



Autumn Academy 2017

Strategic Approaches on Migrants with Irregular Status in Europe

St Hugh's College, Oxford,
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What did we learn?

The symposium was a rare opportunity for those of us working on irregular migration in different capacities, from the international to the local level, to share expertise and ideas. From four long days of discussion, there will for each participant be different ideas that strike a strong chord. For us there were five particular insights which were reinforced throughout the week.

1. **There are conflicting interests and priorities within states, and between states and regional and municipal authorities** in relation to managing irregular migration which are scarcely being acknowledged or addressed. While national policies focus near exclusively on enforcement, it was clear that there is a strong public interest in policy also reflecting a significant range of competing social policy priorities – not least public health, public safety, tackling domestic violence and child protection. While the need to account for those priorities has been recognised at the margins of national policy reform, there is little public acknowledgement by governments of their need to do so. Nor are the relevant Ministries usually given a place at the table when migration management policies are set. As a result, exclusion of irregular migrants from basic public services is the norm. It is the regional and municipal tiers of government that then feel the consequences of exclusion most directly. In the absence of recognition of the challenges they face this is increasingly leading them to diverge from national policies to find creative ways to facilitate greater access to services. National governments surely need to acknowledge the range of policy objectives that also have to be met. They should be transparent on the extent to which they have already done so (in allowing access to a level of health care for instance, and for children to attend school); and should support municipal initiatives as part of a comprehensive approach rather than see them as in some way undermining their enforcement agenda.

There are conflicting interests and priorities within states, and between states and regional and municipal authorities' in relation to managing irregular migration

2. **The contradictions in current policies towards irregular migrants are unsustainable, but there are some indications that this is at last being recognised.** The numbers of those with irregular status will grow as many of the recent refugee arrivals in Europe are refused asylum but remain.

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Detention and removals are expensive; the level of returns is just 36% and, where reintegration is not viable, people return to Europe. The hostile environment of exclusion from public services (and even from having a bank account or a driving license), which is intended to deter, cannot be sufficiently hostile relative to conditions in source countries to induce many to return. Yet it has a range of unintended, negative social impacts: migrants who cannot report information on crimes for fear of being detained; exploitation tolerated for fear of being exposed; unaccompanied children who, on the day they turn 18, transform from a child entitled to protection to an

unwanted adult with no right to stay. A focus on errant migrants, moreover, ignores the structural role which irregularity can serve in the labour market, or ways in which the design of legal channels

can foster lapses into irregularity. It addresses a symptom not the drivers of irregularity that need to be addressed.

There is cause for encouragement, however, in the growing international and national recognition that a new approach is needed, not least in the forthcoming Global Compact. The letter to the symposium from the UN Special Representative on International Migration, Louise Arbour, welcoming our focus on irregular migration, wrote that *'the success or failure of the compact will rest in large part on the degree to which it can present a practical way forward in better managing this aspect of the broader migration picture.'* The Council of Europe has also entered the debate, through its European Commission on Racism and Intolerance (ECRI), providing guidance on provision of a data firewall between public services and law enforcement so that irregular migrants can access basic services without fear of enforcement action. National reforms, as in the access to health care now provided in Sweden and broader measures in Portugal and Italy, demonstrate a direction of travel which (as we also learnt from the United States) has not undermined enforcement nor normalised irregularity but has found a necessary balance between enforcement measures and avoiding the negative social consequences they can incur.

3. The current narrative on 'illegal' immigration is counterproductive for a constructive policy dialogue. The prevalent negative terminology, however, demonises the individuals concerned, masking a nuanced understanding of the continuum among irregular migrants from minor rule breakers to those who pose a genuine risk. Government enforcement priorities do in practice recognise a hierarchy of harm, but the rhetoric does not. Actors at the local level can play a central role in changing the narrative, but most imperative is leadership from the top. Only government has the capacity to lead a more nuanced understanding and, in so doing, it would open up the political space it needs if it is to take forward a more balanced policy agenda. In that task we saw that it will need more than facts to shift negative perceptions; but better data and evidence is nevertheless needed if the argument is not to be ceded to those who want to ignore facts and stoke fears. Advocates who are themselves seeking to change the narrative have to recognise that human rights arguments have moral and some legal authority but, like facts, are not enough. The starting point for an effective narrative is understanding the basis of public concerns and addressing them. If there is a fear that migration is out of control, emphasising migrants' rights alone will not hit home. In our trans-Atlantic dialogue it was also striking how absent from European debates are irregular migrants themselves, and hence our understanding of who they are and the decisions they take, in contrast to the visibility of the Dreamers in the United States. How do we enable Europe's irregular migrants to be visible and their voices to be heard, without their risking the consequences in enforcement action?

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Policy reform now needs engagement from all tiers of government and departments across government

4. Policy reform now needs engagement from all tiers of government, and departments across government, respecting their differing but overlapping mandates, so that competing agendas can be reconciled. For a balanced agenda, management of irregularity needs to be mainstreamed across Ministries and municipal departments, not treated as a matter of enforcement alone. We found Portugal's experience in this respect

instructive. If national governments acknowledge municipalities as playing a legitimate role in a comprehensive approach, municipalities will in turn see national governments not as part of the problem but as partners in implementing a shared solution.

5. **Progress can take place on many fronts across multiple agendas.** It is not within migration policy agendas that progress to address the balance between enforcement and social policy objectives is only, or even most likely, to be found. Those working on health, education or crime agendas are able to secure change without framing the debate as a migration issue, as the Swedish experience of health reforms and the Dutch experience on victims of crime demonstrated. Voices can be mobilised on that basis, we heard, who would not feel comfortable articulating arguments on migration per se. It was also striking how municipal approaches have been developed from a pragmatic need to address a problem, that need securing political support rather than having its origin in debate at the political level. Utrecht's need to resolve the immigration status of its homeless population, leading to provision of shelter combined with access to legal advice, was a salutary case in point.

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The immense value of spaces for learning exchange

A further insight, should it be needed, was the immense value of spaces for learning-exchange across continents and professions, tiers of government and public and private sectors. Bringing together individuals with differing, complementary expertise on an issue – policy makers, practitioners, scholars, civil society and funders – who would not normally have an opportunity to learn from each other nor

to stand back, reflect, and engage in an open ended but evidence-based debate, generates a new energy for reform not only fresh ideas - a momentum which we hope will now, in differing forms, have an impact on addressing the many challenges we discussed.

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