

Comparative reflections on emerging mechanisms of legislative and political power in response to irregular migration (6-7 December 2012)

The key motivation for this two day workshop on irregular migration was to examine the complexities and controversies that persistently attach to questions of population movements. Hosted by Flinders Law School, the organising committee (co-conveners Margaret Davies FASSA, Willem de Lint and Marinella Marmo, together with Maria Giannacopoulos, Nerida Chazal, Hossein Esmaeili, and, most importantly with the administrative support of Catherine Salt) had the pleasure of bringing together scholars and practitioners from both Australia and abroad to examine why, in a globalised age where movement and mobility proliferate, the movement of some peoples continues to evoke such strong public and political reactions. The workshop, co-funded by the Academy of the Social Sciences in Australia and Ian Potter Foundation, and supported by ARIA-SA (association for promoting research between Italy and Australia), aimed at being a bridge not just between early career and more experienced academics but also a bridge to practitioners and policy shapers.

Irregular migration is the official term used to describe those modes of entry that challenge the traditional and conventional modes of inclusion controlled by the sovereign state. The contested nature of irregular migration means that official policy responses are often reactive and politically motivated. The effect of this is to reduce complex and diverse migratory concerns and practices to highly visible security ‘crises’. This two-day workshop aimed at challenging this representation of irregular migration and at reframing the debate by adopting a comparative and interdisciplinary approach. More specifically, the key purpose was to compare the European and Asia-Pacific regions, with specific emphasis on Italy and Greece on the one hand, and Australia on the other. The comparison of regulatory regimes and social, political and legal discourses on the control of peoples into and out of sovereign territories allowed for the identification of similar policy response patterns in otherwise distinct jurisdictions.

Major themes and findings

The Biopolitics of the ‘Undesirable’

Emerging strongly from the papers was the theme of a politics of insularity. Two of the destination countries discussed, Australia and Italy were seen to be engaged in the production of their national spaces as exclusive spaces where the ‘face of a stranger’ comes to stand for the ‘undesirable other’. Michael Grewcock, by foregrounding the key governmental discourses of deterrence and protecting the border, lucidly illustrated the multiple ways in which the Australian state has shown its capacity to take complete control of the fate of asylum seekers who as a matter of ‘national interest’ must be designated to places of detention. Joseph Pugliese built on the discussion of how states *see* and therefore treat asylum seekers by highlighting a range of surveillance and identificatory technologies that are used precisely for biopolitical governance of populations who cannot be tolerated by the insular states. Co-authors Martina Giuffrè and Caterina Cingolani, from an ethnographic perspective and drawing on narrations of African migrants to Italy, also demonstrated the ‘undesirability’ of certain populations for states by suggesting that more recent migrants, in contrast to those with regularised status, are now seen as ‘carriers of illegality’. Katie Hepworth highlighted, like Grewcock, the politics of deterrence but also added that this policy does not always ‘deter’ but instead allows for the

production of visual spectacles of in/security which then become fertile ground for exclusionary state practices.

Exclusive state powers

Also emerging strongly from the presentations was the increased militarised language of control being used in response to irregular migration as well as the visual normalisation of this response. When states focus on 'risk factors by probabilities' the concentration of power (and power to review) in the hands of the executive appears justified. The expulsion of other significant players, such as the Federal Court, NGOs and the increasingly diminishing role of the Australian Human Rights' Commission are noteworthy and demonstrate the trend towards this concentration of state power. Papers presented by former Australian Human Rights' Commission President Catherine Branson, and by the chair of Australian Migration Options Libby Hogarth testified to these trends. Branson highlighted the distance between Australia's image of itself as a supporter of human rights and the statistics around the detainment of those who seek to assert their human right to asylum. Hogarth focussed on the way in which the visual event of a boat crashing en route to Australia can be transmuted into the enactment of policies which strengthen the power of states at the expense of those most vulnerable. Importantly, Hossein Esmaeili suggested that the Australian state's tendency towards border control and deterrence removes from view the conflict zones from which people are fleeing as well as Australia's role in contributing to the conditions under which people seek asylum.

Uneven burden sharing

The uneven distribution of burden, power and resources at micro and macro levels emerged as a clear theme from the papers. Susanne Schech brought this idea into view by suggesting that the sovereign devolved power residing in sub-states is what affects migrants once they are within the nation state and it is here that hospitality can be offered despite inhospitality at the national level. Another example of a lack of micro-level burden sharing was offered by long term head of Italian schools Ignazia Nespolo. Her paper addressed the role of schools with underage irregular migrants where the full integration policy of all children in school regardless their status brings a new layer of socio-cultural- educational and financial issues dealt with by the sub-state. At the macro level responsibility for containment policies is pushed to intermediate or origin countries. Leanne Weber conceptualised these developments as pre-emptive strategies to immobilise people before they leave. Co- authors Angeliki Dimitriadi and Anna Triandafyllidou threw light on a new role of gate keeping and gate fencing being played by Mediterranean islands to push the border even further from conventional national territories. Tiziana Torresi offered a more positive review of institutional links among destination countries and countries of departure. Instruments of agreement between nations might be the product of inter-regional migration issues, but may carry ideas of responsibility and the sharing of burdens not just opportunities of exploitation between the contracting states.

Continuity with past practice

At pre-dinner drinks, the discussion continued with a paper presented by Tony Piccolo MP on mandatory internments and the treatment of Italo-Australian citizens during the war period.

This offered an invaluable occasion to reflect historically on past state practices and their consequences on the mental and physical health of Italo-Australian citizens as well as their social stigmatisation in politically charged times. The parallels between this historical episode and current controversies around irregular migration and responses to particular communities are fruitful in revealing the short sightedness of governmental policies which seem completely justified at the time of their enactment.

Conclusion

The transnational and interdisciplinary nature of this workshop provided an important foundation for sharing experiences and knowledge concerning the politico-legal issues surrounding irregular migration, with a view to reframing and reconceptualising this unresolved problem for states. The attendees were from diverse backgrounds, being of Australian, Italian, Greek or Iranian origin or descent, and are affiliated with either universities, governmental or other bodies in these three regional areas. The papers will form a special edition of the *Griffith Law Review* to be published by December 2013, under the supervision of Maria Giannacopoulos. Further, there is a tentative discussion to have a second meeting in Europe in 2014 as a potential means to continue this collaborative project.

Workshop convenors: Prof Margaret Davies (FASSA, Flinders), Prof Willem de Lint (Flinders), Dr Marinella Marmo (Flinders)