CINETS
Crimmigration Control
INTERNATIONAL NET OF STUDIES

BORDER CRIMINOLOGIES

GLOBAL BORDERLANDS

GETTING TO THE CORE OF CRIMMIGRATION

SEPTEMBER 16 - 18, 2021
ONLINE CONFERENCE

TENTATIVE PROGRAM & PANELS

NWO

Thursday September 16
2021 - Early Career Scholar Day

Our ECS day will provide PhD researchers and junior scholars with an opportunity to discuss their written work together with senior scholars and peers. It will also be an opportunity for ECSs to learn more about the different strategies they can deploy to get their research published or in circulation.

Please find below a preliminary outline of the program as well as application guidelines. The final scheduling will take into consideration the fact that participants and speakers are operating in different time zones.

Program:
The ECS day will be divided into two blocks:

- Block 1: in-depth discussion of written work with senior scholars and peers
- Block 2: how to get your research out there

Block 1:
The first block of the ECS day will consist of in-depth discussion sessions in which ECSs are matched up with senior scholars to discuss their written work.

Confirmed senior scholars:

- Dr. Alpa Parmar (University of Oxford, UK)
- Dr. Franca Attoh (University of Lagos, Nigeria)
- Dr. Radhika Mongia (York University, Canada)
- Dr. Cecilia Menjivar (UCLA, USA)
- Dr. Karine Côte-Boucher (University of Montreal, Canada)
- Dr. Monika Szulecka (Polish Academy of Sciences, Poland)
- Dr. Shahram Khosravi (Stockholm University, Sweden)
- Prof. Dr. Maartje van der Woude (Leiden University, the Netherlands)
- Prof. Juliet Stumpf (Lewis & Clark Law School, USA)
- Prof. Dr. Marie Provine (Arizona State University, USA)
- Dr. Robert Koulish (University of Maryland, USA)
- Prof. Dr. Valsamis Mitsilegas (Queen Mary University of London, UK)

Block 2:
The second block of the ECS day focusses on the theme of how to get your research out there. This block consists of two complementary sessions:

- Session 1: an interactive plenary session in which two senior scholars are invited to discuss academic publication strategies
- Session 2: three parallel workshop sessions that explore alternative strategies for engaging with different audiences
    1. (Social) media workshop
    2. Workshop on podcasting
    3. Art workshop

How to apply:
To apply, please send us the following information to [cinets@law.leidenuniv.nl] before July 26th. Incomplete submissions will not be considered.

- A brief cover letter describing your reasons for applying, your current position, and any other details that you consider important for consideration (200 words max)
- A description of your current research and writing projects (300 words max)
- Top 3 senior scholars you'd like to be matched up with
- Which workshop you'd like to attend (social media; podcasting; art)

Friday September 17
Full Conference Day I

8.30 - 8.50	**Morning Meditation**
9.00 - 9.15	**Welcome & Opening** – Maartje van der Woude (Leiden Law School, the Netherlands)
9.15 - 10.30	**Panels Round 1**
8	Showing Solidarity & Shedding Responsibility - Citizenship
17	Exploiting Irregularity - Low-Wage Migration and Vulnerability
23	Detention and detention practices
25	How do crimmigration and bordering impact asylum-seekers and refugees in the EU? Insights from the ITFLOWS project
10.45 - 12.00	**Keynote Discussion 1:** Alpa Parmar (University of Oxford, UK)
	& Franca Attoh (University of Lagos, Nigeria)
12.00 - 13.00	**Break with Socializing Option**
13.00 - 14.15	**Panels Round 2**
5	Outsourcing Crimmigration Control
6	Crimmigration in Historical Perspective
9	Gender, Feminism & Crimmigration
29	Southernising Crimmigration Debates
14.30 - 15. 45	**Art, borders and migration I**
16.00 - 17. 15	**Panels Round 3**
11	Internal EU Borders - Transit Migration
16	Categorizing refugees and asylum seekers
18	Criminalisation of Immigrants
13	Perceiving and Utilizing Race
17.15 - 18.15	**Break with Socializing Option**
18.30 - 19.45	**Keynote discussions 3:** Karine Côté-Boucher (University of Montreal, Canada)
	& Shahram Khosravi (Stockholm University, Sweden) (live stream and recorded)

20.00 - 21.15	**Panels round 4**
2	The Boundaries of Politics: Borders, Edges and Frontiers beyond the State I
4	Constructing Legal Outsiders
19	Creation of the Deportable Migrant
27	Multi Scalar Migration Enforcement
21.30 - 22.45	**Panels round 5**
7	Historical - Looking into the past to inform the crimmigration present
12	Political economy - Finances of Detention
20	Policing & Migration enforcement
22.45-23.00	**Closure of the Day**

Saturday September 18
Full Conference Day II

8.30 - 8.50	**Morning Meditation**
9.00 - 10.15	**Panels round 6**
10	Borders of Belonging. Illegalized im/mobility and the mundane processes of Othering in Global South borderlands
24	The Expanding Carceral State: Executive Power, Non-Citizens and Tracing the Border as Practice
28	Deportation from Australia on character grounds: law, legal institutions, and community impacts
10.30 - 11.45	**Keynote Discussion 3:** Monika Szulecka (Polish Academy of Sciences)
	& Maartje van der Woude (Leiden Law School, the Netherlands) (live stream and recorded)
12.00 - 13.00	**Break with Socializing Option**
13.00 - 14.15	**Art, borders and migration II**
14.30 - 15.45	**Book Panel & Raffle – Chair: Amalia Campos Delgado (Leiden Law School, the Netherlands)** • Katja Franko – The Crimmigrant Other: Migration & Penal Power (Routledge 2020) • Martina Tazzioli – The Making of Migration: The Biopolitics of Mobility at Europe's Borders (Sage Publications, 2020) • Adam Goodman – The Deportation Machine: America's Long History of Expelling Migrants (Princeton University Press, 2020) • Paulina Ochoa Espejo – On Borders: Territories, Legitimacy and the Rights of Place (Oxford University Press)
16.00 - 17.00	**Break with Socializing option**
17.15 - 18.30	**Panels Round 7**
14	Technology/Surveillance - risk & data in bordering processes
21	The Governance of Mobility and Migration
22	Deportation and the Making of Deportability
26	International Norms and National Policy on Migration
30	Perceptions, (penal) Populism and Violent Racialized Othering

18.45 - 20.00	**Keynote discussion 4:** Radhika Mongia (York University, Canada)
	& Cecilia Menjivar (UCLA, USA) (live stream and recorded)
20.00 - 21.15	**Art, borders and migration III**
21.30 - 22.45	**Panels round 8**
1	Crimmigration, Borders, and Domestic Policing
3	The Boundaries of Politics: Borders, Edges and Frontiers beyond the State II
15	Crimmigration in the courtroom - challenges for human rights
22.45 - 23.00	**Closure and looking ahead**

Abstracts Catalogue - Panels 1-28

1: Crimmigration, Borders, and Domestic Policing

Chair: Lindsay Nash (Cardozo Law)

Ingrid Eagly (UCLA School of Law)

Restructuring Public Defense After Padilla

In the 2010 landmark decision of Padilla v. Kentucky, the United States Supreme Court held that the Sixth Amendment right to counsel demands that criminal defense attorneys inform their clients of adverse immigration consequences. Yet, although over a decade has passed since Padilla, astonishingly little is known about how public defense systems have incorporated this watershed decision on the ground. This article presents the first empirical study of representation by public defenders in the post-Padilla era. By researching Padilla's implementation in California—the state with the largest immigrant population in the nation—this study shows how immigration expertise has developed at the local level and been distributed to indigent defendants. Our results reveal that California's county-run criminal defense system has struggled to make the ideal of Padilla a reality. Showing effective compliance, many larger counties with institutional public defender offices have embedded immigration experts within their offices and reshaped attorney understanding of adequate Padilla advisals and plea bargaining practices. At the same time, however, the majority of counties have languished: they have not yet hired an in-house immigration expert, developed internal protocols for immigration advising, or trained all of their attorneys in immigration law. The urgency to create a workable Padilla delivery system is particularly acute in California's small and rural counties, which generally rely on a contract system for appointing defense counsel. Although inadequate funding and local control over the purse strings of public defense contribute to these problems, many public defense systems have been slow to restructure their existing defense services to embrace the constitutional requirement of immigration advising and defense. These and other findings have immediate relevance for the development of public defender systems across the country.

Eisha Jain

Policing and the Polity

This Essay fills a gap in the literature on immigration enforcement and domestic policing. Domestic policing scholars have long linked policing to racial subordination and segregation within the United States. This perspective, however, finds almost no recognition in domestic immigration law itself. When it comes to local "anti-illegal immigrant laws," courts appear to conceptualize policing as a pipeline to removal from the country, without regard to how it affects targeted individuals who remain within the United States. Because domestic policing scholarship has largely excluded immigration policing, the literature has not connected how local immigration laws work in tandem with race-based domestic policing to subordinate and segregate communities of color. Similarly, the legal doctrine has yet to develop a vocabulary for recognizing how domestic policing practices form the backbone of "immigration" laws, much less considered the full implications of a policing-centered approach to immigration enforcement. This Essay traces the origins of the current doctrinal framework –which conflates exit from the country with residential racial segregation, and which ignores the significance of race-based policing altogether –to early legal doctrine that accepted express racial profiling in

immigration law, and it argues that this approach should be abandoned. It develops a "policing-centered" theory of immigration enforcement, one that centers the mechanism by which the government polices suspected noncitizens, regardless of any tangential connection to exit from the country. This approach is grounded in recognizing that race-based policing brings the polity closer to a police state for those stereotyped as undocumented. This Essay sketches the contours of a policing-centered approach to immigration law, contrasts it with the dominant framework, and develops its implications for preemption, Equal Protection, and Fourth Amendment doctrine.

Shalini Bhargava Ray

The Right to Rescue

Haven states around the world criminalize unauthorized entry, putting migrants in peril. But they also criminalize citizens providing basic care to unauthorized migrants, such as food, water, and shelter. In response to recent prosecutions, humanitarian actors in the United States have asserted the right to religious expression as a defense to criminal liability, with limited success. Scholars have also argued that citizens might have a right to rescue unauthorized migrants based on the First Amendment's protection for political expression. Other nations, however, treat humanitarian aid as a matter of solidarity rather than religious or political freedom. France's Constitutional Court, for example, determined in 2018 that the French Constitution's guarantee of "fraternity" precluded criminalizing humanitarian aid to unauthorized migrants. These diverse doctrinal and theoretical developments in support of the right of citizens to offer life-saving aid to migrants come at a time when scholars, advocates, and organizers have challenged the premises of restrictive, xenophobic immigration laws and policies. This paper critically assesses the emerging "right to rescue" and the advantages and disadvantages of the development and assertion of such a right. Such a right underscores the government's infringement on citizens' fundamental rights in criminalizing humanitarian aid. But an exclusive focus on citizens' religious or political rights potentially obscures the rights and needs of migrants, as well as the institutional arrangements that produce the need for rescue in the first place. As a result, this Article argues for cautious development of a right to rescue, one premised on the relationship of rescuers to migrants and the larger context in which they operate. It centers the concepts of affiliation and association and considers how protection for intimate and political associations might possibly serve to protect acts of solidarity under U.S. law.

Tania Valdez

Policing Mental Health in the U.S. Immigration System

This article explores the ways that the mental health of noncitizens is policed in the United States, beginning with interactions with the criminal legal system. People with mental health challenges have frequent interactions with law enforcement. Instead of providing mental health services, the police are regularly summoned to intervene when people are experiencing mental health crises. Then, the criminal legal system is charged with "handling" the case, meaning that the person's mental illness symptoms are criminalized rather than treated. Although using the police to assist in mental health crises can lead to violence and criminalization for U.S. citizens, noncitizens face deportation as an additional consequence. Because of strong ties between local law enforcement and the federal government when it comes to immigration control, noncitizens face the likelihood of being transferred directly from criminal to immigration custody once they have served their sentences. Once ensnared in the immigration system, they may remain detained throughout their removal proceedings and beyond, lack access to

adequate mental health care and be placed in solitary confinement, be forced to represent themselves in court, and ultimately face deportation. Jurisdictions introducing the use of mental health providers instead of law enforcement to intervene during mental health crises are currently offered to ensure that a person experiencing a crisis receives the help that they need instead of an unnecessary criminal conviction, as well as to avoid potential for police violence. However, an overlooked yet critical reason to use mental health providers in lieu of police is to avoid a mental health crisis beginning the pipeline to deportation. Yet, additional protections are needed for all noncitizens who have already been swept up in the criminal legal system.

2: The Boundaries of Politics: Borders, Edges and Frontiers beyond the State I

Chair: Martha Balaguera (University of Toronto)

Sonja Wolf (Centro de Investigación y Docencia Económicas)

Forced Migration from Criminally Governed Areas in Central America

The countries of the Northern Triangle of Central America have been formally democratic for three decades now, but elections and formal rights guarantees have gone hand in hand with inequality, underemployment and violence. In much of Guatemala, Honduras and El Salvador, the state has a diminished presence in rural and marginal urban areas. The state is seemingly unable to provide security and public services, and often it is criminal groups and street gangs that fill this void and establish an alternative governance system. While criminal groups may offer residents jobs in their various businesses, street gangs –faced with competition from rival groups and the central state– tend to prey on already vulnerable populations through extortion and coercion. Given such threats to life and livelihood, many Central Americans have no choice but to flee abroad, often to Mexico or the United States. This paper presents the findings of qualitative research conducted with forced migrants who, traveling either alone or as a family, were seeking to escape structural and physical violence in the Northern Triangle. Interviewed in migrant shelters across Mexico, research participants were asked about their everyday experiences of living, working and studying in areas under control by street gangs or criminal groups. Drawing on theoretical insights of the criminal governance literature, the research examines how these nonstate actors rule and affect local areas, and how people cope with and respond to this everyday violence.

Alexandria Innes (City University of London)

Violence Embedded in Immigration Policy: A Systematic Review

This research comprises a systematic review of the academic literature that locates violence against people in insecure immigration status that is embedded in state policy. A lack of clear legal routes for migration that is motivated by myriad factors (including but not limited to conflict, environmental events, persecution, economic deprivation, and health) produces irregular movement. Much existing research has identified violence along these routes against a population that has little recourse to the law, and is highly vulnerable. Moreover, this violence is often carried out by law enforcement officers, border

enforcement officers, or other agents of the state. Much of the academic work in International Relations, Migration Studies, Border Studies and Area Studies that deals with the phenomenon of state violence has turned to the experiences of migrants in order to understand how that violence manifests and functions. Hence, much of the research is qualitative, small n, and interpretivist. Standing alone, this research often does not present a significant challenge to the armour of statistical data behind state immigration policy that focuses on net migration as the measure of interest and as the main indicator as to which policies are considered successful.

This systematic review will seek to amass, systematise, and critically review the qualitative academic research that turns to the experiences of migrants in this context. Qualitative systematic reviews are often used to collect and systematise knowledge of people's experiences and perceptions (Dyer and dasNair 2013, Thomas and Hadden 2008, Saletti-Cuesta et al 2018). I seek to locate, identify and understand state violence that is directed towards migrants or that is an outcome of immigration policies. Drawing this evidence together will represent a significant contribution to clarify the current state of research that often transcends disciplinary boundaries. Empirical reports from the UNODC and the Council of Europe find that there is a lack of official accurate measurement and reporting on irregular or undocumented migration. This systematic review of violence in global migration processes will identify and review a dataset comprised of scholarly work published on this topic to clarify what we know about violence in global migration, to typologise forms of state violence, and to assess the supporting evidence. Meta-analysis of existing data will identify the most robust conclusions and what further questions are raised. Based on this data, the systematic review will propose directions for ongoing and future research projects with a view to resolving the lack of capacity to measure and report violence in global migration.

Amelia Frank-Vitale (University of Michigan)

***Fronteras Internas*: Scales of Ex/Inclusion from the Colonia to the Border**

In urban Honduras, the neighborhood – colonia – where one is from is one of the most important points of reference and social location in young people's lives. People are identified with their colonia and this has ramifications for mobility, education, and access to jobs, but also shapes relationships and people's imagined possibilities. The colonia is home, it is where you are known and rooted, where you are understood to belong. The colonia can be a space of protection and safety yet it can turn, quickly, into a source of vulnerability, danger, and violence. Living safely within the colonia is frequently predicated upon refraining from engaging too much or too deeply in places, particularly other similar neighborhoods, beyond the colonia.

Understanding the unmarked, internal geography of the Sula Valley – the fronteras internas – is essential for staying alive. Knowing where neighborhoods start and end, knowing which neighborhoods are controlled by allied or rival crime groups, and knowing where your social location allows you to go (and where it does not) is crucial. The neighborhoods on the urban margins are controlled by a patchwork of rivalrous organized crime groups, and this gangland geography forms a foundational backdrop that informs migration decisions and shapes people's sense of safety, possibility, and mobility within Honduras. Mobility is delimited first not by I.C.E. agents and border walls but by the microdynamics of power and belonging that shape the social landscape on the urban margins.

Tying together life on Honduras's urban margins and the experience of unauthorized migration, this paper examines the tension between multiple immobilities, being stuck between internal borders and forced movement across international borders. For many young Honduran men, where one can and cannot go is circumscribed first not by national level boundaries but by a landscape of domination,

exclusion, and persecution. Being out of place in Honduras, I argue, pushes people into the expansive placelessness of migration.

Noelle K. Brigden (Marquette University)

Placemaking, NGOs and the Boundaries of Communities on the Edges of San Salvador

U.S.-based NGO's sponsored the construction of sturdy cement homes and small public spaces in a resettled neighborhood on the outskirts of San Salvador. This oasis sits in one of the most notorious gang territories in the country. In the surrounding area, gangs have periodically taken control of small businesses. Youth from the community cannot ride the bus to a nearby part of the city, because it crosses a gang border and gangs have killed local kids on that bus route. When uttered in other parts of the country, the zone's name often summons safety warnings and cautions from both Salvadorans and foreigners working in El Salvador. However, despite the attention paid to the criminal fragmentation of the urban landscape, tensions between the newest, small settlement and its immediate neighbors do not break along gang lines, because the entire territory falls under the jurisdiction of one gang. Instead, the boundaries of this community have materialized in a concrete wall, also sponsored by transnational NGOs.

When I asked community members whether the wall kept the gangs out, they scoffed, "a wall does not stop that kind of violence." In fact, the wall served a very different and essential purpose for the safety and wellbeing of the community, one the NGO had not considered when construction began: for a time, it kept out the soldiers and police. Community leaders beyond the wall expressed envy of its capacity to keep state authorities at bay. In some of those neighborhoods, which had not yet benefited from the grandiosity of transnational NGOs, floorless homes made of mud and tin lay exposed to police brutality. Other nearby neighborhoods had benefited from NGO home construction of a previous generation, but then forgotten by their benefactors, and left exposed to this brutality without a wall. Currently, a worsening spiral of extrajudicial killings is sweeping the country. Police abuses are rampant, and a member of a local governing committee in the neighborhood just outside the wall complained that the soldiers had broken into his home to harass him on multiple occasions. That local leader lamented that his neighborhood did not have a wall, because it would greatly benefit their security to keep out the state authorities. Thus, the wall subverted the usual power dynamics of borders, and the concrete structure became a visual accomplice to this turning of the tables.

Sadly, the wall no longer stops the State either; police have since broken through the gate and now maintain their access. However, the wall also no longer marks a breakpoint between development projects, as communities and NGOs self-consciously challenge these community boundaries. This evolution of the multiple meanings of the wall reveals a very different State-society relationship than the narrative that emerges at the border walls of the nation-state. Racialized and class-discriminatory "crime talk" frequently justifies the construction of gated communities in urban and suburban settings around the globe, as well as justify State-sponsored walls at international borders. In this instance, however, the community members' "crime talk" narrates the role of an illegitimate State, alongside other meanings of the wall. It is also telling that a transnational NGO designed and constructed the wall, and that the transnational organizations that fund these projects sometimes understand its function differently than the communities that live under the wall's shade. This essay analyzes the oral history of the wall to make sense of an alternative bordering story, in its multiple forms. I ask: What does the wall tell us about governance and authority? I offer a close case study of the most recent NGO-sponsored project and its impact on placemaking and identity: a community gym. Ultimately, I reflect upon the nature of citizenship in a fragmented, trans-nationalized society shaped by shifting governance by NGOs, gangs, and police. What can we learn about these processes from non-state borders and place-making?

3: The Boundaries of Politics: Borders, Edges and Frontiers beyond the State II

Chair: Noelle K. Brigden (Marquette University)

Estefania Castañeda Pérez (UCLA)

Mental Health and State Violence at the Mexico-U.S. Border

Researchers have demonstrated that health disparities experienced by marginalized and historically racialized communities are often the result of experiencing institutionalized racism embedded in immigration control laws and policing/surveillance practices by law enforcement. In the United States, Latinx immigrants often face psychosocial stressors due to fears of deportation (at the individual level or of family members), discrimination, exclusion, and risk family separation from punitive immigration policies. These concerns are amplified at land ports of entry, particularly as individuals interact with U.S. Customs and Border Protection officers on a regular basis, and often endure grueling hours-long journeys while crossing through ports of entry. This study examines how enduring state violence at the Mexico-U.S. borderlands affects transborder commuters' mental health. This study relies on data collected from ethnographic observations at ports of entry, and interview and survey data collected in the Tijuana, Nogales, and Ciudad Juárez borderlands. Preliminary results demonstrate that transborder commuters experience long-term stress/anxiety, post-traumatic stress disorder, and inter-generational trauma when navigating land ports of entry. Secondly, discretionary border policing increased transborder commuters' feelings of uncertainty and paranoia about the legitimacy of their own identities and cross-border mobility. These conditions were similarly experienced when navigating Border Patrol checkpoints in the U.S. and other policing/carceral spaces in both, Mexico and the U.S. Through this article, I demonstrate the often unacknowledged and invisible long-term effects of border control policies and navigating carceral systems on the psychological welfare of transborder communities. Additionally, my study demonstrates how mental health impacts resulting from negative encounters with CBP officers at the border may lead to experiencing distrust and fear of authority figures in both, Mexico and the U.S. This study will serve as a case to examine similar health disparities resulting from parallel forms of state violence against migrant and racially minoritized communities and at other militarized transborder regions around the globe.

Malasree Neepa Acharya (University of Delaware)

Deliberative Dissonances: Politics of Trespassing & Change in the Mediterranean

This paper explores the politics of trespassing and the dissonances that arise when migrants act outside the structures they are asked to fit into as 'model' asylum seekers in order to leverage resources built inside the demands of humanitarian, policy and governance structures. Faced with conditions of violent uncertainty characteristic of migration routes, migrants on-the-move negotiate the relationship between physical movements of the body-in-practice and inner space and outer politics. Individuals perform citizenship alongside the sovereign along journeys taken by clandestine migrants as 'deliberative acts' of resistance and moments of reflection upon improvised identities (Brigden 2016), where borders exist as permanent states of exception negotiated and trespassed by those moving through them. The paper seeks to understand the relation between migration and embodiment by looking at the networks and resources that arise as embodied journeys and how migrants as social actors enact change.

Technologies, including internet communication technologies (ICTs) and social media, are leveraged to negotiate and transgress dissonant challenges as migrants are confronted with instances of state, humanitarian and policy actions. Since 2015, more than 2 million refugees have landed on the coasts of Italy and Greece in states of increasing precarity. An increased policing of transnational flows in states deepens contestations of borders that incorporate citizens within a clandestine social field, generating borderlands on the frontiers of shifting identities. Mediterranean migrants demonstrate resilience in their ability to improvise their journeys into Europe. Based on mixed-method and multi-sited fieldwork including social media content mapping and participant observation in refugee camps across Greece, the paper locates the frictions between 'good governance' initiatives of states and how innovation contributes to migrants' trespassing and redrawing states of exception through clandestine cartographies they define and render visible across borders. Looking at instances of affirmations and actions, Mediterranean refugees form communities of stateless citizens where they trespass to empower deliberative strategies of change; relinquishing borders as they settle into motion networks that govern their worlds.

Cetta Mainwaring (University of Glasgow)

Daniela DeBono (University of Malmö)

Transgressive Acts: Migration, Solidarity and the Contestation of EU Borders

In March 2019, three teenage asylum seekers were arrested upon their arrival in Malta. The government charged them with terrorism and alleged that they had hijacked the El Hiblu, a merchant vessel that rescued the three teenagers alongside over one hundred other people, in order to avoid being forcibly returned to Libya. In this chapter, we use the El Hiblu case to examine the ways in which people on the move and activists working in solidarity with them transgress state boundaries and categories to contest EU borders, despite the increasing state criminalization and violence they face. In doing so, they recreate spaces from the Mediterranean to European cities and enact different visions of our societies. The El Hiblu case allows us to explore the ways in which transgressive acts, from autonomous migration to solidarity practices, that occur at sea and within European territory connect and fold into each other in complex ways, while challenging our conceptualization of borders.

Martha Balaguera (University of Toronto)

The Integral Frontier

The increasing offshoring of borders to the Global South has transformed the transnational government of migrations. In this changing context, scholars from different disciplines have pushed us to rethink the role of periphery countries such as Mexico as "vertical" or "arterial" borders, where state and criminal nonstate actors exercise violence and control the flow of migrants (Kovic & Kelly 2017; Vogt 2018). Others have underscored the fact that immigration enforcement is no longer confined to the edges of the nation state, requiring us to better theorize border sovereignty at various levels of analysis (Brigden 2018; Lloyd & Mountz 2018). My essay builds on and extends these insights to address two additional dimensions of what I call the "integral frontier" spanning Central America, Mexico and the United States. First, I suggest this concept to account for the aggregate border-making effects of civil society's practices of "sanctuary" —by which I mean oppositional practices intended to protect undocumented migrants—, including but not limited to those of advocacy, care, hospitality, solidarity, and legal accompaniment. Second, I analyze the ways in which bordering practices thusly conceived multiply

spaces and experiences of confinement. I argue that, even while civil society seeks to contest or circumvent structural and direct violence waged on migrant bodies, it nevertheless becomes imbricated in a broader carceral regime of border enforcement irreducible to the state. The main purpose of this essay is theoretical, drawing on Gramsci's notion of the "integral state" and Foucault's conceptualization of the "punitive society." I use ethnographic evidence collected in Mexico and the US-Mexico border to illustrate my claims.

4: Constructing Legal Outsiders

Chair: Jennifer M. Chacón (University of California, Berkeley)

This panel explores the causes, consequences and context of the construction of racialized legal outsiders through criminalized immigration enforcement in the United States. In exploring the causes, the panelists describe how certain racialized assumptions have become baked into the legal doctrine governing U.S. immigration enforcement. In tracing out consequences, the panelists explain how the contemporary designation of immigrants as "illegal" actually generates the conditions that perpetuate mundane violation of the law; and discuss how the criminalized immigration enforcement system reshapes the legal attitudes of immigrants confronting that system from within the immigration detention system. To situate these developments in a broader context, the panelists discuss the moral economy of enforcement as illuminated by enforcement agents' rationalization of their own work; and critique the use of a deeply flawed and racist criminal legal system as the primary mechanism for determining which immigrants should be removed.

Panel participants:

1. Amada Armenta (University of California, Los Angeles)
2. César Cuautémoc García Hernández (Ohio State University Moritz College of Law)
3. Rocío Rosales (University of California, Irvine)
4. Irene I. Vega (University of California, Irvine)

5. Outsourcing Crimmigration Control

Chair: Alpa Parmar (University of Oxford)

Darshan Vigneswaran (University of Amsterdam)

The Values of the Migration Industry

The term 'migration industry' constitutes one of several terms that have been used to refer to "the array of non-state actors who provide services that facilitate, constrain or assist international migration". Scholars have chosen to refer to these non-state actors as an 'industry' instead of using other alternatives - e.g. 'regime', 'assemblage', 'complex' - in order to draw attention to the 'economic' dimensions and dynamics of these actors' collective work: specifically the profit-oriented and rent-seeking behaviour that motivates international organisations, private corporations, NGOs and criminal syndicates to become engaged in the provision of services pertaining to migration. However, the

literature on the migration industry has commonly operated with a loose and/or under-theorised understanding of how this 'economy' works. In particular, they lack a clear concept of value. Why do the 'services' that the migration industry sells have value? Is the industry built on 'thin air' or does it provide a set of concrete 'goods' that can be meaningfully isolated and observed? This is a problem for the migration industry literature, because without a theory of value, it is difficult to fully understand how this concept works, let alone gauge its heuristic value or test its explanatory power. This paper will seek to resolve this issue by specifying how the migration industry creates 'value'. In order to do so, we will do two things. First, we will place the literature on the migration industry into conversation with theories on the creation of value in the field of critical political economy, in order to better specify the different theories of value which this literature (usually implicitly) mobilises. Second, we will conduct an in-depth analysis of a case study of the migration industry in action - the European Union Trust Fund for Africa. This case study will first reveal the ways in which elite budgetary decision-makers within the EU constituted international migration management as an object of value, and then identify the accounting mechanisms which aid agencies develop to convert this value into products that can be 'sold'.

Hallam Tuck (University of Oxford)

'Because we are deportable people' – Incarceration, citizenship and the public-private relationship in US all-foreign prisons

This paper examines how the relationship between Federal agencies, local governments, and private contractors shapes practices and experiences of incarceration, migration control, and citizenship within US Criminal Alien Requirement (CAR) prisons. Created in 1999, CAR prisons are designed to segregate 'low security criminal alien men' from US citizen prisoners, and are the only privately-operated facilities managed by the Bureau of Prisons. Drawing on interviews with thirty-eight current and former prisoners, I examine how the public-private relationship shapes social relations within two CAR facilities in Michigan and Georgia. I examine how the public-private relationship shapes how prisoners negotiate their daily lives and come to understand or contest their status as non-citizens within these facilities. Based on this analysis, I argue that CAR facilities are key sites for the definition of citizenship through operation of a diffuse public-private penal power.

Mary Bosworth (University of Oxford and Monash University)

Enforcing mobility in the UK: A study of the private escorting contract

In this paper I will draw on the first academic study of the 'escort contract' in the UK. The privatisation of the UK deportation system has intensified over the past two decades. Each year, multiple companies assist in thousands of deportations authorised by the Home Office. Yet, despite contracting out much of the logistics of enforced removal, the state remains present in the figure of the border force agent or immigration enforcement officer at the port, in the immigration officer on a charter flight, and in the human rights monitors who scrutinise all stages of the process. In fleshing out the 'infrastructure' (Walters, 2018) required to eject people forcibly from Britain, this paper illuminates the interconnected relationship between the private sector and the state, to explore their implications.

Samuel Singler (University of Oxford)

An international society of biometric states? Performing statehood through border control technologies

This paper draws on ongoing research into Southern states' deployment of the Migration Information and Data Analysis System (MIDAS), developed by the International Organization for Migration (IOM). Rather than reading the deployment of MIDAS either as a straightforward case of neo-imperial influence or as Northern development aid, I analyse the role of Southern states themselves in promoting and shaping the adoption of biometric border control technologies. I argue that for Southern states, MIDAS confirms membership in the international society of sovereign states, by demonstrating their capacity to make mobile populations biometrically legible. The IOM, in turn, plays a key role in disseminating the global standard of biometric statehood by rolling out MIDAS in its Member States.

6: Crimmigration in Historical Perspective

CHAIR TBD

Jeannette Kamp (International Institute of Social History/ Leiden University)

(In)tolerant policing? Crimmigration in the Netherlands 1600-1900

In current scholarly migration debates the overrepresentation of certain groups of migrants in the criminal system is a central subject of debate. The American lawyer Stumpf argues that membership theory explains so-called *crimmigration:* the convergence of migration and criminal law. Membership theory provides decision makers with justification for excluding individuals from society, using immigration and criminal law as the means of exclusion (Stumpf 2006). Van der Leun introduced the term *crimmigration* in Dutch research. She argues that this new approach would inevitably revise the idea of renowned Dutch toleration towards migrants (Engbersen & Van der Leun 2007, 443; Wermink et. al 2005). The question of over-representation is considered a recent phenomenon that is related to the large migration flows since the late 1950s.

There are clear indications, however, that the courts systematically discriminated against immigrants before the 20th century. De Koster and Reinke emphasized the interrelationship between migration and crime as a continuous issue of official concern from the 16th century onwards (De Koster & Reinke 2016). Research for various regions and periods in Europe demonstrates that distinctions between 'insiders' and 'outsiders' often resulted in biased policing and criminal prosecution. In most countries poor migrants in particular were associated with criminal behaviour and disrupting public order (Blanc-Chaléard 2001; Van Leeuwen 2000; Winter & Lambrecht 2013).

Furthermore, the early modern judicial system was characterized by legal inequality and biased prosecution policies. Moreover, the implementation of vagrancy laws created a practice of policing which specifically targeted outsiders. Vagrants and minorities such as gypsies and Jews were increasingly labelled as criminals (especially thieves) and outlawed in certain regions in early modern Europe. Endeavour to control unwanted newcomers gave rise shaped the development of urban and territorial police forces. Pioneering work on London in the 18th century demonstrates clear discriminatory patterns towards Irish migrants, which reflects patterns of stigmatization in society (King 2013; Godfrey et al. 2008). Examinations on 18th-century Holland suggest that immigrants increasingly became

overrepresented amongst the accused when the economy started to decline (Faber 1983, 238; Balvers 2014).

For the Dutch Republic no systematic overview for the relationship between migrants, the police and the criminal justice exists. The Netherlands are often portrayed as a society with a relative open and tolerant attitude towards migrants. In the 17th century the Dutch Republic offered refuge to religious exiles from other countries and the 19th century is often described as age of a 'liberal migration regime'. This will study the interrelationship between the Dutch 'migration regime' and the position of migrants before the criminal courts employing the conceptual framework of crimmigration. Was the image of a tolerant nation also reflected in the prosecution and punishment practices of Dutch cities?

Karlijn Luk (Leiden University)

Conflicts between migrants and locals in Leiden and Rotterdam, 1600-1800

From the sixteenth century onwards, attempts to regulate the movements of people trough vagrancy policies and poor relief systems increasingly became a subject of public and political interest. Because these attempts to control and regulate migrants in the early modern period have been a key factor in the development of current forms of policing and the professionalization of the modern day police, they should not be ignored in current debates about the policing of immigrant minorities (De Koster and Reinke 2016).

As part of the bigger project 'Tolerant migrant cities? The case of Holland 1600-1900', my PhD-project means to bring together the fields of history of crime and migration history. It focuses on conflicts between migrants and locals in the cities Leiden and Rotterdam between 1600 and 1800. A city's reaction to newcomers and migrants and the way they were treated by the local population was subject to constant change (Luu 2005; Roodenburg 1992). Periods of economic decline and unemployment could be cause for a city or region to increase their attempts to regulate migration (Lucassen 2012; De Munck and Winter 2012). This could often also result in legal consequences. When a local population perceived a group or individual as 'outsider' or vagrant, this could make that group or individual more vulnerable for persecution (Godfrey e.a. 2008). In the Dutch Republic, for example, immigrants became increasingly overrepresented as defendants in legal cases when the economy started to decline during the eighteenth century (Balvers 2014).

My research is an attempt to look at indicators of structural discrimination within conflicts between locals and migrants, with a focus on the way such conflicts involving migrants were dealt with, both from a top down perspective regarding regulation of mobility and behaviour of newcomers and migrants, and from a bottom up perspective concerning probable disadvantages of migrants' outsider-status with regard to judicial accessibility and treatment. This bottom up approach is inspired by research into the way in which the demands, actions and the strategic and instrumental uses of conflict regulating institutions by ordinary people could influence and mould justice systems (Dinges 2004; Shoemaker and Hitchcock 2015).

Building on social science research concerning the ways in which increased ethnic diversity could potentially be an instigator for reduced social cohesion and increased tension within communities (Putnam 2007; Van der Meer and Tolsma 2014), my research aims to challenge the predominantly rosy picture of the 'tolerant' Dutch Republic by hypothesizing that there were not only more conflicts between locals and migrants than previously assumed, but that the outsider-status of migrants was more likely to pose a disadvantage in both formal and semi-formal processes of conflict regulation. The study of these typically framed 'tolerant migrant cities' could be most helpful in current debates about processes of crimmigration and discrimination in local conflict regulation.

Samantha Sint Nicolaas (International Institute of Social History/ Leiden University)

Migrants and the Courts in Amsterdam and Delft, 1600-1800

The early modern Dutch Republic has often been lauded for its 'tolerance', referring usually to the 'open' policies towards migrants, as well as the harmonious (interreligious) co-existence between migrants and their neighbours (Kaplan 2002, Lucassen & Lucassen 2018). As part of the larger project *Tolerant Migrant Cities? The Case of Holland 1600-1900*, my PhD project *Migrants and the Courts in Amsterdam and Delft, 1600-1800*, will look anew at this characterization. It will do so by studying the institutional treatment of migrants by the criminal justice courts in the early modern cities of Amsterdam and Delft, looking specifically for evidence of *crimmigration* in historical perspective.

Crimmigration is the process of criminalization of migrants, resulting from growing anxieties about security and crime (Stumpf 2006). According to Stumpf, it can be explained by membership theory: decision makers or authorities are provided with the justification necessary for excluding individuals from society, consequently using immigration and criminal law as the means of exclusion. Though not applied specifically to the early modern period, growing research shows that these markers of *crimmigration* are equally visible in early modern Europe. Historians De Koster and Reinke have claimed that the interplay of migration and crime was a continuous issue of official concern from the sixteenth century onwards, and a crucial impetus behind the expansion and professionalization of the police forces across Europe (De Koster & Reinke 2016). King's work on Irish migrants through the eyes of the Old Bailey in early modern London demonstrates the role of ethnicity and migrant status in determining the treatment of the accused (King 2013). For the Dutch Republic specifically, previous work on eighteenth-century Rotterdam has suggested that migrants became increasingly overrepresented in criminal cases in times of economic decline, and that changing notions of 'outsiders' often led to biased policing and prosecuting (Balvers 2014, Faber 1983). Similarly a lack of informal networks could play just as decisive a role in the unfavourable position of migrants within the criminal justice system as cultural, religious or ethnic differences (Godfrey et al 2008).

The markers of *crimmigration* go beyond an analysis of whether migrants are overrepresented in court cases; it also considers difference in penalties for certain types of crime as well as differences for penalties dealt out to migrants in comparison to native born. Mobility plays an important role in identifying discriminatory patterns; regulations regarding migration and mobility are increasingly linked to the penalties for crimes related to mobility, such as vagrancy, begging and breaching banishment penalties. This project will take care to consider the likelihood of migrants to be convicted, the likelihood that migrants received harsher or different punishments, and the likelihood of migrants to be banished from the city after prosecution. Using the conceptual framework of *crimmigration* to look at the prosecution patterns of early modern Amsterdam and Delft, this paper will address the question: to what extent did migrants face systematic discrimination before the criminal justice courts?

7: Historical - Looking into the past to inform the crimmigration present

CHAIR TBD

Eric M. Trinka

Crimmigration Old and New: How ancient responses to migration can constructively inform responses to crimmigration in the present moment.

Commentators sometimes assume that the criminalization of human movement, particularly of migration is a modern phenomenon. This paper aims to show that the tendency to reframe certain types of human movement not simply as deviant, but as criminal behavior, has ancient roots. Tensions between mobility/migration and social control are an ever-present reality across the human existence. Societies cultivate and perpetuate particular *cultures of mobility* by which different bodies are expected to have and are granted different spectrums of movement. The ultra-transient person often raises serious concerns for states because they strain the typical structures of observation, accountability, and control. Such individuals are also often viewed in terms of their lack of contributions to "established" society which perpetuates the assumption that sedentariness is the essence of society. This paper will consider modern "borderings" of mobile actors while exploring instances of criminalized movement in the ancient world. I rely on case studies from ancient Mesopotamia and Egypt, two contexts of imperial hegemony with robust textual (legal and administrative) evidence relating to encounters with migrant populations. In presenting these case studies, I ask what wisdom can be found for addressing the human tendency to classify migration as a crime in our time.

Nalya Rodriguez

"Knot" Immigration History: The Tying of Immigration, Criminal and Terrorism Laws in the US

Immigration laws in the US began expanding their framework in the 1960s to address a perceived Communist expansion and increased immigration. Building on Ingold's (2011) theory of "meshwork" and "lines," this dissertation chapter, will provide a legal trajectory of the crime-immigration-terror nexus. Using "meshwork" as a framework, this chapter traces the "lines" of US legal history since the 1960s, which have included laws that criminalize immigration and frame it as a national security concern in the fight against terrorism. Using the frameworks of the sociology of law and legal violence, I argue that the US has created real or imagined lines of connection between the violence in Central America and the Middle East as similar regardless of differences in strategies, political beliefs, and power. Collectively, these lines create a meshwork of threat narratives about migration, which are embedded together in movement intertwining criminal, immigration, and terrorism laws under the basis of "national security". The securitization of immigration relies on a repetitive maintenance of historical racial and gendered stereotypes of criminality and inferiority, that are materialized through public spectacles of arrests and detention. Ending with the 2010 immigration enforcement priority changes, this chapter seeks to build on prior research on the transition of immigration enforcement as a "law-and-order program" (Bigo 2002).

Niina Vuolajärvi

The Control of "Wandering Women": The Legacy of 19th Century Vagrancy Laws in the Contemporary Criminalization of Migrant Sex Work

Sorina does not go unnoticed. My first encounter with her was on a winter evening at a street next to the Oslo railway station, an area long known for street sex work. The black fur lining on the hood of the bright red jacket matched the deep black color of her long shiny hair that she wore like a crown. For the last six years, Sorina has been traveling between Romania and various European countries, working different precarious jobs, including sex work. The stories of Sorina and other women I met during my fieldwork were structured by precarity brought on by the economic crises in the South and the East. The stories of these traveling women remind those of their 19th-century counterparts, "vagrants" uprooted by the move from feudal to capitalist economies. Indeed, the term "wandering women" referring to a mobile lifestyle was used as a synonym for prostitution in many places in the 19th-century.

This paper traces the current governance of migrant sex work to the 19th-century vagrancy laws. The 18th and 19th century Vagrancy Acts in Europe and Northern America gathered different forms of social condemnation under their control. The main goal of vagrancy laws was to control poor mobile populations who did not engage in "honest" forms of work. This paper argues that these notions of dishonest labor are still visible in the contemporary migration controls. I demonstrate that even if most European countries have decriminalized the selling of sex, migrant sex work is criminalized through immigration policies. While the European states removed commercial sex from categories of criminality and moral condemnation into the realm of social policy in the 1960s and 1970s, the criminalization of foreign sex work was rewritten into the immigration laws. Also, in the contexts where sex work has remained criminalized, such as the USA, migrants suffer extra punishment as sex work often functions as grounds for deportation. In the paper, I make the case that with the influx of migrants into the sex trade since the 1990s, these legal developments have resulted in a *bifurcated regulation* of national and foreign sex workers and a shift in the governance of commercial sex from prostitution policies to immigration controls.

I use my ethnographic fieldwork among migrant sex workers, policy-makers, and the police in the Nordic region (Sweden, Finland, and Norway) that includes 210 interviews together with legal analysis as a case study to develop my argument on the bifurcated regulation of domestic and foreign sex work and its roots in the vagrancy laws. I will then illustrate that the bifurcated regulation is not limited to the Nordic region but demonstrates itself in different legislative contexts globally. With its novel analysis, this paper contributes to understanding how contemporary migration laws are used to control various types of "deviances" and the relation of these controls to 19th-century vagrancy laws and their notions of honest labor.

8: Showing Solidarity & Shedding Responsibility - Citizenship

CHAIR TBD

Devyani Prabhat

Citizenship Stripping as Border Control

Citizenship stripping has the effect of creating aliens out of citizens and has the symbolic effect of rendering some citizens into aliens. The symbolic effects of cancelling citizenship has created a class of permanent 'alien citizens' or 'second class citizens' who now remain subject to additional border controls. By being considered potentially 'problematic' citizens such citizens are rejected from full inclusion into membership. In the recent Shamima Begum judgment delivered by the Supreme Court [2021] UKSC 7, the Secretary of State was given validation of wide discretionary powers in cancellation cases for national security. Further, fair trial rights were left suspended by this case for reasons not available to the public. This paper argues that given the direction of cancellation cases which affects ethnic minority citizens more through their 'heritage' such concentration of executive power is problematic and should not be used in lieu of other mechanisms for counterterrorism and border control. Citizenship stripping is particularly pernicious without the additional scrutiny, such as via judicial review. The judiciary has a counter-majoritarian balancing function in a democracy which is disabled when its powers of review are fettered. Majoritarian democracy can have elements of authoritarianism where minority rights may become fragile and subject to majoritarian tolerance (such as of conduct). When executive power is not scrutinised by other institutions (through checks and balances) there is scope for discrimination to remain unchecked. The paper argues the value of citizenship stripping for counterterrorism has not been established and should it be used; it should be subject to multiple levels of scrutiny to check any potential mis-use.

Christelle Macq & Francesca Raimondo

Deprivation of nationality as a national security measure: a form of crimmigration compatible with the key foundations of the European legal framework?

Several European States, such as Belgium, Italy and United Kingdom, have recently amended their nationality legislation to introduce or extent the circumstances following which some categories of citizens can be deprived of their citizenship because of national security concerns. These legislative changes are, in main cases, justified by the need to fight against terrorism. As a result, in the last two decades, deprivation of citizenship has been increasingly used by some European countries as a mean to punish those condemned or, in some case, merely involved in terrorism. Even though the withdrawal of citizenship is not a new measure and security of the citizenship status is a characterizing feature of contemporary citizenship, denationalization as a response to national security concerns is back with vengeance.

The consequences of this mechanism on the situation of the citizens concerned are significant. Firstly, deprivation of citizenship creates a virtual wall between the former citizens and the national community from which they are excluded. Secondly, this virtual wall can lead to a more "concrete" wall as the exclusion from the national community can lead to the exclusion from the national territory. Deprivation of citizenship is not prohibited by the European legal framework. However, this sovereign power is still limited by respect for EU law and general principles, as well as being subject to

the European Court of Justice. Moreover, Member States have to ensure the respect of fundamental rights in line with the European Convention on Human rights and with the case-law of European Court of Human rights. Both Courts have recently put limits to the power of States in that field.
The objective of the present proposal is to examine the issues raised by the increasing use of deprivation of citizenship as a response to national security concerns in light of the limits set out by European legal framework and institutions. We will first identify the issues raised by deprivation of citizenship starting from the analysis of its applications in several European States. In that context, we will demonstrate that, by making a link between the decision to revoke nationality and the loss of all residence status, European countries have turned it into an instrument for regulating migration based on criminal grounds. In the light of the analysis of its effects, we will show that deprivation of citizenship responds to a logic of crimmigration and thus feeds this phenomenon.
Secondly, the validity of this mechanism will be explored in light of the European legal framework. We will examine to which extent this sovereign power is limited by the conditions established at a European level. More specifically, the Court of Justice, the European Court of Human Rights and the Parliamentary Assembly of the Council of Europe have fixed limits to the States' power to deprive citizens of their nationality. We will interrogate the validity of deprivation of nationality as a response to national security concerns in light of the limits set out by these European institutions.

Janina Pescinski

Solidarity on Trial: Performing Inclusive Citizenship

Throughout Europe, while citizens and civil society groups mobilize in solidarity with migrants there has simultaneously been an increase in the criminalization of such actions, which the state sees as facilitating irregular migration. This paper investigates how the state criminalizes such solidarity with migrants, how citizens contest this criminalization, and how citizenship transforms as a consequence. It is based on a case study of prosecutions that have taken place against solidarity actors at the Franco-Italian border since 2015.

When the state criminalizes such solidarity between citizen and noncitizens, it leads to contestation over inclusion and exclusion, and what types of actions are permissible. This research problematizes the framing citizen-led assistance to migrants as humanitarianism, arguing instead that the state uses humanitarian discourse to limit such actions. The state attempts to "capture" these practices into an acceptable range of actions, which it labels humanitarianism. Humanitarianism is a prescribed way of being a citizen in a way that is acceptable to the state, a mechanism of governmentality. Any actions falling outside this state-sanctioned repertoire are criminalized. When people continue to act in ways that the state has criminalized, their actions become a form of dissent. This in turn has transformative potential, because citizens are challenging the state's exclusion of migrants by performing inclusion.

The prosecutions that have taken place and that are ongoing against solidarity actors at the Franco-Italian border are emblematic of this contestation. They have led to the momentous fraternity decision, recognizing that the French national value of fraternity has legal force. Yet the state finds ways to continue repressing certain practices. Despite this, citizens continue to act in solidarity and have even engaged in strategic litigation against actors of the state. In this context, people are using the battles in court as a way to challenge citizenship as a bounded legal category based on national identity in favour of an active form of citizenship as a practice of inclusion.

Hannah Bliersbach

Genuine Loss? An Analysis of Ius Nexi and Residency-Based Citizenship Allocation in the Context of Denationalization

Modern states are faced with the challenge of an increasing mismatch between their territorial borders and the boundaries of their political community. Researchers set on finding a solution to combat said mismatch have produced a number of modernized principles of citizenship allocation. These principles attempt to walk a difficult line between adjusting to the growing mobility of people as such while upholding the state responsibility to protect their citizens' rights. One rarely considered aspect is the extent of the denationalization powers bestowed upon the state through certain principles of citizenship distribution. This thesis examines Ayelet Shachar's *ius nexi* principle and Joseph H. Carens' residency-based approach to citizenship allocation. The analysis demonstrates that the justification for granting citizenship has a significant impact on the extent to which a state is capable of revoking an individual's citizenship. The further examination of denationalization practices in the United States illustrates that a formal ban of denationalization does not prevent the erosion of the status of citizenship through extensive rights revocations upholding solely the formal membership designation of citizenship. The mismatch between territorial and community boundaries is not eliminated through the mere allocation of citizenship but requires both a formal and social affirmation of membership.

9: Gender, Feminism & Crimmigration

CHAIR TBD

Lorena Rivas

Australian Immigration Detention: Exploring its Depth, Weight, Tightness and Breadth as Experienced by Women Detainees

Immigration detention has ignited vigorous debate in political, public and academic forums both in Australia and Europe. Questions arise in relation to human rights and international law, the ethics and efficacy of this policy approach, how it works as a means of border control and how it impacts on immigration detainees. This study explores and provides an in-depth examination of the experiences of women detainees in long-term immigration detention in Australia. It examines the effects of immigration detention on their mental, physical and social well-being by combining both quantitative and qualitative data. Quantitative data publicly available from the Commonwealth Ombudsman are complemented by interviews with women previously held in immigration detention and immigration detention service providers. This study then describes how Crewe's framework, that focuses on the individual and collective experiences of imprisonment, can help shed light on the lived experiences of women who have been held in Australian immigration detention. In conclusion, lessons for European detention policies are drawn from the Australian policy experience.

Stephanie J. Silverman

“Pinkwashing” Detention, Failing Justice: A Case Study of the US “Pods” for Transgender Inmates

This paper closely examines one case study to contribute to the queering of crimmigration studies, and the conversation on why so-called Alternative to Detention programs are inadequate for justice. The case study is the Barack Obama Administration’s 2011 creation of ad hoc detention “pods” for transgender womxn and for gay-identifying men. The paper explains the poliy context, and how and where these units operate. The US Department of Homeland Security continues to build pod iterations, often in economically deprived, geographically isolated towns.

The pods are sites of stigma, shame, isolation, and homophobia. Transgender detainees report feelings of anxiety, self-harm, surgical self-treatment (e.g., autocastration), and suicidality. A queer, intersectional, abolitionist, and settler-colonial lens reveals that pods will inevitably fail to keep people safe. The policy sidesteps queer, immigrants’ rights, and Latinx communities’ calls for liberation. Instead, by siphoning out one identity as vulnerable, the pods sort, anchor, and reproduce the raced, classed, ableist, and gendered biases that animate detention law and policy. I conclude that the pods are a “pinkwash” attempt – an activist term for when governments promote themselves as “gay friendly” to divert attention from imperialism and colonialism – and the critical crimmigration community should reject them as an injustice.

Dina Francesca Haynes

Sacrificing Women and Immigrants on the Altar of Regressive Politics

Regressive regimes are on the rise, implementing laws and policies designed to have a chilling effect on their opposition. They focus much of their ire on women and immigrants, creating fear-based narratives to justify militarizing the interior, fortifying the border, reducing civil liberties in the name of national security, and, less overtly, perpetuating patriarchal systems of power. Controlling women and immigrants is central to nativist political agendas, designed to provide the latitude that the Constitution and international law may grant to political leaders allegedly operating within the arenas of sovereign authority and foreign affairs.

In the United States, focusing on restricting the rights and freedoms of migrants arguably allows the Executive more latitude to enact extra-constitutional policies that scale back rights. This is also true at the international level in that sovereign states are widely understood to have control over their borders and the migration across them. By strategically focusing on the border and keeping non-citizens out (and ejecting those already within), regressive leaders seek to amass power, justifying the militarization of the border first and ultimately of the interior in the name of promoting “national security.” The fact that the law supports, almost without exception, the ability of the federal government to repel those seeking to enter strongly suggests why leaders typically focus initial legal restrictions on immigrants. Once immigrant rights and constitutional protections are eroded generally via repeated invocation of the national security narrative, nativist leaders can then direct their ire at all other disfavored minorities with potentially less legal resistance because the rule of law has been eroded and fewer civil rights are available to all.

Monish Bhatia

Crimmigration Controls, Captivity and Reproductive Oppression in Britain*: Punishing Illegalised Migrant Women from the Global South and Separating Children from their Mothers.*

The aim of this paper is to show how race, gender, class, sexuality, marital and migration status intersect to oppress, control and discipline poor and illegalised single migrant mothers and pregnant individuals from the Global South. It sheds light on the predicaments of mothers and pregnant individuals excluded from the welfare safety-net, who were flying under the radar due to the fear of deportation. It shows the ways in which the crimmigration controls in Britain render women vulnerable to victimisation and harms. The paper also exposes the imprisonment and punishment of women by the criminal courts for violating the immigration law, their treatment by the criminal justice system, and trauma inflicted through punishment. The evidence strongly suggests that crimmigration controls undermine the core values of reproductive justice and negatively affects migrant women who are held in captivity (which goes beyond the prison walls). This includes, reproductive autonomy and health, the right to have a child, to not have a child, and to parent the child in safe and healthy environment without fear. The British state has undermined motherhood, maternity, and safe pregnancy, and prevented mothers from parenting through over policing and surveillance, and separated mothers from children (who were put in foster care) – which is racialised-gendered state violence and reproductive oppression.

10: Borders of Belonging. Illegalized im/mobility and the mundane processes of Othering in Global South borderlands

CHAIR TBD

Amalia Campos-Delgado (Leiden University)

Guillermo Yrizar Barbosa (Universidad Iberoamericana Puebla)

Arbitrary detention of Mexican citizens by Mexican immigration authorities

On September 3, 2015, Mexican immigration authorities detained four indigenous Tzeltal Mexicans who were traveling by bus to the northern state of Sonora. Despite identifying themselves as Mexican citizens, the migration authorities considered their documents false and they were detained for nine days until their identity was certified. The Mexican State took four years to acknowledge publicly and apologise for this arbitrary detention. Similarly, on early 2017, a 39-years old man born in Oaxaca, living in the streets of Puebla after being deported by the U.S. government, was detained for being “identified” as a Salvadorian citizen by Mexican authorities. However, it would be a mistake to consider these cases as an exception or anomaly in the Mexican Transit Control Regime. In this paper we examine the arbitrary detention of Mexican citizens by Mexican migration authorities from 2014 to 2020, we highlight the multiple rights violated, we question how they are framed in the official discourse and, if so, the type of reparation granted to those affected and their families. The analysis of this case sheds light on border agents’ discretionary power and the racialisation of migration control in Mexico.

Zeynep Kaşlı (Erasmus University Rotterdam)

Tracing legal consciousness along the shifting line of licitness: Insights from the Greek-Turkish borderland

There is a burgeoning literature on legal consciousness of migrants or mobile subjects. Nonetheless, how these othering processes potentially (re)shape local communities' perception of legality is so far underexplored. Scholarship on citizens' legal consciousness pertaining to human mobility has thus far mainly focused on how laws are interpreted, renegotiated and or used for rights claims. In this paper I argue for situating legal consciousness of common citizens in the geographical and historical entanglements through which people experience, think and talk about law in their everyday lives. These entanglements reveal that people develop their perceptions of legality and legally acceptable activities by pitting them against their social acceptability, namely licitness.

Based on two year-long ethnographic research on the Greek-Turkish borderland (2013-2015), the paper shows that not all "illegal" acts of cross-border mobility are considered equally "illicit" by all local state and nonstate actors. This difference stems mainly from the subject position of the border-crosser vis-à-vis the mainstream public opinion at a given time and space. Accordingly, in the context of the EU-ization of the Greek-Turkish relations as well as their border and migration control in the 2000s, the increasing presence of border-crossers from third countries in the region is considered legitimate for borderlanders as long as it is temporary. In this case, some forms of assistance for unauthorized border crossing are also quite acceptable and considered business-as-usual. On the other hand, any encounter with Kurdish insurgents and outlawed Turkish citizens, including smuggling, is unacceptable for both state and nonstate actors on the Turkish side. On the Greek side, informed by the ongoing Turkish-Greek conflict, mainstream public opinion in Greek Thrace has been critical of cooperation between Greek and Turkish authorities on the readmission of outlawed Turkish citizens.

I argue that the Europeanization of border and migration control turns the Thracian borderland into a "difference machine," similar to Isin's (2002) notion of the city where different groups encounter each other, orient towards each other, and make a claim from a position of citizen, stranger, outsider, or alien through the shifting line of il/licitness of "illegal" border-crossers. Tracing the twists along this line in the last half a century reveals the socially constructed and racialized underpinnings of local manifestations of legal consciousness. It also suggests that historically and geopolitically informed analysis of how people think and talk about law are necessary to understand in a more nuanced way the implications of the crimmigration trend on the everyday lives of local subjects of im/mobility practices, be they migrants or members of local communities.

Mahardhika Sjamsoe'oed Sadjad (Erasmus University Rotterdam)

"See, this one. She's dating refugees": Maintaining Borders and Marking Boundaries Between Indonesian Women and Refugee Men in Indonesia

This paper explores the role that rumours pertaining relationships between Indonesian women and refugee men play in upholding and reaffirming the demarcation between Indonesian host societies and refugee 'others'. My paper will build upon feminist literature that have demonstrated how women have been used to embody the boundaries that signify the identities of those who belong and those who are marked as external 'others'. Based on a 14-month multi-sited study on refugee reception in Indonesia, this paper will unpack these rumours, exploring how they are discussed, what emotions and imaginings are associated to rumours of romantic and/or transactional intimate relationships between Indonesian women and refugee men, and the official actions that were taken as a result. My paper will demonstrate

how these rumours are built on preconceived ideas of gender, religion, and race that is embedded in host societies' imaginings of the 'refugee other'. I will argue that in the context of refugee reception in Indonesia, the problematising of relationships both function to control refugees' behaviour and maintain their 'transit' status in the country. My paper will build upon literature that highlight the common nationalist trope that frames women's bodies as the nation.

Nanneke Winters (Erasmus University Rotterdam)

Fomenting flows. Migrants moving/muddling through local labour landscapes in Central America

Based on the understanding that migrant trajectories involve multiple journeys, places and survival strategies, this paper takes a closer look at the ways in which those considered to be still on the move make a living, locally. More specifically, it interrogates how their labour becomes a way to differentiate between migrants, maintain local order and foment migration flows. The chapter builds on migrant labour and transit migration literatures to engage with the question of temporal insertion into local labour landscapes. It draws on empirical material from research with Cuban, Ghanaian and Haitian migrants 'in transit' who spend some time in northern Costa Rica, right before entering Nicaragua on their way to North America. Perhaps different from the situation of irregularized migrants elsewhere, the interests of the Costa Rican state and of migrants themselves coincide in the sense that both want to foment this flow out of the country. Yet the financial resources needed to do so complicate the governance and experience of this migration. Of diverse descent, these migrants may live in a state-run reception centre or independently in town and, depending on these living arrangements and their migration status, they may be formally allowed to work or not. However, such formal permission is not the primary way in which these migrants become differentiated and disciplined. Rather, the extent to which they upset the local social order through their labour, as a racialized and exploitable presence, becomes the basis for differentiation and disciplining, and ultimately, for their ability to move onward.

11: Internal EU Borders - Transit Migration

Chair: Maartje van der Woude

Livio Amigoni

What is migrant smuggling, and how is this phenomenon experienced and conceptualised among smuggler group and smuggled migrants?

The proposed panel aims to address the phenomenon commonly referred to as 'migrant smuggling', considering it as a key and recurring element of human mobility all around the world. Alongside the growing number of undocumented migrants seeking to move within and across borders, smuggling has been revitalised and become a widespread local and transnational practice. On the other hand, according to the UN 'Protocol against the Smuggling of Migrants by Land, Sea and Air' and the 'EU Agenda on Migration' the fight against human smuggling is defined as a priority by international community. Moreover, several national legislations enable legal action against mobility facilitation practices, even in the case where the condition of financial gain is not present.

Indeed, while governmental and media coverage often describe smugglers as unscrupulous criminal gang members preying on passive migrants, some researchers (see, for example, Spencer; Zhang; Sanchez; Achilli; Maher; Gonzalez; Belloni; Khosravi; Amigoni; Molinero; Vergnano) portray a much more complex phenomenon. Numerous scholars have pointed out the main limitations and bias of such discourses: the confusion between cause and related consequences of proliferation of smuggler groups; the representation of migrants as passive victims without agency; the use of the juridical category of 'trafficking' as synonymous to 'smuggling'; the representation of smugglers and migrants as completely separate categories. Taking stock of these considerations, this panel would like to start filling this research gap by providing an insight into mobility facilitation practices from the the point of view of both smugglers and smuggled migrants.

The goal of the panel is not to focus on strategies used to facilitate border crossings, but rather to shed light on actors, norms, values and perceptions around these kinds of practices. Paper are welcome from a wide variety of perspectives that reflect on the follow research questions:

- What is the symbolic and material role of smugglers?

- What rules and self-perceptions characterise smugglers, and what are their economical, ethical, and political motivations?

- Which kind of relationships and dynamics arise between smuggling 'beneficiaries' and 'facilitators'?

- What are migrants' perceptions and experiences in dealing with this phenomenon?

- How do migrant communities and solidarity networks interact with - and become involved in - smuggling?

- Which methodologies and related biases are linked to research activities in this domain?

- Which terminology is typically used to describe and analyse human smuggling and what is its effect?

Given the difficulties of disentangling such phenomenon, we note that making sense of such information is not always straightforward or easily accessible, since border-crossing facilitation practices are condemned by public authorities and are therefore usually prevented from being observed. This panel, thus, aims at bringing together and discussing stories of smugglers, of migrants in transit and those of the people around them, because they are especially significant in the understanding of migratory regimes and in appreciating why migrants continue to resort to smugglers to overcome territorial barriers. In organising this section we seek to further the development of critical research on the complex relationship between border control and exclusion versus migrant agency and desire.

Iker Barbero

Trivialising deportation: Narratives of internal border crossings

The constant migrant arrivals to the Spanish Mediterranean coasts and the reactivation of the Atlantic route foresee the consolidation of the Pyrenees mountains as a "space of transit". France argues a "persistent terrorist threat and irregular immigration" to implement a number EU and national legal strategies and dispositives to consolidate an ubiquitous border control, to the extent to conceive *de facto* the Spanish-French divide as an external border. Besides (or because of) COVID 19 restrictions to mobility, according to official data more than ten thousand migrants have been arrested and returned

in the French-Spanish border during 2020. Addressing from testimonies of migrants that have tried to cross the borders several times and have been subject of multiple internal deportations, the aim of the paper is to argue that the anxiety to cross "the last frontier" before reaching the desired destination transcends the logics of contention and deportation that apply in this site, trivializing discriminatory treatment and the suspension of rights.

Fabian Gülzau

A “New Normal” for the Schengen Area. When, Where and Why Member States Reintroduce Temporary Border Controls?

This article investigates the reintroduction of temporary border controls in the Schengen Area. The Schengen Borders Code (SBC) allows signatory states to reinstate temporary border controls in specific circumstances that constitute a serious threat to public policy or internal security. In response to successive “polycrises”, states have made ample use of this previously rarely-used policy instrument. I explore the reasons for temporary border controls, and their extent and duration, in order to address when, where and why member states reintroduce them. The novel dyadic data is based on notifications that Schengen members use to inform the EU Commission about their intent to reintroduce temporary controls at their land borders (1999–2021). The analysis finds that member states expanded the use of temporary border controls in terms of number and duration, as the intended purpose of temporary border controls shifted from the protection of specific events to immigration control.

12: Political economy - Finances of Detention

CHAIR TBD

Matthew Boaz

Practical Abolition: Universal Representation as an Alternative to Immigration Detention

Currently, there is a broad movement in the United States, embraced by both liberal and conservative factions, successfully advocating for criminal decarceration. This has occurred in the context of the United States’ reputation for building up and supporting a system of mass incarceration, and now both sides support a reduction in those numbers. The compelling point for conservatives is that maintaining custody of individuals who have been convicted of various crimes has become too costly to taxpayers and a burden on both state and federal budgets. For liberal factions, lengthy incarceration has been harmful to individuals whose livelihood and families are affected by their detention. By relying on Derrick Bell’s convergence theory (from Critical Race Theory studies), my paper demonstrates the current opportunity to replicate the success of the criminal decarceration movement in the context of immigration detention. This paper provides a first step in a practical pathway toward radically downsizing and eventually eliminating immigration detention. If the United States can comfortably release individuals from criminal detention while mitigating concerns about flight risk and danger to the community, then the same logic applies even more persuasively for civil immigration detention. After all, individuals in immigration detention are primarily held for an alleged civil violation – that they lack,

or have yet to prove, some cognizable status to remain lawfully in the United States. If the ultimate purpose of immigration detention is to ensure attendance at future hearings, there are more humane and cost-efficient ways of doing so.

This paper primarily relies on a fiscal argument that has broader appeal than the typical theoretical underpinnings of an abolitionist framework. Specifically, this paper proposes that funds that would normally fuel the immigration detention apparatus instead be reallocated by the United State federal government to local non-profits and public defender offices. These local organizations could provide universal representation in immigration proceedings to those individuals who would have otherwise been detained during the pendency of those proceedings. In fact, many are already doing so through various pilot programs.

Universal representation is a more cost-effective approach than immigration detention in ensuring attendance at future immigration hearings, especially when coupled with low-cost wrap-around community services. Satisfying the ultimate purpose of detention through other means demonstrates that immigration detention is unnecessary. Eliminating immigration detention would result in higher tax revenue while reducing the overall costs of system administration. It would also lower external costs to states and localities that frequently occur when immigration detention separates families. Providing universal representation would be a less expensive alternative that would also ensure a greater likelihood for individuals to successfully obtain relief in their immigration proceedings. This vision of a more just system tracks with a less carceral approach as an initial step toward abolition of immigration detention.

Kenneth Sebastián León

CRIMINOLOGY AND PRIVATE PROFIT: REVISITING THE POLITICAL ECONOMY OF MIGRANT DETENTION

The U.S. criminal justice system refers to a fragmented, decentralized array of physical infrastructure, contractual services, and employment sectors. In the US, there are approximately 1,833 state prisons, 110 federal prisons, 1,772 juvenile prisons, 3,134 local jails, 218 immigration detention facilities, and among other secondary service sites and institutions. Migrant detention and deportation is a state - corporate enterprise that connects to these systems through processes well documented in crimmigration scholarship. The present paper highlights the licit and illicit monetary flows that fuel mass incarceration – which includes political bribery, influence peddling, and improper use of office to facilitate contracts for migrant detention. The data for this working paper are anchored in New Jersey, USA. Among all 50 states, New Jersey is the national leader for the greatest share of jail inmates held for immigration authorities. In addition to descriptive findings, I offer a political economic explanation that addresses why these practices persist despite clear evidence that they are a) ineffective in advancing their purported goals (e.g. stopping both crime or select forms of migration); and b) patently inhumane. It persists because it pays. Through interviews, content analyses, and statistical analyses of secondary data, I show how structural reforms to both criminal justice and immigration law must account for the political economic interdependencies and forms of state - corporate symbiosis that make “crimmigration” enterprises a persistent feature of carceral harms and structural, legitimized violence.

Andrew Douglas Johnson

Human Resources: Immigration Detention and Biopolitical Extractivism

What would it mean to think of immigration detention as an extractive industry? News media and political leaders speak of “waves” or “surges” in Central American migration to the United States. This language aggregates the complexity of each individual’s migration into a mass metaphor of elemental force, or else of natural disaster. The scale of this language suggests that “border crisis” is a meteorological or seismic phenomenon, which validates an overarching program of militarization to control foreign bodies. Partisan political vocabulary has struggled to positively articulate what the alternative to “border crisis” might be, though. This muteness produces political incoherence. Through the lens of corporate capitalist realism, though, border crisis has reliably been appraised otherwise: as opportunity. In other words, corporations engaged in supervision and confinement appear to be indifferent to whether migration policy makes sense, so long as it makes dollars. In this paper, I look to Veronica Gago and Sandro Mezzadra’s intervention, “A Critique of the Extractive Operations of Capital: Toward an Expanded Concept of Extractivism” (2017) as a point of departure for a reconsideration of what the business of immigration detention is. What might this framing make possible? What new horizons of advocacy and resistance might it gesture to?

Emmanuel O. Maravanyika

Throwing the book *and* the keys away: Crimmigration practices, perceptions, and narratives of parole boards on immigrant offenders in Gauteng, South Africa

This is a work in progress PhD research progress by the author looking at crimmigration practices in the context of South Africa’s immigration framework. Deportation remains the ultimate process of removing a foreign national who has breached the various provisions of immigration in South Africa. It is a non-voluntary process where, theoretically, voluntary departure from the Republic of South Africa has not been exercised by the deportee. However voluntary departure is seldom offered as an option to the deportees who are often not informed of their procedural rights upon arrest and detention at the country’s biggest repatriation centre, known as Lindela Repatriation Centre. Furthermore, the use of private sector service providers to round up and detain (and temporarily look after the deportees) adds a dimension of deportation for profit where the bigger incentive is the collection of individuals, whether legally in the country or not, and their subsequent processing through the immigration and deportation procedures where the private company in question is remunerated based on the provision of detention services. In other words, the biggest incentive in South Africa is not so much safety and security of the nation’s borders, but rather the biggest incentive is business and profit at the expense of the rights of the deportees who ordinarily should not be deported but are not afforded the opportunity to present their case. The repatriation centre is a privately owned business and is outsourced as a service provider by the Department of Home Affairs under which immigration affairs fall. The survival of the business therefore is the continuous capture and detention of alleged illegal immigrants, creating a self-perpetuating industry especially where the same deportees inevitably return to the country, and may find themselves through these revolving doors. Detention is only the start of the services, with minimum health and social services added and billed to the government of South Africa. In other countries, the use of private business for detention of deportees is a common feature of the immigration landscape. However, the South African experience is that of unprocedural and corrupt activities often between officials of the Department of Home Affairs, the South African Police Services and the private service provider in using state campaigns of reducing illegal migration to further their own business interests. The blend of immigration and criminal procedures therefore converge with business interests to create a unique South African crimmigration experience.

13: Perceiving and Utilizing Race

Ashley Muchow

Creating a Latino Threat: The Consequences of Crimmigration for Police Arrests

Against the backdrop of increasingly punitive criminal justice and immigration systems, Latinos have made up a disproportionate share of individuals confined to prisons and jails throughout the U.S. This disparity begins with the first, and arguably most important, point of criminal justice contact – police arrest. While it is generally held that “tough on crime” legislation and proactive policing efforts tacitly expand officer mandates to target black and brown residents, limited empirical research has examined whether a related policy – the modern merger of the criminal justice and immigration systems – increased Latino criminal justice contact. One of the earliest manifestations of this merger, referred to as “crimmigration,” was the expanded use of intergovernmental service agreements (IGSAs). These agreements compensated localities for every noncitizen they detained on behalf of federal immigration authorities – a practice that proliferated in the 1990s and continues to this day. This study considers whether IGSAs predisposed local law enforcement to immigration concerns, leading officers to use ethnicity as a factor in generating reasonable suspicion for arrests. Using county - level arrest data from California between 1980 to 2004, I examine whether IGSAs increased the propensity of police to arrest Latino residents over and above what might have evolved in their absence. I employ an event study design that exploits geographic variation in the adoption and timing of IGSAs to determine whether they increased the rate of Latino arrest relative to groups less likely, based on appearance, to be perceived as immigrants. Findings will shed light on the
relationship between immigration policy and discretionary enforcement of criminal law and help contextualize disproportionate Latino representation in the U.S. criminal justice system.

Neske Baerwaldt

Borders as active archives of racial orders

This paper examines the mutually constitutive workings of Europe’s borders and race. Drawing inspiration from critical spatial studies, in particular Caroline Knowles' (2003) reflection on the relationship between space and race, it argues borders can be understood as active archives of racial orders. *Archives* because borders archive in real time racialized relations of inequality. *Active* because borders continually reconfigure how race operates in the present. As such, borders can act as sources of knowledge of, and methods of thinking about, the conditions that produced and continue to produce race. In making this argument, the paper builds on fieldwork conducted in the German-Austrian border region in 2017 and 2019. It shows how in the German-Austrian context, borders work to effectively segment and differentiate migrants with precarious legal statuses. The complex practices of legal categorization and institutional decision-making that underpin these processes of hierarchization and segregation are structured along race and class lines, with poor people from majority black countries finding themselves in the most precarious living and working situations and with the least prospects for obtaining citizenship. The precarity and poverty that characterizes their lives as a result of these bordering processes tends to subsequently be explained by parts of the local, white population in cultural and racial terms, effectively essentializing and externalizing wider forms of inequality into the bodies and supposed cultures of the people whose lives and movements borders seek to govern. Such ad-hoc racial explanations speak to already existing deeply seated racial registers. At the same time, they reveal how racial registers transform and adapt as the border produces new relations of power. Folded into Europe’s borders, then, is a story of ongoing coloniality.

Maya Barak, Hillary Mellinger, and Belen Lowrey-Kinberg

Latino Immigrants' Perceptions of Their Own and Others' Criminality: Learning from Techniques of Neutralization and Legal Consciousness

Media and public discourse perpetuate the myth that Latino immigrants are crime-prone. Several empirical studies have refuted this. Nevertheless, the possibility exists that Latino immigrants may have absorbed the media and society's erroneous portrayal of them. The present study address two research questions: How do Latino immigrants perceive of their own criminality and the criminality of their counterparts? Does their perception of criminality differ for immigration violations in comparison to criminal infractions? We conducted a pilot study that consisted of three focus groups with 22 Latino immigrants in South Florida. We analyzed the interview transcripts using grounded theory methods and critical discourse analysis, drawing upon the fields of criminology and law and society. Focus group participants adopted techniques of neutralization to justify their "daily criminalities," such as working without authorization or driving without a license. Participants also exhibited a unique "immigrant legal consciousness" in which immigration-related offending was viewed as distinct from "mainstream" definitions of criminal behavior. Greater scholarly attention should be given to addressing Latino immigrants' perceptions of their own and others' criminality. Additional research should also assess the criminalization of Latino immigrants through integrated and interdisciplinary lenses.

14: Technology/Surveillance - risk & data in bordering processes

CHAIR TBD

Robert Koulish (University of Maryland)

Legitimizing Unjust Detention Using Risk

Since 2012, scoring algorithms created to manage risks in the United States penal system were adopted by Immigration and Custom Enforcement (ICE) agencies across the United States. When DHS introduced the Risk Classification Assessment (RCA) tool it quickly became the federal government's largest risk assessment tool in the USA, accompanying the largest immigration detention system in the world.

Conceived as a measure to manage security and flight risks, RCA algorithms aligned well with ICE's own understanding of immigration detention and how immigration detention was communicated to the public. With the arrival of the Trump administration, risk assessment became central to the policy of *criminalization* of the immigration process.

In this paper, I present historical, qualitative, and quantitative evidence of the process that placed risk assessment technologies at the forefront of anti-immigrants' policies.

This paper sums up research conducted on risk and immigration detention since 2014. It introduces data about the detention risk algorithm and empirical data showing the impact of the algorithm on ICE detention. This occurs in three ways: First, the paper traces the development of the risk algorithm from 2012-2019, showing three significant shifts in detention policy. Second, it presents empirical findings over 1.4 million risk assessment tool cases to show how the algorithm produced an increasingly restrictive policy, culminating in no-release under Trump. Third, the paper shows how the punitive bias of ICE detention officers brought about increasingly restrictive detention outcomes.

Sanja Milivojevic (La Trobe University and Oxford University)

Border utopia or lucrative alchemy of total security?: Artificial intelligence, illegalised mobility, and the promise of seamless borders of the future

There is a growing conviction in academia and in public discourse that technological advances have the potential to 'completely modify the future course of the humanity' (Ghimire, 2018: 6). As smart machines and things became 'a global media phenomenon' (Katz, 2020: 2), techno-sceptics and utopians weigh in on the promise and peril of AI systems that are increasingly autonomous and omnipresent in almost every aspect of our daily existence. Most commentators seem to agree that life in the mid-twenty-first century will fit the formula 'take X and add AI'. Yet, much of this contemporary interest in technology, as Paul Virilio (cited in Wall and Monahan, 2011) conveys, is driven by the western obsession for military supremacy, and a growing political desire to control people and their movements.

In times of accelerated global flows of people, only temporarily hampered by the COVID-19 global pandemic, the promise of smart algorithms that could further expedite authorised and prevent if not pre-empt unauthorised mobility projects remains unabated. Building virtual instead of physical walls is gaining bipartisan support as a more humane way to deal with the "illegal migration problem" (Ghaffary, 2020). Border infrastructures have been increasingly reconfigured by private corporations and small AI-focused start-ups that promise impenetrable hi-tech borders. This promise that 'enable[s] the fantasy of total security' (Bourne et al., 2015: 313), however, comes with many caveats: violations of privacy, discrimination, *black boxing*/lack of transparency, digital divide, corporatisation of security, and ultimately – many harms caused to people with no legal means to cross borders.

In this paper I assess the expansion and possible impact of AI-powered systems and artefacts deployed along physical borders on border control and mobility of illegalised non-citizens. While externalisation of border control as regulating mobility and migration in countries of origin and transit has been the focus of border studies in the last couple of decades, I bring the attention back to borders as 'continuous line[s] demarcating the territory and sovereign authority of the state, enclosing its domain' (Walters, 2006: 193). I investigate irregular border crossings along the US-Mexico border, and the role of AI systems and artefacts in reconfiguring these border spaces. I suggest that contemporary expansions in border control must be analysed within a broader context of political and social forces that seem to drive much of the Fourth industrial revolution: a new breed of young, white, and conservative Silicon Valley tycoons, with commercial ambitions underpinned by strong ideology. Similar to other research on the technology of border production Bourne et al., 2015), the process of constructing virtual walls is political, complex, anti-humanitarian, and non-transparent. The paper offers a critique of such a development, suggesting we need to scrutinise the money and ideology trails within the tech-solutionism in mobility management, and highlights its impact on people on the move.

Lauren E. Elrick (University of Groningen)

Examining the Human Rights Implications of Expanding the EU Border Security Ecosystem

Beginning with the Schengen Information System in the 1990s, the EU has developed an ecosystem for information exchange within the border security field. Through a series of large-scale IT databases (SIS, VIS, Eurodac, EES, ETIAS, ECRIS-TCN), and most recently, the introduction of interoperability, the EU has sought to maximise the abilities of authorities to collect and exchange information between Member States. The information, largely composed of personal information collected from Third Country Nationals (TCNs), evidences a growing trend through which the mobility of TCNs has been conceptualised as a threat risk. Consequently, migration management data has increasingly been

utilised for the achievement of security and crime-related goals. This article seeks to focus on is how this information is exchanged, and specifically between which actors. In developing this information exchange ecosystem, the EU has broadened the range of actors with access, created greater access rights for EU agencies and even developed new access methods. Therefore, through analysing relevant legislation and EU policy documents, this article seeks to answer the question of who is entitled to access this information, and particularly, how this ever-increasing number of actors, has important implications for the protection of human rights, such as privacy, data protection and non-discrimination.

Niovi Vavoula (Queen Mary University of London)

'Techno-Panaceanism' as 'Crimmigration': Identifying the Risky Foreigner in the Artificial Intelligence (AI) Era

Since the past few decades, the EU legislator has heavily relied on the use of digital technologies to identify and prevent the entry and/or stay of perceived risky foreigners. These efforts have culminated in the development of an elaborate network of centralised information systems, whereby all categories of foreigners with any administrative or criminal law link with the EU will be subjected to the monitoring through at least one information system. In this emerging system of datafication and interoperable databases storing millions of records, border guards and immigration officers will be unable to cope without new technological solutions, namely Artificial Intelligence (AI) tools, such as algorithms, whereby computational artefacts may perform tasks that would otherwise require human intelligence for their execution. Indeed, AI promises modernised border controls, expedited and more efficient decision-making in relation to visa residence permit or asylum applications. In 2020, the European Commission published a report setting out the opportunities and challenges from embedding AI tools for immigration purposes and announced a portfolio with initiatives. Emphasis is on 'smoothing' the application processes for visas, and on enabling conversational interfaces with 'intelligent agents', which will replace immigration officers. Whether a foreigner is risky for public security will be predicted through AI tools that will make inferences about patterns and future behaviour. However, these new AI tools may reinforce non-entreé policies and entails significant human rights implications, in relation to the right to privacy and data protection, or the right to an effective remedy. Algorithmic bias is also a significant risk. This contribution understands this ongoing recourse to digital technologies as 'techno-panaceanism', the sole purpose of which is to identify whether a foreigner represents a risk either before entering, or when applying for international protection, or when an expulsion decision has been taken and it must be determined whether the irregular migrant represents a risk of absconding. This ongoing intertwining of foreigners with security threats that accompanies foreigners constitutes a major driver for a relentless process of digitalisation fed by technological evolution, with significant human rights challenges.

15: Crimmigration in the court room - challenges for human rights

CHAIR TBD

Jessica Templeman (York University)

"*R v. Tran*: Canadian administrative consideration of criminal court decisions in deciding to deport"

This paper will provide an examination of the Canadian Supreme Court decision in *Tran v. Minister of Public Safety and Emergency Preparedness*, 2017 SCC 50. Tran challenged the discretionary immigration decision that found him to be criminally inadmissible to Canada as a result of being sentenced to a term of imprisonment of more than 6 months (pursuant to s. 36(1)(a) of the *Immigration and Refugee Protection Act*). Tran successfully argued that the discretionary decision that equated the 12- month conditional sentence he received with a "term of imprisonment" was in error. My study of the Tran case aims to unpack the assemblage of discourses (namely around public safety and risk) and technologies (such as discretion) at play in the regulation and exclusion of migrants in Canada. It asks how tensions can be demonstrated between the immigration and criminal justice systems through an examination of administrative definitions of serious criminality based on criminal justice penalty, conceptions of public safety and the need to protect the public deployed in each domain, and application of distinct standards of proof (reasonable grounds to believe vs. beyond a reasonable doubt). It will be argued that disjunctions between the two domains allow the administrative system to justify the removal of marginalized citizens, specifically racialized migrants and/or migrants with mental health challenges, who are discursively characterized as both foreign and dangerous. This is consistent with political rationalities expressed in legislative amendments to the *IRPA* introduced by the passage of the *Faster Removal of Foreign Criminals Act* in 2013.

The research presented in this paper draws on qualitative methods, including interviews with immigration and criminal justice lawyers, as well as analysis of the following documentation and legislative materials: a) the Supreme Court decision of *R v. Tran,* as well as all docket materials submitted by each party to this matter; 2) analysis of the *Immigration and Refugee Protection Act* and the *Faster Removal of Foreign Criminals Act;* 3) review and analysis of Parliamentary debates and materials produced in support of the *Faster Removal of Foreign Criminals Act* received through an Access to Information Request. Finally, this paper will take up and contribute to border criminologies by drawing from and adding to the argument of Pratt & Moffette (2020) that the regimes of immigration and criminal justice in Canada can be understood as sites of "inter-legality" that are replete with heterogeneous "laws, techniques and normative regimes", while simultaneously recognizing the ongoing disjunctures between these two systems.

Thea Johnson (Rutgers Law School)

Emily Arvizu (University of Maine School of Law)

Viewing Plea Bargaining Decision Making through the Deportation Lens: Ineffective of Assistance of Counsel after Lee.

In the last decade the U.S. Supreme Court has taken up the challenge of determining ineffective assistance of counsel in the plea context. In this context, the prejudice prong of the ineffective assistance of counsel inquiry has shifted from inquiring about the decision-making of the fact-finder to the decision-making of the defendant. The prejudice prong requires a confounding counter-factual inquiry: If the lawyer had performed competently and therefore the defendant had understood the alternative outcome to accepting the plea, would she have still pleaded guilty to the crime or the would she have insisted on a trial? In the crimmigration context that "alternative outcome" is the possibility of deportation from the United States. This article aims its critique at the way in which courts assess prejudice in cases involving non-citizens. We make three arguments here. First, that the prejudice prong analysis in cases involving non-citizens fails to take into account the lived experiences of non-citizen defendants, particularly as it relates to their experiences of the plea process. Second, the analysis fails to take into account the social science literature on plea decision-making, which provides solid grounding to push back against the "shadow of trial" model adopted by the courts. Finally, this article argues that the courts have, through their use of the factors laid out in the seminal ineffective assistance of counsel case, *Lee v. United States*, cemented some of the most coercive aspects of the plea process, chief among them the trial penalty. By pitting the deportation consequence against what is often a mandatory sentence after trial, U.S. courts affirm that plea bargains are often achieved only because U.S. sentencing laws make the prospect of trial terrifying, even for innocent defendants. These post-*Lee* cases make clear just how coercive the modern plea system is.

Ettore Asoni (San Diego State University)

Immigration Law Without Borders

In the last 15 years, the concept of "crimmigration" has become one of the favorite instruments to conceptualize the entrenchment of immigration and criminal law on a global scale. As any "global" concept, however, crimmigration risks becoming a source of reductionism, as the term conflates different phenomena within a single paradigm. Thus, crimmigration's validity as a concept notwithstanding, we should make efforts to identify the heterogeneities in crimmigration depending on the historical periods or regions that we are looking at when using this term.

With this paper, I will focus on recent developments in immigration law in the United States by analyzing the Supreme Court case of *Barton v. Barr* to show how the entrenchment of criminal and immigration law is advancing through unfamiliar pathways.

In this case, the Court established that a regularly admitted immigrant might be "rendered inadmissible" by a criminal conviction, even though the conviction itself does not render him removable. Therefore, the petitioner found himself in the paradoxical situation of being admitted and inadmissible *at the same time.*

Behind its technicality, this ruling established that criminal law should trump over immigration principles when reading the Immigration and Nationality Act, even if the results are illogical.

While in earlier instances of law-making and judicial interpretation we witnessed the addition of principles of criminal law to immigration, in this case the Court fully abandoned the historical and geographical references of immigration law in favor of a criminal reading of the Immigration and Nationality Act.

The more general implications behind this ruling are that immigration law might be interpreted without any regards to territoriality, so that we might legitimately wonder who is the “criminal alien” in this context, as immigration itself appears to play only a marginal part. What are the possible outcomes of an immigration law of this kind? And what would be the implications for American crimmigration once this form of judicial interpretation is accepted and normalized?

Hadar Aviram (University of California, Hastings College of the Law)

Teaching Crimmigration to Criminal Procedure Students: Lessons from the First Year

In Spring 2021, my law school course *Criminal Procedure: The Adjudicative Process* became the first and, as far as I know, only criminal procedure course taught in the United States that includes a unit on crimmigration. I taught six hours of crimmigration law to students preparing for criminal justice careers. Following the Supreme Court decision in *Padilla v. Kentucky* (2010), defense attorneys are under obligation to advise clients on the immigration consequences of their criminal convictions. In practice, as I learned from a focus group I conducted, expertise in immigration law varies greatly among criminal justice practitioners, as does ideological commitment to taking immigration consequences into account when filing charges, offering plea bargains, and negotiating them. My pedagogical objective was to impart the crucial importance of factoring immigration law into charging and pleading decsions, as immigration consequences can, and often do, eclipse the direct aspect of conviction and criminal punishment.
In the paper, I provide an overview of my pedagogical and professional considerations in planning and executing this curriculum: choosing topics (what is most important for defense attorneys?), selecting terminology (crimmigration vs. crim/imm; noncitizen vs. alien), adapting problems and simulations from immigration court decisions. I discuss the conceptual task of teaching the categorical analysis and the extent to which sharing details of the actual cases is important, doctrinally and ideologically. I also critically examine *Padilla* through a pedagogical lens, underscoring the challenge of striking the right balance between empowering students to advise their clients on immigration matters and cautioning them against being overconfident.
These reflections revolve around the core issue: the need to marshal pedagogical strategies and techniques to counter the prevalent—but 100% false—perception that immigrants commit more crime than the native-born, and the challenges of upending five years of Trumpian logic creating an immigration-crime nexus through social-science-based, data-based, humanity-oriented education.

16: Categorizing refugees and asylum seekers

CHAIR TBD

Claire Thomas (New York Law School + Legal Clinic)

Non-Consensual Immigration Status: The Repercussions of Labeling African Asylum-Seekers as “Stateless” by Mexico

African and other extracontinental migrants have been traveling through Mexico to the United States for years, but increasing numbers and the current political climate have recently garnered more attention and scrutiny. Previously, extracontinental migrants were able to obtain a transit visa, an “oficio de

salida," allowing unrestricted passage through Mexico for a period of twenty to thirty days. In response to threats of U.S. tariffs in 2019, Mexico enacted more barriers for asylum-seekers to transit through the country, including the deployment of the Mexican National Guard along both borders, as well as checkpoints throughout the country. In addition, the United States adopted systems of "metering" at ports of entry along its southern border to restrict the numbers of individuals who may seek asylum on any given day, creating long wait times of many months in border cities. The "Migrant Protection Protocols," in which asylum-seekers are returned to Mexico to wait for their immigration court hearings in the United States, has significantly increased the number of asylum-seekers in Mexico. The COVID-19 pandemic has caused further chaos and uncertainty for those trapped in Mexico.

In the past year, Mexico began to label certain African migrants as "stateless," allowing them to travel from the Southern Mexican border to the United States border. These so-called "stateless" individuals are then awarded permanent residence status in Mexico- without ever applying for or consenting to it- which allows them to live and work in Mexico indefinitely.[4] While at a glance, this might seem to be a benign attempt by the Mexican government to provide solutions for those caught in a perpetual limbo, the award of permanent residency in a third country has severe repercussions for a future asylum claim in the United States, namely the "firm resettlement" bar.

This paper will explore the labeling of African asylum seekers as "stateless" and the subsequent unsolicited permanent residence status it offers, and discuss the numerous international and domestic legal violations contained within. First, this paper will present the lived experiences of African asylum-seekers directly impacted by this Mexican policy change. Many African and Caribbean asylum-seekers, as well as Afro-Mexicans, have raised awareness of anti-Blackness in Mexico and how this prejudice impacts their migration decisions. Next, this paper will look to human rights frameworks, namely the U.N. Conventions on Statelessness, to examine whether Mexico's interpretation of who should be considered as stateless respects these treaties. Finally, this paper will present solutions, including awareness raising and actions before the Inter-American Commission on Human Rights, in order to prevent more individuals from being issued a legal status to which they did not consent.

Reeda Al Sabri Halawi (Leiden University)

Migration Policy in Lebanon: Crimmigration Law and Politics of No-settlement?

Law and politics are systems of communication that together allow for the formation of a specific polity. Legislators issue laws that reflect the product of the political regime but through legal terms. In the Middle East, since the region is constantly at the heart of political unease and military turmoil, law and politics constantly work together in order to achieve stability. The *Nakba* of 1948 on the one hand, followed by the Syrian refugee 'crisis' of 2011 following the war in Syria on the other hand, deeply affected the political stability of Lebanon, a neighbouring country. This unprecedented forced movement of people from a specific religion into this consociational country coincided with the rise of (in)security concerns especially with the rise of religious extremism with the terrorist organization Islamic State in Syria. This has laid the ground for both 'religion' and 'refugees' to be placed at the top of public policies and debates related to national security and therefore, of the policy agenda in Lebanon. This intertwinement of religion, securitization and refugees has contributed to the creation of exclusionary policy responses. Since refugees have long been considered a 'social problem' by the Lebanese Government, one feature of the governance control strategy is expressed through punitive practices and exclusionary policies targeting these populations.

Lena Rose (University of Oxford)

Bordering practices in Europe's asylum courts: negotiating asylum on the basis of conversion to Christianity

Europe's border zones are not just physical but also enacted daily by asylum decision-makers and judges. This paper considers asylum court proceedings as acts of bordering. Specifically, it uses the lens of asylum processes on the basis of conversion to Christianity, Europe's most prominent historical religious background, to shed light on the tension between religion, culture, and power. Asylum processes based on conversion are insightful because their assessment focuses on the credibility of the applicant's conversion and its potential consequences in case of the applicant's return to their country of origin (most asylum processes on the basis of conversion are brought by Iranian nationals). The paper draws on ethnographic observations of 30 asylum appeal hearings based on conversion in Germany, analysis of guidance documents, case law, and interviews with asylum seekers, pastors, lawyers, translators, and judges. The negotiations of the applications of asylum seeker converts throw into relief how European legal authorities conceive of their own historically Christian identity, and the processes of inclusion and exclusion that result from it. They aid to decentre the idea of "Europe" by highlighting its recreation and defence in relation to those who seek access to it.

17: Exploiting Irregularity - Low-Wage Migration and Vulnerability

CHAIR TBD

Rottem Rosenberg Rubins (University of Haifa)

Enforcing the 'labor migration model' on asylum-seekers: human mobility v. economic globalization in Israel's 'Deposit Law'

During the years 2005 – 2013, tens of thousands of asylum-seekers entered the state of Israel. While refraining from deporting these asylum-seekers, the official position of the Israeli government has been that they are not refugees, but rather labor migrants who have illegally infiltrated the border. The government accordingly enacted an immigration detention system, aimed at limiting the mobility of asylum-seekers and preventing them from settling down in the country permanently. However, this detention policy was challenged at the High Court of Justice (HJC) and mitigated gradually, causing the government to supplement 'conventional' mechanisms of crimmigration with a second type of bordering, namely, economic measures, designed to encourage asylum-seekers to leave Israel. My presentation will focus on the most central economic measure, i.e., the 2014 'Deposit Law', requiring asylum-seekers to deposit 20% of their salary, which would only be returned to them upon their departure. This arrangement – which, in 2020, was likewise annulled by the HJC – was similar to but more severe than the one that exists for documented labor migrants.
The presentation will examine the relationship between human mobility and economic globalization, as reflected in the Deposit Law and the pertinent litigation. I will argue that due to the unique challenge that non-Jewish refugees pose to Israel's ethno-national character, the Deposit Law strived to construct asylum-seekers in the image of labor migrants, who, owing to their temporary status, represent a lesser challenge. The Law attempted to discourage a main component of globalization, namely, mass migration, by reinforcing an alternative model of economic globalization, under which non-Jews can only come to Israel as temporary labor migrants or tourists. These groups are expected to contribute to Israeli economy by providing cheap labor or spending money, then to leave with their money (in the

case of labor migrants, their earnings). The Deposit Law encouraged such a flow of capital and labor force across borders, while discouraging asylum-seekers from remaining and integrating in Israel. Despite annulling the Law, the HJC contributed to the legitimacy of the 'labor migration model', by understating the unique status of asylum-seekers and the objective circumstances preventing them from leaving the country.
The Court's judgement also demonstrates the hazardous consequences that the combination of the two types of bordering – crimmigration and economic mechanisms designed to limit mobility – has on already vulnerable groups, such as asylum-seekers and irregular migrants. The Israeli crimmigration regime and the Deposit Law were both structured to support the narrative of asylum-seekers as unauthorized, and thus second-class, labor migrants. This directly affected the economic status of asylum-seekers, causing them to earn less than the minimum wage and exposing them to various types of exploitation. The presentation thus aims to draw attention to mechanisms that supplement crimmigration and partake in the construction of diminished social classes. Finally, the Court's judgement indicates that the Deposit Law also harmed the local economy and Israeli business owners. Thus, the Israeli case sheds light on the manner in which exclusive policies towards migrants may also negatively affect members of the community.

Surabhi Chopra, Chloe Fung & Raquel Amador (Chinese University of Hong Kong)

A Hub that can never be a Home: Low-income Migrants and Crimmigration in Hong Kong

This paper examines how the immigration regime in Hong Kong renders low-income migrants vulnerable to exclusion, detention, and removal from the city. Though a part of the PRC, Hong Kong has considerable regional autonomy over designing and implementing immigration law and policy. It also has a relatively liberal visa regime, incentivised by its status as an international financial centre. However, even as Hong Kong's immigration regime enables elite migrants - 'expatriates' - to work and settle in the region, it creates precarious conditions for low-income migrants.
The number of migrants affected is significant. Foreign domestic workers (primarily from South-east Asia) form the largest group of migrants in the city. Asylum seekers and victims of trafficking are also present in the territory, though in smaller numbers and with less visibility than foreign domestic workers. Through our analysis, we show that Hong Kong's immigration regime inhibits the ability of low-income migrants to be recognised as residents of the city and their ability to exercise rights guaranteed under Hong Kong law. Official policy and practice on trafficking and asylum tend to reject claims of harm by migrants, leading to invisibilisation, and detention of vulnerable individuals. We suggest that immigration detention serves to contain and exclude migrants who seek more from Hong Kong than a temporary stay. Paradoxically, the need to keep Hong Kong's visa regime liberal is cited as a justification for the current regulatory regime. We reflect upon how bordering, exclusion, interdiction, and scales of citizenship materialize within a regime ostensibly designed to foster rapid, easy movement of non-citizens.

Connie Rijken & Marloes Van Noorloos (Tilburg University)

Crimmigration and its impact on migrants' vulnerability and human security

Globalisation has led to an increased mobility in general and for migrant workers in particular, with a special focus on high-wage migrant workers. Options to legally migrate for low-wage migrant workers are limited while irregular migrants do make important contributions to the economies of destination states and are needed to keep those economies running, as the Covid crisis has laid bare even more pressingly. Potential destination states moreover rely on strict legal definitions of who deserves

protection as a refugee, leaving others to be labelled as ‘illegal migrants’ or ‘economic migrants’ (Zetter, 2007; Crawley & Skleparis 2018). However, the reasons for migrants’ mobility and their experiences cannot be fully grasped by such legal dichotomies.
This paradox between the legal limitations and reality on the ground, between ‘wanted’ v. ‘unwanted’ migrants provides the backdrop for crimmigration policies and practices of the EU and its Member States and beyond, including a highly securitized and militarized border regime, externalization policies, pushbacks, detention, and penalizing irregular movement and acts of solidarity. Migrants who refuse to cooperate with this regime are in turn faced with even more punitive measures.
This article focuses on the impact of crimmigration policies on people on the move. It will explore to what extent the overemphasis on the migration status and penalizing or preventing irregular movement reduces options to legally migrate and contains migrants in a situation in which they are vulnerable to violations of their rights and threats to their human security (Bilgic 2018). Building on the work of various scholars (e.g. Fineman, 2017; Fiona, Bryant, Larsen, 2019) we further scrutinize the nexus between the lack of legal opportunities to migrate for low-wage migrant workers and vulnerability for exploitative practices with a specific focus on human trafficking and human smuggling. Empirical research on victimization among migrants in northwest Africa currently undertaken, further contextualize the theoretical analysis.
Thus, the central question in this article is: What is the impact of crimmigration policies and practices on migrants vulnerability and how does it affect their human security? And can the Covid crisis - which not only teaches us how human security of all inhabitants of the globe is closely interconnected, but also has led to the realization of the extent to which the Global North is reliant on migrant labour (Rijken, 2020) – provide a starting point to overcome the paradox between limited migration opportunities and the need for low-wage migrant workers and thus possibly reduce the vulnerability of these migrants.

Ankit Singh (Jawaharlal Nehru University)
Aishwarya Bhattacharyya (York University)

Criminalising Interstate Migration: COVID 19 and the Indian Informal Sector

A global public health crisis introduced not mere loopholes, but acute vacuums when it comes to meting out just provisions to the citizens. The peripheral economies of the global South witnessed a graver battle where alongside the virus, the migrant labourers had to fight intensifying fear, hate and resource crunch that made interstate (or inter-province) migration a socially criminal[1] act during the initial months of the lockdown. The case of the Indian subcontinent, apropos inter-state migration, commands rigorous evaluation for three reasons: first, the country witnessed destitution and large scale immiseration of the migrant labourers due to the lockdown for which the government took no responsibility- creating a herculean dent in the political trust index; second, the right wing communal radicalisation further correlated the fear of allowing migrant labourers to return to their home states to that of channelising this fear and hatred against minority communities who incidentally form the larger section of the labour for hire in the country’s increasingly fragile political economy; third, as of 2021- as the subcontinent stands declared to have turned into an ‘electoral autocracy’ from what was once celebrated as the world’s largest functional democracy- the serial suspension of democratic values that has turned engagement in informal labour into a social crime- imposes the burden of maintaining public health protocols on the already precariat. This paper aims to inform - employing an ethnomethodological approach- both public reason and formative aspects of government policies by arriving at finalised results towards measuring the extent of change introduced to political attitudes in India that re-characterised interstate migration as socially criminal.

18: Criminalisation of Immigrants

CHAIR TBD

Dorisa Esparza (University of San Francisco)

The Making of Crimmigration: The Criminalization of Immigrants

For the past decades, immigrants and immigration policies in the United States of America is a major debate. During campaigns, politicians describe their immigration opinion and their solutions for immigration. Media coverage also illustrates the fervor on immigration discourse. Immediately, one can argue that immigration discourse has extreme depictions of immigrants. Politicians use polarizing language that can be damaging for the immigrant community in the United States. The criminalization of immigrants can be illustrated within the discourse and immigration policies.
This research will analyze the implication of immigration discourse from political actors on the creation of crimmigration policies. Crimmigration policies is defined as the merger of criminal and immigration law (Stumpf, 2015). Crimmigration is a framework that argues immigration law and procedures has intertwined with criminal practices. This research will connect the framing of immigrants from politicians and the development of crimmigration policies. Using, membership theory I argue speeches describing immigrants and crimmigration policies criminalize immigrants and excludes them from the society. For this research, critical discourse analysis will be utilized to connect negative immigration discourse and crimmigration policies.
Above all, understanding how crimmigration has impacted the immigrant community is analyzed. Narratives of individuals who went experienced the crimmigration system is analyzed. These narratives are gathered by using semi-structured interviews, literature and case studies and examine how crimmigration has affected their lives.

Bastien Charaudeau Santomauro (Yale University)

The Legal Production of the Marginalized: An Ethnographically Based Theoretical Perspective on Bordering Processes

Based on a legal ethnographic fieldwork at the French-Italian border, my research explores how certain categories of foreigners are marginalized by the law through renewed intra-European bordering processes. Since November 2015, the French-Italian border has been characterized by three elements that make it a suitable field for theorizing about the phenomenon of otherness and exclusion. First, this intra-European border is a high place of transit for migrants coming from Sub-Saharan Africa and the Middle East. Secondly, it is subject to a recent border control mechanism (2015) that continues to be developed both from a legal point of view and from that of police, administrative and discursive practices. Finally, this control mechanism is constantly contested by the civil society that organizes itself to help people arriving in France. These practices of hospitality are in turn subject to control and to a phenomenon of criminalization of solidarity.

This context gives rise to a sociolegal controversy about the definition of border, the delimitation of migrant rights and the legitimacy of hospitality. Legally speaking, this controversy unfolds through interpretative struggles which oppose the State and civil society (itself plural: inhabitants of the region, lawyers, local and national associations, citizens' collectives). These interpretive struggles are linked to the ambivalent and partially indeterminate nature of law. My thesis seeks to demonstrate that the production of the margin—in which some people are placed—is realized, at least in part, through these interstices of the law. This mechanism is all the more prevalent at the border, which is constituted as a

space of *in-between*, where the suspensive aspect of the concept of “migrant” (one who has not yet arrived), suggested by the substantivation of the gerund, takes shape.

I regard the sociolegal and doctrinal knowledge as a material for the elaboration of an interdisciplinary theory of law about politics of exclusion through bordering processes. I would introduce my work in progress through two case studies where such processes are at play:

1. The sociolegal controversy about the applicable legal regime at the border and the subsequent migrants’ rights: France has two legal regimes for foreigners, one to be applied on the national territory(with greater legal guarantees), the other at its external borders (that is, France’s borders with non-EU countries, including international airport), less protective. The French-Italian border is considered as an “internal border” (separating two Schengen countries). The controversy, which was brought to the highest administrative court and is still ongoing, concerns whether an internal border should be considered national territory or not.

2. The criminalization of solidarity: the French government has been using the law prohibiting migrant smuggling against citizens engaged in humanitarian action at the border (the mountain chain of the Alps makes it a highly dangerous place to cross). In France, this has been brought to the Constitutional Council, which had to adjudicate whether this penal policy was consistent with the constitutional principle of “Fraternité” embedded in the French motto. I intend to show how this controversy emerged from grassroot citizen action, decipher the Council’s legal reasoning, and demonstrate how, although it recognizes the principle of solidarity, the Council’s decision leaves room for a renewed practice of criminalization at the border

Louise Boon-Kuo (University of Sydney Law School)

How attempts to ban mobile phones show that immigration detention is becoming more like ‘prison’.

The mobile phone, as a device that enables connection, creates a crack through walls of confinement. In the hands of Behrouz Boochani the mobile phone shed light on the institutionalised torture in Australian run detention on Manus Island. During the suspension of detention visits in the pandemic mobile phones have been a lifeline to family and friends. Attempts to ban mobile phones in detention thus provide a lens through which to understand the broader story of how immigration detention in Australia is becoming more like prison. In this paper I argue that while the official purpose for detention remains administrative not punitive, the legal architecture of detention has started to reflect its changed function in Australian border control. Recent attempts to ban mobile phones reflect the reimagining of the subject of detention from the ‘asylum seeker’ to the ‘migrant criminal’, and convey a transformation in how immigration detention is legally conceived from a civil space under the supervision of police and the general criminal law to a more segregated space ruled from within. Drawing on scholarship on policing and carcerality, this paper traces how the expansion of carceral power has been made possible through hybrid and liminal forms of legal authority.

19: Creation of the Deportable Migrant

CHAIR TBD

Jonathan Collinson

Using Suspended Prison Sentences as a Model for Reform of the UK's Law Regarding the Deportation of Foreign National Offenders

Deportation decisions about a foreign national offender (FNO) are binary: to deport or not to deport. This is unusual. Sentencing for criminal offending offers the judge options – including fines, community sentences, and custodial sentences – that proportionately reflect both justice for the individual and the social harm that their offending caused. The binary nature of deportation is problematic because it creates "hard cases". UK deportation law considers whether a FNO ought to be deported by reference to both fixed qualifying rules and subjective assessments. "Hard cases" arise when an individual falls marginally short of fixed qualifying criteria, and where there is uncertainty in the application of subjective criteria. This presentation proposes a form of "suspended deportation order" as a third possible disposal which would sit between the existing binary options of deport or not to deport. Such orders would work similarly to suspended prison sentences that offer a 'chance to stay out of trouble and to comply with … requirements set by the court' (Sentencing Council). The option to suspend a deportation order must be considered by decision-makers under the Article 8 ECHR question of the 'least restrictive means'. This is to avoid the problem of sanction inflation that has frequently accompanied the introduction of suspended prison sentences.

Jamie Rowen, Scott Blinder, Rebecca Hamlin

Defining and Applying Material Misrepresentation: Creating Criminal Immigrants

This paper draws on a multi-method study to explore the use of criminal law to enforce immigration goals related to fraud. In the past two decades, the United States Department of Homeland Security has increasingly targeted individuals for denaturalization and deportation based on allegations of material misrepresentation in their immigration forms. Several high profile court cases have questioned the idea of materiality, and particularly the different standards in civil immigration and criminal fraud cases. As part of the No Safe Haven policy, the definitions of fraud illustrate how the crimmigration regime creates more vulnerability among migrants who have experienced human rights violations. We examine the dilemmas of this policy through a public opinion survey that asks a representative sample of U.S. citizens whether they believe someone should be deported for misrepresenting either their involvement in a revolutionary group, their felony criminal record, their misdemeanor criminal record, or their educational status. We also provide a case study of efforts to deport suspected human rights violators from the former Yugoslavia through these criminal and immigration fraud statutes. Our observations and interviews with Bosnian Serb immigrants and lawyers defending them and other accused of fraud underscore the complexity of defining and punishing fraud, particularly for those caught in mass violence. Lawyers for defendants explain how the government's aggressive tactics undermine refugee rights, and redefine victims of violence as perpetrators.

Simon Wallace

Deporting people for engaging in organized crime: Canada targets people who commit poverty-based crimes

Non-citizens who are members of organized criminal groups, even if they have never been convicted of a crime, can be deported from Canada. These are not ordinary deportations: an organized criminality deportation terminates a refugee claim, eliminates the right to seek faint-hope relief from deportation, and moves a person's case file to the top of the enforcement pile. These consequences are severe but, this study shows, these allegations are regularly meted out: on average, an organized criminality deportation order is issued every other day. Canadian courts have yet to identify a definition of "membership" or "criminal organization," explaining that these terms should be given "broad and unrestricted meanings."

Who, then, is captured by this broad and unrestricted definition of organized criminality? This study, an analysis of one hundred organized criminality decisions made between 2018 and 2020, shows that deportation orders on the basis of membership in an organized group are regularly, and primarily, made against people who engaged—not in high level crime—but in low, family-based, poverty crime.

Jukka Könönen

Foreigners' Crime and Punishment: Or, the migrantization of criminality

The criminalization of migration and crimmigration have become common frameworks to discuss the tightening of immigration policies, extending detention capacities, and the proliferation of criminal sanctions for migration-related offenses. Despite the increasing attention to the convergence of immigration law and criminal law enforcement, there is limited information about the actual detention and removal practices targeting foreign offenders. Notwithstanding the criminalization of immigration violations in many countries, the immigration law provides a flexible instrument for the authorities to control mobile populations and enforce the social order outside the criminal proceedings. Indeed, the police can detain and deport foreign nationals suspected of minor offenses based on the immigration law, instead of the criminal law stipulating tighter juridical procedures.

The presentation draws on my research on the detention-deportation apparatus in Finland, in particular, an analysis of 300 removal decisions for temporarily residing mobile EU citizens (Romania, Estonia) and third-country nationals (Gambia, Russia) issued by both the Police and National immigration Service. The findings demonstrate how the authorities issue removal decisions for foreign nationals even without criminal sentences, resulting in removals in an expedited process before the criminal procedure takes place. Notwithstanding the higher threshold for removals of EU citizens, the removal decisions for temporarily residing third-country nationals issued by the police were based on only suspected minor offenses, for example, possession of a few grams of marihuana. While the removal decisions included only scare information of the deported foreign nationals, the authorities repeatedly invoked previous offenses or "criminal past", as well as the assumed threat to the public order and public security, to justify the removal decisions. Despite the temporarily visiting foreign nationals often accepted the removal, many of them did oppose the ordered entry ban. By the concept of migrantization of criminality, I want to draw attention to the administrative application of the immigration law in crime control: the same offense can result in excessive sanctions for a foreign national in cases, where a citizen would only get a notification or a fine. Indeed, my findings demonstrate the emergence of a separate punitive system for foreign offenders: the administrative sanctions based on the immigration law (detention, removal, and entry ban) supersede the criminal justice system. Based on my research,

the detention-deportation apparatus is extensively intertwined with crime prevention in Finland: the police are the main actor in the immigration enforcement system, using the immigration law for punitive purposes in cases, when the criminal procedures would not result in criminal sanctions. The punitive application of the immigration law indicates the separation of legal practices for citizens and non-citizens, with significant implications for the rule of law and the whole judicial system.

20: Policing & Migration enforcement

Chair: Maartje van der Woude

Dylan Farrell-Bryan

Legitimacy and Enforcement: Professional Narratives of Moral Authority among ICE Attorneys

In the highly politicized field of immigration enforcement, attorneys representing the U.S. government must perform the politically controversial practice of enforcing U.S. immigration laws in immigration court amid changing administrative priorities. This article draws on in-depth interviews with Immigration and Customs Enforcement attorneys at the Department of Homeland Security to examine the professional narratives they employ to legitimize their work and the moral authority of the system they legally represent. Attorneys' narratives focus on several strategies: 1) distancing themselves from the politics and impact of their work ('just following the law,' 'the law is neutral'), 2) disputing respondents' claims and moral authority ('fraud,' 'criminals'), and 3) establishing their own moral authority ('doing the right thing,' 'making the country safer,' 'unsung heroes'). In deploying these professional narratives, DHS attorneys attempt to resolve conflicts between the moral ambiguity and perceived reputational concerns they experience, in an effort to restore legitimacy to the immigration enforcement system from a legal perspective. These patterns show important variation by gender, employment history, and political affiliation. By focusing on these legitimating and moralizing narratives by ICE attorneys, this article reveals the complex professional negotiation by government attorneys in a highly politicized field, as well as the normative guiding principles that shape the practice and experience of immigration enforcement in immigration court.

Juliet Stumpf

Crimmigrators: A Work in Progress

Deciding who decides can fundamentally shift the nature of the decision. Contemporary calls for police reform challenge the current reality that the police have become the mediators of an array of social problems that other institutions and groups historically managed, from mental health to domestic violence to managing schools. The same is true for crimmigration. The apparatus of deportation and exclusion manages crime and migration, but on a larger scale it sorts the desirable from the undesirable. Those choices tends to sort along heavily racialized and gendered lines. Deciding which institution or official is responsible for an immigration issue or a group of noncitizens can determine whether the issue, or the individual, is a family member, an asylum seeking human, or a crimmigrant other. When we choose to use the institutions or officials charged with interior or border control—when we choose the crimmigrator as the decisionmaker—we have already defined the issue and determined its likely resolution. Using examples from the United States, this article will examine the Deferred Action for

Childhood Arrivals program, drivers licenses, and immigration detainers to explore how choices about who decides can determine the shape of the problem, the lens through which we view the the person, and the racialized and gendered nature of the solutions.

Maryla Klajn

Region, religion, resistance: identity politics and the organizational norms of the street-level border protection on the Polish-German border

With the progressive criminalization of migration and growing securitization of the border control, migration scholars have noted an exacerbation of a bluntly nationalistic and racist turn in the governance of various borders around the world. Often in a direct contradiction to many constitutional or international anti-discrimination laws, the border police frequently resort to individual biases in evaluating migrants' status and selecting those who don't appear to belong. Even the so-called 'open' borders, such as those between the countries of the Schengen Agreement, upon a closer inspection reveal themselves as a stage of discriminating migration control processes, systematically targeting certain groups over others. Gender, nationality, skin color, or even religious association prove to play a crucial role in the decisions of the street-level border control officers, who essentially differentiate between those who are granted the permission to belong, the bona-fide travelers, and the 'crimmigrant others' – potentially criminal and dangerous suspects of illicit cross-border behaviors. This article, drawing on the data collected during fieldwork with the Polish Border Guard in 2018 on the Polish-German border, looks into the way belonging plays out in these intra-Schengen border zones, and specifically the impact of identity politics on the street-level border control. What characteristics are the major qualifiers in selecting certain travelers over others as the 'suspects' perceived as more likely to be breaking the law? Who is most likely to be stopped and checked on the Polish-German border at the hand of the Polish Border Guard officers, and how are these decisions justified?

Louis-Philippe Jannard

Enacting Crimmigration: Exploring the Detention Practices of Canada Border Services Agency's Officers

The concept of crimmigration conveys multiple meanings. As such, it has been used to study diverse phenomena and, through this lens, scholars have analyzed discourses, policies, and legal regimes, among others (Moffette, 2019). The increased use of immigration detention is frequently described as one key illustration of crimmigration and, in the last decade, it has drawn sustained attention from academics and activists alike. Among this abundant literature, this research aims to fill an important gap by empirically studying the practices of those who, on a daily basis, are enforcing such measures (Côté-Boucher et al., 2014).

Based on semi-structured interviews conducted with "street-level bureaucrats" (Lipsky, 2010) of the Canada Borders Services Agency (CBSA), this

research explores the "principles, values, beliefs, ideas, practices and uses" (Timsit, 1997: 29) that guide CBSA's officers in their enforcement of Canada's immigration detention regime. More specifically, by looking at these officers' ideas about the objectives of detention, this paper will outline the groups of noncitizens whose detention is deemed necessary as well as the threats it seeks to prevent. It will also analyze the many and blurry meanings of security, a notion which serves as a broad justification for the use of detention and, according to the interviewees, lies at the heart of CBSA's mandate. This paper thus delves into an aspect of crimmigration that remains seldom studied, namely the ideas and practices of officers tasked with its everyday enactment.

21: The Governance of Mobility and Migration

CHAIR TBD

Regina Serpa

Governing migration through welfare: 'Overt interventionism', force and coercion in bordering practices

This paper examines the governance of migration through the use of 'overt interventionism' (Watts et al, 2017), illustrating the bordering practices that operate in everyday housing and welfare services. The paper argues that such interventions are manifested through two main mechanisms; the exercise of *force* (such as the deportation of homeless migrants); and *coercion* (including restricting eligibility and advocating voluntary repatriation). Using the thesis of crimmigration, the article demonstrates *how* border controls are implicated in systems claiming to offer welfare support. The paper explains *why* housing and welfare is implicated in immigration control, through a study of two seemingly disparate national contexts - the United Kingdom and the Netherlands. The main argument is that the securitisation strategies used to govern migration - and bordering practices more broadly, are both ineffective and counter-productive, entrenching social exclusion and marginalisation of migrant groups. In contrast, the article advocates a more equitable, inclusionary approach that can facilitate the emancipatory potential of services; based on the principles of citizenship rather than conditionality.

Carolien Jacobs and Markus Rudolf

Mobility dynamics in protracted displacement: Eritreans and Congolese on the move

Protracted conflict and insecurity in both Eritrea and the Democratic Republic of the Congo (DRC) cause long-term and large scale displacement of millions of people. This paper compares the mobility and immobility practices of both groups from a micro instead of the more prevalent macro perspective. A micro level analysis shows varying physical-social mobilities that impact on everyday lives of displaced persons. Based on empirical findings on Eritrean refugees in Ethiopia and on Internally Displaced Persons (IDPs) in the east of the DRC, this paper develops a typology of physical-social mobilities that puts agency and options of displaced population in the centre of analysis. Relating individual decision-making dynamics with structural factors, the typology distinguishes long distance or onward oriented mobility, more constrained medium and short distance or (im)mobility. This approach reveals a major difference between mobility of IDPs and of refugees - namely that IDPs are not impeded by legal barriers to exploit backward oriented mobility to widen their livelihood options. We conclude that support for forms of partial mobility of refugees and less strict border regimes could also improve their access to livelihoods. Against the backdrop of different types of mobilities and resulting opportunities for displaced persons, the analysis of the impact of aid and border regimes finally suggests that needs-based and tailor-made policies have advantages over blanket approaches.

Nancy A. Wonders & Lynn C. Jones

Migration as a Social Movement for Global Justice: The Power of Place, Processes, and People

Contemporary bordering by nation-states can be understood as a mechanism designed to *produce* global inequalities. The shift to neoliberal globalization initially seemed to promise a borderless world of free trade and free movement, but as neoliberalism has unfolded, bordering has been deployed to create complex mechanisms of social sorting (Barker 2017; Wonders 2006), differential inclusion (Mezzadra and Neilson 2013; Segrave 2019) and economic precarity (Anderson 2010; Schierup and Jørgensen 2016), as well as political, economic and social exclusion for those defined as 'irregular' migrants (Aas and Bosworth 2013; Koulish and van der Woude, 2020). The pursuit of global justice requires that we challenge these existing mobility hierarchies. In contrast to crisis narratives that frame border crossers as a threat requiring a security and criminal justice response, reframing migration as a social movement centers the agency and humanity of all those who cross borders. We strongly agree with critical migration scholars, including those who have argued that contemporary global migration must be viewed as autonomous from the nation-state, and that the perspectives and experiences of border crossers must be centered when considering strategies and tactics to achieve global justice in the migration arena (Ataç et al. 2017; Mezzadra 2011; Segrave and Wonders 2019). If 'irregularity' is a produced condition, we contend that the best strategies for fostering global justice must challenge the social production of exclusion by affirmatively producing meaningful economic, political and social inclusion. While it remains valuable to call upon nation-states to do more to protect access to mobility and rights for everyone, it is important to remember that throughout history, rights and equality have rarely been granted by nation-states without significant political struggle. For this reason, it is essential to consider sources of power that can be wielded by ordinary people who seek to challenge hierarchies of mobility and rights in pursuit of global justice from below. In our paper, we examine three sources of power for furthering global justice in the migration arena from below, but with the potential for global impacts: 1) the power of place and the local level to challenge the nation-state as the sole purveyor of rights and inclusion; 2) the power associated with targeting global processes that produce vulnerability and precarity; 3) the power of people to proactively build multi-scalar bridges between border crossers and their allies, both locally and globally.

22: Deportation and the Making of Deportability

CHAIR TBD

Mieke Kox and Richard Staring

Being old and unauthorized. The impact of long-term deportability on unauthorized elderly in the Netherlands.

Western nation-states have strengthened their internal control mechanisms and used crimmigration, responsibilization and collaboration strategies to increase the control capacity and effectivity. This has brought about a proliferation of borders and bordering practices. These shape the daily lives as well as the mobility of unauthorized migrants. This is usually referred to as 'deportability', that is the unauthorized migrants' omnipresent awareness of the possibility of being deported from the "space of the nation-state" (De Genova, 2002). Previous research shows that deportability has a serious legal,

social as well as existential impact on unauthorized migrants that is being felt long after their return or deportation. This raises questions how long-term deportability impacts the everyday lives of elderly unauthorized migrants. In this contribution, we draw on semi-structured interviews with 55 unauthorized migrants over 50 years old who spend ten to fifty years unauthorized in the Netherlands. Building on the concept of deportability, we explore how these migrants organize their lives and cope with the lack of a legal status. We discuss their living conditions in terms of housing, work/income, health, social networks, migration controls and aspirations. We show that show lengthy unauthorized residence may facilitate navigating in the informal economy and bring about strong social networks. At the same time, the strength of these networks decreased over time as they get exhausted, something that comes at the expense of these migrants' agency and future perspective. This shows not only the impact of being long-term deportable, it also raises severe questions on the responsibility of the Dutch authorities for holding these migrants in a constant state of deportability.

Aino Korvensyrjä

Between deportation, criminalisation and precarious labour: Negotiating the terms of "cooperation" in the German *Duldung*

The paper examines, by means of ethnography, the governance of "unwanted" migration in the humanitarian context in Germany. It addresses a set of questions posed in the recent debates on migration control concerning "moral economies of illegality" (Chauvin and Garces-Mascareñas 2012), criminalisation of migration, and the role and nature of migrant agency, struggle or "resistance".

The administrative instrument of Duldung ("toleration"), widely used in Germany but so far little studied from a socio-legal perspective, temporarily suspends the enforcement of a deportation order in case of an obstacle, establishing an ambiguous situation of migrant "illegality" and deportability. Today "missing travel documents is the most common grounds for Duldung. Since the 2000s, legislative amendments and administrative practices have increased the criminalisation of migrants with a Duldung, accusing them of breaching the "obligation to cooperate" in identification and in acquiring travel documents – necessary for deportation enforcement –, declaring them guilty of producing an "enforcement gap". On the other hand, in apparent contradiction, legal and regulatory change has also offered increasing possibilities for some persons and groups with a Duldung to obtain either a work permit, or a (temporary) residence permit, under strict conditions. After 2015, this double dynamics – deportation-criminalisation and (precarious, conditional) integration – became particularly heightened, and was accompanied with an accentuated moral economy of "good" vs. "bad" "illegals".

The paper draws on 20 months of fieldwork and interviews with rejected asylum seekers, conducted in this context between 2016 and 2021, and on collaboration with non-governmental and activist organisations and lawyers. It examines how the terms of migrant "cooperation" with the state – understood beyond the "obligation to cooperate" in identification – were (re)produced, negotiated and transformed after 2015 in the practices of Duldung. In this analysis, the Duldung appears on one hand as profoundly shaped by migrant agency, struggle, even subversion. Yet as the paper shows, it is als shaped by other (state and non-state) actors, and in particular, by the ever-present threat of state violence (deportation, criminalisation). The paper then conceptualises the post-2015 migrant practices of the Duldung as involving both subtle contestation and subjection or submission. It traces the recent shift of th "moral economy of illegality" in the German humanitarian context – involving diverse actors, including the migrants – shaped both by the increasing criminalisation plus focus on deportation enforcement and by the conditional offers of precarious work and "legalisation": Taken together, these two tendencies yield a set of disciplinary effects. Not occasioned by any unitary plan of the state, the paper argues that the two tendencies arise as a set of situational strategies to manage migrants refusal to leave, their demands to access societal resources, but also employer demands for skilled labour" and societal demands for a more "humane" migration policy.

Daniel Quinteros and Roberto Dufraix

Collective expulsions of Venezuelans during the Covid-19 pandemic in Chile: another turn towards crimmigration?

As a result of the socioeconomic and political crisis, the massive exodus of Venezuelans during recent years has stressed the ambivalent state responses to these forced mobility processes within the South American region. Official figures by the UNHCR estimate a total of 5.3 million people that have left Venezuela mainly to Colombia (34%), Peru (16%), Chile (9%) and Ecuador (7%), and many more that are still in transit. In the particular case of Chile, their transit was restringed since 2018 through a special 'democratic visa' and then a consular visa to be obtained abroad, all of which collapsed the Peruvian-Chilean border crossing point of Chacalluta. This scenario became worst when the Chilean government closed its borders during the Covid-19 pandemic, thus leaving thousands of people with no other possibility than clandestine entry.

In this context, this paper aims at reflecting and discussing the latest turns within the Chilean border control strategy in the context of both the Covid-19 pandemic and the Venezuelan exodus in relation to the crimmigration thesis. The methodology follows a qualitative approach combining documentary review of official reports and habeas corpus sentences, and ethnographic methods performed at the northern Chilean city of Iquique. Evidence points to several transformations in line with the crimmigration model, i.e. altering Covid-19's health residences in order to serve as 'crimmigration camps', tendering charter flights for deportation and avoiding criminal processes for illegal entry. These mutations within governmental practices have enabled the possibility to avoid the rules of due process and thus perform fast-track collective expulsions in less than 48 hours. Finally, in spite of these recent turns pointing to an expanding crimmigration process, this paper discusses the need to contrast this with the limited extent and scope of its effectiveness within the Chilean context.

23: Detention and detention practices

CHAIR TBD

Ioannis Papadopoulos

Examining the positionality of detained unaccompanied minors within the context of crimmigration. The case of Greece.

In the past decade, Greece witnessed a massive influx of unaccompanied migrant minors (UAM) arriving in the country and applying for international protection. From a legal point of view, UAM are to be placed under custody of a protective character upon arrival, pending referral to suitable accommodation. However, due to the country's inability to meet their needs, UAM are most commonly placed in detention instead. This creates a gap in literature and research, thus raising crucial questions in the field of children's rights and migration policing; does this form of detention act as a substitute for protective custody and if so, does it ensure the expected procedural safeguards? In an effort to protect the fundamental rights of children on the migratory pathway, this study focuses on the hybridization of the reception process for UAM in Greece and examines if detention protect the rights of UAM under the scope of the UNCRC and the Greek law. For this reason, emphasis is placed on the positionality of UAM within the context of crimmigration, followed by an analysis of the relation between the best interest

of the child principle and the right of children to be heard regarding all judicial and administrative processes affecting them.

Efrat Arbel & Molly Joeck

Immigration Detention during COVID-19: A View from Canada

Our project analyzes Canada's response to COVID-19 in immigration detention. We focus on decisions released by the Immigration Division (ID) of the Immigration and Refugee Board, the quasi-judicial body tasked with detention-related decision-making in Canada. Our analysis centers on two different points in time: the initial months after pandemic measures were first
introduced (March-June 2020), and the midpoint of the pandemic (Nov-Dec 2020). Our analysis of the initial period revealed an identifiable shift in ID practice: with the onset of the pandemic, ID members have more readily entertained arguments identifying COVID-19 as a condition of detention, and have explicitly relied on this condition as a basis for more frequent release. This shift in ID practice suggests a shift in the paradigm within which legal decisions governing detention are made. Before COVID-19, these decisions were firmly entrenched in the familiar "us/them" paradigm that characterizes the disciplinarity of immigration detention. The post COVID-19 decisions suggest that the line distinguishing us from them has blurred in the shadow of a common threat, and the location of risk has shifted in relation to that line. Our presentation will reflect on how Canada managed immigration detention as the pandemic progressed, and present the results of our findings.

Ana Ballesteros Pena

Exploring alternatives to immigration detention in Canada: complexities and paradoxes

Canada has used measures to supervise undocumented immigrants and asylum seekers in the community for decades. But in 2018, in order to expand and standardize community supervision measures, the government implemented the called Alternatives to detention program (ATD), which includes tools such as community case management and supervision, voice reporting and electronic monitoring. Through the combination of the analysis of statistics and more than 50 interviews with public authorities, service providers, civil society organizations, advocates, lawyers and former detainees, my research explores the implementation and impacts of the ATD program. The analysis shows how the alternatives affect the daily life of former detainees, who have to deal with spatio-temporal constraints and changes in their dynamics of relation with their loved ones. Furthermore, two opposing forces, one towards the exclusion of the territory and the community, and other towards the integration in the society generate different forms of 'illegal non-existence'. Finally, through technologies of criminalization through risk, privatization, bureaucratization and responsibilization, the system is contributing to diversify and expand the condition of *detainability*. The result is a complex assemblage of forms of differential inclusion, self-governance and discipline and a reinforcement of the shadow carceral state.

Veronica Corcodel

Migrant Detention as Redistribution: The Double Face of European Law

Detention has become one of the most controversial but widely used practices of migration control in Europe and worldwide, constituting a 'global borderland' in itself. Generally understood among legal scholars as mainly aiming at enforcing pre-existing orders of removal, detention has been

reconceptualised by a number of sociologists and anthropologists as a space of selection or redistribution of migrants. Building on these insights, this paper provides an analysis of the *legal* foundations of such rereading of detention, looking more specifically at the interplay between European Union Law and the European Convention of Human Rights. The impetus for this analysis stems from a broader concern over the relationship between the European legal regime of detention and migrants' struggles over mobility and better lives. It is argued that this question, which invites for an appraisal of the limits and possibilities of contestation through European law, can be addressed by approaching detention as redistribution and European law as double-faced. The paper contends that European law implicitly produces an understanding of detention as a space of selection between 'deserving' and 'undeserving' migrants, rather than as a space of *mere* law enforcement. It is shown that this analysis follows from the possibility to legally contest practices related to detention, enabled by the right to effective remedies. It is also argued that legal contestation – and European law more generally – is a double-edged sword. Indeed, on the one hand, it is crucial for propelling certain migrants' struggles over mobility and better lives. Yet, on the other hand, its mobilisation inevitably reproduces the idea of an 'undeserving' migrant, *ie* 'detainable' or 'removable'. In this sense, legal actions cannot go so far as to challenge the overall detainability or removability of migrants. Moreover, their limits are exacerbated by an often-narrow understanding of what 'deserving' means, be it because the decision does not guarantee access to legal status, or because migrants might be at times removable prior to the decision of the court, or as a result of a broad conception of the legitimate grounds of detention. The main objective of this work is to better understand the limits of migrant struggles' legal framing, without however denying the possibilities enabled by it. The paper foregrounds the way in which the distinction between the 'deserving' and the 'undeserving' can be (re)produced and negotiated from detention, with all the limits attached to it. In the same time, it stresses the importance of contestation in the understanding of detention, ultimately inviting public authorities to consider more seriously its negotiability. Indeed, it seems at least plausible that one of the reasons why some authorities continue to minimise or deny detainees' right to effective remedies is their assumption that detention is *essentially* about coercive enforcement. In this sense, conceptualising detention as a space of selection facilitates not only a more complex understanding of strategic litigation, but also the recognition of contestation – by public authorities – as a crucial aspect of detention.

24. The Expanding Carceral State: Executive Power, Non-Citizens and Tracing the Border as Practice

CHAIR TBD

Rebecca Powell (Monash University)

Shifting the balance between crimmigration and human rights protections in the evolution of Australia's criminal deportation policy 1958-2018

Australia's criminal deportation policy was included in the Migration Act from when it was enacted in 1958. Ever present within the policy has been a tension between human rights and considerations of removal of convicted non-citizens on the basis of their criminal offending and non-citizenship status in the interest of protecting community safety (a crimmigration response). This policy has evolved over time and reflects changing dynamics within this tension towards a more recent emergence of a crimmigration charged 'deportation machine' (Comrie cited in Nicholls 2007:11). I have analysed these policy developments across four distinct policy waves, each characterised by significant policy

developments in relation to crimmigration. Notably a considerable expansion of executive power occurred during waves 3 and 4, whereas the policy incorporated increasing protections for non-citizen longer term residents who may get caught up in the criminal justice system during waves 1 and 2. This paper reveals the moments, context and impacts of this changing balance between crimmigration and human rights for those subject to Australia's criminal deportation.

Claire Loughnan (University of Melbourne) (co-authored with Maria Giannacopoulos)

'**Closure' at Manus Island and carceral expansion in the open air prison**

Manus prison was officially closed in 2017 following Papua New Guinea's (PNG) Supreme Court decision that the existence of the camp breached the PNG Constitution. The 'Namah' decision was significant in signalling and seeking to curb the imperial reach of Australian law but insufficient in resolving the question of refugee imprisonment. Far from ending the imprisonment of refugees, the closure following the judicial ruling has facilitated the expansion of the imperial carcerality that has characterized Australia's immigration detention policy since 1992. By revealing how refugee incarceration has been extended and offshore processing instantiated following the closure of Woomera camp in 2003, we argue that official closures of refugee camps Woomera and Manus have been constitutive of carceral expansion that is imperial in form and that reiterates patterns of colonial violence. After tracking imperial expansion, we make a call for prison abolition in the refugee incarceration arena as this is a critical decolonizing strategy.

Elyse Methven and Anthea Vogl (University of Technology Sydney)

Life in the Shadow Carceral State: Surveillance and Control of Refugees in Australia

This paper critically examines techniques employed by the Australian state to expand its control of refugees and asylum seekers living in Australia. In particular, it analyses the operation of Australia's unique Asylum Seeker Code of Behaviour, which asylum seekers who arrive by boat must sign in order to be released from mandatory immigration detention, with reference to an original dataset of allegations made under the Code. We argue that the Code and the regime of visa cancellation and re-detention powers of which it forms a part are manifestations of what Beckett and Murakawa call the 'shadow carceral state', whereby punitive state power is extended beyond prison walls through the blurring of civil, administrative and criminal legal authority. The Code contributes to Australia's apparatus of refugee deterrence by adding to it a brutal system of surveillance, visa cancellation and denial of services for asylum seekers living in the community.

Alison Gerard (University of Canberra)

Returning to Australia: Citizenship, Crimmigration and Mobility in the Pandemic

A new front in crimmigration practice for Australia has opened up in the specific targeting of Australian citizens returning to Australia from India. India is currently facing a devastating wave of COVID infections and Australian citizens who return directly or indirectly from India to Australia face a travel ban that includes criminal penalties of up to five years imprisonment. Ostensibly based on medical advice, this practice emerged rapidly and dramatically. The criminalisation of citizens returning from

India has met with significant outrage from a variety of sectors, in contrast with other recent and historical crimmigration measures. This paper explores this new cimmigration front and its potential to transform how we understand citizenship and the conflation of health, migration and criminal laws during the COVID pandemic.

25. How do crimmigration and bordering impact asylum-seekersand refugees in the EU?Insights from the ITFLOWSproject

Chair: Cristina Blasi (Autonomous University of Barcelona)

Madalina-Bianca Moraru (Brunel University)

The role of European and domestic courts in "push-backs": the shifting border

In this panel, we draw on the idea of the shifting border, whilst simultaneously claiming that the role of law in migration management is more complex than merely enabling the state to regulate mobility and transform its borders in doing so. In examining the contemporary dynamics of the relationship between law and shifting borders, we highlight the courts 'multiple application of the law. In particular, we zoom in on the role of European and domestic courts and judicial interactions in scrutinising push-backs and breathing life into the European right to asylum.

Colleen Boland and Daniel Morente (Autonomous University of Barcelona)

The EU's external border: Spain as a case study in crimmigration and bordering

With both land and sea external EU borders, Spain provides a unique context as to the manifestation of crimmigration rhetoric and practices, including in how it demonstrates the tension between national autonomy versus EU commitments. This panel notes recent, problematic developments in discretionary practices at the borders, as well as current public, political and media narratives, which affect asylum-seekers and refugees arriving to Spain.

Alexandra Xanthaki

TBD

26: International Norms and National Policy on Migration

CHAIR TBD

Camille Lefebvre (Laval University)

Exclusion Clause In Canada. Prioritizing Practical Expediency

Applying the Canadian legal framework for refugees in compliance with international binding instruments has entailed significant challenges. In order to fulfil its dual obligation of protecting people under threat of torture and persecution, while denying refugee status to those responsible of such atrocities, Canada relies on the exclusion clause of the 1951 Convention relating to the Status of Refugees as a practical and expedient solution. This article provides a comprehensive review of the jurisprudence related to Canada's exclusion system. We examined judicial reasoning of decisions issued by the Immigration and Refugee Board, the Federal Court, the Federal Court of Appeal and the Supreme Court of Canada. Our analysis endorses the position that Canada's lingering prioritization of security trumps humanitarian aims, by an overly broad application of section F of Article 1 of the Refugee Convention. The interpretation of Canadian judiciary often leads to the improper application of international law, prompting the need for a reassessment of the Canadian exclusion system 70 years after the adoption of the Refugee Convention.

Christian d'Orsi

Cross-border: African cooperation at a crossroad? (Work in Progress)

In a period of global crisis, as the one through which we are living, the vision of an integrated Africa with borders serving as bridges for development, growth and peace has increased the need for cross-border cooperation. To do so, in 2014 the Assembly of the African Union (Assembly), adopted the African Union Convention on Cross-Border Cooperation (Niamey Convention). To date, it has not entered into force yet, because only five countries (out of the 15 required by its article 15), namely Benin, Burkina Faso, Mali, Niger and Togo, have ratified it. One question that arises is whether it is a coincidence that these five countries are all members of the Economic Community of West African States (ECOWAS). Alternatively, has the deeper integration that already exists among the members of ECOWAS played an important role also in the ratification of the Niamey Convention? In my work, I respond to this question. In this regard, article 9 of the convention establishes a framework for cooperation with the Regional Economic Communities (REC), of which ECOWAS is one, not only encouraging the African Union (AU) member states to ratify the convention but also to "designate focal points" to implement the commitments enshrined in the Niamey Convention. The Niamey Convention aims to promote cross-border cooperation and to ensure peaceful resolutions of border disputes. Based on joint activities between neighbouring countries, it can be useful to facilitate the development of borderlands, as well as the free movements of goods and persons. As such, my work investigates how the AU has dealt with challenges of cross-border co-operation before the adoption of the Niamey Convention and how the adoption of this convention will ease its tasks. The African Union Mechanism for Police Cooperation (AFRIPOL) represents another step towards a major border cooperation on the continent. However, the AFRIPOL Statute, adopted by the Assembly in 2017, following the 2014 Algiers Declaration on the establishment of AFRIPOL, has not been ratified by any AU member state, yet. However, in the expectation that the statute will enter into force soon, its analysis will also be an object of my study, above all highlighting the need for enhanced police cooperation in Africa, to face the major security challenges across the continent.

If, on one hand, the Niamey Convention is providing for the legal framework for member states to develop and implement cross-border cooperation initiatives, on the other it also represents a way of formalizing the cooperation between countries that other stakeholders can refer to and rely on when setting up mechanisms of support. As such, in my study, I investigate whether the Niamey Convention gives visibility to the cross-border cooperation at the political level, institutionalizing cross-border

cooperation through a continentally accepted framework, for example, by the creation of Joint Border Commissions. In addition, I analyse whether the Niamey Convention is consistent with the agreement established by the Agenda 2063 (a shared framework for inclusive growth and sustainable development for Africa to be realized by 2063) under the aspiration of a continent with unified borders (in this regard, see, for example, the implementation of the African Passport), and management of cross-border resources through dialogue. I also explore the efficacy of the AU Border Programme (AUBP), implemented in order to prevent conflicts. Not by chance, the objectives of the AUBP are to promote peace and stability through several pillars such as the demarcation of borders, cross-border cooperation and the mobilization of resources and partnerships. The AUBP facilitates cross-border cooperation, addressing challenges related to common borders. Although there is a constant need to solve violent crises, I believe that the goal is to anticipate these conflicts as well as to prevent them. While boundaries could be a means to divide, the final goal is to unite and to support one another instead. Cross-border cooperation is an instrument to promote development of shared border zones, with the aim to promote peace and stability. Finally, I investigate whether and at what level the Niamey Convention provides a support mechanism to the implementation of the African Continental Free Trade Area (AfCFTA) by increasing cross-border relations. In this regard, the Agreement Establishing the African Continental Free Trade Area, entered into force in May 2019 has, as a specific object (article 4), cooperation in several fields, including “customs matters”. Cooperation in Africa, through the lenses of the AU, is reshaping the relations among sovereign states in the continent. My work sheds some light on such attempts of increased collaboration that envisages “galvanizing and uniting in action all Africans and the Diaspora around the common vision of a peaceful, integrated and prosperous Africa” (Agenda 2063).

Tatiana Cardoso Squeff

The Latin-American approach to Crimmigration: has the Inter-American Court of Human Rights a TWAIL position?

The Inter-American Court of Human Rights (IACHR), the judicial body of the Inter-American System for the Protection of Human Rights, in operation since 1979, in the last decade, has been dedicated to unifying the practice of the Member States of the Organization of American States with regard to migration. Considering that the submission of a case to the Court is not automatic, depending exclusively on the performance and interest of the Inter-American Commission in submitting a case, in the opportunities that it has had to consider issues related to the rights of migrants in the region, it has been setting important precedents, which, due to the control of conventionality, must be followed by the OAS States Evidently, the filter applied by the Commission to only submit cases related to vulnerable groups and minorities that historically have their right of access to justice excluded either by majority institutions or by the judiciary of the Member States, has contributed to this action. However, differently from what happens in many situations, in which the IACHR shows restraint when judging, in the cases related to the migratory cause, it has stood out. One of the One of the main themes is precisely the crimmigration. Debated upon by the IACHR together with the principle of non-detention, it relates to the general impossibility of one being arrested simply because of its illegal migratory status. In accordance to the IACHR, a migrant cannot be deprived of its personal liberty. When one is “unable to leave or abandon at will the place or establishment where she or he has been placed […] including, though not limited to, prisons or purpose-built detention, closed reception or holding centres or facilities” (IACHR, 2014), the State is in violation of its obligations under the 1969 American Convention. After all, migrants’ deprivation of liberty is deemed arbitrary, particularly due to the unnecessary restrictions one may suffer in his/her human rights, “as the right to seek and receive asylum” by reason of persecution. Nevertheless, the IACHR also understands that, as a last resort and for founded precautionary purposes migrants may be imprisoned. But even in these cases, it should never be for punitive

purposes. Therefore, it seems that the IACHR has been presenting a very singular approach, different from what nations from the Global North, as United States (which does not submit itself to the IACHR), European Union and Oceania countries. In this sense, as part of a larger project concerning the Latin American approach to Migration, through the eighteen cases concerning migration before the IACHR and its three Advisory Opinions that touch upon this subject, this paper focuses in understanding what is the Court's view on crimmigration over the years. The intent is to verify, first, if the position has been the same ever since the IACHR started to hear migration cases; second, what is its current understanding; and, third, if this can be said to be a third world approach to international (migration) law. The research is now under its third phase.

27: Multi Scalar Migration Enforcement

CHAIR TBD

Fatma Marouf

Regional Immigration Enforcement

Regional disparities in immigration enforcement have existed in the United States for decades, yet they remain largely overlooked in immigration law scholarship. This Article theorizes that bottom-up pressure from states and localities, combined with top-down pressures and policies established by the President, produce these regional disparities. The Article then provides an empirical analysis demonstrating enormous variations in how U.S. Immigration and Customs Enforcement's twenty-four field offices engage in federal enforcement around the United States. By analyzing data related to
detainers, arrests, removals, and detention across these field offices, the Article demonstrates substantial differences between field offices located in sanctuary and anti-sanctuary regions, as well as variations within each of those groups. In order to promote more equitable and transparent enforcement, the Article offers recommendations regarding agency guidelines, rulemaking, performance metrics, and institutional designs, examining the strengths and limitations of these approaches.

Huyen Pham; Ernesto Amaral, Van Pham

U.S. Subfederal Immigration Regulation and Its Effect on the Domestic Migration of Immigrants

In a trend that accelerated post 9/11, cities, counties and states have enacted numerous laws, positive and negative, that regulate the immigrants within their jurisdictions. We merge county level Immigrant Climate Index (ICI) data with restricted use Census microdata to study the effect of the laws on domestic migration. The ICI is constructed from our unique database of state, city and county immigration laws enacted from 2005-2020. We explore a number of questions. What is the effect of these subfederal immigration laws on the movement of immigrants within the United States and immigration from other countries? Do more restrictive laws cause different responses than more positive laws? Do certain categories of laws (e.g., policing laws like sanctuary policies or 287(g) agreements) have more impact than other categories? How do the laws interact with established migration networks?

Maartje van der Woude; Nanou van Iersel

The local politics of migration control: City of Refugees but not a City of Refuge?

TBD

28: Deportation from Australia on character grounds: law, legal institutions, and community impacts

CHAIR TBD

Rebecca Powell

''I still call Australia home': Risk based policy and the individual impacts of s501 deportation policy on convicted New Zealanders

Since amendments were made to Section 501 (s501) of Australia's Migration Act – visa cancellation and refusal on character grounds – in December 2014, there has been a steep, 14-fold rise in the number of visa cancellations and deportations of convicted non-citizens from Australia. New Zealanders have been particularly impacted to become Australia's largest nationality deportee group. Many are long term residents in Australia who are well settled with established lives here. The recent amendments to s501 reflect a risk based policy response to manage convicted non-citizens in the interest of protecting community safety. In this presentation, I will unpack how the recent amendments to s501 can be understood using key characteristics of Juliet Stumpf's crimmigration concept (2006): expansion, exclusion and membership, to illustrate how the policy has recently evolved to widen the net over convicted non-citizens. I will then tease out how this risk based policy impacts and causes harm to individual New Zealander long term residents who experience s501 visa cancellation and deportation from Australia using a case study of this experience from Aaron, who was deported from Australia to New Zealand under s501 in 2015 after 35 years of residency.

Faith Gordon

"Taking out the trash": How Australian law evolved to facilitate the deportation of unaccompanied minors

Since 2014, in particular, a conservative Australian government has forecast its intention, wherever possible, to deport non-citizens involved in crime. Since then, this crimmigration practice has penetrated deeply into Australian society, separating families and scooping up long-standing residents, refugees, First Nations people and suspected 'gang' members with or without criminal convictions – an exclusionary approach to community safety that a former Minister for Home Affairs described as "taking out the trash". The recent deportation to New Zealand of a 15-year-old boy who had grown up in Australia, sparked a storm of criticism both at home and from the New Zealand Prime Minister, who

pointed out that Australia should be dealing more responsibly with its home-grown crime problems. In this paper we present an analysis of the political and legal environment that enabled the deportation of an unaccompanied minor, a practice that most commentators would recognise as being at odds with Australia's commitments under the United Nations Convention on the Rights of the Child 1989. The paper also considers what this means for the supremacy of crimmigration objectives over other competing legal and moral norms.

Leanne Weber and Marinella Marmo

Analysing criminal deportation in two Australian states as a 'crimmigration assemblage'

Australia, this practice has escalated as the grounds for visa cancellation have widened, protections for long term residents have been removed, and discretion over visa cancellation decisions has been progressively limited. In this methodological paper, we will describe a new research project in which we plan to map the institutional pathways through which criminal deportation takes place and consider the impacts of these processes on the norms and practices of the agencies involved. Conceptualising the criminal deportation system as a *crimmigration assemblage*, we will examine interactions between federal migration control and state criminal justice agencies in two Australian states at multiple points of contact from the detection of a criminal offence, through the legal process, to prison and/or immigration custody. This dynamic analytical framework will help us identify the multiple possibilities for exchange of information and resources along the way and reveal how each of these agencies contributes to, or inhibits, the ultimate outcome of deportation on character grounds. While our focus is on interactions between immigration control and criminal justice systems, recent scholarship on inter-legality has alerted us to possible contributions from other legal domains.

29: Southernising Crimmigration Debates

CHAIR: TBD

Crimmigration explorations (Stumpf 2006, 2013, 2015; García Hernández 2013, 2018) were originally focused on the US mobility control landscape. However, this analytical framework has been subsequently used to explore law enforcement practices elsewhere, namely in European countries (van der Leun and van der Woude 2013; van der Woude et al. 2014, 2017). This effort to widen the scope of crimmigration debates has been fostered as well by border criminology scholars. However, various authors (Bosworth et al. 2018; van der Woude et al. 2017) have encouraged border criminology scholars to engage in comparative explorations of crimmigration policies and practices.In following that call, this panel session endeavours to 'southernise' crimmigration debates. Border criminology conversations have been largely framed by scholars working in long democratised, stable and largely accountable political systems characterised by relatively generous welfare arrangements and inclusive social policy agendas (see e.g. Barker 2018, Franko 2020). These specific models of political economy deeply condition crimmigration policies. Consequently, it is time to scrutinise the marked diversity of migration enforcement practices from other epistemological regions. This session aims to contribute to this debate by specifically drawing on the methodological and theoretical insights elaborated by the southern criminology theory (Carrington et al. 2019).

Dario Melossi, University of Bologna, Italy

Imprisonment and the subordination of migrant proletariat

Recent literature has increasingly emphasized the continuous ongoing character of what Marx called "primitive accumulation", accompanying capitalism's expansion toward newer and newer lands and sectors of societies. A crucial aspect of such accumulation is the accumulation of labor, whether by transforming what Rosa Luxemburg called "natural" economies in cash-nexus economies, or former independent producers into proletarians. Therefore, the subordination of these new classes to capital may happen either at the borders of advancing capitalism or through their massive dislocation from the periphery to the core of capitalist societies (often the former process just precedes the latter). The mechanism of imprisonment was from the beginning conceived as an aspect of the process through which such newly acquired masses would become subordinate members of the society so constructed. There is, therefore, a deep relation of affinity between migration flows and prisons – bastions at the boundaries of advancing capitalism devoted to instilling and cultivating a culture of subordination among the newcomers. From this perspective, whether migration flows are domestic or international is quite secondary and immaterial. Indeed, some of the major migration movements of the twentieth century have been domestic: for instance, in the US, in Italy and in China. Others have been international, such as European and Asian flows of population to the Americas. Can we indeed trace the emergence and development of major prison systems in relation to such movements of population? Here the main theoretical steps for this research are laid down and further steps are envisioned.

Valeria Ferraris, University of Turin, Italy
José A. Brandariz, University of A Coruna, Spain

'Southernising' crimmigration debates: Southern European reflections on border criminology (1st part)

The European bordered penality landscape is markedly diverse. In fact, both immigration enforcement arrangements and the power configurations nurturing them such as racial stratifications vary greatly from one European country and region to the next. This paper aims to explore this diverse crimmigration scenario. For these purposes, it examines bordered penality policies in the old continent from a Southern European standpoint. Being part of a two-paper reflection carried out together with our colleagues Giulia Fabini and Cristina Fernández-Bessa, this paper puts the spotlight on the specific practices of the criminal justice system. In so doing, the paper explores the nexus between the penal system and immigration enforcement measures such as deportation and detention in two pivotal Southern European jurisdictions such as Italy and Spain. In addition, it analyses whether also in Southern Europe 'abnormal justice' practices (Franko 2014, 2020) are exclusively targeting noncitizen groups, whilst citizen penal clienteles are still being treated in line with penal welfarism schemes. Furthermore, this paper reflects on the role played by counter-terrorism efforts in consolidating crimmigration policies in Mediterranean Europe.

Cristina Fernández-Bessa, University of A Coruna, Spain
Giulia Fabini, University of Bologna, Italy

'Southernising' crimmigration debates: Southern European reflections on border control and immigration detention (2nd part)

This paper explores the nexus between the border and immigration enforcement measures such as deportation and detention in two pivotal Southern European jurisdictions, such as Italy and Spain. Being part of a two-papers reflection carried out together with our colleagues Valeria Ferraris and J.A. Brandariz, this paper puts the spotlight on the specific practices of border control and

immigration detention. Unlike Northern and Central EU states largely monitoring internal Schengen borders and having been long engaged in managing people seeking asylum, Southern European states - especially since the years of the so-called “migration crisis” - are mainly focused on managing the arrivals to their coastlines by apparently sealing their external borders. At least until the economic crisis, they had largely channelled newcomers as ‘economic migrants’. Therefore, the ‘asylum seeker’ and ‘failed asylum seeker’ are new actors in this field. In this framework, moreover, Southern European migration enforcement apparatuses – especially those of Italy and Greece, but also that of Spain – have a hard time enforcing even a small percentage of issued deportation orders. This scenario creates particular hierarchies of otherness and of ‘crimmigrant others’ that should be considered in order to understand the complexities and the diversity of European migration control policies and practices.

30: Perceptions, (penal) populism and violent racialized othering

CHAIR: TBD

Vanessa Barker (Stockholm University) & Ryan Switzer (Stockholm University)

Enforcing the Global Color Line: Sweden Democrats’ Repertoire of Violence

In 2015, the Sweden Democrats took the extraordinary measure of traveling to the external borders of the European Union, outside the territorial border of Sweden, to block the mobility of refugees North. Unable to explain these deterrence campaigns with current scholarship on the far right, we develop a new framework based on a sociology of racialized violence. We argue that the far right’s repertoire of violence, including the hard violence of white privilege, benevolent violence of paternalism, and remote violence, infringe on the agency and self-determination of displaced people. Moreover, we contend that this repertoire of violence is racially structured and racially motivated by factors rooted in domestic politics yet enacted in transnational space which enforces a global color line.

Patrisia Macias-Rojas

Immigration and “The Third Reconstruction”: Race, Class, and Penal Populism

Immigration is at the center of populist politics today, mobilized by both right and left-wing populist politicians such as Donald Trump or Bernie Sanders in the US, Jair Bolserano in Brazil and Andrés Manuel López Obrador in Mexico. What is puzzling is that immigration has not been a central or enduring feature of populist politics, yet in recent times it has become a key issue not only in the US, but globally as well. Focusing on the US case, this paper examines how the issue of immigration figures in left and right-wing populist movements. The findings uncover three types of populist politics that have mobilized the immigration issue—ethnonationalist populism, economic or redistributive populism, and penal populism. The paper discusses the intersection of race, immigration and populism during the First, Second, and what had been referred to as “The Third Reconstruction” in order to better understand the connection between populism and the global and racial politics of border controls today.

Anne Nylon

Between the ‘spectacle of deterrence’ and invisbilisation: Covid-19 and the UK’s management of asylum

On the 28th of January 2021, a protest was staged outside Napier Barracks near Folkestone in Kent. The protestors, dressed in white coveralls and masks, threw red paint and demanded, ‘close Napier Camp or there will be blood on your hands’. The protest came in the wake of series of reports documenting the poor conditions in which 400 asylum seekers were being held. Particular concerns were raised about the level of Covid-19 transmission in the overcrowded dormitory-style accommodation. The next day, a fire broke out in the camp, which appeared to represent a push back by the residents of the barracks of continually being ignored by the authorities

Previously, the Kent coastline had been a focal point for media coverage of people irregularly crossing the channel from France to Britain – with media outlets even travelling out into the channel to ‘interview’ migrants in the process of trying to make the journey. In this way they became ‘hypervisible’.

While the Napier Barracks became a spectacle of ill-treatment of asylum seekers, it was also a departure from the usual asylum reception process, where asylum seekers often become invisibilised. Indeed, at the same time that the British government was attempting to use this very public spectacle to deter future asylum seekers, it was also suppressing those who wanted to publicly document the conditions within Napier Barracks.

In this paper I attempt to explore this tension. Drawing on the work of Debord and Pugliese, I consider how visibilised ill-treatment of migrants and asylum seekers impacts on public expectations as to how well or how badly these groups should be treated. Specifically, I consider how both the hypervisbilisation and invisibilisation of asylum seekers and migrants significantly impacts the public narrative about such groups. The small number of migrants crossing the English Channel appearing as a feature on the main evening news makes them hypervisible and contributes to a sense of crisis about the number of people arriving spontaneously at the state’s coast.

Yet once asylum seekers are dispersed throughout the UK they become invisible I note that this absence of representation has been filled through myths perpetuated in media and social media accounts claiming that asylum seekers receive housing and benefits far in excess of Britons. This interplay of hypervisibilisation and invisibilisation conveys a spectacle to the British public of asylum seekers and migrants who are undeserving and unwelcome.

I argue that the situation in Napier Barracks can only be understood in the context of this interplay between hypervisibilty and invisibility. Here, the British government has invoked the specific situation of the Covid-19 pandemic and its attendant legal transformations to advance deterrence policies, whilst also attempting to absolve itself from any responsibility for ill-treatment.