

Newsletter of the *European Society of Criminology*

CRIMINOLOGY IN EUROPE



May-Len Skilbrei and Maria João Guia on Criminology and the Migrant Crisis

Frieder Dünkel

COME TOGETHER!

THE 16TH ANNUAL CONFERENCE OF THE ESC IN MÜNSTER/GERMANY



After Porto the ESC goes to the ancient German city of Münster, another exciting place which will hopefully attract criminologists from all over the world. The conference is conceptualized under the theme of “Crime and Crime Control—Structure, Developments, and Actors”, thus covering a wide range of areas/subjects within modern criminology. The organizers, Klaus Boers and his team, succeeded in structuring the plenaries given by leading experts around the three subthemes: Formal Crime Control (Policing and Prisons), Life Course and Developmental Criminology, and Economic and State Crimes.

In the first plenary Alison Liebling, from the Cambridge Institute of Criminology, will give a talk on Prison Research (“Values, prison quality and outcomes: the role of legitimacy and trust in upholding social order”). Thomas Feltes, University of Bochum/Germany, will focus on the current state of knowledge on *Policing*. It might be surprising that the issue of formal social control is addressed from the perspective of the police as the first instance of formal crime control and of prisons at the end of the sentencing and sanctioning practice. But there are good reasons for focusing on these subjects, and at least one link concerning the restriction of human rights: pre-trial detention. The second plenary will start with a talk by Robert Sampson, Harvard University, on “Integrating Structural and Life-Course Criminology”, followed by a presentation by Manuel Eisner, Cambridge Institute of Criminology, on “Developmental Prevention”. The third plenary will address the macro-level and deal with “*Crimes of the Powerful*” and again cover a wide range of issues. Wim Huisman, Free University of Amsterdam, will talk on “Economic and Financial Crime” and Penny Green, Queen Mary University of London, will present on “State Crimes”.

The organizers have worked on another splendid idea to improve thematic discussions during the conference plenaries. It is common that after good plenary talks there is not enough time left for further discussion. For this reason, they have set up six follow-up-panels to deepen the dialogue between attending experts about the plenaries’ topics. All in all, 18 criminologists, both renowned and up and coming young scholars, have agreed to comment on

2016 | 1
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the plenaries while also bringing in their own research experience. This structure could develop into a good tradition for further ESC conferences.

At the opening plenary on Wednesday evening, Alexandra Jour-Schroeder, Acting Director Criminal Justice at the European Commission, will outline “Keystones of the European Commission’s Policy in Criminal Matters”. The second talk will be given by Klaus Boers (local organiser and president of the Society of German, Austrian and Swiss Criminologists) on the crime situation and the state of criminology in Germany, and finally I will give an overview of the development of sentencing and prison population rates in Europe and discuss crime policy in times of refugees and terrorism. Somewhat surprisingly, prison population rates are on the decline in many European countries. The reasons are not always clear, but it appears that increasing punitiveness is not an all-encompassing trend as it has long been presented to be. Not that we are realizing this only now: the relativity of punitivity was the general topic of the ESC-conference 2013 in Budapest (“Beyond Punitiveness: Crime and Crime Control in Europe in Comparative Perspective”). Tendencies could be detected already then. But now it seems certain that the drop of imprisonment rates is indeed a trend and not a short anomaly on the trajectory of an ever increasing punitivity. In my talk, I will look at even more amazing developments, such as the decline of the prison population in Russia by about 40% since 1999, by 46% in the Netherlands since 2006, and by 30% in Portugal since 1998. To understand this confusing “new complexity”, exploring the role of crime policy and sentencing practices seems to be an important issue.

Our former president, Gerben Bruinsma had the great idea to invite scholars to so-called presidential workshops to present their research on new topics in criminology or new insights on old subjects. (Amongst others, we had excellent presentations on state crime and organized crime at the last year’s conference.) I want to follow this tradition with a special presidential workshop on refugees, migration and crime. As is commonly known,

this subject is a challenge for criminologists. I have also pointed this out in my presidential column in the winter issue of the 2015 ESC newsletter, and it is addressed in an article by Maria João Guia and our former ESC-board member May-Len Skilbrei, Oslo University, in the present Newsletter. May-Len will also be one of the presenters at this presidential workshop. The problem of refugees and migration is a special one for Germany and many concerns about the future crime situation fuel the media debates. In the elections in March this year a right-wing populist and islamophobic party (“*Alternative für Deutschland*”) succeeded in winning a considerable amount of seats in the three federal state parliaments (Baden-Württemberg, Rheinland-Palatinate and Saxony-Anhalt), carrying 15%, 13% and 24% of the votes. So, this is the flip side of the German “welcome culture” I described in the last Newsletter. It is somehow a paradox that, in particular, former immigrants to Germany (e.g. from the former Soviet states) in a—at that time—similar situation as today’s refugees, voted for this right-wing extremist party. On the other hand, more than 80% of the German population did not. In view of the visible weakening support for refugees and an integrative approach the German government has agreed to a “dirty” deal with the Turkish government in order to stop or at least restrict further immigration. This cannot be seen as a humane solution, as refugees are suffering in overcrowded Turkish refugee camps, but it demonstrates the deficiencies of the German approach which resulted in the failure to pass a long-due reform to update the immigration law to meet current challenges.

In the upcoming presidential workshop, we will discuss immigration and crime (criminological migration research), immigration control and penal policy (border regimes etc.) and on conflict regulation concerning refugees, both current efforts and in historical perspective. In addition to May-Len Skilbrei, I invited the director of the Bielefeld Institute for Interdisciplinary Research on Conflict and Violence, Andreas Zick. Dario Melossi from the University of Bologna, will also participate in the workshop.

FROM THE NEXT ISSUE

> Klaus Boers on Crime and Crime Control in Germany

The conference program is still being developed at the moment (May 2016), but we anticipate about 800 presenters from the 23 ESC-working groups and other criminological research units.

Münster is a good place for criminology in Germany. It is housed within the law faculty (one of the biggest in Germany) and the criminological department in Münster is one of the few centres doing empirical research within a law faculty. I started my academic carrier by teaching for one semester in Münster in 1989/90 and having about 800 students in my course of criminology -- a real challenge for a young professor at the time! So for me, coming back to Münster will be a nice trip down memory lane, and I hope that many criminologists will be attracted by the university

as well as the city. Münster is an old and historic place and can be seen as somehow symbolic for our current problems: In 1648 it was the place where—after 30 years of war—the Catholics and Protestants signed a peace agreement and ended one of the bloodiest periods in European history. We may hope that criminology can contribute to peaceful and tolerant solutions to the present problems mentioned above. So, enjoy the conference and the academic atmosphere in the university town of Münster!

Frieder Dünkel is Professor of Criminology and Criminal Law at the University of Greifswald, and the President of the ESC

TOPIC OF THE ISSUE

Maria João Guia and May-Len Skilbrei

HOW THE CURRENT 'MIGRATION CRISIS' CHALLENGES EUROPEAN CRIMINOLOGISTS

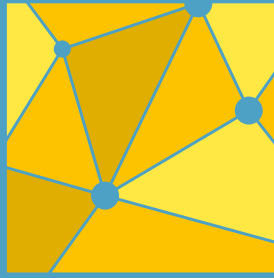
Criminologists are used to the topics they study being high on political agendas. They know that such issues can rise to exceptional heights in response to particular events, as well as how these are presented in traditional and new media. This article looks into how fears over and responses to migration to Europe express themselves in (at least) seven distinct ways that criminologists should be paying attention to; (1) the relationship between decisions to migrate and migration policies, (2) how media accounts for and civil society impact on policy development, (3) the role of migration brokers, agencies and human smugglers in the migration process, (4) the link between increase and diversification of migration, smuggling of immigrants and human trafficking, (5) how fears and debates over migration links to crimes committed by or against immigrants, (6) the relationship between immigration to a country and the levels and forms of crimes they experience, and (7) the perceptions of societies towards newly-arrived foreigners (immigrants or asylum seekers).

It is important to first approach definitional issues. People arriving in Europe are often referred to as migrants or refugees. The difference between these two designations is important in both practical and symbolic terms, but while in transit and upon arrival, people who

are leaving their home countries because of lack of freedom and poverty are indistinguishable from people who are fleeing a form and level of persecution which makes them eligible for asylum. The end result of an asylum procedure (or an international protection requirement) does also not rule out that rejected asylum seekers submitted a just claim for protection. We thus warn not to pit one category against another, posing one as deserving and the other non-deserving. The right to apply for asylum and have one's need for protection evaluated is individual, and thus we cannot determine whether someone is a 'mere' economic migrant or a refugee deserving asylum simply from their country of origin (Carling 2015). Bearing this complexity in mind, it is still important to stress that divisions between economic immigrants, refugees/international protection seekers, or trafficked persons (to name a few categories) matters and must retain its relevance to criminologists, as each of these concepts points to different legislation and sets of rights and obligations.

Being or being treated as an economic migrant to Europe is a harsh predicament for third country nationals. While there have been several attempts to award residency also to migrants who are not eligible for asylum through processes of mass regularisation over

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Structures, Development and Actors

Plenary 1 | Formal Social Control

Prison: Alison Liebling

Policing: Thomas Feltes

Plenary 2 | Life-Course and Developmental Criminology

Life-Course and Developmental Criminology: Robert Sampson

Developmental Prevention: Manuel Eisner

Plenary 3 | Crimes of the Powerful

Economic and Financial Crime: Wim Huisman

State Crime: Penny Green

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the last 50 years¹ (Kraler, 2009), in the last few years the European Union has taken steps to narrow the possibility to stay for migrants who are not experts and are not deemed in need of protection parallel to a strengthening a policy of return and deportations with Directive 2008/115/UE.² This Directive states the aim of returning migrants that for different reasons do not have the right to stay in Europe, being obliged to go back to their home countries or the last country they resided in before arriving in Europe at the same time as it establishes the possibility of detaining immigrants awaiting removal from the European Union Member States. The maximum recommended time limit of 6 months,³ with a possible extension up to 18 months in exceptional conditions.⁴ Over this same period, the USA has also moved from an expansion of the rights of migrants in the 1980s to the representation of immigrants as a threat. Stumpf (2006: 382) has linked this to the high number of arrival of asylum seekers from South-East Asia to the USA (Stumpf, 2006: 382), something which was understood as economic migration and an attempt to exploit the US's social security system. Immigrants/non-nationals were accused of contributing to the rise in crime, and immigration policies came to be seen as a tool to control this, a part of the process we often refer to as 'crimmigration' (Stumpf 2006). The coming together of criminal and migration law and the emergence of the image of the criminal stranger, took part in limiting rights and protections offered to migrants and opened up space for repressive measures, such as prolonged detention for new migration-related crimes (Stumpf, 2006: 381-384).

While recent developments in terms of high numbers of arrivals and rapidly changing migration policies in various European countries are attracting much attention, managing migration as a possible threat has been on the European agenda for a longer period. These developments point towards both diversification and harmonisation. Directive 2013/32/UE established a differentiation between migrants, and this differentiation is central to how rights are awarded to migrants today (after the designations and decisions of Directive 2005/85/CE, 2011/95/UE and 2013/33/UE⁵) and is a part of the attempt to establish a common policy on asylum decisions (of which the common European Asylum System—CEAS—is a good example). The last year has seen a shift in how European states value protection of its outer borders, as Europeans realised that arrivals to especially Greece affect us all. The high number of arrivals poses practical challenges due to difficulties in managing

the processing of asylum claims, and the question of how to respond to the perceived 'migration crisis' or 'refugee crisis' raises humanitarian concerns. Still, curbing migration continues to be on the top of the agenda. While being able to travel to a safe country to seek refuge is a right stated in the Refugee Convention of 1951, this is made difficult by several actions taken on the European and national levels. At the same time, exceptions are established in many European countries, in reality reinstating the inner Schengen-borders. This temporarily puts the aim of securing human mobility as a central trait of the European project on hold. The European project has, of course, always necessitated the balancing of national and European concerns. While foreign relations, aid and military protection have mainly been the responsibility of the nation states and their bi- and multi-lateral agreements, mobility and migration policies have, in the last two decades, been increasingly harmonized. The Schengen Agreement opened up intra-European borders while strengthening border control to the EU's non-European neighbours.

People smugglers are central to the increase of arrivals to Europe and the attention it attracts. The organisation of and profit from unauthorised passage into Europe stand out as important reasons for the current situation, that both Europe, through FRONTEX—the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, and NATO are involved in attempts to police the Mediterranean and detect and stop people smuggling. While European states are dealing with arrivals, removals of irregular migrants who arrived after the implementation of Directive 2008/115/UE is becoming

1 In effect, between 1973 and 2008, 68 regularisation programmes were conducted in member states and 4.3 million regularisations were granted (Kraler, 2009:20).

2 Known as the Return Directive.

3 "Article 15(5): "[...] Each Member State shall set a limited period of detention, which may not exceed six months." Directive 115/2008/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

4 "Under certain conditions, Article 15 of the Return Directive allows the detention of third-country nationals for up to six months, which can exceptionally be extended up to 18 months, to carry out the removal process" (FRA, 2014:3).

5 Both Directives 2013/32/UE and 2013/33/UE are from the 26th June 2013.



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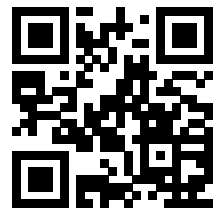
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a central mechanism for European ‘migration management’. In the years to come, many of the migrants that have arrived in the last year will be turned into deportable overstayers, after having received a rejection on their asylum claims. Those who get to stay will be subject to integration policies aimed at preventing marginalization, crime and victimhood.

While European heads of state are currently concerned with getting the message across to prospective migrants that the opportunities to stay and prosper in Europe are scarce, unrest, human rights violations, poverty, inequality and downright war continues to be a reality in Europe’s neighbourhoods. This indicates that continued high numbers of arrivals is something Europe needs to be prepared for. Globalisation processes cre-

ate both opportunities and desires for a better life, and criminal networks both create and exploit such opportunities and desires (Guia, 2008; 2015). The trafficking of persons has been a priority on the EU agenda and Directive 2011/36/UE was an attempt to establish a harmonised approach in the EU27 (at the time). There are many possible research agendas to be strengthened and established in the wake of the current situation that cover a number of issues, such as a state’s ability to regulate migration, migrants access to rights, and citizens sense of security and alignment with ‘the European project’. Criminologists are perfectly positioned to make a difference in such a situation and we want to stress that the following issues should be particularly relevant to criminologists:



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1. The relationship between decisions to migrate and migration policies. This is a highly relevant topic to criminologists in itself and to criminological theorising by how it is compatible to the relationship between crime and punishment and because it involves marginalised others and their responses to attempts to steer and punish their actions. The question of deterrence is currently of central concern to European governments, and criminology's established empirical and theoretical contributions can offer much to understanding how 'migration management' is imagined and executed.
2. Criminologists can contribute to our understanding of the role of media in producing a sense of urgency and how that links to policy development. How media represents migration and migration control thus constitutes a comparative case for studying the relationship between popular and media representations of crime and the development of criminal justice.
3. The role of migration brokers, agencies and human smugglers in driving the current situation is an area criminologists are exploring and where they should diversify

their study. Human smugglers are currently topical in public debates throughout Europe, framed as organised crime, and the UN smuggling protocol is indeed attached to the United Nations Convention against Transnational Organized Crime. It is, though, necessary to understand that human smuggling and human trafficking is not the same. While smuggling is a crime against a state border, trafficking is a crime against a person and an act of exploitation. Migration research often points to how human smuggling is a humanitarian necessity in the sense that it offers the possibility to travel and cross state borders for people fleeing persecution (Crépeau 2003; Bhabha 2002; FRA, 2014:2). As the market for migration facilitators in the last years has increased, questions that arise are, among others, whether this is a demand or supply driven market, levels of exploitation, links to corruption, and policing of smuggling.

4. The link between the increase and diversification of migration and the scope and expressions of human trafficking is of central importance in the current 'migration crisis'. The chaos that is reported in the asylum recep-

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tion systems in many countries may create possibilities for people to exploit the vulnerability of all or particular groups of migrants. Paying attention to the situation also entails investigating levels and the content of exploitation of migrants in transit and on arrival, for example in the form of human trafficking. Related to this is how the real and imagined dangers for migrants have created a sense of urgency in actions taken to prevent and end this exploitation. Criminologists need to think about how fears over exploitation of migrants serve as a lever for more strict immigration controls and a more punitive approach to involvement in the migration, labour or prostitution of others.

5. In recent years, more and more countries have introduced hate crime legislation to better target, for example, violence committed on the basis of someone's ethnicity and race. Criminologists should pay attention to whether hate crimes towards migrants is related to how migration is problematised in contemporary Europe. A hostile debate climate may curb necessary discussions about migration, gender and victimisation by both hate crimes and other targeted crimes.

6. The relationship between migration and crime is also a topic for criminologists, as one of central European debates revolve arounds crimes committed by migrants, both in terms of levels and forms. An increase in numbers of immigrants is feared to hinder integration. One side to this, which is particularly relevant to criminologists, is the fear that this creates 'parallel societies' that, among other things, expresses themselves through the development of zones where it is feared that law and order no longer applies. At the same time, crimes committed by migrants also attract attention and impact debates on how generous Europe should be in welcoming asylum seekers. For example, the incidents that took place on Cologne on New Year's Eve, and, not least, the question of whether police there and other places intentionally have been undercommunicating the level of crime committed by migrants from their populations, have particularly highlighted the link between migration and crime. As a result of this, media commentaries raised the question of how crime statistics should be registered.

7. The integration and discrimination of immigrants or asylum seekers is relevant to criminologists for how it impacts social cohesion and equality, which are founding principles of 'the European project'. Perceived conflicts between international obligations and precarity among citizens in the wake of neoliberal restructuring, and economic recession may create schisms in European populations that may haunt our continent for a long time.

These are some of the challenges that we encourage our fellow criminologists to take on, and we believe that such studies can both make criminology visibly useful for the development of just and functional societies and contribute towards a rich and interesting discipline. At the same time, these are demanding times for criminologists. The current climate often leads to debates that are resistant to evidence-based intervention. European and national cohesion and sovereignty is perceived to be under threat, and this can be seen in the fact that politicians, who do not normally see eye to eye on issues to do with social and criminal justice, are coming together to forge new and harsher migration policies.

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