IMMIGRATION, CRIME AND CITIZENSHIP IN TROUBLED TIMES

Working group in Immigration, Crime and Citizenship

INTERNATIONAL TWO-DAY CONFERENCE

9-10 May 2019

Faculty of Law
University of Málaga (Spain)

Abstract Book
# Table of Contents

1. **EU border policies I:** ................................................................. 4  
   1.1 EU’s Migration Partnership with Africa: Friends or Foes? - Sandra Dumitrescu and Maria João Guia ................................................................. 4  
   1.2 Migration remote control: are the EU accepting breaches to fundamental rights for something in return? - Valeria Ferraris ................................................................. 4  
   1.3 The new administrative regulation of EU external borders: ETIAS screening rules on border risk management - David San Martín Segura ................................................................. 5  
   1.4 Discretionary migration control: A case study of detention in the French-Spanish border - Iker Barbero ................................................................. 5  

2. **The judicial system dealing with foreigners:** ................................................................. 6  
   2.1 A (cr)immigrant ban? Opening the ‘black-box’ behind decision-making processes in the courthouse - Eleonora Di Molfetta ................................................................. 6  
   2.2 The Role of the Juridisch Loket [Legal Counter] for Foreign Nationals in Detention: An Investigation Conducted in Detention Center Zeist, the Netherlands - Joanne van der Leun and Julia Rootenberg ................................................................. 6  
   2.3 When immigration policy prevails over criminal policy: responses towards irregular immigrants’ delinquency in Spain - María Contreras Román ................................................................. 7  
   2.4 Foreign people confidence in the Spanish judicial and police systems - Elena Casado Patricio ................................................................. 8  

3. **Hate, gender, sex and crime:** ................................................................. 8  
   3.1 Emerging data on hate crimes: May the protected legal markers’ conviction Rate be affected by gender? - Iñigo Gordon Benito ................................................................. 8  
   3.2 Second report on hate incidents in Euskadi: assessment on the “bias landscape” and possible coping strategies - Enara Garro Carrera ................................................................. 9  
   3.3 Refuge and gender in the university. A study between Spain and Italy - Irene Estrada Moreno, Ana Ruiz Mosquera and María de las Olas Palma García ................................................................. 9  
   3.4 Iceland and migrants in police perspectives - Eyrún Eyþórsdóttir ................................................................. 10  

4. **Integration and exclusion:** ................................................................. 10  
   4.1 The transition to adult life of unaccompanied foreign minors and social exclusion - Ana Cristina Ruiz Mosquera, Irene Estrada Moreno and María de las Olas Palmas García ................................................................. 10  
   4.2 Margizens – exclusion and punishment of the Romanian Roma community in Poland - Witold Klaus ................................................................. 11  
   4.3 Family reunification of migrant women in the Portuguese context - Marco Ribeiro Henriques ................................................................. 11  
   4.4 Deprived of security, mobility and existence. The pains of being unauthorized in the Netherlands - M.H. Kox and M.M. Boone ................................................................. 12  

5. **EU border policies II:** ................................................................. 13  
   5.1 Criminalising migrants by the Law: proposal of a new Return Directive - Diego Boza Martínez ................................................................. 13
5.2 Vulnerabilities and Fundamental Rights in a heterogeneous EU - Maria João Guia ................................................................. 13
5.3 Push-back operations in the Mediterranean sea: human smuggling at a crossroads - Salvatore Orlando ........................................................................................................... 14
5.4 Irregular migration – is it a threat to Polish borders? - Magdalena Perkowska. 14
6.  Trafficking in human beings: ................................................................................................................................. 15
   6.1 The impatient legislator(s) and the human trafficking issue - Riccardo Ercole Omodei .......................................................................................................................... 15
   6.2 The victim of trafficking in human beings as an author of crimes - Margarita Valle Mariscal de Gante ................................................................................................................................. 15
   6.3 A Critical Assessment of Criminal Policies Concerning Human Trafficking in Spain. The “3P” Paradigm in Numbers - Silvia Rodríguez-López ................................................................. 16
   6.4 Labour trafficking in Chinese restaurants in the Netherlands and the role of Dutch immigration policies. A qualitative analysis of investigative case files - Masja van Meeteren ........................................................................................................................................ 16
7.  Deportation and detention: ........................................................................................................................................ 17
   7.1 Removing EU nationals: An unexplored dimension of the UE deportation system - José A. Brandariz ........................................................................................................................................ 17
   7.2 The criminal deportation of foreigners in Chile: towards a new way of understanding punishment? - Roberto Dufraix-Tapia ................................................................................................. 17
   7.3 Pressured into a preference to leave? A quantitative analysis - Arjen Leerkes.. 18
   7.4 Path of detention of migrants in Spain: from CATEs to CIEs - Devika Pérez Medina and Diego Boza Martínez ......................................................................................................................... 18
8.  Policing foreigners: ..................................................................................................................................................... 19
   8.1 Border guards’ and courts’ view on facilitation of irregular migration – the case of Poland - Monika Szulecka ................................................................................................................................... 19
   8.2 Migratory flows and Neapolitan “informality” - Michelangelo Pascali ........................................................................ 19
   8.3 Policing the internal borders in the refugees’ crisis: what role for the international relations? - Giulia Fabini ........................................................................................................................................ 20
9.  Children and teenagers in migratory contexts: ......................................................................................................... 21
   9.2 Victimization stories of unaccompanied foreign minors - Fátima Pérez Jiménez and María Garzón García ........................................................................................................................................ 21
   9.3 Moroccan teenager crossing Europe: local advances and international challenges for their protection – Elisa García-España and Jacqueline Carvalho da Silva ................................................................................................................................. 22
10. Penal policies and migration policies: .................................................................................................................... 22
    10.1 Politics, migration and penality in Argentina - Máximo Sozzo ................................................................................ 22
    10.2 Brexit as a triumph of crimmigration - Diego Boza Martínez ................................................................................... 23
    10.3 Delinquency of settled immigrants in Malaga: methodological challenges – Jacqueline Carvalho da Silva and Bertha Prado ........................................................................................................................................ 23
11. The transformation of borders from below: ................................................................. 24

11.1 Transforming Borders From Below: Shifting the Analytic Gaze of Border Criminology - Nancy Wonders................................................................................................. 24

11.2 Towards a theoretical typology to explore border activism in border criminology studies - Cristina Fernández-Bessa...................................................................................... 25

11.3 Internal bordering in the context of undeportability: border performances in Italy - Giulia Fabini ..................................................................................................................... 25

11.4 Migration as ‘Crisis’ and The Power of Cities in Troubled Times: Local Challenges to the Politics of Exclusion and Expulsion - Luis Fernandez and Nancy Wonders .............................................................................................................. 26

12. Crime and the criminalization of immigrants: .......................................................................................................................... 26

12.1 Are young people of migrant origin more crime prone than native youths?: 26 a dynamic approach with data from ISRD-3 in Portugal - Gloria Fernández-Pacheco Alises.............................................................................................................................. 26

12.2 Not citizens, not real people. The Italian way in criminalization of migration - Laura Scomparin and Giovanni Torrente.................................................................................. 27

12.3 Breaking Bad: when the State’s “reception,” as the legal parent of unaccompanied immigrant minors, pushes them to the dark side of life - Núria Empez Vidal and Caroline H Bledsoe.............................................................................. 28

13. Solidarity, Sanctuary cities and Resistance against borders: .............................................................................................................. 28

13.1 The crime of aid for irregular immigration without profit regulated in art. 318 bis of the Spanish Criminal Code: does it protect a legitimate Rechtsgut? - Francisco Salvador de la Fuente Cardona.............................................................................. 28

13.2 Against solidarity: the case of Ventimiglia - Federico De Salvo and Graziella Marturano .................................................................................................................................. 29

13.3 Solidarity under siege: the crimmigration of activism(s) and protest against border control in Spain - Ana López-Sala and Iker Barbero........................................................................... 29

13.4 New Documents, New Realities? The ‘neighborhood document’ on the situation of undocumented migrants in Barcelona - Markus Gonzalez Beilfuss.............................................................................. 30

14. Protecting migrants: .......................................................................................................................... 31

14.1 The protection of foreigners through the Radbruch formula - Irene Galatola.. 31

14.2 Deterrence of environmental crimes and migration phenomena through the proposal of an Ecocide Act - Ascensión García Ruiz......................................................... 31

14.3 Happy Together? How and Why Norway is calling for a pan-European collaboration against work-related crime - Synnøve Jahnsen....................................................... 32
1. EU border policies I:

1.1 EU’s Migration Partnership with Africa: Friends or Foes?
Sandra Dumitrescu, Ministerial adviser on border management
sandra.dumitrescu@eucap-sahel-mali.eu
Maria João Guia, Centre for Legal Research, University of Coimbra
maria.joao.guia@ij.uc.pt

ABSTRACT
The EU and a number of African countries have launched in 2016 a Migration Partnership Framework, aiming to fight irregular migration and migration smuggling / human trafficking, to decrease the number of irregular arrivals in Europe. This Framework was put forward as part of EU’s comprehensive approach to irregular migration and its root causes, in complementarity with regional initiatives such as the Rabat and Khartoum Processes, as well as the Valletta Action Plan. The participation of the African countries in the EU initiatives has been financially backed up via the setting of the EU Trust Fund for Africa, an aid instrument designed to encourage the creation of jobs, development of local communities. Having initially focused on projects aiming to protect and to build up resilience of migrants and hosting communities, the scope of EU support has dramatically changed over the years. In 2018, the EU Trust Fund for Africa supports initiatives such as the G5 Sahel Force Conjointe, an armed force with the participation of Mali, Mauritania, Niger, Nigeria and Chad, aiming to enforce military control over sensitive border areas in the G5 Sahel. Dwelling on the adoption of the Migration Partnership Framework between the EU and African countries, this paper attempts to investigate the conditionality between development aid projects of the EU and controlling migratory flows from Africa towards the EU and will look into the possible subordination of EU’s external action and development aid to security-driven topics, most notably immigration control and capacity building in border management.

1.2 Migration remote control: are the EU accepting breaches to fundamental rights for something in return?
Valeria Ferraris, University of Turin, Italy
valeria.ferraris@unito.it

ABSTRACT
In recent years, the EU established multi-purpose large scale databases, IT system or information exchange system to enhance border control. The oldest ones are under a process of revision to include new functionalities, mainly biometrics, allow greater access to law enforcement and enlarge the purposes. The development has been hectic and with limited public discussion, despite the significant social impact of instruments that control movements of a continuously increasing number of people. Many are the problematic provisions in existing and proposed legislation focusing on the rights to privacy and data protection, but also taking into account the rights to non-discrimination, to an effective remedy, and asylum. The paper
discusses if and how this problematic evolution represents a breach to fundamental rights, if there are foreseeable results for citizens or if what is happening is only a manifestation of the obsession and faith on technology as a way to protect unprotectable borders.

1.3 The new administrative regulation of EU external borders: ETIAS screening rules on border risk management

David San Martín Segura, Profesor de Derecho administrativo. Departamento de Derecho, Universidad de La Rioja. 
david.san-martin@unirioja.es

ABSTRACT
Recently, EU adopted the regulation of the new European Travel Information and Authorization System (ETIAS) –Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018–. This system requires that third-country nationals, who are exempt from the visa requirement, make an anticipated online application for travel authorisation, to access the Shengen Area. Applicants must provide personal data and information about their mobility. This information will be used to perform an actuarial and algorithmic-based risk assessment (ETIAS screening rules), in order to determine whether such applicant poses «a security, illegal immigration or high epidemic risk». This regulation builds a highly structured risk assessment apparatus that will operate in a delocalised way, on statistical criteria, and automatically to a large extent. We propose to consider the implications of this mechanism both from the legal point of view, and from the border rationalities of government. In the former sense, the Regulation formally links the administrative travel authorisation to a risk scoring produced by algorithm operations. It is a kind of automated administrative action that raises doubts about due process and the use of nomothetic criteria that may incur discrimination. In the latter sense, this new instrument results in the amalgamation of disparate dangers that border dispositif tends to produce, relying now on alleged statistical objectivity. It implements a preventive action and produces a particular idea of social dangerousness (much broader than criminal one). In short, ETIAS requires the deployment of a complex technical system that insists on the delocalisation of the border and its performance as «smart border» in an openly managerial way, developing actuarial security methods at European level.

1.4 Discretionary migration control: A case study of detention in the French-Spanish border.

Iker Barbero Profesor Agregado, Universidad del País Vasco/Euskal Herriko Unibertsitatea
Iker.barbero@ehu.eus

ABSTRACT
This case study of the Spanish-French border will put some light on a disregarded topic and object: the EU internal borders. Regulation in these areas is diverse. Many exceptions and specificities apply, parallel or alternatively to the ordinary immigration rules, as a matter of exception of the Law. Considering all this, we need to rethink the imaginary of a borderless Europe stated by the Schengen agreement. Following Balibar in "What is a border?" (2005), France’s new immigration regime
is an evident example of how the controls multiplied along the territory as a kaleidoscopic vision. The EU internal borders never disappeared but mutated. Do we need to state that the borderless Europe becomes a myth? Is there a parallel regime for citizens of the EU and another for foreigners?

2. The judicial system dealing with foreigners:

2.1 A (cr)immigrant ban? Opening the ‘black-box’ behind decision-making processes in the courthouse
Eleonora Di Molfetta LLM, MSc, PhD-Candidate at Erasmus University Rotterdam, Erasmus School of Law, Department of Criminology
dimolfetta@law.eur.nl

ABSTRACT
This presentation explores the use that courtroom actors make of precautionary measures when sentencing immigrants with a vulnerable legal status in Italy. By employing the latter preposition, the author refers to non-EU immigrants who lack a valid residence permit or who have lost one due to the commission of a criminal offence. Formally, precautionary measures are measures designed to avoid that something unwanted take place while the suspect is under trial, most often adopted to prevent the danger of repetition of offences. Substantially, precautionary measures can be used to achieve aims that go beyond the ones established by criminal law. This presentation draws on socio-legal scholarship on decision-making and legal culture to shed light on how courtroom actors interpret, shape and enforce legal categories and institutes when sentencing non-members of the community. Based on data collected during a one-year period of courtroom ethnography in Turin (Italy), this presentation examines how courtroom actors make decisions that are largely influenced by extra-legal restrictions, such as social norms, political forces, organisational environment and institutional needs. It also shows how the coexistence of different legal cultures percolating the same legal environment might create tension and conflicts between different courtroom actors. This research results in insights into decision-making processes as ‘collective enterprise’ that displays contradictions and tensions between different agents and forces in place.

2.2 The Role of the Juridisch Loket [Legal Counter] for Foreign Nationals in Detention: An Investigation Conducted in Detention Center Zeist, the Netherlands
Joanne van der Leun, Leiden University, Leiden Law School.
j.p.vanderleun@law.leidenuniv.nl
Julia Rootenberg, Leiden University, Leiden Law School.
juliarootenberg@gmail.com

ABSTRACT
This article explores irregular migrants’ access to legal services while they are being detained. Irregular migration is at the forefront of many national agendas, and with impending policy changes like the UK’s Brexit and Trump’s supposed southern border wall, it is clear that politicians use stereotypes of irregular migrants to catalyze fear and confusion amongst their constituents. Policies are largely control-oriented. Based on human rights norms, the rights of irregular immigrants should be protected. In the Netherlands this includes access to legal aid. However, there is a discernible lack of research on access to legal services in practice. Thus, the article seeks to answer the question: do migrants in detention centers have adequate access to legal services? If so, have they been properly informed of what they entail, and, further, do they choose to utilize them? In order to investigate these questions, this article uses the Dutch immigration detention center, Detentiecentrum (DC) Zeist, as a case study. The data for this article comes from a 2015 report commissioned by the Raad voor Rechtbijstand [Legal Aid Board], co-written with others. Perhaps the most important findings of this study come from the face-to-face interviews that were conducted with 76 detainees about their knowledge and perception of the Juridisch Loket, a government-subsidized initiative which provides free legal advice. Even amongst those who had heard of it, not many had attempted to utilize its services. The implications of these findings are problematic, as when migrants’ legal needs are not met, this renders them voiceless.

2.3 When immigration policy prevails over criminal policy: responses towards irregular immigrants’ delinquency in Spain

María Contreras Román, Observatorio Criminológico del Sistema Penal ante la Inmigración - Instituto de Criminología. Universidad de Málaga (Spain)
maria.contreras@uma.es

ABSTRACT
While the number of immigrants detained for criminal reasons in Spain has declined progressively in recent years, deportation as the main response to this delinquency has been increasing. There are several ways through which it is possible to respond with deportation to foreigners offenders: (a) using criminal law as one more instrument of immigration policy - facilitating deportation as substitution of punishment or linking the existence of criminal records to the causes of administrative expulsion – or (b) renouncing to use criminal law in order to not obstruct migration policy when an administrative deportation order was previously decreed because of other reasons. Both ways to deportation, using criminal law and renouncing to use it, are good example of the “crimigration” phenomena that is taking place in Western countries with the ultimate goal of facilitating the control of migratory flows. Both deny any opportunity of social reintegration to foreign offenders, but renounce to criminal procedure also requires demonstrate that there is no relevant public interest in the prosecution of the crime. To carry out that assessment, law establishes that judges and public prosecutors must evaluate a set of circumstances about the individual and the criminal event. However, the analysis of practice through multiple case study, leads us to argue that only factual and logistical aspects about the viability of the deportation are taking into account. In addition, legal irregularities are occurring that are difficult to justify. This contrast
between law and reality, and the reflections about it, will be exposed in this
communication.

2.4 Foreign people confidence in the Spanish judicial and police systems
Elena Casado Patricio, University of Málaga. Spain.
elenacasado@uma.es

ABSTRACT
The aim of the present investigation is to find out the level of confidence that the
settled foreigners in Málaga have of the police and judicial systems, as well as
determining if the level of confidence varies according to different social variables.
According to the procedural justice theory, it is important to have an understanding
of it since this confidence could have an influence in the cooperation within the
institutions analyzed. Also, this investigation tries to demonstrate if confidence
could be influenced by direct contact with these institutions as victims or
victimizers. The methodology used was the structured questionnaire, to later
analyze the data with the statistical program SPSS, specifically the non-parametric
test was used and bivariate analysis to learn how variables were related. In this way,
the results establish a different level of confidence depending on the institution
analyzed, and the less confidence with a specific institution after being in contact
with them.

3. Hate, gender, sex and crime:

3.1 Emerging data on hate crimes: May the protected legal markers´
conviction Rate be affected by gender?
Iñigo Gordon Benito, Researcher in Criminal Law UNESCO Chair for Human Rights
and Public Authorities. University of the Basque Country (UPV/EHU)
gordonbenito@outlook.com

ABSTRACT
An influential «hate crime» definition is provided by the Organization for Security
and Co-operation in Europe (OSCE). This label attaches an extra punishment to any
criminal offence in which the victim is selected by the actual or presumed
connection to some framework categories (e.g. race or religion), which are, in turn,
linked to the victims´ membership to some vulnerable groups (e.g. Blacks or
Muslims). The 57 participating states of this intergovernmental organisation have
committed to prevent and combat all forms of gender-based violence against
women, so gendered-hate should be considered when prosecuting hate crimes.
Three of the above-mentioned participating states are especially interesting. In the
US, although women suffer from revictimisation by making them invisible, perhaps
we may not say that there is a tendency to make women invisible when
incorporating them, through gender, to the hate crime debate. In Spain, gender has
become, in a brief period since it was introduced (2015-2018), in the most common
motivation for hate crime convictions ever, surpassing many others such as race.
Within the UK´s statutory provisions gender is simply non-existent, but the Law
Commission for England & Wales noted in 2018 that gender was about to be considered as part of a broader review of hate crime laws beginning in 2019. Beyond the national inclusion/exclusion debate, it is crucial to explore the potential consequences in the light of the American and Spanish comparative framework experience. The UK is just the testing ground for the future implementation of gender on hate crime provisions.

3.2 Second report on hate incidents in Euskadi: assessment on the “bias landscape” and possible coping strategies
enara.garro@ehu.es

ABSTRACT
The paper deals with the results of the second report on hate incidents in Euskadi drawn up by the UNESCO Chair of Human Rights and Public Authorities of the University of the Basque Country. The report is based on data of all the incidents compiled by the Ertzaintza (Basque police) during 2018 with a clear distinction made between potentially criminal incidents and others, which constitute administrative infringements. Along with global data, separate data are furnished according to the protected collectives, geographic locations, the potential classification of the incident within criminal typology, the profiles of the active parties involved and the passive parties (victimisations).
Realities that have a relevant impact on especially vulnerable groups, such as hate crimes, remain concealed and cannot be administered by public policies to address them, unless updated information is provided. Any democracy must combine legislative action with effective and proportioned application. To this end, it is necessary to conduct a regular assessment and a contrast in order to ascertain the extent to which the measures implemented are effective. This report therefore represents one more milestone on the path towards enhancing the empirical base of this reality in order to facilitate a critical assessment, and simultaneously empower democratic public opinion and organized civil society and generate more effective instruments for action to be taken within the community and by institutions.

3.3 Refuge and gender in the university. A study between Spain and Italy
Estrada Moreno, Irene Soledad.
irene.s.estradad@uma.es
Ruiz Mosquera, Ana Cristina,
Palma García, María de las Olas.
mpalma@uma.es
Universidad de Málaga

ABSTRACT
Currently, southern Europe is presented as a gateway to the continent for migrants, refugees, asylum seekers and international protection. Spain and Italy are two of the
countries with the highest number of migratory traffic. The educational institution forms a form of social integration of the collective and that is why the present research is framed within the university where the gender variable occupies special relevance. From a qualitative methodology and the case study with interviews, the importance of gender in migration, its process towards the university and its integration is highlighted. It is evident the difference of opportunities, difficulty and absence of the female group in migration focused on training, which is motivated by the subordination of the female gender to the opposite and the need for immediate incorporation into the labor market leading to jobs precarious motivated by the care of the family, and therefore to a lower social integration.

3.4 Iceland and migrants in police perspectives
Eyrún Eyþórsdóttir, Adjunct Police Studies. University of Akureyri, Iceland
eyruney@unak.is

ABSTRACT
Iceland has the highest employment participation of migrants among OECD countries (OECD 2017). The country's fairly homogenous population has grown significantly more diverse since the mid-1990s; as of 2018, 12.6% of Iceland’s population are migrants (Statistics Iceland 2018). Moreover, Iceland is a peaceful country with relatively low crime rates; the country has the most gender equality in the world (World Economic Forum 2018); socio-economic equality is relatively high and notions of human rights are widespread and fundamental in Icelandic society. Despite these positive indicators, the European Commission against racism and intolerance (ECRI) has regularly argued that the Icelandic police needs to be better trained on diversity. In their 2017 report, ECRI claimed that the rise of hate speech and crime in Iceland is worrisome and called upon the police to react. Furthermore, before the police education was transferred to the university level in 2016, police training, was criticized for excluding subjects that focused on social and cultural differences. This paper baes on study that is being conducted on police students and officer's views on and experience of diversity in Iceland. The study is partly built on a study done in 2008 on police officers views on diversity, which demonstrated that police officer’s argued that they were ill prepared for working in a diverse society. This paper, in particular, looks at what has changed since 2008, and what are the main obstacles in relation to diversity trainings of police in Iceland.

4. Integration and exclusion:

4.1 The transition to adult life of unaccompanied foreign minors and social exclusion
Ana Cristina Ruiz Mosquera
acruizmosquera@uma.es
Irene Estrada Moreno
irene.s.estrada@uma.es
María de las Olas Palmas
mpalma@uma.es
ABSTRACT
The study of the migratory phenomenon of unaccompanied minors continues being a challenge for the Spanish society in general and Andalusia in particular. It is a heterogeneous migratory actor that hinders the approach and the analytical treatment. We propose to study this phenomenon by establishing three stages to the guardianship situation that the Administration exercises over them from the decree of abandonment until the moment in which they get the majority age. It is there where the interest of the study is that the data dissipate and this sector of the population becomes invisible in the eyes of Spanish society. We conclude with the proposal of new research lines that help clarify and make a more effective intervention with these people who arrived in Spain as unaccompanied immigrant minors.

4.2 Margizens – exclusion and punishment of the Romanian Roma community in Poland
Witold Klaus, Institute of Law Studies, Polish Academy of Sciences
Witold.klaus@gmail.com

According to Schuilenburg (2014) margizens are ‘individuals and groups that are excluded from collective goods and services’. At the same time they are usually subjected to massive control as a dangerous population and are criminalised as others (Garland 2001). This is reflected very well in the situation of the Romanian Roma community in Poland. The community is not perceived by anyone – neither local authorities, nor members of the Polish society – as part of the local fabric. Romanian Roma face exclusion from public spaces, and other forms of discrimination. As nomadic people, they settle in spaces they find suitable for that purpose and build provisional, temporary homes for several families. The main occupation of members of this community is begging on the streets or in public transport in the biggest Polish cities. Living on the margin of society they are doubly excluded – as extremely poor people (who live in substandard conditions and earn a living by begging) and as ethnically different from the majority of the society. This situation continues even though the Roma community from Romania has been present in the biggest Polish cities since the beginning of the 1990s. For most of that time the community has been invisible to local authorities, which have turned a blind eye to its members. This has only changed occasionally, and in each of those situations the main reason behind the intervention of representatives of public institutions was an attempt to remove this community or to punish it in other forms.

4.3 Family reunification of migrant women in the Portuguese context
Marco Ribeiro Henriques, PhD candidate in Law at the Faculty of Law of Universidade Nova de Lisboa (FDUNL), Lisbon, Portugal.
mrh.researcher@gmail.com

ABSTRACT
Migratory movements are pockets of old controversies and state several quarrels. In this paper, we propose an approach to the right to family reunification in the
context of immigration, addressing, by way of introductory framework, the immigrant's role in the development of the European Union, in the economic, social and cultural areas, law that stems from the fundamental right of the human person indelibly with the family life. According some authors, shortly after the second world war and, as a result of it, was unleashed in Europe a migratory movement without parallel in other times bringing to more industrialized countries of Western Europe, family reunification policies they started to play an essential role in maintaining the health and well-being of workers who have migrated to these countries. Our approach focuses on favorable immigrant integration policies adopted by the Portuguese State, in particular through legal provisions concerning the right to family reunification contained in Portuguese standards that establish the regime legal entry, stay, departure and expulsion of foreigners from the national territory, also known as the law of aliens, which directly regulates family reunification of the immigrant. The work addresses, specifically, the grant of the right to family reunification to the immigrant worker legally and resident in a territory of a Member State, with a residence permit with validity not less than a year from now, as well as with other relatives in a broader approach to the family. The research concludes by scanning administrative and procedural obstacles that some Member States have managed to decrease, despite the external obligations, to strive for the realization of the fundamental right to family reunification.

4.4 Deprived of security, mobility and existence. The pains of being unauthorized in the Netherlands.

Mieke Kox
kox@law.eur.nl
Miranda Boone
Richard Staring

Ethnographic fieldwork amongst 105 unauthorized migrants in the Netherlands shows that unauthorized migrants suffer from the deprivation of healthy and secure living conditions, social and geographical mobility and existence. These deprivations are caused by current restrictive migration policies and practices. The unauthorized migrants' experiences resemble the so-called 'pains of imprisonment' that Gresham Sykes (1958) introduced to illustrate that severe bodily suffering of prison sentences had been – either intentionally or unintentionally - replaced by psychological pains. While we have been doubting whether or not to use the pains-framework as it is mainly used in penological studies and penal vocabulary is assumed to be both inappropriate and unsuitable to study unauthorized migration, we believe that using this concept has added value as this framework is not only a means to describe and explain the different experiences of migrants with migration control, it also offers a tool to reflect on the dominancy of the (possible) subjection to migration control, the (unintended) consequences it may have and the rationale behind migration control policies.
5. EU border policies II:

5.1 Criminalising migrants by the Law: proposal of a new Return Directive

Diego Boza Martinez, Assistant Lecturer on Criminal Law and Criminology at the University of Cadiz
diego.boza@uca.es

ABSTRACT
European institutions are discussing a proposal with a deep amendment of the Return Directive. When current text was passed, State members experienced a big impact on criminalising migrants due to the allowance of governmental detention for six months. However, at the same time, this legal text gave a big role to voluntary departure and other measures to avoid detention. In this paper, we study the proposal of amendment that is being discussed in European institutions. We will focus on the difficult match between the legal text and the international standards on Human Rights. Furthermore, the key aspects of the text that contribute to crimmigration are underlined. In this regard, the text creates an “obligation to cooperate” for migrants and for the cases that these obligations are not fulfilled, the States has the possibility to impose penalties. Also, the draft text develops a void concept of “risk of absconding” which means a reversal of the burden of proof. Consequently, this will generalize detention for irregular migrants. In this sense, we think that the adoption of the proposal will contribute to the criminalization of migrants and the violation of their rights.

5.2 Vulnerabilities and Fundamental Rights in a heterogeneous EU

Maria João Guia, University of Coimbra
maria.joao.guia@ij.uc.pt

ABSTRACT
The mass migration movement into the EU, including concerns about border control, the security of the host countries, the integration of migrants (although, according to the recommendations of the Council of Europe, the very concept of integration should itself be explored further), the social exclusion which they endured, racism, citizenship, human rights and many other related issues have been the topic of public discussion (especially amongst politicians and academia), for some years. The management and union of countries in Western Europe date back to the need to rebuild a Europe free, fair and respectful of human rights, installed after the chaos following the Second World War. An analysis of the treaties, conventions and decisions that were taken during this period, guided by a common economic aim, would lead us into different topics. I will treat, in this communication, the way in which some aspects of vulnerabilities have been exposed and treated to protect the fundamental rights of some human beings and how some others have been left behind, especially within the implementation of a space of (also) security with the Schengen Space. I will mainly focus in aspects related to human trafficking and smuggling of migrants in the EU and the common policies to manage migration and human trafficking.
5.3 Push-back operations in the Mediterranean sea: human smuggling at a crossroads
Salvatore Orlando, Post-Doc Research Fellow at the University of Palermo, Department of Law.
salvatore.orlando@unipa.it

ABSTRACT
This proposal addresses socio-legal issues related to the protection of victims of the recent migration crisis in the Mediterranean Sea, in which – as data shows – new illegal routes are widely exploited by human smugglers. The European Convention of Human Rights provides migrants – including, refugees, asylum seekers or even economic migrants – with a broad legal and humanitarian protection. However, some issues raise when such protection ought to be recognized beyond European borders, such as on the High Sea or even within other jurisdictions. In this sense, the concrete fulfillment of migrants’ rights depends on the proper application of the so-called principle of non-refoulment, which prohibits the States to “expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened […]” (Art. 33, Refugee Convention). This proposal claims that the prohibition of refoulment should not be limited to the territory of a State. Rather, it should apply extraterritorially, also covering any kind of push-back operation on the High Sea. In this sense, the European Court of Human Rights extended the extraterritorial reach of non-refoulment in Italy v Hirshi. As a result, this proposal explores new paths towards a right to mobility (or right to immigrate), which, if not existent in the books, might be today envisaged in action. However, this is only a small part of a bigger picture, because data shows that in the last years the number of deaths in the Mediterranean Sea is sharply increased.

5.4 Irregular migration – is it a threat to Polish borders?
Magdalena Perkowska, PhD, Department of Criminal Law and Criminology
Faculty of Law. University of Białystok, Poland
magdalena.perkowska@gmail.com

ABSTRACT
The main aim of this paper is to examine the threat to the security of Polish borders, especially the Eastern border which is the external border of the EU. Poland’s border is 3500 km long, 1580 km of which is the Polish section of the external European Union border. The paper presents the Polish position on European migration maps in the recent years. The author focuses on the threat of illegal migration on the basis of data for illegal border crossings in years 2015-2017 across Polish borders. These data are compared with situations of the other EU external borders. The author also refers to the number of asylum requests in Poland, which helps to present the scale of the phenomenon and to demonstrate why Poland rejects so many requests. The data are analyzed in relation to the Polish government’s position against accepting any immigrant quotas. This standpoint is politically justified due to Poland’s specific immigration situation. The case of Ukraine, a Poland’s neighbouring country with an unstable political situation that influences both illegal and legal migration, may serve as an example here. The author compares the government’s position with the
real situation and evaluates the possible threat to border security. The analysis conducted refers to the situations of the other sections of the EU external border.

6. Trafficking in human beings:

6.1 The impatient legislator(s) and the human trafficking issue
Riccardo Ercole Omodei, Università degli studi di Palermo
riccardoercole.omodei@unipa.it
riccardo.omodei@gmail.com

ABSTRACT
The paper aims at analysing the recent developments of European legislation on human trafficking in order to underline its weakness. Rather than protecting victims, the Directive 2011/36/UE is devoted at defending States from transnational criminality. Nevertheless, the awful market of human beings has been expanding over the years, reaching an alarming dimension. Therefore, the transnational criminality operating in this field proved to have an outstanding “malleability” due to its structure, which is usually characterized by a quite limited number of members, and by a high fluidity in the organization roles. Moreover, the practical facets of the criminal phenomenon make it harder to face this kind of criminality. Human trafficking is a complex criminal process divided in, at least, four different phases: recruitment, transportation, exploitation and the laundering of proceeds. This led the lawmakers to adopt very wide law definitions that may undermine the general criminal law principles. By analysing the art. 601 of the Italian criminal code, the paper aims at showing how the need to fight this tough criminality led the legislators to opt for policies that can be included in the theory of Criminal law of the enemy. The supporting idea is that this wide criminalization approach is useless as well as dangerous for relevant constitutional principles. Therefore, a better way to face this kind of criminality is switching the focus from the criminal law point of view to a broader counteraction, which includes the investigations/law enforcement facets (such as the so-called Barrier Model).

6.2 The victim of trafficking in human beings as an author of crimes
Margarita Valle Mariscal de Gante, Profª Contratada Doctora Departamento de Derecho procesal y Derecho penal - Facultad de Derecho, UCM
mvalle@ucm.es

ABSTRACT
In the context of the crime of trafficking in human beings, it may happen that, from the beginning of the recruitment process, the victim is forced, for example, to use false documentation to facilitate their transfer from one territory to another, or to carry out of property crimes (thefts) or crimes against public health (trafficking of small amounts of drugs), usually in the context of sexual exploitation or exploitation for begging. It can also happen that the victim has been directly captured for exploitation through
the commission of criminal activities. In all these situations, the victim of trafficking is in itself the author of different crimes, which makes him/her a delinquent, and makes it easier for the system to identify him/her, in a first step, as an author of a crime, but without being able to advance towards his/her real identification as a victim of trafficking. This identification error leads, inevitably, to a "revictimization" of the trafficking victim. It is essential to analyse how, despite the indications that may lead to affirming that we are facing a victim of trafficking, the first and sometimes only identification that takes place is as the author of crimes. It is also necessary to confirm in what way the legal system articulates the response to respect the principle of non-incrimination of the victim of trafficking established in international instruments, and if this regulation is really useful to avoid the already mentioned revictimization process.

Silvia Rodríguez-López, University of A Coruña (Spain)
s.rodriguezl@udc.es

ABSTRACT
The so-called “3P” paradigm, focused on prevention, protection and prosecution, constitutes the basic anti-trafficking framework around the world. The core idea behind this strategy is trying to combat human trafficking holistically and from a human-rights approach. However, most States have traditionally given more importance to the prosecution of traffickers and the repressive control of migration flows, overlooking the root causes of trafficking and the need to guarantee victims’ protection. This paper systematises and analyses the most recent available data regarding the application of anti-trafficking measures adopted in Spain, in order to determine to what extent the attempt to control human trafficking from a human rights-based approach has been successful. In particular, this paper will offer information regarding the conviction of traffickers, the identification of victims, the granting of recovery and reflection periods and work and residence permits, as well as the existence of accommodation options for trafficked people. Overall, the results show that, although the change in paradigm is taking place very slowly, the focus on the prosecution of stereotypical cases of sex trafficking is still prevalent, while prevention, protection and assistance are still defective.

6.4 Labour trafficking in Chinese restaurants in the Netherlands and the role of Dutch immigration policies. A qualitative analysis of investigative case files
Masja van Meeteren
m.j.van.meeteren@law.leidenuniv.nl
Ellen Wiering

ABSTRACT
There are almost 2,000 Chinese restaurants in the Netherlands. The sector has traditionally argued that it is difficult to find qualified personnel to staff their restaurant kitchens. Dutch immigration policies are strict, making it difficult to recruit migrant workers. Chinese restaurants have therefore actively lobbied for an exceptional position. The Dutch government has responded with a special arrangement for Chinese (or Asian) cooks, making it easier to recruit directly from abroad. In this contribution, the policy arrangements and the main argumentation leading up to it are explained. Furthermore, 8 investigative police files on human trafficking cases involving Chinese restaurants have been analysed. These show how labour trafficking schemes are set up that take advantage of the room provided by Dutch migration policies, and how such arrangements have facilitated labour exploitation in these cases. In line with the literature on migrant labour schemes in the Middle East and South-East Asia, it is concluded that immigration schemes for Chinese cooks in the Netherlands create vulnerabilities for the migrants involved which makes them easy targets for exploitation.

7. Deportation and detention:

7.1 Removing EU nationals: An unexplored dimension of the UE deportation system
José A. Brandariz, University of A Coruna, Spain
jabrandariz@yahoo.de

ABSTRACT
In the framework of the EU immigration law regime, EU nationals are entitled to a privileged legal status, which is much more inclusive than that of the so-called third country nationals. Consequently, the Citizens’ Rights Directive (Directive 2004/38/EC) regulates the forced removal of EU nationals as an exceptional measure, which should be a minor component of the EU deportation regime. In contrast to this regulation, the deportation of EU and EFTA citizens has been on the rise over the last decade. Both in Britain and France, thousands of EU nationals are deported per year to their – mainly Eastern European – home countries. This paper delves into this increasingly salient deportation phenomenon by scrutinising the Spanish case. In Spain, the number of EU deportees has skyrocketed since the late 2000s. However, this phenomenon is largely unknown, even within academic and activist circles. This presentation aims to contribute to bridge this knowledge gap, by examining the forces that have fostered this deportation turn in the management of EU national populations.

7.2 The criminal deportation of foreigners in Chile: towards a new way of understanding punishment?
Roberto A. Dufraix Tapia, Universidad Arturo Prat - Iquique-Chile
robertodufrain@gmail.com

ABSTRACT
According to Pickering, Bosworth and Aas (2015), studies on delinquency and migration have resulted in the emergence of a criminological sub-field aiming at the
analysis of ideas around citizenship and government. Based on the analysis of border control strategies, this ‘criminology of mobility’ helps to understand not only the labeling process of foreigners as criminals, but also represents a strong analytical framework for the study of the transformations of social control, punishment in particular. From this perspective, the criminal deportation of foreigners in Chile offers significant opportunities. Firstly, since it can only be applied to irregular foreigners, it tends to redraw the notions of citizen / non-citizen, thus reorganizing the priorities and goals of control. Secondly, as criminal deportation in Chile involves the decarceration of the subject, punishment tends to give prominence to its symbolic effects. Thus, these singularities around deportation tends to move away from traditional theories around this particular form of punishment. Based on the above, the proposed paper seeks to analyze the basis and effects of this form of deportation with the purpose of revising its theoretical justification and discussing its latent and manifest functions in the field of border control.

7.3 Pressured into a preference to leave? A quantitative analysis

Arjen Leerkes (prof. dr.), Erasmus University Rotterdam, Department of Public Administration and Sociology Maastricht Graduate School of Governance
leerkes@essb.eur.nl

ABSTRACT
Immigration detention is formally not a punishment, but governments do use it to deter illegal residence. Based on a unique survey (N=460) among immigration detainees in The Netherlands, this study examines how detainees' migration preferences develop during immigration detention. More specifically, we examine whether and how aspects of deterrence (perceived severity and risk) and perceived (il)legitimacy of the detention (perceived outcome and process legitimacy) impact detainees’ migration preferences. The results provide support for procedural justice and deviance theory in two main ways: (1) detainees who develop a willingness to leave the Netherlands also tend to attribute some measure of legitimacy to immigration detention and deportation, and (2) the effects of perceived severity of immigration detention are limited because it tends to undercut perceived process legitimacy.

7.4 Path of detention of migrants in Spain: from CATEs to CIEs

Devika Pérez Medina, Master on Criminal System and Crime
devikaperez@hotmail.com
Diego Boza Martinez, Assistant Lecturer on Criminal Law and Criminology at the University of Cadiz
diego.boza@uca.es

ABSTRACT
During last year, Spain has become the main point of arrivals of irregular migrants from Africa. The previous trend situated Spanish route as the third one, just after Greek and Italian paths. This factual change has had a relevant impact in Spanish migration management. After a decade without changes, last year Spain has
introduced a new institution for migrants. It is called CATE (an acronym that could be translated as “center for temporary care of foreigners”). In spite of its name, CATE is a detention place, supplementary to the traditional Spanish place for migrants detention: CIEs. In this contribution, we try to establish the path that an irregular migrant follows from its arrival to Spanish coast until its deportation. We will focus on the places in which it could be detained. Furthermore, the regulations and conditions of these places are underlined. Lastly, we will also analyze the figures about CIEs and CATEs.

8. Policing foreigners:

8.1 Border guards’ and courts’ view on facilitation of irregular migration – the case of Poland

Monika Szulecka,
Institute of Law Studies, Polish Academy of Sciences
m.szulecka@inp.pan.pl

ABSTRACT

The proposed paper is aimed at answering the question what activities are identified as facilitation of irregular migration by Border Guard (the main law enforcement agency responsible for preventing irregular migration and combating crimes linked with it in Poland) and brought to the courts. The above question is followed by analysis of criminal courts’ verdicts regarding the acts identified by Border Guard (BG) as facilitation of irregular migration in the Polish context. The paper will refer to two kinds of data: 1/ 36 in-depth interviews with BG focused on preventing irregular migration in Poland, conducted in 2015, supplemented by other BG data, and 2/ selected court files regarding facilitation of foreigner’s stay in breach to the law, assessed by the courts between 2005 and 2017 (243 cases covered by the study). Analysis based on these sources allow to trace the formal reaction (or lack of it) to behaviours linked with organising border crossing and facilitating foreigners’ stay perceived as not compliant with the law in force. The mentioned data also offer potential explanations to observed paradoxes regarding formal reaction and its consequences. The mentioned data cover the period between 2004 and 2018, which allows to ask the question if and how the processes of identification and court assessments, as well as application of criminal sanctions with regard to behaviours linked to facilitation of irregular migration, have changed in last years, especially since 2015. Although Poland has not experienced the recent refugee/migration crisis directly, this year brought a visible change in the state’s approach towards controlling inflow of foreigners.

8.2 Migratory flows and Neapolitan “informality”

Michelangelo Pascali, Università degli Studi di Napoli “Parthenope”, Dipartimento di Giurisprudenza
michelangelo.pascali@uniparthenope.it
ABSTRACT
The aim of this article is to analyse the relationship between immigration, Neapolitan surroundings and legality from an original and specific point of view. Naples and the surroundings are affected by a high degree of “informality” that often translates into infringement of multiple laws and regulations. The question arises as to whether such peculiarities of the Neapolitan area could, at least partially, influence some aspects of migratory flows such as migrant’s entry, stay and exit or even affect the “quality” of the migratory flows. This study, that applied both quantitative and qualitative research methodology to analysed migrant integration within a context where regulations are often not followed, brought us to conclude that despite informality/illegality is recognised as an opportunity by some migrants, the economic and legal context of the Neapolitan area (with all the consequences related to urban safety, and working rights and opportunity) are at the same time attracting and repelling peculiar migratory flows, playing a strong and ambiguous role within the social integration issue.

8.3 Policing the internal borders in the refugees’ crisis: what role for the international relations?
Giulia Fabini, Research fellow, Department of legal studies, University of Bologna giulia.fabini@unibo.it

ABSTRACT
The control of undocumented immigration in Italy has traditionally relied on low numbers of migrants removed and, more recently, decreasing trends of migrants detained in detention centres. From empirical research, it emerges that undocumented migrants live in a context of almost undeportability and the police manage their illegality and use immigration detention selectively, to ban from the urban space those migrants perceived as dangerous. However, a more nuanced understanding of the policing of internal borders might be proposed by looking at the undocumented migrants not as a whole, but as a variety of groups experiencing different forms and degrees of control. In fact, the situation of undeportability does not affect all the undocumented migrants in the same way, as the possibility of being deported varies depending on readmission agreements and, thus, migrants' nationality. Moreover, during the refugees’ crisis new typologies of illegalized migrants appeared, such as “failed asylum seekers” and “economic migrants”, and it is here hypothesized that migrants’ nationality plays a role in illegalization processes, too. This paper explores how different groups of “illegalized” migrants have been managed during the refugee's crisis, by comparing the numbers and nationalities of migrants detained and removed. It also explores the role of the “reception system” in dealing with the “illegalized migrants”, by comparing the numbers and nationalities of migrants within the reception system and excluded from it. In the conclusions, the paper calls for a more attentive examination of the influences of international relations in the domestic policies of migration control.
9. Children and teenagers in migratory contexts:


Ioannis Papadopoulos, Attorney at law (LL.M.), Ph.D. Candidate ICJS, UoP. Institute of Criminal Justice Studies (ICJS).

Marijke Van Buggenhout, Teaching assistant and doctoral researcher – Research Group Crime & Society

ABSTRACT
Protecting children’s rights under the scope of the UN Convention on the Rights of the Child (UNCRC) and embodying them in domestic policy, has always been a goal to be achieved for all ratifying member States. In the meantime, due to the massive migration flows arriving in the European continent, critical questions are raised and new theoretical concepts in the field of juvenile justice and migration policing are introduced. According to a children’s rights approach, unaccompanied migrant minors (UAM) are considered to be particularly vulnerable, for which reason they are entitled to special care and guarantees upon arrival in the host country. However, UAM often become part of the crimmigration debate, especially when irregular entry is criminalized and UAM are placed in detention, thus experiencing victimization and deprivation of basic human rights. Hence, a clear tension is observed with regard to the relation between the best interest of the child principle and the need for UAM to be heard concerning either procedures of protective custody applied upon them, or whether or not they speak the truth in asylum interviews, aiming to receive international protection. In this paper, perspectives from the disciplines of both law and criminology will be combined and researchers from different academic backgrounds and nationalities will reflect on children’s rights in the context of migration, the criminalisation of illegal entry and asylum decision making processes, by introducing their ongoing research projects. The presenters will draw attention to methodological peculiarities whilst arguing for holistic and interdisciplinary approaches in order to develop rights-based research methods, aiming to grant UAM a central role in research.

9.2 Victimization stories of unaccompanied foreign minors

Fátima Pérez Jiménez, University of Málaga
fatima@uma.es

ABSTRACT
This study is the result of an investigation into the victimization stories of young people who came to our country as minors and without the company of an adult. For the study we have focused on four different areas: family context, violence among peers, contact with police authorities, as well as time spent in child protection.
centers and other institutions. The information has been collected through eighteen interviews with minors under the care of the Administration and young people who have reached the age of majority currently resident in Malaga. The violence they have suffered and to which these young people have been exposed throughout their childhood and adolescence is made visible, and the constant violation of rights that many of these children suffer is reported.

9.3 Moroccan teenager crossing Europe: local advances and international challenges for their protection

Elisa García-España
elisa@uma.es
Jacqueline Carvalho da Silva
dasilva@uma.es

ABSTRACT
The presence of foreign unaccompanied minors in street situation is a reality in some European cities. They are unprotected children and teenagers, exposed to criminal and victimological risk. The legal commitment to protect these minors, regardless of their status as immigrants, has put in check the European protection systems, guarantors of the well-being of every child in a situation of helplessness. Ceuta, as well as Melilla, faces this challenge more intensely due to the permeability of its borders with Morocco. In this context, Ceuta has signed an agreement with the University of Malaga, implemented by the Observatory of the Crime control system towards Immigration (OCSPI), to develop a pilot project of research and social intervention to prevent juvenile delinquency and protect these minors. Based on criminological theories of juvenile delinquency prevention and immigration, the specific objectives of the program are: to make a diagnosis of the situation of minors that do not adhere to the protection system; assist them in some basic needs; to develop strategies to prevent criminal behavior and to intervene with these children individually to provide individual responses, through the protection system, focusing on the child’s best interests. In addition, the program aims to work with the key agents of the city, such as the police, for the protection of these minors and increase social peace. In this communication we will present the evaluation of implementation and results of the program (during 2018) and discuss the main challenges for Europe and positive aspects of this pioneering initiative.

10. Penal policies and migration policies:

10.1 Politics, migration and penality in Argentina

Máximo Sozzo, Universidad Nacional del Litoral, Argentina
msozzo80@gmail.com

ABSTRACT
This presentation intends to anatomize the emergence and mutations of the relationship between migration from certain Latin American countries and crime as
a problematization and its translation into the penal field in Argentina from the 1990s to the present, highlighting the role of political changes. First, it analyzes, in the context of the New Right governments, how this problematization was socially and politically constructed and it was connected to a strengthening of the symbolic and material structuring role in ethnic boundary making by penal institutions, particularly in the City of Buenos Aires and Great Buenos Aires. Then, it explored how the ascendance of a "postneoliberal" government coalition produced a series of progressive initiatives in relation to migration, that impacted only moderately on previously shaped penal strategies and practices. Finally, it attempts to examine the ongoing changes after the New Right political coalition that came to power in 2015 launched new regressive initiatives in relation to migration and security policies.

10.2 Brexit as a triumph of crimmigration
Diego Boza Martinez, Assistant Lecturer on Criminal Law and Criminology at the University of Cadiz
diego.boza@uca.es

ABSTRACT
Immigration has become an electoral weapon. Politicians has used the dissemination of a negative image of immigration to improve their electoral chances in several contexts/occasions. The focus of hate speech based on immigration revolve around linking immigration and crime. Brexit campaign can be considered as a big example of this misuse of immigration. In fact, as Brexit campaign was about choosing between two options, it is a good indicator to measure the impact of hate speech about migrants because we can identify better the evolution of the voters. The use of immigration and the link between it and crime as an effective tool to gain votes during the Brexit campaign are discussed in this contribution. In this way, we analyze the frontpages of British newspapers and tabloids during the two previous months to election and the references to immigration. We have studied the possible links between that use and the evolution of the surveys and polls results. Also, we have analysed the presence of immigration on frontpages in other periods of time, before and after that campaign. As a conclusion, we can establish that, during Brexit campaign, Brexeters has focused on immigration -mainly crimmigration- as their key element to win the referendum.

10.3 Delinquency of settled immigrants in Malaga: methodological challenges
Jacqueline Carvalho da Silva, Observatory of the Crime control system towards Immigration – OCSPI. Institute of Criminology - University of Malaga
dasilva@uma.es
Bertha Prado, Observatory of the Crime control system towards Immigration – OCSPI. Institute of Criminology - University of Malaga
bprado@uma.es
ABSTRACT
The debate on the relationship between immigration and crime is current in Spanish society. Despite the research in Spain and other countries such as the United States, which demonstrate that it is not possible to establish a direct relationship between the increase in immigration and the increase in crime (García-España, 2018), social representations and the Media insist on relating these phenomena. On the other hand, the official data available on immigration and crime has limitations, it represents only the cases identified by the criminal control system and reflect the biases of their personnel: some groups of the population are more controlled by the police, among them immigrants with specific ethnic characteristics (García-España et al., 2016). In addition, there are difficulties in the conceptual differentiation between settled immigrants and the foreign population detained at the Spanish borders without prior residence in Spain (García-España, 2017; Borrego, 2011). In that sense, there is a lack of research to better understand the relationship between settled immigrants and crime. One of the reasons that explains this lack is the existence of different methodological challenges to approach the study of this phenomenon. In order to discuss such challenges and propose possible alternatives, the DIA Project (Delinquency of Settled Immigrants in Malaga) is used as a case study, whose results contribute a complementary perspective to the official data. The main challenges encountered during the execution of the project are related to access to the sample of settled immigrants, as well as to the limitations of the self-report instrument.

11. The transformation of borders from below:

11.1 Transforming Borders From Below: Shifting the Analytic Gaze of Border Criminology
Dr. Nancy A. Wonders, Professor Department of Criminology and Criminal Justice
Northern Arizona University
nancy.wonders@nau.edu

ABSTRACT
A sizable body of research within the ‘criminology of mobility’ has documented the many adverse impacts associated with the growing criminalization and securitization of migration by contemporary nation-states in the west, including for border crossers, democratic processes, and human rights. While this research has been very valuable, it has been criticized for being nation-centric since it tends to conceive of borders and bordering primarily from the “top down,” largely ignoring the agency and everyday experiences of border crossers. However, in a globalized world, the exercise of power is increasingly multiscale (Sassen, 2008; Wonders 2017) and transformations within the nation-state have created the conditions for some kinds of power to be effectively exercised at other scales (Gambetti and Godoy-Anativia, 2013; Sassen, 2015). This session features some of the theoretical insights and empirical research developed for a forthcoming issue of Theoretical Criminology entitled “Transforming Borders From Below: Theory and Research from Across the Globe” (co-edited by Marie Segrave and Nancy Wonders). The special issue shifts the analytic gaze of border criminology away from how nation-states create borders.
and bordering and instead focuses on strategies and tactics employed by ordinary people to reimagine, challenge, and transform borders and bordering. Theorizing bordering and border crossing in dynamic terms - as a relational process, as a performance, as a struggle, and as a social movement - reveals the individual and collective power of border crossers, citizens, organizations, and local communities to transform contemporary borders and bordering “from below.”

11.2 Towards a theoretical typology to explore border activism in border criminology studies
Cristina Fernández Bessa, Investigadora post-doctoral Universidade da Coruña
c.fernandezb@udc.es

ABSTRACT
Based on a case study of border struggles within the city of Barcelona since the beginning of the 21st century, this article examines diverse types of border activism. Border activism refers to collective efforts by ordinary people to modify, mitigate or even dismantle a border regime. While several migration and citizenship scholars have analysed migrant protests and struggles, these accounts have been hardly taken into consideration within the field of criminology. My work contributes to this vacuum. Specifically, this article develops a theoretical typology for analysing four different forms of border activism: migrant struggles; de facto citizen struggles; border protests; and institutional border activism. For each form of activism, I consider its framework, the subject position of the political actors involved, the repertoires of contention utilized to achieve change and the impact of the different kinds of local actions for reshaping the border regime and the lives of migrants.

11.3 Internal bordering in the context of undeportability: border performances in Italy
Giulia Fabini, Research fellow, Department of legal studies, University of Bologna
giulia.fabini@unibo.it

ABSTRACT
In a contemporaneity of high mobility, porous borders, and harsher immigration laws, the great majority of illegalized migrants are not deported; they remain in the territory in a condition of legal non-existence. Through a case study of the interaction between illegalized migrants and police in Italy, this article demonstrates the utility of the concept of “border performativity” for the research on border control. It reveals how “differential inclusion” operates in a particular site, and it uses Althusser’s concept of interpellation in its discussion of discipline and resistance in the mechanisms of internal bordering. Finally, my development (and use) of the term undeportability extends theory by urging criminologists of mobility to consider contexts in which choices are structured by the inability of officials to fully deploy the deportation regime.
11.4 Migration as ‘Crisis’ and The Power of Cities in Troubled Times: Local Challenges to the Politics of Exclusion and Expulsion

Dr. Luis Fernandez, Professor Department of Criminology and Criminal Justice
Northern Arizona University
luis.fernandez@nau.edu

Dr. Nancy A. Wonders, Professor Department of Criminology and Criminal Justice
Northern Arizona University
nancy.wonders@nau.edu

ABSTRACT
An important transformation associated with neoliberal globalization is the expanding power of the executive branch of government in many Western nations (Sassen, 2008; Wonders, 2016). This dynamic has been accelerated in the U.S. under the Trump Administration which has increasingly utilized executive power for both the exclusion and expulsion of migrants, largely by framing migration as a ‘crisis’ justifying securitization. Given the expanding use of executive power to shape migration policy in the U.S. and other Western nations, it is valuable to examine how and where ordinary people can challenge the politics of exclusion and expulsion and promote greater social justice for border crossers in troubled times. Drawing on scholarship on the changing character of nation-states (Sassen, 2008; Wonders, 2016), the social construction of citizenship and difference (Isin 2008, 2012; Wonders and Jones, 2018), the multiscalar production of bordering (Laine, 2016; Wonders, 2017), and the growing power of cities (Barber, 2013, 2017; Sassen, 2018), we examine specific local level initiatives and types of activism that challenge the power of the nation-state to exclude. Focusing primarily on the U.S., we explore a variety of strategies that: challenge the exclusive authority of nation-states to define the meaning of legality, citizenship and rights; address the structural inequalities that create the conditions for precarity and “othering”; and pro-actively build multi-scalar bridges between migrants and potential allies. We assess the strengths and weaknesses of local-level approaches for creating meaningful social, legal and global change and for reinvigorating democratic processes currently under threat throughout the West.

12. Crime and the criminalization of immigrants:

12.1 Are young people of migrant origin more crime prone than native youths?:
a dynamic approach with data from ISRD-3 in Portugal.

Gloria Fernández- Pacheco, lecturer in Criminology, Universidad Loyola Andalucía (Sevilla)
gfernandez@uloyola.es

ABSTRACT
Differences in crime involvement between young people of migrant origin and native young people in a European urban context has been one of the major topics of study in criminology during recent decades. This interest stems from the fact that immigrants are
over-represented in the crime statistics of many European countries. In this study, we use the Situational Action Theory (SAT) to determine whether situational factors, morality, and individual factors differentially influence crime propensity in second-generation young migrants living in Portugal compared to native youth. A dynamic perspective of youth crime could help us to better understand the key elements of second-generation crime propensity. Using the Portuguese International Self-Reported Delinquency study (ISRD-3) dataset, which included 4043 adolescents aged 12-18, we evaluated the data from school samples collected in Lisbon, Porto, and Braga during the 2015-16 school year. Our results show that the SAT model can more accurately predict crime propensity in first-generation young migrants in comparison to native youth. No differences are shown between second-generation and native adolescents. Nevertheless, in three samples, peer delinquency and morality are significantly related to the choice process for committing a crime. The results suggest a good acculturation of second-generation migrants living in Portugal, which could be a starting point for examining integration policies in Europe.

12.2 Not citizens, not real people. The Italian way in criminalization of migration
Laura Scomparin, University of Torino
laura.scomparin@unito.it
Giovanni Torrente, University of Torino
giovanni.torrente@unito.it

ABSTRACT
Our paper addresses the Italian reaction to migration and the instrumental use of the criminal justice system in facing this phenomenon. Through the lens of a lawyer and a sociologist, we would like to point out how a democratic country with high standards in the protection of human rights can use criminal law as the main instrument in managing the increasing of social security demands connected to the migration flows boom. The analysis would deal with each stage of the penal system: - the criminal law, as drawing specific crimes strictly connected with migration phenomena discloses a clear choice of criminal policy - the criminal procedure, as rules thought for protecting “gentlemen defendants” (quoting a historical definition) do not comply with disadvantage accused who must stand in trial with free legal assistance and strong language barriers, so that the final result is an easy conviction that opens doors of jails; - the prison system, where the final and most evident result of this approach comes out: the radical change in prison population with an overwhelming increase of foreign detainees leads to a crisis of the rehabilitative ideal and a reshaping of prisons into spaces of segregation. To conclude, our aim is to point out the gap between Italian/EU citizens and migrants in criminal law and to show how this “double track” - providing protection and safeguard for the former, and few guarantees and segregation for the latter – nowadays is one of the most relevant challenges for lawyers and sociologists.
12.3 Breaking Bad: when the State’s “reception,” as the legal parent of unaccompanied immigrant minors, pushes them to the dark side of life

Núria Empez Vidal Collectiu Hourria, Barcelona
nempez@hotmail.com
Caroline H Bledsoe Northwestern University, Chicago
cbledsoe@northwestern.edu

ABSTRACT
The reception of unaccompanied immigrant youth under age 18 in Spain is built on legal contradictions. Under humanitarian law, these youth are wards of the state: innocent but neglected minors requiring state protection and assimilation lessons to become productive, independent adults. Criminal law, however, sees them as irregular migrants and juvenile delinquents requiring control, with especially severe consequences - including possible deportation - when they reach adulthood. This paper asks how these conflicting normative systems have shaped what we see as Spain’s increasing efforts to minimize humanitarian frames for dealing with unaccompanied African immigrant children, and instead to press labels of criminality onto them. While those individuals who are lucky can obtain residence permits, few obtain work permits, forcing even many of those with residence to survive by joining gangs or begging and stealing on the streets. Once they turn 18, those with no legal residence – and those who cannot renew their residence permits because they cannot get work or because they encountered legal trouble as children -- become irregular adults. All this forces individuals who came to Spain as unaccompanied minors ever-deeper into the social margins, virtually assuring that they will become criminals on or soon after their 18th birthday. There are two main data sources for this paper: (1) nearly 20 years of work and research by Nuria Empez Vidal with unaccompanied North African minors coming to Catalonia, and (2) a collective 2004+ anthropology/demography project on “Transnational Vital Events” in Africa and Europe.

13. Solidarity, Sanctuary cities and Resistance against borders:

13.1 The crime of aid for irregular immigration without profit regulated in art. 318 bis of the Spanish Criminal Code: does it protect a legitimate Rechtsgut?

Francisco Salvador de la Fuente Cardona, Criminal Law PhD Candidate, Universidad Complutense de Madrid - Predoctoral researcher, Oriol-Urquijo Foundation
fcfuente@ucm.es

ABSTRACT
With the arrival of the 21st century, it has been initiated a migratory policy of “defensive” nature, promoted by the EU States through the community institutions, which has been permeating our national criminal codes. Some of the recent legislative decisions that have been taken are positive, such as the introduction of trafficking in human beings. However, there are other new articles such as art. 318
bis that, far from protecting the rights of foreign citizens in situations of vulnerability, seek to reinforce the State’s interest in the control of migratory flows through the criminalization of aid for irregular immigration. This state control of migratory flows is legitimate and achievable through other Law sectors such as administrative law. Nevertheless, we believe that strengthening this objective through criminal law generates intrinsic problems in a discipline that is characterized by its guarantees and the protection of Rechtsgüter. Precisely, since joying our Criminal Code in 2000, the main problem that has arisen in the analysis and practical application of the art. 318 bis is the determination of the Rechtsgut protected. It is included in the Title XV bis which establishes “Crimes against the rights of foreign citizens” but its wording offers another answer. The exegesis of one or another Rechtsgut will lead to areas of non-criminalization and to a critical evaluation of that crime in light of its legitimation. For this analysis we will also rely on the latest case law of our Supreme Court: SSTS 11/2018, 108/2018, 114/2018, 388/2018 and 400/2018.

13.2 Against solidarity: the case of Ventimiglia
Federico De Salvo, EHESS
dessa0785@gmail.com
Graziella Marturano, PhD, Università degli Studi di Genova

ABSTRACT
In 2015 France, as many others european countries, suspended Schengen. The hardening of control on the french-italian border leads to critical numbers of migrants who stay in distress in the border city of Ventimiglia, a situation that, with a lot of changes and a lowering in numbers, still exist. Migrants at the borders are object of local xenophobia, but they also receive solidarity from different realities as local associations, international NGOs and militants. Some of them simply provide assistance, while others work on different level: building networks, collecting informations or contesting the border policies. Together to criminalization of migration, in the latest years, there has been a strong criminalization of the solidarity towards them. On both sides of the border there have been cases of so-called "solidarity crimes". In Italy, a lot of politicized activists has been put away by a huge use of “foglio di via”, an administrative tool, also used against simple actions as giving food, which was were forbidden by an ordinance of the mayor. Outside these administrative instruments, there are more heavy penal procedures or more subtle pressures by the police as continuous identifications that touch also the volunteers of big NGOs. In this paper we analyse the evolution of the repression of solidarity in Ventimiglia (Italian side) using interviews and reports, and we’ll try to find the links to the parallel evolution of national policies against NGOs and solidarity.

13.3 Solidarity under siege: the crimmigration of activism(s) and protest against border control in Spain
Ana López-Sala. Spanish Council for Scientific Research (CSIC)
aa.l.sala@cchs.csic.es
Over the past two decades the creation of the European border regime and the acts of protest and resistance by immigrants have been increasingly accompanied by initiatives to defend immigrant rights. This activism in support of migrants has provoked a response from many European states to formalize what is known in the literature as “crimes of solidarity” in their legal systems. Taking the Spanish case as an example, the objective of this article is to analyze the “crimmigration” of protest and activism in favor of the rights of irregular immigrants at Europe's southern border (Spain). This analysis describes the development and implementation of the repressive tactics employed by the state against activists, including forms of police control of protests, informal and formal dissuasion techniques and the use of administrative and criminal sanctions. This analysis provides valuable insight into the practical impact of these crimmigration processes, particularly how they have affected activists and social organizations. The analysis presented is based on extensive empirical evidence gathered from different legal, media and academic sources. The analysis also analyzes information from meetings and in-depth interviews with activists from different organizations and platforms. The interviews were carried out from the middle of 2016 to the start of 2018 in Madrid, Barcelona, Andalusia and Melilla.

Since December 2017 undocumented migrants who live in Barcelona may apply for the so-called 'neighborhood document'. Inspired in municipal IDs that are spreading in the last years mainly in US cities, Barcelona's initiative is one of the concrete measures that have been launched by European municipalities to acknowledge the presence of undocumented migrants and to protect them from deportation. This first 'sanctuary' measure implemented in a Spanish major city has drawn the attention of immigration stakeholders in many countries. The proposed paper will present the main findings of the first research on Barcelona's neighborhood document. Based on qualitative research, legal study and the analysis of the 700 files that ended up with issuing the document, the paper will provide evidence-based information on the profiles of undocumented migrants who have obtained the document, the criteria used by municipal officials to issue the document and about the legal and political impact of this initiative during its first year of implementation.
14. Protecting migrants:

14.1 The protection of foreigners through the Radbruch formula.
Irene Galatola, Phd student in “Roman law, Theory of legal systems and private law of markets” curriculum focused on Philosophy of Law - Sapienza University of Rome.
irene.galatola@uniroma1.it

ABSTRACT
The paper deals with the European approach and the Italian legislation about the protection of foreigners in the light of the most recent regulatory interventions, with the intention of noting some important issues that have been challenging philosophers of law.
First, it focuses on the notion of supra-statutory law [ius cogens] as defined by Gustav Radbruch after the atrocities committed during and after World War II. By the end of the era of totalitarianism such rights and duties were generally recognized, and consequently the universal legal system developed in order to mark the supremacy of values such as humanity, peace and solidarity. The 19th century was, in fact, the age of the rise of human rights and the actualization through international criminal jurisprudence of war crimes and crimes against peace and humanity. The universal concept of human being took hold as the standard criterion to identify the inalienable rights of mankind. Second, the paper proposes the analysis of the right to asylum, described by Hannah Arendt as «the symbol of human rights, the only one internationally recognized and the last legacy of the medieval principle on the basis of quid est in territorio est de territorio» [The origins of totalitarianisms, 1951]. Specifically, it is intended to consider the Italian legal rules. In the end, employing the supra-statutory law notion and the well-known Radbruch formula, it points out the normative contradictions and gaps of the Italian and European system regarding the protection of foreigners.

14.2 Deterrence of environmental crimes and migration phenomena through the proposal of an Ecocide Act
Ascensión García Ruiz, Profa. Ayudante Doctora Departamento de Derecho Penal y Criminología UNED
ascensiongarcia@der.uned.es

ABSTRACT
One of Ecocide’s most visible consequences is eco-migration, i.e. migration caused by disparate environmental factors, sometimes produced indirectly e.g., forced migration processes due to the massive destruction of wildlife in particular areas, persistence of the lowest quality of life for inhabitants, child labour in highly polluted zones, etc., and at times due to environmental practices on the part of transnational corporations as well as other problems that appear hugely associated with nature disorganization and inequality on accessing to natural resources. Despite all this, there is currently no international criminal justice system measure devoted to protecting the environment from harmful effects of ecocide or to extending to the suffering of native populations in territories affected by environmental damage resulting in forced migration flows. This work examines the
contemporary loophole regarding internal and external displacements, and how an Ecocide Act might be applicable at global level. In fact, the environmental refugee label is to this date outside the legal corpus for refugees at the international level represented by the Convention Relating to the Status of Refugees (Geneva, 1951). Considering that future number of eco-migrants is unforeseeable, this reality needs of legal and criminological analysis to fill the lacuna caused by the lack of international conceptualization aimed at ensuring the rights of eco-migrants at all stages. This goal also requires an eco-feminist perspective, that is, caring of nature through environmental struggles from a gender perspective including those issues related to political power, social organization, nature and sustainable development.

14.3 Happy Together? How and Why Norway is calling for a pan-European collaboration against work-related crime.

Synnøve Økland Jahnsen, Postdoc Norwegian Research Centre (NORCE)
syja@norceresearch.no

ABSTRACT
In October 2017 the Norwegian Prime Minister Erna Solberg sent a letter to the European Commission, calling on Europe to collaborate against "work-related crime. When the Norwegian government communicate to European Union member states about these problems, they use the term "work-related crime" interchangeably with "undeclared work" and "fair working conditions" in efforts to bridge the conceptual gaps that might exist between the Norwegian authorities and their European counterparts. Yet, the policy model proposed by the Norwegian prime minister departs from other European strategies for decent and fair working conditions in significant ways, as increased emphasis is placed on expanding control- and intelligence units' capacity to combat criminal organizations and individuals. More particularly the letter propose better coordination of identity control of migrants and systems for sharing sensitive personal information. This article examines the departure, taking place in Norway, from traditional ways to regulate the labour market towards an increased focus on multi-agency and coordinated approaches to crime and societal security. By examining "work-related crime" as a "wicked" policy field the analysis seeks to identify and acknowledge local particularities of the "Norwegian model" against work-related crime, at the same time as it avoids detachment from already existing international efforts to offer protection and rights to migrant workers.