context makes clear that it most often refers specifically to unauthorized Mexican immigrants and draws upon stereotypes of Mexicans as criminals, at least in the southwestern part of the United States.[52] Like any other discursive device, a term such as "illegal" can serve to obfuscate: "the discourse of legal status permits coded discussions in which listeners will understand that reference is being made, not to aliens in the abstract, but to the particular foreign group that is the principal focus of current hostility."[53] Thus, while many unauthorized immigrants come from Canada, Ireland, and Poland, the dominant image of the unauthorized immigrant (and almost exclusively so) is the former "wetback"—an unauthorized entrant coming from Mexico, or Latin America more broadly.

Such a line of analysis leads some to conclude that the emphasis on the legality of immigrants is merely a cover for race-based arguments that are no longer publicly acceptable.[54] While undoubtedly true in many cases, factors of class, gender, and national origin are also highly significant.[55] At the same, we need to appreciate the power of the state and the law to shape our worldviews. The putative problem of "illegal immigration" resonates so profoundly with the public at large not simply because of the ideological baggage in terms of race, ethnicity, class, and national identity that the term conveys about outsiders (although undoubtedly highly significant), but also because of the power of the state to mold the collective mindset of its citizenry to distinguish between "right"

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[50] See, for example, Samuel Schmidt, "Stereotypes, Culture, and Cooperation in the U.S.-Mexican Borderlands," in *Borders and Border Regions in Europe and North America*, eds. Paul Ganster et al. (San Diego: San Diego State University Press and Institute for Regional Studies of the Californias, 1997), 299-314.

[51] Robin D. G. Kelley, Yo' Mama's Disfunktional!: Fighting the Culture Wars in Urban America (Boston: Beacon Press, 1997), 120-121.

[52] Richard Delgado and Jean Stefanic, "Images of the Outsider in American Law and Culture: Can Free Expression Remedy Systemic Social Ills?," *Cornell Law Review*, 77.6 (September 1992), 1258-1297; Kevin R. Johnson, "The New Nativism: Something Old, Something New, Something Borrowed, Something Blue," in *Immigrants Out!: The New Nativism and the Anti-Immigrant Impulse in the United States*, ed. Juan F. Perea (New York: New York University Press, 1997), 165-189.

[53] Gerald L. Neuman, "Aliens as Outlaws: Government Services, Proposition 187, and the Structure of Equal Protection Doctrine," *UCLA Law Review* 42.6 (August 1995), 1429.

[54] See, for example, Susan K. Lee, "Racial Construction through Citizenship in the U.S.," *Asian American Policy Review* 6 (1996), 89-116.

[55] See Mimi Abramovitz, Regulating the Lives of Women: Social Welfare Policy from Colonial Times to the Present, (Boston: South End Press, 1996); Grace Chang, *Disposable Domestics: Immigrant Women Workers in the Global Economy* (Cambridge: South End Press, 2000); Doreen J. Mattingly, "Where Are the Women?," *Antipode* 36.1, 2004, 142-145; and Nevins, *Operation Gatekeeper*.

and "wrong" (through "the law") and to appreciate the almost-sacred nature of its national boundaries.[56] Thus, for the vast majority of Americans—including Latinos—the wrongness of "illegal" immigration is simply beyond question. This serves to provide ideological legitimation to the very boundary build-up that has led to the increase in migrant crossing deaths, while inhibiting our ability to discern the key factors leading to these deaths, the most significant of which is state violence.

Normalization of Violence



Douglas, Arizona, June 2004, by Mizue Aizeki

The manner in which U.S. society in general comprehends the processes of boundary building and illegalization—in both their material and ideological components—flow from and construct particular understandings of what constitutes violence. Arguably, there are many forms of violence experienced by unauthorized (as well as authorized) immigrants living in or attempting to enter the United States beyond those conventionally seen as violence. (Examples of manifestations widely accepted as violent include physical attacks by so-called border bandits, unscrupulous smugglers, or state authorities—on both sides of the boundary.) Beyond the conventional are the rising number of migrant deaths, the poverty that many migrants experience due to low wages, an inability to access many public services, and the rapid increase in detentions and deportations. If one accepts these examples as manifestations of violence, one thus

[56] See Philip Corrigan and Derek Sayer, *The Great Arch: English State Formation as Cultural Revolution* (Oxford: Basil Blackwell, 1985); and Linda S. Bosniak, "Opposing Prop. 187: Undocumented Immigrants and the National Imagination," *Connecticut Law Review*, 28.3 (Spring 1996), 555-619.

acknowledges that most unauthorized immigrants encounter violence (broadly defined) on a regular basis.[57]

Underlying this more expansive view is the notion that violence against human beings takes many forms—direct, physical acts of brutality being only the most obvious one. Less obvious are the supporting actors and accompanying social relations that contribute to such violence, or social structures and actions that also cause injury to people. There is a tendency, however, to focus critical attention far more on the first type—an outgrowth of a narrow conceptualization of violence, one that impoverishes an understanding of the social actors and complex processes that contribute to the harming of people. In this regard, the work of Johan Galtung is especially helpful.

Galtung sees *violence* as including that which prevents us from achieving *realizable* social goals deemed by most to be desirable (e.g. a healthy diet, access to potable water, or adequate healthcare and housing for all). Such goals might include a healthy diet, access to potable water, or adequate healthcare and housing for all. Thus, hunger in a world in which there is more than enough food produced to provide everyone with an adequate diet is a manifestation of violence, as is homelessness in wealthy countries such as Britain and the United States.[58] When an identifiable actor commits violence, it is direct or personal. When there is no actor present—or when violence is the outgrowth of the seemingly acceptable, institutionalized practices of organizations deemed as legitimate—it is indirect or structural.

Although neither type of violence is inherently worse or more important than the other in terms of its potential impact, many of us consider shooting and killing someone an act of violence, but not the creation and reproduction of social conditions that

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[57] Regarding immigrant detentions, see Mark Dow, *American Gulag: Inside U.S. Immigration Prisons* (Berkeley: University of California Press, 2004); and Tram Nguyen, *We Are All Suspects Now: Untold Stories from Immigrant America After 9/11* (Boston: Beacon Press, 2005), a book that also deals extensively with the rise in deportations. See also Chris Hedges, "Condemned by Past Crimes: Deportation Law Descends Sternly," *The New York Times*, August 30, 2000; and the website of Families for Freedom, a New York City-based network of immigrants facing and fighting detention and deportation at http://www.familiesforfreedom.org/.

As a result of the 1996 Antiterrorism and Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act, legislation that built upon particular provisions of the 1990 Immigration and Nationality Act, non-citizen "aggravated felons" are subject to deportation, regardless of how long ago their crimes occurred. The 1996 laws greatly expanded the list of crimes for which "resident aliens" can lose their residency. The standard for what constitutes an aggravated felony for permanent residents is much lower than that for citizens. Prior to 1996, the list was limited crimes of violence and drug-related crimes that received sentences of at least five years. The list now includes selling marijuana, domestic violence, some cases of drunk driving, and *any* conviction that carries a sentence of one year or more. See Melissa Cook, "Banished for Minor Crimes: The Aggravated Felony Provision of the Immigration and Nationality Act as a Human Rights Violation," *Boston College Third World Law Journal*, 23.2 (2003), 293-330; Linda G. Allegro, "Deportations in an Age of Neoliberalism," *AmeriQuests*, 3.1 (2006); and Nancy Cleeland, "Waits, Crowding Worsen Tensions in INS Centers," *Los Angeles Times* (March 14, 1998), A-1+.

[58] For a discussion of the concept of structural violence and how it relates to the unequal distribution of social and economic rights throughout the world, see Paul Farmer, *Pathologies of Power: Health, Human Rights, and the New War on the Poor*, Berkeley: University of California Press (2003).

inevitably result in deaths. Part of the reason that we tend to focus our outrage on direct or personal violence is because it is visible as action, while there is no question among the victims of such violence that that which has brought about their suffering is *violence*. Structural or institutionalized violence, on the other hand, is often hidden, or it seems "natural"—a part of our regular surroundings. It is part of the social fabric, the status quo. Such "violence" seems normal, rather than extraordinary.[59]

Similarly, representations of violence are often far too narrow as to whom they ascribe culpability. Structural violence that underlies and/or enables the direct or personal violence to take place usually receives relatively little attention. The lack of visible agency for the human suffering that results from structural violence usually means that it not only goes unnoticed, but also that it is not challenged.[60] This structural violence is not hidden simply because it occurred "behind the scenes"—indeed, for most people, so did the direct violence—but because powerful actors reproduce its hidden nature and/or construct it as something legitimate or other than violence through various representations. To the extent that such depictions serve to obscure or legitimize direct and structural forms of violence, we can consider them examples of what we might call *representational violence*.[61] When violence seems legitimate or hidden in terms of its origins, the assigning of responsibility for said violence is a very narrow process, the result often being the ascribing of culpability to the victims of the violence themselves. While society generally condemns direct violence, for example, violence allowed or facilitated by the law and its agents receives relatively little critical attention. For such reasons, most people do not typically see the causes of violence inflicted upon unauthorized immigrant as the violence itself is not visible as violence.

The strength of such a conceptualization of violence is its wide scope. Rather than reducing violence to singular, visible acts or events, it pushes us to appreciate that violence—like any other social act—does not take place in a vacuum. It emerges out of a complex web of social relations that involves individual acts, structures and processes, as well as discourse, or expressions of communication. One might argue, however, that this strength is also a potential weakness in that it makes it seem that violence is almost everywhere and everything, thus creating an analytical complexity and, perhaps, confusion. This analytical challenge is also potentially a practical one in that it could complicate efforts to achieve accountability for acts of gross violence. But to suggest that isolated acts and/or events of violence emerge out of a complex web of social relations is not to say that all factors within the web are equally significant or guilty (politically, morally, or legally). Nor does it necessarily prevent one from taking concrete actions to redress gross violence. To the contrary, it positions one to be more effective: such a conceptualization allows one to understand better how and why individual acts and events of violence happen and, in doing so, to critique the limits of conventional

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[59] Johan Galtung, "Violence, Peace, and Peace Research," *Journal of Peace Research* 6.3 (1969), 167-191.

[60] For a discussion of the relationship between structural violence and massive direct violence—specifically in the case of the Rwandan genocide—see Peter Uvin, *Aiding Violence: The Development Enterprise in Rwanda* (West Hartford, Connecticut: Kumarian Press, 1998).

[61] Galtung refers to such violence as "cultural violence": "Any aspect of a culture that can be used to legitimize violence in its direct or structural form." See Johan Galtung, "Cultural Violence," *Journal of Peace Research* 27:3 (1990), 291.

approaches to accountability for such violence. It is also empowering in that it facilitates a wider array of interventions by individuals, groups, and institutions to fight against the myriad factors that give rise to violence.[62]

Assuming that one is responsible for the predictable consequences of one's actions—in this regard, the intentions of the actors is not as important as the outcome of their actions—my contention is that migrant deaths are an outgrowth of violence (conceived of in Johan Galtung's terms). The principal perpetrators of this violence are the state actors who, under the rubric of the law, construct the boundaries and illegalize the unauthorized immigrants, thus making such deaths inevitable. While the deaths of specific migrants or the exact number of deaths in the growing tally of fatalities are not predictable, large numbers of deaths as a collectivity are foreseeable. They are deaths destined to happen as a result of structures and actions of violence not seen as such.

In making this argument, I assume that all people have a right to life, a right to be free from inhuman or degrading treatment, a right to a standard of living adequate for the health and well-being of oneself and one's family, and a right to work and just and favorable conditions for such. Indeed, the *Universal Declaration of Human Rights* enshrines these as rights for all human beings.[63] Thus, the denial of these rights or, more specifically, the denial of the means to realize these rights (in this case, freedom of movement) would seem to fit Galtung's notion of violence as that which prevents the achieving of realizable social goals deemed by most to be desirable.

Case Study: Julio Cesar Gallegos



Julio Cesar Gallegos, 6th grade photo, Juchipila, Zacatecas, by Mizue Aizeki

[62] Much of the discussion of violence is taken in adapted form from Joseph Nevins, *A Not-So-Distant Horror: Mass Violence in East Timor* (Ithaca, NY: Cornell University Press. 2005), 189-191.

[63] The text of the document is available at http://www.un.org/Overview/rights.html.

On August 13, 1998, the Border Patrol found a group of seven dead bodies—six men and one women—huddled together under a clump of saltcedar trees about 25 miles north of the U.S.-Mexico boundary in California's Imperial Valley. According to the coroner's office, hyperthermia (excessive temperature) and a lack of food and water were the causes of their demise. The bodies had been there for several weeks, and possibly six to seven weeks. Some of the deceased were only wearing their underwear, but there was no indication that any of them had suffered foul play. Photos showed corpses that were, in parts, pitch black, ones that looked like they had been charred.

One of the dead was Julio Cesar Gallegos, father of a two-year-old boy, Julio Jr., whose photo the authorities reportedly found in his clutched hand. Gallegos lived in East Los Angeles with his wife, Jackie, who was eight-months pregnant at the time of the discovery of his corpse with their second child. He worked for minimum wage ($5.15/hour) in the nearby City of Vernon at a Chinese frozen food factory. The 23-year-old was on his way home from a stay in Mexico, where he was visiting his elderly father.[64] Gallegos's body, like those of the others, was mummified, and so severely decomposed that his eyes were destroyed.[65]



Jackie Gallegos at home in East Los Angeles, July 2001, by Mizue Aizeki

[64] His father was a permanent U.S. resident who had lived and worked in the United States for decades, but who had settled permanently in his hometown of Juchipila, Zacatecas, Mexico.
[65] See Ken Ellingwood, "7 Found Dead in Desert Migrant Corridor," *Los Angeles Times*, August 14, 1998; and Mary Curran-Downey, "Desperate Journeyers Bet Everything on Dream and Lose," *The San Diego Union-Tribune*, August 18, 1998. The description of the bodies is based on a reading of an August 13, 1998 report of the Imperial County Sheriff's Office. The report is on file with the author.

The tragedy generated a good deal of coverage in the news media in Southern California as it was the largest group of dead migrants ever discovered in the state's border region. As had become routine in the mid- to late-1990s, the deaths elicited official expressions of sorrow as well as outrage directed at professional smugglers, commonly known as *coyotes*, whom federal officials blamed for leading unauthorized migrants into deadly environments. Indeed, the day after the discovery of the bodies, the U.S. Immigration and Naturalization Service (INS) Western Regional Director Johnny Williams announced a $5,000 reward for information leading to "the arrest and indictment of any alien smuggler responsible for the deaths," while stating that "Alien smugglers present one of the greatest dangers facing illegal border crossers and must be brought to justice."[66] The announcement marked the first time the federal government had offered any such reward. Among other things, the reward reflected Washington's frustration with the continuing fatalities—the discovery raised the number of migrant corpses found in California's Imperial Valley that year to a minimum of 54—as it needed to appear to be doing *something* to remedy the growing death toll.

This framing of the problem resonated with the larger public—at least as reflected by editorials in the mainstream media within California. *The San Diego Union-Tribune* similarly pointed the finger at "ruthless and inhuman smugglers" who "take people into the remote desert and abandon them." The editorial argued for increased penalties for smugglers and called upon the U.S. and Mexican governments to "declare war on immigrant smuggling." The San Diego newspaper recommended a charge of murder when "an immigrant dies of heat exposure in a smuggler's charge, or after being abandoned."[67] On the same day, the *Los Angeles Times* characterized the smugglers as people who "too often do not care whether their clients live or die" and editorialized in favor of stiffer penalties for smugglers, including life imprisonment and even the death penalty.[68] The *Times* issued this call despite a small item in its pages the previous day that reported that authorities had determined that two of the bodies found in the desert the week prior were those of smugglers leading the group.[69]

Earlier, I argued that when violence seems legitimate or hidden in terms of its origins, the assigning of responsibility for said violence is a very narrow process. What often results is that observers ascribe culpability to the victims of the violence themselves. We see this in the case of migrant deaths. Many in the public at-large, for example, blame the dead migrants for their own plight for breaking the law and, implicitly, for making a free choice to migrate despite the legal transgressions (and associated dangers) involved.[70] In terms of its origins is not only *structural*, it is also

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[66] Office of Public Affairs, Immigration and Naturalization Service (Laguna Niguel, California), U.S. Department of Justice. "$5,000 Reward Offered for Alien Smuggler Information" (press release), August 14, 1998.

[67] *The San Diego Union-Tribune*, "Death in the Desert" (editorial), August 17, 1998, B6.

[68] *Los Angeles Times*, "Hard Line on Human Coyotes" (editorial), August 20, 1998: B8.

[69] Associated Press. "Bodies of Smugglers Found Among Illegal Immigrants Who Died in Desert," *Los Angeles Times*, August 19, 1998: A13.

[70] One sees this tendency frequently in letters to the editor to newspapers in the border region, excerpts from three of which I reproduce below.

symbolic. U.S. officials, for example, refuse to acknowledge any role in creating the undesirable consequences of the federal government's operations. Instead they blame smugglers for leading people into high-risk areas and then abandoning them. Interestingly, Washington's explanation for the rise in extralegal crossing deaths often resonates in the larger society.

At the Los Angeles funeral of Julio Cesar Gallegos, the Catholic priest officiating the funeral—himself an immigrant from Mexico—and the victim's father denounced the smugglers as causing the man's death.[71] No one—at least on the basis of the *Los Angeles Times* report—said anything that would suggest that the INS and its practice of boundary control had anything to do with the death.[72]

There are, of course, more nuanced analyses in the political mainstream. The *Imperial Valley Press*, for example, editorialized in response to the discovery of the bodies that included that of Julio Cesar Gallegos:

> It is easy to blame the Border Patrol for such tragedies because it was that agency that forced undocumented aliens east from San Diego area into the mountains and desert. Yet the Border Patrol was only doing its job . . .
>
> There are people to blame, though. On this side the bad guys include the factory owners, sweatshop operators, farmers, restauranteurs and private citizens who knowingly hire illegal immigrants because they are aware they can get long hours and pay low wages to such people. . .
>
> On the Mexican side the problems are deeply enmeshed in the fabric of the society and economy. Those born into poverty have little to

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"As sad as the situation is, the deaths that have occurred for the migrants crossing the border can only be blamed on those who choose to ignore the fact that we have laws regarding immigration into the U.S."
--Robert C. Thompson, Marina del Rey, *Los Angeles Times* November 11, 2000

"Critics say the Border Patrol's Operation Gatekeeper forces the illegal immigrants to cross in the desert. We're not forcing anyone to invade our country. We're just defending our border."
--David Arend, Sabre Springs, *The San Diego Union-Tribune*, September 9, 2000

"There once was a bank that was popular among robbers. After this bank grew tired of being robbed, it increased its security. Consequently, more attempted bank robberies were unsuccessful, and more people attempting to rob it ended up either in jail or in the morgue.

"Outraged by this, bank robbers cried out, 'You're biased against bank robbers. You need to reduce your security because too many of us are dying or becoming injured when we attempt a robbery. We're only trying to better things for our families and ourselves.'

"If those attempting to break the law would cease and desist, Operation Gatekeeper would not be an issue."
--Walt Roston, San Diego, *The San Diego Union-Tribune*, September 9, 2000

[71] When I interviewed the father, Don Florentino Gallegos, at his home in Juchipila, Zacatecas on Jan. 16, 2002, he was far less certain about the matter of blame. "I don't blame anyone. It has passed," he said. "Maybe the *coyotes* are to blame for leaving him there. It's not worth the trouble trying to blame anyone." Don Florentino, who passed away in 2004, had not heard at that point that the smugglers had died along with his son.
[72] Joe Mozingo, "A Tragic Journey Home," *Los Angeles Times*, August 21, 1998, B1+.

> no chance to escape their desperately poor strata unless they can make it in sports, entertainment or the drug business. Or, of course, they can come to the United States. . . .
>
> There also is the problem of smugglers of human beings working with little fear of retribution along the border. Mexican and U.S. authorities must hunt down the smugglers of human cargo and make them pay appropriate prices. If someone dies because of their crimes, then the appropriate price for the "coyote" would be a murder conviction.[73]

Despite such a multifaceted analysis, it is striking that the writers of the editorial seemingly cannot even imagine that those who construct the context that makes immigrant deaths inevitable—namely, the agents that produce the "illegal" by constructing the boundary and its associated enforcement apparatus as well as its immigration-related legal regime—have any responsibility. The Border Patrol, for example, "was only doing its job"—a job that is presumably beyond question. And as for those who give the Border Patrol their job or have contributed to the rapid build-up of the boundary enforcement build-up that has taken place since the early 1990s—that is, elements of the state apparatus and a whole host of state actors—they are simply invisible and, thus, not at all responsible for what befalls unauthorized immigrants.

What makes such a representation even more problematic is that the U.S. state apparatus has also contributed significantly—historically and presently—to the conditions that impel migration from Mexico to the United States.[74] In terms of the U.S. efforts to liberalize the Mexican economy and the U.S.-Mexico trading relationship, for example, INS Commissioner Doris Meissner admitted during testimony to Congress in November 1993 that she foresaw that the North American Free Trade Agreement (NAFTA) would most likely to lead to an *increase* in unauthorized immigration from Mexico to the United States in the short- and medium-terms. For this reason she stated that "[r]esponding to the likely short- to medium term impacts of NAFTA will require strengthening our enforcement efforts along the border, both at and between ports of entry."[75] In other words,

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[73] *Imperial Valley Press*, "Looking for Answers" (editorial), August 20, 1998, A4.

[74] See Jorge A. Bustamente, "The Historical Context of Undocumented Mexican Immigration to the United States," *Aztlan*, 3.2 (1973), 257-281; Kitty Calavita, *Inside the State: The Bracero Program, Immigration, and the I.N.S.*, (New York: Routledge, 1992); Juan Gómez-Quiñones and David R. Maciel, "What Goes Around, Comes Around: Political Practice and Cultural Response in the Internationalization of Mexican Labor, 1890-1997," in *Culture Across Borders: Mexican Immigration and Popular Culture*, eds. David R. Maciel and María Herrera-Sobek (Tucson: University of Arizona Press, 1998), 27-65; Carey McWilliams, *North from Mexico: The Spanish-Speaking People of the United States* (New York: Greenwood Press, Publishers, 1968); and Nevins *Operation Gatekeeper*.

[75] U.S. Congress, Subcommittee on International Law, Immigration, and Refugees of the Committee on the Judiciary, House of Representatives, 103rd Congress, "Immigration-related Issues in the North American Free Trade Agreement" (November 3, 1993), (Washington, D.C.: U.S. Government Printing Office, 1994), 36. Nevertheless, upon ending her tenure as INS head in November 2000, Meissner wondered aloud, "What drives people from one place to somewhere else, taking all kinds of risks? It's one of the fundamental questions of our time" (quoted in *Migration News*, December 2000; online at http://migration.ucdavis.edu).

NAFTA requires enhanced boundary enforcement to stymie the anticipated increase in unauthorized immigration caused by the liberalization of the Mexican economy.

Conclusion



U.S. boundary, Tijuana, Baja California Norte, Sept. 2005, by Mizue Aizeki

As discussed earlier, convention is to focus on violence of the direct or personal nature. Institutionalized or structural forms of violence tend to attract far less attention. In many ways, this is not surprising. As Johan Galtung explains,

> It is not strange that attention has been focused more on personal than on structural violence. Personal violence *shows*. . . . Personal violence represents change and dynamism—not only ripples on waves, but waves on otherwise tranquil waters. Structural violence is silent, it does not show—it is essentially static, it *is* the tranquil waters.[76]

In employing his metaphor of tranquil waters, Galtung appears to mean tranquil in the sense of widespread ideological conformity. As he points out, structural violence can become visible in a highly dynamic society,[77] implicitly one in which political forces effectively challenge dominant ideas of what constitutes violence and non-violence. Assuming a static society—static in the sense that norms regarding immigration and boundary enforcement are not under significant challenge—we can thus surmise why, to a significant degree, the violence embodied by the growing number of deaths of

[76] Galtung, "Violence, Peace, and Peace Research," 173.
[77] Galtung, "Violence, Peace, and Peace Research," 173.

unauthorized migrants, as well as other manifestations of violence against migrants, has resulted in so little public scrutiny within the United States.

That structural violence is embedded in the U.S.-Mexico boundary and the practices employed to maintain it. Given the boundary's origins in conquest and violent dispossession[78], a violence of foundation has evolved into—indeed, it necessitates—a violence of conservation in the words of historian Arno Mayer.[79]

In terms of international boundaries, this is hardly unusual. They are normally not the result of consensual processes. Rather, boundaries typically grow out of violence or the threat of force. Nevertheless, the undemocratic and violent origins are rarely acknowledged in the political discourse of national elites. To the contrary, the origins are officially "forgotten," a process which legitimates national territory and practices employed to maintain it.[80] In this regard, the boundaries of modern territorial states are burial sites of history.

This "forgetting" is part and parcel of the social spatialization process, one so successful in the case examined herein that the U.S.-Mexico boundary and its associated enforcement apparatus have become *decreasingly* controversial in both a practical and ideological sense over the last several decades; the boundary, its practices, and the resulting categories of "legal", "illegal", and "alien" have become increasingly *normal*. This is not to suggest that there is no debate on such matters. As the upsurge in demonstrations by undocumented immigrants and their supporters in early- and mid-2006 demonstrates, there are limits to how far illegalization and violence production can go before there is a reaction on the part of at least a portion of the population. At the same time, the larger population is not immune to such reaction as demonstrated by changes in public opinion and the parameters of political debate.[81] Nonetheless, even at such a political moment, the basic assumptions underlying immigration and boundary enforcement remain largely unchallenged. As a result, the state-induced violence that pervades the lives of so many unauthorized (and many authorized) immigrants remains mostly invisible. To a significant degree, the fact that such violence happens under the rubric of the law helps to mask its very nature as the dominant view of the law sees it as rational, benign, and necessary, as well as independent of any specific social and/or geographical context as it supposedly rests on immutable principles. The effect of such a worldview is to put the law beyond question, and thus to normalize socio-spatial relations. Of course, as a social creation, the law embodies (in terms of its origin and effects) particular power relations.[82]

In spending so much time discussing structural and symbolic violence and infrastructural power, I am not suggesting that we should not concern ourselves with personal or direct violence. To the contrary, if our goal is to eliminate violence, we must

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[78] See Oscar J. Martínez, *Troublesome Border* (Tucson: The University of Arizona Press, 1995); Nevins, *Operation Gatekeeper*.

[79] Arno J. Mayer, *The Furies: Violence and Terror in the French and Russian Revolutions*, (Princeton, New Jersey: Princeton University Press, 2002), 75.

[80] James Anderson and Liam O'Dowd, "Borders, Border Regions and Territoriality: Contradictory Meanings, Changing Significance," *Regional Studies* 33.7 (1999), 596.

[81] See note 29.

[82] Nicholas K. Blomley, *Law, Space, and the Geographies of Power* (New York: The Guilford Press, 1994).

focus our critical attention on, and actions against direct, structural, and symbolic forms. Of course, this is not purely an intellectual project; it is a profoundly political one.

Violence such as that administered on April 1, 1996 by the Riverside deputies undoubtedly serves to reinforce the marginalization of the undocumented sector of the immigrant population as it (in addition to inflicting physical harm) instills fear in the migrants directly victimized as well as in the unauthorized immigrant population as a whole. Direct violence, however, is only one form of violence. And in terms of understanding the generally difficult state of unauthorized migrants trying to enter or living in the United States, it is perhaps the least important form. Structural violence (a form of institutionalized injustice) and symbolic violence (that which serves to legitimate structural and direct forms of violence) are arguably far more important factors in harming unauthorized migrants trying to enter or already residing in the United States. The very "illegality" of unauthorized immigrants embodies the structural and symbolic violence that underlies this marginalization. It also surely contributes to a public mindset that facilitates the numerous human rights abuses perpetrated by state authorities against unauthorized migrants. Moreover, it serves to provide ideological legitimacy to the very build-up of the territorial and socio-juridical boundaries that have helped to bring about so many deaths and so much suffering in the U.S.-Mexico borderlands. Given the ideological and material power of the law, national boundaries, and boundary-related identities along with the material weight of their associated practices, it is extremely difficult to say the least to challenge immigration and boundary regulation and their associated manifestations of violence. While the challenge is a political-geographical one, it is also very much an ethical one.[83]

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[83]Regarding the ethics of immigration and boundary control, see Joseph H. Carens, "Reconsidering Open Borders: A Reply to Meilander," *International Migration Review* 33.4 (1999), 1082-97; Joseph H. Carens, "Open Borders and Liberal Limits: A Response to Isbister," *International Migration Review* 34.2 (2000), 636-43; Michael Curtotti, "Barriers to International Freedom of Movement: A Lacuna in International Human Rights Law?", in *New Challenges and New States: What Role for International Law* (Proceedings of the 10th Annual Conference, Australian and New Zealand Society of International Law, June 14-16, 2002, Canberra, Australian National University), ed. by Australian and New Zealand Society of International Law (2002), 129-43; David Miller and Sohail H. Hashmi, *Boundaries and Justice: Diverse Ethical Perspectives* (Princeton, New Jersey: Princeton University Press, 2001); and Jonathan Seglow, "The Ethics of Immigration," *Political Studies Review*, 3 (2005), 317-334.



"How many more?" Baja California Norte, Nov. 2001, by Mizue Aizeki