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Imagined Migration World: The EU and the Discourse of Anti-Illegal Immigration¹

Introduction

Conventional approaches to questions of unauthorized or unwanted migration often treat policy as a self-evident response to a prior social and economic problem (Schloenhardt 2001). As they see it, 'illegal immigration' is something that, for various and perhaps complex reasons, happens; governments have to develop 'solutions' to this 'problem'. However, a notable trend in recent scholarship is to treat the governance of illegal immigration – what I propose to call *anti-illegal immigration policy* – as an 'important object of study in its own right'.² According to this reading, migration governance should be examined in terms of programmes, discourses, experts, technologies and interventions which do not simply respond to something already there, but instead operate as an active and constitutive force which shapes the social world in particular ways with particular political consequences. This turn towards analyzing anti-illegal immigration activity as a performative and irreducible regime of practices is evident in the literature in a number of ways. For instance, it is manifest in the growing body of work utilizing the analytics of 'securitization' and 'criminalization' to explain how certain categories of migrants find themselves subject to exceptional and often quasi-authoritarian forms of treatment (Waever, Buzan et al. 1993; Waever 1995; Bigo 2002; Ceyhan and Tsoukala 2002; Buonfino 2004; Huysmans 2006). It is also apparent in a range of critical studies which examine how policies of heightened border control typically fail to achieve their stated aim – namely the 'prevention' of unauthorized immigration – while instead pushing migrants and refugees ever closer towards situations of human smuggling and perilous and often fatal forms of border crossing (Sassen 2003; Cornelius 2005).

This chapter seeks to contribute to this research focus of anti-illegal immigration policy by engaging with one particular case: the formation of a common policy on illegal immigration at the level of the European Union.³

----- end of page 73 -----

As such, I seek to build on emerging research on this new area of EU governance (Mitsilegas 2002; Samers 2004; Geddes 2005). Much research on the governance of illegal immigration is couched at a relatively systemic level, and involves generalizations about the state, security, neoliberalism, processes of debordering and rebordering, etc. Less common are studies that examine particular programmes, strategies, events and controversies. Yet research that takes a more situated and case-oriented approach has many benefits. For instance, as Ngai (2004) demonstrates in her study of the ‘impossible’ subjecthood of the ‘illegal alien’ in the United States, such an approach can offer insights as to variations in the construction of illegality across different social, national and ethnic identities.

Drawing inspiration from this more empirical, and case-focused style of engagement with questions of illegalization, this paper seeks to further our understanding of the emergent realm of anti-illegal immigration activity by focusing not on a particular state, but the transnational political regime of the EU. The chapter offers a critical analysis of what the EU sometimes calls a ‘combat’ against illegal immigration by undertaking a careful reading of some of its key texts (European Commission 2001; Official Journal 2002; European Commission 2006).

The central theme of this edited collection is that a new politics of migration is emerging in connection with the multiplication of international and regional organizations specializing in the regulation of global mobility. This politics is related not just to the rise of new political and organizational actors, however, but to a new way of framing the question of migration, namely as one of ‘migration management’. To date we lack an adequate understanding of the politics of migration management. A critical focus on anti-illegal immigration activity in the context of the EU can be useful in this context in at least two ways.

First, it will focus our attention on what is one of the most (in certain respects perhaps *the* most) crucial issues within the discourse of migration management. This is the question of illegal migration. I argue that illegal migration is far from being the kind of self-evident transgression that policy or media narratives, not to mention certain scholarly accounts, would often have us believe. On the contrary it is a complex and ambiguous phenomenon. My aim is to explore some of the founding political, ethical and sociological assumptions at work in the EU’s ‘combat’ against illegal immigration. For instance, just what does the EU understand by ‘illegal immigration’; what kinds of migrant subjects are being invoked here; and what forms of power and authority are being sanctioned? Is illegal immigration in fact systematically defined, or does it operate, as one critical reading has suggested, more as a ‘phantom transgressor’ (Challenge 2005) that haunts the public imagination fuelling a politics of fear and anxiety?

Second, a focus on anti-illegal immigration activity within the framework of the EU will enable me to develop a broader point. This is the claim

----- end of page 74 -----

that as new actors enter into the field of migration governance they bring with them particular ways of seeing and organizing the world. I argue that the EU’s common policy on illegal immigration is about much more than the governance of irregular forms of mobility, or even the social construction of certain forms of mobility, and certain forms of life *as* irregular. It is also about how the EU naturalizes a particular ‘imagined world’. Embedded within the ‘combat’ against illegal immigration is a political imagination in which Europe is cast as a bounded, self-contained region distinct from and confronted by an external world of similarly bounded but far less well-governed political entities. Illegal immigration is at once a major symptom of this asymmetry in governance capacity, and a source of justification for Europe to involve itself in

attempts to remake the world beyond it in the image of the well-governed, territorial state. In short, anti-illegal immigration activity is more than a branch of migration management. It is nothing less than state-making in a new form. That Europeans, to put it mildly, have a long history of exporting their image of the state, often with very troubling consequences, is one reason why we should take anti-immigration activity seriously as a political project.

The chapter is organized into two sections. The first surveys key aspects of the context and content of the EU's common policy on illegal immigration. The second offers a critical discussion of this programme that concentrates on teasing out the unspoken assumptions as well as some of the contradictions embedded in its policy narrative. It should be stressed that I have not attempted to provide an exhaustive overview of the policy documents generated by the common policy. Since my objective is to analyze the basic terms, metaphors and concepts which the EU uses in imagining the world it seeks to govern, I have confined my attention to a smaller group of documents and action plans which provided the initial blueprint for the policy, along with a few more recent publications which serve to indicate recent changes in policy priority and focus.

One final caveat is in order. Throughout the chapter I speak of 'the EU' as though it were a relatively unified actor that possesses a policy and a worldview concerning illegal immigration. As any student of the politics of the EU would no doubt object, this move glosses over the fact that the EU is a complex, multilayered and sometimes fragmented political regime. It goes without saying that there are significant differences in the way in which the European Commission, the Council of the European Union, the European Parliament, or executive agencies like Frontex approach the question of illegal immigration. Forging a common policy in areas of migration is therefore a difficult inter- and intra-organizational political activity in its own right. However, it would take a different kind of paper to explore such a politics. This chapter does not offer insights into the institutional politics of forging a common policy within the EU political framework. Instead, it concerns itself with investigating features of the discourse of

----- end of page 75 -----

anti-illegal immigration that might be held in common across these different institutional sites.

A Common Policy on Illegal Immigration: Context and Content

The onset of a significant degree of 'Europeanization' in the area of migration policy is usually dated to the 1980s when transgovernmental cooperation and cross-border networking amongst experts in the migration field began to gain momentum. This process began outside the formal institutions of the European Community/Union, advancing in such intergovernmental fora such as Trevi, the Ad Hoc Group on Immigration, and the Schengen group (Huysmans 2000: 755). In keeping with the general shift which had occurred in national migration policies, namely from a positive emphasis on the recruitment of foreign labour to the stemming of migratory flows (Guiraudon and Joppke 2001), these bodies were largely preoccupied with questions of border policing and migration control. Operating at some distance from public scrutiny, they helped to cement a particular framework, a 'European internal security field' (Bigo 1994). This created an institutional nexus of migration questions with transnational issues of crime, law and disorder. In solidifying this securitized conception of migration, these bodies generated a cognitive and administrative template for the regulation of migration, key elements of which subsequently found their way into the European Union. This is quite evident in the case of the Schengen group. Schengen did much to formulate a relatively novel distinction between 'internal' and 'external

borders' in relation to the question of migration control, just as it helped to incubate a set of technical procedures and protocols pertaining to the practical management of borders (Walters 2002).

But while questions of illegal immigration and border control were for some time being addressed within these transgovernmental spaces, it was not until the start of the new century that the EU would unveil a common policy specifically regarding illegal immigration. If the Treaty of Amsterdam (1998) was to commit the EU to the development of a common policy in immigration and asylum matters, and provide a legal foundation for remaking Europe as an 'area of freedom, security and justice', then a common policy in the area of illegal immigration has been presented by the EU as 'the missing link' of this ambitious project (Commission 2001: 3). From the outset, it should be stressed that the EU's version of anti-illegal immigration policy is legitimated not simply by the claim that it will mitigate unauthorized and unwanted forms of residence and migratory movement, but that this activity is an integral part of establishing a 'comprehensive' European framework for the wider governance of all forms of migratory movement. That said, the fact remains that EU competence in

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the area of 'legal' migration, such as its labour migration policy for non-EU nationals, remains weak (Geddes 2005: 797). In the period since the project of a common policy on illegal immigration was first announced, political investment and institutional development in what Geddes calls 'the more coercive aspects of migration policy' has significantly outstripped legislative and political actions directed towards opening the EU more fully to migration from beyond its borders. Meanwhile the so-called 'Hague programme' (2005-10) for developing EU immigration and asylum policy, and justice and home affairs more broadly, has been criticized for according the area of legal migration a 'very low priority' (ILPA 2004: 12).

The criticism that the EU has failed to achieve a more developed and generous policy of labour migration for non-EU nationals, particularly given the case that is often made on demographic and economic grounds for higher levels of permanent migration into the EU, has to be carefully qualified (e.g., see Favell and Hansen 2002, esp. 595-6). Above all, such criticism needs to be tempered by recognition of the fact that the political and geographical expansion of the EU has already effectively de-restricted key aspects of the immigration policies of the member states. While 'transitional provisions' may presently complicate the prospects of, say, Romanian nationals seeking work in France, in the longer term, the enlargement process will offer them the same opportunity as other EU citizens to migrate and work in all EU member states. But however momentous, this development does not change the fact that there is a very marked imbalance at the EU level between the political capital invested in anti-illegal immigration policy, and that directed towards the opening of labour migration for non-EU nationals.

I stated above that we should be cautious about portraying the EU as a monolithic actor operating in the field of migration governance. But we should also be careful not to imply that it acts alone in developing and implementing its agenda. We have already noted that the initial formulation of an EU programme in the area of border control and anti-illegal immigration did not simply evolve 'within' the institutional parameters of the EU. Instead, key elements took shape within a complex field of security agencies and ad hoc bodies, like the Schengen group, many of which were located formally outside the EU's institutional matrix. Similarly, the pursuit of anti-illegal immigration activity is, of course, not conducted by the EU alone. On the contrary, it is undertaken in 'partnership', to use one of the favoured keywords, with a variety of

intergovernmental agencies, nongovernmental agencies, and private actors. To take but one important example, the International Organization for Migration (IOM) has emerged as a key mediator and a kind of consultant for states in the process of joining, or hoping to join, the EU's privileged club of states. It was the IOM who played a leading role in preparing the states of Central and East Europe for accession to the EU in the mid 2000s. Through its expert discourse the IOM encouraged

----- end of page 77 -----

these countries to imagine the governance of migration in new ways: in terms of certain privileged and technocratic concepts like 'migration management'. At the same time, it operated as a key conduit for channelling EU funds into projects aimed at shaping and improving the performance of the migration control 'systems' of the new states, and aligning them with EU standards – as with the IOM's involvement in the EU-funded PHARE projects aimed at enhancing 'migration, visa and external border control management' (Bojcun 2005).

Given that the EU's transnational pursuit of anti-illegal immigration activity mobilizes and co-opts a variety of organizational actors, it would be better to picture its geographical extension into the regions bordering the EU not in classical state to state terms, but as a form of governance at a distance and governance through networks. Duffield (2001) has proposed these terms to make sense of the new forms that international aid and development policy is taking. However, they seem apt in describing the politics of migration management as well. Crucially, the 'network' is not merely a convenient or fashionable metaphor here. Instead, it refers to the infrastructure through which the governance of aid is actually practiced – 'a widening range of contractual tools, performance indicators, partnership frameworks and auditing techniques link metropolitan states – in the same way as donor governments – to a growing number of non-state organizations and commercial companies. As a means of governing at distance, new public management techniques have allowed novel and flexible forms of strategic alliance to emerge that cut across traditional institutional, professional and sector boundaries' (Duffield 2001: 318).

Future research could fruitfully examine anti-illegal immigration activity as a form of networked governance in which the EU is certainly a key node, but by no means the whole story. At the same time, it will be important not to overstate the coherence or consensus between the various agencies that populate these networks. For example, certain disagreements have recently surfaced between the IOM and Human Rights Watch. The latter has protested what it sees as the IOM's tendency to reframe its migration policy activities in the language of the humanitarian. HRW is troubled that IOM lacks any formal mandate for monitoring human rights abuses or affording humanitarian protection to refugees. Furthermore, it is concerned that, for example, by sponsoring deportation programmes for certain classes of migrants, IOM could be participating in activities which themselves violate those migrants' human rights (HRW 2003). Examples like this suggest that these governance networks may appear on first inspection as new spaces of technocratic administration. But they can also be the settings of politicization and conflict. If it is indeed the case that the contemporary scene of migration management is increasingly populated by a host of new migration actors, we should not assume they all pull in the same direction or co-habit in harmony.

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Having considered certain key aspects of the context for the EU's common policy on illegal immigration, let us now turn to address its content. Once we begin to examine the substance of the EU's common policy it soon becomes apparent that it remains consistent in key

respects with the earlier paradigm, the one formulated within international agencies operating outside the framework of the EU, which saw unauthorized migration largely as a ‘problem’ of security, and an issue to be addressed first and foremost by measures of improved policing, international and inter-agency cooperation. Certainly there are declarations of the need for a ‘balanced’ approach that does not sacrifice the commitment to human and refugee rights at the altar of internal security (Official Journal 2002: 14). Nevertheless, at the heart of the common policy on illegal immigration one finds an ‘action plan’ detailing a series of security-related measures. These are institutional objectives that are to be achieved over specific time periods. While the precise content of this list has evolved with time, the main measures have remained quite stable. They are: a more unified system for administering visa policy across the EU; improved information exchange and analysis between policing agencies (including an ‘early warning system’ designed to instantaneously communicate incidents of illegal migration); measures relating to border management at the external frontiers of the EU; pre-frontier measures (see below); a readmissions and return policy designed to smooth the removal of illegal entrants and failed asylum-seekers from EU space; and the enhancement and enforcement of legal measures penalizing various actors involved in smuggling, trafficking, and illegal employment, as well as commercial carriers who fail to adequately police the status of their own passengers.

It is important to note in passing that the common policy is being sold to the public on the grounds that it represents a ‘comprehensive’ approach to illegal immigration. For this reason it is, to say the least, somewhat peculiar that the original list of measures and actions barely mentions one of the most significant policies to be employed in a number of the member states and elsewhere, namely programmes to regularize the residence status of undocumented persons. The virtual absence of any reference of regularization in the original documents gives the impression this was not so much an act of oversight as some kind of political taboo.⁴

However, if there are certain continuities between the EU’s formulation of anti-illegal immigration activity, and the way in which the question of unauthorized migration was being formulated within international agencies in the 1980s and 1990s, there are also certain ways in which the EU’s common policy takes anti-illegal immigration policy in new directions. There are two I want to mention here.

The first concerns the theme of ‘partnership with third countries’ and illustrates the way in which the pursuit of enhanced ‘pre-frontier measures’ has located anti-illegal immigration activity squarely within the realm of

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geopolitics (Samers 2004; Geddes 2005). The quest to enlist countries like Libya, Algeria, Ukraine and Belarus in the EU’s campaign against illegal immigration was stated most forcefully by the European Council meeting in Seville in 2002 which concluded: ‘any future co-operation, association or equivalent agreement which the EU or EC concludes with any country should include a clause on joint management of migration flows and on compulsory readmissions in the event of irregular immigration’ (Geddes 2005: 793). Paralleling this stated objective there is evidence of a whole raft of programmes that have institutionalized this ‘external dimension’ of anti-illegal immigration activity either within wider international and regional development initiatives, or within entirely new schemes specifically dedicated to migration management. An example of the former is TACIS (Technical Assistance to the Commonwealth of Independent States), which targets states of the former USSR and combines measures to promote anti-corruption and anti-drug smuggling activity with enhanced border management (Samers 2004: 39). An example of the latter is the ‘Rabat plan of action’ agreed at the 2006 Euro-African

Ministerial Conference on Migration and Development (Noll 2006). Reflecting the way in which irregular migration from and through North Africa is now located at the centre of Europe's imagined geography of illegal immigration, this initiative links repressive measures (e.g., the comprehensive reinforcement of border control by European and African air, naval and police forces) to a substantial boosting of development aid. For instance, as part of the package, the Europeans have promised to make available \$22.7 billion in development assistance to support their African 'partners' over the next seven years. This commitment is in part rationalized by the argument that an improvement in the African economic situation would pre-empt the need for emigration. In both these cases one sees the project of anti-illegal immigration becoming linked to the process which Duffield (2001) has called the 'securitisation of development'.⁵

The second observation I want to make at this stage about the common policy on illegal immigration concerns its relationship to 'legal migration'. The EU draws a sharp distinction between 'legal' and 'illegal' forms of migration, and then places these two forms in a particular relationship. This distinction is in many respects foundational to the very possibility of a common policy on *illegal* immigration, and I will discuss its political implications at greater length later. Here I want to comment on the kind of relationship which is observed to obtain between them. In one of the earliest enunciations of the common policy, a relatively cautious position is outlined: it is observed that 'opening or re-opening legal channels for migration cannot be seen as a panacea against illegal immigration' (European Commission 2001: 6). In later documents a more optimistic position is set out: the establishment of 'clear and transparent EU rules on legal migration' is to be encouraged since this may 'itself reduce illegal immigration by offering

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perspectives to those who may otherwise migrate illegally' (European Commission 2006: 3). Elsewhere, a study devoted to the question concludes that there is indeed 'a link between legal and illegal migration but the relationship is complex and certainly not a direct one since a variety of different factors has to be taken into consideration' (European Commission 2004: 20).

Whether or not the link is positive or negative is, for my purposes, not the point. What is more interesting is the very fact that some kind of link is thought to exist, and has been made the object of policy knowledge and political experimentation. For this suggests that we are also witnessing a subtle shift in the political rationality of labour migration policy. In the age of Keynesianism, labour migration policy was largely about meeting the perceived 'manpower' and demographic needs of the economic and social systems. While these objectives remain in place, albeit reformulated in the neoliberal idiom of global competitiveness, it seems that labour market policy is now being accorded an additional function – one of security. Henceforth, labour market policy, now reframed as a central element of 'legal migration', is expected to contribute to the fight to suppress illegal immigration and associated forms of criminality. If anti-illegal immigration activity is contributing to the securitization of development, it gestures also to a parallel movement in which labour migration policy itself becomes an instrument not just of social security but internal security.

But in certain places the EU expresses the wish that the legal/illegal relationship will operate in the other direction as well. 'Effective action against illegal immigration plays an essential part in contributing to public acceptance of admission for humanitarian grounds by preventing misuse of the asylum system' (Official Journal 2002: 25). Not only could a more transparent and perhaps more generous labour migration policy reduce the demand for illegal entry, but a more effective anti-illegal immigration policy could restore public trust in the asylum procedure and foster greater acceptance of other forms of legal migration as well.

While the logic of this argument seems quite reasonable, it rather ignores two things. First, as human rights campaigners have documented, the practical conduct of the fight against illegal immigration threatens to erode Europe's basic commitments and obligations in the area of human and refugee rights (Human Rights Watch 2002). The growing use of detention as an instrument within the governance of migrants in many European countries has itself been identified as a source of rights-violation. Meanwhile certain anti-illegal immigration measures, such as the extension of the visa regime, are making it harder for refugees to reach European territory in the first place, and therefore lodge claims for asylum.

Second, anti-illegal immigration policy runs the risk of fuelling rather than assuaging public anxieties which associate migration with crime and disorder. The policy seems to assume that undocumented migration can be

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engaged as a security issue, and governed through measures of policing and crime-prevention, without this securitization of the undocumented migrant spilling over into the wider field of migration and asylum. It is as though we are asked to believe that the securitization of undocumented migration is a necessary and acceptable price to pay for normalizing and de-dramatizing other forms of migration. But we might wonder whether skeptics and opponents of 'immigration' are always so careful to distinguish between the 'bona fide' and the 'bogus' (den Boer 1995).

Critical Discussion

Having surveyed the context and content of the EU's anti-illegal immigration policy, I want to now move to a more critical discussion that interrogates some of its underlying assumptions. It seems appropriate to begin by examining the very notion of illegal immigration, the object of policy itself. Here we might begin with a question of terminology. It is worth noting at the outset that the EU persists in using the somewhat controversial term of 'illegal immigration' despite the fact that many other major policy actors, such as the ILO and the IOM, now prefer slightly less pejorative concepts like 'irregular migration'. The fact that 'illegal immigration' conjures associations with criminal elements and law breaking has not, it seems, proved sufficient for the EU to amend its official vocabulary (ILPA 2004: 4).

In addition, we should also note the frequent description of the policy as being a 'fight' or 'combat' with illegal immigration. While the EU does not explicitly identify migrants as an enemy, morally charged terms like 'combat' do seem to nudge anti-illegal immigration activity towards a terrain which Žižek (2004: 71) calls 'ultra-politics'. This is a space which posits a radical conflict between an 'us' and a 'them'. Placing the 'them' beyond the pale, outside the space of political dialogue, ultra-politics in fact shades into what I have elsewhere explored as anti-politics (Walters 2008). It forecloses the possibility that those deemed 'illegal immigrants' might be capable of assuming the status of political interlocutors. The EU's anti-illegal immigration policy certainly does not cast its subjects as demonic or evil in the way that certain forms of counterterrorism do. But it does have something in common: it operates with the assumption that the migrants in question have no speaking part to play in the political process. A mere glance at EU white papers in areas like youth policy shows they are obsessed with the need to foster the participation of young people. To this end they propose the adoption or expansion of various technologies of voice, consultation and dialogue (European Commission 2001b). Contrast

this with the common policy on illegal immigration where there is to be no space for the migrant's own perspective on the migration process.

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But aside from this matter of terminology, and what it might tell us about the ultra- and anti-political dynamics of the 'fight' against illegal immigration, and indeed the wider project of migration management, there is the question of just what it is that the EU understands by illegal immigration. If we take the view that anti-illegal immigration activity is not simply a response to a self-evident problem but rather a political, moral and conceptual intervention which actively shapes the social world it encounters, including the very meaning of migration, then how is the EU contributing an influential definition of illegal immigration and with what consequences?

Perhaps we can begin answering this question by noting that although the EU speaks assuredly of illegal immigration as a problem menacing its member states and their citizens, there seems to be a significant degree of ambiguity as to the precise nature of the phenomenon. The point is brought home by one commentary that notes that there is, as yet, no agreed definition in EU law of illegal immigration nor indeed of the irregular migrant (Challenge 2005). This leads the authors in question to suggest that illegal immigration operates as something of a phantom that haunts the space of migration and security policy. This problem is compounded by the fact that the EU typically places the appearance of the phantom sometime in the future: illegal immigration is discussed as something to be 'prevented' (see, e.g., European Commission 2001: 9), for example by 'pre-frontier measures', even though 'one cannot logically be an illegal immigrant in a country one has never entered' (Challenge 2005).

The elusive character of illegal immigration is further confirmed when the EU discusses the difficulty of gauging it quantitatively. In making the case for better information analysis the EU offers the rather startling confession that it is 'by definition impossible to have a clear picture of the scale of the phenomenon of illegal immigration in the Member States of the European Union', and seems to suggest that the best that can be hoped for is an 'estimate' derived from 'hard data' related to such matters as refused entries and deportations (Official Journal 2002: 28).

But while EU law on the subject may be underdeveloped, and statistical practice quite imprecise, this is not to suggest that there exist no working principles or tacit assumptions which give coherence to the EU's version of anti-illegal immigration policy. A careful reading of the relevant documents reveals that there is indeed a particular political, geographical and social imagination of illegal immigration at work. This point can be clarified if we consider first the imagined *spatiality*, and then the imagined *sociality* of illegal immigration that lies behind the EU's various policy measures and prescriptions. As we will see, both entail some rather questionable and problematic assumptions.

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The Imagined Spatiality of Illegal Immigration

In the EU's version of anti-illegal immigration policy, illegal immigration has a profoundly spatial, and more specifically territorial identity. This is what I call its imagined spatiality. The main policy documents typically begin by recognizing that illegal immigration can occur either on the basis of unauthorized border crossings, often with the facilitation of criminal elements, or by virtue of individuals who violate the terms of their residency (e.g., overstaying on

a visa, or taking unauthorized employment) (European Commission 2001: 7; Official Journal 2002: 24-5). Yet it takes little more than a glance at the checklist of recommended measures and actions to realize that these are overwhelmingly targeted at stemming unauthorized border crossings into the EU, and at preventing (would-be?) illegal migrants from reaching the EU's frontiers in the first place. Although the EU recognizes that illegal immigration can occur, as it were, through processes 'inside' the EU, in practical terms, most of the institutional and financial resources seem to be targeted on measures like visa policy, external border management, and 'partnership' with third countries. Hence, in the Santiago Action Plan, a mere two out of 102 paragraphs are devoted to the question of illegal employment (Official Journal 2002: 33). A more recent statement on future policy priorities redresses this somewhat when it recognizes illegal employment as a 'key pull factor' (European Commission 2006: 8-10), while the European Commission is currently investigating the case for a harmonized EU framework for imposing sanctions in employers of illegal migrants (Carrera and Guild 2007). But overall, the tacit assumption still seems to be that illegal immigration comes from outside the EU, and the best way to 'prevent' it is through the policing of borders, strategic ports and other channels of entry.

While the unauthorized crossing of borders is clearly a significant aspect of unauthorized migration more broadly understood, this imagined spatiality emphasizing the territorial character of illegal immigration is highly problematic. For it is by no means clear that unauthorized bordercrossing is as central a feature of illegal immigration in Europe as the EU's policy implies. Although data on illegal immigration is, as the EU itself recognizes, far from systematic or comprehensive, and although patterns differ from one country to the next, there is considerable evidence to suggest that a significant number of the persons deemed 'illegal immigrants' enter through authorized channels and only become 'illegal' when their visas expire, their refugee claims fail, and/or they take unauthorized employment. Indeed, in many countries this, rather than illegal bordercrossing, may constitute the principal source of unauthorized migration.⁶ Considered according to its own criteria, its own definitions of illegal immigration, the common policy is flawed if for no other reason than the fact that it is so preoccupied with 'external' rather than 'internal' sources of illegal immigration. The EU may claim to be combating illegal immigration, but it is more accurate to observe

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that it is only concerned with *particular forms* of illegal immigration. The 'illegal immigration' of the American student working off the books in a London pub barely appears on its radar screen. The combat is focused, rather, on the 'illegal immigrants' dramatized by constant TV and newspaper reporting of the 'border spectacle' (De Genova 2002) – the Africans ferried across the Straits of Gibraltar in small boats, the Chinese 'smuggled' into UK ports in lorries and shipping containers. This is to suggest there are particular assumptions about the racial and class identity of unauthorized migrants that are deeply encoded in the common policy, assumptions that a more politically responsible form of policy would surely want to challenge.

The Imagined Sociality of Illegal Immigration

In addition to an imagined spatiality, there is also an imagined sociality that structures the EU's policy discourse on illegal immigration. In using the term imagined sociality I want to draw attention to the fact that any particular policy discourse employs a cast of actors both human and non-human. The cast is always selective: only certain actors make it onto the stage. The identity, assumed forms of behaviour, character, etc., of these figures animate the policy discourse, enabling its assumptions to make sense. A discourse, in other words, comprises its own social world. It is populated by 'psychosocial types' (Deleuze and Guattari 1994: 67-8) ('the

entrepreneur', 'the housewife', 'the delinquent', etc.), but also collective actors ('the welfare state', 'superpowers', 'NGOs'). Interrogating the nature of these identities is essential if one is to confront the more subtle and commonsense ways in which policy is naturalized.

The EU's common policy on illegal immigration relies upon a privileged group of subjects to give it meaning. Many of these are collective actors (for instance, 'criminal networks'). While the particular ways in which these collective actors are imagined and mobilized deserves further analysis, and while we should not overlook the fact that certain actors are barely mentioned even though they are presumably quite implicated in the phenomenon of illegal immigration (for example, multinational corporations, small businesses), it is not their presence or absence in the policy narrative that interests me here. Instead, it is the fact that in their midst the 'illegal' or 'irregular migrant' appears as a particular psychosocial type. If the common policy contributes to rather than challenges the popular perception of illegal immigration as a phenomenon of unauthorized bordercrossing and territorial invasion, it also affirms the relatively widespread idea that a specific type of person called 'the illegal immigrant' does exist. Furthermore, it confirms the idea that understanding the motives, the behaviour, the (mis)perceptions of such persons is key to solving the problem of illegal immigration. Consider for a moment how the EU's policy narrative functions to person-ify illegal immigration, mistaking the effects of social processes like illegalization, territorialization and politicization, for actual,

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concrete persons. For instance, the Santiago Action Plan describes the case of 'illegal immigrants' who, once they are unable to pay the price of the smuggling services that brought them to Europe, 'often become victims of traffickers, who employ exploitative means to gain "reimbursement" for the cost of the journey' (Official Journal 2002: 24). Or consider the frequent and graphic references to 'stowaways' and 'thirsting and starving people' who wash up on European coasts in unsafe boats (Vitorino 2001). Here the identity of the illegal immigrant approximates that of the victim, a subject who will legitimate the construction of anti-illegal immigration activity as a quasi-humanitarian exercise in protection, and indeed, a morally righteous act of 'combat' against forces of violence and injustice.

Yet it would be wrong to assume that the illegal immigrant is imagined in a singular or coherent way. For in other places, it is the illegal immigrant as rational, decision-making actor that animates and legitimates the policy response. For instance, we are told that 'Irregular migrants take advantage of gaps at border controls and other deficiencies in control measures' (European Commission 2001: 8). Like savvy entrepreneurs, they soon work out how to profit from the weak points in the regulatory system. Elsewhere, the complexity of irregular migration flows is explained by invoking the choice-making capacities of migrants: 'illegal migrants seek to reach their *preferred* Member State by transiting other Member States' (European Commission 2001: 9, my emphasis). Here, their discerning, consumer-like behaviour gives them an identity not unlike that particular obsession of the popular media, the 'asylum-shopper'.

It has to be conceded that the common policy does not rely on a strong version of the psychosocial type. It does not depict 'irregular migrants' as though they are a cohesive group with shared cultural characteristics. It offers nothing as deeply racialized as the image of the Mexican 'wetback' which so perplexed US migration politics in the 1950s (Ngai 2004; Walters 2008b). That said, the common policy does nevertheless foster the idea that there exists a discrete type of person, a particular kind of actor called an 'illegal immigrant' whose situation can be juxtaposed with that of the 'legal migrant'. And herein lies the problem. The point is not that violence,

deception, coercion, bribery, exploitation, and rule-bending and breaking are not all features of the world in which unauthorized migration takes place. They are. But then these are all features of the life of many legal migrants as well, not to mention countless citizens. The point is that these experiences should not be bundled up, however incoherently, and treated as attributes or experiences of particular types of people.

The Micropolitics of Illegal Immigration

The fallacy of mistaking a legal and sociopolitical category for a social group, and of focusing on the social effects of legalization processes rather than those processes themselves (De Genova 2002), can be better grasped if we

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consider a concrete case. This will also illuminate the complex relation of anti-illegal immigration policy to labour migration. Calavita and Suárez-Navaz (2003) have undertaken a careful ethnography of migrant workers in the agricultural sector in the region of Andalusia in southern Spain. It traces the impact of changes in Spanish immigration law on migrant identities and relationships between migrants and Spanish citizens. New immigration laws were first introduced in 1985 when they facilitated Spain's 'status-affirming inclusion in the European Community' (100). But they have had the effect of illegalizing many migrants of extra-European origin, migrants who had hitherto worked alongside Andalusian peasants with little controversy. Calavita and Suárez-Navaz suggest that in contrast to the view of the illegal immigrant as a given identity it is necessary to understand that 'Spanish immigration law systematically creates and re-creates illegality while preaching integration, much as the modern state nourishes racial categorizations while at the same time "insist[ing] upon the moral irrelevance of race" (Goldberg 1993)' (Calavita and Suárez-Navaz 2003: 105).

What I find particularly interesting about this case is the way it troubles the idea that there exists a stable and enduring distinction between the legal and the illegal. This is especially evident in the case of workers who become legal on the basis of certain 'regularization' programmes for illegal aliens. According to Calavita and Suárez-Navaz such regularization programmes '*build in* a loss of legal status unless one can demonstrate, usually on an annual basis, that the original conditions persist (most important and daunting, a formal work contract' (115; their emphasis). In the case of many Moroccans in Spain, it was not uncommon for employers to withdraw their original contract commitments once faced with the prospect of paying social security or meeting other work-related formalities, exposing the worker to the prospect of re-illegalization at the end of the year. In this way they suggest that 'legal status is always a fragile state and almost inevitably gives way to periods of illegality' (116). Rather than there being a sharp line between two statuses, and certainly instead of there being two distinct social groups, one encounters a fluid movement between the legal and the illegal, with a condition of social precariousness extending across both.

Something similar is evident in the Italian case. Here, Mezzadra has noted how the enactment of the so-called Bossi-Fini law has managed to further complicate the idea of a straightforward distinction between 'the regular' and 'the clandestine'. This law empowers the employer as an authority regarding the migrant worker's legal status in the territory. As such it binds the worker to the 'personal mood of the private entrepreneur' such that 'the "regular" migrant is daily and *explicitly* exposed to the *instability* of his condition, to the threat of falling back to "clandestinity" and thus becoming "expellable" at any moment' (Mezzadra 2004: 274).

These particular examples make quite evident the real proximity of those designated as 'illegal' to the actual world of work – something that is

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only very weakly recognized in the EU's common policy. But these two examples – and they could surely be multiplied a thousandfold - are interesting for at least two additional reasons. First, they enable us to clarify the nature of the distinction which we have found to be foundational to EU policymaking. This distinction places legal and labour migration on one side and illegal immigration on the other. These examples allow us to interrogate the move which distributes legal and labour migration to the field of social and economic regulation while locating the illegal fully at the heart of the security paradigm. Instead of a migration world populated by different social types, these concrete cases reveal a continuum of employment and immigration situations wherein the same individual can fluctuate in and out of legal status, sometimes unknowingly.

For this reason it might be more accurate to view the legal/illegal binary not so much as a valid description of social reality but more as a normative distinction embedded in a particular political project. What it clearly expresses is the will of political authorities that migratory phenomena really could be resolved into different categories, with some accepted as economically useful, others protected as genuinely in need, and the remainder efficiently dispatched back to their 'own' homelands. In this respect at least, this quest to differentiate migration embodies the same political dream that animated social policy reformers and charity workers more than one hundred years ago. Bemoaning the difficulty of really 'knowing' the poor, they devised tests to properly distinguish between the respectable and the undeserving. The undue faith and political investment which the EU places in costly new technologies like EURODAC - whose promise is to electronically document the biometric identity of all those whose condition it is to be an 'asylum-seeker' (van der Ploeg 1999) - suggests that the fantasy of dividing the good from the bad cathects itself in new ways and new contexts.

But these concrete examples bring something else to the discussion of illegal immigration. They suggest that it is not enough to recognize illegality as something produced by political and legal processes. One needs to take a further step and recognize that that in any given social and institutional situation illegality can be elicited, circulated, deployed, utilized, threatened, and perhaps negotiated. It functions as a site of power relations. It operates not just at the level of policy processes but in particular settings like the employment relationship within a small business. Operating in parallel with national, European and other regional policies regarding illegal immigration, there is then a micropolitics of illegality. Future research will surely want to investigate more fully the contours of this micropolitics, including its lines and acts of resistance (Engbersen 2001).

A Politics of Decontextualization

I come now to the last of the critical remarks I want to make about the EU's version of anti-illegal immigration activity. It concerns the particular way

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in which anti-illegal immigration policy constructs and positions the EU within the migration field as the innocent victim of an unprovoked transgression. Framing the EU as an innocent victim, it confers upon this political actor an expectation and a sovereign right to respond emphatically to the transgression. In mobilizing this particular play of the active and the passive, the violator and the violated, anti-illegal immigration appears to have certain things in common with contemporary forms of counterterrorism policy (Troyer 2003). For a significant feature of the common policy is that the EU is framed not as active, but only as *re*-active. In other words, it would be more accurate to describe the action plans to combat illegal immigration as *re*-action plans. These action plans, and the projects and practices they convene, appear as a response to a prior transgression called 'illegal immigration', not an intervention which plays a fundamental role in structuring contemporary forms of human mobility and distributing life and death itself. Europe is cast as a passive bystander whose sovereign territory, at a certain moment, comes to be violated by the intrusion of an uninvited and, to borrow a term from Sassen (2000: 65), 'autonomous' migratory force that originates in territories and states bearing an entirely external relationship to Europe. As the starkly geopolitical maps of migration which now frequently accompany media reporting and official documents concerning routeways of illegal immigration and trafficking imply (Walters 2010), the line always runs in one direction: from the distant, corrupt, chaotic borderlands populated by 'failed states' and 'conflict zones', through the weakly-policed borders and cities of 'transit countries', and into the heart of European territory. Illegal immigration, it seems, is a one-way street.

Nowhere is this narrative enunciated more clearly, nor couched with a greater semblance of technical neutrality, than with the EU's frequent use of the concept of 'actors-in-the-chain' (European Commission 2001: 8-9; Vitorino 2001: Official Journal 2002: 25). This concept was regularly used in launching the common policy to stress that administrative measures and policing actions had to operate across a very wide set of issues. The chain metaphor serves to naturalize an interdependence between a series of bad actors and factors at work in the 'migration process' – crime, smuggling, trafficking, global instability, etc. But it also expresses a spatio-temporal relationship: 'efforts on migration management cannot have their full impact if measures are not implemented at *the beginning of the migration chain* i.e. the promotion of peace, political stability, human rights, democratic principles and sustainable economic, social and environmental development of the countries of origin' (European Commission 2001: 8, my emphasis).

What is so problematic about this narrative is the manner in which it ascribes an origin to unauthorized migration. For the ascription of origin goes hand in hand with a particular distribution of political responsibility. In this case, the origin is located almost entirely *within* the social, political

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and economic affairs of the so-called 'countries of origin'. Indeed, the very terminology 'country of origin' inscribes this assertion into their geopolitical identity – one reason why scholars might want to use such terms more cautiously. The fact that the EU then proposes to govern this 'origin' by means of positive, economic inducements (such as development aid) as well as more coercive means is, in this context, beside the point. What a concept like actors-in-the-chain of course eclipses are all the ways in which historically, economically, politically, culturally, etc., Europe is already 'inside' the so-called countries of origin (just as their peoples and cultures are already inside Europe). It negates the fact that we could cite many reasons – such as neoliberal trade agreements, geopolitical alliances, arms deals, flows of European capital investment and disinvestment, flows of bribery, media and tourism, not to mention all the historical ways in

which the project of European colonialism created ties of cultural affinity and antagonism with so many of today's 'sending countries' – why Europe itself might be considered a 'country of origin'. Yet all these lines of interconnection, these spaces of interchange, while they may appear on other maps, never feature within the geographical nor, more tellingly, the mental maps of illegal immigration.

Anti-illegal immigration policy obscures these various ways in which Europe is fundamentally implicated in the 'problem' of illegal immigration. As such it embodies a politics of decontextualization. This politics reframes things so that Europe appears to confront an issue that is somehow external and alien to it.

Conclusion

Let me conclude by observing that in many respects the EU's version of anti-illegal immigration policy, its imagining of a new migration world, can be read as a story about bordering. It is about bordering first of all in a conventional and literal sense: we have seen how it identifies the effective management of Europe's external frontiers as one of the key responses to the 'problem' of illegal immigration. But not content with securing its own perimeter, the EU seeks to contribute to a much wider movement that is today elevating border control to the point where it is typically represented as one of the most vital expressions and responsibilities of sovereign statehood. Alongside other agencies like the IOM, and through its 'external dimension', its myriad 'partnerships' and 'dialogues', the EU is clearly engaged in an almost worldwide campaign to promote border control as a central plank of good governance.

But there are other forms of bordering at stake in the EU's common policy. One of these is evident from our discussion of the imagined sociality of illegal immigration. It is a form of bordering that illustrates why research into the discourse of migration management cannot ignore the issues raised by the study of anti-illegal immigration policy. For the latter involves a dream of

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drawing a clear line between the legal and the illegal, freedom and coercion, civilization and anarchy. It is a dream that seems to be contrary to, or is perhaps provoked by the tendency of contemporary capitalism which is forever mixing things up, and which finds in the 'twilight zone between the state of nature and civil society' some of its most promising opportunities for new forms of accumulation and appropriation (de Sousa Santos 2007: 9).

But it is still another kind of bordering that is perhaps the most significant and problematic aspect of the EU's anti-illegal immigration programme. This is a more profound kind of bordering because it is rooted not in geographical lines, but in the act of political imagination which constitutes Europe as a bounded, self-contained region/entity, distinct from and confronted by an external world of similarly bounded, but far less well-governed entities. It is within this space that illegal immigration comes to be imagined as a potentially chaotic set of forces emanating from the world's most troubled states and regions, and converging on Europe. Whether in the name of 'open borders', 'no borders', or under the more modest but also more exigent banner of the humanitarian, various experts, groups, and many migrants themselves have for some time contested the kind of bordering project which lies at the heart of the EU's anti-illegal immigration policy. The fortunes of these political challenges will surely depend upon their ability to unsettle this last form of bordering, the bordering which divides Europe, despite the talk of 'neighbourhood' or a 'global approach', from the rest of the world.⁷

Notes

¹ An earlier version of this paper appeared in C. Gabriel and H. Pellerin (eds) *Governing International Labour Migration* (London: Routledge, 2008). This version is moderately revised and updated.

² Here I have paraphrased Hindess (2004) who, in a study of anti-corruption programmes, argues that scholarly attention should be broadened beyond a focus on the social incidence and causes of corruption to examine institutional practices of anti-corruption activity. In the international arena this 'has grown to such an extent that it should now be regarded as an important object of study in its own right'. This important insight is applicable not only to anti-corruption, but to anti-illegal immigration activity, and indeed, a whole range of anti-policies (anti-drugs, anti-terrorism, anti-racism, etc). For an extended discussion of the theme of anti-policies see Walters (2008) and the essays in the special issue which it introduces.

³ Terms like 'irregular', 'non-status' or 'undocumented migration' are often substituted for 'illegal immigration'. This is in part because of the particularly pejorative connotations of the latter, not least the negative associations it suggests between certain forms of migration, crime and law-breaking. For the most part in this chapter I retain the term 'illegal immigration' since this is the object which the EU has named, and which this chapter takes as its target of criticism. Put differently, my focus is, as Black (2003: 42) has put it, on 'migration that is considered "illegal"'.

⁴ This rather glaring omission has been partially acknowledged in a recent publication on 'policy priorities' (European Commission 2006: 7-8) where a system for 'mutual information' about national measures of regularization is proposed. This document also mentions the launching of a study to survey the practice of regularization across member states. This has recently been published by the International Centre for Migration Policy and Development as *Regularisations in Europe: A Study on Practices in the Area of Regularisation of Illegally Staying Third-Country Nationals in the Member States of the EU* (Vienna; ICMPD, 2009).

⁵ It is in connection with this ongoing 'Euro-African dialogue' on migration and development that we can detect another interesting change in the formulation of anti-illegal immigration activity. This concerns the way its transnational scope and scale is now being reformulated. Initially, terms like 'pre-frontier measures' and 'partnership with third countries' were used to convey the idea that anti-illegal immigration policy could not be confined to the territories of the EU states alone but had to be extended to the countries of 'origin' and transit'. While these modest concepts persist, they have now been resituated within a more ambitious project. This is something the EU calls the 'Global Approach to Migration', a term it now uses to talk up the 'external dimension' of its migration policy agenda. The EU claims that the Global Approach is 'based on genuine partnership with third countries, is fully integrated into the EU's other external policies, and addresses all migration and asylum issues in a comprehensive and balanced manner' (Commission 2008: 2).

⁶ For instance, Düvell (2006) cites studies that suggest that for all the media panic generated around the image of boats disgorging desperate migrants on Italy's coasts and southern islands, only 10% of the unauthorized population in Italy arrived in Italy by boat. Similarly, one report by the UK House of Lords hints at a discrepancy between popular and statistical profiles of illegal immigration, observing that it is 'quite likely that... the largest number of illegal immigrants [in the UK] in the widest sense [come] from countries such as the United States which provide the largest number of visitors' (House of Lords 2001: 11). If true, the UK case would resemble the Australian one where, despite the media and political frenzy

about 'boatpeople', it is, as the same report observes, British nationals who constitute the largest category of illegal immigrants.

⁷ See the excellent lecture by Balibar (2004) that juxtaposes this closed, bordered Europe with an open, mixed and fluid Europe of multiple borderlands.

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