5 Border Collision: Power Dynamics of Enforcement and Evasion across the US–Mexico Line

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In 2005, Maria,¹ a humble and devout woman from rural El Salvador, embarked on a clandestine journey to the United States. She made a contract with a hometown smuggler, who then subcontracted with a series of guides along the route. While under the care of one of those guides, her travel party took a van across southern Mexico.² Confronted with the possibility of being stopped by immigration authorities and questioned, Maria began to pray and sing for their safe passage. She began timidly at first. Upon hearing her shy voice, the guide turned to face her, and demanded urgently and unkindly to know what she was doing. When she explained, his face broke into a broad smile, and he responded, "Yes! Great idea! If they stop us, we will tell them we are a church group." The smuggler, faced with the potential for unpredictable traffic inspections by immigration authorities, seized on the idea. For the rest of the journey in the van, her travel party sang their praises to God loudly alongside their smuggler.

This encounter between Maria and her smuggler unwittingly generated a new survival tactic, one of many novel tactics employed during a clandestine journey to evade capture. Encounters between migrants, smugglers, and the state are often creative moments. New strategies are devised. New trajectories are imagined. New roles are crafted. This creativity emerges from their interaction, as people grapple with uncertainty and danger. Maria's mobility, despite the state's attempt to thwart her passage, is thus an outcome of a power that neither belongs fully to Maria nor to her smuggler, but instead circulates contingent on uncertain social moments.

An analysis of Maria's story, to which we will return later, helps to elucidate why attempts to control the US-Mexico boundary have long

² Interview, El Salvador, December 22, 2009.

All names are pseudonyms. All quotes are reconstructed from shorthand taken during interviews. We return to Maria's story later in the narrative.

had an ambiguous, and often counterproductive, impact on clandestine flows. An unrelenting unauthorized traffic rolls north across the US–Mexico line. Nevertheless, while a massive allocation of resources to the border has not succeeded in stemming the tide of contraband and migration, it *has* dramatically reshaped these flows.³ The geographic focal points,⁴ modes of transport, protocols, social relationships, and smuggling networks⁵ that underpin routes adapt to policing, and policing, in turn, adapts to these adaptations. In the last two decades, border crossings have grown more dangerous for unauthorized migrants, generating a new humanitarian crisis at the doorstep of the United States.⁶ Thus, the border remains porous, but policing has altered crossing practices with deleterious consequences for migrants. The exercise of state power has collided with a complex transnational social reality, producing crosscutting consequences.

Our chapter explores the ambiguous outcome of this collision across the US–Mexico divide. A myopic focus on conventional notions of power, or its failure, contributes to perverse border policies and analytical shortcomings. Public discourse neglects the protean power evident in migrant improvisations, thereby underplaying migrants' agency and vilifying smugglers with deleterious consequences for border policy; the binary of powerless migrants/victims and powerful smugglers/victimizers justifies further escalation of policing to protect both national and human security. Furthermore, this discourse also tends toward historical amnesia about its own origins, highlighting the supposedly unprecedented nature of migration crises and forgetting that the power dynamics evident across the border extend back more than a century. Indeed, the starting point in most analyses is the past few decades.

Finally, scholarship generally highlights the failure of border control, rather than unpacking its complex consequences from different levels of analysis. A broad consensus of scholars focuses on the inevitability that border patrol displaces migration to new terrain and social practice, but we know less about how exactly this displacement takes place, and how it has varied across place and time. While the flow continues, displacement is a disruptive and painful process in the lives of unauthorized migrants. On the one hand, migrants endure tremendous precarity and violence, and they sometimes die. On the other hand, migrants are not passive victims; if they survive the treacherous journey north, their success can often be attributed to a combination of fortuitous circumstance,

³ Andreas 2009.

⁴ Eschbach et al. 1999; Cornelius 2001; Madsen 2007; Slack et al. 2016.

Spener 2009.
Brigden 2013; Cornelius 2001; Eschbach et al. 1999; Ogren 2007.
Mainwaring 2016.

intellectual and physical agility, and social flexibility that emerges within encounters with other migrants, smugglers, or state authorities. Scholarship has generally left unexplored how these individual creative moments collectively contribute to displacement.

Moving beyond traditional conceptualizations of power elucidates such moments, and thereby explains the process of displacement over time. The lens of protean power reveals the multifaceted roles played, not only by traditionally powerful actors like the state and organized crime, but also by individual migrants, like Maria, in concert with the social landscape they must cross. Practically, the lens of protean power complicates the binary of victim–villain, and thereby undermines a useful fiction to justify border escalation. Analytically, this lens also provides a window onto the primary mechanism of displacement: improvisation.

Thus, this chapter applies the concepts of protean power and control power in tracing the evolution of the US–Mexico border enforcement and evasion from the nineteenth century to the present. Following the definition in this volume, protean power is the effect of an imaginative agility, which contrasts with traditional notions of power. Protean power navigates a world of uncertainty, where successful responses to danger and/or opportunity must rely, to a much greater degree, on improvisation and a leap of faith. In contrast, control power is rooted in the capacity to manipulate and respond to risk. This capacity presupposes a world of rational calculations and knowable probabilities; under those relatively predictable conditions, control power can be more effectively utilized to incentivize and coerce particular behaviors from other actors.

Combining a historical perspective with more recent ethnographic fieldwork on the experiences of unauthorized Central American migrants, the chapter recasts the escalatory spiral of policing and smuggling at the border as a collision between worldviews of risk and uncertainty, and between protean and control power. The political and bureaucratic theatrics that drive border policing are primarily premised on a world of risk. Policing measures taken at the border are meant to convey an image of control. Smugglers and migrants, however, live in a world of uncertainty, as well as risk. Border policing has increased the probability of dangers befalling migrants on their journey, but it has also intensified the difficulties of judging that probability. Smugglers' and migrants' experiences with and reactions to this hostile and unpredictable environment illustrate the agility and adaptation associated with protean power. Thus, the chapter provides a micro-foundation for understanding the dynamic interaction between the state and unauthorized migration flows.

⁸ Brigden 2015.

Importantly, we argue that protean power is not an instrument that marginalized people can harness to produce "social justice" in any predictable way. In other words, it is not an effective means to achieve collective political goals or to correct the structural inequities and violence that reproduce the vulnerability of immigrant populations. Migrant and smuggler improvisations generate protean power, but cannot direct or use it to achieve such goals. Despite the fact that they often prove to be capable of resisting and transgressing borders, migrants also experience policing and violence as profoundly disempowering. Therefore, we unpack these consequences for a variety of actors who populate the migration corridor into the United States: migrants, smugglers, crime bosses, and law enforcers. In conclusion, we caution against a celebration of the emancipatory potential of protean power, even as we acknowledge and explore its effect.

The Ambiguities of Power

The level of analysis matters crucially for how we understand this ambiguous outcome of intensified border policing. On the one hand, we can see the resilience of the border crossings when we look at the aggregate. The migration stream continues to flow north, simply changing direction and adapting to the policing with new clandestine practices. Indeed, at the aggregate level, this outcome is easily predictable; the specific form of criminal displacement may be unanticipated, but the general pattern is expected. It is a policy failure foretold. Accepting the inevitability of this general pattern, policymakers have for several decades now pursued border policing that pushes migration routes to less visible terrain and practices. Policymakers traffic in images of control, premised on assumptions of risk management.

On the other hand, migrants may fail to cross the border and, sometimes, they die in the attempt. During their journey from their homeland, migrants sometimes fall victim to treacherous physical terrain or criminal activity, such as kidnappings, extortions, murders, robberies, and rapes. Changes in policing often aggravate migrants' exposure to these dangers. At the level of the individual, the lived experience of the border is very different. The individual experience and personal consequences of the border are not predictable; migrants must function under both conditions of high uncertainty and risk, depending on the situation. Migrants also experience both risk and uncertainty, feeling buffeted both by increased

Andreas 2009.
Brigden 2012; Vogt 2013.
Brigden 2013; Martinez 2011; Ogren 2007.
Brigden 2015.

probabilities of some dangers and the sheer unpredictability of other dangers. From their perspective, policing and subsequent adjustments in smuggling circuits require an improvised response, adapting with agility to changing conditions. Smugglers and migrants traffic in creative subversions of state control, choosing their conduct based on assumptions of uncertainty, as well as risk.

In the risk scenario, the past experiences of friends and family members can offer a reliable guide for future journeys. However, there is little stability in the strategic setting of the clandestine route as experienced by migrants. 13 The diffusion of survival information renders it suspect when criminal predators or state authorities can manipulate it to their advantage. A once-trodden path cannot necessarily be safely traversed a second time. A once-trusted guide cannot necessarily be relied upon a second time. Under these conditions, the trustworthiness of information has an immediate expiration date. In this reality, both migrants and smugglers engage in a reflexive and strategic process throughout the journey. They do not simply rely on information gleaned at the outset of their journey through their existing social networks, but instead improvise new understandings en route. In other words, migrants and smugglers, confronted with a mix of experienced risk and uncertainty, as well as an underlying context that combines risk and uncertainty, exude an extraordinarily malleable protean power.

Indeed, the level of analysis dictates how we see and experience power itself. Control power becomes most apparent when we look from the top down. Control power is the primary instrument of organized collective actors and institutions. However, when we work at the level of individual experience, protean power comes into view, as something that circulates among creative individuals. If we view the state itself through the lens of practice, we can see how protean power constitutes and compliments the exercise of the state's control power, through a myriad of flexible everyday actions conducted by state agents and bureaucrats. 14 Frontline border patrol agents adapt and innovate on the ground, giving rise to protean power that facilitates control. While criminal bosses exercise control power over their territory, their henchmen give rise to protean power as they implement their orders. In other words, depending on whether we look at smuggling gangs and other criminal groups through the lens of an organization or as individuals within that organization, different power dynamics come into view. In contrast, migrants can be understood only as an unchoreographed collection of people engaged in collective practice, not even an approximate of a unified actor. Among the actors caught in

this border collision, they are uniquely vulnerable and marginalized, depending almost entirely on protean power as a "weapon of the weak." Thus, this chapter pays close attention to how we view the ambiguous consequences of power.

The chapter is organized chronologically. We take the reader through the collision over time, in order to highlight the dynamic between protean and control power. We trace the evolution of border policing policies from the late nineteenth century to the present, showing how such policing has been premised upon assumptions of risk and the projection of an image of control. Against this policy backdrop, we juxtapose the innovations of migrants and smugglers as they adapt to changes in policing over time. Migrants and their smugglers make assumptions of uncertainty and subvert control through improvisation.

However, the alliance between migrants and their smugglers is often an uneasy marriage of convenience and complicated by pressures from other criminal actors and the state. While migrants often improvise together with their smugglers to achieve the shared goal of clandestine passage, migrants also sometimes generate protean power as they resist their smugglers. Indeed, the complexity of these relationships requires us to disentangle the sometimes compatible, sometimes divergent interests of migrants, their smugglers, criminal terrain bosses, and the state. Creative moments emerge from actors' negotiation of these complex relationships and their contradictions. Border control unwittingly spawns new types of criminal characters, who seem to exude both kinds of power to exploit migrants. In Mexico, these struggles have culminated in the arrival of criminal bosses who more effectively control passage across their territory than the state. The existence of multiple actors with cross-cutting interests and capabilities complicates the effects of power.

The Collision in Historical Perspective

The collision between protean and control power across the US-Mexico border is hardly new, though it has certainly intensified over time. ¹⁶ Many of the border dynamics of immigration law enforcement and evasion we see today can be viewed as representing the latest chapter in an old story that dates back at least a century – a story that does not simply repeat itself, but nevertheless has a remarkably consistent and recognizable theme: through their interaction, protean and control power have stimulated and reinforced each other. Periods of low control power have typically also been periods of low protean power; likewise, as the exercise

¹⁵ Scott 1985. ¹⁶ This section draws on Andreas 2013.

of control power by the state has increased, so too has the presence of protean power. Indeed, protean power is integral to the functioning of control power. Thus, ironically, while seemingly in opposition to each other, these two forms of power have also been symbiotic, creating space for one another.

Given all the attention today over the influx of Mexicans and Central Americans across the border, it is especially striking that the first unauthorized immigrants crossing the border from Mexico viewed by US authorities as a problem were actually Chinese. Efforts to prohibit Chinese immigration in the late nineteenth century mark the beginning of the federal government's long and tumultuous history of trying to keep out "undesirables." The Chinese Exclusion Act of 1882 barred the entry of Chinese laborers, who until then were mostly coming in by steamship to San Francisco. But while this front-door entry was closing, back doors were opening, especially via the US—Canada border and the US—Mexico border. The federal government had no stand-alone immigration control apparatus when the Chinese Exclusion Act was passed, but enforcement of the law would stimulate the creation of entirely new federal administrative capacities.

The US-Mexico border, long a gateway for smuggled goods, was now also becoming a gateway for smuggled people. In 1900, there were just a few thousand Chinese in Mexico, but less than a decade later nearly 60,000 Chinese migrants had departed to Mexico. Some stayed, but the United States was a far more attractive destination. ¹⁷ In his investigations, US Immigration Inspector Marcus Braun witnessed Chinese arriving in Mexico and reported that "On their arrival in Mexico, I found them to be provided with United States money, not Mexican coins; they had in their possession Chinese–English dictionaries; I found them in possession of Chinese–American newspapers and of American railroad maps." ¹⁸ In 1907, a US government investigator observed that between twenty and fifty Chinese arrived daily in the Mexican border town of Juarez by train, but that the Chinese community in the town never grew. As he put it, "Chinamen coming to Ciudad Juarez either vanish into thin air or cross the border line." Foreshadowing future developments, a January 1904 editorial in the El Paso Herald-Post warned that "If this Chinese immigration to Mexico continues it will be necessary to run a barb wire fence along our side of the Rio Grande." The El Paso immigration inspector stated in his 1905 annual report that migrant smuggling is the sole business of "perhaps one-third of the Chinese population of El Paso." 20

 $^{^{17}}$ Ettinger 2009: 99. 18 Quoted in ibid.: 100. 19 Quoted in Lee 2003: 159. 20 Quoted in Reynolds 1909: 368.

Some historians note that border smuggling operations involved cross-racial business collaborations, with white male smugglers often working with Chinese organizers and Mexicans serving as local border guides. A 1906 law enforcement report on Chinese smuggling noted, "All through northern Mexico, along the lines of the railroad, are located so-called boarding houses and restaurants, which are the rendezvous of the Chinese and their smugglers, and the small towns and villages throughout this section are filled with Chinese coolies, whose only occupation seems to be lying in wait until arrangements can be perfected for carrying them across the border."

As US authorities tightened enforcement at urban entry points along the California–Mexico border, smugglers shifted to more remote parts of the border further east in Arizona, New Mexico, and Texas. And this provided the rationale to deploy more agents to these border areas (this dynamic would repeat itself again at the end of the century). In addition to hiring more port inspectors, a force of mounted inspectors was set up to patrol the borderline by horseback. As smugglers in later years turned to new technologies such as automobiles, officials also pushed for the use of the same technologies for border control.²²

Chinese migrants were not the only ones coming through the back door; they were simply at the top of a growing list of "undesirables" that included paupers, criminals, prostitutes, "lunatics," "idiots," polygamists, anarchists, "imbeciles," and contract workers in general. Japanese laborers were banned in 1907. Illiterates were banned from entry in 1917. As seaports became more tightly regulated and policed, immigrants who feared being placed in one of these excludable categories increasingly turned to the back door. Those groups that were disproportionately being turned away at the front-door ports of entry – among them Lebanese, Greeks, Italians, Slavs from the Balkans, and Jews – found Mexico to be a convenient back-door alternative.²³

The popularity of the Mexican back door received a major boost by new US restrictions on European immigration through the national origins quotas in 1921 and 1924. Passport rules left over from the First World War formalized in the Passport Act of 1918, also now required immigrants to secure visas at US consulates abroad. The Mexico smuggling route offered a way to sidestep these new numerical restrictions and documentation requirements. This sparked alarm in Washington and provided political ammunition for calls for more border enforcement. The commissioner-general of immigration reported in 1923 that each new entry restriction "promoted the alien smuggling industry and

²¹ Quoted in Ettinger 2009: 60. ²² Lee 2003: 57–58. ²³ Ettinger 2009: 105.

furnished new and multiplied incentives to illegal entry."²⁴ The commissioner's report the following year predicted that the Immigration Law of 1924 "Will result in a further influx of undesirable European aliens to Mexico with the sole object in view of affecting illegal entry into the United States over the Rio Grande."²⁵

Local media reports reinforced these concerns. A December 22, 1924 article in El Paso's Spanish-language newspaper *La Patria* pointed to the booming cross-border business for "contrabandistas de carne humana" ("smugglers of human meat") in the wake of the new US immigration restrictions. ²⁶ The article (with the headline "Foreigners who want to cross over to the United States have invaded the city of Juarez") described Juarez as a depot for foreigners waiting to enter the United States. ²⁷ The US Congress greatly expanded the immigration bureau's personnel powers to search and arrest along and near the borderline. In a country otherwise wary of increasing the power and reach of government, border control was clearly one realm where there was a push to bolster federal authority.

Political pressure had been building up for a number of years to create a uniformed border patrol force. The US Border Patrol was formed in 1924 with a \$1 million budget and a total force of some 450 officers. Its primary mission was to keep out illegal immigrants, especially the smuggling of Europeans. Wesley Stile, one of the first border patrol agents hired in the summer of 1924, later recalled, "the thing that established the Border Patrol was the influx of European aliens." Border patrolmen "didn't pay much attention to the Mexicans" because they were considered merely cheap seasonal farm labor that returned to Mexico when no longer needed. ²⁸ This meant that the growing influx of unauthorized Mexican workers was largely tolerated and overlooked – at least for the time being.

For Mexicans, crossing the border illegally was relatively simple and largely ignored – successful entry did not require much creative agility. Up to half a million Mexicans may have come to the United States in the first decade of the century. The Mexican Revolution, US labor shortages during the First World War, and the continued expansion of agriculture in the southwest fueled a further influx. There was a growing disconnect between the formal entry rules handed down from a distant capital and the realities, needs, and practices along the border. In other words, the "control power" called for in national immigration laws did not translate into its application on the ground.

As a substitute for European and Asian workers, employers considered Mexicans an ideal labor force: flexible, compliant, and temporary – or so

 $^{^{24}}$ Quoted in Siener 2008: 60. 25 Quoted in McCullough 1992: 51–52. 26 Quoted in ibid.: 6. 27 Ibid.: 230–31. 28 Quoted in Ettinger 2009: 162.

it seemed at the time. Millions of unauthorized Mexican migrants would eventually settle in the United States, becoming a vital source of labor for agriculture and other sectors of the economy but also the main rationale for more intensive border enforcement. It was not until 1929 that US border inspectors even made any real effort to regulate the entry of Mexican nationals; even as late as the 1980s, border controls remained at token levels. US Border Patrol agents could cover only about 10 percent of the nearly 2,000-mile border, and most of those apprehended were simply sent back across the line to try again. Most smugglers caught were simply let go, and those who were not were charged with a misdemeanor.²⁹

Anemic enforcement (a bare minimum exercise of control power) meant that illegal entry across the border remained a relatively simple and inexpensive activity: migrants either smuggled themselves across the border or hired a local *coyote*. The use of a professional smuggler remained more of a convenience than a necessity. Hiring the services of a smuggler generally meant a faster and safer trip across the line. Use of a smuggler did involve personal risks (there was the potential for theft and physical abuse), but attempting the border crossing without such help increased the likelihood of assault by border bandits and abuse by authorities.

The long if uneasy border equilibrium between relatively low levels of control power and protean power became unsustainable in the midst of a growing domestic anti-immigrant backlash that culminated in the 1990s, with California (home to an estimated half of the nation's unauthorized migrant population) at the epicenter. Just as the late nineteenth-century backlash against Chinese immigrants began in California, so too did the backlash against Mexican immigrants in the late twentieth century – with the fallout spreading across the entire border.

In the heated early and mid-1990s policy debates about illegal immigration and a seemingly "out of control" border, in which politicians from across the political spectrum were scrambling to outdo each other in proposing tough new immigration-control measures, the federal government launched a high-profile border enforcement crackdown. Long viewed as the neglected stepchild of the Department of Justice, the Immigration and Naturalization Service (INS) suddenly became one of the fastest-growing federal agencies. The INS budget grew from \$1.5 billion in fiscal year 1993 to \$4 billion in fiscal year 1999, with border enforcement by far the single largest line item. The size of the Border Patrol more than doubled along the border by the end of the decade. The new

²⁹ Andreas 2013: 415.

border enforcement campaign also included an influx of new equipment, ranging from night-vision scopes and low-light TV cameras to ground sensors, helicopters, and all-terrain vehicles. The military also played a supporting role by assisting with the operation of night scopes, motion sensors, and communications equipment, as well as building and maintaining roads and fences.³⁰

Congress assured that the border build-up would continue by passing the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The sweeping law sharply increased the penalties against migrant smugglers, and authorized the hiring of 1,000 Border Patrol agents a year, reaching a total force of more than 10,000 by 2001. Most of these agents would be deployed to the most popular urban entry points for unauthorized migration, such as El Paso and San Diego, with the goal of disrupting and deterring the flow. Left out of this immigration-control offensive was any meaningful focus on workplace controls – in other words, the application of "control power" was highly selective and focused. It was highly visible, but also extremely thin.

Not surprisingly, tighter border controls in El Paso and San Diego pushed migrants to attempt entry elsewhere along the border. These shifts in human traffic, in turn, generated further political pressures and bureaucratic rationale to geographically expand the border-policing campaign. Consequently, a Border Patrol force that had already more than doubled in the 1990s more than doubled again in the first decade of the twenty-first century.

In order to cross a now much more intensively patrolled border successfully, migrants increasingly turned to professional smugglers. As INS commissioner Doris Meisner acknowledged, "as we improve our enforcement, we increase the smuggling of aliens that occurs, because it is harder to cross and so therefore people turn more and more to smugglers." And as the risks and smuggling fees jumped (from hundreds of dollars to thousands of dollars per crossing), smuggling became a much more organized and sophisticated business. Breaking up the traditional routes and methods of clandestine entry turned the once relatively simple illegal act of entry without inspection into a more complex underground web of illegality. Put differently, the greater control power exercised by the state made migrants more dependent on protean power and smugglers.

In turn, US officials went to great lengths to portray migrants as the victims of smugglers, and they used this both to deflect criticism and to provide a further rationale to crack down on smuggling. But this was a much too simple and convenient a characterization of smugglers.

³⁰ Andreas 2013: 301. ³¹ Quoted in Andreas 2013: 305.

Migrants generally viewed smugglers as simply a "necessary evil," a clandestine business transaction in which they willingly engaged to evade the expanding border enforcement net. Within Mexico, many considered migrant smuggling a shady business, but one that was providing a high-demand service. Smugglers could be abusive and reckless, and their efforts to bypass law enforcement could place migrants at great risk; hundreds were dying every year in trying to cross the border in the harsh and remote terrain where border enforcement was thinnest. Yet smugglers were hired precisely because they generally provided a safer, faster, and more reliable border-crossing experience.

Smugglers also became more skilled as border enforcement became more intensive. Although some of the local freelance entrepreneurs who once dominated migrant smuggling along the border were being squeezed out by the border-enforcement offensive, they were replaced by better organized and more skilled migrant-smuggling organizations. This, in turn, was used to justify tougher laws and tougher enforcement. The number of smugglers being prosecuted mushroomed, and more punitive sentencing guidelines significantly increased the length of prison terms for smugglers. But this did not translate into a shortage of smugglers. More risks translated into higher smuggling fees. And as the risks for smuggling rose, so too did the incentive for smugglers to use more dangerous methods to avoid law enforcement.

The Lived Experience of Today's Collision

As we have seen, although the collision between protean and control power along the US–Mexico divide is not new, it has intensified. Contemporary relationships between the state, migrants, smugglers, and criminal terrain bosses are themselves an outcome of over a century of these power collisions at the US border. However, the latest chapter of this old story further complicates simple narratives about the interactions of these actors and their relative power. Drawing on ethnographic materials collected in a study of clandestine Central American migration to the United States,³² we trace the power dynamics within these relationships. This tracing reveals the sometimes contradictory and sometimes symbiotic connections between protean and control power. It also reveals the lived contradictions of protean power, as experienced by migrants themselves.

The on-the-ground *experience* of the US government control agenda is a story of protean power. The everyday practice of policy implementation

³² Brigden 2013.

requires discretion and deft maneuvers on the part of the street-level bureaucrats.³³ Border control is not an exception to this general rule; it too generates protean power. Routines must be adapted to a lived reality, or they are rendered useless; patrols cannot keep a strict schedule and unchanging route without becoming predictable and easy to evade by smugglers. Frontline immigration agents must rely on discretion, ³⁴ their wits, innovations and improvisations on protocols and stereotypes³⁵ to adapt to unforeseen events at the border. ³⁶ A border official explained the gut feeling that develops with experience, "But people develop a sense. It's like at the border. The agents can see a car coming from half a mile away. Maybe the mannerisms are just not right. It's just that something doesn't feel right. The agents have a difficult time articulating the probable cause. They just know who to stop." After further questioning, the border official explained that, "In law enforcement, we call it profiling." ³⁷ Indeed, the US courts implicitly recognize the necessary role of protean power, by granting border patrol agents greater discretion in their job than any other law enforcement agent.³⁸ In order to empower them to make judgments and act on their wits at the border, the courts have defined standards for probable cause loosely for US Border Patrol. As the state attempts to increase its control power at the border, this discretion, which creates a space for border agents to exercise their protean power, plays an increasingly vital role in the national security agenda.

In response to the increased control power exercised by the state, smugglers and migrants generate a collective protean power. Indeed, smugglers and migrants sometimes co-improvise migration strategies to achieve their common objectives. The most reputable smugglers behave as service providers, treating migrants as valued customers, protecting them from criminal predators, or settling disputes among travel companions. In turn, migrants generally agree to keep the smuggler's identity secret if they are apprehended by border patrol. For their part, experienced migrants may be called upon to assist smugglers, helping to guide or maintain order in the travel group. Indeed, the boundary between smuggler and migrant may be blurred, when these migrants accept travel discounts, receive upgraded treatment, or other payments for such auxiliary support. Experienced migrants may begin to work as guides. Sometimes migrants co-innovate new migration tactics. As Maria's

³³ Lipsky 2010. ³⁴ Bouchard and Carroll 2002; Salter 2008: 370.

³⁵ Gilboy 1991; Heyman 2009.

³⁶ Interview, El Salvador, September 2, 2010, also quoted in Brigden 2016.

³⁷ Quoted in Brigden 2016.

³⁸ On the role of discretion in the performance of Canadian state sovereignty, see Salter 2008: 368–70.

story from the introduction illustrates, collective brainstorming or migrant–smuggler partnerships to devise new ways around unexpected barriers to mobility are not uncommon.

When Maria and her smuggler had devised the plan to sing gospel, she and her companions did not know that far greater dangers awaited them in northern Mexico. At a point just north of Puebla, Maria's guide slipped into the secret compartment alongside the migrants. If stopped, he would pass as one of them, and they had all sworn to protect his identity. His decision to conceal himself among loyal clients proved to be fortuitous. A new guide drove the banana truck in which they were hidden. Squatting in these cramped quarters in the hidden compartment, Maria heard the three gunshots that killed the driver. They had been stopped by a heavily armed group of bandits, dressed in black. Based on their paramilitary appearance and ruthless behavior, Maria presumed these men and women to be the Zetas. Having recently taken control of the territory, this criminal group had not received the appropriate passage fee from the Salvadoran smugglers. Thus, the bandits kidnapped the migrants and held them until family members or friends paid for their delivery. And the bandits began to negotiate with Maria's hometown smuggler for a more regular fee to cross their territory. The kidnappers treated Maria and her travel companions harshly, but Maria was fortunate because this criminal group delivered her to New York in exchange for the smuggling payment. Every year thousands of migrants are not so lucky; kidnappers often release migrants in Mexico, rather than the United States, or turn them over to Mexican migration authorities for deportation after receiving ransoms. Sometimes they keep their victims indefinitely, breaking promises and demanding ever more money from desperate family members. Luckily for Maria, she arrived and lived in New York for several years, before returning home to El Salvador as a local success story. She saved the money to build her dream home and open a restaurant near the center of town, until extortion demands and threats from a Salvadoran street gang forced her to migrate a second time.

When Maria made the return journey to the United States in 2010, she contracted with the same hometown smuggler for the second passage from El Salvador to New York. She did so despite the killing of the guide he had subcontracted and her subsequent kidnapping during the first journey. However, Maria made this choice of smuggling service provider not primarily to avoid US border agents or Mexican migration authorities, but because the hometown smuggler probably knew which criminals to pay to cross Mexico safely. She was primarily frightened of the Zetas drug-trafficking organization operating in Mexico, which had acquired infamy for their kidnapping of migrants for ransom. Ultimately, Maria

and her family crossed Mexico, but were captured by the US border patrol.

They immediately filed an asylum claim based on the criminal gang-based persecution they had suffered in El Salvador, and this claim was eventually granted. Indeed, an increasing number of Central Americans turn themselves in to US border agents or allow themselves to be captured in order to file asylum claims. Some smugglers instruct their clients to do so, improvising upon the legal resources made available to migrants by the state. While many of these claims are in fact well-founded asylum cases, smugglers and migrants nevertheless deftly leverage the state's own institutions against its control power. Thus, the "cracks and contradictions" of institutions (Reus-Smit, Chapter 3, pp. 60, 61, 66, 68) provide opportunities for improvisation and innovation; in this case, borders and the refugee protection regime collide, demonstrating how, at the right moment, migrants and smugglers can exploit the nexus of "co-existing, overlapping, but often discordant singular institutions" (Reus-Smit, Chapter 3, p. 61).

In the contemporary context of the escalation of the Mexican drug war (post-2006), Central American migrants like Maria no longer only pay smugglers to resist the control power of the state. Instead, these migrants also pay smugglers to help them negotiate a perilous passage across territory controlled by Mexican criminal terrain bosses. For Central Americans, the danger of Mexican criminal terrain bosses is the primary motivation for contracting a smuggler. Well-informed migrants often pay smugglers not because they know their way around US border patrol efforts, but because their smugglers know which criminal to pay for safe passage.³⁹ As explained by one migrant, "A good coyote is well connected; he knows who and how to bribe."40 The control power of Mexican criminal territory bosses, who extort crossing fees from both migrants and smugglers, guarantees that the profession of smuggling will remain profitable. This shift in control to criminal territory bosses illustrates the dynamic between control and protean power over time, and it signals how actors may be impacted by multiple forms of power depending on which relationship they engage.

When the drug war erupted spectacularly in 2006, Mexican territory began to change hands quickly and without warning among competing criminal gangs. The Mexican crime groups splintered with fighting between and within. These gangs began to kidnap northbound migrants for profit. They also kidnapped migrants to renegotiate passage fees with Central American human smugglers. The fees for criminal crossing

³⁹ Brigden 2015. ⁴⁰ Interview, El Salvador, January 24, 2010.

increased in tandem with the intensification of violence, rapid shifts in criminal control, the breaking of old business protocols, and the fragmentation of terrain among competing gangs.

At the same time, beginning in the aftermath of September 11 and continuing into the present, bilateral US–Mexican cooperation for contraband interdiction has intensified. Most recently, in 2014, Mexico launched a reinvigorated "Plan Sur" primarily policing the southern train routes that the poorest and most vulnerable migrants often board like hobos to get to the United States. To give a sense of the magnitude of this policing effort, the number of Central Americans deported from Mexico has exceeded the number deported from the United States. Such immigration enforcement operations have made migrants ever-more reliant on hiring smugglers for successful arrival in the United States.

Despite this massive Mexican enforcement campaign, as well as ongoing fighting within and between gangs, criminals have proven to be more adept at controlling clandestine traffic through their territory than the state. Working through both civilian informants and corrupt state officials, their intelligence networks actively identify smugglers and migrants who have not paid the requisite passage fee. The efficiency of these stealthy networks is legendary among migrants, who sometimes whisper about the spies who travel alongside them to collect information for criminals. Even if US border enforcement were to disappear, human smuggling would now persist as a profession, because migrants - especially non-Mexican migrants – need the smugglers' contacts to negotiate passage across criminal terrain. Ironically, Mexican criminal bosses generate protean power; they deftly manipulate expansive social networks, fluid shifting alliances, the recruitment of former soldiers and police with counterinsurgency skills, violent stagecraft and message murders that project an intimidating reputation, and other flexible tactics. In so doing, the Mexican criminal bosses impose greater control power along smuggling routes than do states.

The ruthlessness of the Mexican criminal bosses is infamous by design, not unlike modern-day terrorist organizations that capitalize on their violent and powerful image with carefully publicized acts (Mendelsohn, Chapter 9). As the drug war has intensified during the past decade, criminal groups have employed increasingly brutal methods to extract money from Central American smugglers and their migrant clients. Capture by border patrol may force migrants to begin the journey again, a terrible prospect after coming so far from home. For migrants with criminal records or multiple crossing attempts, capture by the border

⁴¹ Casillas 2007; Isaacson and Meyer 2014.

⁴² Dominguez Villegas and Rietig 2015; Lohmuller 2015.

patrol may even be punished with a lengthy prison sentence. However, these consequences pale in comparison with the torture, trafficking, rape, ransom demands, and, sometimes, murders that occur at the hands of Mexican criminal territory bosses, such as the Zetas or the so-called "Gulf cartel." Ransoms generally cost migrants' families thousands of dollars, often money that had been borrowed to pay smugglers for the delivery of migrants in the United States. Without the migrant to work off the debt in the United States, immigrant families that pay these ransoms may be left financially destitute. To extract sufficient information to make these ransom demands or to intimidate migrants into submission, kidnappers sometimes cut off their victim's fingers or beat them with wooden boards. Female migrants may be trafficked for sex work rather than ransomed. Conditions in the drop houses where migrants are held for ransom can only be described as deplorable. When thinking about making a clandestine journey, US border policing is often the least of Central American migrants' worries.

Criminal territory bosses are not the only non-state actors who attempt to dominate migrants. Despite their shared enemies of the state and dangerous criminal terrain bosses, smugglers have also long been infamous for the exploitation of their clients, imposing control over migrants. This is perhaps even truer today than in the past. Even in early periods of border crossing, smugglers had been known to threaten and intimidate female migrants into having unwanted sexual relations. Smugglers may not keep promises about travel and living conditions en route, subjecting migrants to more suffering than expected. Smugglers sometimes steal from and cheat migrants, abandoning them in dangerous places along the route. They may sell their human cargo to traffickers. Smugglers may collaborate with kidnappers, who demand ransoms from family members in the United States without delivering them there. Finally, smugglers may suddenly attempt to renegotiate their contract with the migrant at a vulnerable moment during the journey, extorting more money than the original agreement had entailed.

At some point during the journey, virtually all Central American migrants experience a deprivation of liberty at the hands of their smuggler, even when the migrant–smuggler contract is consensual, rather than the outcome of a kidnapping. Migrants may be locked inside a hidden compartment of a vehicle, incapable of escaping if conditions turn dangerously hot or oxygendeprived. They may be locked in an unsanitary drop house with other migrants for days or weeks to wait for an opportune moment to make the

⁴³ For an in-depth discussion of these moments of immobility during migrant journeys, see Brigden and Mainwaring 2016.

next segment of the journey, or to wait for a payment to the smuggler from US-based relatives.

It should be pointed out that this predatory protean power, benefiting smugglers as well as other criminal organizations, ultimately contributes to the US policy goal of making the border harder for migrants to cross (even as migrants rely on smugglers and the bribing of criminal organizations to make it across the border). In this way, predatory protean power serves as an unintended accomplice in control power objectives. Nevertheless, migrants are not powerless. They resist smugglers and kidnappers. Escape stories abound, as migrants flee buildings that are poorly equipped to hold hundreds of captives or take advantage of drunken debauchery during football matches or holidays to slip past inebriated guards. In interviews, a migrant found a window in a bathroom, another carefully learned the schedule of his captors, and yet another broke through a shoddily constructed wall to find freedom. Acts of collective resistance also erupt in these drop houses, and in one particularly dramatic story, migrants grabbed pitchforks and shards of broken glass to defend themselves against armed assailants. 44 Migrants may submit to their captors outwardly in appearance only, but continue to conspire quietly to regain their freedom.

However, protean power comes at a terrible cost for many migrants. The Honduran man, Maynard, who told the dramatic story of resisting kidnappers with pitchforks and broken glass wept when he remembered how the kidnappers beheaded his co-conspirator; their plan had been discovered prematurely, because a particularly hungry captive had informed on them in exchange for food rations. It had been the second time Maynard had been betrayed by another migrant; a Honduran "friend" had sold him to the kidnappers. Other migrants who survived kidnappings wept, rather than congratulate themselves on their impressive feats of resistance and wit, as they thought of the people left behind or the expense of the ransoms to their families. Migrants often do not experience a sense of empowerment from their capacity to negotiate a humiliating, morally compromising and physically difficult journey.

The physical sacrifices of the journey are common knowledge across the region, leaving lasting scars on the bodies of border crossers. For those that survive the passage, the price of protean power still potentially includes extreme hunger and malnutrition, exposure to the elements or wildlife, illness from contaminated water, suffering assaults, disembodiment from

⁴⁴ Interview, Mexico, March 12, 2010.

falls from the train, and injuries in the desert. However, these scars often run deeper than the skin and bones of a migrant.

The trauma of the journey can leave lasting social and moral traces in the psyche of border crossers. Even the most successful border crossers must lie or alienate themselves from loved ones to survive. A Salvadoran woman, Ana, traveled with her two small children and a military-age nephew across Mexico in the late 1980s. 45 She tearfully described the ethical dilemmas she faced in transit. Her husband had already fled due to political persecution during the civil war. Her nephew had been a low-ranking infantryman, and he deserted to flee the violence. On the way north, they boarded a bus, pretending to be Mexican. The guide kept them separate, and told them that they must all act like strangers. Her nephew was sitting a few seats from her when police boarded the bus and took him away. At this point in the story, Ana wept remembering how she could only assume that he was being led away to his death, "Imagine pretending you don't know your own nephew ... But that is how it is on the road." To survive, she had to momentarily disavow her kin, silently watching him be led to potential slaughter. 46 She thereby maintained her disguise and continued north, exercising her power to move and protecting her children, but at a terrible emotional and, in Ana's interpretation, moral cost. Her power to migrate was inexorably tied to her acceptance of her powerlessness to help her nephew.

Later in the journey, Ana traveled in a private car with her children and smuggler. Before passing through the highway migration checkpoint, Ana and her smuggler had to coach her young son. The smuggler instructed the boy to say he was his father if anyone asked. The seven-year-old boy became indignant at the suggestion, "You are not my father! My father is in the US and we are going to him!" The smuggler was patient, but the situation was critical. The boy had to be taught how to lie. While interviewing her, Ana shook her head with sadness at the memory of threatening her son to dissuade him from telling the truth. While she did not say it aloud, perhaps, her thoughts briefly skipped ahead to the rebellious young man he later became, a regret that she had discussed on other occasions. Deception is part of the power that migrants can draw upon, but they do so at a cost. In Ana's estimation, she paid with her son's virtue and her own responsibility as his mother. Teaching her son to lie went against her principles as a mother and a

⁴⁵ Interviews, El Salvador, November 11, 2009 and January 14, 2010.

⁴⁶ The nephew began the journey again as soon as he returned, and he arrived safely in the United States on his second try.

devout Catholic, but morality must be bent (in this case, somewhat gently) in the realm of protean power.

However traumatizing the journey might be for Ana, telling lies to migration police is one of the lesser moral quandaries that migrants face in transit today. In the contemporary context, migrants may be forced to collaborate with criminal terrain bosses and kidnappers. A small minority of migrants become spies infiltrating the migration stream. They lead groups of migrants into ambush or monitor the activities of human rights activists, smugglers, and other migrants for criminal bosses. These co-opted migrants become the eyes and feet of criminal networks along the smuggling route. Migrants' capacity to go undetected among their co-nationals is a form of protean power that comes from the ability to cleverly disguise intentions and improvise upon social expectations and stereotypes to forge new relationships. In turn, this protean power serves as a resource for criminal territory bosses to exert control power over the smuggling route. Such protean power enables the migrant's survival and mobility, but at the expense of others.

This form of collaboration represents neither outright resistance nor acceptance of the control power of the state. Such collaboration on the part of migrants is a survival tactic that mirrors relationships that form across a variety of violent settings, generating what Primo Levi calls a "grey zone," where distinctions between victims and perpetrators become blurry. 47 The fact that this power comes at the price of solidarity among Central Americans and an increase in the suffering of a vulnerable population does not go unnoticed by migrants. As a Honduran woman ruefully lamented, "They are us, same as us: Hondurans, Guatemalans, Salvadorans. My own paisanos are those that rob. That's why you can't trust people in the [Catholic migrant] shelter either." The Honduran woman turned to a Guatemalan girl next to her, "You don't know who they are, your own paisanos."48 Indeed, a sense of betrayal often accompanies the experience of the journey. A shadowy world of mistrust, chameleon-like characters, and ephemeral alliances is the price of protean power.

Conclusion: Protean Power and Predation

As this chapter has suggested, protean power should not simply be equated with "empowerment." It is worth noting that migrants themselves do not celebrate protean power. They would much rather see a dramatic immigration policy change than be forced to improvise a terrible

⁴⁷ Levi 1988. ⁴⁸ Interview, Mexico, April 11, 2010.

and dangerous clandestine journey. They would rather the state leave them alone than be forced to respond to it with agility and ingenuity. In fact, the practices in which they must engage during the journey are often experienced as profoundly disempowering and dehumanizing. As Maria's and Ana's stories suggest, survival often requires painful compromises of morality or extraordinary physical sacrifices.

Protean power is not a form of solidarity that promises to bring us to a more just or equitable world. It is a fragmented force that enables some individuals to navigate a path to the United States, but does not address the larger socio-economic and political structures that motivate migrant journeys and shape the migration route. Predatory patterns emerge from protean power generated by some migrants as they survive violence at the expense of their compatriots. Such predation may thwart some political projects and undermine a sense of shared identity. Furthermore, protean power seems better fit for creative resistance of control than to capturing and controlling the direction of state policy.

As far as migrants are concerned, "weapons of the weak" are a distant second best to a US immigration policy revolution. For this reason, Reece Jones calls everyday practices that transgress state boundaries, but without an overt political motivation, a form of "refusal" rather than "resistance." ⁴⁹ Such activities are disruptive and have structural effects, but their participants do not necessarily understand them as resistance or empowerment. Protean power clearly complicates control power. Nevertheless, control power also necessitates and, in an important sense, generates its own antithesis in protean power. Likewise, protean power constitutes control power. When viewed through the lens of experience, even the state requires the protean power of individuals to implement its control. Finally, given the perverse escalation spirals that sometimes emerge from the interaction of the two forms of power, the future structural effects of protean power remain unclear, and may ultimately reinforce control power rather than undermine it. Nevertheless, protean power is creative and, thus, a form of agency that cannot be overlooked if we wish to understand the dynamic process of control and evasion at the border.

Indeed, using different levels of analysis, we have explored the interaction of control power and protean power, showing how their collision has produced a humanitarian catastrophe at the border, not just a failure to curb migration. If we only look from the top down at the border, we see a mirage of control that might be heralded as a victory for policing.

⁴⁹ Jones 2012.

Nonetheless, it is a pyrrhic victory of control power, representing a decrease in the visibility of an otherwise continuous flow of unauthorized migrants across the US–Mexico line. Nor, however, can continued border crossings be heralded as a victory of protean power. If we look through an ethnographic lens from the bottom up, where protean power becomes visible for individuals, we have seen the true consequences of the attempt to impose control: dramatically intensified human suffering. The interaction of control with protean power produces this tragic outcome. Shifting the line of sight of our analysis brings the tragedy, as well as the victory, of protean power into focus. Border guards and border crossers both experience profound uncertainty and risk, and ethnographic methods bring this experiential level into view. Thus, for the contemporary period, we augment our historical analysis with ethnographic research on the day-to-day experience of Central American migrants attempting to clandestinely reach and cross the US–Mexico border.

From this analysis, we find that at key moments control power is constituted by protean power. We can see this complementarity when we move up and down the levels of analysis from collective actors to practice. At the level of practice, the state generates the protean power as its individual immigration agents exert control power at the border. These improvised practices constitute the state, and the protean power generated by individuals engaged in such improvisations constitutes the state's control power. Similarly, organized gangs that control territory require the protean power of individual criminals, that is, the smugglers, look-outs, enforcers, and others. Moving up and down the levels of analysis shows us how protean power complements, and in some ways creates spaces for the operation of control power.

In other moments, control power and protean power of various actors interact, leading to a spiral of intensification with yet unpredictable outcomes. As the state exerts control power, it calls protean power into existence. Necessity is the mother of invention, and border control is the mother of improvised smuggling and migration practice. The protean power generated by migrants and smugglers then destabilizes the façade of control, justifying further control effort by the state. We see this interaction by moving across history.

Although beyond the scope of this chapter, this type of analysis could be extended to the recent plight of African and Middle Eastern migrants attempting to enter Europe. Attempts to control illegal traffic across the Mediterranean have had an ambiguous, and often counterproductive, impact on clandestine flows. An unrelenting unauthorized traffic drifts north from the northern African coastline. For the last two decades of policing intensification, the bodies of failed border crossers

have washed ashore on European beaches alongside tourists. While a massive allocation of resources to fortify the European continent against these flows has not succeeded in stemming the tide of contraband and migration, ⁵⁰ it has dramatically restructured the lived experience of migration in ways similar to those survived by Central American migrants seeking to enter the United States. ⁵¹ The geographic focal points, ⁵² social relationships, and smuggling networks ⁵³ that underpin routes adapt to policing.

Since the 1990s, the Mediterranean crossing has grown more dangerous for unauthorized migrants,⁵⁴ especially in recent years. In response to the Syrian refugee crisis and a recent series of high-profile calamities suffered by boat migrants during clandestine passages, NATO ships have been deployed to the Aegean Sea to deter human smuggling.⁵⁵ Our analysis leads to the expectation that, despite its humanitarian justifications, these militarized deterrence efforts will lead to a formidable increase of suffering, but ultimately prove incapable of halting clandestine flows into Europe. Instead, the complex collision between the control power of the state and the protean power generated by migrants will likely continue to expand and intensify on the periphery of Europe.

Our chapter has shown how a ground-level line of sight helps us to sort out precisely these complex effects of power on diverse actors and their relationships. We find that different forms of power alternate, crosscutting between empowerment and disempowerment at key moments in interactions between state actors, smugglers, migrants, and criminal territory bosses. Furthermore, the ground-level line of sight, at the level of experience, brings surprising instances of protean power into view, sometimes constituting the control power exerted by collective actors like the state. In this way, we complicate the dichotomy between state—non-state actors and their relationship to control—protean power. Recently, much to the chagrin of low-ranking smugglers, more powerful criminal actors have imposed control over clandestine flows through their terrain. The tightened control of terrain by criminal bosses represents a new iteration of, and increasingly complex interplay between, control and protean power. Migrants must sometimes resist the control of their own smugglers, and the very existence of smuggling as a profession is predicated on the imperfect but potent control power of the state and now criminal territory bosses. Power reverberates in often

Anderson 2000; Andreas 2009.
Brigden and Mainwaring 2016.
Carr 2015.
Collyer 2010.
Albahari 2015; Carling 2007; IOM 2014.

⁵⁵ Schmidt and Chan 2016.

unpredictable ways through these layered and shifting relationships between the state, smugglers, territory bosses, and migrants, as experienced by the individuals implicated within them. Across the US—Mexico border and across the globe, states have tightened enforcement, thereby restructuring these layered and shifting relationships, intensifying the experience of uncertainty along clandestine routes, and often unwittingly complicating (though not undoing) control power by calling protean power into existence.