BEYOND THE SOVEREIGN GAZE

By: Geoffrey Boyce

"If you don't have enough evidence to charge someone criminally but you think he's illegal, we can make him disappear." – James Pendergraph, executive director of Immigration and Customs Enforcement's Office of State and Local Coordination (in Stevens, 2010)

1. INTRODUCTION

This paper is concerned with the ways that visibility and aesthetics become central to the operation of biopolitics: the sorting and management of the biological life of a population as the central object of governance.[1] This question is explored through a consideration of U.S. / Mexico boundary enforcement, and activist efforts to challenge the deadly outcomes of U.S. policy. In the process, scholarly interpretations of the Italian philosopher Giorgio Agamben are placed in dialogue with work that touches on the theme of visibility, phenomenology and aesthetics. The conclusions in this paper are provisional: they are meant to suggest further areas for inquiry and reflection, and to gesture toward ways that empirical research might better deploy the largely-axiomatic philosophical concepts derived from Agamben's *ouvre*.

In the post-September 11 period, Giorgio Agamben's work has become a regular touchstone for the scholarly theorization of warfare and geopolitics. Such efforts have attended to the 'securitization' of governance policy,[2] the treatment of military detainees in the 'war on terror,'[3] and policies targeting unauthorized migrants and refugees as 'threats' to domestic and international security.[4]

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[1] cf Michel Foucault, *The History of Sexuality Volume 1: An Introduction* (New York: Vintage Books, 1990).; Michel Foucault, *"Society Must Be Defended": Lectures at the College De France 1975-1976* (New York: Picador, 2003).; Michel Foucault, *Security, Territory, Population: Lectures at the College De France 1977-1978* (New York: Picador, 2007).; 2003. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford, CA: Stanford University Press, 1998).; Giorgio Agamben, *Means Without End: Notes on Politics* (Minneapolis: University of Minnesota Press, 2000).

[2] Bryan Mabee, "Re-Imagining the Borders of Us Security after 9/11: Securitisation, Risk, and the Creation of the Department of Homeland Security," *Globalization* 4, no. 3 (2007), 385-97.; Reece Jones, "Agents of Exception: Border Security and the Marginalization of Muslims in India," *Environment and Planning D-Society & Space* 27, no. 5 (2009), 879-97.; Stuart Elden, *Terror and Territory: The Spatial Extent of Sovereignty* (Minneapolis: University of Minnesota Press, 2010).

[3] Neil Smith, *The Endgame of Globalization* (New York: Routedge, 2005).; Derek Gregory, "Vanishing Points: Law, Violence and Exception in the

Yet Agamben's ideas are cumbersome to work with for social scientific purposes, largely because his intention is to describe the immanent association between, for example, law and exception – rather than to comment on concrete historical events.[5] The trans-historical orientation of Agamben's work lends itself poorly to empirical instrumentalization; instead, his purpose is to gesture toward the pitfalls, limitations and underpinnings of a politics anchored in sovereignty, and to demand an ethical orientation detached from its fold.

In this paper I use Agamben's ideas as a point of departure because, as suggested above, they are useful for shedding light on the condition of sovereignty and its biopolitical presentation. Thus, I largely accept Agamben's arguments (borrowed from Carl Schmitt)[6] that would position the decision over the life and death of the population as immanent to and axiomatically attached to the performance of sovereignty. I believe that this condition is, in principle, characteristic of everyday practices of governance and statecraft along the United States' border with Mexico, and the positioning of such practices as a sovereign imperative. What I intend to reflect upon is precisely *how* such practices unfold. Below, I argue that visibility – phenomenal appearance – becomes a primary medium via which biopolitical governance becomes operationalized. Thus, the state invests considerable resources and technology to render visible information about those crossing through and residing within its territory. In the context of immigration, the purpose of such efforts is to identify and *remove* unauthorized bodies through detention, deportation and various other

Global War Prison," in *Violent Geographies: Fear, Terror, and Political Violence*, ed. Derek Gregory and Allan Pred (New York: Routledge, 2007).; Trevor Paglen, *Blank Spots on the Map: The Dark Geography of the Pentagon's Secret World* (New York: Penguin, 2009).

[4] Jennifer Hyndman, "Migration Wars: Refuge or Refusal?" *Geoforum* 36, no. 1 (2005), 3-6.; Mark B. Salter, "When the Exception Becomes the Rule: Borders, Sovereignty, and Citizenship," *Citizenship Studies* 12, no. 4 (2008), 365-80.; Jonathan Darling, "Becoming Bare Life: Asylum, Hospitality, and the Politics of Encampment," *Environment and Planning D-Society & Space* 27, no. 4 (2009) 649-65.; Allison Mountz, *Seeking Asylum: Human Smuggling and Bureaucracy at the Border* (Minneapolis: University of Minnesota Press, 2010).

[5] cf Andreas Kalyvas, "The sovereign weaver. Beyond the camp", in *Politics, Metaphysics, and Death. Essays on Giorgio Agamben's Homo Sacer*, ed. Thomas Carl Wall and Andrew Norris (Durham, NC: Duke University Press, 2005).; Mat Coleman and Kevin Grove, "Biopolitics, Biopower, and the Return of Sovereignty," *Environment and Planning D-Society & Space* 27, no. 3 (2009) 489-507.

[6] Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: University of Chicago Press, 1985)

methods of territorial exclusion. This effort, I believe, corresponds to an imperative that Donna Haraway

describes as the "sovereign gaze" [7] – a "desire for omniscience through total vision,"[8] with the state's

objective to realize an aesthetic correspondence between its territorial representation and a body politic

assumed in its usage "to be *virtual, total,* and *always already there*".[9]

At the same time, such sovereign territorialization is always aspirational, and may be challenged via

the *reappearance* of unauthorized bodies in the public domain, in order to advance dissident and counter-

hegemonic political claims. The loss of visibility in the object of governance produces instability in its

outcome – unquantifiable variables that confound efforts to optimally manage risk. Undocumented and

unauthorized corporeal presence, in turn, produces tension by exposing the fiction of sovereign omnipotence.

I believe that it is precisely this tension that fuels conflict between state actors and social movements related

to the condition of mixed or non-status immigrants. In the U.S. / Mexico borderlands, this conflict is

exacerbated by the frequently deadly outcomes of U.S. policy.

In the sections below, I provide a brief history of U.S. / Mexico boundary enforcement since 1994,

and connect this history to scholarly debates concerning biopolitics, sovereignty, and the governance of life.

In the process, I discuss the conflation of factors that have led to a concentration of migrant deaths in the

Arizona desert. I then consider the efforts of activist campaigns and organizations that respond to this death,

and the different ways that such death has driven a politics opposed to the practices of the U.S. Department

of Homeland Security (DHS). Following this discussion, I return to the question of politics and visibility,

before offering a summary of my account and a set of areas for further research and discussion.

2. UNDOCUMENTED MIGRATION, BIOPOLITICS, AND THE SOVEREIGN CONDITION

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[7] Donna Haraway, "Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspectives," *Feminist Studies* (1998), 575-599.

[8] Tyler Wall and Torin Monahan, "Surveillance and Violence from Afar: The Politics of Drones and Liminal Security-Scapes," *Theoretical Criminology* 15, no. 3 (2011), 243

[9] Bruno Latour, *Reassembling the Social: An Introduction to Actor-Network-Theory* (New York: Oxford University Press, 2005), 7; emphasis in the original.

In the aftermath of the terror attacks of September 2001, the U.S. Immigration and Naturalization Service was re-organized into a series of separate agencies and incorporated into the newly formed Department of Homeland Security. Framing the border as among the 'front lines' of the global war on terror[10], this re-organization assigned the U.S. Border Patrol the primary mission of "keeping terrorists and their weapons out of the U.S.".[11] It also positioned policing against immigrants, contraband and terrorists alike as problems related to perceived coterminous vulnerabilities vis-à-vis territorial sovereignty and national security.[12]

The U.S./Mexico border, following these developments, has assumed increasing prominence in national security discourse and policy *precisely because* it represents the territorial-juridical division between the inside and outside of the nation-state, between 'security' and 'anarchy', 'norm' (law) and its exception.[13] In this sense, the border performs at least two functions: In addition to a *territorial* line of demarcation, the border marks a fundamental biopolitical distinction between life that (literally) counts in the registry of the nation-state, and life that does not. Birth marks the primary and permanent moment of distinction, whereby the political-territorial orientation of the subject is fixed to one or another sovereign state, signifying "an entry into a world where the nation, the state, territory, and citizenship preemptively set the basis by which one is recognized as human".[14]

Thus, at the international border, we see the operation of a "sovereign decision" in the classic Schmittian sense, in which what is adjudicated is the very question of whether an individual has a status

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[10] Bryan Mabee, "Re-Imagining the Borders of Us Security after 9/11…"

[11] U.S. Customs and Border Protection, *National Border Patrol Strategy* (Washington, DC: U.S. Customs and Border Protection, 2004).

[12] *ibid.*

[13] see Prem Kumar Rajaram and Carl Grundy-Warr, "Introduction," in *Borderscapes: Hidden Geographies and Politics at Territory's Edge*, ed. Prem Kumar Rajaram and Carl Grundy-Warr (Minneapolis: University of Minnesota Press, 2007).

[14] *ibid.*, xx

before the law, and therefore may enter sovereign territory, or whether s/he may not.[15] Within this

biopolitical syllogism the 'citizen' becomes synonymous with mobility – s/he may move freely in space –

and the border acts as a sorting mechanism, restricting or eliminating the circulation of 'illegitimate'

bodies.[16] Thus, alongside technologies like retina scans and biometric identification systems – meant to

police, contain and prevent unauthorized entry – have come a suite of technologies and infrastructure

improvements meant to *facilitate* authorized movement for those subjects recognized by the state as

legitimate.[17] For many aspiring entrants, this regulation of movement reaches an extreme in the form of the

ban: raw exclusion that, to the extent that it is juridical, is also meant to be territorial.

     Yet if the sovereign reserves the right to decide whether one may enter the territory or be granted

political recognition, what of s/he who enters the territory without inspection or *despite* his or her formal

juridical exclusion? Every day thousands of individuals do so, and estimates vary of between 11 and 14

million undocumented residents who have integrated into the social, cultural and economic fabric of the

country.[18] Once beyond the border (and the hundred-mile buffer that defines the Border Patrol's primary

jurisdiction), unauthorized immigrants are frequently subject to much less restrictive surveillance and

enforcement, and are able to integrate into society relatively unencumbered. Exclusion, if it is to be *actual*

rather than *virtual*, depends on visibility – that is, the capacity of the agents of the state to detect and detain

unauthorized individuals.[19] The very nature of being *undocumented* makes the presence and location of

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[15] see Roxanne Doty, "States of Exception on the Mexico-U.S. Border: Security, 'Decisions,' And Civilian Border Patrols," *International Political Sociology* 1 (2007), 113-37.; Mark B. Salter, "The Global Visa Regime and the Political Technologies of the International Self: Borders, Bodies, Biopolitics," *Alternatives* 31, no. 2 (2006), 167-189.

[16] see Louise Amoore, "Biometric Borders: Governing Mobilities in the War on Terror." *Political Geography* 25, no. 3 (2006), 336-51.; Mark B. Salter, "When the Exception Becomes the Rule…"

[17] see Emily Gilbert, "Leaky Borders and Solid Citizens: Governing Security, Prosperity and Quality of Life in a North American Partnership," *Antipode* 39, no. 1 (2007) 77-98.; Josiah M. Heyman, "Constructing a Virtual Wall: Race and Citizenship in U.S.–Mexico Border Policing," *Journal of the Southwest* 50, no. 3 (2008) 305–334.; Deborah Cowen, "A Geography of Logistics: Market Authority and the Security of Supply Chains," *Annals of the Association of American Geographers* 100, no. 3 (2011) 600-620.

[18] Ian Davies, "Latino Immigration and Social Change in the United States: Toward an Ethical Immigration Policy," *Journal of Business Ethics* 88 (2009) 377-91.

[19] see Gilberto Rosas, "The Managed Violences of the Borderlands: Treacherous Geographies, Policeability, and the Politics of Race," *Latino Studies* 4, no. 4 (2006) 401-19.

unauthorized individuals difficult to detect, and their capture difficult to enact, enabling sustained territorial

presence. In response to these challenges, DHS has implemented a suite of programs, laws and technologies

that "scale down" interior immigration enforcement to non-federal authorities such as states, counties and

municipalities.[20] These programs include 287(g) agreements and the "Secure Communities" program, which

facilitate cooperation between non-federal law enforcement with federal immigration authorities by enabling

the former to comb through those they apprehend, in order to check their status against federal immigration

databases. Through this process hundreds of thousands of individuals have been placed into immigration

proceedings as a result of minor traffic violations and various other kinds of police interaction – resulting in

historic rates of detention and deportation under the Obama administration.[21]

Nevertheless, as anxieties about the scale of undocumented presence have proliferated in popular

discourse, there has, in the national imaginary, developed a fixation on the border as the most important site

of perceived territorial vulnerability, and a belief that the solution to unauthorized immigration can and

should be its prevention at the boundary itself.[22] Such beliefs continue to be mobilized to justify massive

investment in boundary enforcement infrastructure, personnel and technology, spending for which increased

more than three-fold over the course of the past decade (to more than $4.6 billion for FY 2011).[23] Yet these

beliefs also represent a fantasy or desire for a neat separation between the inside and outside of national

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[20] Monica Varsanyi, "Rescaling the "Alien," Rescaling Personhood: Neoliberalism, Immigration, and the State," *Annals of the Association of American Geographers* 98, no. 4 (2008) 877-96.; Matt Coleman, "What Counts as the Politics and Practice of Security, and Where? Devolution and Immigrant Insecurity after 9/11," *Annals of the Association of American Geographers* 99, no. 5 (2009), 904-13.

[21] Brian Bennett, "Obama Administration Reports Record Number of Deportations," *Los Angeles Times*, 18 Oct. 2011, http://articles.latimes.com/2011/oct/18/news/la-pndeportation-ice-20111018 (accessed 13 Jan. 2012).

[22] Timothy J. Dunn, *The Militarization of the Us-Mexico Border, 1978-1992* (Austin, TX: Center for Mexican American Studies, 1996).; Mark Purcell and Joe Nevins, "Pushing the Boundary: State Restructuring, State Theory, and the Case of U.S.–Mexico Border Enforcement in the 1990s," *Political Geography* 24, no. 2 (2005), 211-35.; Joseph Nevins, *Operation Gatekeeper and Beyond: The War On "Illegals" And the Remaking of the U.S.-Mexico Boundary* (New York: Routledge, 2010).

[23] see Meredith Simons "Obama Beefs up Border Security in 2011 Budget," *San Francisco Chronicle,* 1 Feb. 2010, http://www.sfgate.com/cgi-bin/blogs/nov05election/detail?blogid=14&entry_id=56449. (accessed 9 Jun. 2010).; the $4.6 billion figure cited by the San Francisco chronicle refers only to the hiring of U.S. Border Patrol agents and the funding of the virtual fence program. The total share of DHS' $56.3 billion FY2011 budget devoted to boundary enforcement is not publicly available.

space, in a topographical and cultural landscape that offers anything but. It is to the tensions engendered by

this reality that I now turn.

3. APPEARANCE AS A MECHANISM OF CAPTURE

Over the past fifteen years unprecedented federal attention has been directed to policing the U.S. /

Mexico border, and much of this effort has been concentrated in southern Arizona.[24] In 1994 the U.S.

Immigration and Naturalization Service initiated what it called a strategy of "prevention through deterrence"

in order to contain and control unauthorized migration across the United States' southern border. This

initiative sought to make it "so difficult and so costly to enter this country illegally that fewer individuals

even try".[25] The territorial dimensions of the new strategy were simple and direct: the Border Patrol would

shut down mobility through densely populated areas where individuals could easily disappear into the urban

landscape, so as to push unauthorized traffic into remote terrain where it would be isolated, leading the

Border Patrol to obtain "tactical advantage" and gain "effective control" over greater and greater areas of

land.[26]

By the late 1990s the Border Patrol succeeded in pushing the majority of unauthorized crossings

away from their El Paso and San Diego sectors and into other regions – particularly the Tucson Sector in

southern Arizona, where the Border Patrol claims to have effected between 34% and 43% of apprehensions

nationwide every year between 1999 and 2008.[27] As unauthorized migration routes moved into the Arizona

desert, it became no longer advantageous or feasible to concentrate enforcement efforts at the boundary

itself. No longer feasible, because the boundary progresses through increasingly remote terrain, across

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[24] see Joseph Nevins, *Operation Gatekeeper and Beyond…*; Josiah Heyman, "Constructing a Virtual Wall…"; Robert Lee Maril, *The Fence: National Security, Public Safety, and Illegal Immigration along the U.S.-Mexico Border* (Lubbock, TX: Texas Tech University Press, 2011).

[25] U.S. Government Accountability Office, *Illegal Immigration: Status of Southwest Border Strategy Implementation* (Washington DC: Government Accountability Office, 1999).

[26] U.S. Department Justice, *Building a Comprehensive Southwest Border Enforcement Strategy* (Washington DC: Department of Justice, 1996).; U.S. Customs and Border Protection, *National Border Patrol Strategy.*

[27] U.S. Department of Homeland Security, *Deportable Aliens Located by Program and Border Patrol Sector and Investigations Special Agent in Charge (Sac) Jurisdiction: Fiscal Years 1999 to 2008* (Washington DC: Department of Homeland Security, 2008).

mountains and canyons where roads and other infrastructure are entirely lacking. No longer advantageous, because if migrants or smugglers make their way past the line itself there remain thousands of square miles of terrain within which they can easily disappear, making their way north with only the desert remaining as an obstacle.

As Matthew Hannah has argued, sovereignty "is a matter of ongoing struggle, often about the *knowledge* necessary to make populations physically vulnerable to state force".[28] Against political imaginaries that would cast national territory as essentially flat and capable of being evenly administered, the material apparatuses of boundary enforcement confront a variety of factors that spatially and temporally limit their reach. Former Tucson Sector Chief Robert Gilbert has stated it thus:

> People challenge us and say, 'Why aren't you on the border?' We are. But you have to realize, and being from the area you guys may, the border's very rugged, it's very remote, accessibility is difficult. So if there's no roads, we can't get into the border. We build roads. We're working with the National Guard constantly and improving our road network on the border. That's a slow process.[29]

In order to transform the remoteness and difficulty of terrain into an asset rather than a liability, the Border Patrol has come to pursue a strategy they call "defense-in-depth,"[30] moving concentrated enforcement further and further north of the boundary line in areas that are more easily accessible to vehicular traffic. But for such enforcement to be effective, there requires an increasingly complex surveillance apparatus deployed in the area between the international boundary and a given point of interdiction, in order to locate individuals and groups of crossers prior to their arrival.

DHS has, several times, attempted to develop and implement a centralized surveillance system for the above purposes, most recently in a program launched in 2006 dubbed SBInet. Largely outsourced to and

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[28] Matthew G. Hannah, "Spaces of Exception and Unexceptionability," in *War, Citizenship, Territory*, ed. Deborah Cowen and Emily Gilbert (New York: Routledge, 2008), 71.

[29] Arizona Daily Star Editorial Board, "A Conversation with Robert Gilbert," *Arizona Daily Star*, 13 May 2008, http://azstarnet.com/news/opinion/article_1d56a814-63f9-5056-838e32cc64f40711.html (accessed 8 Jun. 2010).

[30] U.S. Customs and Border Protection, *National Border Patrol Strategy*.

implemented by private contractors, SBInet was designed to integrate "new and existing border technology

into a networked system"[31] that can, according to project manager Mike Potter, "provide surveillance data to

a Common Operating Picture, which allows Border Patrol complete situational awareness and increased

mission effectiveness".[32]

SBInet was to include a series of high-tech towers with high-resolution and infrared cameras,

connected to ground-sensors, and capable of sharing information and being manipulated by a variety of

agents in real-time. In a sense, these towers represented perhaps the ultimate panoptic fantasy, rendering

national space transparent so that law enforcement might immediately and effectively intervene against its

unauthorized violation. Yet after years of trial and hundreds of millions of dollars devoted to the effort, this

panoptic fantasy has proven unworkable. Delays caused by software interface problems prevent the timely

manipulation of instruments and communication of data. Wildlife and rainstorms trigger ground and motion

sensors. But perhaps the most fatal shortcoming resulted from the 98-foot towers first being tested at a

Boeing research laboratory in Florida, where the terrain is flat – a decided contrast to the mountainous

Arizona desert.[33] Due to these difficulties SBInet was ultimately cancelled in the fall of 2011 – merely the

latest in a series of failed Border Patrol technology programs.[34]

While the Department of Homeland Security has continued their efforts to expand the Border Patrol's

operational control, it is evident that enough people are successfully able to cross through the southern

Arizona borderlands to maintain a thriving illegal smuggling industry. However, other prospective migrants

are not so lucky, arriving neither safely at their destination, nor falling subject to U.S. government

interdiction. These individuals become lost, stranded and abandoned to the desert. Thousands have died in

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[31] U.S. Customs and Border Protection, "Sbinet," 2010, http://cbp.gov/xp/cgov/border_security/sbi/sbi_net/ (accessed 8 Jun. 2010).
[32] in Sean Snyder, "Boeing, Department of Homeland Security Implement Project 28 Virtual Fence," *Design News,* 4 May 2007, http://www.designnews.com/article/9074Boeing_Department_of_Homeland_Security_Implement_Project_28_Virtual_Fence.php. (accessed 8 Jun. 2010).
[33] see Robert Lee Maril, *The Fence…* for further discussion of this point.
[34] *ibid.*

southern Arizona since the late-1990s, and still thousands more have disappeared, generating an ongoing human tragedy of impenetrable scope.

4. DISAPPEARANCE AS A TECHNOLOGY OF VIOLENCE

As the distances involved and remoteness of the terrain that aspiring migrants must cross have increased, so too has the degree to which individuals are subjected to environmental extremes, and their often-times fatal health consequences. Based on the findings of Rubio-Goldsmith et al.[35] and a rough analysis of statistics maintained by Tucson's Coalición de Derechos Humanos[36], such has been the fate of at least 59%, and possibly as high as 88% of the roughly 2,500 people whose remains have been recovered from the southern Arizona desert since 2000.[37] In the late 1990s residents and activists began to see alarming numbers of migrant deaths in southern Arizona. In 2005 the annual toll peaked at 282 recovered bodies, yet the number has remained over 180 every year since 2002. As Rubio-Goldsmith et al. point out, such remains likely represent merely a fraction of the total number of deaths, as the vast, remote desert swallows many bodies that are never discovered, their owners remaining among the registers of the missing – those who disappeared along the journey north.[38]

I believe that this disappearance is an integral part of the violence inflicted on undocumented border crossers, a violence from which death is only the most high-profile result. Disappearance produces a condition of uncertainty and liminality – an undocumented individual subjected to an undocumented death – such that this death not only fails to count *as a crime*, but even to count *as death*. Thus are migrants not only

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[35] Raquel Rubio-Goldsmith, M. Melissa McCormich, Daniel Martinez, and Inez Magdalena Duarte, "The 'Funnel Effect' & Recovered Bodies of Unauthorized Migrants Processed by the Pima County Office of the Medical Examiner, 1990-2005." (Tucson, AZ: Binational Migration Institute, 2006)

[36] Coalición de Derechos Humanos, "Arizona Recovered Bodies Project." 2010, http://www.derechoshumanosaz.net/index.php?option=com_content&task=view&id=20&Itemid=34. (8 Jun. 2010).

[37] see also Brady McCombs, Andrew Satter, and Michel Marizco M. "Arizona Daily Star Border Deaths Database," *Arizona Daily Star*, 2009, http://regulus.azstarnet.com/borderdeaths/ (accessed 22 Apr. 2010).; the range of figures is so wide here because in many cases recovered remains are so decomposed that the cause of death cannot be conclusively established.

[38] see Rubio-Goldsmith et al., "The 'Funnel Effect' & Recovered Bodies…"

abandoned to the desert, but their status remains beyond the gaze even of loved ones, or others who might intervene on their behalf.

Although the death and disappearance of undocumented migrants may in fact be an unintended consequence of the Border Patrol's deterrence strategy[39], I think it is important to point out that the territorial disappearance of unauthorized bodies not only fits within the logic of sovereign power – it is its very objective. Although there is an important qualitative difference between those whose disappearance implies an isolated death in the desert borderlands, and those whose disappearance is realized through administrative removal from the United States, it is also important to recognize that the latter frequently leads to the former. An increasing percentage of those attempting to cross the border are individuals who were picked up in the interior of the United States and are simply attempting to return to their homes, jobs and loved ones.[40] As Robin Reineke has argued, the possibility that – at any given moment – a person may be removed from their home and loved ones, subject to the humiliation of deportation, and forced to endure the violence and risks involved in returning across the desert, creates a potent threat hovering over the lives of all undocumented immigrants in the United States.[41]

As the above suggests, disappearance represents a technology of power that merits further scrutiny. Contrast, for example, the practice of disappearance to the torture of the regicide Damiens, put on spectacular display for the collected citizenry, at the beginning of *Discipline and Punish*.[42] What is at stake in disappearance is not the sovereign's ability to inflict retributive violence on the bodies of its subjects, but to achieve a purification of the territorial body, abandoning any responsibility for the life *or death* of the

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[39] but cf Wayne A. Cornelius, "Controlling 'Unwanted" Immigration: Lessons from the United States, 1993-2004," *Journal of Ethnic and Migration Studies* 31, no. 4 (2005), 775-94.; Joseph Nevins, *Dying to Live: A Story of U.S. Immigration in an Age of Global Apartheid* (San Francisco: City Lights Books, 2008).; No More Deaths, *A Culture of Cruelty: Abuse and Impunity in Short-Term U.S. Border Patrol Custody* (Tucson, AZ: No More Deaths, 2011), available at http://www.cultureofcruelty.org/sandbox/?page_id=7.

[40] see No More Deaths, *A Culture of Cruelty…*

[41] Robin Reineke, "Manner of Death: Structural Violence: An Ethnography of Arizona's Body Count," (paper presented at the Migration Research Dialogues Speaker Series, hosted by the Binational Migration Institute, Tucson AZ, 1 Nov. 2011).

[42] Michel Foucault, *Discipline and Punish: the Birth of the Prison* (New York: Vintage Books, 1995).

individuals in question. In this way, too, the violence of the border exceeds its geographic referent –

remaining immanent to those bodies whose owners' ability to control their visibility becomes the primary

condition for their participation in civic life.

5. RE-APPEARANCE AS POLITICAL INTERVENTION

Since the late 1990s a host of grassroots activist and humanitarian groups have organized in southern

Arizona to prevent death along the border and challenge its legitimacy as an outcome of U.S. enforcement

practices. Organizations like Tucson's Coalición de Derechos Humanos, long active in immigrant-justice

related advocacy, began to document and bring attention to this unfolding tragedy. The Southwest Alliance

to Resist Militarization, (S.W.A.R.M., later to become Border Action Network) formed to criticize and

challenge the larger Border Patrol deterrence strategy. Groups like Citizens for Border Solutions and Healing

Our Borders formed in bi-national border communities like Douglas, AZ and Agua Prieta, Son. Finally, a

series of humanitarian organizations, such as Humane Borders, Samaritan Patrols, and No More Deaths,

formed to directly intervene in the desert through the provision of water, food, medical care, and various

other kinds of assistance to migrants in distress.

There are considerable politics involved even in measuring the scope of this humanitarian crisis. For

example, the U.S. Border Patrol uses various accounting maneuvers to minimize the number of deaths that

can be attributed to its enforcement practices. If the Border Patrol is not involved in the recovery of a body

(if, for example, a county Sheriffs department is the only agency to respond) then the death is not recorded in

their tally. For a time, the Border Patrol discounted deaths caused by trauma (such as gunshot wounds or

highway rollover accidents), suggesting responsibility for such deaths lay elsewhere. These maneuvers are

compounded by the lack of a centralized agency charged with keeping an official tally of border deaths, and

the various methods used by different government agencies such as DHS, county medical examiners and

foreign consulates.[43]

The Border Patrol has also, in public, used the number of migrant deaths as a barometer of their

success as an agency. For example, in 2004, the Border Patrol launched the Arizona Border Control

Initiative, part of whose objective was to respond to the deaths in the desert. In 2008 U.S. Customs and

Border Protection Chief David Aguilar, in testimony before congress, stated that:

> …in Fiscal Year 2005, southwest border deaths increased by 41% (464 in FY05 vs. 330 in FY04) and
> southwest border rescues have increased by 91% (2570 in FY05 vs. 1347 in FY04). These statistics
> indicate that a secure border will not only have an important law enforcement component, but also
> yield the humanitarian benefit of saving lives.[44]

The Border Patrol thus claims an increase in death as justification for expansion of their agency, and a

reduction of death and the performance of rescues as evidence of the agency's concern and success. Such

discourse also reflects an attempt to frame border enforcement efforts as humane and humanitarian,

performing sovereignty through the rescue of vulnerable migrant bodies.[45]

By contrast, human rights and humanitarian groups have publicly insisted on the recognition of

people killed by U.S. border policy. The political dimension of this work frequently entails the symbolic

inversion of 'guilt' and 'innocence,' 'perpetrator' and 'victim,' whereby the state is cast as criminal through

the exposure and questioning of its violence.[46] Such an orientation assumes the position that even one death

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[43] for further discussion on this point, see Rubio-Goldsmith et al., "The 'Funnel Effect' & Recovered Bodies…"; Rocio Magaña, "Bodies on the Line: Life, Death, and Authority on the Arizona-Mexico Border," (PhD diss., The University of Chicago, 2008).

[44] David Aguilar, "Confronting the Problem of Border Incursions: Statement of David Aguilar, Chief, Office of Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security before the U.S. House of Representatives Committee on Homeland Security, Subcommittee on Investigations," (Washington DC: U.S. Customs and Border Protection, 28 Jan. 2008), available at http://www.cbp.gov/xp/cgov/newsroom/congressional_test/border_problem.xml (accessed 13 Nov. 2011).

[45] see Rocio Magaña, "Bodies on the Line…"; Jill Williams, "Protection as Subjection: Discourses of Vulnerability and Protection in Post-9/11 Border Enforcement Efforts," *City* 15, no. 3-4 (2011), 414-428.

[46] cf Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (London: Verso, 2004).

is too many – as suggested, for example, by the name "No More Deaths" – and that these deaths are merely the most extreme example of widespread government abuse of human and civil rights.[47]

Various strategies have been used to these ends. Since 2004 Humane Borders has used the Freedom of Information Act to gather GPS data on the location of recovered human remains, so as to produce maps depicting the scope – and spatial patterns – of recovered bodies.[48] Other activists have followed more traditional tactics such as protests and vigils to try to attract public attention. One of the most common tactics used in such protest is to read the names of those who have died, or else to carry crosses with names painted on them to represent these individuals. Such tactics, as Rocio Magaña has suggested, seek to emphasize the biography, rather than merely the biology, of those whose lives have been lost.[49] Through rituals of public mourning for those who have died along the border, these deaths are represented as more than a mere statistical aggregate. By conjuring the dead and mourning their loss, activists attempt to "cut through" sovereign topologies that would erase the deaths of border crossers and, concurrently, the value of their lives.[50] In the process, their memories are mobilized politically against the apparatus that is accused of causing their deaths. The re-appearance within public domain of those who have died becomes the central issue at stake in the suite of practices deployed by humanitarian and human rights groups to focus attention and political pressure; to name the victims, to insist that she who died *was indeed human*; to recognize in death those who were denied recognition in life.

Public protest and rituals of mourning represent an implicit challenge to state power and topologies of belonging/exclusion. The former has also been mobilized by undocumented immigrants themselves, to

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[47] cf Border Network for Human Rights and Border Action Network, *U.S. - Mexico Border Policy Report: "Effective Border Policy: Security, Responsibility and Human Rights at the U.S.-Mexico Border"* (Washington, DC: Border Network for Human Rights and Border Action Network, 2008).; No More Deaths, *A Culture of Cruelty…*

[48] John F. Chamblee, Gary L. Christopherson, Mark Townley, Daniel DeBorde, and Rev. Robin Hoover, "Mapping Migrant Deaths in Southern Arizona: The Humane Borders GIS," (Tucson, AZ, 2006), available at http://gis.esri.com/library/userconf/proc06/papers/papers/pap_1464.pdf (accessed 10 Nov. 2010).

[49] Rocio Magaña, "Bodies on the Line…"

[50] see Sara Koopman, "Cutting through Topologies: Crossing Lines at the School of the Americas," *Antipode* 40, no. 5 (2008), 825-847.

powerful effect. For example, in 2006 an unprecedented wave of protest irrupted across the United States, as

millions of immigrants and their allies rose up against pending federal legislation aimed at rendering the

condition of being undocumented a felony offense.[51] Within weeks, the legislation was abandoned.

In Arizona, immigrants and allies have organized to confront the immigration sweeps of Maricopa

County Sheriff Joe Arpaio and to resist the impacts of punitive legislation like SB1070.[52] The basis of the

political claims asserted in such moments is not abstract juridical status (such as *citizenship*), but the raw fact

of territorial presence, along with the social and economic power this affords. By revealing themselves in the

public arena, on their own terms, undocumented immigrants retain the ability to assert collective demands

and recognition of their political interests, regardless of the state's formal hostility to their presence.

6. CONCLUSION

There are many ways in which the issues I have been discussing shed light on problems of

contemporary concern for social and political thought. The first of these is the difficulty of operationalizing

philosophical concepts for empirical purposes. As mentioned above, I largely agree with the critique lodged,

for example, by Coleman and Grove[53], that Giorgio Agamben's conception of 'biopolitics' is fundamentally

abstract and a-spatial. Indeed, even Agamben's notion of the '*camp*' or '*space of exception*' cannot be used

to designate an *actual* territorial location, but rather merely a juridical imperative that, for him, comes more

and more to define the logic of state practice.

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[51] Jenna Loyd and Andrew Burridge, "La Gran Marcha: Anti-Racism and Immigrants Rights in Southern California," *Acme* 6, no. 1 (2007), 1-36.; Conor Cash, "'Buzz': The 2006 Student Walkouts in Tucson, Arizona" (Master's Thesis, the University of Arizona, 2011).

[52] see Geoffrey Boyce and Sarah Launius, "Normalizing Noncompliance: Militarization and Resistance in Southern Arizona," *Bad Subjects* no. 81 (2011) http://bad.eserver.org/issues/2011/81/boyce-launius.htm (accessed 15 Jan. 2012).; Sarah Launius, "Claiming Membership in the City: Social Movement Response to SB1070 in Tucson, AZ" *Antipode* (under review).

[53] Mat Coleman and Kevin Grove, "Biopolitics, Biopower and the Return of Sovereignty".

For both Foucault and Agamben, biopolitics – the assumption of the "management of the biological life of the nation" as the direct task of governance – emerges through a conflation of politics and warfare.[54] Although by no means unique to the post-September 11 period, such a conflation has come especially to define contemporary U.S. security practices, and the U.S. / Mexico border has been a privileged site for the domestic development and deployment of these practices. By paying attention to the complex, everyday interplay of actors along the U.S. / Mexico border we can gain an appreciation for the spatiality of sovereign practice and its geographical limits.

But there are larger implications to be drawn here. From the earliest efforts to track the spread of disease, register births or catalogue statistics on population trends, the ability to reveal and sort bodies in the landscape has been the central axis through which the state has attempted to manage its population. Yet such efforts must always confront a recalcitrant universe that forever retreats from the panoptic gaze. The observation of the dialectic between visibility and disappearance reveals the way that space remains unbounded precisely to the extent that non-state actors continue to operate without its sanction.

Thus, if we accept Agamben and Schmitt's definition of sovereignty as the power to decide over life and death, then we must also recognize why the legitimacy claimed for this power must prove fleeting.[55] As Lauren Berlant writes, in bringing life under its fold, "[l]ife is the aprioriy; sovereign agency signifies the power to *permit* any given life to endure, or not".[56] While the state may assume control over life, may attempt to manage it, this implies that life – and its vulnerability – pre-exists and metaphysically exceeds such efforts. So too do the relations of mutuality in which we are entangled, and the care-over-life that such mutuality entails. Being and its affective registers exceed phenomenal appearance. Death, *a la* Emmanuel

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[54] Giorgio Agamben, *Means Without End…*, 41-42; see also Michel Foucault, *Society Must Be Defended…*; Deborah Cowen and Emily Gilbert,
"The Politics of War, Citizenship, Territory," in *War, Citizenship, Territory*, ed. Deborah Cowen and Emily Gilbert (New York: Routledge, 2008).

[55] see Giorgio Agamben, *States of Exception* (Chicago: University of Chicago Press, 2005).; Carl Schmitt, *Political Theology…*

[56] Lauren Berlant, "Slow Death (Sovereignty, Obesity, Lateral Agency)," *Critical Inquiry* 37 (2007), 754-780, 756.

Levinas, may represent the negation of a relation, the phenomenal erasure of one being from the horizon of another.[57] But it does not exhaust the affects that a being's relationality may trigger for those Others with whom the dead were entangled, in life. Thus, while political sovereignty may obtain through a collective concession of power in the interest of protecting life from its fundamental vulnerability (*a la* social contract theory), the state's failures in this domain may generate insurgent pressures that run orthogonally to any entrenched ideological claims that would legitimate its power. This is a point that, I believe, merits further consideration – both in relation to the border, and in relation to social movements and political mobilization more broadly.[58]

Reading philosophical constructions of biopolitics and sovereignty against everyday practices along the U.S. / Mexico border, this paper has gestured to the role of visibility, aesthetics and phenomenal appearance in the interplay between disparately-positioned actors, and the ways these dimensions remain central to the strategies and tactics each adopt. Within this region, the appearance and disappearance of bodies becomes the central axis around which the sovereign biopolitical apparatus turns. But despite panoptic fantasies, state actors are incapable of omnipotence, leading to a fundamental territorial conundrum: although sovereign power may be *virtually* extensive, its *actual* projection depends on knowledge and the ability to process and act on that knowledge. By focusing on the material and spatial operations of state power rather than its sovereign representation, we may better account for the quotidian excess such power is unable to control or account for, enabling dissident claims that might challenge the legitimacy of its practices and violence.

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[57] Emmanuel Levinas , *Entre Nous: On Thinking-of-the-Other* (New York: Columbia University Press, 1998).
[58] Deborah Gould, for example, makes a compelling case for this intersection of affect and politics in her discussion of the formation of *Act Up* and other radical AIDS advocacy movements during the 1980s, in Deborah B. Gould, *Moving Politics: Emotion and Act Up's Fight Against AIDS* (Chicago: University of Chicago Press, 2009).; see also Judith Butler, *Precarious Life…*

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