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EDITORS:

Uli Linke, Isaac Leung & Janet McGaw

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STRADDLING A BORDER: ON THE COLONIAL CONSTRUCTION OF INDIGENOUS ILLEGALITY

Author:

CHRISTINE KRAY

Affiliation:

ROCHESTER INSTITUTE OF TECHNOLOGY, USA

INTRODUCTION

In the modern geopolitical imagination, borders are typically crossed unidirectionally. Nation-states define and fortify borders, individuals properly belong on one side, and those who do cross do so in one direction seeking to gain something on the other side. Less well understood, however, are the processes that generate transborder living—or straddling a border—in which people routinely cross borders. Such border hoppers are cast as illegal, or at the very least, transgressive and suspect, tainted by their rootlessness. However, the politico-economic conditions that generate such straddling of borders are critical to understand if just and humane policies, including those of Indigenous lands rights, are to be fashioned.

This paper traces the colonial construction of Indigenous illegality in the borderlands between Mexico and British Honduras (Belize) in the late nineteenth century. Several factors rooted in European imperialism (Indigenous rebellion in Mexico; commercial, export-oriented mahogany extraction; the munitions trade; a regional system of labor based on debt servitude; semi-feudal labor relations; and border disputes) created the conditions in which Indigenous Maya people had the best chances of physical survival, making a livelihood, evading debt, and remaining free of bondage if they routinely crossed the presumed border, marked by the Hondo River. They could erect houses on one side, farm on the other, and flee whenever necessary from rent and tax collectors, military raids, military drafts, and “masters.” This creative strategy of transborder living, however, earned them the opprobrium and suspicion of British Honduran officials and employers and cemented the misperception of them as “immigrants,” thus setting them up for subsequent exclusion from collective land rights.

THE MUTUAL CONSTITUTION OF BORDERS AND MOBILITY

In the Westphalian international system, we tend to think of the world as divided into territorially bounded nation-states into which individuals are sorted. Citizens have “homelands” in which they belong, and those who cross the border are out of place (“aliens”) unless and until they submit to a process of legalization. This Westphalian geopolitical model rests upon an assumption that the default position is fixed settlement rather than mobility. This model is extended to Indigenous people within settler colonies. The general expectation is that they have a fixed homeland from time immemorial; consequently, when it comes to Indigenous land claims, the only question is that of determining the boundaries of that fixed homeland.

However, what if these baseline assumptions are completely wrong? What if, historically, mobility is more common than fixed settlement? Additionally, what if borders actually trigger cross-border

movement? Sorting out sovereignty and land claims in the present requires a historical perspective. In every case, we should be asking: How did *x* border emerge and how did that development generate new patterns of movement? Did the imperial borders ultimately create a category of Indigenous “immigrants”—displaced and dispossessed? How does that complicate land claims in the present?

Across several disciplines, a growing body of scholarship is exploring how borders and patterns of mobility shape one another over time. Political borders, their qualities, and the patterns and frequencies of cross-border movement are all variables that change over time. The differential distribution of goods and regulatory schemes on either side of a border sets up imbalances that stimulate cross-border flows. Taking a historical view, we can see how borders and patterns of mobility have shaped one another over time. In Willem van Schendel’s words: “extra-territorial flows of goods and people do not stand in simple opposition to territorial organizations but in a relationship of mutual constitution.”¹ We often think about cross-border movement as unidirectional (such as people crossing in search of higher-paying jobs), but cross-border mobility takes various forms. In circular migration, people live abroad for a period of time and return home, and in seasonal migration, such circular migration is often linked to agricultural cycles. Some circular migration is diurnal, and in the context of labor migration, is typically called “cross-border commuting,” but that term could also be applied to everyday cross-border trips for shopping, attending school, tourist outings, and medical tourism. As regulatory regimes on either side of the border morph over time, so do patterns of cross-border mobility.

A critical distinction, of course, is the ease with which a border is crossed. In historical eras in which a border was imagined, but not surveilled or securitized (or only partly so), cross-border movement was relatively easy.² The greatest ease of movement in the modern era is seen in the European Union, which has expanded the number of people who live their lives across both sides of a border, alternately working, shopping, and living on either side, taking advantage of resources and relatively lax regulations, and altering patterns once again, as conditions shift. O’Dell coined the term “regionauts” to refer to such people.³ I use the term transborder living to refer to patterns of frequently crossing a border in both directions—when movement across an imagined border becomes part of one’s routine habits and comprehensive strategy for living.

The celebration of cross-border living in the European Union contrasts substantially with official views of cross-border mobility in most other cases since the emergence of the Westphalian system in the nineteenth century, in which cross-border mobility is frequently cast as shadowy, disloyal, immoral, and illicit, if not illegal.⁴ Increasing securitization and surveillance of borders, such as the US-Canadian border in the post-9/11 period and the US-Mexico border, since the mid-twentieth century onward, have not put an end to cross-border mobility, although they have slowed it, while also changing conceptions of the border⁵ and strategies of solidarity in mixed-status families.⁶ Even as borders are increasingly securitized, it is often precisely the existence of a supposed border that lures people across it. By definition, contrasting regulatory schemes exist on opposite sides of a border, be they policies or laws regarding pricing, taxation, trade, labor, land tenure, or simply, criminal jurisdiction. These differentials represent opportunities for people to take advantage of. In Beverley’s terms, unevenly administered borderlands are “productive” of cross-border mobility. In colonial India, for example, “social bandits” operated on either side of the border separating the Bombay Presidency and the autonomous Hyderabad, escaping capture and imprisonment by hopping back and forth, as needed.⁷

Attending solely to the present—an era in which the territorially defined nation-state is taken for granted—it is difficult to grasp Schendel’s idea that territorially defined polities and transborder crossings are mutually constitutive. For this, a historical example works best, as we can trace their

interplay over time. The supposed border between the newly imagined colony of British Honduras and the newly independent nation of Mexico in the nineteenth century serves as an excellent example.

DELINEATING BRITISH HONDURAS

What is now the independent nation of Belize started as a small English timber-extraction enterprise in the southern part of the Yucatán peninsula in the eighteenth century. Within the context of Anglo-Spanish competition in the Americas, treaties in 1763, 1783, and 1786 conferred upon England the right to extract timber in the region upon certain lands claimed by Spain. In 1798, the British defeated the Spanish at the Battle of St. George's Key, convincing British officials of their sovereign dominion, and they claimed the Hondo River as the northern border of what they came to call the colony of British Honduras.⁸

Indigenous Maya people lived in the region, and the Hondo River posed no barrier to their movements. In the prehispanic period, Indigenous Maya traders used the many rivers and streams to traverse the peninsula, transporting goods from one region to the next. In the fifteenth century, internecine disputes in the north triggered the southward relocation of Itzá rulers.⁹ Additionally, swidden (shifting) agriculture routinely encouraged the search for new garden plots. During the sixteenth century, when Spanish colonialists raided Indigenous settlements and established exploitative patterns of forced labor, tribute, and resettlement, primarily in the northern half of the peninsula, thousands of Maya fled these depredations, seeking refuge south of the river, where the Spaniards had very little control.¹⁰ These were longstanding patterns of movement across the Hondo River, but that line was not yet considered a border between polities—not really until the late eighteenth century.

In the late eighteenth century, under the aforementioned treaties with Spain, British loggers were granted usufruct rights to extract valuable timber (first logwood, and later mahogany) from the area between the Hondo and Belize Rivers—thereby establishing the Hondo River as the imagined northern limit of the British settlement. Enslaved Africans and African-descended people were the primary workers on the logging crews, and in a pattern identified by Matthew Restall, these enslaved people frequently fled across the limits of the British use-rights region in order, they thought, to escape bondage and find freedom.¹¹ Such patterns of flight rested upon a recognition of certain limits as delineating “Spanish” versus “British” territory. These patterns of flight, therefore, lent credence to an emerging sense of British territory and its borders. The cross-border flight of enslaved people, in other words, served to define the borders as real. The borders, consequently, existed not only in the minds of British colonialists, but also in the minds of escaped slaves who acted with reference to those imagined borders. The borders became real as people adjusted their strategies in relationship to them.

At the same time, in the late eighteenth century, and through the mid-nineteenth century, in the northern part of the peninsula, regimes of taxation and the alienation of communal Indigenous lands facilitated the proliferation and expansion of large-scale commercial plantations.¹² Thousands of Maya workers became trapped as indebted servants, but many escaped southward into the region increasingly plied by British loggers.¹³ Here again, flight across the Hondo presupposed a boundary separating Spanish (and later, Mexican) territory from British territory. Once again, flight motivated by the desire to find freedom within a new polity help bring into existence a spatial division between territories.

WAR, DEBT, AND THE BORDER

The patterns of cross-border movement discussed thus far—enslaved people fleeing northward and indebted peons fleeing southward—were unidirectional. The emergence of regular, transborder movement (frequent movement back and forth across a line increasingly recognized as a border) began in the mid-nineteenth century, triggered by the Social War of Yucatán (1847-1901, more commonly known as the Caste War), which began essentially as a Maya rebellion against Spanish-descended Yucatecan elites. In violation of prior Anglo-Spanish treaties, British merchants sold copious amounts of guns and gunpowder to the Maya rebels, while purchasing mahogany timber from them and shipping it to markets in the US and Britain. Mahogany was a primary source of war financing for two groups of armed Maya fighters, and individual logging crews routinely extracted timber from both sides of the Hondo River, which was efficient, but in violation of British and Mexican visions of their territories. Guns and gunpowder were also transported by canoe up the Hondo River. The river, therefore, became a conduit of illicit (if not illegal) trade. Both Yucatecan and British officials began inspecting canoes moving along the river—which was the first manifestation of border securitization.¹⁴

Beginning in 1848, thousands of Yucatecans (of both Maya and Spanish descent) fled the violence to the north and resettled south of the Hondo River, where they expected to be safe in British-claimed territory. In the meantime, most of the northern British Honduran region was claimed as private property by a very small number of timber companies. In the absence of open land upon which they could settle, they ended up as tenants on British-owned land, paying rent, and providing the workforce for landowners who were keen to take advantage of their knowledge of sugarcane and rum production. In a short period of time, Yucatecan patterns of trapping laborers in cycles of debt were adopted by British Honduran landowners and timber companies. Consequently, those crossing the Hondo River hoping to find freedom would again become trapped in debt servitude on the other side of the river—but perhaps they could cross the river once again and keep up this cycle of debt and flight across the river indefinitely? Those best able to preserve their freedom were those who could manage to farm their own garden plots and kept their expenses to a minimum. In the era of land monopolization, though, where were they to find open farmland? North of the river, the two armed Maya forces offered Maya settlers the right to farm on lands the soldiers had secured in battle, but with the proviso that they submit to a military draft and pay rent. Under these conditions, remaining solely on one side of the river was a sure path to debt servitude, military raids, forced military service, or all three.

Consequently, in the 1860s, a new pattern of transborder living emerged, in which many Maya farmed to the north of the Hondo River, on lands claimed by one of the armed Maya groups, but they erected their houses south of the river. By doing so, they aimed to evade the obligatory military service and paying rent on their garden plots. This strategy was risky, because Maya soldiers would cross the river to capture those they considered deserters and absconded debtors. Moreover, they still had to pay British landowners rent for their house lots. However, when finding themselves in a jam on one side, they could cross to the other and hopefully start with a clean balance sheet. In the 1860s, consequently, a series of new Maya settlements sprang up on the banks all along the river, settled by these border hoppers—people who found transborder living to be their best chance of survival and freedom. In 1868, when the British Honduran government formed a Frontier Police, naturally they were concerned with the cross-border movement of armed fighters and munitions. Of equal concern to them were these transborder residents, whose presence (as debt absconders and deserters) attracted raids by Maya fighters. In a curious twist of fate, then, to forestall Maya raids into presumed British territory, the chief of the Frontier Police began collecting rent in villages on the southern banks from

people who were said to owe it to the Maya armed groups whose lands they farmed (to the north of the river).¹⁵

The Maya who lived along and routinely crossed the Hondo River obviously pursued a creative strategy of survival, taking full advantage of the fact that different polities claimed the right to regulate affairs on opposite sides of the river. Their transborder pattern of residence and mobility presupposed this spatial political division, and the concentration of houses along the river constituted a material manifestation of that border. Routine and strategic crossing of this line, in one direction and then the other, therefore, both presupposed and instantiated a boundary between two territorially distinctive polities. In sum, the border and transborder living were mutually constitutive.

INDIGENOUS IMMIGRANTS?

For the Maya, though, this pattern of transborder living had regrettable long-term consequences. The people living in villages along the river gained a reputation as both disloyal and a nuisance. In addition, in those riverine villages clustered people involved in a variety of illicit and shadowy activities: munitions sales, armed rebellion, smuggling, escape from imprisonment, unlicensed rum production, timber theft, corruption, in addition to desertion and dodging rent and debt service. Notions of illegality compounded notions of disloyalty and nuisance. Despite longstanding patterns of settlement and mobility throughout the region, the Yucatec Maya in British Honduras were cast as “immigrants,” and many smeared as undesirable for their participation in illicit activities. Characterized as immigrants, they have been unable, in almost every case, to make a successful bid for collective lands as Indigenous people.¹⁶ The creation of a territorially based colony, therefore, transformed Indigenous settlers into a suspect immigrant group—not directly, but indirectly, through generating the conditions that triggered transborder living.

On a final note, this research problematizes the notion of “homeland.” “Homeland” is like “nation-state” in its presupposition of a people tied to a contiguous, delineated territory for time immemorial. Just as mobility is characteristic of human history, so, too, are the various types of mobility triggered by expanding empires and imposed and reconfigured borders. Indigenous land claims cases should, in every instance, not presume a fixed and readily identifiable “homeland,” but seriously examine the regional history of mobilities linked to shifting and destabilizing power centers and networks.

NOTES

- ¹ Willem van Schendel, "Spaces of Engagement: How Borderlands, Illegal Flows, and Territorial States Interlock," in *Illicit Flows and Criminal Things: States, Borders, and the Other Side of Globalization*, eds. Willem van Schendel and Itty Abraham (Bloomington: Indiana University Press, 2005), 59.
- ² Helena Ruotsala, "From Crime to Cultural Heritage: Cross-border Activities and Relationships in the Tornio River Valley," *Anthropological Journal of European Cultures* 18, no. 1 (2009): 39–49, <http://dx.doi.org/10.3167/ajec.2009.180103>; Kees Terlouw, "Border Surfers and Euroregions: Unplanned Cross-Border Behaviour and Planned Territorial Structures of Cross-Border Governance," *Planning Practice and Research* 27, no. 3 (2012): 351–366, <http://dx.doi.org/10.1080/02697459.2012.670939>.
- ³ Tom O'Dell, "Øresund and the Regionauts," in *Culture and Cooperation in Europe's Borderland*, eds. James A. Anderson, Liam O'Dowd, and Thomas M. Wilson (London: Brill, 2003) 35–53, https://doi.org/10.1163/9789401201391_003. See also: Orvar Löfgren, "Regionauts: The Transformation of Cross-border Regions in Scandinavia," *European Urban and Regional Studies* 15, no. 3 (2008): 195–209, <http://dx.doi.org/10.1177/0969776408090418>; Markus Idvall, "Across, Along and Around the Öresund Region: How Pleasure Boaters Live the Swedish-Danish Border Area," *Anthropological Journal of European Cultures* 18, no. 1 (2009): 10–29, <https://www.jstor.org/stable/43234480>; Terlouw, "Border Surfers."
- ⁴ Eric Lewis Beverley, "Frontier as Resource: Law, Crime, and Sovereignty on the Margins of Empire," *Comparative Studies in Society and History* 55, no. 2 (2013): 241–272, <http://dx.doi.org/10.1017/S0010417513000029>; Beth Lew-Williams, *The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America* (Cambridge, MA: Harvard University Press, 2018); Ruotsala, "From Crime to Cultural Heritage"; Bianca B. Szytniewski, Bas Spierings, and Martin van der Velde, "Stretching the Border: Shopping, Petty Trade and Everyday Life Experiences in the Polish–Ukrainian Borderland," *International Journal of Urban and Regional Research* 44, no. 3 (2020): 469–483, <http://dx.doi.org/10.1111/1468-2427.12857>.
- ⁵ Victor Konrad, "Evolving Canada–United States Cross-border Mobility in the Cascade Gateway," *Research in Transportation Business and Management* 16 (2015): 121–130, <http://dx.doi.org/10.1016/j.rtbm.2015.08.004>.
- ⁶ Heide Castañeda, *Borders of Belonging: Struggle and Solidarity in Mixed-status Immigrant Families* (Stanford, CA: Stanford University Press, 2019); Ruth Gomberg-Múñoz, *Becoming Legal: Immigration Law and Mixed-status Families* (New York: Oxford University Press, 2017).
- ⁷ Beverley, "Frontier as Resource."
- ⁸ R. A. Humphreys, *The Diplomatic History of British Honduras, 1638–1901* (London: Oxford University Press, 1961).
- ⁹ Grant D. Jones, *Maya Resistance to Spanish Rule: Time and History on a Colonial Frontier* (Albuquerque: University of New Mexico Press, 1989).
- ¹⁰ Nancy M. Farriss, "Nucleation versus Dispersal: The Dynamics of Population Movement in Colonial Yucatan," *Hispanic American Historical Review* 58, no. 2 (1978): 187–216, <http://www.jstor.org/stable/2513085>; Jones, *Maya Resistance*.
- ¹¹ Matthew Restall, "Crossing to Safety? Frontier Flight in Eighteenth-Century Belize and Yucatan," *Hispanic American Historical Review* 94, no. 3 (2014): 385, <https://doi.org/10.1215/00182168-2694300>.
- ¹² Robert W. Patch, *Maya and Spaniard in Yucatan, 1648–1812* (Stanford, CA: Stanford University Press, 1993).
- ¹³ Christine A. Kray, *Maya-British Conflict at the Edge of the Yucatecan Caste War* (Boulder: University Press of Colorado, 2023), 47–50.
- ¹⁴ Kray, 55–57.
- ¹⁵ Kray, 157–170.
- ¹⁶ Kray, 176–179.

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