Mapping the Construction of EU Borderspaces as Necropolitical Zones of Exception

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This paper maps the politico-legal construction of EU borderspaces as necropolitical zones of exception, foregrounding the systematic aspects underlying the constant control and violence in EU borderspaces, which risk being obscured in current discourses of 'crisis' and corresponding policy responses. The first part of the paper conceptualises the militarised borderspace emerging under contemporary control techniques; mapping what we refer to as the horizontal extension of border control through agreements with countries of origin and transit, and the vertical extension of surveillance through drones or unmanned aerial vehicles (UAVs). The second part analyses how these control techniques construct bio- and necropolitical borderspaces as fluctuating zones of exception horizontally and vertically extended beyond the territorial border, moving with the body of people in a migrant or refugee position who are constantly exposed to the racialised threat of violence and death. The proposed concept of borderspaces complements Balibar's critical border topography with Eyal Weizman's politics of verticality, and nuances Giorgio Agamben's conceptualisation of the state of exception drawing on Achille Mbembe's and Alexander Weheliye's critical readings of necropolitical techniques and racialising assemblages.

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Introduction

The year 2015 has developed into what many refer to as a 'refugee crisis',[1] during which people in a refugee or migrant position are repeatedly contained, controlled, and exposed to violence and death at the multiple internal and external borderspaces of the European Union.[2] Describing the situation as a 'crisis' risks obscuring the systematic aspects underlying the construction of borderspaces as zones of exception. Whereas the situation at the EU border has intensified during the summer and autumn of 2015, the forms of extreme violence constantly occurring at the borders of the European Union are not new. This paper interrogates these forms of extreme violence.

The first part of the paper maps the militarised borderspace emerging under contemporary control techniques; specifically, what we refer to as the horizontal extension of border control through agreements with countries of origin and transit, and the vertical intensification of surveillance through drones or unmanned aerial vehicles (UAVs). The second part analyses how these techniques construct biopolitical borderspaces as zones of exception horizontally and vertically extended beyond the territorial border. In this perspective, the borderspace manifests beyond, at, and within the territorial borders of the EU, as a fluctuating zone of exception moving with the body of people in a migrant or refugee position who are constantly exposed to the threat of violence and death. Here, the paper combines Giorgio Agamben's conceptualisation of the state of exception with Achille Mbembe's and Alexander Weheliye's critical readings of the ways in which necropolitical techniques and racial-

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[1] For a critical engagement with the 'crisis' discourse, see Paolo Novak and others, 'Is There a Refugee Crisis in Europe? A Roundtable Discussion' (*Centre for Migration and Diaspora Studies, School of Oriental and African Studies, University of London*, October 2015) <https://www.soas.ac.uk/migrationdiaspora/seminarsevents/15oct2015-is-there-a-refugee-crisis-in-europe-a-roundtable-discussion-with-soas-academics-and-studen.html> accessed 7 November 2015.

[2] A number of initiatives seeking to counteract border violence and to support cross-border movement provide regular updates on the rapidly changing situation in different borderspaces: <http://alarmphone.org/da>, <http://live.w2eu.info>, <http://moving-europe.org>, <https://beatingborders.wordpress.com>.

ising assemblages confront structurally differentiated bodies with different levels of violence.

We use the term 'person in a refugee or migrant position' in order to foreground how contemporary control techniques categorise persons on the move and construct positions of vulnerability. The expression aims to make visible the situation of restricted cross-border movement and vulnerability to selective migration control without simplifying the complexity of reasons to move and without condoning the racialised hierarchical ranking of distinct mobilities.

As two young white authors with European citizenship we are not directly targeted by the oppressive mechanisms of the EU border regime, and have the privilege to choose whether or not to engage in the struggle against it. While we are not writing from a structurally vulnerable position, we still find it important to intervene and contribute to the deconstruction of the structures underlying the EU border regime.[3] While staying critical, we have not felt the violence of the border regime on our own bodies. When we pass a border, it is with a passport and without fear of being detained, rejected or expelled due to lack of citizenship. Keeping this in mind implies a critical approach to our own position as authors. We do not seek to speak on behalf of anyone nor pretend to know the actual experience of these violent practices at the borders of Europe.

1. Mapping the Borderspace

In recent decades, many governments have (re)focused their attention and resources on questions of national security and border control.[4] Central to this project has been the increasing militarisation and securitisation of border policing. This section interrogates the specific surveillance and policy techniques underlying the militarised bor-

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[3] Gayatri Spivak, 'Can the Subaltern Speak?' in Cary Nelson and Lawrence Grossberg (eds), *Marxism and the Interpretation of Culture* (University of Illinois Press 1988).

[4] Nicholas De Genova and Nathalie Peutz, 'Introduction' in Nicholas De Genova and Nathalie Peutz (eds), *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement* (Duke University Press 2010) 4.

der circumscribing the EU's so-called 'area of justice, freedom and security'.[5] They imply not only the physical fortification of territorial borders, but also the horizontal and vertical extension of the border-space.

Firstly, the borders are ceasing to be stable territorial demarcations. They are being displaced and multiplied, which implies new logics of control and mobility.[6] The deterritorialisation of migration control is achieved through policy instruments such as the European Neighbourhood Policy (ENP), consisting mainly of bilateral policy agreements between the EU and respective partner countries. These agreements trade political and economic concessions against the intensification of border control, frequently including the deployment of military or quasi-military resources. Secondly, the multitude of technological applications available for 'smart border control' include a wide range of what would usually be regarded as military equipment.[7] Drones or unmanned aerial vehicles (UAVs) are becoming a crucial technological element in this regime of border control.[8] These contemporary policies and technologies mark the intensification of bordering practices, as surveillance is multiplied along

[5] Eur-lex, 'The Gradual Establishment of an Area of Freedom, Security and Justice' (*EUR-lex summaries of EU legislation*) <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:a11000> accessed 4 August 2015. For further discussion, see: Anneliese Baldaccini, Elspeth Guild and Helen Toner, *Whose Freedom, Security and Justice? EU Immigration and Asylum Law and Policy* (Bloomsbury Publishing 2007).

[6] Rutvica Andrijasevic, 'From Exception to Excess' in De Genova and Peutz (eds) (n 4) 153.

[7] Luisa Marin, 'Is Europe Turning into a "Technological Fortress"? Innovation and Technology for the Management of EU's External Borders: Reflections on Frontex and EUROSUR' in Michiel Heldeweg and Evisa Kica (eds), *Regulating Technological Innovation* (Palgrave Macmillan 2011) 132-134, 138 and 143.

[8] Drone surveillance was introduced at the US-Mexican border in 2006 and today drones patrol more than half of the border, with the long-term goal of 24/7 UAV operations. Associated Press, 'Half of US-Mexico Border Now Patrolled Only by Drone' (*The Guardian*, 13 November 2014) <http://www.theguardian.com/world/2014/nov/13/half-us-mexico-border-patrolled-drone> accessed 11 September 2015; Homeland Security Office of Inspector General, 'US Customs and Border Protection's Unmanned Aircraft System Program Does Not Achieve Intended Results or Recognize All Costs of Operations, OIG-15-17' (2014) 5 <http://www.oig.dhs.gov/assets/Mgmt/2015/OIG_15-17_Dec14.pdf> accessed 11 September 2015.

horizontal and vertical lines. Horizontality and verticality are techniques of mapping what we call 'the borderspace'. Political agreements with countries of origin and transit extend the borderspace horizontally, while the introduction of airspace surveillance extends the space of border control vertically.

The first part of this section builds on concepts in critical border studies to scrutinise the complex bordering processes underlying the horizontal multiplication of border control. Borders are complex and contradictory political phenomena, not merely black lines on maps. As crucially highlighted by the French philosopher Étienne Balibar, 'borders are no longer the shores of the political, but have indeed become ... *things* within the space of the political itself'.[9] An important aspect of the complex conceptualisation of borders proposed by Balibar is their heterogeneity and ubiquity, emphasising that borders are increasingly reproduced both outside of and within the territory of sovereign states.[10] Thus, Balibar's multi-dimensional conceptualisation of borders points towards an understanding of borders not merely as lines dividing territory but as 'borderspaces' that include the territory around and beyond the frontier, and which are constantly being negotiated and expanded. However, Balibar's lens does not attend to surveillance technologies that extend the borderspace beyond the horizontal plane into the airspace above the border. Therefore, the second part of this section complements Balibar's conceptualisation: It discusses the vertical control techniques aimed at mapping and surveying the territory from above, drawing on Eyal Weizman's theorisation of verticality.[11] Both horizontal and vertical lines of control are part of the architectural construction of the borderspace.

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[9] Étienne Balibar, *Politics and the Other Scene* (Verso 2002) 92 (emphasis in original).

[10] Bridget Anderson, Nandita Sharma and Cynthia Wright, 'Editorial: Why No Borders?' (2009) 26 Refuge 6.

[11] Eyal Weizman, 'The Politics of Verticality: The West Bank as an Architectural Construction' in Anselm Franke and Walter Konig (eds), *Territories: Islands, Camps and other States of Utopia* (Institute for Contemporary Art 2003).

1.1 The Horizontal Extension of Border Control: Cooperation with Countries of Origin and Transit

Politico-legal agreements on border control and readmission extend the border horizontally within and beyond the territorial frontier. The ENP provides the framework for corresponding agreements: The ENP is a foreign policy instrument governing various areas of co-operation between the EU and neighbouring countries, consisting mainly of bilateral policy agreements with respective partner countries at the EU's southern and eastern borders.[12] The agreements negotiated under the framework of the ENP intertwine so-called migration management and securitisation politics. As the EU Home Affairs department emphasises, 'if it is to be effective in better managing migration and mobility and in responding to security challenges, the EU needs to work with countries outside the EU'.[13] For this purpose, the EU negotiates Action Plans and Mobility Partnerships with neighbouring countries. 12 of the 16 neighbouring countries under the coverage of the ENP have already agreed to Action Plans outlining specific steps to be taken.[14] Alongside 'economic integration', 'democracy' and 'rule of law',[15] the agreements

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[12] Anneliese Baldaccini, 'The External Dimension of the EU's Asylum and Immigration Policies: Old Concerns and New Approaches' in Helen Toner and Elspeth Guild (eds), *Whose Freedom, Security and Justice? EU Immigration and Asylum Law and Policy* (Hart Publishing 2007).

[13] 'DGs - Home Affairs - What We Do - International Affairs' <http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/index_en.htm> accessed 14 December 2014.

[14] These countries are: Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Morocco, Palestine, Tunisia and Ukraine. Algeria is currently negotiating ENP agreements. Belarus, Libya and Syria are only marginally covered by ENP cooperation. European External Action Service, 'European Neighbourhood Policy (ENP)' <http://eeas.europa.eu/enp/about-us/index_en.htm> accessed 17 August 2015. The EU framework is complemented by agreements between specific EU members and EU neighbour states, such as the readmission agreement between Spain and Morocco, or the readmission agreement between Italy and Libya. For further information, see: Acuerdo entre el Reino de España y el Reino de Marruecos relativo a la circulación de personas, el transito y la readmisión de extranjeros entrados ilegalmente 1992 (BOE-A-1992-8976); Treaty of Friendship, Partnership, and Cooperation between the Italian Republic and the Great Socialist People's Libyan Arab Jamahiriya 2008.

[15] European External Action Service EEAS, 'European Neighbourhood Policy (ENP)' <http://eeas.europa.eu/enp/index_en.htm> accessed 18 December 2015.

promote violent migration management through increased border control and readmission conditions.

Balibar's concepts of heterogeneity and ubiquity help to further illuminate the bordering practices underlying the operation of the ENP. For Balibar, 'heterogeneity' refers to the multiplicity of functions fulfilled simultaneously by borders, and the trend that the many different instantiations of these functions no longer tend to coincide. The result is the ubiquity of borders, namely that '*some borders are no longer situated at the borders at all,* in the geographico-politico-administrative sense of the term'.[16] The ENP incentivises cooperating countries to reinforce the territorial border, while also extending border controls beyond the territorial border itself through the externalisation and internalisation of border control. The Moroccan-Spanish border complex is a pertinent example for assessing the logic and consequences of the ENP, given that Morocco is the only country with purported 'advanced status' and the first country to have signed a Mobility Partnership with the EU in the Mediterranean. The 2006 EU-Morocco Action Plan, negotiated and signed as part of the ENP, seeks to 'prevent and combat illegal migration to and via Morocco', 'improve cooperation with regard to the readmission of Moroccan nationals, stateless persons and nationals of third countries', and 'strengthen border management' through equipment and support to staff training, increased control and surveillance of border areas, and reinforced regional cooperation.[17] The 2013 Action Plan, which followed Morocco's acquisition of advanced status in 2008, congratulates Morocco for the measures

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[16] Balibar, *Politics and the Other Scene* (n 9) 84 (emphasis in original). Balibar also uses the expression 'vacillation' to describe the same phenomenon that borders are no longer coterminous with territorial lines, marking the beginning and end of sovereign states, to the effect that 'they are no longer localisable in an unequivocal fashion'. Étienne Balibar, 'The Borders of Europe' in Pheng Cheah and Bruce Robbins (eds), *Cosmopolitics: Thinking and Feeling Beyond the Nation* (University of Minnesota Press 1998) 219.

[17] European External Action Service, 'EU-Morocco ENP Action Plan 2005' §51 <http://www.enpi-info.eu/library/content/eu-morocco-enp-action-plan> accessed 2 January 2015.

taken and re-emphasises the continuing cooperation necessary for effective border control.[18]

Thus, the Spanish-Moroccan border(s) are produced at the territorial border itself, but also reproduced beyond and within sovereign states. Firstly, the ENP reinforces control of the maritime and terrestrial borders separating Morocco from Spain. The territorial border between Spain and Morocco is primarily a maritime border. Only 14 kilometres separate the two countries at its closest point.[19] The sea separating Morocco and Spain is tightly monitored by the European border enforcement agency Frontex, the Spanish Guardia Civil and the Moroccan Royal Marines. The Spanish enclaves Ceuta and Melilla in Morocco mark the only terrestrial border between North Africa and Europe. These land borders are reinforced through several high fences, tightly patrolled on both sides. Secondly, the ENP marks the externalisation of the territorial border, effectively turning the EU's neighbour states into buffer zones supporting Europe's quest to deter unwanted migration flows.[20] Through cooperation with Moroccan authorities, persons without documents are not only prevented from crossing the border, but also barred from approaching the zones close to the territorial frontier. Moroccan Forces Auxiliaries stop zodiacs at the coast before they can embark on the journey towards Spain. Self-organised forest camps close to the border fences of Ceuta and Melilla are regularly subjected to violent raids and destruction. Persons in a refugee or migrant position in cities close to the border are taken and transported to cities further south against their will. Thirdly, borders are frequently reproduced within European territory. Physical manifestations involve detention centres for arriving migrants and refu-

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[18] European External Action Service, 'EU-Morocco ENP Action Plan 2013' <http://eeas.europa.eu/morocco/index_en.htm> accessed 26 June 2015.

[19] Hicham Rachidi, 'Buffer Zones around Morocco: Oujda, the Enclaves of Ceuta and Melilla, and Western Sahara' in Olivier Clochard, Emmanuel Blanchard and Caroline Maillary (eds), *Atlas of Migration in Europe* (Migreurop, New Internationalist 2013) 122.

[20] Olivier Clochard and others, 'At the Margins of Europe: The Externalisation of Migration Controls' (Migreurop 2011). See also Katya Salmi, 'Abused and Expelled: Ill-Treatment of Sub-Saharan African Migrants in Morocco' (Human Rights Watch 2014).

gees, such as the Centros de Internamiento de Extranjeros in Spain.[21] Spain also participated in the joint EU operation Mos Maiorum in 2014, a 14-day police operation aimed at the detection, detention and deportation of illegalised migrants.[22] Agreements with countries of origin and transit, such as the readmission agreement currently being negotiated between the EU and Morocco,[23] make it possible to deport persons marked as irregular and unwanted. Persons constructed into a refugee or migrant position therefore encounter the borderspace again and again.

1.2 The Vertical Extension of Border Control: The Pursuit of Drone Surveillance

The European Border Agency, Frontex, is currently showing a keen interest in the high-tech area of unmanned drone surveillance.[24] This interest is manifesting itself in the context of the European Border Surveillance System (EUROSUR), which came into force in December 2013.[25] EUROSUR is an information exchange system for border

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[21] Carlos Arce and Peio Aierbe, 'Migrant Holding Centres in Spain: A Story of Human Rights Abuses' in Clochard et al (eds) (n 19) 118.

[22] 'EU: "A Huge Number of Migrants": Over 19,000 People Apprehended during Joint Police Operation Mos Maiorum' (*Statewatch*, 23 January 2015) <http://statewatch.org/news/2015/jan/mm-final-report.html> accessed 18 December 2015; 'Final Report: Documenting Racist Controls with Mapping Software' (*Map Mos Maiorum*) <http://map.nadir.org/ushahidi/page/index/7> accessed 18 December 2015.

[23] For an article listing 10 reasons why Morocco should reject the proposed readmission agreement, see Abdelkrim Belguendouz, 'Maroc-UE: Non à L'accord de Réadmission!' [2015] Dounia News <https://akhbardounia.wordpress.com/2015/06/07/maroc-ue-non-a-laccord-de-readmission> accessed 22 June 2015.

[24] Marin (n 7) 135 and 142.

[25] European Commission, 'EUROSUR Kicks off: New Tools to Save Migrants' Lives and Prevent Crime at EU Borders, IP/13/1182' (29 November 2013) <http://europa.eu/rapid/press-release_IP-13-1182_en.htm> accessed 11 September 2015; Ben Hayes, Chris Jones and Eric Töpfer, 'Eurodrones, Inc.' (Statewatch and Transnational Institute 2014) 65 <https://www.tni.org/en/eurodrones> accessed 11 September 2015.

management,[26] and is officially presented as an 'important contribution to saving lives of those who put themselves in danger to reach Europe's shores'.[27] One of its aims is to provide near real time information exchange of border-related data.[28] With EUROSUR, new technologies and infrastructure will be developed for border control.[29]

The EUROSUR system operates through the establishment of National Coordination Centres (NCC), which Frontex connects to the EUROSUR communication network.[30] According to the EUROSUR regulations, the NCCs should 'operate twenty-four hours a day and seven days a week.'[31] Frontex also plays an important role in the analysis of the collected data, making a European situational picture and an intelligence picture of the external borders. The member states will divide their external borders into 'border sections' and the area beyond the external border (the so-called 'pre-frontier area') will also be included in the strategic border analysis.[32]

At the moment UAVs are not part of the EUROSUR framework, as they are currently prohibited in civil airspace, but research in this area is prioritised.[33] The objective of 24/7 real time vertical surveillance and UAVs represents an enhancement of existing surveillance techniques, such as the use of satellites. It is therefore a question of intensification of existing logics.

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[26] 'Eurosur' (*Frontex*, undated) <http://frontex.europa.eu/intelligence/eurosur> accessed 27 September 2015.

[27] European Commission, 'EUROSUR Kicks off' (n 25).

[28] European Union, DG Migration and Home Affairs, 'European Border Surveillance System (EUROSUR)' (DG Migration and Home Affairs Facts & Figures 2013) 2 <http://ec.europa.eu/dgs/home-affairs/e-library/multimedia/infographics/index_en.htm#080126248ad359ff/c_> accessed 27 September 2015.

[29] Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur) 2013 (L 295/11) Preamble (1) and (2).

[30] European Union, DG Migration and Home Affairs (n 28) 4.

[31] Regulation (EU) No 1052/2013 (n 29).

[32] European Union, DG Migration and Home Affairs (n 28) 10; Regulation (EU) No 1052/2013 (n 29).

[33] European Union, DG Migration and Home Affairs (n 28) 9.

SUNNY (Smart UNattended airborne sensor Network for detection of vessels used for cross border crime and irregular entrY), an EU financed research project, aims to develop software to track illegal entry at EU borders, using drone technology. The SUNNY Project is running from 1 January 2014 to 30 June 2017, with an EU contribution of €9,569,977.68 of a total budget of €14,439,544.88. It is funded by the framework program FP7 and aims to contribute to the EUROSUR Project.[34] The technology is supposed to 'patrol large border areas to detect suspicious targets and provide global situation awareness.'[35] The aim is enhanced technology for unmanned air surveillance of the EU's external borders.[36] Due to the prohibition of UAVs in civilian airspace,[37] Frontex has reportedly been interested in hybrid aerial surveillance drones, which can either have a pilot on board or be operated by remote control.[38] Currently there are proposals to change the legislation and have common rules for operating drones in Europe.[39]

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[34] European Commission, 'SUNNY, Smart Unmanned Aerial Vehicle Sensor Network for Detection of Border Crossing and Illegal Entry' (Community Research and Development Information Service, Projects and Results) Project reference: 313243, 2014 <http://cordis.europa.eu/project/rcn/111498_en.html> accessed 27 September 2015.

[35] ibid.

[36] ibid.

[37] The legal prohibition constitutes one of the unknown elements in the SUNNY project. The SUNNY project therefore states that the assessment of the actual employment of the technological results developed by the FP7 SUNNY project cannot be made before the project has finished in 2017. See SUNNY Project website: 'About SUNNY' (*SUNNY Project*) <http://www.sunnyproject.eu/about.aspx#overview> accessed 27 September 2015.

[38] Nikolaj Nielsen, 'EU Looks to "Hybrid Drones" for Legal Shortcut on Migration' (*EU Observer*, 14 October 2013) <https://euobserver.com/priv-immigration/121735> accessed 27 September 2015; Raluca Csernatoni, 'Policy Briefs: "The Game of Drones"—Hybrid Unmanned Vehicles as the Next Step in EU Defence' (*Isis Europe Blog*, 24 June 2014) <https://isiseurope.wordpress.com/2014/06/25/policy-brief-the-game-of-drones-hybrid-unmanned-vehicles-as-the-next-step-in-eu-defence> accessed 27 September 2015.

[39] EASA European Aviation Safety Agency, 'Proposal to Create Common Rules for Operating Drones in Europe' (2015) <http://easa.europa.eu/system/files/dfu/205933-01-EASA_Summary%20of%20the%20ANPA.pdf> accessed 18 December 2015; Catherine Stupp, 'Europe's First Civil Drone Law Gets a Boost in Parliament'

Taking these recent developments into consideration, the potential of a '24/7 real time' vertical space of migration control is opening up. This is not least due to the employment of UAVs at the Mexican-US border, and the political desire to introduce UAVs at the external borders of the EU. UAVs constitute an architectural technology, which is part of the larger architectural and topographical space of the borders.[40] Understanding the borderspace as an architectural construction relates to the architect and academic Eyal Weizman's critical examination of architecture 'as a conceptual way of understanding political issues as constructed realities'.[41] Vertical surveillance techniques are aimed at mapping the territory of the borders, surveying it from above, resembling Weizman's concept of a *politics of verticality*. The politics of verticality refers to a process that splits one territory into a series of territories by conceiving it three-dimensionally, as volume, rather than as a two-dimensional surface area.[42]

The airspace is not inscribed on traditional maps, where the horizontal line of the borders between nation-states is prevalent. Nonetheless, as Weizman shows, the space above the border is a highly ordered zone, with satellites, airplanes and UAVs dividing and organising its extension. Thus, while borders might be imagined as a linear and, to a certain extent, horizontal structure or surface, they are in fact highly vertical spaces that produce an all-encompassing overview of the bodies on the ground and the terrain of the borderspace. The borderspace extends beyond the horizontal plane into the airspace above the border area.

The vertical dimension does not reduce the significance of the physical border posts and walls in the borderspace. The overall architecture of the borderspace is a combination of horizontal and vertical lines of force, of vessels, vehicles, satellites, aircraft and the

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(*EurActiv | EU News & policy debates*, 17 July 2015) <http://www.euractiv.com/sections/infosociety/europes-first-civil-drone-law-gets-boost-parliament-316396> accessed 18 December 2015.

[40] Étienne Balibar, 'Outlines of a Topography of Cruelty: Citizenship and Civility in the Era of Global Violence' (2001) 8 Constellations 15, 15.

[41] Eyal Weizman, *Hollow Land: Israel's Architecture of Occupation* (Verso 2012) 6.

[42] Weizman, 'The Politics of Verticality' (n 11) 65-117.

planned use of drones, physical fortifications and the various ways the borderspace is being extended.[43] The political agreements with countries of origin and transit, and the plan of introducing 24/7 real time vertical surveillance, can be seen as respectively constituting horizontal and vertical lines in a constellation of the borderspace—a space for control and regulation of bodies. Imagining the borderspace as a constellation of horizontal and vertical lines or perspectives allows us to comprehend the particularity of different temporal-spatial configurations of power structures. It opens a space for nuancing the highly mobile borderspace.

2. The Borderspace as a Zone of Exception

This section analyses the implications of the space of migration control mapped in the previous section, focusing on the construction of zones of exception and violence. The intensifying horizontal and vertical surveillance of borders constitute biopolitical mechanisms in the architecture of the borderspace, producing the border as a constant 'zone of exception' in which violence is targeted at certain bodies in a migrant or refugee position and exceptional measures become part of the politico-legal order.[44] The constantly mobile and mobilisable borderspace creates what Nicholas De Genova and Nathalie Peutz call 'spaces of deportability'.[45] The borderspace is multiplied horizontally and vertically, but although borderspaces are increasingly mobilised away from the territorial border itself, the border is not everywhere for everyone. Zones of exception are instantiated along cross-cutting racialised, gendered, and sexualised hierarchies. The current use of exceptional and emergency measures at the external and internal borders of Europe, in response to the 'refugee crisis', is squarely located in the proposed notion of the borderspace as a fluctuating state of exception.

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[43] For a discussion of maps and the governing of territories, see ibid, and Regulation (EU) No 1052/2013 (n 29).

[44] Drawing on Giorgio Agamben, *State of Exception* (Kevin Attell tr, University of Chicago Press 2005).

[45] De Genova and Peutz (n 4) 12.

2.1 Biopolitical Targeting in the Fluctuating Borderspace

Biopolitics denominates the relation between life and politics and operates through a multiplicity of regulative techniques in the everyday lives of people. As conceptualised by Michel Foucault, biopolitics designates 'the entry of phenomena peculiar to the life of the human species into the order of knowledge and power, into the sphere of political techniques'.[46] The birth of biopolitics is intimately linked with the constitution of capitalist society, and entails a new kind of power with a variety of techniques that are life-administrating and differ from the old sovereign right to kill.[47] Borders are a core biopolitical institution. In their function of segmentation and segregation, they instantiate what Balibar termed the 'polysemic character' of borders, designating the phenomenon that 'borders never exist in the same way for individuals belonging to different social groups'.[48] What on a map appears to be the same border has very different material and symbolic meanings for different people. Polysemy is not an arbitrary process. On the contrary, borders are designed to actively '*differentiate* between individuals in terms of social class'.[49] Balibar's emphasis of differentiation along the lines of social class is significant, disrupting the conceptualisation of borders as separating the world into neat nation-state boxes, instead emphasising how national separation interacts with international class differentiation. Biopolitical border techniques attempt to shape and construct socio-politically differentiated categories of people, closely interrelated but not coterminous with national dividing lines. Balibar supplements his theoretical account with an unusually detailed phenomenological description of the polysemic character of borders: the passport of a 'rich person from a rich country … increasingly *signifies* not just mere national belonging, protection and a right of citizenship, but a *surplus* of rights—in particular, a world right to

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[46] Michel Foucault, 'Right of Death and Power over Life' in *The History of Sexuality, Vol. 1: An Introduction* (Robert Hurley tr, Vintage 1990) 141-2.

[47] Thomas Lemke '"A Zone of Indistinction"—A Critique of Giorgio Agamben's Concept of Biopolitics' (2005) 3(1) Outlines: Critical Practice Studies 7. Also Foucault, *The History of Sexuality, Vol 1* (n 46) 136.

[48] Balibar, *Politics and the Other Scene* (n 9) 79.

[49] ibid 82 (emphasis in original).

circulate unhindered'.[50] In contrast, 'for a poor person from a poor country … the border … is a place he runs up against repeatedly, [becoming] a place where he *resides*'.[51] Persons constructed into a refugee or migrant position reside at the border in the sense of living close to the territorial border waiting for an attempt to cross, but also in the sense that the border moves with migrant bodies before and after the territorial border has been overcome, when they are repeatedly controlled, detained and deported.

The differential treatment of different forms of cross-border movement through racialised forms of socio-economic categorisation permeates agreements between the EU and its neighbours, making them a pertinent example of the polysemic nature of borders. The ENP embodies a biopolitical instrument focussed on political, economic, cultural and other forms of demarcation. The EU/Morocco Action Plan seeks to examine 'the possibilities for relaxing the formalities for certain jointly agreed categories of persons'[52] such as students and business professionals on the one hand, and 'practical support for activities to prevent illegal migration'[53] on the other. Moreover, the Mobility Partnership signed between the EU and Morocco in 2013 foresees negotiations between the EU and Morocco regarding the readmission of third-country nationals.[54] While certain categories of persons can cross the polysemic territorial border

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[50] ibid 83 (emphasis in original).

[51] ibid (emphasis in original).

[52] European External Action Service (n 18) 4.

[53] ibid 21.

[54] The Council of the European Union, 'Joint Declaration Establishing a Mobility Partnership between the Kingdom of Morocco and the European Union and Its Member States' (3 June 2013) 6139/13 ADD 1 REV 3, 3-8 <http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130607_declaration_conjointe-maroc_eu_version_3_6_13_en.pdf> accessed 16 December 2015. A readmission agreement between the EU and Morocco would complement the already existing readmission agreement between Morocco and Spain. Article 1 of the Spanish-Moroccan readmission agreement requires Morocco to 'readmit in its territory the third-country nationals who have illegally entered the territory of the requesting State [Spain]'. Agreement between the Kingdom of Spain and the Kingdom of Morocco on the Movement of People, the Transit and the Readmission of Foreigners who have Entered Illegally (1992) art 1. For the original Spanish version, see Acuerdo… (n 14).

unhindered, those persons who are defined as undesirable have no choice but to use irregular and illegalised migration routes. Deconstructing the operation of border biopolitics demonstrates how the politico-legal regulation of EU borders produces the migrant subject it then purports to fight.

Technological innovation and the concurrent intensification of vertical surveillance provide the tools to quickly detect illegalised migrant bodies. These vertical surveillance techniques could provide specific 24/7 information and contribute to a constantly updated and 'ready to act upon' mapping of the borderspace, thus reinforcing the knowledge, control and governance of the territory of the EU. This is particularly apparent in the EUROSUR Project's division of the borders and pre-frontiers in sections and impact levels.[55] The development obeys a logic of precision and knowledge of the kind seen in Israel's colonial occupation of Palestine, as described by Weizman. In occupied Palestine, Israeli settlements are placed on hilltops to exercise panoptic control of the surrounding areas.[56] With the use of precise techniques for surveillance and destruction, Israel aims to have precise knowledge of the occupied terrains and people's movements in it. These strategies have opened 'a new kind of warfare, as "surgical" killings administered from above.'[57] With the division of the territory into different levels of border sections, using multiple techniques of border reinforcement and control, the EUROSUR Project is adopting similar methods of dividing and controlling both ground and airspace. With its emphasis on 'accurate target recognition', 'focused surveillance capability' and 'accurate target identification and event detection',[58] the project seems to be permeated by a similar logic of precision and knowledge as that seen in Israel's control of Palestine. Indeed, precision and knowledge could be understood as the immanent logic of UAV technology, regardless of whether it is being employed for military, civil, humanitarian, security, or control purposes.

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[55] Regulation (EU) No 1052/2013 (n 29).

[56] See Achille Mbembe's discussion of 'Vertical Sovereignty' in 'Necropolitics' (2003) 15(1) Public Culture 11, 28.

[57] Weizman, 'The Politics of Verticality' (n 11) 116.

[58] European Commission, 'SUNNY' (n 34)

Aerial drone images of illegalised bordercrossers construct a biopolitical body-target constellation resembling a computer game, where arrows pointing at the bodies are the only missing feature. The bodies on the image look like blobs from a distance, an abstract version of bodies moving in the landscape. Watched from above, the blob-bodies are virtually in the borderspace, in a zone of indistinction. Operating from the sky, UAVs function as 'eyes' everywhere and are in an ongoing relationship with the blob-bodies captured in the image.[59] The 'eyes' can be imagined as micro-representatives of the sovereign power, attempting to capture a precise overview of movement in and beyond the territory. In this perspective, the precision of the vertical gaze becomes essential in the targeting and construction of states of exception. It is precisely the 'eyes' or the camera technology of the UAVs that the SUNNY Project also aims to refine, so that the UAVs can 'generate both RGB image, Near Infrared (NIR) image, and hyperspectral image, and use radar information to detect, discriminate, and track objects of interest inside complex environments, over land and sea.'[60] The aim is to enhance the target recognition and the possibility of threat evaluation.[61] The SUNNY Project is, in this sense, aimed at improving the vertical perspective, as a disembodied technical gaze controlled from a distance.[62]

Within this biopolitical context, the borderspace is constructed as a complex interweaving of surveillance techniques and massive physical fences. Both of these strategies are part of the administration of bodies crossing the border. These bodies are rapidly becoming 'targets', and information becomes essential for deciding upon the necessary intervention.[63] It becomes possible to follow certain bodies, collect information and act upon it at a later stage, thus reinforcing persons in a migrant or refugee position as constantly

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[60] European Commission, 'SUNNY' (n 34). RGB is a colour model, standing for red, green and blue.

[61] ibid.

[62] Hito Steyerl, 'In Free Fall: A Thought Experiment on Vertical Perspective' (*E-flux*, 2009) <http://www.e-flux.com/journal/in-free-fall-a-thought-experiment-on-vertical-perspective> accessed 1 December 2015.

[63] European Commission, 'SUNNY' (n 34).

deportable and constituting the border as immanent in their bodies. In this context, as bodies pass through the borderspace, the borderspace itself becomes extended. This reinforces or adds another layer of precision to the spaces of deportability, making removal a possibility or risk everywhere. The spaces of deportability emerge in the spheres of everyday life: when the police stop bikes, to check whether the light regulations are followed and at the same time inspects people's identification; or when train personnel and G4S guards check everyone's tickets, but only some people's identification, on the short train journey between Copenhagen and Malmö. With a total aerial and sophisticated overview of bodies, a targeted borderspace can emerge wherever illegalised bodies are found—and, with it, a space of deportability. In this perspective, spaces of deportability become both constantly mobile and a permanent condition. Persons in a migrant or refugee position never actually cross the border, never leave the borderspace, and live in a continuing relationship with a 'vertical deportation sovereignty'.[64] The borderspace is mobile, it fluctuates, and it can be instantiated anywhere, and at anytime, where persons in a refugee or migrant position are subjected to surveillance and control.

2.2 The Borderspace as a Necropolitical Zone of Exception

The fluctuating borderspace can be seen as a continuously constructed state of exception, where the targeted migrant body is always potentially subjected to exceptional measures and exposed to the constant threat of violence and death. Departing from Schmitt's definition of the sovereign as the one who decides on the exception,[65] the Italian philosopher Giorgio Agamben defines the modern state of exception as '*an attempt to include the exception itself within the juridical order by creating a zone of indistinction in which fact and law coincide.*'[66] In this state of exception, law is tied to life,

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[64] The proposed notion of a 'vertical deportation sovereignty' combines the concept of 'spaces of deportability' and the concept of 'vertical sovereignty'. For the former, see De Genova and Peutz (eds) (n 4). For the latter, see Mbembe (n 56).

[65] Carl Schmitt, *Political Theology* (George Schwab tr, MIT Press 1985) 5.

[66] Agamben, *State of Exception* (n 44) 26 (emphasis in original).

constituting the state of exception as a biopolitical mechanism.[67] Thus, it is a fluctuating, relational biopolitical mechanism, where law is suspended and the norm becomes indistinguishable from the exception. The application of the law is suspended in zones of exception, but the law remains in force. Therefore, it is not a space without or outside of the law, but in a constant relation with law. In Agamben's understanding, our current state of exception is an empty space, situated at the centre of power. In this empty space 'a human action with no relation to law stands before a norm with no relation to life.'[68] It is an effective biopolitical machinery, operating with worldwide violence, where permanent states of exceptions are created internally and international law is ignored externally. Nonetheless, the illusion that the law is applied is maintained.[69] This points towards the continuous manifestation of zones of intense violence, where the force of law is still operating.

It is in this state of exception, between outside and inside, that 'bare life', or the *homo sacer,* is produced. Bare life is what remains when human life is reduced to nothing but life. For Agamben, biopolitics is about the inclusion of bare life in the political realm, and forms the foundation of the juridico-institutional fortification of sovereign power. Agamben argues that 'the inclusion of bare life in the political realm constitutes the original—if concealed—nucleus of sovereign power. *It can even be said that the production of a biopolitical body is the original activity of sovereign power*'.[70] The exclusion of bare life from political life is not merely an exclusion, but a continuous relationship with the sovereign power,[71] not completely outside its realm but also not protected within the politico-legal system. Through the state of exception, bare life is both excluded from and captured within the political order.[72]

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[67] ibid 3 and 88.

[68] ibid 86.

[69] ibid 87.

[70] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Daniel Heller-Roazen tr, Stanford University Press 1998) 6 (emphasis in original).

[71] De Genova and Peutz (n 4) 37.

[72] Agamben, *Homo Sacer* (n 70) 6-9.

The overlapping horizontal and vertical techniques of EU border control are biopolitical mechanisms constructing zones of exception and conditions of bare life in the borderspace:[73] exclusion from political community, the constant possibility of suspending the law, the permanent threat of violence and death.[74] Firstly, many persons in a migrant or refugee position are not admitted into the political communities they are trying to join. Exclusion from the political community makes undesired subjects unable to claim what Hannah Arendt called the 'right to have rights'.[75] Secondly, and in addition, they become the exception to the law in two ways: migrants and asylum-seekers are defined out of the coverage of allegedly universal legal protections,[76] while states simultaneously act with impunity when it comes to breaches of the few laws purporting to protect their rights. One of many examples are the widely documented 'push-backs' at the Spanish-Moroccan border,[77] in violation

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[73] The aim here is not an undifferentiated depiction of persons in a migrant or refugee position as *'homo sacer'*, but to emphasise how the mechanisms of border control are biopolitical, because they attempt to construct these conditions. There is a crucial difference between the EU constructing and reinforcing biopolitical techniques of control, hence the constant possible production of zones of exception with the possibility of creating 'bare life', and designating migrant subjects as 'bare life', which obfuscates the many ways resistance takes place.

[74] Thanos Zartaloudis, *Giorgio Agamben: Power, Law and the Uses of Criticism* (Routledge 2011) 146.

[75] The Arendtian 'right to have rights' exposes the circularity of rights and membership. According to Arendt, rights depend on membership in political communities. However, at the same time, it is precisely the lack of membership that constitutes rightlessness, making subjects deprived of rights unable to claim them. See Hannah Arendt, *The Origins of Totalitarianism* (New edn, Harcourt Brace Jovanovich 1973) 296-297.

[76] The Universal Declaration of Human Rights (UDHR) was negotiated and adopted in 1948, when almost half the world was under colonial subjugation and consequently did not form part of the United Nations General Assembly. States and subjects under colonial rule did not participate in the negotiations, nor were they considered to fall under the allegedly universal scope of human rights. Today, the UDHR grounds a universal right to emigration in art 13, stipulating that 'Everyone has the right to leave any country, including his own, and return to his country', and anchors everyone's right 'to seek and enjoy in other countries asylum from persecution' in art 14. However, there is no provision for a right to entry. Seyla Benhabib, *Another Cosmopolitanism* (Oxford University Press 2008) 30.

[77] 'Spain Illegally Pushing Back Migrants to Morocco' (*European Council on Refugees and Exiles*, 22 November 2013)

of the principle of *non-refoulement* stipulated in art 33 of the 1951 Refugee Convention,[78] and the prohibition of collective returns under art 4 of Protocol 4 to the European Convention on Human Rights. Currently, several central European countries are reintroducing border controls at internal EU borders, suspending the Schengen agreement on free movement, using the exceptional measures available under the Code in order to respond to the 'serious threat to the internal security and public policy caused by the extraordinary influx of persons seeking international protection'.[79] Here too, the law is suspended temporarily but remains in force. Thirdly, due to their exclusion from protection and political community, persons in a migrant or refugee position are constantly exposed to violence and death at the territorial border itself, as well as within and beyond borders. In 2014 more than 3,000 migrants died in the Mediterranean,[80] and by November 2015 more than 3,328 persons who were denied access to safe legal routes died attempting to cross the maritime border, making it the deadliest year so far.[81] In the last 22 years, at least 22,394 persons in a migrant or refugee position have died attempting to overcome the borders enforced against them.[82] As

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<http://www.ecre.org/component/content/article/70-weekly-bulletin-articles/500-spain-illegally-pushing-back-migrants-to-morocco.html> accessed 7 January 2015.

[78] Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention).

[79] European Commission, 'Commission Issues Opinion on Temporary Reintroduction of Controls at Internal Borders: Germany and Austria Acting in Compliance with Schengen Borders Code' (EC Press Release, 23 October 2015) <http://europa.eu/rapid/press-release_IP-15-5900_en.htm> accessed 8 November 2015.

[80] 'As 2014 Ends, More Migrants Overcome the Obstacles to Arrive in Europe' (*Beating Borders*, 31 December 2014) <https://beatingborders.wordpress.com/2014/12/31/as-2014-ends-more-migrants-overcome-the-obstacles-to-arrive-in-europe> accessed 18 March 2015.

[81] International Organisation for Migration, 'Missing Migrants Project: Mediterranean' (2015) <http://missingmigrants.iom.int/en/mediterranean> accessed 1 December 2015.

[82] UNITED for Intercultural Action, 'List of 22,394 Documented Deaths of Asylum Seekers, Refugees and Migrants due to the Restrictive Policies of Fortress Europe' (European Network against Nationalism, Racism, Fascism and in Support of Migrants and Refugees 2015) <http://www.unitedagainstracism.org/campaigns/refugee-campaign/working-with-the-list-of-deaths> accessed 25 August 2015; Thomas Spijkerboer, 'The Human Costs of Border Control' (2007) 9 European Journal of Migration and Law 127.

Balibar notes, the border works 'as an institutional distribution of survival and death: it becomes a cornerstone of institutional violence'.[83] Agamben similarly diagnoses the decision over life and death as a modality of sovereign power.[84]

In distinction to Balibar, Agamben not only seeks to diagnose the modalities and manifestations of bare life, but also asserts the role of bare life in the production of sovereignty. Balibar describes the population of death zones as 'garbage humans', who are 'always already *superfluous*' and 'not likely to be productively used or exploited'.[85] In contrast, Agamben does not posit bare life as superfluous, instead seeking to uncover its 'essential function in modern politics'.[86] Accordingly, Agamben emphasises that 'we must ask why Western politics first constitutes itself through an exclusion (which is simultaneously an inclusion) of bare life'.[87] His answer is that the inclusive exclusion of bare life is the hidden foundation of Western sovereignty: 'bare life has the peculiar privilege of being that whose exclusion founds the city of men'.[88] The politics around bare life in the death zone are an inclusive exclusion—precisely because bare life is not relegated to redundancy, but remains intimately connected to the production and reproduction of sovereign states, turning the zone of bare life into the ever-politicisable territory of sovereignty.[89] When migration management becomes a tool in geopolitical manoeuvring, or when war rhetoric portrays vulnerable persons in a migrant or refugee position as a security danger and thereby justifies strict control measures, bare life is politicised in the sense that the construction of external threats produces inner coherence, sustaining the sovereign edifice.

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[83] Balibar, 'Outlines of a Topography of Cruelty' (n 40) 16.

[84] Thomas Lemke, Monica J Casper and Lisa Jean Moore, *Biopolitics: An Advanced Introduction* (NYU Press 2011) 55.

[85] Balibar, 'Outlines of a Topography of Cruelty' (n 40) 25 (emphasis in original).

[86] Agamben, *Homo Sacer* (n 70) 9.

[87] ibid 7.

[88] ibid. This crucial political connection between bare life and sovereignty is emphasised by many of Agamben's critics. Lemke portrays the exclusion of allegedly apolitical bare life as constitutive of sovereignty. Zartaloudis similarly describes the exclusion of bare life as the nutrient of every sovereign power. Lemke, Casper and Moore (n 84) 64; Zartaloudis (n 74).

[89] Zartaloudis (n 74) 145.

Here Achille Mbembe's concept of necropolitics, denominating 'contemporary forms of subjugation of life to the power of death',[90] enables a more nuanced understanding of the borderspace and the techniques rendering certain racialised bodies as threats unworthy of protection. The concept of necropower is not a completely new structure of power, but an extension, or rather intensification, of biopower, emphasising the racialised constitution of lives left to die.[91] Mbembe points to the occupation of Palestine as a masterly example of necropower.[92] If we begin to see politics, including migration control, as a form of war, operating through techniques of death, it is not a question of dehumanisation of the bodies in the borderspace, but a continuing production and reinforcement of conditions of bare life.[93] The blobs in the landscape of the borderspace, seen from the vertical technologies of migration control, become abstract elements, dehumanised figures in the landscape. Through the perspective of the technology they are aesthetically being portrayed as bare life. Although this is not something particular to real time vertical surveillance, what is significant is the continuing attempt to produce conditions of bare life, through the reinforcement of zones of exception and spaces of deportability, intertwining a temporal and vertical perspective.

In moments of excess, such as situations of bordercrossers aboard boats in the Mediterranean or when new detention zones and fences are being erected and defended, zones of intense violence are being constituted in the exceptions of the borderspace. In these zones of intense violence the figure of a vertical deportation sovereignty, acting on real time information, could play an important role. The overview that the technology provides to NCCs and Frontex opens up a range of possibilities and ethical choices; whether to rescue the vessels in distress, let the persons die, or leave the local coastguard with a temporary sovereign authority to push refugees back into

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[90] Mbembe (n 56) 40.

[91] In Mbembe's words, 'power (and not necessarily state power) continuously refers and appeals to exception, emergency, and a fictionalized notion of the enemy. It also labors to produce that same exception, emergency, and fictionalized enemy'. Mbembe (n 56) 16.

[92] ibid 27.

[93] ibid 12.

Turkish territory; whether to permit cross-border movement, re-inforce and reintroduce border controls, or shoot rubber bullets and teargas at persons trying to cross. The conditions that the vertical deportation sovereignty creates, and operates under, are similar to those of late modern occupation, which, according to Mbembe, is a constant condition of 'being in pain'.[94] In these conditions of excess, the interweaving of death and freedom becomes significant.[95] This interweaving points to moments where life and death become indistinguishable, where exclusion and inclusion, exception and rule become indistinguishable.[96]

Agamben's notion of a biopolitical 'zone of indistinction' cap-tures the interweaving of exception and order, but it risks obscuring the nuances in the strategically targeted application of political violence to certain bodies.[97] As techniques of migration control, the border control agreements and 24/7 real time vertical surveillance present an excess or intensification of the borderspace as a state of exception. In the intersections of horizontal and vertical lines, zones of exception are constituted. In this context, class, sexual, and racial hierarchies are important factors in terms of what kind and level of violence people are confronted with in the borderspace. Alexander Weheliye's concept of racialising assemblages helps to nuance the forms of violence that take place in the borderspace. Building on the important work of Hortense Spillers and Sylvia Winter in black feminist studies, Weheliye's book *Habeas Viscus* critiques bare life and biopolitics discourse for failing to comprehend and counteract

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[94] ibid 38-39.

[95] ibid.

[96] Agamben, *Homo Sacer* (n 70) 9.

[97] For Agamben, the core characteristic of modern politics is the centrality of homo sacerisation for the production of sovereign power and the concurrent formation of a biopolitical zone of indistinction. He posits that 'the realm of bare life—which is originally situated at the margins of the political order—gradually begins to coincide with the political realm, and exclusion and inclusion, outside and inside, *bios* and *zoe*, rights and fact, enter into a zone of irreducible indistinction' (ibid 9). In this alleged zone of indiscriminate biopolitical subjection, there is no longer a clear difference between political existence and biopolitical subjugation, citizens and non-citizens alike can be enmeshed in the biopolitical machine as *homines sacri* (ibid 115). For Agamben, this biopolitical 'zone of indistinction' is epitomised in Nazi concentration camps, which he identifies as the 'nomos' (ibid 166) and 'hidden matrix' (ibid 123) of modern politics.

the racialised hierarchies sustaining unjust global power structures and corresponding forms of political violence.[98] *Habeas Viscus* enables a feminist post-colonial critique of Agamben's conceptualisation of the notion of a zone of indistinction and bare life. According to Weheliye, Agamben's notion of the zone of indistinction obscures that not everyone is threatened by lethal biopolitics in the same way and to the same extent.[99]

To reframe bare life and biopolitics discourse, Weheliye emphasises racialising assemblages of domination, subjection, and exploitation on the one hand, and assemblages of freedom struggles, liberation dreams, and subversive practices on the other; highlighting both the significance of post-colonial racialising dynamics in the discourse and practice of biopolitics, as well as spaces of counter-construction un-subsumed under dominant structures. Instead of erasing the nuances in the strategically targeted application of political violence to certain subjects, Weheliye proposes the concept of racialising assemblages to illuminate and deconstruct the 'sociopolitical relations that discipline humanity into full humans, not-quite-humans and nonhumans'.[100] As Weheliye crucially emphasises, 'certain subjects are structurally more susceptible to personifying [the] actualisation' of bare life.[101] Rather than eradicating divisions among humans along the lines of race, nationality, or gender, 'the politicisation of

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[98] Alexander G Weheliye, *Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human* (Duke University Press 2014) 1.

[99] Moreover, Weheliye critiques Agamben's conceptualisation of the zone of indistinction and his corresponding presentation of Nazi concentration camps as the epitome of bare life and modern sovereignty. According to Weheliye, Agamben obscures the thick historical relationship between the role of concentration camps in colonial contexts and their subsequent reconstitution as killing machines in the Third Reich. Weheliye emphasises that 'concentration camps shared an intimate history with different forms of colonialism and genocide before being transformed into the death camps of Nazi Germany'. Concentration camps were used for the detainment of Cherokee and Dakota in the United States in the 19th century. Moreover, at the beginning of the 20th century, Germany detained Herero and Namaqua in concentration camps in German South West Africa, culminating in the genocide of over 80% of the Herero and Namaqua population. The Eurocentric positioning of Nazi concentration camps as a privileged ontological referent obfuscates this relationality and conceals the violent reverberations of colonial legacies in contemporary political techniques. See ibid.

[100] ibid 3.

[101] ibid.

the biological always already represents a racialising assemblage'.[102] Racialised divisions are reinforced, rather than suspended, in the zone of alleged indistinction.

Extending the post-colonial critiques of Mbembe and Weheliye to migration politics emphasises facets of the borderspace which could otherwise be overlooked. The structures we live in might be the same, but differentially constructed bodies face different kinds of structural oppression and different levels of violence, entangled with the material and epistemological reverberations of colonialism. Zones of exception are being constructed in the borderspace and biopolitical mechanisms are reinforcing this, at the same time that borders function as moulds and filters, defining insiders and outsiders, segregating the desired from undesired, as clearly evinced in the ENP and corresponding surveillance techniques. In the act of moving through the borderspace, crossing the territory of a nation state or the EU, persons in a migrant or refugee position are entering into zones of violence, where the state of exception can be potentially constructed anywhere, which will be reinforced by vertical real time tracking techniques. This fluctuating construction of borderspaces as states of exception leads to moments of intense violence. This notion of intense violence can be useful in nuancing the emergence of states of exception and the vulnerability of different bodies.[103] While we might all be living under the same overall structures, different bodies are exposed to different levels of violence, connected to historical processes and structural conditions of class, sexuality, gender and race.

Conclusion

Horizontal and vertical border control techniques constitute complementary biopolitical mechanisms in the architecture of the borderspace. The overall picture points towards a biopolitical machinery, in which these discussed biopolitical mechanisms produce and repro-

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[102] ibid 12.

[103] Inspired by Balibar's notion of 'life-zones' and 'death-zones', see Balibar, 'Outlines of a Topography of Cruelty' (n 40) 24.

duce the borderspace as a fluctuating space of exception where persons in a migrant or refugee position are constantly exposed to the threat of violence and death. These biopolitical mechanisms construct certain bodies as 'targets', making borders internal to controlled bodies, and borders as sites that are always potentially 'states of exception'. Taking into account the colonial reverberations of racialised hierarchies in the borderspace implicates a nuanced understanding of the different levels of violence within the border space as a zone of exception. It also implies attending to liberatory practices disrupting biopolitical subjection, to hopes and dreams and practices of resistance, as well as to continued life which cannot be subsumed in the violence of the borderspace. Both the violence of the borderspace and its continuous contestation are expressed in the continuous protests at the multiplied external and internal borderspaces of the EU.

'How can a human being be illegal?
It can be legal to put him behind the bars, it can be legal to steal his freedom after he was venturing for it, to make him close his eyes in order to liberate his spirit…?
Because whenever he opens them, he feels like a dead in a grave, his body imprisoned in a narrow, but after he close his eyes his spirit is free.

Someday all of us we will be free, as the pigeon in the window sill of the prisoner, who wishes to be a pigeon that wherever it goes, none of the other pigeons blame it because it joined them. He wishes that no law can be inhumane.'[104]

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[104] Y, writing from Corinth detention centre in Greece, after the protests and evictions in Idomeni at the Greek-Macedonian border. NoBorder Serbia, 'Prison Post #2 from Brother Y' <https://noborderserbia.wordpress.com/2015/12/20/prison-post-2-from-brother-y> accessed 21 December 2015.