Introduction

> Inasmuch as the human world is political, it does not present an indefinite variability. It is structured and ordered … If we decisively abandon the nation form, we shall have to enter another form for one cannot live politically in an undefined way.
>
> – Pierre Manent[1]

> A borderland is a vague and undetermined place created by the emotional residue of an unnatural boundary. It is in a constant state of transition.
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> – Gloria Anzeldua[2]

In the years since 9/11, two issues – terrorism and immigration – have dominated the global political imaginary. At the center of each, an institution: the border. Worldwide, states have responded to these challenges via the tightening of population controls within and without the territorial limit of the polity. The centrality of borders to these challenges is immediately manifest. What problem does immigration raise? It is the threat of *them* overwhelming *us*. And terrorism? Of *them* attacking *us*. Both problematics center on fantasies of exclusion and binary logics of interiority/exteriority, us/them, identity/difference. In short: borders.

This is understandable. The border is the defining institution of the nation-state. It is also the site of sovereign decisions over membership. Borders define *states*, as "bounded power containers,"[3] as well as *sovereignty* – territoriality, internal sovereignty (autonomy) and external sovereignty (mutual recognition) are all bounded concepts. Contrary to early prognostications, the relevance of borders has only grown with *globalization* or "de-bordering," and subsequent *securitization* or "re-bordering," with the proliferation of walls and fences worldwide after 9/11.[4] Indeed, the question of the *political unit* – the contours of the polity, as well as who is included or excluded from its ranks – is in many ways the soul of contemporary politics. It provides the stage on which all other politics is performed.

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It would be no exaggeration to state that border security is a point of obsession of our times. The terrorism threat is well known, certainly after 9/11, but also more recently with attacks in urban centers across Europe, including Madrid, London, Brussels and Paris. The challenge of migration has exploded in recent years. At present, the number of estimated migrants – people living outside their country of origin – is up to 244 million people.[5] Most importantly, these two problems are increasingly seen as linked – the double-headed hydra of global mobility.[6] As with the prompt, we are familiar with the response. Worldwide there has been an increase in xenophobia and populism, with nativist backlash against newcomers and a return to bald forms of identity politics and nationalism, embodied by the desire for border walls.

Borders sit at the center of contemporary politics, but remain poorly understood, usually reduced to legal-topographical instantiations of sovereignty and placed as representative markers on the classic nation-state grid. They are jurisdictions without institutional existence – without "horizontal extent."[7] Like lines in the sand, they are thin and vertical as they appear on maps. This portrayal is misleading and problematic, as such two-dimensional entities can only vary along one axis – permeability – vastly delimiting the scope of debate. Empirical debates over globalization hinge on whether borders are more or less porous, with transnational flows more or less able to be stoppered.[8] Even in Wendy Brown's *Walled States, Waning Sovereignty*, new border walls are evidence of "the weakening of state sovereignty":[9] as borders become permeable, states become less sovereign. Normative writing focuses on whether borders should be open or closed, with scholars variously arguing that closed borders are incompatible with liberalism or that the state's ability to determine admission and exclusion suggests "the deepest meaning of self determination."[10] The same limitations beset debates over transnational justice, where scholars argue whether borders should be transcended in favor of a higher law.[11] In either case, they do not themselves have institutional existence.

This book takes a different approach. It takes as its subject the evolution of borders since 9/11 – i.e. *trends* in bordering – focusing in particular on the case of the United States. It begins with an empirical finding, that far from the walls and fences that dominate news coverage, in fact borders are *thick*, *multi-faceted* and *bi-national* institutions that have evolved greatly in recent decades. This point is illustrated by a detailed portrait of the US borders with Canada and Mexico since 9/11 and especially after several groundbreaking agreements in 2010–2012, such as the Beyond the Border Agreement with Canada and the 21st Century

Border Initiative with Mexico. Thereafter it builds out toward a discussion of how borders are changing worldwide.

The book takes as its warrant a series of extraordinary changes in thinking about borders after 9/11, which have been refined and expanded in subsequent years. The first is that after 9/11 border security and national security stopped being considered discrete domains. In the decades prior to the terrorist attacks, border security was primarily a response to illegal immigration and drug smuggling. After 9/11, the border became a central theatre of national security. An al-Qaeda press release in 2012 stoked this fear:

In 1996, 254 million persons, 75 million automobiles and 3.5 million trucks entered America from Mexico. At the 38 official border crossings only 5 percent of this huge total is inspected … These are figures that call for contemplation.[12]

This shift in thinking about borders mirrors a change within the intelligence community. A leading intelligence expert explains: "We used to have a bright line between the domestic and the foreign. Now this is changing, such that the protection of the homeland is part of the same structure of information as foreign terrorism."[13] Blurring the distinction between home and abroad does not erase the border – quite the opposite, it situates the border at the center of information-sharing practice. Borders are the precise environment where transnational crime and terrorism intermingle, cohabitat and breed.

The second shift is that states increasingly do not believe they can secure their borders unilaterally. This thinking took time to take hold. In the immediate aftermath of 9/11, the breach of US soil mandated a large-scale security build up of manpower and infrastructure – Border Patrol more than doubled in size. It also led to the vast outpouring of support and funds for the fence on the border with Mexico. However, as discussed at length later, it became clear very quickly that by any measure, this strategy was insufficient to actually "seal" the border. As former DHS Secretary Janet Napolitano observed, "you show me a 50-foot wall and I'll show you a 51-foot ladder at the border."[14] The Government Accountability Office further criticizes our "poor record of accomplishment using technology to secure our borders."[15] Perhaps the most vocal skeptic of US border walls is Terry Goddard, former Attorney General of Arizona:

Much of the "secure the border" debate is nonsense … Constructing any part of the wall wastes valuable time and resources. Worse, like a modern version of the Maginot Line, it provides a false sense of security, the illusion that we are doing something to remedy border problems.[16]

This shift in thinking about walling is pervasive. As a border technology engineer explained to me, our first approach after 9/11 was to address border security by saying "let's go with the big bang theory … let's build this virtual and physical fence;" it took a while before we came to the "understanding that you can't just build a wall around the United States."[17]

Third, border security came to be understood as a problem that could only be solved through the development of advanced data capabilities with an emphasis not merely on data accession, but also data-sharing. This move toward data-sharing portends a broader shift in security-strategy away from states and even sub-state actors and toward individuals. A US Department of Defense (DOD) biometrics specialist explained the evolution of our strategic environment as follows:

> The world as we have tried to secure it and thrive in it has made an evolutionary leap and continues to morph and amend at an incredibly rapid pace … [But] we have a national security culture that grew up facing and deterring threats from other nation-states, who operated within historically defined and well understood boundaries … [Today] we face complex and unpredictable threats that by their very nature, blur geographic, organizational and jurisdictional boundaries … [Our challenge is] to magnify our focus down to the individual person level. [To collect, analyze and manage] identity data and specifically the biologic, biographic, behavioral and reputational aspects of identity.[18]

The heightened focus on individual-level intelligence fuels the need for data – and for borders that can accommodate that data and international agreements that can produce this data – which, in turn, actually *necessitate* sharing. Robert Gilbert, former Chief of Border Patrol sums this up by explaining that their goal is: "to create a twenty-first century border … through information-sharing that has never occurred before … The reality is, while securing the border is upfront and personal, *you can't do it alone*."[19]

These changes in thinking about border security form the empirical warrant for this book, which explores the evolution of borders, states and sovereignty. The research presented here highlights several trends, which can be disaggregated by the two central facets of the border – the *perimeter* and the *ports of entry*.[20] At perimeters, states are beginning to widen their border spaces, projecting surveillance far from the border itself in both directions and creating thick webs of infrastructure and law-enforcement that extend many miles inland. In addition, states are beginning to co-locate forces on either side of the line, creating a set of *de facto* overlapping jurisdictions. At ports of entry, states have moved toward risk-based adjudication of admission, with expansive technological infrastructure. The administration is fueled by vast quantities of data – so-called

Big Data – engendering a regime of cross-border data-sharing and even technological interoperability. The results are bi-national ports of entry that are cooperative, jointly managed spaces with co-located officials – mirroring relations at the perimeter.

These findings generate a number of significant conclusions. Beginning with the subject of *borders*, I argue that these sociological changes are evidence of a broader realization that in today's world, governments *cannot administer their borders alone*; instead, borders must be bilaterally managed and administered. These changes herald an epochal shift in border functionality. Under the early-Westphalian system of states, the border was conceived primarily as a buffer-line dividing states from each other, contra interstate war or invasion. By contrast, in the late-Westphalian period, borders became filtration-sites, protecting states from the movement of people – evermore so now with the explosion of global migration. However, this new phase of border-functionality we are entering – concomitant to the rise of securitization – is wholly different. It is one in which borders are not designed for states to oppose one another or to oppose migratory flows, but rather where states work together (co-locate, cross-designate) to regulate the movement of people – i.e. join forces in the *shared* fight against transnational migratory flows. The state is not simply reacting to de-bordering by re-bordering, it is forging a new path: *co-bordering*.

This implicates *sovereignty*. I argue that the dual management of border ports and overlapping perimeter patrols creates a heterogeneous form of sovereignty. These joint administrative and law enforcement structures present a challenge to our notion of sovereignty as indivisible rule over a territorial jurisdiction, or *territoriality*. In addition, sovereign decisions over entry/exit are now predicated on data gathered by non-national (frequently private or international) sources, whose origin can no longer be distinguished by border officials. This challenges the sovereign decision, as while border officials remain the ultimate arbiters, the predicates of their decision are increasingly obscure. In both cases, the sovereign control of borders is increasingly heterogeneous, paradoxically due to the very securitization mechanisms erected toward sovereign defense. In short: states are *ceding classic markers of sovereignty for the sake of security*.

This evolving geopolitical order raises a number of normative concerns. At first blush, this heterogeneous model of sovereignty has numerous attractive features, especially in its potential for multi-lateral institutional agreements between states – common in debates over global justice. However, there is also potential for harm in a system designed primarily to maximize states' abilities to organize against

migratory flows. I argue that if left on it its own, co-bordering may metastasize into a form of *neo-imperial overreach*, with borders transforming into sites of asymmetrical co-optation. Indeed, on its face, joint sovereignty assumes *heterarchy*, but is here revealed to mask *hierarchy*. Instead, *heterarchy* is the model to which we aspire. The primacy of global data-sharing agreements adds another dimension here, as countries that agree to align their data security operations may increasingly form a union against those that don't – establishing a so-called data "firewall."

The purchase of this reconceptualization is considerable. The new politics of borders reveal a sovereignty that is not waning, but changing, expanding beyond the state carapace and engaging certain logics of empire. Wendy Brown was right to point out that our popular lust for walls is part of a fantasy of exclusion. But there is much more than this. New borders also embody fantasies of colonization, extraction, co-optation and control. These are *extra-mural* fantasies, to take the constitutive outside and make it our own; to catch the barbarians before they materialize. New border policies also demonstrate a need for distance, to push the outside farther away, where the threat can no longer get us. But there are *intra-mural* dynamics as well. New policies aim to perfect the control over the internal subject as well as the external one, thus engaging fantasies of entrapment, management and domestication. The dream of subjugation is especially prevalent with peripheral citizens, who embody not the threat to invade, but to secede.

We can here forge a connection between global subjects and domestic ones. By looking carefully at borders, we can see how new policies at the border collapse two forms of statecraft: *rationalization* (or the process by which the state uses technologies of security to monitor individuals within) and *securitization* (which includes the monitoring of all people, regardless of location or citizenship status). Across the globe, states are imposing ambiguous, imprecise and expansive security laws, especially as pertains data security. Increasingly, states monitor phone calls, texts and emails, collect "metadata" and geo-located data and track financial transactions – policies that affect citizens and non-citizens alike. This book diagnoses a number of harms associated with these new protocols and suggests models by which they may be alleviated.

The aim of this book is to unveil the many dynamics at play in the *politics of borders*. Its tenor is critical and cautionary, but also emancipatory. We must first understand the world as it is unfolding, before we can think through strategies by which it might change.

Through the Looking Glasses: Two Ways of Seeing

> If you've seen one mile of the border, you've seen *one mile* of the border.
> – US Border Patrol saying

What does it mean to *see* a border? How would we know if we succeeded? This book seeks to capture borders in all their complexity. This means inquiring into what border guards see when they are looking out into the borderlands – to peek through the looking glasses; to see like the state, at the state's edge. With this in mind, it is helpful to begin with a few words on method, focusing on two "ways of seeing." The first section makes a case for using methods common to anthropology and other forms of qualitative and interpretive social science to contribute to debates within political theory. The second discusses what it would mean to think about borders normatively and what kind of agenda such an empirical strategy would engender.

Dispatches from the Bazaar

The research strategy employed in this book is heterodox. It is *empirical* in that it establishes an argument from the ground up, starting with descriptive claims about the world – a type of sociological portraiture relatively absent in political theory. At the border, this research consisted of interviews with border guards and port officials, local and federal law enforcers and politicians (of various ranks and capacities).[21] This research *had* to be conducted in person, as many of the programs discussed here are in pilot form, created by Memoranda of Understanding between officials and thus no laws, acts of Congress or newspaper articles would be sufficient to inform.

But understanding the border is in no way limited to the periphery; most "bordering" takes place at the center – in the US case, Washington DC – where I interviewed engineers and tech developers who contribute to conceiving and designing the "twenty-first" century border. To this end, I attended conferences and expos where government officials and industry leaders meet.[22] These conferences were invaluable. They are sites where government officials outline what they consider to be the future concerns of the state and seek out new forms of technology to aid these agendas. In this way, it is a kind of *bazaar*, where government and industry form and express preferences in tandem. This window into the future of bordering is unique to this workshop-like setting: one does not get it at the border, where policies are applied, or in the news, where they get coverage. These conferences are also settings in which a researcher

can engage directly with the technology – to look through new lenses that can focus miles across the border on a pair of *chonas* (undergarments) hanging from the window of a house in Juarez; to stand behind the screen of the newest airport scanners, observing modalities in heat representation and learning to read the contours. These experiences render border security tangible; they pull back the wizard's curtain, enabling a view from the other side.

This empirical course is at once *qualitative* and *interpretive*. It is *qualitative* by procedure, with field research dedicated to the goal of uncovering: it answers "what" questions, not "why" questions, more common to quantitative social science. What does a border do, what are its functions? What does it look like to border-designers; what about border-managers and technicians? What might a border look like in ten years time? It is *interpretive* in application: given this picture, what meaning can we extract about politics? What perspective do we gain?

Here the link to *theory* is clear, as with every act of uncovering comes reconsideration. This methodological cocktail is by no means new to political theory. I follow what Jean Cohen refers to as a two level approach, "empirical-diagnostic and normative-prescriptive," or what Paul Piccone calls "the discovery of systematically concealed interests."[23] In this vein, James Tully's work has been described as engaging "redescription with critical intent."[24] The goal is to tackle real world issues – here issues of power, authority and domination at the state's edge – and subject these findings to critical scrutiny.

Where I break ranks with most theorists is in the manner of performing empirical diagnostics. I consider it a weakness of contemporary theory that for its diagnostic component it relies almost exclusively on received wisdom – from print news sources or legal documents. As noted above, any scholar of borders that follows the news is subject to being swept into an unfortunate tide of hysterical and misleading information – even from the best available sources. Further, the lack of sociologically informed work greatly delimits the range of topics available to theorists, who avoid some of the most pressing issues in politics because they lack the empirical basis for argumentation. At the same time, immaculately crafted normative theories frequently seem out of place when set afield in the real world. Indeed, while theorists often pay lip service to the empirical world, they rarely engage it directly. And when they do, empirical methods are frequently relegated to a form of feasibility testing.[25] This is unfortunate, as diagnostic empirical work can also be theory *generative*. In fact, the tradition is filled with the works of great thinkers who also conducted empirical research: from Herodotus' emphasis on *kleos* or "what men say and hear"[26] to Tocqueville's gallivant

across America. Many serious theoretical projects have engaged field-work; hopefully many more will follow.

The research detailed in this book begins with a microscopic view of particular policies in the US context, then expands out to increasingly large concentric circles of observation, from the local to the federal positions in the US, then finally to evidence from other sectors of the globe. With each expansive stroke, the picture becomes more appreciable: of a world that is changing before our eyes, in places most of us never deigned to look. In this way, it is a work of *speculative theory*: it portends changes on the horizon. Like any prognostication, this is risky. But only to a degree, as the sociological basis for these claims – the roots – are firmly planted in circumstances already observed.

Modes of Normativity

What would it mean to think normatively about borders? The answer to this question is not straightforward. For much of political theory, the problem with borders is that they won't go away. Thus normative solutions include superseding or erasing borders, cultivating transnational legal institutions or simply turning borders into administrative units. Instead, this book takes the *matter* of boundaries as given – it does not believe in a world without some forms of political delineation – but not their *form*. To this end, it analyzes various ways by which states have historically managed their peripheries (from city walls to imperial frontiers). The goal is not to question whether there should be boundaries, but rather whether they can be designed in such a way as to minimize harm.

This generates two kinds of normative agenda. The first is dedicated to understanding. It follows from the belief that by scrutinizing institutions we can uncover embedded forms of ideological distortion, or the ways in which our policies have been shaped by the operations of power. This calls to mind Bernard Williams' claim that political philosophy must focus on the interrelations between "power and its normative relative, legitimation."[27] It also invokes Foucault's conception of political philosophy, the role of which is to "keep watch over the excessive powers of political rationality."[28]

The second agenda is dedicated to change. Above all, this book aims at destabilizing our conventional view of borders and the justifications by which new security policies are enabled and perpetuated. This mirrors the agenda set forth by Judith Butler in her book *Frames of War*, in which she sets out to critique the narrative by which war is justified – the "frame." For her, the key is to disentangle strategic discourse

from normative justification, enabling us to appreciate the grievability of the ungrievable. She calls this moment of realization a rupture in the frame that

provides the conditions for breaking out of the quotidian acceptance of war and for a more generalized horror and outrage that will support and impel calls for justice and an end to violence.[29]

With borders, as with war, we take a lot for granted. And we accept a lot as part of an instrumental discourse that might well be better placed in moral terms. The goal then is to provide the tools by which such a reconsideration is possible. We cannot eliminate borders, but we can shape them; we can't eliminate state rationalization, but we can alter its form. For new forms of political activism to emerge, we must better understand the modes of oppression as they develop: new binary logics engender new interstitial relationships, new sites of power mean new sites of resistance. The point of this book is to help identify points of power that seek redress. Although the bulk of this book is critical, it also offers constructive content – blueprints that others might use to design progressive social policies that are more inclusive, conscientious and egalitarian than those they replace.

Plan of the Book

Chapter 1 situates contemporary borders in their historical context, revealing how borders have come to take their present shape – a contingent outcome neither necessary nor irreversible. It asks how political units have historically managed their periphery, divided typologically between the three classic forms of political organization – city, empire and state – each of which offers insight into a particular aspect of bordering. This inquiry establishes several important conceptual distinctions. First, it challenges the classic dichotomy between frontiers, as *zonal* spaces and borders as *linear* ones, placing boundaries instead on a spectrum. Indeed, a central thesis of this book is that as borders move away from thin jurisdictional lines they also stop acting like borders: instead they start to resemble *frontiers*. Thus the border/state dyad is transforming into an empire/frontier dyad. As the border comes to resemble a frontier, sovereignty starts to resemble *imperium* – a Roman designation for authority, including over the management of the periphery.

Second, it distinguishes two forms of sovereignty present in peripheral spaces – authority (*de jure* rule) and control (*de facto*) – with an emphasis on the latter. Looking carefully at the ways in which peripheries have