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Documenting the Migration Crisis in the Mediterranean

Spaces of Transit, Migration Management and Migrant Agency

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Abstract

This article sets out the main findings of the research project *Documenting the Humanitarian Migration Crisis in the Mediterranean*, which maps migration trajectories and transit points across Europe in order to develop a humanitarian response to the Mediterranean migration 'crisis'. On their long journeys, people seeking refuge in Europe pass through various places of transit, both informal spaces such as railways stations, parks and makeshift camps, and institutionalised spaces such as reception centres, detention centres and hotspots. The focus on transit points helps to understand migrants as subjects rather than objects and journeys as fractured and complex movements rather than linear routes from A to B. In addition, it sheds light on the effects of migration management policies on people on the move and puts forward a set of recommendations to EU policy-makers.

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Spaces of Transit, Migration Management and Migrant Agency

Leonie Ansems de Vries, Sergio Carrera and Elspeth Guild*

Introduction

On their long journeys, people seeking refuge in Europe pass through various places of transit. These can be informal spaces such as railways stations, parks and makeshift camps or institutionalised spaces such as reception centres, detention centres and the hotspots in Italy and Greece. These transit points are places of passage and temporary residence but also of detention and push-back. People might be identified and detained in a hotspot upon arrival in Europe; they might seek shelter in a park or abandoned building for a few days whilst planning their onward journey, or be held up there for weeks or months; they might pass through informal camps or get stuck there due to the closure of the border.

This paper sets out the findings of the research project Documenting the Humanitarian Migration Crisis in the Mediterranean,[1] which maps migration trajectories and transit points across Europe, with the aim of developing a humanitarian response to the Mediterranean migration 'crisis'. The research is based on qualitative fieldwork in seven transit points across Europe (Lampedusa, Sicily, Milan, Lesvos, Marseille, Paris and Calais), including 100 interviews with migrants, civil society organisations and officials from governments and international organisations. Of course, spaces of transit are not confined to Europe – nor are strategies of migration management. In fact, the longest and most dangerous part of migratory journeys often take place outside Europe, whilst EU migration management has been externalised to Africa and Asia. Yet, this paper concentrates on the European dimension of the issue.

The focus on *transit points* helps to understand migrants as subjects, rather than objects, and journeys as fractured and complex, rather than linear routes from A to B. It sheds light on the effects of migration management policies on people on the move in the shifting landscape of

migration in Europe. Transit points exist as temporary and permanent sites, and as institutionalised and informal spaces. For instance, railway stations and parks have become temporary and informal spaces of transit, whilst the so-called 'jungle' in Calais has turned into an informal (semi-)permanent place of passage and residence, although the locations of camps in the Calais area have shifted over time. The hotspots in Italy and Greece are currently the main institutionalised transit points, although they are increasingly turning into spaces of rejection and detention.

The key findings of our research outlined in this paper revolve around two interrelated issues:

1. The conceptual question of how the issue is framed and managed, especially with respect to the political and humanitarian character of the 'crisis', the complexity of migration trajectories and the agency of migrants.

2. The effects of migration management policies that are increasingly coercive in nature, in both institutional and informal transit points, including police violence, the denial of effective access to the asylum system and basic reception conditions, and the destruction of living spaces.

1. The framing of a complex humanitarian and political 'crisis'

The notion of 'crisis' has been one of the most popular ways of describing the arrival of migrants and asylum seekers in Europe in the past few years. This is closely linked to how the issue has been understood and the response it has received. The 'crisis' label has taken specific shapes during 2015 and the first months of 2016 in the EU with the so-called European Refugee Crisis. A 'crisis' is easily identified with threat, requiring extraordinary and exceptional measures in the form of 'crisis-led policy-making'.

This has constituted a mode of management that makes use of rapid, informal and flexible policy instruments and legislative proposals, which often are at odds with democratic rule of law and fundamental rights and personal circumstances of individuals on the move. Too little attention has been paid to the humanitarian and political aspects behind the 'crisis', which has been too readily framed in terms of emergency and insecurity. In other words, if there is a 'crisis', its manifestation is not the security threat posed by the arrival of people, but rather one of people prevented from moving on at the borders of/within the EU in search of international protection or better opportunities.

A second manifestation of this crisis-led thinking concerns the border: The proliferation of physical, technological and mental borders within and outside the EU has made the movement of migrants into a 'crisis'. The first border might take place in a visa office somewhere in Africa or the Middle East, where people are denied a visa to enter the EU or prevented from boarding a flight due to carrier sanctions. The blockage of these 'legal' routes forces people to take much more dangerous and expensive routes across the sea. The lack of regular channels to reach the EU constitutes therefore a key driving factor behind the 'crisis'. Similarly, the reason for the existence of informal settlements such as the 'jungle' in Calais is not the overwhelming number of people on the move, but rather people's inability to cross the border, in this case to the UK.

This expansion and multiplication of borders is one of the reasons that migrants' movements across Europe are fractured and rapidly changing trajectories rather than linear flows from origin to destination. In addition to institutional obstacles (including border controls, check points, unlawful push backs and finger printing), people face obstacles in the natural environment (e.g. sea and mountains) and local circumstances that hold up or divert their journeys. Especially for a

migrant without regular status, it often takes from months to years to travel to and across Europe, encountering multiple interruptions and hardship all along the way.

During our fieldwork, people described trajectories that involved being pushed back from one country to another, either at a national border or within a country, or being circulated around – for instance, irregular migrants who were taken from the 'jungle' in Calais to a detention centre in the South of France and, upon release, travelled back to Calais. Some migrants repeat this circular journey more than once. Others are placed in reception centres outside urban areas, as part of a strategy of dispersal, but they swiftly return to informal residential spaces in the city due to the feelings of isolation in the countryside. Yet others have been deported to their country of origin, and feeling unsafe there, embarked on a second journey to and across Europe.

This multi-faceted character of migratory trajectories demands, firstly, a rethinking of the terms usually employed to describe migration movements, such as 'crisis', 'route', 'border' and 'migrant'. 'Routes' are complex and fractured trajectories whilst 'borders' are not lines to cross but extended zones of hold-up, push-back and/or violence. What is decisive is the fragmentation of zones in which people on the move face coercion and blockages. This is particularly problematic when it comes to persons looking for international protection.

This reconceptualisation also brings to light the challenge of framing the issue in security or policing terms in the sense that it presents 'border controls' as the solution rather than part of the problem; but it also carries the danger of rendering rights violations invisible, as is further discussed below. Moreover, presenting more border controls, increasing expulsion rates and upgrading coercive behaviour towards migrants as the solutions to the 'crisis' negate the role of these policies in the co-production of insecurity and their incompatibility with international and EU fundamental human rights obligations.

Migration trajectories cannot be understood without considering migrants as subjects with agency, rather than as security threats, commodities or mere passive victims. Their continued efforts to move to/across Europe to find a space of safety and build a life, despite the myriad obstacles encountered *en route*, testafies to people's active agency. Most migrants, regardless of their official status, have certain ideas about where they would like to go, often informed by having friends/family in a particular country, having knowledge of a language (such as English or French), or otherwise having a better chance of settling in and finding a job. Considering all migrants as subjects with agency demands an approach to questions of resettlement, relocation and migration trajectories more generally that takes their ideas, intentions and personal circumstances seriously into account.

POLICY RECOMMENDATION 1

The discourse of security and crisis must be countered by reframing the question of migration and asylum in political and humanitarian terms. The EU should abandon the crisis-led policy-making model and fully guarantee that the democratic rule of law (checks and balances) provided by the Treaties and the EU Charter of Fundamental Rights are fully applicable and non-negotiable when adopting new legislative and policy initiatives and when cooperating with third countries.

Migrants are to be seen neither as threats to security nor as mere vulnerable subjects, but rather as people with agency – with family and friends; with education and employment experiences and skills. Their intentions and preferences should be positioned at the heart of any new EU system of sharing of responsibility regarding the assessment of asylum applications.

More coercion and obligations towards asylum seekers in the Common European Asylum System is not the answer towards a fairer and more workable asylum distribution regime in the EU that is compliant with fundamental rights. The EU should not amend existing EU asylum legislation to increase coercion and obligations towards asylum seekers and lower current EU legal standards.

2. Institutionalised spaces: From transit to detention

During the past year, migration management policies have become increasingly coercive in nature, including the use of police violence, the destruction of living spaces and the denial of access to rights. Whilst there are marked differences between institutionalised and informal transit points and between temporary and permanent transit points, and whilst circumstances vary in similar kinds of sites, our research suggests that, in general, spaces of transit are increasingly becoming zones of blockage, detention and push-back. The most prominent examples are the hotspots in Italy and Greece as well as more informal settlements, such as the Idomeni camp at the Greek-Macedonian border and the 'jungle' in Calais. However, many more such places exist across and outside of Europe.

Starting with institutionalised sites, the hotspot system exemplifies the issue. Inaugurated by the EU in the second half of 2015 as a tool for the better management of migration with the support of EU agencies such as Frontex, EASO and Europol, hotspot centres are now in operation in Lampedusa, Sicily, Southern Italy and on the Greek islands. Hotspots can be seen as sites and mechanisms of identification and sorting – i.e. the swift division between those eligible for protection and those who are not at the point of arrival in the EU. It is a divide between transit and relocation on the one hand, and rejection and deportation on the other. However, the latter is becoming increasingly prominent in the functioning of hotspots; their operation as mechanisms of detention and refusal. Rather than facilitating transit and protection, an increasing number of people find themselves stranded, detained and/or pushed-back through the hotspot mechanism.

A recent study by the European Parliament (2016) acknowledges the existence of "obvious fundamental rights challenges in the pressured environment of the hotspots" and asserts the need for a stand-alone legal instrument to regulate the hotspots. Yet, given that the breaches of fundamental rights are integral to the mechanism, as the normalisation of exceptional measures, the hotspot system itself must be questioned, and not merely its implementation. These rights violations include, firstly, the separation, in all hotspots, of people who are and are not eligible for protection on the basis of nationality rather than individual circumstances. For instance, Italian NGOs and activists have denounced the exclusion of people from West African countries from the protection mechanism whilst those from other countries are regarded as potential refugees. Moreover, only those from countries with more than 75% of international protection recognition – primarily Eritreans, Syrians and Iraqis – are eligible for the Relocation Programme (Garelli and Tazzioli, 2016; Sciurba, 2016).

The denial of effective access to the asylum system operates in a second way, namely through forced and exclusionary registration procedures. In line with the European Commission's "no registration no rights" motto, Italian and Greek authorities have been pressured by the EU to apply identification procedures to all irregular arrivals. In practice, this includes forced finger printing upon arrival (often against people's will). In addition, migrants we interviewed on Lampedusa and Sicily reported that they had been given a (Italian Home Office) form containing a multiple-choice question regarding the reason for coming to Italy. The form does not list war or persecution as an explicit option; it would fall under "other reasons". Moreover, the form is written in Italian, which most migrants do not understand, and hence it is often completed by an official. Those giving the 'wrong' answer, and/or having the 'wrong' nationality, were given a so-called '7-day decree', a deportation order to leave the country within seven days, without having been granted the opportunity to claim asylum. This means, in effect, that people are 'illegalised',having been denied the right to ask for protection (Garelli and Tazzioli, 2016; Sciurba, 2016).

The third breach of fundamental rights concerns the detention of all irregular arrivals in closed facilities and in conditions of indignity, especially in the hotspots on the Greek islands. As recently reported by Human Rights Watch (2016): "[l]lack of police protection, overcrowding, and unsanitary conditions create an atmosphere of chaos and insecurity in Greece's razor wire-fenced island camps." This is in line with our own research into conditions in the hotspots on Lampedusa, Sicily and Lesvos. For instance, the hotspot of Moria (Lesvos) initially set up as a centre of first identification, has turned into a centre of detention and deportation, including a regime of differential detention and spatial segregation on the basis of nationality. Although conditions in Greek hotspots are generally worse than those in Italy, all hotspots have become *de facto* detention and deportation centres (Garelli and Tazzioli, 2016). In addition, since the establishment of the hotspot mechanism, civil society organisations are often denied access to the sites where these procedures take place, such as ports where migrants arrive (in the case of Italy) and the hotspot buildings where they are held. This lack of access renders procedures and people invisible and thus makes it difficult to monitor the effects of this mechanism (Sciurba, 2016).

POLICY RECOMMENDATION 2

Priority should be given to ensuring access to publicly funded legal advisors and procedures that are fair and have suspensive effect to ensure that everyone who seeks asylum gets an opportunity to make his or her case fully and with legal advice.

In addition to the recently adopted proposal for the European Border and Coast Guard, which includes provisions related to the hotspot model, the EU should issue an additional legislative proposal covering all the specifics of hotspots and the ways in which compliance with European asylum law and the EU Charter are to be guaranteed.

An independent monitoring mechanism should be devised as soon as possible for the hotspots. This should go along with an in-depth independent assessment of the ways in which the hotspots in Greece and Italy have operated since their inception and the extent to which the overall model is compatible with EU legal and rule of law standards.

3.   Informal spaces: The destruction of living spaces

In addition to the coercive character of the hotspot approach, during our research we have also witnessed increasing violence in more informal places of transit, mostly manifested in heavy-handed police interventions, including the destruction of living spaces. Often justified on the basis of the criminalisation of migrants without legal status, these kinds of practices are in clear breach of the right of all people to protection from destitution and the obligation to care for vulnerable people and children. Whilst migrants have a right to shelter regardless of their legal status, we have witnessed the eviction and destruction of their living spaces in various places across Europe.

To name but a few: the destruction of parts of the 'jungle' in Calais in early 2016; the eviction of Lycée Jean-Quarré in Paris, an informal squat which hosted 700-1,000 people when people were forcefully removed in October 2015; and the 'cleaning up' of informal camps in the railway station and in parks in Milan in the run-up to the 2015 Expo (Ansems de Vries, Garelli and Tazzioli, 2016; Ansems de Vries, 2016). Especially in informal settlements, this form of violence has been employed not only as a denial of the right to shelter but is also seen by migrants as a means of breaking up communities and a strategy of exhaustion. Many people spoke to us in terms of 'being tired' and of having been 'exhausted' by repeated evictions, so-called 'push backs' (so that immigrants or asylum seekers are sent back to the state from where they are trying to enter before they actually enter the EU's territory, and therefore their asylum rights respected or the possibility to challenge their expulsion are violated) and the continuous threat of violence, and by continued uncertainty both of daily life and of their future prospects in Europe.

The destruction of a large part of the 'jungle' in Calais offers an example of the violent eviction of an informal settlement. Having first 'cleared' a 100-metre strip of the settlement in January 2016, the French authorities bulldozed a much larger part of the 'jungle' in March 2016, including people's homes and community, educational and religious buildings. Whilst the French authorities did order the construction of an alternative 'official' camp to accommodate people, this 'container

camp' offers inadequate space, little privacy and controversial identification procedures. It is therefore seen as part of the authorities' deterrence strategy rather than a humanitarian response.

Yet, neither eviction nor destruction has stopped people from moving through and staying in informal places – either in the 'jungle' or elsewhere. Rather, it has merely worsened their hardship by creating an environment of violence and precariousness. As a recent census has shown, the destruction of the living spaces of around 3,500 people in the 'jungle' has not reduced the number of people staying there, but it has exposed them to increasing police and far-right violence – including disappearances of children – whilst also raising tensions between communities living in the settlement.[2] Despite these forms of violence, people continue to try and build lives and communities: the 'jungle' is at once a space of hardship and precariousness, and a thriving town with shops, restaurants, schools and religious and community centres (Ansems de Vries, 2016).

POLICY RECOMMENDATION 3

The EU must ensure that the Common European Asylum System and the application of the Return Directive are fully consistent with the member states human rights obligations under the European Social charter. The EU should develop and promote a discourse around migrants so that they are seen not merely as vulnerable subjects but also as people with agency, who travel, work, learn and create communities despite difficult circumstances. Their vulnerability should not be exploited by resisting their criminalisation and reasserting their rights to a dignified life regardless of their official legal status. A key priority should be to ensure that access to reception conditions and effective remedies are ensured and duly implemented by all EU member states.

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[2] A number of humanitarian organisations have report on this issue. See for instance: HelpRefugees (2016) and Refugee Rights Data Project (2016).

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