

COMMENTARY

The EU hotspot

Police war against the migrant

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'Living in the camp you are restricted. You need at least six months to two years to learn the language, to get the permit ... You have no control', says Abu Tahrir, one of the many Syrian refugees seeking asylum in Greece. His comment was made in September 2015, a month of unprecedented refugee entrance to Greece following the escalation of the imperialist war in Syria, the ongoing conflicts in Iraq and Afghanistan, the poor reception conditions in neighbouring countries and the supposedly warm welcome being organized by leading figures of European politics. All of which has been well covered in the mainstream press. Less discussed has been the fact that September 2015 was also the month when the EU's new 'hotspot approach' to irregular migration was being fully implemented in Greece.

This new approach can be traced back to May 2015, when the European Commission (EC) established a new *European Agenda on Migration*, kick-starting a joint effort between the European Asylum Support Office (EASO), Frontex (the EU Border Agency, essentially an international police force), Europol and the EU Judicial Cooperation Agency (Eurojust), with the intention of identifying, registering and fingerprinting all refugees in zones to be known as 'hotspots'.¹ Frontex had previously written on 'hotspots of irregular migration',² but from May 2015 the 'hotspot' was formally adopted as the name for the registration centres. Operating initially on a small scale in Italy where four ports (Pozzallo, Porto Empedocle, Trapani and Lampedusa) were used to identify, register and fingerprint refugees, it was in Greece that the hotspot approach has been framed and implemented as the main EU answer to the 'refugee crisis', with five hotspots set up on the Aegean islands through which most refugees and migrants arrive in Europe (namely, Lesbos, Chios, Samos, Leros and Kos). Although the Greek army is responsible for the overall security of the hotspots, the sites are jointly administered and managed by the army, the Greek police, special police units such as the MAT (the 'riot police' operating under the name 'Units for the Reinstatement of Order'), Frontex and Europol. But it is often Frontex rather than the Greek state that the refugees encounter: upon arrival, all refugees have to pass through Frontex personnel who check the validity of their documents, conduct personal 'interviews' ('interrogations' might be a better term) and translate their personal information into English for documentation.

Given the enormity of the refugee crisis, the EU has been keen to be able to answer the question 'What has been done?', as it asks rhetorically in one of its own reports on the crisis, and part of its answer is: 'hotspots'.³ Since 23 March 2016, the day when the EU-Turkey agreement went into effect, the 'hotspot approach' or 'hotspot system' has become the main EU mechanism for controlling and regulating migration and thereby manage the crisis (and, to some extent, to also show that it will step in when

it considers that some states are not doing their 'job' well enough, as witnessed in the claims that Greece and Italy had been slow in certain tasks such as fingerprinting). This is likely to remain so in the future, with the EU promising to ensure the 'proper functioning' of the hotspots and strengthening Frontex and Europol in order that they might manage those spaces.⁴

All of which begs a question: why are they called 'hotspots'? There is no doubt that in some ways the term 'hotspot' is meant to play on the ubiquity of this word as a contemporary cultural trope, but this obviousness may obscure something far more telling, something not touched on by the criticisms of the hotspots, which tend to focus on either their squalid conditions or their legality (for example, with routes out of Greece being closed off migrants are in many ways being detained rather than registered; likewise, although 'inadmissibility' is being used as the reason to ship migrants back to Turkey, in reality 'inadmissibility' often means nothing other than that the political and bureaucratic machine is working too slowly to adequately process asylum claims).⁵ Neither the legality nor the sanitary state of the hotspot is our concern here. Nor is the fact that the hotspots use identification measures largely as instruments of exclusion.⁶ Rather, we are interested in what the label 'hotspot' might tell us about the way the EU wants to manage the crisis. What might the hotspot tell us about how the EU imagines the refugee? But also, given that the EU's management of the refugee crisis is a means for it to manage migration flows across Europe as a whole, what might the hotspot tell us about how the EU imagines the figure of the migrant in general?

'If the shootings don't stop, we'll shoot someone'

Prior to the Second World War the term 'hotspot' can be found being used variously to refer to nightclubs, points on the skin stimulated by heat, points on metal likely to tear, and areas of non-uniformity on photographs, often in quotation marks to indicate its unusualness. The *Oxford English Dictionary* notes that during World War II the term takes on a military meaning, referring to an area of significant danger or violence. This connotation of 'hotspot' appears first in 1941, when the word is used to refer to spaces of active engagement in the war. This was later reinforced by the ways in which military forces distinguished between 'hotspots' of active engagement and 'non-combat zones'. Politically speaking, a hotspot is a space of conflict where the enemy will be confronted. The hotspot is a warzone.

This background explains why 'hotspot' is a common term used in the discipline of International Relations (IR). But in a subtle shift reflecting the changing contours of war, IR's idea of a hotspot is now largely focused on states or geopolitical regions that have become known as 'conflict zones'. Publishers run series such as 'Hot Spots in Global Politics' (Polity Press), and the titles in this series thus far will not be of any surprise: Iraq, Korea, Israel/Palestine, the Horn of Africa, Afghanistan, Northern Ireland, the Congo and Syria. This focus on the hotspot as a *zone* of conflict is reinforced by the idea that hotspots are areas in which certain forms of political *activity* are more likely, as in the series titled 'Terrorism, Hot-Spots, and Conflict Related Issues' (Nova Science Publishers), with books on Islamic militancy, jihadism and 'homegrown terror'. The IR literature here apes the language of NATO, with its 'security hotspots', 'conflict hotspots', 'terrorist hotspots' and 'piracy hotspots'. In IR, then, the hotspot connotes not just a geopolitical zone that is already judged as a 'conflict zone', but also points to the kinds of political actions that IR likes to designate as being in some way 'hot' – terrorism and militancy – and which are said to constitute the foundation of contemporary geopolitical crises.

The hotspot also suggests a space in which intervention is thought necessary. Hence the label 'hotspot' is always applied from outside, by the imperial powers of world

order such as the USA, the UK, NATO and the EU. The US Army's standard Tactics, Techniques and Procedures, for example, includes 'identifying hot spots' as one of its measures for establishing and maintaining law and order during 'peacekeeping interventions'.⁷ The logic of *peacekeeping* interventions in such hotspots is that such interventions are almost always defined in advance as *police* actions, with 'hotspot peacekeeping' a means of legitimizing the action of forces acting according to that classic definition of the police power: keeping the peace. The hotspot, then, refers to a police operation (viz. 'liberal intervention').

At the same time, peacekeeping operations are often declared for areas defined in advance as 'clusters of conflict' and, in yet another way in which IR is increasingly coming to merge with criminology, the idea of 'clusters of conflict' resonates with the history of domestic policing and the idea of 'clusters of crime'.

Since the 1980s the hotspot has also become a key term in the exercise of police power domestically, with the idea of 'clusters of crime' used initially to define certain zones and spaces and, more recently, as part of the process of predictive policing. Police power has always been centrally concerned with space, but since roughly the mid-1980s this intensified around the idea of 'crime hotspots' and 'hotspot policing'. A large amount of criminological work sought to establish that in some cities a very low proportion of the city's addresses and areas were generating a very high proportion of calls to the police, and the differential crime rates meant that some areas could be understood as 'crime hotspots'. The implication of an area being designated a hotspot was that it quickly became a focus for intensified police activity, around which a whole series of debates took place as to which police tactics might work in an area – number of patrols, degree of 'police-citizen consultation', level of 'intelligence-led policing', extent of 'data-driven policing' – and even which areas might be *potential* hotspots. The 'crime hotspot' and 'hotspot policing' thereby became established features of criminology and police science.

As well as allowing a convenient recoding of questions of class and race (and note too that, despite the remarkably high levels of financial crime that take place in some areas, no financial or banking district ever gets described as a crime hotspot), the stress on locality has meant that 'hotspot' is a term particularly employed in what goes by the name of 'community policing' or 'neighbourhood policing'.⁸ But 'community policing' is never as innocent as it sounds, and this applies even and especially when what is being policed are 'hotspots', because the very designation 'hotspot' means an area is defined in advance as a space of danger or violence in a way which makes the area far more susceptible to discretionary police sweeps, stop-and-search routines or an overwhelming police presence. Here is one police officer speaking of the 'hot area' he polices:

We focus on 'quality of life' issues like illegal parking, loud music, bums, neighbor troubles. We have the freedom to stay in a hot area and clean it up – particularly gangs. Our tactical enforcement team works nicely with our department's emphasis on community policing.⁹

The point to note is that he is a member of what he calls 'an elite crime fighting team that's not bogged down in the regular bureaucracy'; that is, he is a member of a paramilitary police unit engaged in the 'community policing' of a hotspot. Here is another officer:

We're into saturation patrols in hot spots. We do a lot of our work with the SWAT unit because we have bigger guns. We send out two-to-four-men cars, we look for minor violations and do jump-outs, either on people on the street or automobiles.

Again, the hotspot approach is designed to facilitate an overwhelming show of police force. As the officer notes: 'we're sending a clear message: if the shootings don't stop, we'll shoot someone.'¹⁰

Far from being distinct police practices, 'community policing' and 'paramilitary style' operate in tandem. Indeed, one might go so far as to say that they always converge. But it is a convergence that the state, the media and mainstream criminology have masked by encouraging us to believe that community policing and paramilitary policing are somehow antithetical. Despite the extended lengths to which the state has gone to present community policing as a gentler and kinder way of policing neighbourhoods, the truth is that 'community policing' has in fact always been a crucial piece of police jargon for what is in reality an aggressively proactive style of policing.¹¹ There is more than enough evidence for this on the domestic front, perhaps best summed up by the former head of the Los Angeles Police Department (LAPD), Daryl Gates, reflecting on a period in which its routine patrols handed out beating after beating, such as the one sustained by Rodney King in March 1991, in which King was shocked with a 50,000-volt taser and then beaten to the point that he suffered eleven skull fractures, a fractured eye socket, a broken cheekbone, missing teeth, a broken ankle, kidney damage and permanent brain damage, all of which was captured on camera, shown across the world and which led a year later to the Los Angeles riots following the acquittal of the officers who carried out the beating: as far as Gates was concerned, the LAPD had been practising the most viable and effective form of community policing.¹² Further evidence comes from the fact that community policing has since its inception been regarded as a fundamental feature of counter-insurgency theory and practice, certainly since at least the 1970s when community policing became policing's new big idea. So connected are counter-insurgency and community policing that one RAND document produced for the Office of the Secretary of Defense in 2006 summed up fifty years of counter-insurgency research by observing that counter-insurgency 'is best thought of as a massively enhanced version of the "community policing" technique that emerged in the 1970s'.¹³ In the mind of the state, community policing is counterinsurgency, part and parcel of 'the other war', as counter-insurgency is sometimes called, against insurgents, rebels, the politically organized and the socially marginalized.



To designate an area a hotspot is thus by no means an innocent use of a well-known cultural trope. Rather, it is a reminder that in such a designation 'hotspot peacekeeping' and 'hotspot policing' merge; that the zone is always already established as one of both conflict and crime. Marking a zone inhabited solely by refugees as a hotspot thereby defines the space as inhabited by the criminal, the rebellious and the disorderly, in a way that marks out the hotspot as a space for police intervention: a warzone brought to order through an exercise of police power. The EU hotspot thus starts to look like nothing less than the declaration of a *police war against the refugee*. But perhaps there is more to be said. For, given the problematic nature of the distinction between refugee and migrant – for a start, the 'evaluation' of whether one counts as a refugee or a migrant is conducted entirely by criteria established for the political administration of capital, but beyond that is the whole rhetoric of the refugee-migrant crisis in Europe wherein we are expected to believe that some can be genuinely evaluated as refugees (i.e. decent but vulnerable and in need of protection)

and some as illegal immigrants (i.e. opportunist scroungers out to take jobs and claim benefits) – maybe what is at stake is in fact a *police war against the migrant*. And given that it is the personnel from EU agencies such as EASO and Frontex that a refugee encounters (the fact that overall safety in the hotspots falls within the jurisdiction of national police forces is merely a token gesture to national sovereignty), one might go further and posit the hotspot as the declaration of an *international* police war against the migrant.

‘The chrysalis of every species of criminal’

For every police war, an enemy is needed. Defining the zones as hotspots suggests that migrants have arrived as somehow already ‘illegal’ in some way, enabling them to be situated within the much wider and never-ending ‘war on crime’. Yet this process needs to be understood within the wider practice of criminalizing breaches of immigration law in western capitalist polities over the last twenty years, as individual states and the state system as a whole have increasingly sought to make the criminal law work much more closely with immigration law: ‘crimmigration’, as it has become known, means that criminal offences can now very easily result in deportation, while immigration violations are now frequently treated as criminal offences. Concerning the UK, for example, Ana Aliverti has noted that ‘the period between 1997 and 2009 witnessed the fastest and largest expansion of the catalogue of immigration crimes since 1905.’¹⁴ This expansion serves to further reinforce the conception of the migrant as already tainted by crime, as the figure of the criminal and the figure of the migrant slowly merge. The term ‘illegal immigrant’ plays on this connection in all sorts of ambiguous ways. Indeed, it is significant that the very term ‘illegal immigrant’ has over the same period replaced the term ‘undocumented migrant’, so that a figure once seen as lacking papers is seen now as lacking law.

However, the fact that migrants arriving in the EU hotspots do so as *propertyless* (or at least apparently so) subjects adds a further significance. Why? Because by arriving propertyless the historical figure to which the migrant is most closely aligned is as much the vagrant as the criminal. Aliverti’s reference to 1905 is a reference to the Aliens Act of that year, in which any ‘alien’ landing in the UK in contravention of the Act was deemed to be a rogue and vagabond. The Act was underpinned by making such ‘aliens’ liable to prosecution under section 4 of the Vagrancy Act of 1824, usually punishable in the form of hard labour in a house of correction. As Aliverti puts it, ‘in view of the similarities between the poor laws and early immigration norms, it is no coincidence that the first comprehensive immigration legislation in 1905 penalized the unauthorized landing of immigrants with the penalties imposed on “rogues and vagabonds” and vagrancy was one of the grounds for expulsion of foreigners.’¹⁵ In the mind of the state, the vagrant is the classic migrant, just as migrants arriving in the hotspots are increasingly coming to look like and be treated as the newest type of vagrant. In the mind of the state, the propertyless migrant is a kind of vagrant-migrant (which is of course one reason why welfare and migration are so frequently connected).

Vagrancy legislation has always been the ultimate form of police legislation: it criminalizes a status rather than an act (the offence of vagrancy consists of being a vagrant); it gives utmost authority to the police power (the accusation of vagrancy lies at the discretion of the police officer); and it seeks not to punish a crime as such but to instead eliminate what are regarded as threats to social order (as in section 4 of the UK’s Vagrancy Act of 1824, which enables people to be arrested and punished for being ‘idle and disorderly’, for ‘being a rogue’, for ‘wandering abroad’ or for simply ‘not giving a good account of himself or herself’; note the present tense used – section 4 of the Act of 1824 *is still in operation* in the UK). This is why as well as its remarkably long history in which it was seen as a crime against the emerging capitalist order

(which is why Marx spent page after page in Volume 1 of *Capital* dissecting 500 years of vagrancy law), the principles underpinning vagrancy law continue to thrive. Put simply, the police power cannot exist without some form of vagrancy legislation because, as Ernst Freund noted in his influential treatise on police power over a century ago, 'the charge of vagrancy serves simply to justify an arrest made for other purposes for which, however, an arrest cannot legally be made.'¹⁶ Just as the vagrant has always been regarded as a figure threatening to the capitalist order, so the migrant who finds him- or herself in the EU's hotspots has come to be regarded in the same way.

At the same time, if the figure of the migrant has merged with the figure of the vagrant, then together they have merged with the figure of the criminal. If the vagrant is 'the chrysalis of every species of criminal', as one classic police treatise put it,¹⁷ the chrysalis now appears to take the form of the vagrant-migrant, a figure associated with virtually every sort of illegality, from petty crime to organized crime. In this sense the migrants being dealt with in the EU's hotspots are nothing less than the criminalized heirs of capitalism's vagrants.¹⁸ The history of vagrancy is a history in which the mobile poor were meant to either stay put or to return to those spaces where they were said to 'belong', and so vagrancy law has always been intended to identify and register people with a view to administering them as legitimate subjects, expelling them as illegitimate subjects or immobilizing them as dangerous subjects. This is the *raison d'être* of the EU hotspot. Despite all the talk about the EU undermining states and their sovereignty, the EU nonetheless still imagines like a state, and when it imagines the migrants at the hotspots it imagines vagrancy and criminality.

Yet there is more to be said, because the whole logic of exercising police power over the criminal-migrant rests on the idea that there is indeed something illegal or potentially illegal taking place. As Nicholas de Genova notes, we are encouraged to believe that there is something self-evident and straightforward about migrant 'illegality', when there is in fact little that is either self-evident or straightforward.¹⁹ On the one hand, as well as reinforcing the link between migration and criminality, suggestions of illegality are also designed to make migrants appear both vulnerable and profitable to smugglers and traffickers. The EC's *European Agenda for Migration*, for example, insists that 'the criminal networks which exploit vulnerable migrants must be targeted'. By emphasizing the existence of organized crime, it treats migrants as vulnerable victims in need of *protection*, but specifically protection from foreign and criminal exploitation, thereby justifying yet another exercise of police power. Hence the *European Agenda for Migration* also points to 'options for possible Common Security and Defence Policy operations to systematically identify, capture and destroy vessels used by smugglers'.²⁰ But also, and building on the long history in which the rhetoric of 'protection' and 'vulnerability' has underpinned the rationale for police intervention, the incarceration of migrants in a hotspot becomes a political and legal necessity. Their violent incarceration becomes an ethical obligation in the name of their own security. The necessity of hotspots in the name of 'law and order' is reinforced and the use of lethal force in the name of 'peace and security' legitimized.

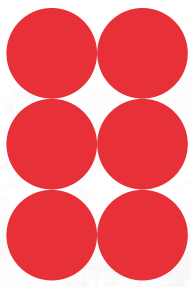
On the other hand, identifying migrants as vulnerable to exploitation by illegal and clandestine organizations is a reminder of the fact that the movement of cheap and expendable migrant labour has been historically central to exploitation by a very different kind of organization, namely the one carried out through European programmes of economic development: long before the advent of the current crisis, the capitalist development of agriculture within the remit of the EU's Common Agricultural Policy was possible only through the exploitation of cheap migrant labour. The waning of the desire for such labour by European states reinforces the projection

of the migrant as engaged in something fundamentally illegal: not just criminal, but a security risk of the highest order. In other words, as a form of enemy, their presence in a conflict zone proving this very status.

Like states themselves, the EU imagines itself as engaged in permanent social wars. In such wars, the police object becomes a target of the war power, while the subject of war becomes the focus of police intervention. The EU hotspot must therefore be seen as by definition a conflict zone saturated with police power, to deal with a growing social enemy. At the same time, the hotspot contributes to the routinization of emergency powers within the EU as a whole and a reassertion of the EU's fundamental message: the situation is under control, police power is in place, the war power is doing its work. That today's European crisis is thought of by the EU as requiring a police war tells us much about how the EU perceives the problem. If there has been a 'transfer of sovereignty' from nation-states to the EU then the transfer has also involved the way in which the figure of the migrant is imagined and treated. Hotspots of what? For the EU, hotspots of crime and conflict. Hotspots for what? For the exercise of the new European powers of war and police.

Notes

1. European Commission, *A European Agenda on Migration*, 13 May 2015, pp. 6, 13.
2. Frontex Risk Analysis Network, *FRAN Quarterly* 3, July–September, 2011, pp. 5, 14, 15, 18.
3. European Commission, *Managing the Refugee Crisis: Greece – State of Play Report*, n.d., http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/greece_state_of_play_report_en.pdf (accessed 21 June 2016).
4. 'Statement of the EU Heads of State or Government', 7 March, 2016, www.consilium.europa.eu/en/press/press-releases/2016/03/07-eu-turkey-meeting-statement (accessed 21 June 2016); European Commission, *Fact Sheet: EU–Turkey Agreement: Questions and Answers*, 19 March 2016, http://europa.eu/rapid/press-release_MEMO-16-963_en.htm (accessed 21 June 2016).
5. Respectively: Human Rights Watch, 'Greece: Refugee "Hotspots" Unsafe, Unsanitary', *Human Rights Watch*, 19 May 2016, www.hrw.org/news/2016/05/19/greece-refugee-hotspots-unsafe-unsanitary (accessed 21 June 2016); EurActiv.com, 'UNHCR Refuses to Play Ball with EU, as "Hotspots" become Prisons', 23 March 2016, www.euractiv.com/section/justice-home-affairs/news/unhcr-refuses-to-play-ball-with-eu-as-hotspots-become-prisons (accessed 21 June 2016).
6. Glenda Garelli and Martina Tazzioli, 'The EU Hotspot Approach at Lampedusa', *OpenDemocracy*, 26 February 2016.
7. US Army, *Law and Order Operations*, ATTP 3-39.10 (FM 19-10), Washington DC, June 2011, s. 3–7.
8. For the UK and US respectively, see Abie Longstaff et al., *Neighbourhood Policing: Past, Present and Future*, Police Foundation, London, 2015; National Institute of Justice, *How to Identify Hotspots*, 25 May 2010, www.nij.gov/topics/law-enforcement/strategies/hot-spot-policing/pages/identifying.aspx (accessed 21 June 2016).
9. Cited in Victor E. Kappeler and Peter B. Kraska, 'A Textual Critique of Community Policing: Police Adaptation to High Modernity', *Policing: International Journal of Police Strategies and Management*, vol. 21, no. 2, 1998, pp. 293–313; 307.
10. Cited in Peter B. Kraska and Victor E. Kappeler, 'Militarizing American Police: The Rise and Normalization of Paramilitary Units', *Social Problems*, vol. 44, no. 1, 1997, pp. 1–18; 10.
11. Kristian Williams, *Our Enemies in Blue: Police and Power in America*, South End Press, Cambridge MA, 2007, p. 203.
12. Daryl Gates, *Chief: My Life in the LAPD*, Bantam, New York, 1992, pp. 399; also pp. 355–8. To press the point we might note that Gates once reported to a Senate Judiciary Committee that if there really is a war on drugs then the police view is that 'the casual drug user should be taken out and shot' (pp. 330–31).
13. Austin Long, *On 'Other War' Lessons from Five Decades of RAND Counterinsurgency Research*, RAND/Office of the Secretary of Defense, Santa Monica CA, 2006, p. 53. See Mark Neocleous, 'Fundamentals of Pacification Theory: Twenty-Six Articles', in Tyler Wall, Will Jackson and Parastou Saberi, eds, *Destroy, Build, Secure: Readings on Pacification*, Red Quill, Ottawa, 2016.
14. Ana Aliverti, *Crimes of Mobility: Criminal Law and the Regulation of Immigration*, Routledge, London, 2013, p. 122.
15. *Ibid.*, p. 17.
16. Ernst Freund, *The Police Power: Public Policy and Constitutional Rights*, Callaghan, Chicago, 1904, p. 100.
17. Christopher Tiedeman, *A Treatise on the Limitations of the Police Power in the United States*, F.H. Thomas, St Louis, 1886, p. 117.
18. See here Leanne Weber and Benjamin Bowling, 'Valiant Beggars and Global Vagabonds: Select, Eject, Immobilize', *Theoretical Criminology*, vol. 12, no. 3, 2008, pp. 355–75; Bridget Anderson, *Us and Them? The Dangerous Politics of Immigration Control*, Oxford University Press, Oxford, 2013, p. 13; Thomas Nail, *The Figure of the Migrant*, Stanford University Press, Stanford CA, 2015, p. 209.
19. Nicholas de Genova, 'The Border Spectacle of Migrant "Victimisation"', *OpenDemocracy*, 20 May 2015.
20. European Commission, *A European Agenda on Migration*, p. 3.



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