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Author
FitzGerald, David Scott

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David Scott FitzGerald

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Remote control of migration: theorising territoriality, shared coercion, and deterrence

David Scott FitzGerald

Center for Comparative Immigration Studies, University of California San Diego, USA

ABSTRACT

'Remote control' has been a radical innovation that projects many aspects of migration and border enforcement beyond a state's territory. Scholars across multiple disciplines make distinctive and sometimes contradictory claims about the extent to which state control over space and geographic borders is of declining significance. Drawing on a study of remote control policies in the United States, Canada, the EU, and Australia since the 1930s, this paper argues that states push much of their migration control out from their territorial boundaries though a process of extra-territorialisation. However, these liberal states simultaneously ratchet up controls at a finely calibrated border line in a process of hyper-territorialisation. The goal of restricting migrants' access to territorialised human and civil rights drives both of these manipulations of territoriality. A taxonomy of controls based on the metaphor of an 'architecture of repulsion' describes their logic and practice. Many of these practices involve states sharing the legitimate means of coercion over movement in a way that challenges a core assumption about modern states. The degree to which remote control deters unauthorised migration remains a critical research question, but there is more deterrence than found in standard measures of border enforcement efficacy.

Aristide Zolberg (1997) coined 'remote border control' to describe the transatlantic system of visas issued by consulates abroad and outbound passenger screening at European ports that took shape in the nineteenth and early twentieth centuries. He observed that control at the point of embarkation 'is now so familiar that we tend to underestimate its radically innovative character and its fundamental importance in regulating world-wide movement' (1997, 308). Scholars from across the social sciences and legal studies have developed similar concepts to show how governments use space to regulate migration beyond the transatlantic context (McKeown 2008). Like borders, remote controls are used to filter, and not simply to exclude. Their raison d'être, however, is the capacity to exclude, winnow, and 'cull the masses' according to shifting criteria of admission and rejection (FitzGerald and Cook-Martín 2014; Spijkerboer 2018).

Different camps dispute the extent to which international borders, and space more generally, have become less important for constraining mobility. In the most extreme formulations, 'the border is everywhere' (Lyon 2013) or 'vanishing' (Maguire 2016). Other

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scholars identify a more limited shift in partly projecting border control beyond a state's territory (Guiraudon and Lahav 2000; Lavenex 2006; Gammeltoft-Hansen 2011). There is no consensus on how far contemporary practices have reshaped classical understandings of borders and sovereignty.

Properly identifying the shifting relationships among space, rights, mobile people, and state control is important for reasons of both theory and public policy. First, rights of personhood, whether based on universalistic principles such as human rights or national constitutional principles of civil rights, continue to be resolutely territorialised in practice. States try to push migration control away from their territorial boundaries as they simultaneously ratchet up controls at the border line itself to restrict migrants' access to human and civil rights. Extra-territorialisation, pushing controls outside the state's territory, takes place at the same time, and obeys the same logic, as hyper-territorialisation, enacting controls and creating legal meanings through fine spatial distinctions at the border line. Migration control takes place on a continuum of space, from the most remote practices half a planet away down to walls at the state boundary, where remote control merges with border line control.

Second, the externalisation of migration controls shifts understandings of how states 'monopolize the legitimate means of movement' (Torpey 2018). Modern states, as opposed to private actors, maintain that authority, but individual states often do not monopolise control within their territories. States often collaborate to control movement. States that are more powerful in the 'hierarchy of sovereignty' (Lake 2009) reach into other countries' territories to try to shape outmigration and transit. The legitimacy of those efforts is contested, which is why extra-territorial state action is often conducted in secret or publicly framed as friendly cooperation even when stronger states coerce the weaker.

Pragmatically, understanding how remote control articulates with enforcement at the edge of a state's territory shows how a sometimes hidden system for selecting and controlling migrants works in practice. The analysis provides a serious answer to the question, 'Why don't asylum seekers just get into line to come legally?' States systematically block most legal paths for people fleeing violence and persecution. Strategies for effective civil society surveillance of state practices and for judicial and parliamentary oversight of the executive branch are shaped by exactly where practices of remote control take place. Advocates have enjoyed far greater success in arguing for state accountability in the liminal spaces at state borders than in activities carried out by proxies on foreign territory. Finally, precise specification of the spatial dynamics of control is a critical condition for assessing how effective states are at controlling unauthorised migration.

Whither territoriality?

Much of the leading work on remote control derives from the idiosyncratic process of Europeanisation. Vedsted-Hansen's (1994, 255) pioneering study of the Danish case described the 'externalisation' of asylum procedures, a term that has gained wide currency to understand policies to keep out asylum seekers and other types of mobile people (Boswell 2003; Zaiotti 2016). Similarly, Guiraudon and Lahav (2000) and Lavenex (2006) explained why states push the site of migration control 'out' from their borders as part of a broader effort to manipulate scales of policymaking in different directions to avoid the constraints of

domestic institutions such as judiciaries, more rights-oriented foreign ministries, and NGOs. Legal studies of the outward shift in immigration, border, and asylum control often characterise these moves as 'extra-territorial' (Bernard and Mitsilegas 2010; Lax 2017).

van Munster and Sterkx (2006, 238) make a bolder claim of a 'deterritorialization of control'. In their view, 'Although the physical location of the geographical border still possesses important symbolic value, the control of migration flows is increasingly pushed outwards' (2006, 245). Borders are sites of performing sovereignty. The practices, more than the places, are the key point in these accounts (Paasi 2009). Control over mobility increasingly takes place when state agents and their contractors interact electronically with databases of biometric registries that have no real physical location (Amoore 2006). For Lyon (2013), the advent of identity cards and the mass surveillance it engenders means 'the border is everywhere'. Maguire's (2016) analysis of many of the same technologies leads him to the opposite conclusion of 'vanishing borders' as control and the privilege of mobility becomes more individualised. Hence, the key term to describe remote control from postmodern perspectives is *de*-territorialisation, in which the territoriality of the border becomes less significant.

Many substantive practices of remote control in these accounts are the same, but the conceptualisation of space differs. Legal scholars and political scientists are more likely than human geographers, critical border studies theorists, and anthropologists to take for granted that there is a hard, territorial border, as conventionally conceived. For the former group, the novelty of remote control lies in a set of additional activities that takes place outside this hard border, inside the territory of another state, or in international waters. Hence, the critical term in most legalistic accounts is *extra*-territorial to describe activities that take place *outside* the state's territory, rather than *de*-territorialisation, in which territory is losing significance.

The construction of border fortifications and deployment of other bordering practices clearly serves the goal of symbolically drawing national boundaries and creating the impression for domestic constituents that the state has the ability to select which foreigners are allowed to enter (Massey, Durand, and Malone 2002). Yet an analytical risk in focusing on the de-territorialisation of borders and their ephemerality is losing sight of how the externalisation of some controls coincides with the hyper-territorialisation of other aspects of border control. At the same time as states push control far outside their territories, they draw micro distinctions in space to demarcate exactly where their territories begin, and they increasingly mark those spaces with material fortifications (see Vallet 2014).

Mondrian's tape measure

Border lines regulating access to rights have not always been so clean. The territorial divisions of the planet were long characterised by the vague frontiers of empires and tribes, fragmented archipelagos of principalities, and overlapping loyalties to religious and secular leaders. The transformation of the world's political geography from what looked like an expressionist painting by Oskar Kokoschka to the clean, neo-plastic lines of Piet Mondrian, in the famous metaphor of Ernest Gellner (1983, 139–40), is a feature of modern nation-states.

In its classical Weberian definition, the state is an organisation with a monopoly over legitimate coercion in a territory. Modern states also guarantee rights of citizens, and to varying degrees, of noncitizens on their territories. 'Rights of territorial personhood' (Motomura 2006) are not always equal to rights of citizens, but they offer a panoply of civil rights protections and some social rights by virtue of an individual's presence in a jurisdiction. The strongest versions of territorial personhood are enjoyed regardless of citizenship or legal status. They are available to foreigners who move for all kinds of reasons, from labour migration to asylum seeking. These civil rights are most robust in liberal states. Thus, both coercion and protection of rights within a territory are core functions of liberal states. Remote controls are designed to extend controls beyond the state's territory to restrict access to those rights.

Most states lack the ability to project their power abroad to manage potential immigrants using the full range of remote control techniques deployed by the rich, liberal states of the Global North. Authoritarian and hybrid states also engage in remote control, but they use a narrower set of tools such as restrictive visas. Like liberal states, they are motivated by security, economic, and political concerns about selecting who enters (see Cook-Martín 2013; Czaika, de Haas, and Villares-Varela 2017). Unlike liberal states, however, illiberal states do not have the additional interest of patrolling access to territorial rights of personhood. The most authoritarian states can deport foreigners when and however they please.

In liberal states, just where access to rights begin in space is legally contested. For example, in 2019, U.S. agents and private security guards stood on the line between Mexico and the United States to prevent asylum seekers from setting their toe on U.S. soil unless they first produced a U.S. passport or visa (field notes 19 June 2019; DHS OIG 2019). On a number of occasions, U.S. agents on U.S. territory have fired shots into Mexico that killed Mexican nationals, raising legal questions about whether those killed had U.S. constitutional rights, including one case where a dead man's head fell in Mexico but his legs in the United States, and the U.S. government denied he had any U.S. constitutional rights (Dolven 2017).

These practices show that borders are not becoming de-territorialised tout court. While theorists rightly observe that borders' lines on the map and their meaning are contingent social constructions (Collyer and King 2015), those constructions harden when territorial divisions map on to legal jurisdiction. Whether a non-citizen's rights derive from universal human rights or national constitutions, in practice, their activation is conditional on the individual's position in space. Governments directly or indirectly project their control far beyond their territories at the same time as they make micro-distinctions in space measured with a ruler to circumscribe migrants' access to rights. Extra-territorial control that pushes some aspects of border control far out across the land, air, and sea, and into the digital ether, is part of the same system of hyper-territorial control that increasingly makes space matter to an extreme degree.

The 'Hippocratic bubble'

Policies around access to asylum are a strategic site to highlight both the extra-territorialised qualities of remote control and hyper-territorialised access to rights. Many governments accept an individual's right to *ask* for asylum, but only if the application is made from particular spaces – at or within their borders. Of the world's 195 countries, 148

have signed the 1951 Convention and/or its 1967 Protocol that include the principle of non-refoulement of refugees. Hathaway's (1992) concept of 'non-entrée' shows how states control refugees' movement without accepting responsibility for them (Gammeltoft-Hansen and Hathaway 2015). From its origins in the 1930s and 1940s targeting Jewish refugees from fascism trying to reach the Americas, liberal European states, and Palestine, remote controls of refugees have expanded to a robust global system (FitzGerald 2019).

Remote controls targeting asylum seekers follow the same logic as other organisations that control access to spaces in which norms are activated. For example, Portes, Fernández-Kelly, and Light (2012) describe how U.S. hospitals often deliberately create obstacles between sick people seeking care and the doctors who took the Hippocratic Oath to render aid to those in need. Only patients with the insurance or financial resources to get past a hospital's clerical gatekeepers, security guards, and physical barriers surrounding the examination room can reach a space where the doctor's norm to render aid is triggered.

What Portes and colleagues call a 'Hippocratic bubble' is driven by the same logic of controlling space that puts up barriers to keep out asylum seekers. The fact that refugees have unique rights of non-refoulement under international, and most national, law, gives states added incentives to control their access to the territory. Recall, however, that liberal states grant considerable rights to anyone present on their territory, regardless of whether they are plausibly refugees, and thus the logic of liberal states deterring access to territorial rights of personhood extends to a far wider range of mobile persons than asylum seekers alone.

Sharing the legitimate means of movement

The spread of remote control reveals how messy the exercise of sovereignty has become even in a world of nation-states. Torpey (2018) describes how governments from the late eighteenth to early twentieth century invented passports and visas. States monopolised 'the legitimate means of movement' by taking away the authority to control their subjects' movement from private actors like feudal landlords, slave-masters, and employers of indentured servants. In an overlapping process in Europe that began in the sixteenth century in France and continued into the twentieth century in Italy, states took away from the Catholic Church the medieval right to grant asylum in churches (Orchard 2014, 49).

As Torpey points out, private actors have continued to be involved in practices of controlling movement in ways that are both familiar (passenger transportation companies) and novel in the early twenty-first century (visa processing). While there are handsome profits to be made in migration control (McNevin 2011), the fundamental point is not so much about private capital shaping state migration control, but rather, states using their authority over private actors to enforce controls. Those controls and selection processes may benefit particular groups of employers, but they obey a statist logic and are contingent on government authority.

The novelty in the contemporary system of remote control is that governments reach out beyond their territories in extensive, routine collaboration to select or deter millions of individuals trying to cross borders. Nation-states, as an institutional form, continue to monopolise the legitimate means of movement, but individual states often do not monopolise control within their territories. States share information about individuals with each

other and often collaborate to decide whom to detain, deport, or allow to pass. Governments in migrants' countries of origin and transit are often doing the work of remote control on behalf of a destination state, and transit states are pressured to grant asylum to refugees they do not want. Control is not always monopolised by a single state. Coercion is shared.

A taxonomy of remote control

Remote control is a set of practices, physical structures, and institutions whose goal is control the mobility of individuals while they are outside the territory of their intended destination state. One goal is to filter migrants and select whom can pass. Another goal is to identify, monitor, detain, deport, and deter the unwanted through an architecture of repulsion. I use metaphors derived from medieval fortresses to render visible the bordering practices that are often described by scholars in excessively ephemeral terms (cf. Lyon 2013; Maguire 2016); to emphasise the hard barriers in Euclidian space that create immobility in a world of supposed flows (Favell 2001); and to insist that controls over particular spaces continue to coexist with controls based on ethereal electronic databases and a chronological record of entries and exits (cf. Bigo 2014). Together these analytical metaphors (López 2001) show how different parts of the system work together in the air, on land, and at sea.

The architecture of repulsion is based on *cages* for the unwanted in their places of origin or remote foreign territories; patrols in the *moats* of international waters; the construction of an aerial *dome* that keeps out unwanted air passengers; land *buffers* that turn countries of transit into traps; and the legal fictions of *barbican* spaces where exceptionally restrictive rules apply. These barbicans bump up against *walls* and other physical fortifications defining the sharp edge of the state's territory, where remote control merges into classical border control. All of these practices are facilitated by the *files* that document the identities and official assessments of individual travellers.

Files

Max Weber identified 'the files' as one of the constitutive features of modern bureaucracy. The passport has ancient roots but spread as a generalised requirement for international travel around World War I. The inclusion of ever more sophisticated biometric data in travel documents, beginning with written descriptions of the bearer's body and expanding to include fingerprints and photographs, allowed states to establish an individual's identity and link it to biographical information from population registries and other records. The advent of visas issued abroad by countries of destination as a prerequisite for admission turned travel documents into the indispensable tool of remote control (Cook-Martín 2013; Torpey 2018).

Visa and passport policy has been used for decades to deter unwanted refugees. Liberal European states and governments throughout the Americas adopted increasingly restrictive visa policies on Jewish refugees and pressured their neighbours to do the same (Caestecker and Moore 2010; FitzGerald and Cook-Martín 2014). Since the 1980s, many countries, such as Canada, Germany, and the UK, have continued to impose visa requirements on nationalities with the open goal of deterring asylum-seeking. The visa regime

quietly keeps irregular migrants, including asylum seekers, away from the rich, liberal Global North, operationalised here as the membership of the Organisation for Economic Co-operation and Development with the exception of Turkey and Mexico. Most OECD states have visa restrictions on most Asian and African nationalities. Those restrictions have increased since the 1970s (Czaika, de Haas, and Villares-Varela 2017). In 2019 the top ten source countries of refugees were all among the world's thirty most restricted nationalities. At the extremes, Afghans and Iraqis could access only 30 countries without a visa, while Japanese, South Koreans, and Singaporeans could access 189 countries (Henley 2018; UNHCR 2018). Visa requirements often have a 'domino effect' as governments enact restrictions to prevent the entrance of unwanted migrants barred from other countries.

The advent of electronic databases has greatly increased the amount of information about individuals that governments can collect, their ability to link multiple sources of data, the speed of retrieval, and the ability to share it with other governments and private businesses contracted or incentivised to do the work of remote control. No-fly lists prevent individuals labelled as security threats from ever boarding an aircraft (Bigo 2014). The EURODAC fingerprinting system was designed in part with the goal of registering asylum seekers at Europe's external borders so they could be returned to the first EU country they entered if they tried to file for asylum in another EU country. The United States finances scanning equipment, hardware, and software for migration databases in Latin American countries in return for access to the data (FitzGerald 2019).

Cages

Caging attempts to keeps refugees in their countries of origin or camps in other countries. Techniques fall along a continuum of coercion. The hardest tool is military intervention. Since the 1990s, states with powerful militaries have established 'safe havens' in countries such as Iraq and the former Yugoslavia with an explicit goal of preventing refugees from fleeing to other countries (Dubernet 2001). Governments in the Global North work with the UNHCR and International Organization for Migration to fund refugee camps, centres for asylum seekers, and repatriation operations. Camps combine provision of basic human needs with surveillance and control. Most caging occurs in the Global South in a 'grand compromise' in which the Global North pays Southern neighbours to keep refugees away from the North in return for limited resettlements and financial aid (Cuellar 2006).

The greatest difference in caging strategies is in offshore processing of asylum seekers. The governments of various EU members since the 1980s have proposed offshore processing of claims made by asylum seekers intercepted at sea, but as of summer 2019, none of these plans had concretised. Australia has the most robust offshore processing system in Papua New Guinea and Nauru. The Australian model remains unusual because processing and long detention takes place in another sovereign state through which asylum seekers did not pass before interception, and even recognised refugees are not allowed to settle in Australia under the iteration of offshore processing current in 2019. The Australian government in practice has strong influence and sometimes outright control over the process in another sovereign state (Dastyari 2015; FitzGerald 2019).

Designating a country of origin as 'safe' is a legal tool aimed at easing the deportation of asylum seekers of particular nationalities. Canada had a 'designated country of origin'

policy that served the same function from 2012 to 2019. Fourteen EU member states established lists of safe countries of origin by 2018, and efforts were under way to create a common EU list (European Migration Network 2018).

The softest tool of caging is publicity campaigns on billboards, radio jingles, videos, Internet advertising, and even graphic novels, to convince potential asylum seekers to stay home. Governments in North America, Europe, and Australia all have deployed publicity campaigns (FitzGerald 2019).

Domes

A virtual *dome* over territories restricts access by air. Sanctions against airlines that transport inadmissible passengers make check-in clerks the proxies of the destination state. The contemporary dome over North American and Australian airspace was derived from controls over transoceanic ship passengers in the nineteenth century. Internationally, the 1944 Convention on International Civil Aviation and 2000 UN Anti-Smuggling Protocol required airlines to check passengers' travel documents. Sanctions regimes on airlines accelerated through the 1980s in Europe (Scholten 2015; FitzGerald 2019).

Digital files are the basis of controlling air passengers. As of 2017, 56 countries, including the United States, Canada, Australia, and many EU countries, deployed an Advance Passenger Information System in which electronic records are sent to destination states before an aircraft takes off (OSCE 2017). Liaison officers stationed abroad advise the airlines whom to prohibit from boarding. The UK began deploying carrier liaisons in 1983, Canada and Australia in 1989, the United States in 1993, and the EU in 1996.

While liaison officers cannot formally deny boarding, pre-clearance officers have that authority. Pre-clearance has precedent in screening of U.S.-bound sea passengers by U.S. agents at Canadian ports beginning in 1894. Beginning in 1952, the United States established air passenger pre-clearance in Toronto that was expanded to fifteen foreign airports, as far as away as Abu Dhabi, where passengers must clear U.S. passport and customs control. American agents at Canadian airports carry firearms during checks. The U.S. government plays with sovereign jurisdiction in pre-clearance spaces by prosecuting passengers under U.S. law for crimes committed there, such as smuggling, but refusing to allow asylum applications (FitzGerald 2019).

Conceptually similar to pre-clearance spaces are the juxtaposed controls in British, French, and Belgian rail stations and ferry ports to screen passengers crossing the English Channel. British agents are stationed on French soil and vice versa. Travellers cannot apply for asylum in the destination country in these spaces even if they are interacting with agents from the destination state (Ryan and Mitsilegas 2010). Unlike the U.S. air passenger pre-clearance programme, juxtaposed controls are symmetrical in practice and take place on land. They are all theoretically important because there is not a single state monopolising the legitimate means of movement. Rather, agents operate on the soil of partner states to carry out collaborative controls.

Buffers

States in the Global North use other countries as buffers to keep out unwanted migrants in transit. The most intense buffering involves the EU in Africa and Turkey, the United States

in Latin America, and Australia in Indonesia. At the extreme end of shared coercion, agents of powerful states operate in the territory of a foreign buffer. More commonly, powerful states apply political pressure on buffers to act by proxy in return for other goodies in the bilateral relationship. Policing tools include the provision of training, equipment, and intelligence. Legal tools include demanding stricter visas, the criminalisation of irregular migration, readmission agreements in which the buffer states agree to take back rejected migrants who passed through their territory, and safe-third country designations (FitzGerald 2019).

'Safe third country' designations deny asylum to applicants who passed through a named buffer country where they will not be persecuted. The designations are common in Europe, but less so in Australia, and historically were a side note in North America until the Trump administration. Denmark was the first country in Europe to adopt a safe third country scheme, beginning in 1986. The policies then spread through the Dublin asylum system that governs which member state is responsible for assessing claims. In 2017, twelve EU countries had some form of additional safe third country provision (Asylum Information Database 2017). Australia passed a safe third country law in 1994 (Kneebone 2009).

The United States and Canada mutually buffer each other through a safe third country agreement whose groundwork was laid in 1994 and which took effect in 2004. Beginning in 2018, the Trump administration exerted strong pressure on Mexican authorities to sign a safe third country agreement so that the United States could return asylum seekers who passed through Mexico. The Mexican government refused through early 2019, but in practice admitted thousands of third country nationals who applied for asylum in the United States and were forced to return to Mexico to await their hearing date in the United States (Human Rights Watch 2019b). The Trump administration also pressured the governments of Guatemala, El Salvador, and Nicaragua to sign bilateral agreements to process asylum seekers in ways that would buffer the United States, as well as creating a unilateral policy that prevented most foreigners arriving at the U.S. southern border from being able to seek asylum if they had passed through another country (Narea 2019).

Several states have forced asylum seekers to wait outside their borders in a buffer state for permission to enter in small, controlled numbers. For example, beginning in 2016, Hungary limited the daily number of asylum seekers crossing from Serbia (Asylum Information Database 2018). A similar system of 'metering' was established by the Trump administration at the border with Mexico in the summer of 2018 (Metering Update May 2019). Safe third country, metering, and similar policies forced on transit countries by more powerful patrons reach into their sovereign spaces to control movement. These interventions also shape grants of asylum in the buffers in ways that share what was formally the classical monopolisation of these practices by individual states (see Orchard 2014, 49; Torpey 2018).

Moats

States use international waters as a moat to keep out the unwanted by intercepting boats carrying passengers without visas. The most prominent early instance involving refugees in the Americas was the refusal of Cuban, U.S., and Canadian authorities to allow the landing of the *St. Louis*, a passenger ship carrying nearly 1000 German Jews in 1939

(*New York Times* 1939). During the British Mandate in Palestine, maritime interceptions were a key strategy to keep Jews from entering clandestinely. In a context of weak rights of territorial personhood and a weak norm of non-refoulement, maritime interception was driven by practical concerns about the greater difficulty of controlling ship passengers on the beach, rather than preventing them from accessing rights by entering the territory (Yahil 1974).

The U.S., Australian, and European governments have all conducted interceptions of migrants in international waters to prevent them from reaching their territorial waters and coasts. The U.S. policy began in a sustained way in 1981 to block Haitians. Maritime interceptions of people attempting to leave islands are the most extreme form of externalising borders. These operations not only control entry to the United States, but also maritime exit from an island like Haiti to any destination. The island state becomes a cage for its citizens that is guarded by a foreign power.

President Ronald Reagan's 1981 order establishing the Caribbean migrant interdiction programme stated that refugees would not be refouled. However, during a large increase in outflows from Haiti in 1992, President George H. Bush issued a new order making the principle of non-refoulement discretionary on the high seas. The Supreme Court ruled in *Sale v. Haitian Centers Council, Inc.* (1993) that the order was legal, even as the court recognised that the order's goal was to prevent refugees from reaching U.S. territory where they could activate non-refoulement protections.

Hyper-territorialisation reached new extremes under the U.S. wet foot, dry foot policy from the mid-1990s to January 2017 that exclusively applied to Cubans. The U.S. Coast Guard immediately repatriated the vast majority of Cubans intercepted at sea unless they passed a shipboard asylum screening. Cubans who reached dry land were usually paroled into the United States. Lawsuits about whether Cubans were on dry U.S. land when they reached an abandoned section of bridge or a lighthouse in the Florida Keys, both places that were unequivocally in U.S. territory, highlighted the Kafkaesque games around territoriality (FitzGerald 2019). The combination of weak rights outside U.S. territory and strong rights within have prompted the U.S. government to prevent aircraft carrying potential asylum seekers from even briefly landing on U.S. territories for refuelling. Repatriation flights take circuitous routes to land in third countries or U.S.-controlled territories where the Immigration and Nationality Act does not apply, such as Wake Island and Guantanamo (Smith 1999).

The EU's maritime interceptions have two distinctive traits. The first is coordination of member state external operations through Frontex since 2006, which involves extensive deployments in the Mediterranean and off West Africa. The second unusual trait is that all EU member states are subject to the supranational jurisdiction of the European Court of Human Rights (ECtHR). The Italian case demonstrates both dynamics. Italy instituted pushbacks at sea, which do not allow asylum claims, off Libya in 2009. However, the ECtHR held in *Hirsi Jamma and Others v. Italy* [2012] that jurisdiction is not simply a question of territory. When a state uses paramilitary force to intercept a boat in international waters, it exercises effective jurisdiction over the passengers and must follow the principle of non-refoulement. The Italian government's solution to these judicial constraints was to pay the Libyan Coast Guard and the same militias that previously had been smuggling migrants to detain them in grim conditions that included torture and slavery (Human Rights Watch 2019a).

The Australian government has innovated several new maritime remote control policies. While it accepted many asylum seekers arriving by sea from Indochina in the 1970s, it eventually cut off the irregular flow by paying governments like Indonesia to detain asylum seekers until they could be resettled as part of international agreements involving countries of origin, transit, and resettlement (Higgins 2017). The second major innovation loosely based on U.S. policy in the Caribbean was the Pacific Solution I from 2001 to 2007 and a revised version beginning in 2012. Australian forces intercepted asylum seekers in the contiguous zone outside Australia's territorial waters and forcibly transported them to Nauru or Papua New Guinea for processing. Unlike the U.S. policies, these involved extended detentions in sovereign countries through which the asylum seekers had not passed. Various policies since 2001 have forced boats back to Indonesian waters and collaborated with Indonesian authorities to prevent embarkation (Ghezelbash 2018).

Maritime operations regularly involve shared coercion over travellers' movement. Since the early 1990s, the United States has signed numerous bilateral agreements providing for shipriders from other countries to be stationed on U.S. vessels and authorise entering those countries' territorial waters to intercept irregular migrants and smugglers (Robinson 2009; Pratt and Templeman 2018). Similarly, Mauritanian officials act as shipriders on Spanish vessels (Casas-Cortes, Cobarrubias, and Pickles 2014). States collaborate to control migrants trying to cross the moat.

Barbicans

The final strategy of remote control is to create spaces at the margins of a territory where restrictive rules apply. Medieval castles often included a fortified gate house, or barbican, outside the walls of the main castle. I use the metaphor of barbicans to describe liminal spaces at the territory's edge where rights are limited (Neuman 1996). They include different forms – gulag, classical, frontier, and airport – described below and ordered by their distance from the state's boundary.

Gulag barbicans are liminal zones under a single state's control where fewer rights are recognised than in the rest of the state's territory. Since at least 1977, the U.S. government has used its naval base at Guantanamo Bay to detain migrants and screen asylum seekers. A similar programme in the 1990s used the Commonwealth of Northern Mariana Islands, where U.S. immigration law did not apply at the time, to screen asylum seekers (Mountz 2011; Dastyari 2015).

In Australia, Christmas Island was among the islands that parliament designated 'excised offshore places' in 2001. Irregular maritime arrivals in these places were denied the right to apply for a visa, including a protection visa, and were subject to removal to foreign counties such as Nauru for asylum processing. Parliament excised broader swathes of Australian territory in 2005, and in 2013, the entire country was 'excised' as irregular maritime arrivals were barred from seeking asylum without the extraordinary permission of the immigration minister (Ghezelbash 2018). A distinctive version of the gulag barbican was the Australian policy from 2007 to 2012 of intercepting asylum seekers arriving by sea without visas and taking them to Christmas Island. Unlike Nauru and Papua New Guinea's Manus island, where offshore processing takes place as described above in the section on cages, Christmas Island is indisputably under Australia

sovereignty. Yet the Australian government applied special restrictive rules on Christmas Island that allowed for asylum screening outside the protections of the migration statute and without recourse to appeals before the Refugee Review Tribunal or Administrative Appeals Tribunal. Officials from the immigration department decided asylum cases based on non-binding guidelines.

The *classical barbican* strategy is to designate spaces with limited rights at the edge of a territory's physical border fortifications. For example, the Hungarian government built a fence along its border with Serbia beginning in 2015 to keep out Syrians and other asylum seekers. Applicants were forced to wait in 'pre-transit zones' on the Serbian side of the fence before reaching the 'transit zone' and only then allowed into Hungary proper (Asylum Information Database 2018).

A *frontier barbican* designates spaces within the territory and a specified distance from the border as conveying fewer rights. The idea of a frontier zone retreats from the clean border lines that characterise modern states to an extended space that is often many kilometres wide, where asylum seekers can be pushed back without hearing their claims. These are not detention spaces, as in the gulag barbican of Christmas Island. Rather, they are spaces where foreigners can be expelled with fewer rights protections than if they had reached farther into the interior. Restrictive spaces are often accompanied by a specific timeline during which rights are limited. For example, Israel's 2007 policy of 'hot returns' allowed the military to push back asylum seekers within 50 kilometres of the Egyptian border if they were caught within 24 hours of crossing (Kritzman-Amir and Spijkerboer 2013).

The *airport barbican* is among the most radical legal fictions. Restricted rights to claim asylum, talk to lawyers and translators in person, and appeal negative decisions are endemic in international 'transit zones' in airports. Foreigners are treated as if they were not fully inside the country's territory even if the airport is hundreds of kilometres in the interior. Access to some rights is hyper-territorialised by a door between different parts of the airport. Despite a 1992 ruling by the ECtHR in *Amuur v. France* that airport transit zones are inside a state's territory and that asylum seekers have rights within them, European states continue to maintain more restrictive asylum policies in these spaces (Basaran 2008). Frontier and airport barbicans include what is indisputably sovereign territory of the controlling state. A reader might object that these types of controls are not remote at all. However, both the frontier and airport barbicans were designed to fulfil the same basic function of restricting rights in designated spaces under a state's control as the gulag and classical variations. While geographically proximate, these spaces have been rendered legally remote.

Conclusion

A taxonomy of remote control in the air, on land, and at sea catalogues how governments use those spaces to filter travellers and exclude the unwanted before they reach the state's territory. The metaphor of an architecture of repulsion renders visible a system of cages, domes, buffers, moats, and barbicans patrolled by state agents and their proxies who operate in secret or spaces inaccessible to the public. All of these structures operate more efficiently, and in part are based on, the files of travel documents and databases. By discussing these structures as a system of control, it is possible to observe how each of the structures is linked to another. When caging fails, visa policy and carrier sanctions

make it difficult to board an aircraft and fly to the destination. Travellers then try to cross the moat, but maritime interceptions push them back into gulag barbicans like Guantanamo, cages like Nauru, or coastal buffer states like Libya. When the system is viewed in its totality, it becomes clear why so many unauthorised migrants, including asylum seekers, did not simply get into line to wait their legal turn. There often is no line. States have deliberately blocked most paths, even for refugees.

Given the convergence on a wide range of remote control policies throughout the rich countries of the Global North, how should one assess its 'radically innovative character' (Zolberg 1997, 308)? This analysis requires careful specification of space and avoiding the postmodern impulse to throw geography out of the study of geography (Favell 2007, 269). Borders are not everywhere or nowhere. One of the main drivers of the logic of remote control is that the precise location of the border line matters. Keeping migrants far away from the border is not driven by the demise of territoriality, but rather, its increasing relevance as access to rights is conditioned on a foreigner's position in space. The externalisation of border control maintains the bubble around norms and rights that limits their activation because political borders are tied to legal jurisdiction. Measures to externalise control thousands of kilometres away through selective issuance of visas and controls at airports of embarkation simultaneously take place with hyper-territorialisation. Agents prevent unwanted migrants from setting foot on U.S. soil by physically blocking their access at border posts. European airports are designed so that rights of asylum are much more restricted for someone standing on the inside of a lounge door. Judges rule on whether a lighthouse or abandoned section of bridge is dry land and thus the gateway to entering the United States, or a waypoint in a journey that will end in forced repatriation.

A second major implication of remote control is that it undermines one of the constitutive features of the modern state – monopolisation of the legitimate means of movement. States directly and indirectly share this control. They share it most directly in the U.S. pre-clearance programme in certain foreign airports, U.S. security screenings of travellers on foreign soil, juxtaposed controls such as those around the English Channel, and shiprider schemes of European states off West Africa or the United States in the waters of the Western Hemisphere. Sociological legitimacy lies on a continuum, and the legitimacy of dual or multiple state controls in the same territory is not completely established. At least formally, states claim that they have full autonomy over practices in their territory and only allow in foreign agents under conditions of their choosing. The sensitivity of foreign intervention often causes weaker states to hide the practices of stronger states for whom they are doing the business of migration control.

Rather than each nation-state exercising full practical sovereignty over its own territory, there is a 'hierarchy of sovereignty' (Lake 2009) in which more powerful states exercise considerable influence over migratory movements from and through other states' territories. This is not only accomplished by the unique U.S. hyper-power, but also by middle powers like Australia and Canada, which have stationed migration control liaison agents at foreign airports around the world and which share intelligence with the United States.

Measuring deterrence

Careful specification of space is also critical for efforts to establish the extent to which states control unauthorised immigration, particularly clandestine entries. Many surveys

of state policies, at least in liberal democracies, are skeptical of their efficacy, particularly once a particular migration circuit is consolidated through social networks and other feedback mechanisms of 'cumulative causation' (Massey et al. 1999; Cornelius et al. 2004). A key distinction in deterrence is whether potential migrants are dissuaded from ever leaving from their homes in the first place – remote deterrence – and whether they succeed in illegally crossing a border once they have undertaken the enterprise – immediate physical deterrence (FitzGerald and Alarcón 2013). The distinction has been empirically measured in surveys in which there is evidence of remote deterrence, as potential migrants reported they were afraid to attempt a clandestine crossing because of the physical risks, but little immediate physical deterrence of those who made the decision to attempt an illegal crossing and typically persevered until they succeeded (Hicken, Fishbein, and Lisle 2011).

Measuring deterrence is a difficult task, as it is hard to address the counterfactual of how much more deterrence there would be in the absence of border controls, given that myriad economic and social factors are not held constant in the real world (Hatton 2017). Remote control takes place on a continuum of distance. Control and deterrence takes place over much longer distances and across multiple state borders than the kinds of deterrence simply measured at a given land border (Seghetti 2014). Moreover, remote controls have countervailing effects in different countries. The paradox of transit states like Libya is that on the one hand, knowledge of buffering can deter some potential migrants from ever even attempting to enter the buffer's territory. Repatriations and other expulsions drive migrants further away. On the other hand, migrants already in the buffer country who face hostile conditions have an incentive to keep moving to a safer and more welcoming country (FitzGerald 2019). Taking into account remote control suggests far more deterrence than simply estimating how many people cross a border without papers.

Limits of remote control

The fact that there is integrated architecture of repulsion does not mean that remote control is always successful on its own terms. Migrants creatively find ways to circumvent controls. Irregular migrants are aided by a people smuggling industry that has developed around the world to facilitate irregular travel in an endless game with agents of powerful states stationed abroad who attempt to shut down these paths (Sanchez 2015). Irregular migrants are savvy about the power of the files. One response is to destroy passports en route so states cannot identify the traveller and her nationality and use that knowledge for forced repatriation. Jewish refugees in the 1940s trying to reach Palestine used this technique, which remains a popular strategy (Yahil 1974; Zhang 2007).

Many unauthorised journeys are successful. Millions of the estimated 50 million irregular migrants around the world in 2009 were able to circumvent remote controls (UNDP 2009). In the United States alone, home to an estimated 10.5 million unauthorised migrants in 2017, more than half came from somewhere besides Mexico and were evidently able to evade remote controls on the air, land, and sea (Pew 2019). Even if many irregular migrants entered legally and overstayed their visas, these are failures of remote control policies aimed at preventing intending long-term immigrants from obtaining temporary visas (see Düvell 2008, 487).

Remote control does not mean that states have the capacity to manage migration exactly as they wish, or to be able to turn flows on and off by pressing a button.

Neither does the destination country always wield the most effective tools to control mobility. Sending countries may have even greater power. The only modern states that seriously restrict exit are totalitarian and usually have extensive state capacity (Zolberg 1999). They are not constrained by the judiciaries, rights groups, and free trade lobbies identified by Joppke (1998) and Hollifield (2004) in their work on embedded liberalism.

Transit states can also maintain autonomy and refuse to cooperate with powerful destination states, or quietly undermine remote controls to serve their own interests. For example, powerful states in the EU interior like Germany are buffered by states at the external border like Italy. Under the Dublin asylum system, the first EU state of entry is normally responsible for assessing an asylum seeker's case. Irregular migrants are supposed to be fingerprinted into a common European database, EURODAC, to determine where they first entered the EU. Keenly aware of this dynamic, Italian authorities have often deliberately avoided fingerprinting migrants who were expected to pass through Italy to seek asylum elsewhere (Barry 2014). States do not always want greater information about individuals, because identification of an individual in the state's territory is linked to the duty to protect rights. Turning a blind eye toward transit migrants is a means of evading obligations.

Finally, the ability of states to exercise remote controls is contingent on institutional factors in particular spaces. The courts are a constraint on extra-territorial maritime interception in the unique supranational environment of parties to the European Convention on Human Rights. The courts in the other three cases only constrain state action in legally liminal spaces, such as gulag, classical, frontier, and airport barbicans, when there is a tradition of drawing directly on international law and strong rights of territorial personhood. However, transnational advocates softly constrain many policies through distinct legal and political mechanisms. Human rights organisations and investigative journalists increasingly range beyond their home countries and highlight the secret practices and effects of remote control policies by proxy that violate norms of long-distance humanitarianism even if they successfully evade the spirit of refugee law. Courts draw from civil society's knowledge to establish the risks of refoulement when deciding landmark cases. Feedback loops between the legal and political mechanisms intensify their effects. At the same time, the willingness of transit and origin states to cooperate with the Global North on mobility controls, such as restricting exit, buffering transit, and allowing readmission, is linked to other interests in relations of asymmetric interdependence, in ways that can inhibit powerful destination states from simply imposing their will (FitzGerald 2019).

As states continue to probe for ways to ratchet up remote controls, research is needed to further assess the conditions under which institutions constrain state action. Better measurements of the deterrent effect, if any, of specific remote controls is also urgent. Finally, as the extent of remote controls becomes better publicised, particularly in buffer states, the reactions of civil society and courts will determine the extent to which these policies are seen as legitimate. Just how far these policies undermine a single state's monopoly over the legitimate means of movement continues to evolve.

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