Program

Universiteit Leiden

CINETS
Crimmigration Control
INTERNATIONAL NET OF STUDIES

Vrije Universiteit Brussel

www.crimmigrationcontrol.com

Dear participants,

We are honored and delighted to extend a heartfelt welcome to each of you attending the second conference of the Crimmigration Control International Net of Studies (CINETS) here in the city of Leiden, the Netherlands. With the focus of our network and our conference on a broad range of issues related to ongoing securitization of migration, the city of Leiden is actually a very fitting choice. Leiden, where the Pilgrims sought refuge in the spring of 1609, is known to be the *City of Refugees*. Throughout history, Leiden has given shelter to people who were no longer welcome elsewhere.

An influx of refugees brought the number of residents to around 12,000 by 1580, and around 40,000 by 1620. Due to this large influx, in the 17th century the population of Leiden grew from just over 20.000 to 70.000 souls within a short period of time. About a third of Leiden's inhabitants were refugees from Belgium, and among so many thousands of newcomers. The city welcomed refugees to work at the looms. With countless families carding, spinning, and weaving from dawn to dusk, the drapery industry revived.[1] Even in the 20th century, no less than three out of four "Leideners" come from a refugee background.

The theme of the conference, *The Borders of Crimmigration*, also reflects the aim and the scope of the CINETS network. After its formal establishment in 2011, while continuously expanding, the network has truly been crossing borders. Not only national borders by bringing together scholars from all over the world, but also academic borders by bringing together scholars from a broad range of disciplinary backgrounds. And last but not least, the network has brought together scholars and practitioners to engage in conversation in order to further deepen and learn from each other's knowledge. This conference will reflect these key features of our vibrant network.

We are therefore looking forward to meeting you all and wish you a very pleasant stay here in Leiden and at our Law School. We hope that what you hear and learn from our fabulous speakers, session presenters, and conversations with fellow attendees helps to stretch and challenge your thinking on the important matters that have brought here together. Let this be the first (or second) of many more CINETS conferences on your scientific and social agenda: let's agree to meet again in College Park, Maryland (USA) in 2016!

The 2014 organizing committee;

Maartje van der Woude,
Joanne van der Leun,
Flore van Rosmalen,
Anne van Es,
Steven de Ridder.

[1] For more information on the City of Leiden and especially its status of being a *City of Refugees* make sure to visit the Leiden American Pilgrim Museum (very close by the Law School) and Museum 'De Lakenhal'. The latter is one of Leiden's monuments – built in 1640 - and it is here where the historically famous Leiden cloth was thoroughly inspected before being sold. Today, the building houses a diverse collection of works by master painters, including Rembrandt, Lucas van Leyden, and Theo van Doesburg.

CINETS group

The Crimmigration Control International Net of Studies (CINETS) group of research was created in September 2011, after months of conversations by email between Maria João Guia (University of Coimbra) and Juliet Stumpf (Lewis & Clark Law School, USA). Juliet Stumpf has coined the term 'Crimmigration' in 2006 and, searching for literature, Maria João Guia found her excellent papers and contacted her by email, starting this network. After some months of exchanging thoughts and opinions, they decided to meet and bring to discussion a subject which is a passion to both of them: "the crimmigration".

That's where a longer plan started taking form: a panel in the American Law and Society Association conference was organized and other scholars joined them. Robert Koulish (University of Maryland, USA), Maartje van der Woude and Joanne van der Leun (both from Leiden University, Netherlands), joined them at this discussion held in San Francisco.

Juliet Stumpf and Maria João Guia set up two panels in the 16th Metropolis Conference, held in Azores, September 2011 where other academics joined them in discussing the subject. This was the start of a project that is looking to bring together scholars who intend to develop comparative studies and issues on the central subject of 'crimmigration' and parallel subjects.

A website was then set up where most of the past and future activities, as well as the researchers are presented to the public – www.crimmigrationcontrol.com.

During this starting period, Maria João Guia, Maartje van der Woude and Joanne van der Leun decided then to lead the organization of the first CINETS conference, held in Coimbra, Portugal, where the heart of this network has been funded. They decided to co-edit the first book that is intended to be the first of a series of many studies on this topic in the future.

Now, in 2014, we proudly organize the second CINETS in Leiden, The Netherlands in 2014.
We are very happy to receive new interested researchers on this area to join the growth of this project. Just explore our website or e-mail us at info@crimmigrationcontrol.com.
Thanks for your interest!

CINETS Organisation

In case of emergencies or very important questions, please call one of the members of the organizing committee: Anne van Es (0031 641599554) or Flore van Rosmalen (0031 610313440)

Schedule

Location

Kamerlingh Onnes Building (**KOG**), Leiden Law School, Steenschuur 25, Leiden

Please see the maps in your conference bag for the route from the Law School to Leiden Central Station and from the Law School to the dinner location on Thursday night

Thursday October 9th, 2014

8.00 – 9.00:	Registration / Coffee and tea in KOG Restaurant
9.00 – 12.15:	Plenary sessions (Room A144) Opening by chair Joanne van der Leun Keynote speaker Juliet Stumpf Keynote speaker Katja Franko
12.15 – 13.30:	Lunch in KOG Restaurant
13.30 – 15.00:	Panel sessions 1: A (Room B013), B (B025), C (C014)
15.30 – 17.00:	Panel sessions 2: D (B013), F (B025), G (C014)
18.30:	Dinner, Scheltema Restaurant, Marktsteeg 1, Leiden *Optional, extra fee applies*

Friday October 10th, 2014

8.30 – 9.30:	Coffee / tea in KOG Restaurant
9.30 – 12.00:	Plenary sessions (Room A144) Keynote speaker Jennifer Chacón Keynote speaker Mary Bosworth
12.00 – 13.00:	Lunch in KOG Restaurant
13.00 – 14.30:	Panel sessions 3: H (B025), I (B013), J (B017)
14.45 – 16.15:	Panel sessions 4: K (B013), L (B025), M (B030), N (B017)
16.30 – 18.00:	Panel sessions 5: O (B030), P (B017), Q (B013)
18.00 – 18.30:	Closing session (Room A144)
18.30:	Reception in KOG Restaurant

Keynote speakers

We are proud to introduce our four excellent keynote speakers for the Second Crimmigration Control Conference **"The Borders of Crimmigration":**

Katja Franko. Katja Franko is professor of criminology at the Department of Criminology and Sociology of Law of the University of Oslo. Her primary research interests are in globalization, migration, international police co-operation, and on the uses of advanced information and communication technologies in contemporary crime control strategies, border controls in particular. She is currently heading the five-year research project "Crime Control in the Borderlands of Europe", funded by a European Research Council Starting Grant, about the impact of immigration on contemporary criminal justice agencies and patterns of crime control. Professor Franko is also conducting, together with Helene Gundhus (Norwegian Police University College), a research project on Frontex, the European agency for the management of external borders. Her recent book publications include *The Borders of Punishment: Migration, Citizenship, and Social Exclusion* (Oxford University Press, 2013, editor with Mary Bosworth) and *Cosmopolitan Justice and its Discontents* (Routledge, 2011, editor with Cecilia Bailliet).

Mary Bosworth. Mary Bosworth is professor of criminology at the University of Oxford and, concurrently, professor of criminology at Monash University, Australia. Professor Bosworth conducts research into the ways in which prisons and immigration detention centres uphold notions of race, gender and citizenship and how those who are confined negotiate their daily lives. Her research is international and comparative and has included work conducted in Paris, Britain, the USA and Australia. Professor Bosworth is currently heading the five-year project "Subjectivity, Identity and Penal Power: Incarceration in a Global Age" funded by a Starter Grant from the European Research Council. She is also, with colleagues from Monash University, conducting research in Greek Immigration Detention Centres. Her recent publications include 'Deporting Foreign National Prisoners in England and Wales' (*Citizenship Studies*, 2011) and 'Deportation and Immigration Detention: Globalising the Sociology of Punishment' (*Theoretical Criminology*, 2012).

Jennifer Chacón. Jennifer Chacón is professor of law at the School of Law of the University of California at Irvine. She does research in the fields of immigration law, constitutional law and criminal law and procedure. As a teacher of both criminal procedure and immigration law and policy, professor Chacón is particularly interested in questions arising at the intersection of these fields. Her recent published articles include 'The Transformation of Immigration Federalism' (*William & Mary Bill Of Rights Journal,* 2013) and 'Overcriminalizing Immigration' (*Journal of Criminal Law & Criminology*, 2012).

Juliet Stumpf. Juliet Stumpf is professor of law at Lewis & Clark Law School in Portland, Oregon. Her research explores the intersection of immigration law with criminal law, constitutional law, civil rights, and employment law. She coined the term 'crimmigration' in her influential article 'The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power' (2006, *American University Law Review*). Professor Stumpf is a founding member of the CINETS network. Her recent publications include 'The Process is the Punishment in Crimmigration Law' (book chapter in *The Borders of Punishment: Criminal Justice, Citizenship and Social Exclusion,* Mary Bosworth & Katja Aas, editors, 2013) and 'Doing Time: Crimmigration Law and the Perils of Haste', (*UCLA Law Review,* 2011).

PANEL SESSIONS 1

A. Implications of Incorporating Risk in Immigration Enforcement Room B013

Chair: *Maartje van der Woude,* Leiden University, the Netherlands

Presentations

Digitalizing Detention: What Risk Assessments Reveal about Immigration Detention and its Alternatives
Robert Koulish, University of Maryland, U.S.A. & *Mark Noferi*, Center for Migration Studies, U.S.A.

In this paper we provide the first study of U.S. Immigration and Customs Enforcement's ("ICE's") new computerized "risk assessment tool" for making detention decisions. We envision this interdisciplinary project, by examining previously-unavailable ICE data on criminal and family history, to articulate enforcement's impact on affected immigrant populations and empirically illuminate detention policy reform questions. We also envision a public data set to spark further research, on topics such as noncitizen criminality, demographic study of the U.S. unauthorized population, and legalization, integration and adaptation.

Examining U.S. Immigration Risk Assessments: Critiquing the Risk Management Rationale
Robert Koulish, University of Maryland, U.S.A. & *Mark Noferi,* Center for Migration Studies, U.S.A.

In 2013, U.S. Immigration and Customs Enforcement (ICE) announced its national deployment of a new risk assessment tool for custody determinations. ICE now uses a computerized "point system," based on family and criminal history data, to decide whether to detain noncitizens or not—that is, if the computer in fact decides "not."

This article offers the first published examination of ICE's new risk assessment tool, based on ICE's public guidelines and instructions, as well as preliminary empirical evidence based on Freedom of Information responses from ICE. We agree with scholars who see a narrative shift towards migration "management," which we argue ICE's risk assessment tool both exemplifies and drives. Here, though, we critique the "risk management" rationale and highlight different potential concerns, in light also of the parallel development of risk assessment in criminal justice reform.

Importing risk assessments into immigration law may facilitate reductions in detention, if the risk tool is properly calibrated (as has occurred regarding pretrial criminal detention in some jurisdictions). Immigration law, particularly, likely fosters even greater over-detention than occurs in criminal pretrial detention, given mandatory immigration detention laws, DHS practices, and DHS' executive branch capability to initially detain, rather than merely recommend detention to a judge. Absent proper calibration of the risk tool, though, importing risk assessments into immigration may not in fact reduce detention. (Preliminary empirical evidence indicates this.) This is a particular concern in immigration enforcement, traditionally even more non-transparent, non-individualized, and rights-free than criminal justice (although similar concerns regarding risk assessments have arisen there). Few checks exist to ensure proper calibration. Indeed, absent those checks, the facial neutrality provided by actuarial assessment may add a symbolic layer of legitimacy to substantively unfair over-detention.

Even if the risk tool reduces detention (which evidence has yet to show), the bipartisan appeal of alternatives to detention may facilitate lesser (yet still restrictive) restraints on an even wider net of noncitizens. Alternatives to detention, admirably, better uphold human rights and reduce financial costs. Yet without checks, alternatives to detention in theory may result in alternatives to release in practice —with the low- and medium-risk remaining detained, while the slim- and no-risk are supervised rather than released. Community supervision may facilitate rather than stem this (again, echoing similar concerns from parallel criminal justice reforms). The result may be a transition from mass detention to mass supervision. We preliminarily explore these ramifications here.

Selection in Border Areas: Man vs Machine

Tim Dekkers, Leiden University, the Netherlands

Selection by police and border patrol officers is not as simple as it may seem to be (Dekkers & Van der Woude, 2014). A lot of factors play a role in who is of interest and who is not. For example the way they dress, how they behave or what sort of car they drive can all be part of the equation. This is no different for the Royal Netherlands Marechaussee (RNM). They are, amongst other things, responsible for the surveillance of the borders with Belgium and Germany, aiming to prevent illegal migration and cross-border crime. They do this in the form of the Mobile Security Monitor (MSM). The Schengen Border Code prevents the RNM from using a permanent form of border control, though. They can only select a limited amount of travelers crossing the border in a limited amount of time, making the selection process crucial to a proper execution of their task.
What makes the case of The Netherlands interesting, though, is the use of the @migo-BORAS camera system. This hi-tech system supports the RNM in their selection at the borders. This fits the picture of actuarial justice, as described by Feeley and Simon (1994). One of the trends in this theoretical framework is that professional judgment and intuition are being replaced by formal risk assessment tools and technology will start to play a bigger role in surveillance and control. The Dutch situation is a good case study to see how this trend works out in practice.
The first part of this paper is a practical description of the MSM. Who is involved and what do they do? And how does @migo-BORAS fit in this process? The second part of the paper focusses on the selection process, starting with the officers of the RNM themselves. What factors are important to them and why? This will be compared to the @migo-BORAS system. Does the system keep an eye out for the same factors or does it have different priorities? The final part aims to see if in the case of the RNM, technology can be used as a replacement for professional judgment.

The Schengen Information System II: One year down the road

Jorrit Rijpma & *Maartje van der Woude,* Leiden University, the Netherlands, &
Evelien Brouwer, VU University Amsterdam, the Netherlands

If there is one system that unites the dual goal of migration and crime control in a single instrument it is the Schengen Information System (SIS). Set up as a flanking measure to enable the free movement it has become one of the largest data-bases containing the data of over 900.000 EU citizens and third country nationals, the vast majority of which was “signaled” for the purpose of refusing entry into the Schengen Territory. A second category was entered into the system on the basis of a European Arrest Warrant.

With a view to accommodate the application of the Schengen rules to the Member States that acceded to the EU in 2004, the EU legislator adopted the second generation Schengen Information System (SIS II) in 2006. Although initially intended to be a mere upgrade of the previous system, new functionalities have been added. The system’s reformulated goals has become to “ensure a high level of securtity” in the Area of Freedom, Security and Justice”. Plagued by exceeding costs and technical complications, the system finally became operational on 9 April 2013.

This paper proposes to examine the operation of the new system in one of the Member States, namely the Netherlands. It will do so by looking at both at the legal framework as well as the practical application thereof.

The first part of the paper will examine the rules for making an entry into the SIS II system and their application by the authorities authorised to make such an entry. How has the Netherlands implemented the broadly formulated criteria for inclusion in its national legislation? How are these provisions applied in practice? Importantly, the new Regulation requires that any inclusion is proportionate and based on an individual assessment. How do national authorities apply these conditions? Is there a difference between the different entries and different authorities authorised to make entries?

The second part of the paper will examine to what extent the inclusion of additional functionalities in the SIS II has been coupled with additional safeguards at the EU and national level. In the past the lack of effective legal remedies for individuals to challenge their entry in the SIS has been subject of strong academic criticism. Through the theoretical lens of crimmigration, this paper will examine the legal framework for judicial protection and its practical application by the Royal Netherlands Marechaussee.

From the above results the authors will draw conclusions as to the functioning of the SIS II in its first year of operation in the Netherlands. Has the changed objective of the SIS II - from promoting free movement to promoting security - had an effect on the decision to enter an individual's data in the SIS and are there effective legal remedies available for the individual concerned, both in theory and in practice?

B. Border Management and Sovereignty in the Mediterranean Room B025

Chair: *Orcun Ulusoy*, VU University Amsterdam, the Netherlands

Presentations

Human Rights, Accountability and Migrant Mortality
Thomas Spijkerboer, VU University Amsterdam, the Netherlands

Are European states and private enterprises accountable under human rights law for the increased migrant mortality of the past 20 years? Based on both mainstream legal approaches and critical legal studies (CLS), this paper argues that the human rights protection previously available regarding migrant fatalities under border control has become considerably less effective. I focus on two positions: an 'accountability position' and a 'no accountability' position. The 'no accountability' position relies on presumptions that fit with European migration law and policy as it was before externalization, privatization and securitization; before the shift from control to management; and before the new, denationalized organizing logics (with more administrative power and more law based legitimacy). Furthermore, the 'accountability' position relies on presumptions that fit with European migration law and policy after the shift to a new "organizing logic". By developing two equal analyses for competing positions, I will go beyond the standard differences between a mainstream and a CLS analysis of legal issues. Second, the paper will link legal analysis with social theory by investigating core legal issues in terms of social theory.

Humanitarianism and migration controls at the Central-Southern Mediterranean EU border
Paolo Cuttitta, VU University Amsterdam, the Netherlands

This project aims at analysing major transformations of the Mediterranean migration and border regime since the 1990s as an aspect of what Sassen (2006) calls the "new organising logic of the state" and as part of the global process of reconfiguration of "territory, authority and rights". This will be done a) through the lenses of humanitarianism and b) with a geographical focus on the EU-North African border between Italy and Malta, on the one side, and Tunisia and Libya, on the other side of the Mediterranean. More specifically, the project should shed light on the relationship existing between humanitarianism and denationalization (thus addressing the issue of 'authority'), humanitarianism and delocalization (thus addressing the issue of 'territory'), humanitarianism and securitization. Since the human rights discourse is part of the humanitarian discourse, the focus on humanitarianism also addresses the issue of 'rights'. Thus, the project will analyse the role of humanitarianism and humanitarian organizations in producing the new assemblages of territory, authority and rights in a specific area of the Mediterranean migration and border regime. Particular attention will be paid to the period starting with the dawn of the new century, based on the assumption that this is the moment when humanitarianism significantly started gaining momentum, but the whole research period of the general project (1990-2014) will be covered.

Fatal Encounters with the Southern Maritime Border of the EU: Counting and Accounting for the Dead

Tamara Last, VU University Amsterdam, the Netherlands

The Mediterranean is one of the so-called 'migratory fault lines' that roughly divides the Global South from the Global North. It is a site of intense border control efforts, significant irregular migration flows and, increasingly, migrant 'border' deaths. The arguments that restrictive immigration policies leads to higher irregular migration flows and greater numbers of 'border deaths', and that border control operations transfer increasing levels of risk onto migrants attempting to cross into the EU without authorization leading to greater rates of 'border deaths', are by now familiar. There is also increasing awareness of blatant and borderline violations of human rights in border control practices aimed at preventing unauthorized entry of irregular migrants. Yet it is striking how little empirical data is available to measure these assumed relationships. This paper will present the methodology, advantages, pitfalls and initial results of the first comprehensive database of border-crossing fatalities along the southern maritime external border of the EU (ie the EU coasts of the Mediterranean). Unlike previous estimates of Mediterranean border deaths which are based on media reports and an effective network of NGOs and activists, this database is sourced from death certificates of migrants whose bodies have been found, processed and buried along the coastlines of Spain, Italy, Malta and Greece. The paper will not only demonstrate the reliability of such a database in *counting* the dead, but also its potential for aiding in *accounting for* the dead, both in terms of establishing cause of death and in terms of giving recognition to those who have lost their very lives while seeking a better life in Europe.

Researching and Developing EUROSUR: Networks of Power and Profit in Europe and the Mediterranean

Theodore Baird, VU University Amsterdam, the Netherlands

Which firms are involved in the research, development, and implementation of border surveillance, and what financial interests do they have? Using a mixed-method design involving network analysis, collection of public data on the financial performance of security firms, and semi-structured interviews with representatives of major firms, this paper describes and analyzes the network of firms involved in researching and developing technologies for use in the European Border Surveillance System (EUROSUR). The paper links social structure to financial profit by demonstrating how the network of firms involved in researching and developing EUROSUR is related to the distribution of spending and profits among these firms. In other words, the location of firms within the network partially determines which firm gets the most financial benefit from their involvement in research and development. Large, centrally positioned security firms have driven the research and development of EUROSUR alongside a number of smaller and medium-sized firms which have strong influence in the network despite their size. The paper concludes by exploring the political consequences of the network dominance of large and small security firms in European policy-making and border surveillance.

C. Human Trafficking Room C014

Chair: *Joanne van der Leun,* Leiden University, the Netherlands

Presentations

Witchcraft as a Mechanism of Human Trafficking from Africa to Europe
Katherine Luongo, Northeastern University, U.S.A.
Keywords: Witchcraft, Asylum, Trafficking, Africa

African witchcraft constitutes a key nexus at which migration, criminality, and social phenomena collide on global scale. An array of legal, anthropological, and policy sources from the across the African continent demonstrate that violence motivated by witchcraft is steadily emerging as a "push factor," or adverse factor affecting migration, and as concern of international human right bodies and state immigration systems. In many instances, Africans migrate voluntarily, albeit not necessarily legally, in response to violence or threats of violence directed against them because they have been accused of practicing witchcraft or as a result of violence threatened or carried out against them through witchcraft methods and means in their countries of origin. Flight from experienced or threatened violence related to witchcraft has criminality at its root. Witchcraft accusations and/or acts are crimes according to the penal codes of most African countries. The inability of postcolonial African states to offer protection from witchcraft-driven violence is central to the emergence of witchcraft as a push factor.

Against this broad backdrop, this paper trains a lens on a particular model of "crimmigration" in which witchcraft crosses borders and does material work – cases of African women and children trafficked to Europe and held in sway by their traffickers' threats to exercise witchcraft against them. Such cases continue to come to light in three primary forums: First, through the asylum claims of trafficking victims who have sought protection from the countries to which they have been trafficked or in a third country. Second, through the work of NGOs assisting African migrants. Third, through the anti-trafficking, and anti-prostitution, policing activities of state and international bodies.

This paper performs a close reading of the case of PA, a young Nigerian woman who sought asylum in the UK after being trafficked there via Austria and who claimed that her trafficker had coerced her and abused her using witchcraft practices and threats. The paper addresses important questions about how the various parties involved in trafficking cases where witchcraft is at issue assimilate witchcraft – or not. For example, the Immigration Judge in *PA* asserted that it was necessary for PA to prove the objective reality of witchcraft, not merely PA's own *lived* reality of witchcraft.

The paper analyzes the primary international instrument to combat human trafficking, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the key international law instrument in refugee status determination, the UN Convention and Protocol Relating to the Status of Refugees. Further, it situates *PA* within the wider context of NGO and state anti-trafficking and anti-witchcraft activity in the UK and in Nigeria and addresses journalistic reports of similar cases of witchcraft being used as a mechanism of trafficking. In doing so, it points to the long history of human trafficking and witchcraft dating to the era of the Atlantic slave trade when accused African witchcraft practitioners were banished and sold into the trade. It complicates this history by showing the deep legal genealogy of the absence to protection from witchcraft-driven violence on the African continent and how this sociolegal insecurity relates to contemporary trafficking.

Misuse of Residency Regulations for Victims of Trafficking in Human Beings: Fact or Fiction? An Explorative Study in the United Kingdom, Italy and Belgium

Monika Smit, WODC, Research and Documentation Centre, Ministry of Security and Justice, the Netherlands

Keywords: Trafficking, Residency regulations, Victims, Misuse of regulations

Many European countries offer a temporary residence permit to victims of human trafficking who are not EU nationals and who are staying irregularly. In the Netherlands concerns have emerged that some foreigners falsely claim the victim status. In an explorative study into the residency regulations for victims of human trafficking in the United Kingdom (UK), Belgium and Italy,[2] the scope and nature of possible misuse was one of the topics studied. In the paper we will present our findings with relation to possible misuse. The findings are based on literature study and interviews with key players in the protection of victims of human trafficking in each country.

After a short introduction of the research (research questions and methodology used) we will present:
a) the residency regulation for foreign victims of human trafficking in the UK, Belgium and Italy (a.o. reflection period, obligation to cooperate with police/public prosecutor, possibility of long term residence permits).
b) indications of misuse in these three countries.
c) national means to prevent misuse ('evaluation filters in the system', the role of law enforcement and judicial authorities in detecting potential misuse, the role of ngos and support centres in detecting potential misuse, the function of training and guidelines, information-sharing and cooperation, and sanctions).
d) the effectiveness and potential drawbacks of those measures against misuse.
e) conclusion (misuse, fact or fiction?).

The findings show that misuse of residency regulations by 'fake victims' of trafficking in human beings is not a big or structural problem in the UK, Italy or Belgium. It is prevented by certain aspects of 'the system' (the way in which countries deal with victim claims). However, thus missing (filtering out) 'real victims' is a serious risk that has to be taken into account.

Human Trafficking and Crimmigration in the Netherlands

Joanne van der Leun, Leiden University, the Netherlands

Attempts to combat THB globally involve international, European and national approaches which have been seriously intensified during the most recent decade. The Netherlands has been very active in developing policies over time and an increase in attention for THB outside the sex industry is highly visible. This involves a multidisciplinary approach, which seeks to eliminate opportunities and create obstacles to the commission of crimes, the central principle being that all administrative authorities, as well as private companies and organisations, have a role to play in preventing and fighting THB. This presentation will pay attention to the implications of the overlap between criminal policies and migration policies in this rapidly developing policy area.

[2] Lettinga, D., Keulemans, S.A.C. & M. Smit (2013). Verblijfsregelingen voor slachtoffers van mensenhandel en oneigenlijk gebruik. Een verkennende studie in het Verenigd Koninkrijk, Italië en België. Den Haag: WODC..

Starting from the Bottom: A Human Security Approach to Human Trafficking.

Christopher Dykzeul, Leiden University, the Netherlands

Human Trafficking is an expansive and horrific crime, globally affecting more than 21 million victims all of whom are exploited under the worst physical and psychological conditions. Because of its transnational and criminal nature trafficking of human beings (THB) was first conceived within the realm of organized crime, resulting in combative measures that were initially organized into three combative pillars defined in the Palermo Protocol (UN Convention against Transnational Organized Crime, 2000). The three pillars, notorious called 'The Three P's", seek to Protect existing victims, Prosecute traffickers and further Prevent THB from occurring.

Numerous measures inline with the Palermo Protocol have been broadly implemented throughout the EU, mostly assuming a top-down structure where international and state agencies are the primary actors. Such state-centric approaches in combating THB, however, have left many gaps in data collection, victim outreach and security, and therefore preventative and protective measures falling within the Palermo Protocol.

Using a Human Security or bottom-up approach within the current top-down structure forgoes such problems by placing the individual – the victim – at the center of attention. A Human Security Approach is comprehensive as it attempts to understand the victim's situation by gathering socioeconomic information (e.g. education, prior-employment, family ties and literacy) that presumably transcend and influence THB. In turn such an approach may better uphold the currently abstracted prevention and protection goals asserted within the Palermo Protocol.

PANEL SESSIONS 2

D. National Rationales behind Crimmigration Room B013

Chair: *Maria João Guia,* University of Coimbra, Portugal

Presentations

The Rise of Crimmigration Policies in Canada
Wendy Chan, Simon Fraser University, Burnaby, Canada
Keywords: Immigration enforcement, Crimmigration, Racialization, Criminalization

As migration becomes synonymous with risk, many developed nations have enacted punitive policies as a strategy for managing contemporary anxieties and fears arising from the effects of globalization. In Canada, immigration has become increasingly difficult for those without significant resources. In order to prevent unwanted migrants and immigrants from entering, Canada has begun to criminalize migrants and their activities in the name of national security and state sovereignty. This paper examines the growing trend towards crimmigration in Canada – the convergence of criminal justice practices with immigration matters. I argue that racial difference is central to claims of alleged immigrant deviancy and threats to Canada. My empirical starting point is the rapidly evolving network of Canadian immigration control strategies that have been implemented in the last several years, adding to what many critics see as an already vast immigration surveillance and enforcement system in Canada. I argue that the contemporary treatment of 'undesirable' non-citizens is rooted in a politics of exclusion and inequality of treatment spurred on by growing suspicions and resentment towards immigrants and refugees. The current Conservative government's practices are a race-based, exclusionary project that will further divide communities in Canada while creating more misery for the ever-growing population of unwanted non-citizens.

The Borderscapes of Australia's Offshore Asylum Policy: Examining the Impact of Operation Sovereign Borders on Pacific Borderscapes
Patrick van Berlo, Leiden University, the Netherlands
Keywords: Offshore detention, Crimmigration, Commodigration, Rationales

Recently, Australia has re-commenced offshore asylum processing as part of the so-called 'Pacific Solution'. It entails that asylum seekers, trying to reach Australia by boat, are transferred to detention centres in Nauru and Papua New Guinea which effectively prevents them from making refugee claims on Australian soil. The issue has been examined at great length from a crimmigration perspective, examining the way in which the Pacific Solution intertwines migration policy and criminal law. However, various accounts seem to hint at a possible simultaneous merger of migration policies on the one hand and commodity-rationales on the other. This intertwining has remained understudied in scholarly literature, although various writers have implied its existence.
Indeed, in the case of Nauru, it is little contested that Nauru accepted to host asylum seekers mainly because of financial motives, as it received substantial financial aid packages from Australia in exchange. However, where Australia's motives to install offshore asylum policies have been extensively covered in crimmigration theory, no similarly extensive coverage of Nauru's motives to accept such policies can be found.

Although understudied, this possible intertwining of migration policy and commodity-thinking might be of importance for the current debates on crimmigration since it may offer a new perspective which is hypothesized to be a *conditio sine qua non* for the instalment of offshore asylum policies. Indeed, it is possible that without a commodity-perspective on migration policy in host countries, the crimmigration-based proposals in Western countries could perhaps not be as successful since host countries would have little incentive to agree on such policy plans.

For conceptual and analytical purposes, the article will propose to label this intertwining of migration control and commodification processes '*commodigration',* in addition to the existing terminology of crimmigration. The paper will be a first attempt to highlight and delineate this 'commodigration' development and will focus on the Australian-Nauruan policy agreement as a case study.

The Australian-Nauruan context is chosen as a case study for four reasons. First, Australian offshore asylum policies are often regarded as archetypical and inspire policy makers across the world, including in the EU-context. Second, Nauru is often described as a failed state which is highly dependent on Australia for its future existence. Therefore, it provides an excellent platform to test whether weak, dependent states indeed view their migration policies to an increasing extent from a commodification perspective. Third, Nauru is one of the smallest nations in the world, which makes it relatively easy to gather a representative view from government officials and local inhabitants. Fourth, Nauru has recently ratified the UN Refugee Convention (1951), which could arguably be construed as a concrete instance of 'commodigration'. Thus, this recent development is a solid reference point for the envisaged research and provides further insights in the research question concerned.

The data will be gathered from a literature review and policy evaluation, as well as by conducting semi-structured interviews with government officials, NGOs, and experts in Nauru and Australia between May and mid-August 2014.

"Crimmigration" in the United States as a Mechanism of Racial Stratification in a Post-Racial Society
Yolanda Vazquez, University of Cincinnati College of Law, U.S.A.
Keywords: Latinos, Race, Marginalization, Stratification

Latinos represent the largest minority in the United States, yet, as a group, the American Dream remains elusive. Latinos have higher levels of poverty, unemployment, and incarcerated individuals than their white counterparts. These factors have been most successful in creating the social construct of the Latino. While early Americans explained their plight based on their inferior status as a mixed and mongrel breed, today's post-racial society deems their inability to reach equality due to their refusal to follow laws and work hard.

Over the last 30 years, the incorporation of immigration law into the criminal justice system, "crimmigration," has further solidified the negative beliefs our society holds towards Latinos and their impact on American stability. With "crimmigration," Latinos are disproportionately affected by its power. Latinos represent over 90 percent of those in immigration detention; 94 percent of those removed; and 94 percent of those removed for criminal violations. Despite these impacts, much of the rhetoric used to explain the high numbers of Latinos caught in the web of "crimmigration" focus on behavioral choices, cultural inclinations, or actual differences between races based on biological differences as opposed to racially discriminatory treatment. Supporters of this position point to the race-neutral laws which Latinos are charged with violating as proof that race is not a factor in the detection or removal rates of Latinos.

This Article pushes against this rhetoric; introducing the theory of racial formation to explore the way race and racism continue to play a prominent role in the structure of the United States society despite arguments to the contrary. It discusses "crimmigration" as a structure that redefines social categories, reallocates resources and, thereby, reifies marginalization of Latinos—the inability for economic, cultural, and political gains.

Part I of this article discusses "crimmigration" and its disparate impact on Latinos. Part II posits that "crimmigration" is a product of racial formation as it seeks to define race and racial identity by its relations to politics and social structure in the United States. Part III links the definitions created in "crimmigration" concerning race and racial identity with racial stratification and the unequal distribution of resources that Latinos face in the United States. In conclusion, this article determines that only through recognizing and understanding how "crimmigration" works to construct racial identity and the unequal distribution of resources will we be able to find a solution for combating its impact.

E. Threatening the Border

Due to unforeseen circumstances, this panel has been canceled.

The presentation ‘Crime across City Borders: Evidence from Turkey‘ by Tuba Bircan Ildiri is moved to panel H. Criminal Law Enforcement.

The presentation ‘Crimmigration and the Reinstatement of Internal Border Controls in Europe’ by Maartje van der Woude is moved to panel I. Border Practices.

If you have chosen this panel, please feel free to attend any other panel (D, F, G) during this session.

F. Migration Policy Room B025

Chair: *Joanne van der Leun,* Leiden University, the Netherlands

Presentations

Federal Immigration Policy and the Governments in Between: Comparative Case Study
Doris Marie Provine, Arizona State University, U.S.A.
Keywords: Federalism, Mid-level government, Devolution, Incomplete plenary power

In the world of law and politics, land borders are fixed, permanent, and unambiguous, but scholars know that they are evolving, porous, and subject to interpretation. This paper adds a new layer of complexity to on-going scholarly efforts to understand how borders work and what they mean in social and political terms. The focus is on the middle level of government that stands between the national and local level. The national level everywhere is invested with plenary power to determine immigration policy, but local borderlands communities have their own border dynamic, adding texture and nuance to law on the ground. In federal republics like those that prevail in Europe and North America there is also a middle level of government that may or may not be an active player in immigration policy and its enforcement.

The U.S. offers a particularly striking case of active mid-level government participation in border policy. Historically in the United States, individual states and cities played significant roles in making and enforcing border policy, and that power has not entirely disappeared. The U.S., in other words, is a case of plenary power that never reached its fully centralized potential. Interestingly, the federal government, rather than attempting to further consolidate centralized authority, is instead attempting to devolve it to more local levels, with mixed success.

This paper considers the implications of the multi-level approach to immigration policy by focusing on the U.S. case from the perspective of two neighboring states within the federal union. Arizona and New Mexico provide an ideal comparative case for study because they are similar in many respects, and yet they have always differed significantly in their approach to the border and those who migrate across it. Located in the southwest desert region of the United States, they share a common geographical history. They were, to a large extent, part of the same jurisdictional territory in the mid-1800s, and both states border with Mexico, as well as with each other. Yet from their earliest years, New Mexico and Arizona took significantly divergent paths in the realm of immigration enforcement. This has continued in recent years as the federal government has devolved some of its immigration policing authority to states and localities. Their differences are reflective of the patchwork of approaches that has developed across the country, with these states representing, perhaps, both ends of the spectrum: a draconian enforcement model in Arizona, and a denizenship/integration model in New Mexico.

How does the United States accommodate such diversity? Why, with increasing concern over securitization, is the US government continuing on a path of devolution of enforcement authority to the local level? Is the long-range trend in any event toward convergence across states? This last question has been investigated among states in the European Union, principally in the context of policies that facilitate or retard the integration of legal immigrants.

This paper adds to our understanding of the porosity and ambiguity of border governance by showing, through a case study, how government in the middle can shape its own border policy in a federal system.

When Policies Appear Successful: Declining Migration from Morocco to the Netherlands and the Role of Migration Policy

Masja van Meeteren, Leiden University, the Netherlands

Human Trafficking, Prosecution and Admission: The Dutch "B8 and B9" Policies with Respect to Victims of Human Trafficking in Relation to the Criminal Procedures against Traffickers

Stefan Kok, Leiden University, the Netherlands

In the period between 2008 and 2012 about 380 unaccompanied minors were identified as potential victims of human trafficking in the Netherlands. The Dutch immigration policies for unaccompanied minors who are victims of human trafficking are complicated. It appears that a small percentage is granted temporary residence permit for victims of human trafficking who press charges against traffickers. Very few children qualify for asylum or a residence permit for unaccompanied minors who are unable to return to their country of origin. Some children return or abscond. How do the various immigration policies interrelate and how can durable solutions for the children be found, preventing double victimization of being re-trafficked and expelled?

G. Juvenile Migrants Room C014

Chair: *Steven de Ridder*, Vrije Universiteit Brussel, Belgium

Presentations

Prosecutorial Discretion and Deferred Action in the Age of Crimmigration: Immigration Policy, Youth and Families
Marjorie S. Zatz, University of California, Merced, U.S.A. &
Nancy Rodriguez, Arizona State University, U.S.A.
Keywords: Prosecutorial discretion, Detention, Youth, Policy

The U.S. Congress has considered comprehensive immigration reform for most of the past decade, without success. Under such conditions, what options are available to address fears of uncontrolled immigration while also easing the plight of unauthorized migrants living in the shadows? One possibility is for the executive branch to develop policies and practices that do not require Congressional approval. Prosecutorial discretion, we suggest, is one such mechanism, as it has potential to better balance the competing goals of public safety and fear of immigrants as dangerous criminals, on the one hand, and family unification and sympathy for youth who came to this country as young children, on the other. The Obama Administration has faced serious criticism for its use of prosecutorial discretion, however, both from opponents calling for stronger immigration enforcement and from immigrants' advocates, who see it as an increasingly empty promise. We suggest that the experiences of children and youth provide a prism through which the interwoven consequences of immigration policy become especially apparent, as many of the policies and practices that are not explicitly directed at children nevertheless reverberate upon them. And, conversely, the ramifications for vulnerable children may draw sympathetic attention to aspects of policy and practice that the executive branch has the power to change, even in the absence of congressional action. Drawing on interviews with immigration attorneys and advocates, children's advocates, and current and former government officials, we assess the use of prosecutorial discretion and other mechanisms available to the executive branch in their consideration of unaccompanied minors, detention and deportation of parents, and DREAMers.

Human Trafficking: The Dutch System to Protect Unaccompanied, Alien Children
Frank Noteboom, Bureau of the Dutch Rapporteur on Trafficking in Human Beings and Sexual Violence against Children
Keywords: Unaccompanied, Alien Children (UAC), Asylum procedure, Human trafficking, Protection

Unaccompanied Alien Children (UAC) are perceived internationally as one of the groups most vulnerable to human traffickers. In the Netherlands awareness rose when groups of Nigerian girls residing in asylum centers disappeared without a trace. Some Nigerian girls were subsequently found in prostitution areas across Europe. The Nigerian girls had been 'picked up' by their traffickers, who abused the Dutch asylum procedures to traffic girls into Europe. In response, the Netherlands set up a system to detect and protect possible victims within the group of UAC. Since 2008, 60 to 80 of these children are being detected annually as possible victims of THB. But how does this system work and moreover, is this system effective? Frank Noteboom, researcher at the office of the Dutch National Rapporteur, will shed light on this.

Migrant Minors, Public Order and the EcTHR

Peter Rodrigues, Leiden University, the Netherlands

Keywords: Migrant minors, Best interest of the child, Public order, Immigration policy

The right to obtain a residence permit is limited by the principle of international law; a State has the right to control the entry of non-nationals into its territory. Nevertheless, the interests of a child can provide access to a host country, even if one of the child's parents has committed a crime. With respect to the question whether a migrant minor can be expelled because of criminal behaviour, a balance of interests is required. A new Dutch regulation is in force to obtain a residence permit for minors who have lived for more than five years in the Netherlands without a residence permit. Children are excluded from this regulation if one of their family members has committed a crime. What is the ratio between crime fighting and the best interests of the minor migrant?

PANEL SESSIONS 3

H. Criminal Law Enforcement Room B025

Chair*: Sara Moreira,* University of Coimbra, Portugal

Presentations

Beyond the pale. On the Consequences of Criminal Enforcement as a Border Control Strategy in the U.S.

Jorge Romero León, The New School University, U.S.A.

Keywords: Punishment-as-deterrent, Criminal enforcement, Overcriminalization, Operation streamline

In the last decade, the intersection between criminal and immigration law has become commonplace. In the United States, this phenomenon—amply documented by contemporary legal scholars—has generally taken three forms: 1) the ascription of immigration consequences to commonplace criminal offenses, leading to the loss of status and deportation of purported 'criminals', even for minuscule crimes; 2) the quasi-criminalization of immigration control, leading to mass detention, family separation and limited protections for immigrants in deportation proceedings; and 3) the *actual* criminalization of a limited subset of immigration offenses—including undocumented entry and re-entry, document fraud, and smuggling—which has led to the extensive use of incarceration as *punishment* and to a problematic confluence of policing and border control practices.

The extensive use of criminal *punishment* for immigration crimes is relatively new. Despite being encoded as crimes since 1929, undocumented entry and reentry were hardly prosecuted before 1996, and then only partially between 1996 and 2004. The turn to enforcement after 2004, originally billed as a *zero tolerance* policy, has had formidable consequences.

Conceived as a combination of border control and punishment strategy, the practice of prosecuting immigrants as criminal offenders has led to a threefold increase in the number of immigration prosecutions for the 'crimes' of illegal entry and reentry since 2005. As a result, immigration cases outnumber all other federal crimes in the US, and undocumented re-entry is the most committed 'crime' since 2011; immigration cases account for a third of all crimes committed in the US, and 29% of federal prisoners are immigration offenders, serving an average sentence of 13 months.

In this paper I explore the legal, political and institutional factors behind the recent spike in the use of criminal prosecution for controlling the border, with a focus on *Operation Streamline*, and its consequences. I use political science methods including qualitative, legal and historical context analysis to assess the factors that made this enforcement strategy possible, including the discursive turn to *enforcement* stemming from the 1986 reform; the staging of border-control narratives since the mid nineties; the legal basis for the *extension* of enforcement included in the 1996 reform; and the *disposition* to enforce by an administrative apparatus greatly empowered after the terrorist attacks of September 2001.

After assessing the causes behind the increase in criminal prosecution and punishment, and its most immediate consequences, I explore whether the practice is warranted. I carry out a theoretical exploration of the political, moral and ethical implications of punishing immigrants for undocumented entry. I argue that the criminal prosecution of immigration offenses constitutes an instance of 'overcriminalization' (Husak, 2008), and contradicts democratic rule of law. I lay out the

normative groundwork for an argument *against* the practice, and explore how this argument can be advanced through democratic means.

Criminal Proceedings and Evidence – Can We Overthrow Our Borders?
Sara Moreira, University of Coimbra, Portugal
Keywords: Crime, Evidence, Criminal procedure, Borders

On a daily basis we are faced with news that mention the fact that crime rates are rising in certain countries, as opposed to others. Therefore we question legal systems, namely the criminal law scenario, that is, the way crimes are portrayed in a certain society and hence how it acts upon it. There will always be a considerable amount of questions about how in some judicial systems certain behaviours are not considered to be deviant, or not in a criminal level, as opposed to others where its criminalization and repression are not even questioned.

But in order to see if a judicial systems acts fairly upon the crimes that are committed, can we only look at the behaviours themselves, or should we also look at the criminal procedure and the way criminal investigation is put into practice? One of the most essential assets of criminal proceedings is in fact the way evidence is collected, in order to prove the "if" and the "who" within a hypothetical criminal scenario. Yet there are a number of details within the criminal investigation that are continuously put at stake in order to get a certain outcome. Thus, we ask ourselves as scholars and legal practitioners if legal systems are warranting the accused with too many rights, when compared to the duties that are set upon them? That is a question that still remains unanswered in a certain sense; because at the end of the day we cannot forget that they are supposedly innocent until proven otherwise.

The criminal procedure in Portugal has to abide by certain principles, which lead to a due process, namely when it comes to the right of the indicted to remain silent and not present self-incriminating evidence. The rules that make our criminal procedure a true defender of the rights of the accused (once suspect) are not necessarily the same that are set in the various existing legal systems, questioning the ability to prosecute transnational criminality. What we propose with this research, part of our phd project, is to try to conclude if the standardization of rules of evidence in criminal procedure would make it easier to fight certain types of criminality, namely cybercrime, money laundering, pedophilia (among others), regardless of the already existing judiciary cooperation vessels. Thus what we question ourselves at this point is, if the physical, the imaginary and legal borders are actually putting at stake the fulfilling of Justice itself.

Cross-border Criminal Investigation in the Euroregion Meuse-Rhine: International Policing and the Theory of (Inter)organisational Conflict
Maaike Peters, KU Leuven, Belgium
Keywords: Police cooperation, Criminal investigations, International cooperation, (Inter) organisational conflict theory

The Euroregion Meuse-Rhine consists out of (regions of) three countries: Belgium, Germany and the Netherlands, each characterised by different languages and (legal) cultures in a geographically small area. Previous research has shown that cross-border crime is a persistent phenomenon in the Euroregion (Spapens & Fijnaut 2005; Spapens 2008; Fijnaut, Spapens & van Daele 2005, Fijnaut & de Ruyver 2008). This makes it necessary for the Euroregional police organisations to cooperate (Nelen, Peters & Vanderhallen 2013). Because of these characteristics, he Euroregion can be seen as an 'experimental garden' for international police cooperation (Spapens 2010). The successes and failures of cross-border criminal investigations are well documented (Spapens & Fijnaut 2005; Spapens 2008; Fijnaut, Spapens & van Daele 2005, Fijnaut & de Ruyver 2008, …). However most

research has taken a top-down approach (i.e. focussed on the formal cooperative structures). Research by Nelen, Peters & Vanderhallen contributed to the existing body of work by taking a bottom-up exploratory perspective on Euroregional police cooperation (i.e. a focus on the experiences on the work-floor) This research shows that problems in Euroregional police cooperation predominantly, (but not exclusively) occur due to (national) organisational differences (Nelen, Peters & Vanderhallen 2013). To create an understanding of the influence of organisational differences on international cooperation in the Euroregion it is necessary to profoundly analyse the problems and chances occurring due to these differences.

Question

This paper aims to reflect on the findings regarding organisational differences from the theoretical framework of (inter) organisational conflict (Scott 1995). The main question is:

(1) *how do the findings of police cooperation regarding organisational differences in the Euroregion compare with the theory of (inter) organisational conflict?*

Method of approach

The paper will first discuss the theory of (inter)organisational conflict (Scott 1995). In short, this theory provides a conceptual framework for inter-agency collaboration. The framework consists out of five levels of analysis: (1) inter-organisational, (2) intra-organisational, (3) inter-professional, (4) interpersonal and (5) intra-personal. These levels of analysis influence cooperation between organisations and at the same time offer different approaches to conflict resolution. Second, empirical findings in the Euroregion regarding police cooperation will be contrasted against the theory of (inter)organisational conflict.

Results and conclusion

First, the empirical findings regarding organisational cooperation in the Euroregion will be contrasted against the five levels of analysis of the theory of (inter)organisational conflict, resulting in problems and/or chances occurring in the cooperation between the Euroregional police organisations. Secondly, since the theory offers solutions for conflict resolutions, an analysis of the usefulness of those resolutions for international police cooperation will be made. Lastly, the above described analysis will indicate whether the theory on (inter)organisational conflict is beneficent to approach international cooperation between (police) organisations in formulating recommendations for the practice of police cooperation as well as for the development of theory on (inter)organisational conflict on an international scale.

Crime across City Borders: Evidence from Turkey

Tuba Bircan Ildiri, Bahçeşehir University, Turkey

Concern with the relationship between crime and place is not new. Since the first half of the nineteenth century, many scholars analyzed the distribution of crime across regions with differing ecological and social characteristics (see Guerry, 1833; Quetelet, 1842; Shaw and McKay, 1942; Messner et al. 1999; Anselin et al. 2000; Entorf, H. and H. Spengler, 2000; Eck, 2002; Chainey and Ratcliffe, 2005; and Weisburd et al., 2009). Theorists working in the social disorganization tradition have long focused on three ecological predictors of crime: poverty, ethnic heterogeneity, and residential mobility (Shaw and McKay, 1942). The relation between residential mobility and crime has been studied from various perspectives. In studies of communities and crime, residential turnover has been viewed as a core indicator of social disorganization and accordingly has been associated with high rates of crime and delinquency in communities (Sampson, Raudenbush, and Earls, 1997).

Offenders still confuse us about where they go to commit crimes. A rational choice perspective provides the basic rationale for defining place as important, since it suggests that offenders will select targets and define means to achieve their goals in a manner that can be explained (Cornish and Clarke, 1986). Although many crimes are local (Wiles and Costello, 2000), it is commonly assumed that greater mobility in contemporary society has led to offenders traveling longer distances to commit crime, particularly in affluent rural areas.

This article aims to investigate the neighborhood structure, convicted crime, and offender mobility for the 81 cities of Turkey. Different types of crime in residential neighborhoods, cities in our case, will be examined. Moreover, an ecological approach will be followed for investigating the impact of the offenders' mobility to gain more insight into the link between certain neighborhood characteristics and crime. All quantitative research on movement and crime location has been performed -mostly in US and Europe- on origin– destination data. No research has yet extensively studied the spatial distribution of different crime types in Turkey.

Data to-be-used is the convicted crime rates of Turkey on city level. For demographic variables socio-economic indicators and mobility variables (such as immigration and emigration) will be used. In addition, the place of the crime and the residential city of the offenders will be included in order to capture the spatial movement/mobility of the offenders. In our case, since the city level of aggregated data will be used we will attempt to predict the number of movements from an origin city to a destination city as a function of attributes of the origin city, the destination city, and some measure of impedance (distance) between the origin and the destination. These models are referred to as spatial interaction models and used mostly used journey to crime, in terms of numbers of offenders' traveling from their homes to the locations where they commit crimes (Smith, 1976; Kakamu, et al., 2005; Elffers et al., 2008; Peeters, 2007; Reynald et al., 2008). Hence, due to the nature of the research question and data, a spatial interaction model will be employed to analyze the data.

I. Border Practices Room B013

Chair: *Maartje van der Woude,* Leiden University, the Netherlands

Presentations

Crimmigration in Border Areas: An Empirical Study of Internal Migration Controls in the Netherlands
Jelmer Brouwer, Leiden University, the Netherlands

The Royal Netherlands Marechaussee (Koninklijke Marechausee, KMAR) carries out mobile security monitoring checks along the internal borders with Belgium and Germany. The selection and subsequent controls of vehicles should be aimed to combat illegal residence and some limited forms of related crimes, but if during a control reasonable suspicion of a criminal fact arises, officers can shift towards criminal law based powers to expand their investigating possibilities. Based on several months of fieldwork with the KMAR, this paper will detail the interaction of these two different control powers (immigration law and criminal law based), see how, when and why officers use which powers and whether this has any effect on the legitimacy of the mobile security monitoring checks.

Crimmigration and the Reinstatement of Internal Border Controls in Europe
Maartje van der Woude, Leiden University, the Netherlands

This article focuses on how the Schengen Governance Package, and in particular the revised legal framework on the temporary reinstatement of internal border checks, should be valued within the broader process of crimmigration. First we elaborate upon both the recent developments in the Schengen legal framework on internal border control and recent incidents that underline the criminalization of migration in the Schengen Zone. Subsequently, based on an analysis of official notification letters issued by the respective Member States, we analyze the development of how often, and on which grounds, they have temporarily closed their internal borders in the period of January 2000 – March 2014. In doing so, we not only pay attention to the question whether Member States have been using (the fear of) immigration as a reason to invoke the exception clause, but also to the transparency of the procedures that were followed. Following an assessment of the Schengen Border Package in light of this analysis, we address certain other forms of border control developing within the Schengen Zone. In conclusion, we argue that the way in which the Commission and the Council responded is understandable but might prove to have some contrary effects in the long run.

The Interplay between Human and Machine Profiling at the Borders
Valeria Ferraris, University of Turin, Italy
Keywords: Profiling, Borders, Technologies, TCNs

As outlined by Muller (2010), during the nineties, the rigid conceptions of border in the post World War II period seemed belonging to the past in favour of a new mobility but, all of a sudden, after 9/11, borders were again in the agenda. Borders were back
performing the new role they have acquired in XX century: the discovery of the hidden security threats.

This new centrality of borders, differently from what happened in previous periods of the XX century, has been accompanied by two other relevant policy changes. The first one is the increasing relevance of the pre-emptive strategies of policing aimed at anticipating any risk before it becomes real (see Ericson and Haggerty, 1997). These strategies find in the borders one of the privileged arena for implementation and in the immigration control one of the cornerstone measures. The second change

is the complex construction of a European harmonised migration policy framework that gives a major role to the fight against illegal migration, per se (Huysman, 2006), and as a proxy for the fight against international crimes, i.e. terrorism, drug trafficking and trafficking in human beings (see Pickering & Mulloch, 2012). This shifting in the policing approach matched perfectly with the new significance of borders, in an age of globalization, as a tool of classification, aimed at sorting individuals into deserving and undeserving foreigners (Bosworth, 2008).

Recently this framework has been enriched by new initiatives (the most comprehensive, recent and well known is Eurosur) that heavily rely on the use of technologies to control the border.
Within this framework, this paper focuses on the interplay between human profiling and machine profiling1 at the borders. It drives attention on how the databases (SIS I and II, VIS, PNR, Eurodac) developed at the EU level are implemented in Italy and how they are used in the immigration control at the borders. Specific attention is given to data protection and to right of non – discrimination.
The paper is based on an on-going fieldwork started in September 2013 and finishing in May 2014.

Urban safety cooperation in a French-Swiss Metropolis: When Cross-Border Offenders Contribute to Restructuring the Border

Sarah Girard, Université Joseph Fourier, France

Keywords: Cross-border offenders, Cross-border cooperation, Schengen area, Technologies

Usually, research studies on border and security are limited to the fight against terrorism and issues about national defense policy. Thus, most of the research interest is focused on the “security” dimension and neglects the “safety” one.

The present article proposes to tackle the urban safety issues in a cross-border metropolis, which is the Great Geneva (locally called “projet d’agglomération franco-valdo-genevois”). We assume that the integration of Switzerland into the Schengen area in 2008, and the facilities of the free movement of persons, goods and services contribute to offer a wider territory to the offenders and, as a result, new opportunities for them. In this way, the existence of the Schengen area paradoxically requires the strengthening of French-Swiss urban safety cooperation which has to face new issues. According to the local urban safety stakeholders, the cross-border area witnesses an increase of delinquency, questioning the possible existence of a specific “cross-border criminality” especially mainly directed from France to Switzerland. A qualitative approach allows us to analyze the representations of the French offenders related to the border and the foreign territory.

The French-Swiss case is an interesting example mainly because of the asymmetry between the organizational structure of the police forces between the two partners. Furthermore, urban safety proves to raise specific issues in a cross-border area because of the spatial proximity of two distinct legal systems in an opened borders context within the Schengen area. These issues take significant cross-border dimensions since in Switzerland, urban safety is dealed at the local authorities scale, whereas in France only the State level is accountable for it.

As a result, the stakeholders cooperate through various mechanisms and devices. Firstly, we can mention an institutional cooperation, with the implementation of bilateral cooperation bodies (Police and Customs Cooperation Centre based in Geneva). Secondly, border guards and policemen can rely on technological devices: common radio frequencies, surveillance cameras in remote border areas and the automatic identification of plate numbers at border crossings. Furthermore, the Swiss police forces can rely on helicopters and drones which can monitor the borderland. Last but not least, customs officers and policemen can cross the border in order to prosecute offenders. All these components of urban safety cooperation contribute to restructure the border, weakening the borderline, and giving birth to a diffuse notion of border which could be described as a “border-zone”.

J. Local Enforcement and Incorporation Room B017

Chair: *Joanne van der Leun,* Leiden University, the Netherlands

Presentations

Differences and Similarities in the Explanation of Ethnic Minority Groups' Trust in the Police
Maarten van Craen, KU Leuven, Belgium &
Wesley G. Skogan, Northwestern University, U.S.A.
Keywords: Trust, Police, Polish immigrants, Ethnic minorities

In the previous years, theorization and research have indicated that trust in the police shapes public cooperation with the police, increases citizens' deference to the directives of the police, and motivates compliance with the law. This raises the important question where trust and distrust in the police stem from, and how trust can be increased. In Europe the research community dealing with this question is rapidly growing, yet attempts to explain ethnic minority (dis)trust in the police remain scarce. That is remarkable, as ethnic minority group members in many European countries are overrepresented among both the victims and offenders of crime and disorder. Currently, though, only little is known about which factors influence the trust in the police of different ethnic minorities in European countries. This paper is a step toward filling in that gap. To assess differences and similarities in the explanation of minority groups' trust, we have replicated one of the scarce European studies in this subfield (i.e. Van Craen, 2012). More specifically, we have tested whether three theoretical frameworks that helped accounting for Turkish and Moroccan minority group members' trust in the Belgian police – social capital theory, performance theory, and the multifaceted discrimination model – also help to explain Polish immigrants' trust in the Belgian police. We anticipated that our findings would depart in two ways. We hypothesized that social capital and perceptions of discrimination would not play an important role in the explanation of Polish immigrants' trust in the Belgian police. Regression analyses on data gathered in the city of Antwerp (N=418) suggest that there is no correlation between Polish immigrants' social capital and their trust in law enforcement. It seems that pre-migration experiences continue to undermine the functions and power of the social capital that Polish immigrants accumulate today in Belgium. Perceptions of discrimination, though, turn out to be a key explanatory factor for this minority group too. Both the perception of discrimination by the police and experiences of being discriminated against by other social actors have an influence on Polish immigrants' trust in the police. Like the perception of discrimination by the police, the experience of being frequently discriminated against outside the context of policing fosters distrust in the police, we suppose by generating a generalized distrust in the majority group and its institutions, and by giving those who are injured the feeling that the police, together with other core institutions of the government system, make too little effort or fail to limit discrimination in society.

From Open Doors to Closed Gates: Reverse Incorporation in the New South
Jennifer A. Jones, University of Notre Dame, U.S.A.
Keywords: Local-level enforcement, Latinos, Incorporation, Discrimination

The immigration literature offers two prevailing theories of assimilation or incorporation: straight-line assimilation and segmented assimilation. Straight-line assimilation or traditional assimilation paradigms hold that immigrant newcomers incorporate culturally and socially and become upwardly mobile over time (Gordon 1964; Alba and Nee 1997). Segmented assimilation argues that because current immigrant newcomers are diverse and overwhelmingly nonwhite, not all immigrants will incorporate. Instead, some will overcome structural barriers by using ethnic ties, while others will be

downwardly mobile (Portes and Zhou 1993; Rumbaut 1994). Despite their unique insights, both paradigms assume that integration, whether downward or upward, is a linear process.

While we know how immigrants become upwardly or downwardly mobile, it is unclear how incorporation can be undone. I identify a third process which I call *reverse incorporation.* In this process, previous social and economic gains are reversed through shifts in local policy and concomitant souring attitudes toward immigrants. These patterns re-shape immigrants' perceptions, and experience, of the local context. These reversals can result from direct state efforts in which immigrant regulation is encoded in policy and indirect efforts, in which bureaucrats and community members' actions are shaped by negative attitudes, prompting them to place additional burdens on newcomers who seek access to employment, housing and schooling.

In this paper, I show that Winston-Salem was initially a welcoming community to immigrant newcomers. By 2006, however, things quickly soured. Drawing on structured interviews, participant-observation, and newspaper data in Winston-Salem, NC from 2008 to 2009, I argue that this about-face constituted a process of *reverse incorporation*. Specifically, I make the case that incorporation is increasingly localized, beyond what previous scholarship has suggested, and that for Mexican and other Latino immigrant residents, policy interventions have resulted in heightened enforcement, established racial profiling as an enforcement mechanism, and limited opportunities for unauthorized immigrants to integrate successfully into the community. Moreover, evidence for a heightened sense of marginalization among Mexican migrants, suggests that such shifts in institutional access and community attitudes are being internalized.

Thus the process of *reverse incorporation* can reshape the mobility trajectories of those experiencing heretofore either straight-line or segmented trajectories and reverses them along three central dimensions: stalled economic progress; increased social stigma and alienation; and exclusion from social institutions and organizations. Finally, this process is not temporary, but has long-term effects, situating Latinos as minorities both in terms of increased stratification and discrimination, but also in terms of self-perception and political behaviors. While reverse incorporation is not particular to new destinations—that is, immigrants anywhere and everywhere are exposed to community-level change—recent policy efforts indicate that Latinos are more vulnerable in new destinations where elected officials feel threatened by rapid demographic change, and are more willing to take an experimental, if not extreme approach to dealing with population shifts.

Ethnic profiling in The Hague? An exploratory study of decisions and perceptions on the street

Rogier Vijverberg, Leiden University, the Netherlands

Keywords: Ethnic profiling, Justification of police decisions, Police perceptions, Young adult perceptions

In this presentation the main findings of an exploratory study of possible ethnic profiling by the police in the Dutch city of The Hague are presented. The research was conducted in 2012 in three different districts. A mixed methods approach was used to study real situations from police practice, police perceptions and citizen perceptions. First, the justification of police decisions that were observed during ride-alongs with police officers will be discussed. After that the focus of the presentation shifts to the perceptions of ethnic profiling of both police officials and young adult citizens.

PANEL SESSIONS 4

K. Deportation Room B013

Chair: *Maartje van der Woude,* Leiden University, the Netherlands

Presentations

Getting Caught in the Deportation Dragnet in the United States
Tanya Golash-Boza, University of California, Merced, U.S.A.
Keywords: Deportation, Apprehension, Policing, Racial profiling, Gender

At least since the early 1990s, Latino and Caribbean men have been the primary targets of U.S. deportation policy. Today, about 90% of deportees are men, and nearly all (97%) are from the Americas, even though about half of all non-citizens are women and 60 percent of non-citizens are from the Americas. Immigration law enforcement is selective: even with mass deportation, a fairly small portion of unauthorized immigrants is actually deported. Deportation law renders millions of immigrants deportable, yet the vast majority gets to stay in the United States undetected. How are deportees caught? Why are Latino and Caribbean men the primary targets of mass deportation? How is the selective deportation of these groups a system of racialized and gendered social control?

Cecilia Menjívar and Leisy Abrego (2012) characterize the complex web of laws that control migrants' lives as "legal violence" (1381) insofar as these laws and practices create new hierarchies and delimit the lives of immigrants in tenuous legal statuses. These scholars and others such as de Genova (2005) and Dreby (2012) show how illegality and the threat of deportation affect immigrants' lives and serve as tools of social control. In this presentation, I build on this scholarship by focusing on deportees who are actually caught, allowing us to move beyond the possibility of being caught to the reality of apprehension. My interviews with 150 deportees render it evident that immigrants are apprehended in very specific situations – most are arrested in their homes or driving their cars. Moreover, men are much more likely to be caught in the deportation dragnet than women – creating a system of "gendered racial removal" (Golash-Boza and Hondagneu-Sotelo 2013).

The stories of apprehension I tell in this presentation are the same stories that circulate in immigrant communities. Through these stories, immigrants know that *la migra* can come into your home and that a traffic stop can turn into deportation. The circulation of these stories adds an additional layer of social control to the immigrant population. In this way, mass deportation works to ensure the self-regulation of immigrants. When people fear deportation, they are less likely to complain about poverty, unemployment, and cuts in social services.

This presentation will focus on immigration law enforcement to develop an understanding of how it targets particular immigrants for deportation. This inquiry will clarify the racialized and gendered nature of the system of social control immigration law enforcement has become. As I'll describe, immigration law enforcement operates without the basic protections we take for granted in criminal law enforcement. Violations of immigration law are civil, not criminal offenses, under US law, and deportation is technically not punishment, but an administrative procedure. This distinction has become increasingly blurred as criminal and immigration law enforcement agents have begun to work together more consistently

Making Crime and Criminals: Deportation and Incarceration on the U.S.-Mexico Border

Patrisia Macias-Rojas, Sarah Lawrence College, U.S.A.

Keywords: Criminalization, Deportation, Incarceration, U.S.-Mexico Border

In the United States there has been a rise in criminal sentencing for immigration law violations such as illegal entry, reentry, and human smuggling. The majority of these arrests—in fact 92 percent—have occurred on the U.S.-Mexico border. The spike in federal sentencing for immigration crimes occurs at a time when the federal government is scaling back on the "tough-on-crime" policies of the last 40 years. What drives these sentencing outcomes? Based on over 24 months of ethnographic fieldwork of arrest and deportation practices on the U.S.-Mexico border, I examine the invisible practices through which U.S. border security creates crime and criminals. More broadly, the analysis considers the complexities of introducing criminal processes to an otherwise civil or administrative immigration system and the extent to which the deportation of convicted immigrants constitutes a form of forced migration.

Legitimating Removal: An Ethnographic Study of Detention Centers and Deportation Hearings in the United States

Christine Wheatley, University of Texas at Austin, U.S.A.

This paper explores how the U.S. state uses practices that comprise contemporary immigrant detention and the immigration court system to engage in discourses around how it legitimately and efficiently deports non-citizens. The author conducted ethnographic fieldwork in central Texas for three months in 2012 in two detention centers that primarily hold immigrants from Latin America and two immigration courts during deportation hearings. The author also conducted in-depth interviews with immigration lawyers who represent immigrants in deportation proceedings, including detainees. Findings suggest that the punitive practices used in immigrant detention serve to criminalize detainees and that the limited legal rights of detainees (many of whom do not have a right to appear before a judge), the poor living conditions of detention, and limited access to legal representation encourage many detainees to "take a deport" rather than pursue legal challenges to their deportation, expediting their removal. Findings further suggest that the "legal-rational" rituals of the immigration courtroom serve as a performance of legitimacy to uphold removal decisions by the Immigration and Customs Enforcement (ICE) and to process deportation cases quickly.

L. Administrative Detention and Prison Room B025

Chair: *Steven de Ridder*, Vrije Universiteit Brussel, Belgium

Presentations

European Union Immigration Detention Regime: A Manifestation of Crimmigration?
Izabella Majcher, Global Detention Project, Graduate Institute, Geneva, Switzerland
Keywords: European Union immigration policy, Returns Directive, Reception Conditions Directive, Immigration detention.

The paper will argue that immigration detention regime set up under the European Union (EU) law represents a manifestation of crimmigration - convergence between criminal and migration law. It will focus on three kinds of immigration detention sanctioned by the EU law: pre-removal detention (Returns Directive), asylum detention (Reception Conditions Directive), and detention pending Dublin proceedings (Dublin Regulation). The main argument that paper advances is that the convergence between two branches of law is intentionally selective - the EU legislation incorporates criminal enforcement rationale while rejecting protective features pertaining to criminal processes. Precisely, while immigration detention sanctioned under EU legislation may in practice pursue objectives typical for criminal justice—retribution, deterrence, or incapacitation— it is labelled a mere administrative measure. As a result of this discrepancy, immigration detainees are not entitled to due process guarantees afforded to their criminal counterparts. This paper argues that in cases where formally administrative immigration detention is punitive in practice, detainees should be granted broader procedural protections.

Bonds: The Elusive Promise of Release from Immigration Detention in the United States
Denise Gilman, University of Texas at Austin, U.S.A.

Each year, the United States detains more than 400,000 migrants. A significant number of migrants in detention are there awaiting the conclusion of drawn-out proceedings in the immigration courts, which will determine their ability to remain in the United States. Approximately half of these individuals qualify for release on bond, yet this promise of freedom remains illusory. Many of these migrants will remain detained for lengthy periods of time and often throughout the entirety of the lengthy court proceedings.

In the United States and in some other countries as well, bond proceedings are a cornerstone in the immigration detention edifice. Yet, they have received scarce attention in the literature on immigration detention. Scholars have extensively studied the mandatory detention regimes that apply to certain categories of individuals. On the other end of the spectrum, numerous studies have considered community supervision, monitoring programs, and other formally-designated alternatives to detention programs. The bond process has probably escaped analysis in part because international human rights standards relating to detention generally countenance the availability of bond in a domestic detention system. However, the reality of bond proceedings offers much cause for concern regarding compliance with international norms requiring a presumption of liberty.

As with much of immigration enforcement, the very concept of release on bond is borrowed from the criminal justice system. However, the criminal bond system is ill-suited and ill-adapted to the immigration detention world. The measures taken into account for bond purposes in the criminal justice system, e.g. prior criminality or evasion of previous proceedings, do not fit the unique circumstances of migrants in removal proceedings. For example, the realities presented by refugees

fleeing their homelands without documents to seek asylum protection do not square well with a system designed to gauge the dangerousness of suspected criminals pending a final determination of guilt. Furthermore, given the absence of prior proceedings of any kind in the U.S. system, immigration authorities often presume a risk of flight based simply on the fact that the bond determination takes place in the immigration context.

This paper will build on my previous research (Realizing Liberty: The Use of International Human Rights Law to Realign Immigration Detention in the United States, 36 Fordham Int'l L.J. 243 (2013)) to apply international human rights standards as a tool for carefully considering the role of bond proceedings in U.S. immigration detention. Using Freedom of Information Act responses and other data, I will begin with an empirical analysis of the current reality of immigration bond proceedings in the United States and will make comparisons to bond processes in other countries. I will then proceed to analyze, under the international human rights standards on immigration detention, the problems in the U.S. system that make bond such an illusory prospect. The concerns include inappropriateness of the domestic legal standards and failings in the procedural framework as well as serious deficiencies in the way immigration authorities make on-the-ground determinations.

The Borders of Migration Policy in Prison
Steven de Ridder, Vrije Universiteit Brussel, Belgium

This paper looks at the detention of asylum seekers in Canada and shows the increasing convergence between immigration law and criminal law in this area. A particular focus is on the treatment of asylum seekers by the penal institution. While the vast majority asylum seekers in penal institutions have no criminal background (i.e. they are only detained for immigration/administrative reasons, not for criminal reasons), we show that criminal facilities do in fact carry out the same functions as "camps" and, as such, contribute to the spatial, legal and social segregation of asylum seekers.

The Inmate System in Portugal
Paula Sobral, Instituto Superior Bissaya Barreto, Portugal

In Portugal, the implementation of the Code of Execution of Penalties and Custodial Measures in October 2009, resulted in a switch-over regarding the legal status of the inmate.

Until now, the penitentiary system was closed, however in this new setting they are forced to openness, and to be exposed to the scrutiny of the prosecutors and of the Court of Execution of Penalties, with their new capacity of intervention and renovated powers. The inmate, summoned to participate in the design of their self-rehabilitation project, now has the opportunity to intervene in new settings that were inaccessible till recently. However, will these guarantees and rights be accompanied by effective mechanisms for protection and safekeeping?

The author describes the major changes in the legal position of the inmate before the prison administration, pointing out the gaps and weaknesses that hinder the effective protection of their rights.

M. Border and Economics Room B030

Chair: *Maria João Guia,* University of Coimbra, Portugal

Presentations

European Union - Police and Customs Cooperation. A Historical Perspective
Maria João Guia & *Isabel Valente,* University of Coimbra, Portugal
Keywords: European Union, Police cooperation, Treaties, Frontex, Human rights

The aim of this communication is to present the development and current state of Police and customs cooperation within the EU. Therefore, we present the subject in chronological order since the creation of the European Atomic Energy Community and the European Economic Community (1957) until the Treaty of Lisbon (2007). And we argue that the Area of Freedom, Security and Justice can only make sense when the three components are present, without detriment to any.
We will question the invisibility of internal borders in the Schengen area and the reinforcing of a so-called "Europe fortress" as it has been felt by those trying to enter illegally into this common space. We will also focus on the Frontex role and on the defence of Human Rights, mainly in what concerns those seeking Europe to escape from a number of reasons.

Corporeal Borders: The Regularization of Migrant Domestic Workers in Turkey
Ayse Akalin, Istanbul Technical University, Turkey
Keywords: Domestic work, Irregular migration, Work permits, Ephemerality, Body

Effective Feb 1 2012, the Turkish government issued a decree that allowed irregular migrants working as domestic workers to apply for "residence permits for work purposes-RPWP" in order to legalize their statuses. The regularization programme was significant for not only being the first in Turkey but also for strictly targeting women migrants employed in carework. The Ministry of Labor announced that by June 2013, about 8,000 RPWPs were issued in Turkey where tens of thousands of migrant women are estimated to be working. The new regularization stipulated a series of conditions for irregular migrants to comply to in consecutive steps in order to be legalized. In the stipulated order, these steps were as follows; paying their fines for having overstayed their visas, first leaving and then reentering Turkey on new visas, applying for residence permits, applying for RPWPs and then paying monthly health premiums to stay in legal status, though for only temporary periods and under the sponsorship of their employers. The consecutiveness of the steps that take an irregular migrant into legalization does not only make the process altogether complicated but that contingently on whether the migrants adhere strictly to the temporal validity of each step or not, they can also turn the bodies of migrants into borders themselves as legality has now become ephemeral. This paper argues that the current practice of temporary work permits create immaterial borders out of the bodies of migrant domestics whereby what's inside and what's outside the border is now proliferated onto a temporal dimension.

Counterfeiting beyond the Borders

Sílvia Esteves, Superior Institute Bissaya Barreto, Coimbra, Portugal

Keywords: Counterfeiting, EU borders, Organized crime, Terrorist financing

Which is the role played by the EU borders in control counterfeiting and the importance of immigrants involved in these networks, when counterfeit products come from countries that are not part of the European Union? That is the question that the European Union and its member states have to respond in an effective way.

The crime of counterfeiting is reflected in the production of lower quality articles using a recognized brand by the public. This crime is regulated by the legislation of each Member State of the European Union and since January 1, 2014, by the Regulation (EU) No 608/2013. This Regulation aims among other things, to expand the scope of intellectual property and improve the information that reaches customs so that control is achieved by a more effective way.

Nowadays counterfeiting is not an isolated occurrence, in a place and time, and a nationality. It has become a transnational problem because it occurs with so many nations, such that we cannot say that only the citizens of some countries are responsible for counterfeiting.

For instance in Portugal recently were dismantled two networks of counterfeiting. The first in April 2012, an organization was dismantled and thousands of counterfeit items with high economic value were recovered. After that, during the period between December 2012 and December 2013, a cooperation between the Portuguese and Spanish authorities, resulted in the apprehension of 656,955 articles, from an identified network, who would have placed the items on the Spanish and French markets. The products were the subject of search warrants.

All these networks that were dismantled, highlight the care with which both the European Union and the United Nations, are dealing with this crime. This is because counterfeiting has a wide range of products that can be the object of this, as there may be other crimes associated with this illicit network, such as terrorist financing or money laundering.
Products that may be counterfeit are clothing and accessories, food articles, body care items, shoes, personal accessories, mobile phones, electronic equipment, toys, tobacco and related products and medicine. Countries that are identified as being the largest suppliers of counterfeit products in the European Union is China and Morocco.

According to the European Union, in 2011 over 114 million suspected counterfeit items were retained in the Union's external borders, which would have a market value (if sold as originals) of 1,2 billion euro. In January 2014, the United Nations Office on Drugs and Crime (UNODC) called attention to the amount of capital that counterfeiting generates, which is about $ 250 billion per year, and is thus one of the major financiers of organized crime worldwide.

The Borders of Protection against Labour Exploitation: Italian Transposition of the *Employers Sanction Directive* in Comparative Perspective

Federico Oliveri, University of Pisa, Italy

Labour exploitation of undocumented migrants is widespread across Italy. It is particularly frequent in sectors with sustainability and redistribution problems (agriculture, construction, small and medium-size factories, logistics) and in sectors based on specific interpersonal patterns (domestic and sex work). It encompasses phenomena of different gravity: violations of national law on minimum wage and working hours, unlawful gangmastering, lack of safety and health protection measures, forced labour and slavery. Current immigration policies, based on restrictive entry and residence mechanisms, produce precarity and irregularity and thus increase the risk for migrant workers to fall into underground economy, and be subjected to exploitation in general.

This paper tries to answer three fundamental questions: 1. Has Italy policies for preventing and penalizing labour exploitation, which are also equally accessible by migrant workers? 2. Has Legislative Decree No. 109/2012 adequately and correctly transposed the EU "Employers Sanction Directive", with the aim of protecting undocumented migrants from particularly exploitative working conditions? 3. Are those provisions, which include the possibility for exploited undocumented workers to ask for a temporary permit to stay, coherent with the Italian legal framework on immigration, namely with crimes related to irregular entry and stay in the country?

The fundamental thesis of this paper is that legal measures and discourses which criminalize migration have a negative effect on migrants' access to rights, especially to judicial protection in case of labour and social rights violations. In order to verify the existence of such *borders of protection against labour exploitation*, the paper will monitor the implementation of Legislative Decree No. 109/2012 and of the regularisation procedure introduced by it, focussing on the obstacles undocumented migrant workers may face in this procedure, such as the risk of being deported in case of rejection and the loss of work after reporting their employers.

The paper will provide, in particular: a) an updated reconstruction of the phenomena of irregular migration, underground economy, labour exploitation continuum, etc. in Italy; b) an evaluation of legal remedies available to exploited undocumented migrant workers in other EU countries, focussing on special residence permits, access to justice, access to information, legal support, protection against deportation; c) a critical appraisal of the Italian transposition of the EU "Employers Sanction Directive", focussing on the notion of "particularly exploitative working conditions", eligibility for a temporary permit to stay, role of trade unions and NGOs, responsibilities in case of sub-contracting, non-criminal sanctions against employers; d) a critical appraisal of Legislative Decree No. 109/2012 and Italian immigration laws, in particular of "security measures" against "irregular migrants"; e) impact indicators of Legislative Decree No. 109/2012, such as number of reported cases of "particularly exploitative working conditions", profile of the people involved, number of residence permits demanded and issued, etc.

N. Representation of Migrants Room B017

Chair: *Joanne van der Leun,* Leiden University, the Netherlands

Presentations

The Spectre of the Crimmigrant
Daniel Morales, DePaul University, U.S.A.

The crimmigrant haunts; this much we know. In the United States the migrant who commits crime is at once a driver of exaggerated policy responses—over-inclusive criminal deportation statutes, lengthy incarceration for irregular migration—and a statistical anomaly: migrants commit less crime than their native peers. This is the macro story. Collective fears of crimmigrant invaders create and sustain cartoonish policies untethered to empirical reality. Yet, aggregate beliefs must be fed at an intimate level to hold this kind of sway. As Jacqueline Stevens observed in States Without Nations, her monograph on nationalism, practices like inheritance, marriage, and paternity operate in a kind of sustaining synecdoche to constitute a polity's faith in the immortality of the Nation. I propose that a similar phenomenon obtains in the crimmigration context. But this begs a question: what facts on the ground sustain the spectre of the crimmigrant?

I begin exploring this question with a banal observation: some migrants commit crimes and those crimes create victims. Crime victims seek information about those who harmed them. Learning that the person who victimized you was a migrant, I argue, shapes one's experience of victimization in important ways that may feed the spectre of the crimmigrant.

Consider a phenomenological account of a family that loses a loved one to a random act of violence. The victim's family inevitably imagines scenarios in which the crime would not have occurred. "If only Sherry's car hadn't broke down that day she wouldn't have had to take the train to the dangerous station where she was shot." A crimmigrant perpetrator adds another layer of counterfactual possibility that unsettles those affected by a crime still more than violent acts perpetrated by citizens. Where a citizen commits a crime a victim might come to terms with the randomness of the violence perpetrated against a loved one by creating a fixity, perhaps by treating violence in the place where the crime occurred as stable—probabilistic to be sure, but still tangible; something like a car fatality is to those who drive on the highway.

The crimmigrant perpetrator upsets this process by adding a much less comprehensible set of contingencies to the causal chain that resulted in the crime. The question for the family coming to terms with a violent loss morphs from "why was the perpetrator or victim there, at that particular place and time?" to "why was the perpetrator *here* at all?" The crimmigrant, after all, should not be *here*—within our borders. Note how this shift in inquiry turns the crimmigrant, in an important sense, incorporeal, into a spectre, something that was there, but should not have been, if the laws of science are to be believed.

I theorize in this paper that this deeper unsettling that the crimmigrant enacts is an important part of the scaffolding that supports the practices of social control and legal violence perpetrated by the state which we call crimmigration. I draw support for this theory from real-life examples of crimmigrant victims who become politicized by their victimization, and by examining the language such victims use to advocate for heightened immigration restriction and crimmigration control.

The Convergence of Immigration and Criminal Law in Portugal: Human Rights and Gender Perspective

Daniela Castilhos, Infante D. Henrique Portucalense University, Portugal &
Tania Marisa Serra, Salamanca University, Spain
Keywords: Migration, Gender, Immigration law, Portugal

The present study provides an overview about the discussion of relevant issues on reflection over criminalization of immigrants. The legal system of immigration analyzed in Portugal was addressed with two approaches: gender perspective in pursuit of stereotypes that influence the social roles of women and men, and Human Rights by evaluation of legal norms and articles in the press. As basic hypothesis for this investigation, it is stated that the increase in female immigration was not adequately covered by the normative discourse or media, a fact wich hid this phenomenon. Characterizing the community of immigrant women of Brazil in Portugal: percentage of women compared to men, age, education, job training and professional groups. The phenomenon of female migration to Portugal in recent years has been subject to some studies, but still too scattered and specifc. Among the analyzed aspects stand out: the female identities in migration contexts; relationship with the labor market; family reunification, marriage transnational flows, so-called "white marriages"; strategies and problems experienced by women; smuggling of migrants; the image of immigrant women depicted on the Portuguese press; among other topics. Often the relations of inequality and discrimination are treated as natural, therefore, in all this work we attempt to identify the power relations in the media and political discourse in Portugal. The sources of research include: statistics and official reports, reports and projects from human rights associations, interviews and life stories, press releases, statements, reports and agreements from United Nations and other bodies, Portuguese laws and their amendments, and jurisprudence. Journalistic sources help the policy context of the period of drafting laws that regulate the situation of immigrants. Journalistic sources help the political context of the period of drafting laws that regulate the situation of immigrants. In order to examine the situation of immigrant women we used the analysis of form and content of articles was applied to the Publico, Correio da Manhã, Jornal de Notícias and Diário de Notícias. It was found that the press tends to use inappropriate stereotypes associated with the image of immigrant women. Negative stereotypes and existing losses against immigrant women are demonstrated by the imputation of prostitution, assumption of illegal condition and criminalization of undocumented immigrants. Regarding the legislative analysis it was observed that the state use the Criminal Law as an instrument to legitimate and control its repressive immigration policy. Immigrant women are more vulnerable to violence and are not adequately protected by the Portuguese Government. A legal reading was performed based on the law n.o 29/2012 and the law n.o 23/2007.

Far Right Cooperation across Transnational Borders

Veronika Nagy, University of Kent, U.K.
Keywords: Criminalization, Extreme right movements, Ethno-pluralism

Based on transgression theories, this paper discusses how anti-immigration approaches, spread by different far right extremist groups, reshape the international interaction of far right movements by the reconceptualization of foreign enemies. “Here transgression is understood not only as exceeding boundaries or limits (Jenks, 2003, p. 7) but as resistance, protest and escape. Particular emphasis is placed upon the spatial, temporal and sensory dimensions of ‘doing crime’, ‘deviance’ and ‘social control’ in an era of globalisation,as well as ‘the mediated construction of crme and crime control’ (Ferrell 1999, p. 395) and the portrayal of ‘heroes’ and ‘villains’ in different cultural forms”(O'Neill 2012: 8).

Andreas Speit distinguishes between three right-wing activist scenes: the subculture scene, the violent neo-Nazis and the politics (2005; 2010). He has observed that, on the cultural level, networking is being done at right-wing rock concerts and by showing solidarity with activities of other groups in neighboring countries. Some of these international networking events result even participation in violent crimes abroad. Based on my multi-sited research, I will give an example on how these far right international cooperation's changed the image of Roma migrants in Western countries and how these images are used to gain influence on migration policies through legal methods. During my ethnographic fieldwork on Intra-european mobility, in particular on transnational movement of marginalized groups, several issues emerged around ethnic profiling and how it changes the social construction of Roma from 'marginalized victims' into a 'threatening flood of a criminal organizations'. This paper aims to critically assess transnational adaptations of ethno-pluralist assumptions and their impacts on recently criminalized ethnic groups. Ethno-pluralists use the concept of cultural differentialism and argue for regional policies of ethnic separatism and racial separatism. "Cultural differentialism" is the view that cultures are clearly bound entities with a specific geographical location(Spektorowkski 2003). This right-wing view of culture, ethnicity and race is increasingly popular in the ideological discourse of several right-wing and far-right groups in Europe since the 1970s, and has penetrated the discourse of a postmodern Left, raising tensions between different ethnic groups in Europe.

PANEL SESSIONS 5

O. Factors Behind Crimmigration Room B030

Chair: *Maria João Guia,* University of Coimbra, Portugal

Presentations

Global Structural Drivers of Crimmigration Policies
Francis Pakes, University of Portsmouth, U.K.

Crimmigration is associated with governments pandering to the will or the imagined will of the population. This paper will consider the global processes that bring about this political imperative to 'do something about' immigration and the movement of 'undesirables' or other unwanted groups.

The political imperative to engage in crimmigration can be framed as a consequence of, or a reaction against, globalisation. Globalisation brings mission creep in the areas of crime, justice and social control. This manifests itself in hyper-surveillance and the intensified policing of status, identity and place. Crimmigration policies fit within this wider trend.

This paper will consider global structural drivers of crimmigration policies by examining some of the major social transformations of our time. In doing so it will consider Bauman's concept of human waste (Bauman, 2007), Garland's term otherisation, and Morales' (2013) notion of cosmopolitan sentiment. It will conclude that effective resistance to crimmigration may require more global awareness on the one hand, but also a nation-specific appeals to the historical and social factors that can enhance a broadly shared cosmopolitan culture.

On the Borders of Choice: 'Crimmigration' versus Integration
Maria João Guia, University of Coimbra, Portugal

Borders are a growing preoccupation at international level. The European Internal Security Strategy (2011-2014) as a specific focus on the "security inside borders". At the same time, both immigration reform proposals at the USA revealed in February 2013 underline the "improvement on the control of borders". Both proposals were keen on "empowering the border control infra-structure" offering new methods of expansion of criminalising immigration laws. Borders within our world are at the same time invisible but reinforced.

Irregular Migration have been seen more and more as posing growing challenges to the current governments. States face several issues, such as repressing irregular entries, restraining permanent residence, criminalizing transgressions related with immigration and enlarging expulsions consequent of criminal policies. To know exactly which of those transgressions can be classified as crimes is a decision of States and it depends on many factors. In many cases, immigrants are the own victims of those crimes. But, in other cases, immigrants assume the role of aggressors, offending their own partners. And in a third point of view, those migrants may metamorphose in one step to another, entering a spiral of aggressor-victim-aggressor.

In this communication, we want to take an overview on several areas of knowledge (criminology, sociology, law, anthropology, political sciences, international relations, psychology) in order to contribute to a discussion about Borders and the role of State. All kind of conceptual borders, from reality to subjectivity, contributing to the reflection on studies about immigration, crime and 'crimmigration'.

Crimmigration in a Multi-polar World: A Comparison between Spanish and Argentinean Immigration Policies

José Ángel Brandariz, University of A Coruña, Spain (with co-author *Marta Monclús Mansó*)

Keywords: Spanish crimmigration policies, Argentinean immigration policies, Multipolar world, Great Recession

As is widely acknowledged, over the past two decades, the EU and its Member States set up a severe system of immigration control, backed not only by civil sanctions but also by penal measures. Therefore, since the end of the 20th century, the physical and social landscape of the EU has been characterised by the ubiquitous emergence of borders. On the one hand, formal borders, separating the EU from its neighbouring countries. On the other hand, material borders, which prevent the acquisition of rights, the regular settlement and the social rise of newcomers. In this regard, it cannot amaze that this model has been referred to as 'Fortress Europe'.

Unfortunately, other Western countries have witnessed the development of a similar punitive model of immigration control. The US system, for instance, has become more and more severe throughout the first decade of the century. Indeed, the annual number of deportations carried out by the US Government is currently three times higher than that of the EU, and has experienced an astonishing rise since the beginning of the Obama Administration.

Yet other countries have not implemented Crimmigration policies. Their alternative way of dealing with migratory flows becomes more prominent since the onset of the Great Recession. Not in vain, the economic downturn in the Centre of the world-system has accelerated the transition from a unipolar world to a multipolar world. That evolution entailed a remarkable change of migratory flows: traditionally peripheral countries have become countries of destination, and some countries in the Global North have become countries of origin.

This historical mutation has led the models of immigration management of some peripheral countries to take centre stage. Argentina may well be one of these cases. Over the past two centuries, Argentina has been, almost uninterruptedly, the destination of dozens of millions of migrants, mainly of European and American origin. Due to this particular history of migration and also to the construction of a national identity around the narrative of the migratory flows, Argentina has set up a regime of immigration management more based on the rights of the newcomers than on the control of unwanted aliens.

The paper examines the differences between the Crimmigration model of a European country such as Spain and the Argentinean immigration management policies. Furthermore, the paper analyses the political, legal, cultural, and economic traditions which contribute to explain those differences. Moreover, the paper seeks to foresee whether the new position of the Mercosur countries in the emerging multipolar world may lead to a hardening of their immigration policies in the upcoming future.

Crimmigration as Symptom of Crisis of Legal Regulation

Alexander Kosenkov, Chernihiv, Ukraine

Keywords: Crimmigration, Legal regulation, Social regulation, Social psychology

In this paper an effort is made to apply mechanistic approach to the problem of crimmigration and its solution. It is assumed that convergence of immigration and criminal law is a sign of crisis of legal regulation in immigration sphere. But the reason of the crisis is not convergence per se, as it is possible for regulating specific sphere of social life. The reason of the crisis is that criminalization is one of the extreme and inefficient instruments for legal regulation.

Reason of crimmigration emergence is that immigration policy is unable to cope with the problem of illegal immigration in present-day conditions. The governments tend to strengthen criminal policy in absence of legal regulation of all determinants of illegal immigration. But even criminal mechanisms are in fact neutralized by social conditions and problem of illegal immigration is deteriorating.

We should take into account not only social, but also psychological factors which influence decision to immigrate illegally. There are following problems resulting in inefficiency of immigration policies and application of crimmigration:

- social (1) global: 1.1. growth of gap between developed and developing countries; 1.2. rise of international mobility; 1.3 'propagation' of serene life in developed countries in popular culture; (2) local (in country of origin of immigrants): 2.1. growth of social problems in developing countries; 2.2 decline of positive possibilities; (3) local (in destination country of immigrants): 3.1 strong prejudices about immigrants; 3.2 low level of integration of immigrants into society; 3.3 geographical concentration of immigrants.

- legal: (1) absence of other than criminalisation legal mechanisms to cope with illegal immigration; (2) prevalence of regime of general prevention of crimes committed by foreigners, rather than individual approach in legal policy. Application of individual approach to each foreigner is impossible not only due to 2.1 high cost, but also due to 2.2 inefficient mechanisms for criminal prosecution abroad; 2.3 inefficient extradition mechanisms; 2.4 absence of appropriate exchange of information between states, sufficient for making appropriate decision in each individual case.

- criminological (1) illegal migrants often do not realize their acts as illegal action; (2) illegal migration is often justified as forced violation of law; (3) negative consequences of illegal immigration are not immediate and often not realized by population; (4) persons who have 'illegal' status more tend to commit crimes or become involved in criminal activity.

- political (1) immigration policy does not include clear strategic goals (e.g. preservation of national identity or evolution of national identity under immigrants influence etc.); (2) absence of critical evaluation of advantages and disadvantages of illegal immigration; (3) absence of clear mechanisms of immigration policy realization; (4) details of immigration policy are unavailable for population; (5) policies on foreigners are not harmonized (e.g. restrictions for foreigners are not often used as alternative for crimmigration practices) (6) political and civil discussions of illegal immigration are often dominated by populism.

'Soft' regulation in any of forementioned fields can become an alternative for crimmigration practice.

P. Cross-national Perspectives on Immigration Detention Room B017

Chairs: *Caitlin Patler*, UCLA, U.S.A. & *Arjen Leerkes*, Erasmus University Rotterdam, the Netherlands

Presentations

The Pains of Immigration Detention. A Study on the Specific Deterrent Effects of Custody with a View to Deportation
Arjen Leerkes & Mieke Kox, Erasmus University Rotterdam, the Netherlands

Immigration detention is formally not a punishment, but governments do seem to use it to deter unauthorized migrants from staying in the territory. This study explores whether and how practices of immigration detention in the Netherlands affect detainees' decision-making processes regarding departure and result in de facto 'specific deterrence'. 81 unauthorized irregular migrants were interviewed in three immigration detention centers, and their case files were examined. We find evidence for a limited, selective deterrence effect. Most respondents considered immigration detention a painful and distressing experience, and some respondents indicated that having been detained had made them 'realise' that apprehension chances must be considerable. Yet, only a minority of the respondents – mostly labor migrants without family ties in the Netherlands – eventually preferred to be returned to their country of origin in order to end their (repeated) exposure to the detention. For some respondents the detention experience had contributed to a desire to migrate illegally to a neighboring European country.

Bonding Out: Judicial Decision-Making in Immigrant Bond Hearings
Caitlin Patler, UCLA, U.S.A.

This paper assess data from public custody redetermination hearings of over 560 immigrants held in Immigration and Customs Enforcement (ICE) custody in the United States in 2013 and 2014. We assess judicial decision-making, testing which factors predict rates of bond granting (for example, Judge; the immigrant's personal, socioeconomic, migration, and criminal background; and the characteristics of the hearing itself—whether it took place in person or via video, in English or some other language, etc.). This study advances much-needed research on immigration detention/release processes and immigration judicial decision-making. More broadly, the new knowledge resulting from this study will shed light on how and why immigration courtrooms can function as a major site for the production and reproduction of inequality.

Deportation and the Theater of Cruelty
David Brotherton, John Jay College of Criminal Justice, U.S.A.

Drama has long been a "root metaphor" in the description of human conduct used in the academic realms of transgression, rule-breaking, and social control, both coercive and consensus based. The sociologist Ervin Goffman is one of the more recognized exponents of this approach through his work on total institutions, the representations of self, stigma and the front and back stage performances of everyday life while Shakespeare is routinely invoked in the social sciences to highlight the theatricality and pathos of the human condition. Dwight Conquergood, one of the most accomplished exponents of the performativity among the subaltern classes, demonstrated that the asymmetrical power relations between the haves and have-nots have yet to be fully revealed through their rites, rituals and resistances. Meanwhile, Antonin Artaud's conviction that theater needs to show the vibrant, experiential and disturbing reality of life beneath the symbolic universes

of modernity that reproduces "falsehood and illusion" and the “dictatorship of the text” resonates with the treatment and interpretation of deportation or what I call the *expulsion play.*

In drawing together these innovative treatments of social drama and based on three years of expert witnessing in deportation proceedings on the East Coast of the United States I will construct the immigration appeals court as a form of theater complete with back and front staging, role playing actors, performative systems of interaction and scripts of the self and the other that speak to the contemporary surveilled and policed conditions of vulnerable immigrant communities caught within the cross-hairs of the security state. In this theater we see what Artaud referred to as societal "realities," normally hidden by the formalistic bourgeois theater of his day just as orthodox social science fails to find a language to match the convulsion, passion, rejection, resistance, vindictiveness and imagination that comes with the layered violence of social expulsion in the present.

“Where do I go from here?” French Immigration Detention and Its Differential Impact on Immigrant Strategies

Nicolas Fischer, CESDIP/Université de Versailles Saint-Quentin, France

Drawing on statistical data and ethnographic fieldwork, this intervention will propose an outlook on immigration detention in France, and its impact on immigrant strategies. After a general presentation of the deportation and “administrative” detention system in France, I will then turn to its actual enforcement as I observed it, starting with the “degradation ceremonies” involved in the entry in detention, and on the way they turn the informal life of unauthorized immigrants into a tightly controlled existence. I will then focus on a more specific scene inside the center: the legal clinic run by independent lawyers from a Human Rights organization in every detention facility. Describing the interactions between these lawyers and detained immigrants, I will focus on the way legal counsel may lead to actual legal action against deportation orders, but may even more often lead to a reframing of the detainees’ immigration strategies – leading them to envision differently their possible liberation on the French territory, their coming back to France after a deportation, or more personal projects connected to their right to stay in France such as marrying a French citizen, raising a family or quitting a job.

Q. Criminalization Room B013

Chair: *Maartje van der Woude,* Leiden University, the Netherlands

Presentations

Why Do States Criminalize Undocumented Immigrants? Race, Citizenship, and the Politics of Exclusion in New Immigrant Destinations.

Hana E. Brown, Wake Forest University, U.S.A.
Jennifer A. Jones, Notre Dame University, U.S.A.

In recent years, immigration settlement patterns in the United States have witnessed a staggering transformation. Immigrant newcomers once settled overwhelmingly in traditional urban gateways but over the last 20 years they have increasingly landed in new destination areas. Many new destination states have responded to this influx by proposing laws that would severely curtail the social and legal rights of unauthorized immigrants. Existing theories of state and local-level immigration politics would predict that southeastern states as a region would adopt restrictive anti-immigrant legislation, given their political and racial conservatism. Yet, in the last decade, individual states have adopted radically different approaches to immigration enforcement. Why have some new destination states officially criminalized undocumented immigrants while others have not? This paper evaluates the effect of interracial coalitions in facilitating the rise of distinct immigration enforcement regimes in two states that have taken disparate approaches to immigration enforcement: Mississippi and Alabama. Although Alabama recently enacted one of the country's strictest anti-immigration laws, all efforts to do the same in Mississippi have failed. The capitol city, Jackson, even declared itself a sanctuary city.

Drawing on theories of social movement framing and coalition formation, we argue that a cohesive interracial coalition thwarted efforts to pass omnibus anti-immigration policies in Mississippi but the absence of such organizing facilitated passage in Alabama. Using interviews with key stakeholders, archival data and media analysis, we show that in some cases interracial organizations framed anti-immigrant movements as threats to civil rights. When such framing occurred, and policy elites weighed political pressure by these groups in their voting calculus, omnibus enforcement legislation failed to pass. In the absence of such coalitions however, enforcement was the norm. Such findings provide an important counterpoint to the research on Black-Brown conflict. They also suggest that heightened cultural contact and political organizing among non-citizen and racial minority groups can facilitate immigrant political incorporation, prompt a realignment of civil rights agendas, and provide a barrier against anti-immigration policies.

Coming to Terms with Crimmigration's Deep Roots in the United States

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Keywords: United States, LGBT, Legal history, Information sharing

Scholarship on the convergence of immigration enforcement and criminal law enforcement – "crimmigration" – generally ascribes its emergence to the 1980s and '90s. In this article, I seek to trace crimmigration's earlier roots in the United States in an attempt to deepen and complicate our understanding of its origins. I look back at the development of U.S. immigration enforcement over the course of the twentieth century with a set of distinctly twenty-first-century questions in mind: How did information begin to flow from state and local police to federal immigration authorities? How did police come to be seen as a "force multiplier" for federal immigration enforcement? And how did the commission of low-level criminal offenses by noncitizens come to be framed as a threat to national security?

I locate the pivotal moment of transformation not in the 1980s but rather in the 1950s. My starting point is the1963 Supreme Court case *Rosenberg v. Fleuti*. The case is well known to U.S. immigration scholars and practitioners as the origin of the "*Fleuti* Doctrine," which for many years governed the rights of lawful permanent residents returning from brief trips abroad. Here, I propose that *Fleuti* can also be of use as a window into one small but important chapter in immigration law's complicated and evolving relationship with criminal law enforcement. There is little in the *Fleuti* decision itself to suggest its relevance to contemporary discussions of crimmigration. However, the facts of the case – largely absent from the Supreme Court's decision but present in the administrative record – tell a different story. George Fleuti's sexual encounters with other men made him a target of police harassment, and he accumulated three arrests on morals charges and two misdemeanor convictions between 1953 and 1958. Following Fleuti's third arrest, the Immigration and Naturalization Service (INS) investigated him and placed him in deportation proceedings.

This backstory opens up the possibility for a new reading of *Fleuti* and other cases in which arrests of gay men led to deportation proceedings. Like contemporary crimmigration cases, these cases involve longtime legal residents with relatively minor convictions, and they reveal a practice of routine information sharing between local police and the INS. These cases provide a link between the emergence of crimmigration and the Lavender Scare of the 1950s, during which the Federal Bureau of Investigation (FBI) began cooperating with local vice squads to identify homosexuals who held jobs in the federal government. The Lavender Scare ushered in a new era of cooperation between federal administrative agencies and state and local law enforcement, facilitated by the FBI. It also signaled the convergence of discourses of national security and crime. This article will situate the emergence of crimmigration within this broader context.

Crimmigration and Criminalization

Tiago Fernandes, University of Coimbra, Portugal

Keywords: State legitimacy, Crimmigration, Criminalization, Portuguese penal law

Crimmigration is a phenomenon that is becoming more and more present and visible in the actual world. It is largely due to the globalization and inherent migrations that have been verified. This passes through criminalization of individuals by the penal system. Regarding Portuguese penal law and state legitimacy in criminalizing concrete conducts, there are principles to be respected – namely the principle of adequacy, proportionality and necessity. The criminalization substantiates the state's intervention in individual juridical sphere as consequence of the social contract, being so a violation of individual juridical interests and rights on one side, and community juridical interest on the other side. This last one has been proliferating in our law – crimes without victim, being crimes where there is the willing to be victims, with diffuse victims and with imperceptible victimization – such as ambient crimes, white-collar crimes or drug related crimes, being in a way justification to criminalize the so called “illegal immigrants”.

Costa Andrade distinguished three specific elements to allow a conduct to be criminalized – a) legitimacy (existence or not of a judicial interest in protect); b) necessity (proportionality with other means to protect or regulate the conduct (as example, by administrative or fiscal intervention); and c) efficiency (whether this means actually protects the judicial interest it intends to protect). Therefore, a question arises if a judicial good to protect is a justification to criminalize the immigrant by the simple fact of being an individual who is involved in an irregular migration; if there is a necessity to punish this conduct via criminal sanctions, and the efficiency of this punishment. Regardless the reasons that motivate this individuals to migrate – social, familiar, political, economic, etc., is a phenomenon that will not just stop by itself. The countries of passage and destination may change, being the routs adapted according to their policies, but it is not a solution, is just a diversion of the problem. Being so, there is the need to safeguard individual interests over the communitary, recurring to their damage on both aspects to make a solid judgment of the priorities to give. After all, we cannot deny the inequality between rich and pourer migrations, being neither fair, nor respective of the principle of equality. Besides the fact that illegal immigration is not criminalized in Portugal, we believe to be relevant and pertinent analyze this crime in the view of our judicial system, where the punishment is justified by means of positive prevention – both general and special.