

The Body as Border?

Using Arizona's SB1070 to Rethink the Spatiality of the US-Mexico Border

Leila Whitley

Arizona's SB1070, or the Support Our Law Enforcement and Safe Neighbourhoods Act, is a piece of us immigration legislation which was passed in 2010, making it one of the first of a number of state-level immigration bills in the us in recent years. The cornerstone of SB1070 is the requirement that police officers verify a person's immigration status should they develop a "reasonable suspicion" in the course of a traffic stop or other law enforcement act that the person may not have legal status. Through this provision, the bill legitimates "suspicion" as a valid motive for detaining an individual and checking their documentation and also raises the question of what it means to "look illegal." In this study, I argue that not only does Arizona's SB1070 draw on racist ideas of national belonging, but the immigration policing practices that it relies on highlight questions about the location and function of the border. What does the consolidation and intensification of migration policing across the interior of national space do to conceptions of that space and to the border? And how does a racialised and racist immigration policing practice, which can be triggered anywhere and at any time based on a body's coding as belonging/not belonging, alter the understanding of the border and its locations? Against the wider context of us immigration policy, I argue that SB1070 necessitates a non-territorial theory of the border that understands borders as existing in relation to the bodies they police and control. SB1070, I contend, places the border not in geographic space, but directly on the human body. In this way, what SB1070 legalises is the treatment of the body as a border.



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Keywords: Arizona, SB1070, US immigration legislation, immigration policing, racism, the body-as-border, spatiality

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3/2015

Introduction

The border that divides the us from Mexico is strongly spatially marked. It runs for nearly 2000 miles from the Pacific to the Atlantic oceans, dividing the continent of North America. Since the late 1980s, it has increasingly been shaped by militarised structures of division, including a border wall and the surveillance infrastructure that reinforces it.¹ Nevertheless, to conceive of the us-Mexico border only in terms of the physical space that divides the two countries is to think in a very limited way about this border, its functions and effects. How is the border enacted? To what extent is this enactment in fact the border itself? And what can we learn about the border and the way it addresses different populations by thinking beyond the territorial installation of the border even when it is this territorially overwhelming?

These questions point to the need to think critically about the spatiality of the border. Even when a border is as spatially imposing as the one between the us and Mexico, thinking of it as only a line of territorial division is inadequate to the task of understanding what borders do. It is also inadequate to the challenge of thinking about *where* borders are. This is because, as I argue below, *what borders do* is not confined to the space that is traditionally recognised as the border.

In making this observation, and in pushing critically against the current theorisation of borders, I do not mean in any way to undermine the importance of the physical space of the border. The physical installation of the division has important effects, which include the production of illegalised populations and exposure to the risk of death for those who are illegalised.² It is well documented that the militarisation of the territorial space of the border changes the way that people move and live and also exposes some people to significant violence.

Instead of denying or minimising these experiences of the border, what I am interested in doing in this study is attempting to think of the us-Mexico border as more than a line. This involves considering the functions, effects and consequences of this border beyond the site where it is nominally thought to exist. The questions I ask here include: What does the us-Mexico border do? Where does it do this? And to whom does it do this? In order to think through these issues, I work

from a piece of contemporary border legislation in the us which I take to be indicative of the current border politics in the country: Arizona's SB1070, or the Support Our Law Enforcement and Safe Neighborhoods Act.

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Arizona's SB1070 and Attrition through Enforcement

In spring 2010, the US state of Arizona passed a state-level immigration bill known as Senate Bill 1070 or the Support Our Law Enforcement and Safe Neighborhoods Act. This is one of the first state-level immigration bills to be adopted in the US in recent years and it belongs to a cluster of similar legislation.³ The bill extends immigration enforcement powers in Arizona, particularly by recruiting local police to perform immigration policing and by creating new penalties and state crimes related to immigration.⁴ In an op-ed published in the *New York Times*, Kris Kobach, one of the bill's authors described it as legislation that 'makes it a state crime for an alien to commit certain federal immigration crimes.'⁵ In this way, SB 1070 contributes to the criminalisation of immigration violations. The cornerstone of the law is, however, the requirement that police officers verify a person's immigration status should they develop a "reasonable suspicion" in the course of a traffic stop or other law enforcement act that the person may not have legal status.⁶ With this provision, the law does two things: first, it devolves responsibility for immigration control to state police officers. Historically, only immigration agents had the power to legally inquire after a person's immigration status in the US. The change, thus, extends immigration policing by linking it to day-to-day policing. And second, the bill legitimates suspicion as a valid motive for detaining an individual and checking their documentation. Through this, the legislation makes the consequences of not carrying papers dramatic—not only is everyone mandated to carry documentation of their immigration status with them at all times (particularly if they are a person liable to be the target of police suspicion, whether a citizen or not), but they may be taken into custody if they fail to produce this documentation.⁷

Arizona's SB1070 is part of the "attrition-through-enforcement" framework of immigration policing, which seeks to enforce all possible laws already in place while also instituting new laws, ostensibly to force undocumented migrants out of the country.⁸ The rationale openly given for this intensified enforcement is to exhaust undocu-

mented migrants by increasing the difficulties they face in their lives in the US, thus encouraging them to “choose” to leave the country. A 2005 paper by Mark Krikorian, director of the right-wing think tank the Centre for Immigration Studies, is credited as the origin of the attrition-through-enforcement strategy and, as such, provides an important perspective on the strategy.⁹ In this article, Krikorian advocates reducing the ‘illegal population to a manageable nuisance.’¹⁰ While he is clear that mass deportation of those without legal status in the US would be his preferred means to achieve this goal, he dismisses this strategy as impractical.¹¹ Instead, he proposes that a strategy of enforcing immigration laws already on the books be combined with the verification of legal status at various points in order to ‘make it as difficult and unpleasant as possible to live here [in the US] illegally.’¹² As Krikorian reiterates later in the piece, the goal of this intensified identification and policing is ‘not mainly to identify illegal aliens for arrest (though that will always be a possibility) but rather to make it as difficult as possible for illegal aliens to live a normal life here.’¹³

Building on such right-wing intellectual foundations, Kobach advocates that government may potentially gain strength by maintaining a ‘credible threat of enforcement.’¹⁴ Applying this logic to the enforcement of immigration laws and echoing Krikorian, he argues that there is no need to actively deport those who lack legal status. Instead, he claims that migrants without legal status can be pressured into leaving by appealing to them as rational decision makers. He writes: ‘If the risks of detention or involuntary removal go up, and the probability of being able to obtain unauthorized employment goes down, then at some point, the only rational decision is to return home.’¹⁵ It is exactly this principle of forced rational decision-making which is manifested in Arizona’s SB1070. In Kobach’s own words, the premise of the legislation is that through ‘a concerted strategy of attrition through enforcement’ which ensures that ‘the risk of detention, prosecution and involuntary removal increases, and the probability of obtaining employment decreases,’¹⁶ life will become so difficult for those without documentation in the US that it is untenable.

Based on these descriptions, it is clear that the attrition-through-enforcement model of immigration policing relies on heightened policing practices and day-to-day harassment. There is no subtlety to what Kobach and Krikorian are suggesting. The very choice of the word “attrition” in their policy’s name is telling as it denotes the process of

grinding or wearing something – or someone – down. The *Oxford English Dictionary* definition is as follows:

1. The action or process of rubbing one thing against another; mutual friction.
2. The process of rubbing away, wearing or grinding down, by friction. b. The wearing down of the enemy’s strength and morale by unremitting harassment, esp. in phr. *war of attrition*.¹⁷

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Since the first two definitions here seem to refer to objects as opposed to people, the third definition is the most useful for our purposes. Drawing on this definition, attrition-through-enforcement legislation can be equated with a *war of attrition*. In other words, this type of legislation treats migrants as enemies and attempts to *wear down their strength and morale by unremitting harassment*. It is therefore amounts to the conscious legal enshrinement of harassment as a migration policy in the us.

Do I Look Illegal?

Arizona’s SB1070 functions by multiplying the risk of being questioned by a police officer about one’s immigration status if one is viewed as a person who might not belong in the us. Exactly who is being targeted here is an important issue. The language used in the legislation is “reasonable suspicion,” but to whom does a reasonable suspicion of not having legal status in the country adhere? Another way to ask this is to ask what it means to look illegal. This is the question that has been taken up in protests against the implementation of Arizona’s SB1070: Do I look illegal?¹⁸ The question confronts the presumption inherent in SB1070 – and in other pieces of anti-immigrant legislation passed in states across the United States – that a person’s legal status in a country can be treated as information visible on their body.

To examine the nature of “reasonable suspicion,” we can begin by looking at the text of the legislation. The term appears in Article 8 (Enforcement of Immigration Laws). The relevant section of SB1070, which amends the previous statute, reads as follows:

For any lawful stop, detention or arrest made by a law enforcement official or a law enforcement agency of this state or a law enforcement official or a law enforcement agency of a county, city, town or other political subdivision of this state in the enforcement of any other law or ordinance of country, city

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or town or this state where reasonable suspicion exists that the person is an alien and is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person, except if the determination may hinder or obstruct an investigation (emphasis added).

While the statute goes on to detail the ways that immigration status legally may and may not be verified as well as the permitted modes of information-sharing, it does not state what constitutes reasonable suspicion. Instead, it leaves this term undefined. This is a curious oversight in a law that is painstaking in its definitions of other items, including what identification will be accepted as proof of documented status. Thus, even as “reasonable suspicion” is placed at the core of SB1070, what this suspicion refers to is never articulated or clarified.

Tucson police officer, Martin Escobar, provides a particularly cogent formulation of the precise indicators that are evoked by a term like “reasonable suspicion.” Just five days after the legislation was signed, on 28 April 2009, Escobar filed a lawsuit opposing SB1070. In this filing, he objected to the law on the basis that it would require him as a police officer to make race-based decisions about the likelihood that a person did or did not have legal status. Moreover, he pointed to the ways that SB1070 appropriates racial profiling for the task of immigration policing. Here, he speculated on the cues that an officer might rely on when acting on SB1070’s mandatory reasonable suspicion clause. The substance of his lawsuit was, thus, a statement of ways in which the implementation of SB1070 would necessarily rely on racial criteria. In its points 20-28, the suit addressed nine different possible indicators of status in the country. These included skin colour and physical features; manner of dress; using the Spanish language or speaking English with an accent; listening to Spanish language radio, music or television; using vehicles stereotypically owned by Hispanics; using public transportation; having Mexican licence plates on a vehicle; and residing in the kind of home that stereotypically belongs to Hispanics.¹⁹

What Escobar’s list of hypothetical indicators demonstrates is that the only possible sources of suspicion of lack of legal status have to do with ways of appearing or behaving that are associated with – or stereotyped as – being Mexican, Hispanic or Latina/o. I include all three terms here because of a degree of messiness around them, or what Masouf and Delgado have described as the merging of different

groups like Mexicans, Mexican-Americans and Latinos.²⁰ Where these groups are referred to, each one is understood in a stereotypical manner and the three are also blended together. Under SB1070, a person may be suspected of being in the country illegally because (s)he looks or behaves as though (s)he is Mexican – or, more precisely, because the way (s)he looks or acts has been stereotyped as a Mexican way of appearing or behaving. By enumerating possible sources of suspicion in his lawsuit, Escobar is able to show clearly that suspicion regarding immigration status is not only based on unreliable or manifestly wrong indicators, but in fact, this suspicion cannot be race neutral. Any attempt to police immigration on the basis of these sources of suspicion amounts to racial profiling and to the racist collapse of racialisation with presumptions about legal status. Escobar's suit concludes convincingly with the statement that 'there are no race neutral criteria or bases to suspect or identify who is lawfully in the United States.'²¹ He, thus, establishes that the law that requires him as a police officer to act on suspicions during immigration policing thereby mandates him to make race-based decisions about the likelihood that a person is legally present in the United States.²²

SB 1070 does not target those who lack official status, but rather those who are "raced" as illegal – those who *look* like they might not belong. Put in the service of immigration policing, racial profiling is incapable of distinguishing between the person racialised as foreign (in this case, visually coded as Hispanic) who is a citizen and the person racialised as foreign who is undocumented. Thus, if the attrition-through-enforcement plan seeks to harass people until they volunteer to leave, then the basis of this harassment is racism. While the consequences of being stopped and questioned differ greatly, it is not only the undocumented or non-citizens who will be stopped and questioned, but all people who fit the racialised idea of what it is to be foreign or non-American and who are therefore targets of police suspicion. This amounts to the harassment of an entire racially-defined group of people who are stigmatised as not belonging in the country in which they live.

To enable its implementation, SB1070 relies on what is effectively racist "common sense." This racist common sense equates Mexican-ness with illegality. Mexican migrants are commonly called up in mass media discussions of illegality.²³ These migrants have also been constructed by immigration laws as the specific group of "illegal migrants" that exists in the United States.²⁴ These are some of the ways

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that illegality is racialised in the US and attached particularly to those of Mexican origin. As Nicholas De Genova writes, ‘the figure of the “illegal alien” has long been a pronounced feature of the racialisation of “Mexicans,” in general, in the United States.’²⁵ The Arizona law necessarily draws on this racist common sense—without it, implementing the legislation would not be possible. While migration status is not something legible on the body or made evident through behaviours or practices, SB1070 attempts to treat it as if it were. In this way, the law tries to identify illegality by scrutinising bodies and not documents. What this means is that Arizona’s SB1070 places racialised – termed “reasonable” – suspicion at its core and then mandates racial profiling in the service of immigration policing by requiring that police officers act on racist suspicions of unlawful presence.

For the remainder of this work, I want to address some of the important ways that the practices of immigration policing represented in Arizona’s Senate Bill 1070 raise the issues of the location and function of the border. What can be learned about bordering by looking at this piece of legislation? In particular, what does the consolidation and intensification of migration policing across the interior of national space do to conceptions of that space and to the border? And, perhaps most importantly, how does a racialised and racist immigration policing practice, which can be triggered anywhere and at any time based on a body’s coding as belonging/not belonging, affect the understanding of the border and its locations?

European Challenges to Linear Thinking

A body of scholarship focused on the European Union often, though not always, appearing under the name Critical Border Studies (CBS), has tended to reassess the spatiality of borders. At the same time, it has begun to move away from a straightforward idea of border geography as marking an inside and an outside of national space. I draw on this work as a theoretical basis from which to challenge the conception of the US-Mexico border as a linear structure.

The movement away from thinking of borders as lines has a particular historical context within Europe. It is the integration of the Schengen zone that has drawn scholarly attention to the location of borders in the EU and to the ways that borders function both within and beyond the geographical space supposedly demarcated by the border as

a fixed line.²⁶ The Schengen Convention removed fixed sites of internal border policing between EU member countries while maintaining a high level of policing and control at the external boundaries of the Union. The removal of formal border sites between member nations has not, however, meant that borders within Schengen have vanished. Instead, these internal European borders between member states have been reformed. Rather than existing as traditional checkpoints at the territorial limits of European nation states, they have been displaced and dispersed. For example, border checks within the Schengen zone are now carried out at random – or at least wherever and whenever those performing the checks choose to institute them. Border officials may request documentation at any site within the Schengen space. William Walters describes the internal existence of ‘a more diffuse, networked, control apparatus that is no longer territorially fixed and delimited.’²⁷ In other words, borders in the EU have moved unevenly into the internal national space so that there is now an internal border.

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The internal dislocation of border practices has been mirrored by an external dislocation of border practices sometimes described as the ‘externalisation’ of the EU border.²⁸ It is not only that a fortified border has been instituted around the outer edges of the EU under Schengen. Rather, barriers to entry and the administration of border filtering have been pushed still further afield. When they refer to the externalisation of borders of Europe, scholars particularly have in mind readmission agreements with third countries, safe third-country rules and agreements with third countries on the return of migrants as well as the location of transit-processing centres outside of the EU.²⁹ In this way, practices of EU border policing have been instituted in spaces that are geographically removed from Europe.

The shift in border practices within the European Schengen area has not only led to more diffuse internal policing and the externalisation of border controls; it has also prompted some scholars to discuss Europe’s border(s) in terms of ‘deterritorialisation,’³⁰ which refers to the ways that borders operate increasingly and variously both at sites that are geographically external to the nations being represented and within the internal space marked by the border. Seeing the European border as one that has been deterritorialised is a way of looking at the dislocation of checks once carried out at national border posts and now exercised in a spatially disaggregated way and via a variety of means. These means include roles externalised to third countries

as well as other policing measures that are carried out internally (for example, identity checks carried out by police and carrier liability legislation that makes transportation companies accountable for the people they transport).³¹ In addition to highlighting both international and external practices of bordering, speaking of a deterritorialised rather than an externalised border has the advantage of not reproducing the presumption of a neat inside/outside division between EU and non-EU space.³²

Borders emerge from this discussion in a new form, and this is captured via new metaphors. Instead of being linear structures firmly located at the edges of a territory, the borders of Europe are described as 'mobile and dispersed,' 'discontinuous and porous,' 'networked,' 'ephemeral and/or palpable' and 'biopolitical.'³³ What these accounts have in common is that they move from considering the border in the most obvious space – where it is firmly and structurally instituted at the limits of a national territory – to thinking of it as the site where the control functions of the border are performed.

The discussion of borders in European spaces, thus, shifts from considering borders in terms of spatial locations towards understanding them additionally as social, political and economic expressions of belonging and exclusion. CBS advocates treat the border as a site of investigation and also problematise the idea of the border as a line.³⁴

Recognising the limitations inherent in figuring the border as a line – as well as the inadequacy of conceptualising borders only in terms of a single and static territorial location – involves a turn to thinking of borders in terms of practices that moderate, sustain and produce them. Parker and Vaughan-Williams, two scholars working within CBS, describe this intellectual shift as one towards

thinking of [borders] in terms of a series of *practices*. This move entails a more political, sociological, and actor-oriented outlook on how divisions between entities *appear*, or are *produced* and *sustained*. The shift in focus also brings a sense of the dynamism of borders and bordering *practices*, for both are increasingly mobile – just as are the goods, services and people that they seek to control.³⁵

Since CBS considers that practices of bordering are essential for understanding borders and their functions, it is able to draw attention to

the ways that borders are performed into being. Henk Van Houtum describes this as a shift towards considering the 'human practices that constitute and represent differences in space' and states that borders should be thought of in terms of practices of bordering.³⁶ Others echo this analysis, arguing that it is necessary to look at the divisions that are produced by borders and to treat borders as active structures that rely on practices of bordering.³⁷ To think of "border" as a verb is to conceive it as something that must be done in order to come into being; it does not exist as a noun without the active and procedural *doing* of the border. Borders are not spaces marked on a map or within a territory, but instead actions that must be performed by human beings in relation to one another. Borders can be brought into being and indeed they must be *made* in order to exist. This shift requires asking not only *where* borders are, but also *what* they are and what they do. What sort of logic does a border both follow and impose? What imaginaries shape bordered societies – or, we might ask, what bordered imaginaries shape a society? Put more simply, what is a border?

Etiénne Balibar tackles the question of what borders do in his essay 'What is a Border?'³⁸ His answer begins with a warning: the question is absurd since a border has no essence. Balibar explains that the border is different in each instance and in every experience of border-crossing; crossing one border is not the same as crossing another, and crossing with one passport is not the same as crossing with a different one. For Balibar, this singularity of the border, its variable existence, makes it nearly impossible to define the border since what definition would be capable of holding these differences together? A border does not have an ontology *per se*. To this first warning, Balibar adds another: a border is the thing that defines. It marks the limit of a territory; it defines the interior and exterior of a nation state and, in doing this, it inscribes identity. Yet, any act of definition necessarily involves the tracing of a boundary and therefore the construction of a border. The definition of the border forms a recursive loop. To construct a border is to define, and to define is to construct a border. For this reason, any theorist seeking to pin a definition to the border is at risk of going round and round in circles, identifying borders by constructing still more borders. For Balibar, therefore, to attempt to answer the question "what is a border?" is to reduce the complexity of experiences of borders and also

participate in constructing new ones.³⁹ Instead of working from a definition, he recommends that we look at what borders do and at what particular borders do at particular historical moments.

In espousing that borders must be thought of in terms of what they do, Balibar's theoretical work on borders marks an important shift in border theory. The focus on function over ontology leads him to consider borders as sites of administrative control – or, rather, to argue for understanding sites of administrative control as borders. He identifies the selective checks' that filter populations and control the movement of people as functions of the border. While once it could be said that these controls were concentrated along a geographic line that marked the territorial limit of the nation state, Balibar thinks that they have now been dispersed throughout social space. Therefore, he writes that 'some borders are no longer situated at the borders at all, in the geographico-politico-administrative sense of the term. They are in fact *elsewhere*, wherever selective controls are to be found.'⁴⁰ In another formulation of the same idea, he notes that borders have become dislocated if not ubiquitous as they are 'replicated by other "checkpoints" within the territories of the European states.'⁴¹

This shift towards treating the border as the site where 'selective controls' take place provides an incredibly dynamic and flexible view of the border. If borders exist where they are implemented, then they may not only occur in many different spaces, both mapped and unmapped, but they may move, appear and disappear. Inevitably, this also means that as these practices of control take place throughout national space, the border shifts from being a liminal geographic space to something that is enacted and experienced throughout national space. While there are obvious infrastructures of control (airport border control, for example, is often explicitly termed "the border" despite its internal location within the nation), this approach also allows us to consider the less obvious sites where the border materialises. Borders can, in fact, become omnipresent when they are thought of in relation to the enactment of control.

What Balibar contributes to the discussion of borders is a clearly articulated rationale for moving away from a concept of borders as stable sites and a defence of an emerging view of what borders do that draws attention to this *doing*. By identifying the implementation of the border as the site of the border (i.e. by arguing that the border

exists where it is performed), we make borders visible as operations of power in spaces that might once have been thought of as removed from the border.

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Locating the Border

What happens to the us-Mexico border when immigration legislation allows for immigration policing to be done throughout the spaces of daily life and on the basis of racialised suspicion, as is the case with Arizona's SB1070? What does this bordering do? And where does this occur?

Balibar's concept of borders proves useful here for thinking about the effects of the Arizonan law's devolution of border policing to the local level. By focusing on the acts performed at borders as opposed to the particular space identified as the border, Balibar's work highlights the ways that borders come into being wherever they are enacted. This means that borders may potentially be anywhere but not everywhere; they exist in the precise spaces where and when they are implemented rather than being omnipresent. However, as checks are increasingly decoupled from concrete control infrastructure (such as at airport arrival terminals) and instead materialising in the form of local migration policing throughout daily living spaces, the distinction between "potentially anywhere" and "not everywhere" is becoming more blurred. In the case of SB1070, for some bodies, the moment of inspection, and therefore, the border, could potentially be anywhere and the border could materialise unexpectedly—they could appear for one body without appearing for another in that same space.

On this basis, as selective controls become more and more mobile and concerned with policing the spaces of everyday life, I think it makes less sense to speak of them as existing in discrete spaces and more sense to understand them as potentially, and increasingly, occurring everywhere. My argument is that what SB1070 shows us – and here it is one example from a border whose history is full of possible examples – is that the border must be thought of as increasingly dispersed throughout national space through the enactment of local level policing operations across the spaces of daily life. Subjection to bordering practices has increasingly become a *possibility* that may arise at unexpected moments in the spaces of day-to-day living. The risk of

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such exposure differs for different people and different bodies. This makes it necessary to think in terms of bodies and of differential experiences of the border.

What is essential is that these bordering practices are not located at discrete sites. The border does not only appear in the instance when it is triggered, or solely at the moment of an administrative review. Rather, it is also implemented through people's vulnerability to this implementation; this means that only thinking in terms of a concrete and instituted instance is not enough and does not tell us enough about how borders are experienced and lived. If the social vulnerability of our bodies is part of the way that we are politically constituted, as Judith Butler has argued,⁴² then we are certainly not all exposed to power in the same ways, and so our vulnerability is not lived in the same ways by all. Borders are enacted through this differential vulnerability: for some bodies, these borders structure the way they move through and occupy social space regardless of whether they actually encounter a moment of administrative review or not. For others, borders are no less formative of the way that space is occupied, but they function to allow movement and passage. As such, in thinking about borders and bordering, we need to take into account bodily vulnerability to practices of bordering. Further, we must consider the ways that the threat that an administrative review will happen anywhere works as a restrictive force everywhere, changing the way that some people can occupy space and dividing those who move freely from those whose movements are monitored and checked and whose presence is put into question.

Because different bodies have different experiences of the border, the most important questions about borders and bordering concern not only where the border is or whether it is everywhere, but also *for whom* the border potentially exists everywhere. Within a system of dispersed, localised policing, the border could appear anywhere, and yet it is much less likely to appear for some than for others. Some bodies do not trigger the appearance of the border. In particular, the body racialised as white in the space of the United States is very unlikely to trigger the border outside of the institutionalised spaces of border control. For these bodies, passports and permission to enter must be shown when entering the country either through an airport or a land border, but internal instances of border control are very unlikely to occur once they have been admitted to national space. This is because

the belonging of bodies racialised in this way is presumed; it is read as evident from these body themselves. As such, to think about the border only in terms of stable sites of institutionalised control is to think only in terms of the white body and only from the perspective of those who experience whiteness.

When thinking about how the border moves away from these predetermined spaces and into the spaces of everyday life, it becomes necessary to consider who is affected – indeed targeted – by this regulation. What Arizona’s SB 1070 has made exceptionally visible in its reliance on racial profiling and its recourse to histories of racial profiling, is that the non-white body is placed under suspicion of not belonging. This amounts to the racialisation of both belonging and non-belonging. The legislation legally formalises the conflation of racialised body markers with evidence of status, and it engages in race-based policing of migration status throughout the spaces of everyday life. Another way of putting this would be to say that the statute is a means of legally codifying racialised presumptions about national belonging so that national belonging and acts of bordering are realised at the level of the body. The border appears inside the territorial nation and in the spaces of daily life, and it is removed from spaces dedicated to border control because the body itself is treated as if it could be a source of evidence about a person’s official status (or the lack thereof) in the country.

What this means is that the border does not map onto land; it is not enough to describe it as a territorial limit. Instead, it is enacted upon – and thus, placed upon – the body. Because they look out of place, some bodies may encounter this border potentially anywhere. Those whose bodies are read as not belonging and as being illegal regardless of their factual legal status, face suspicion and border controls not only in the spaces explicitly marked as sites of border control, but throughout the spaces of their daily lives. This changes how they move and live just as it changes (by enabling) the movements and lives of people whose bodies are read as self-evidently belonging. This, then, is what SB 1070 legalises: the treatment of the body as a border.

Conclusion

In this study, I have argued that by allowing local police officers to check immigration status, and furthermore, by letting them do this throughout the spaces of everyday life on the basis of racialised suspi-

cions, Arizona's SB 1070 does more than just authorise authorities to engage in racial profiling: it attempts to locate the border on the body. In other words, through its use of a "reasonable suspicion" provision, SB 1070 works as a means to (further) legally codify racialised presumptions about – and constructions of – national belonging at the level of the body. The result is that not only is belonging constructed as something that can be evident on the body – either through appearance or behaviour – but the absence of this evidence is sufficient to trigger the instances of administrative review that enact the border. Policing migration in this way amounts to implementing the border at the level of the body, so that it can be said that SB 1070 places the border not in geographic space, but directly on the human body.

The outcome of these intersecting provisions is that for some bodies, the border can potentially materialise anywhere and everywhere. Physical distance from the territorial border does not ensure that the border will not materialise, and nor is legal status in the country any guarantee that the border will not continue to appear throughout the spaces of everyday life for the body marked as foreign. This means that the border comes to be lived through the experience of vulnerability to the border.



LEILA WHITLEY is affiliated to Goldsmiths, University of London, and may be reached at: info@cejiss.org

Notes

- 1 For a discussion of effects of the border including illegalisation and exposure to death and violence, see Peter Andreas (2009), *Border Games: Policing the us-Mexico Divide*, Ithaca and London: Cornell University Press; Wendy Brown (2010), *Walled States, Waning Sovereignty*, New York: Zone Books; 2010; Nicholas De Genova (2004), "The Legal Production of Mexican/Migrant "Illegality," *Latino Studies* 2(2), pp.160-185; Timothy Dunn (2009), *Blockading the Border and Human Rights: the El Paso Operation that Remade Immigration Enforcement*, Austin: University of Texas Press; Joseph Nevins (2002), *Operation Gatekeeper: the Rise of the Illegal Alien and the Remaking of the us-Mexico Boundary*, London: Routledge; Mae Ngai (2004), *Impossible Subjects: Illegal Aliens and the Making of Modern America*, Princeton and Oxford: Princeton University Press.
- 2 See, for example, Nicholas De Genova (2005), *Working the Boundaries: Race,*

- Space and "Illegality" in Mexican Chicago*, Durham: Duke University Press; Roxanne Doty (2011), 'Bare Life: Border-Crossing Deaths and Spaces of Moral Alibi,' *Environment and Planning D: Society and Space* 29, pp. 599-612.
- 3 The Arizonan statute was preceded by several state-level immigration bills, including notably California's Proposition 187. I group SB1070 with a number of more recent bills (e.g. Alabama's HB56) which are very similar in form. They are often based on the Arizona legislation and even share its authors.
 - 4 Andrea Nill (2011), 'Latinos and SB1070: Demonization, Dehumanization and Disenfranchisement,' *Harvard Latino Law Review* 35.
 - 5 Kris Kobach (2010), 'Why Arizona Drew a Line,' *New York Times*, 28 April, available at: <<http://www.nytimes.com/2010/04/29/opinion/29kobach.html>> (accessed 13 February 2013)
 - 6 Ibid.
 - 7 There are longstanding U.S. precedents for policies and practices similar to Arizona's SB1070. While popular discussions sometimes treat recent anti-immigration laws as new trends in immigration policy that are exceptional both for their explicit reliance on racial profiling as a policing mechanism and for their devolution of immigration policing roles to state police, they are not, in fact, anomalous. Rather, practices instituted by law including racial profiling, the devolution of immigration policing responsibilities to ordinary police officers and the criminalisation of immigration and of migrants, are deeply ingrained in immigration practice and law in the United States. In particular, Arizona's law follows on from the immigration initiatives of the late 1980s and the 1990s which instituted practices of low intensity warfare at the border. These policies increasingly criminalised immigration while devolving immigration policing to the local level and extending internal policing practices.
 - 8 I say "ostensibly" because these practices also have other effects. They may, for example, move people around inside the country, make workers more compliant, etc.
 - 9 Mark Krikorian (2005), 'Downsizing Illegal Immigration: A Strategy of Attrition Through Enforcement,' Center for Immigration Studies, <<http://www.cis.org/ReducingIllegalImmigration-Attrition-Enforcement>>
 - 10 Ibid, p.1.
 - 11 These reasons include the resources that would be needed to enforce immigration laws, the obstacles and nuisance posed by rights protection, the negative effect on U.S. businesses of rapidly removing those without official status (an observation which requires Krikorian to acknowledge the economic dependence of U.S. businesses on undocumented workers) and the public outcry which, he says, would accompany mass deportation efforts. Attrition through enforcement works instead as a back-door, "quieter" version of these measures that arouses less protest.
 - 12 Krikorian (2005), p.5.
 - 13 Ibid.
 - 14 Kris Kobach (2008), 'Attrition through Enforcement: A Rational Approach to Illegal Immigration,' *Tulsa Journal of Comparative and International Law* 15 (2), p.156.

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- 15 Ibid, p.156.
- 16 Ibid, p.157.
- 17 *Oxford English Dictionary*.
- 18 In demonstrations across Arizona and elsewhere in the United States, people have physically attached this question to their bodies. It has, for example, been printed on t-shirts and written on placards to be carried at protests.
- 19 In early April 2010, immigration raids were carried out on shuttle vans providing transport to the north of the us-Mexico border. Escobar's allusion to public transport as a potential site of racial profiling may refer to these raids.
- 20 Hasian Masouf and F. Delgado (1998), 'The Trials and Tribulations of Racialized Critical Rhetorical Theory: Understanding the Rhetorical Ambiguities of Proposition 187,' *Communication Theory* 8(3), pp.245-270.
- 21 Lawsuit of Martin Escobar, filed on 29 April 2010 to the United States District Court for the State of Arizona, available at: <<http://archive.azcentral.com/ic/pdf/0429immigration-lawsuit-tucson.pdf>>.
- 22 The court dismissed Escobar's lawsuit on the grounds that he did not have standing to make the complaint, his claims were too speculative and he could not show that he had already been directly harmed by the law. Upon appeal, this decision was affirmed by the Ninth Circuit court. Nevertheless, the court did not find that Escobar was substantively wrong in his arguments about the uses and deployments of reasonable suspicion. In fact, the court did not comment on his claims, but only ruled that he was not in a position to bring the complaint.
- 23 Leo Chavez (2001), *Covering Immigration: Popular Images and the Politics of the Nation*, Berkeley: University of California Press.
- 24 De Genova (2005), p.91.
- 25 Ibid.
- 26 See, for example, Rutvica Andrijasevic (2010), 'From Exception to Excess: Detention and Deportations across the Mediterranean Space' in N. De Genova and N. Peutz (eds.), *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, Durham: Duke University Press, pp.147-165; Etienne Balibar (2002), 'What is a Border?' in Etienne Balibar (2002), *Politics and the Other Scene*, London: Verso; S. Karakayali and E. Rigo (2010), 'Mapping the European Space of Circulation' in N. De Genova and N. Peutz (eds.), *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, Durham: Duke University Press, pp.123-146; E. Rigo (2005), 'Citizenship at Europe's Borders: Some Reflections on the Post-colonial Condition of Europe in the Context of EU Enlargement,' *Citizenship Studies* 9(1), pp.3-22; William Walters (2002), 'Mapping Schengenland: Denaturalizing the Border,' *Environment and Planning D: Society and Space* 20, pp.561-580.
- 27 Walters (2002), p.573.
- 28 Karakayali and Rigo (2010).
- 29 Andrijasevic (2010), p.153; Karakayali and Rigo (2010), p.124; Walters (2002), p.563.
- 30 M Anderson (2000), 'The Transformation of Border Controls: A Euro-

- pean Precedent?’ in P. Andreas and T. Snyder (eds.), *The Wall around the West: State Borders and Immigration Controls in North America and Europe*, Lanham, MD: Rowman and Littlefield, pp.15-29; Andrijasevic (2010); Rigo (2005); Walters (2002).
- 31 Anderson (2000); Andrijasevic (2010).
- 32 Andrijasevic (2010), p.155. Andrijasevic argues that it is problematic to speak of detention and processing centres in safe third countries as sites external to the EU space. Such statements, she notes, presume a neat separation between EU territory and the external borders of the space. They reproduce an inside/outside dichotomy which, she says, can be challenged productively by discussing de-localised borders.
- 33 Andrijasevic (2010); N. Parker, N. Vaughan-Williams et al (2009), ‘Lines in the Sand? Towards an Agenda for Critical Border Studies,’ *Geopolitics* 14, pp.582-587; Chris Rumford (2006), ‘Introduction: Theorizing Borders,’ *European Journal of Social Theory* 9(2), pp.155-169; Nicholas Vaughan-Williams (2007), ‘The Shooting of Jean Charles de Menezes: New Border Politics?’ *Alternatives: Global, Local, Political* 32(2), pp.177-195; Walters (2002); William Walters (2006), ‘Border/Control,’ *European Journal of Social Theory* 9(2), pp.187-203.
- 34 Parker and Vaughan-Williams (2009); Mark Salter (2012) ‘Theory of the /: The Suture and Critical Border Studies,’ *Geopolitics* 17(4), pp.734-755.
- 35 Parler and Vaughan-Williams (2009), p.586. Emphasis is in the original.
- 36 Henk Van Houtum (2005), ‘The Geopolitics of Borders and Boundaries,’ *Geopolitics* 10, p.672.
- 37 Walter Mignolo and Tlostanova (2006) ‘Theorizing from the Borders: Shifting to Geo- and Body-Politics of Knowledge,’ *European Journal of Social Theory* 9(2), pp.205-221; Parker and Vaughan-Williams (2009).
- 38 Balibar (2002).
- 39 Ibid, p.76.
- 40 Ibid, p.84. Emphasis is in the original.
- 41 Etienne Balibar (2004) *We, the People of Europe?: Reflections on Transnational Citizenship, Translation/Transnation.*, Princeton, N.J.: Princeton University Press, p.203.
- 42 Judith Butler (2003) ‘Violence, Mourning, Politics,’ *Studies in Gender and Sexuality* 4(1), pp.9-37.