

CARTOGRAFIE SOCIALI

Rivista di sociologia e scienze umane

ANNO I, N. 2, NOVEMBRE 2016

DIREZIONE SCIENTIFICA

Lucio d'Alessandro e Antonello Petrillo

DIRETTORE RESPONSABILE

Arturo Lando

REDAZIONE

Elena Cennini, Anna D'Ascenzio, Marco De Biase, Giuseppina Della Sala, Emilio Gardini, Fabrizio Greco, Luca Manunza

COMITATO DI REDAZIONE

Marco Armiero (KTH Royal Institute of Technology, Stockholm), Tugba Basaran (Kent University), Nick Dines (Middlesex University of London), Stefania Ferraro (Università degli Studi Suor Orsola Benincasa, Napoli), Marcello Maneri (Università di Milano Bicocca), Önder Özhan (Università di Ankara), Domenico Perrotta (Università di Bergamo), Federico Rahola (Università di Genova), Pietro Saitta (Università di Messina), Anna Simone (Università Roma Tre), Ciro Tarantino (Università della Calabria)

COMITATO SCIENTIFICO

Fabienne Brion (Université Catholique de Louvain -la-Neuve), Alessandro Dal Lago (Università di Genova), Didier Fassin (Institute for Advanced Study School of Social Science, Princeton), Fernando Gil Villa (Universidad de Salamanca), Akhil Gupta (University of California), Michalis Lianos (Université de Rouen), Marco Martiniello (University of Liège), Laurent Mucchielli (CNRS - Centre national de la recherche scientifique), Salvatore Palidda (Università di Genova), Michel Peraldi (CADIS - Centre d'analyse et d'intervention sociologiques), Andrea Rea (Université libre de Bruxelles)

"Cartografie sociali" is a peer reviewed journal

BISOGNA DIFENDERE L'UMANITÀ

I DIRITTI UMANI TRA PRATICHE
DI GUERRA, RELAZIONI DI POTERE,
MOBILITÀ INTERNAZIONALE
E RESISTENZE

A cura di Marco De Biase e Stefania Ferraro

 **MIMESIS**



SUOR ORSOLA
UNIVERSITY PRESS

Pubblicazione semestrale: abbonamento annuale (due numeri): € 45,00

Per gli ordini e gli abbonamenti rivolgersi a:
ordini@mimesisedizioni.it

L'acquisto avviene per bonifico intestato a:
MIM Edizioni Srl, Via Monfalcone 17/19
20099 - Sesto San Giovanni (MI)
Unicredit Banca - Milano
IBAN: IT 59 B 02008 01634 000101289368
BIC/SWIFT: UNCRITM1234

Cartografie sociali è una rivista promossa da URiT, Unità di Ricerca sulle Topografie sociali.

Direzione e Redazione della rivista hanno sede
presso l'Università degli Studi Suor Orsola Benincasa
Via Suor Orsola 10 - 80132 Napoli (Italy)
www.unisob.na.it
cartografiesociali@unisob.na.it
cartografiesociali.rivista@gmail.com

UNIVERSITÀ DEGLI STUDI
SUOR ORSOLA
BENINCASA
FACOLTÀ DI
SCIENZE
DELLA FORMAZIONE



MIMESIS EDIZIONI (Milano – Udine)
www.mimesisedizioni.it
mimesis@mimesisedizioni.it

Isbn: 9788857539331
Issn: 2499-7641

© 2016 – MIM EDIZIONI SRL
Via Monfalcone, 17/19 – 20099
Sesto San Giovanni (MI)
Phone: +39 02 24861657 / 24416383
Fax: +39 02 89403935

Registrazione Tribunale di Napoli n. 37 del 5 luglio 2012

INDICE

EDITORIALE: GUERRE PER I DIRITTI/GUERRE AI DIRITTI? Globalizzazione e crisi della democrazia <i>di Marco De Biase e Stefania Ferraro</i>	9
--	---

MAPPE

ESCLUSIONE IDENTITARIA E INCLUSIONE SELETTIVA: LA MARCATURA BIOPOLITICA DELLA GOVERNAMENTALITÀ NEOLIBERALE <i>di Laura Bazzicalupo</i>	23
FOR A “CONSTITUENT” CONCEPTION OF CITIZENSHIP AND “HOSTING RIGHT” <i>di Tito Marci</i>	43
HUMANITARIAN TARZANISM: THE DISCURSIVE TENSION BETWEEN INEQUALITY AND SOLIDARITY <i>di Pierluigi Musarò</i>	63
THE GLOBAL GOVERNANCE OF HUMAN RIGHTS UNDER NEOLIBERALISM <i>di Diego Giannone</i>	81
MÉMOIRE DE GUERRE Lieux communs et hors champs mémoriels <i>di Philippe Mesnard</i>	97

ROTTE

POTERE DISCREZIONALE E POLITICHE SECURITARIE <i>Le chèque en gris dello Stato alla polizia</i> <i>di Didier Fassin</i>	119
--	-----

GOVERNING IMMIGRATION THROUGH CRIME AT THE STREET LEVEL
The metamorphosis of an immigration detention centre in Belgium
di Andrew Crosby 145

THE (LOCAL) MEDICAL WORKER
Understanding the act of bearing witness through a reorientation
of *testis*, *superstes*
di Shubranshu Mishra 167

«I DIDN'T CROSS THE BORDER, THE BORDER CROSSED ME»
Le mobilità palestinesi attraverso il confine tra Egitto e Striscia di Gaza
di Lorenzo Navone 193

LA DÉMOCRATIE EN IRAK APRÈS LA GUERRE
Entre représentations, rhétoriques et stratégies d'ordre
di Stefania Ferraro 213

RILIEVI

L'INTÉGRATION ET L'EUROPE: QUELS ENJEUX?
di Carla Mascia 241

CAPORALI AND GANGMASTERS
A comparative study of informal labour intermediation and workforce
reproduction practices in Italy and the U.K. A research in progress
di Sara Angiuoni 261

UNA GENEALOGIA DEI MOVIMENTI SOCIALI LATINOAMERICANI: ESPERIENZE
DI RESISTENZA E PRODUZIONE DI NUOVE PRATICHE
di Marta Vignola 287

MAFIAS ET MOBILITÉ INTERNATIONALE
Les mafias italiennes entre stéréotypes consolidés et retour
à une perspective marxienne
di Marco De Biase 307

GLI APOLIDI DELLA METROPOLI

La povertà come frontiera del diritto alla casa. Il caso Napoli
dagli anni Cinquanta a oggi

di Giuseppe Daniele De Stefano

331

WUNDERKAMMER

PER LA MIA EROICA RESISTENZA

Scritti per la libertà

a cura di Elena Cennini

351

TRAVELOGUES

BISOGNA CAMBIARE LESSICO

di Fabrizio Greco

371

THE MARKS OF CAPITAL

di Lucio Castracani

377

ANDREW CROSBY

GOVERNING IMMIGRATION THROUGH CRIME AT THE STREET LEVEL

The metamorphosis of an immigration detention centre in Belgium

Abstract:

Based on ethnographic research in an immigration detention centre in Belgium the author discusses the evolution of the regime to which the detainees are subjected. In the official language of the Immigration Office, this evolution is called humanisation of detention. A reconstruction of the changes shows that instead the regime was changed for the well-being of the staff. In fact, immigration detention must be understood as a result of the rise of warehousing practices of the penal state. The staff of the centres has the task of executing the punitive measure of detention. However, this became too burdensome for the staff and so the regime was gradually humanised without change in legislation. All levels of staff were implicated in this change. The author argues that the changes were made to account to different actors: inside the Immigration Office accountability was directed to the staff, while externally this process was called humanisation.

Keywords:

Immigration Detention, Implementation, Governing Immigration through Crime, Street-level Bureaucracy, Ethopolitics.

1. Introduction

Over the past decade the regime of immigration detention in Belgium has been subject to an evolution, which, in the official language of the Immigration Office (IO), has been referred to as the humanisation of detention. This induces the public to think that these changes were made for the benefit of detainees. A

closer look informs us that this is only partly true as the changes came first of all as an answer to the demand for better staff working conditions and secondly to achieve the goals of the institution more easily. In other words, the change of regime was more managerial, increasing effectiveness and reducing (human) costs, than humanist, which is concentrated on the well-being of detainees. The immigration detention centres are run by the IO, which is the administration charged with implementing immigration policies: regularisations, expulsions, admittances to the territory, family reunification, etc. The General Coordination and Control (GCC) of the centres is a section of the IO and has its headquarters in Brussels. The purpose of the GCC is to make sure that the law regulating the functioning of the centres is implemented correctly. As such, next to regular meetings with all the directions of the centres, it operates a control function through permanent communication on the status quo through daily "weather reports" on the situation of the centre, monthly statistical reports on detentions, releases and expulsions, as well as detailed reports on particular interventions such as disciplinary confinement, police incidents, hunger strikes, detainees' protests, demonstrations, and so on. The GCC also sets out general guidelines that have to be implemented by each individual centre at the local level. The GCC functions thus as an inter-organisational field where the different centres and the GCC itself exchange and gather information, communicate facts and policies and where practices are shared and norms are set. The centres and the GCC work in close contact with the different executive offices: the identification cell (or C-ID) and the repatriation cell (or C-R), which are in charge of the identification of the detainee and his removal. Bureau T (for transport) is the service that moves the detainees between centres and the courts, airports, embassies, or even to the border with a neighbouring country where that country is responsible for receiving the detainee.

Each centre is headed by a director and various attachés. A centre psychologist provides psychological assistants for detainees. A social team, composed of social assistants and educators provide respectively follow up and support in the individual's immigration case, and provide practical support and activities during their stay in the centre. At the intermediate level between direction and security, there are the security assistant-coordinators (SAC). Their task is to coordinate, supervise and provide support for the security teams. Though they are part of security staff, they are not in first-line contact with detainees permanently, but only when they are needed for decision making and during the rounds of the different wings. Security support-assistants (SSA) share the same tasks as the security collaborators (SC) with the addition – in theory – of animation, support, and replacing educators in their absence. Finally the SCs are charged with the daily security of the centre and interaction with detainees.

SSAs and SCs are in the same teams and work around the clock in all centres. SACs also work around the clock for supervision and intervention.

2. *Methodological note*

I conducted field work in three out of the five immigration detention centres in Belgium. The centres were chosen by crossing two criteria: the first was to include the most violent and the most peaceful centres following the classification of the Federal Ombudsman's report (2009); the second was to include a centre from each of the three Belgian regions. I spent three and a half months in each centre where I conducted participant observation, interviews with staff and group interviews with detainees, along with many hours of informal exchanges with both staff and detainees. In the centres I conducted 55 interviews with staff. I interviewed each category of staff that comes in contact with detainees: security, social assistants, educators, direction, medical team, psychological team and in one case even administrative staff. Interviews with detainees were conducted in group in Merksplas (5) and in Steenokkerzeel (1), with 5 to 10 participants. During these group interviews saturation was rapidly reached and so personal, informal exchanges were subsequently preferred as they were much richer in material. All detainees were men in the three centres. Lastly, I consulted documentation from each centre visited including statistical data, year reports, crisis manuals, internal rules, reports on operational changes, and so on. In this article I will focus on the centre of Merksplas only, because the biggest changes occurred there and because this was a motor to adopt changes in the other centres as well, as will be discussed below.

3. *Governing immigration through crime*

The practices of border control and the discourses of threat and securitisation of immigration have led scholars to compare the treatment of immigration and immigrants to the rise of the penal state in the field of criminology by authors like Feeley and Simon (1992), Garland (2001) or Simon (2007). Legal scholars have discussed how immigration offences in the USA have been subjected to criminal law penalties, yet without the procedural guarantees offered by criminal law; how harsher criminal law sanctions apply to foreigners (independently of their status); how immigration detention is used for law enforcement purposes even if it means finding law violations *a posteriori*; and how the industry of immigration detention has also been expanding rapidly

(Miller 2003; Chacón 2009; 2013; Stumpf 2013; Hernández 2013). Similarly, in Europe immigration laws offer far fewer legal guarantees than civil law (in cases concerning residence or legal status) and criminal law (in detention cases), because the measures are considered merely administrative. What is more, many EU-countries have criminalised irregular stay on the territory with fines and imprisonment, though the case law of the EU Court of Justice has set conditions to such criminalisation: removal procedures must have priority on punishment (Crosby 2012; 2014).

Historically too, we see a tendency of government to criminalise foreigners. Reconstructions of the different historical representations of foreigners show how they were morally disqualified and how this justified harsh measures (Torpey 1999; Wilsher 2012; Inda 2006; Sayler 1995). Through disqualification discourses foreigners were associated with the criminal, immoral and subversive populations. This criminalisation happened through legislation (De Genova 2004; Dauvergne 2008; Wilsher 2012) and through the use of, among others, statistical data on immigration, thus making the illegality a visible phenomenon that has become an important political stake to act upon (Inda 2006).

The lens of the penal state is applicable to Belgian immigration policies too. First, the overall periodisation corresponds with the one put forward in the literature of the new penology, i.e. the second half of the 1970s. The official immigration stop of 1974 marks the decline of a liberal economic immigration policy. Secondly, immigration policies have a tendency to become stricter over time. The current immigration law was passed in 1980 and ever since 1987 it has been amended almost on a yearly basis to make access conditions (asylum, family reunification, student visas, access to welfare, etc.) stricter. Thirdly, in criminal law in the USA, the UK and France, judges have lost a great deal of their margin of discretion and have to apply standard penalties in certain cases, especially with recidivists (Feeley, Simon 1992; Simon 2007; Fassin *et al.* 2013; Miller 2003). Similarly, the procedural safeguards under the immigration law are of a lower standard than those in civil or penal cases, and courts have generally little room to manoeuvre in immigration cases. For example, in detention cases the courts may only argue on points of law and may not check whether detention is justified, necessary and proportionate. In regularisation cases, the court can only annul a decision, but cannot reform it. Only in asylum cases does it have that power. Lastly, article 6 of the European Convention on Human Rights, the right to a fair trial, does not apply to immigration cases in Belgium (Crosby 2012).

Furthermore, since 1988, when the first detention centre for asylum seekers at the national airport was opened with a capacity of 30 places, the detention complex has expanded to 5 centres with a capacity of approximately 600 to 650

beds. Though detention and expulsion have slightly decreased (see table 1) in the last years as staff was not renewed and trade unions demanded to shut down wings due to reduced staff, the percentage of removal rates has remained high.

It is also interesting to notice the decline of the voluntary return programmes of the International Organization for Migration (IOM). Over the last few years the selection criteria have become more restrictive. Foreigners who have been to prison or have a public order record – which includes working in black – people detained through the cooperation of municipalities and the IO (project “sefor”) and detainees who have already refused to go back are no longer eligible for IOM support. Thus a very large category of illegitimate foreigners is created who may not access a right which is meant to stimulate return and reintegration.

	<i>1st detention measure</i>	<i>Repa- triation from centre</i>	<i>Refou- lement from centre</i>	<i>Return with IOM</i>	<i>Transfer Dublin or bila- teral</i>	<i>Total removals</i>	<i>Libera- tions</i>
2007	7.506	3.422	721	205	1.077	5.425	1.937
2008	6.902	3.088	770	127	943	4.928	2.004
2009	6.439	2.467	725	85	936	4.213	2.026
2010	6.553	2.141	997	142	1.181	4.461	1.871
2011	7.034	2.290	1.576	121	1.269	5.256	1.452
2012	6.797	2.559	1.560	91	1.110	5.320	1.108
2013	6.285	2.746	1.234	48	960	4.988	1.119
2014	5.602	2.154	1.278	51	877	4.360	1.106
2015	4.568	1.806	981	22	823	3.632	739

Table 1, numbers of removals from detention centres 2007- September 2015

Source: Immigration office, received by e-mail October 2015

Immigration detention is also used, to a certain extent, as a law enforcement measure (Stumpf 2013; Miller 2003). In criminal matters, when the police arrest someone who is also undocumented, the deputy prosecutor will consider the person simply as an illegal immigrant if the minimum sentence does not exceed 1 year's imprisonment. In that case, the police inform the IO of this decision and the removal procedures start.

The rise of imprisonment of foreigners also fits within the frame of the criminalisation of migration. Warehousing mostly applies to immigrants. From 1974 to 2010 the immigrant population in prison rose from 1042 to 4499, representing respectively 18% and 44% of the total prison population. The rise in imprisonment represents a multiplication rate of 1.8 for Belgian nationals whereas it is 4.8 for foreigners. Furthermore, the ratio of incarcerated Belgians has only risen from 58 to 64 detainees per 100,000 inhabitants, while for foreigners it has risen from 62 to 102 per 100,000. Above that, more than 60% of imprisoned foreigners are irregularly residing in Belgium (Brion 2014). Lastly, since the new government came into power in October 2014, the State secretary for Asylum and Migration has made it a policy priority to expel “criminal” foreigners, whether they are residing legally or not. He has also made it a policy of expelling EU citizens who have been to prison. There is a rise in expulsion of people who have breached public order. As a social assistant puts it, “from the moment a foreigner breaches public order, he loses his residence permit.” The term of imprisonment and the nature of the crime do not matter. This is very clear from the evolution of transferrals from prisons to immigration detention (table 2): at the time of writing, the year is not finished and yet the number has already reached a record.

2007	231
2008	340
2009	272
2010	234
2011	193
2012	179
2013	238
2014	272
2015	476

Table 2, Transferrals from prison to immigration detention 2007- September 2015

Source: Immigration Office, received by e-mail October 2015

The fact that the IO speaks of the “humanisation of the centres” when it refers to their modernization, implies they used to be more punitive and

reveals the effort to distinguish them from penal institutions (Tassin, 2014). During our regular feedback meetings with the GCC, the director-general always insisted on the use of terminology refuting all comparison with prisons. The semantics are quite revealing: instead of detention the IO speaks of “humane reception”, detainees are called “residents”, cells are called “rooms”, except in the case of disciplinary isolation, though the cells are identical.

Lastly, Simon (2007) has analysed how an escalation in anti-crime measures, retributive punishment, standard and longer sentences have been increasing in the US as a political response to public fears of crime. The exact same evolution is noticeable in immigration matters. Next to ever harsher measures, no political party will dare to be “soft” on migration out of fear of losing votes. Since 1974 the discourse on migration and the solutions to the problems it poses, have always gone from tough to tougher.

For these reasons, immigration detention is part of the government of immigration through crime. To understand the outcome of this policy we must first look at the literature on implementation.

4. Implementation and street-level bureaucracy

The literature on implementation of public policies has shown how policy is not simply constructed through the legislative process, but that the different actors involved in the implementation process play a significant role in the success or failure of the policy. Different factors to be considered: are there sufficient means and budget to implement the policy as it was intended? What level of control is exercised over the agents who are to implement? To whom are they accountable? Are the rules unambiguous or do agents have to interpret them? How do they interpret them? And so on (Brodkin 2008; Gregory 2012; Lipsky 1980). In order to make sure that SCs carry out all the required checks, they have to fill in many forms: logbooks, tick boxes in checklists, write down reactions. This way management can control its lower-level staff, but also, it can prove to its hierarchy, the GCC, either that the procedures were followed or that it has found the guilty. In turn, the GCC can communicate to the IO and the public in the same way and thus give account of any incident.

Furthermore, implementation and discretion are exercised at different levels. Next to individual discretion of street-level bureaucrats, organisations as such have a certain liberty in implementing the policy. They may seek inspiration from peer-organisation, or may follow hierarchical com-

mands in the hope of receiving some gratification, or may be guided by political, legal, professional or even bureaucratic concerns, which will explain the form the implementation will take (Grattet, Jenness 2005; Romzek, Ingaham 2000; Hill 2009). Also, each organisation is situated within an inter-organisational field, where encounters are made, best-practices shared and standards are set, and where certain organisation or administrations are put forward as models to be followed, so-called standard-bearers (Grattet, Jenness 2005).

These theories are important for the analysis of immigration detention. In fact, at each level of the organisation we find different practices, which are not only the consequence of the division of labour among civil servants, but are also explained by the category of persons to whom they are accountable, by the means they have at their disposal and by the immediate context in which they interact. For example, SCs and SSAs will be accountable to their immediate superior, the SAC, and only in some cases will they be summoned by direction, and only in serious cases will they be held accountable before the direction of the GCC. SACs, educators and social assistants will immediately have to give explanations to direction, and direction to the GCC. Of course, besides official accountability, there is also a sort of unofficial accountability which staff members have to consider. For example, when a superior (SAC or educator for example) has to agree with a detainee on an issue and therefore override a decision of an SC, this can create conflict and depending on the situation – how long the detainee has been in the centre or will remain, the nature of the issue (will the detainee suffer great disadvantage or not if the decision is not reversed?) – the hierarchical superior will consider what to do. The following extract from my field notes gives an example.

Z. has a discussion with SAC M.H. in front of the security office concerning his food. Z. went to court today and thus received a lunch packet, which contained a lot of cheese, which he cannot eat “unless you want my death on your conscience”, says Z. M.H. tells him that the next supper will only be served at 17 o'clock. Z. tells him “I will wait until 17 o'clock then”. A bit later I discover that the discussion had started earlier with SC P. who did not want to give Z. any food because he had received a lunch packet and “those are the rules”. Eventually M.H. solved the problem by giving Z. a waffle that was lying around. M.H. later told me that it was easier to give him a waffle than having to ask the kitchen for a meal, because than P. would have protested that detainees are spoiled and that they get everything they want. Since it was not too bad, he preferred in this case to settle the question like this (Field notes, 1 October 2014).

The GCC, the direction, also have to give account to the Director-General of the IO, the media, NGO's and public opinion. The IO absolutely wants to avoid media coverage as it usually sheds a negative light on the centres. Talking about a particular case where the IO had released an Armenian stateless person for whom it had not been able to provide travel documents for expulsion and who was arrested again a few days later and re-detained in her centre, L.T. said she phoned the head of the GCC saying that this was not possible because nothing in his file had changed «and with the NGO's on my back» she did not want him detained (L.T., centre director, interview 5 December 2014).

5. Centrum voor illegalen Merksplas (CIM)

The mission statement of the IO's immigration detention centres is the "humane reception" of foreigners awaiting removal. By "humane reception" it is understood that the centre will provide psychological, medical, and social support with respect for the fundamental human values of: safety, privacy, health, religion and personal development (CIM 2013). This mission statement derives directly from articles 6 and 7 of the Royal Decree of 2 August 2002 that regulates the functioning of the centres.

CIM is situated in the Kempen, in the border region between the provinces of Antwerp and Limburg and the Netherlands. It was built in 1875 and served as a colony for vagrants until 1992, but has also been used to intern all sorts of socially excluded classes: epileptics, mentally handicapped, tbc-patients, common law criminals, etc. In 1993 it started working as an immigration detention centre (CIM 2014a). Opposite the centre is the prison of Merksplas, built in 1825, which is the biggest penitentiary in Belgium. The director of the centre says that in the region the Ministry of Justice has always been one of the major employers of the population. In fact, next to the prison of Merksplas, there are the following prisons: Wortel (5 km), Turnhout (10km), Hoogstraten (12 km), Antwerp (40 km) and Hasselt (60 km). She says that many staff members grew up with a culture of security, because many people in the region have at least one family member who has worked in a prison there.

The centre is directed by L.T., a career woman in her early fifties with a degree in economics and one in public management. She has been at the head of the centre since 1997. Among the characteristics she is known, feared or loved for, there are her tight control of the centre, wanting *her* centre to be a standard-bearer, knowing every single detail of centre life and remembering everything, etc. Under her direction the centre has pro-

gressed from a centre that started from scratch to a centre where every procedure and process is worked out and written down into detail in the *Guide for Procedures and Cooperation* (GPC) – the 350-page manual of the centre containing house rules, processes, procedures, crises protocols, etc. According to the Federal Ombudsman the regime of CIM is the hardest, and discipline and security have priority over the humane aspect of reception. The IO notes, however, that it is not a policy of the centre to prioritise discipline and security over humanity and that many efforts are undertaken in the direction of more humane conditions (Federal Ombudsman 2009). We will sketch this evolution in the following section.

6. *From mean to lean*

The following extract from my field notes describes the impressions of an SC who had just started working again in the centre after an absence of eight years.

E. says that the regime he left and the one he found coming back to differ like night and day. “It’s an improvement, since the aggression has heavily dropped, or even disappeared. Especially, security agents do not have to impose stupid little rules anymore like impeding the residents to sleep during the day, making sure they do not have more than one chair to sit on or controlling the numbers they phone to [using the pay-phone installed in the centre] and making sure they only phone for a maximum of ten minutes, and so on”. The job has become less childish.

He used to find this patronizing aspect very annoying because sometimes “you were dealing with people who had fled a war and then you would come with some ridiculous rule”. However, the job has become more tedious, especially in block 5 [i.e. isolation quarter] because a lot of paper work has been added there where it was inexistent before. The same is also true for the normal blocks because everything has to be written down in the logbook, even the routine. “In block 5 you have to check and write down even the reaction of the resident. Therefore, there are many little things that have been added along with extra control, because for the tiniest error, e.g. forgetting to tick a box, you will be summoned by the direction, though I have not experienced this myself” (E., SC, field notes 16 November 2014).

Many members of staff who have been working in the centre for over a decade, some of whom have been there since the very beginning, recount how arbitrary and severe the regime and the attitude of certain security

agents were. M.F, an SAC who started working as an SC when the centre opened in 1993 recalls how nobody really knew how such a place should be organised.

There were people with an experience in penitentiaries, but nobody knew how to interact with the people who were detained here. [...] Many colleagues behaved very tough with the residents. It has evolved since, but in the beginning we were the *chefs* and they were the residents and they had to listen (M.F., SAC, interview 18 December 2014).

B., an SC, tells similar stories of her first year in the centre in 2001.

When I started here I did not know where I had ended up. It was like a camp. The people were woken up at 7 o'clock and the bell was set off three times. They *had* to go eat and from approx. 9 o'clock they were obliged to stay in the day room. There weren't even any sofas, only wooden chairs. The doors of the day room were locked and so the residents sat there all day long without doing anything. The residents *had* to go walking, whether the weather was good or bad. [...] Some colleagues were just like SS'ers. If a resident asked for something, e.g. socks or bed sheets, he would not get it. They were just like jailers: give them a blue shirt and they feel powerful. They have slowly gone away. [...] I started in such a team. I could not believe what I saw. [...] After five months I was mutated to another team, with J., it was much more relaxed (B., SC, field notes, 6 October 2014).

Compared to the present daily life the differences are remarkable. During the day the residents of block 4 move between their rooms and the day room. They can play pool, ping-pong, fuss ball, board games, playstation, watch TV, read. Some sleep in their bedroom, others take a nap on the sofas. On average there are between 10 and 15 residents in the dayroom at the time. It rarely happens that they are all there. In block 1 there are no rooms. The residents sleep in three dormitories with each 16 beds. In the day they are not accessible, except for an hour in the afternoon for those who wish to rest. So in block 1 all the residents of the block are present in the day room, which therefore is twice the size. It is a very common picture to see residents using their mobile phone or passing it on to a fellow detainee who does not have one. Sometimes there are no SCs, sometimes one or two and sometimes four to five. Security staff often hang out together in the security office, which means that the detainees are not "guarded", though educators run around the centre all day taking care of activities or helping out detainees with some practical issues (luggage, money, visits, ...). In all blocks fitness is organised daily and in the yard football and volleyball games are played regularly. Hence, the detainees are relatively

autonomous except for movements to places outside the block (canteen, baggage storage). In the morning, they do not have to get up anymore and are no longer forced to have breakfast.

In 4a [bottom floor] the residents are woken up at 7h20. An SC takes the key from the security office and goes to open the doors [which are locked at night]. He opens the door and softly says good morning. Nothing more. At 7h45 he repeats this in 4b [top floor]. Some residents are already dressed and have a cigarette between their lips. They are waiting to smoke their first cigarette of the day and run to the smoking room. Others remain in bed. The choice is up to them if they want to get up or not. [...] Those who sleep longer, will remain locked in the room when the others go to the canteen for breakfast. They will be able to go to the day room when the rest is back. [...] I notice that not many residents take a shower when they get up. According to the SCs they wait until after breakfast [in CIM showers are only accessible in the morning and after a sport activity] (Field notes, 23 October 2014).

When detainees have certain requests the staff has to be available, that is, at least listen. This means that often other routines are interrupted. One afternoon I was sitting in the security office. S. had just mounted his shift and was busy with the inventory of the office and filling the log. He was repeatedly interrupted by detainees asking for something: a nail clipper, alcohol (to disinfect the clipper), plastic cups, sugar, etc., which he immediately provided. But requests often also result in discussions which might take the form of real negotiations. Whenever an SC or SAS cannot solve a problem on the spot without having to make an exception to the rule, s/he is supposed to ask his/her superior, the SAC, to come over to solve the problem or at least to give directions on how to handle the case. If the SAC is there, it means that the SC and the resident had been in discussion for quite a while.

In what follows I explain how this change has been possible.

7. Acknowledging that violence and aggression are endemic

From the various interviews and exchanges with different staff members, the eleven day strike in 2004 was a turning point. According to L.T. every incident in the centre led to stricter rules and repressive measures never solving the problem however. Slowly, staff had become aware of being stuck in a negative spiral. So the head of the GCC decided to set a working group on aggression management with the purpose of reducing the aggression of detainees. In 2006 a working group was created at the

inter-organisational level, for a comprehensive approach to aggression in all the centres (CIM 2014b). In Merksplas, the working group came to the conclusion that a great deal of the aggression was endemic to its procedures, the state of its infrastructure and the attitude of staff.

In the aftermath of the strike, the first measures were rather securitarian. Because staff said they felt safer with walkie-talkies they were provided to each member of staff. Bars were introduced behind the doors so that at night the staff could communicate with detainees without having to open the dormitories. The first socialisation trajectory was worked out, so that every new member learned his or her tasks and how to react in crisis situations (CIM 2014b). Together with the routinisation of paper work, the socialisation trajectory is part of the mechanisms of control and of standardisation of practices imposed on the lower-level public servants in new public management (Gregory 2013).

In 2005 the focus was much more on structural and procedural aspects. Certain strict procedures were relaxed. Hence, the doors of the day room were opened so that detainees could circulate in the wing. Rest moments were introduced during the day so that detainees could get out of the group more often and compulsory showers were abolished. In 2008 compulsory yard walks were abolished, personal sim-cards allowed and mobile phones put at the disposal of the detainees in the centre. These gave detainees more autonomy and choice, which reduced the tensions caused by compulsory rules (CIM 2014b).

This “open regime”, as it is called, was accompanied by the “responsibilisation” of the detainee. Chores, remunerated with goods from the kitchen shop (sweets, biscuits, cigarettes, telephone cards), were introduced, which incorporated the detainees in the efforts to maintain the centre tidy and clean. Through these chores detainees are provided with incentives to do something to earn their goods if they have no money and are “responsibilised” in keeping their living space clean.

In his report the Federal Ombudsman (2009) urged the centres, in particular CIM, to make extra efforts to implement the principle of dynamic security. That same year, a survey among security staff revealed that the verbal aggression persisted. This resulted in the creation of the working group on dynamic security with staff from all the different services. Its purpose was to identify the causes of verbal aggression and to elaborate measures to prevent it. The emphasis was put on the attitude of the security towards the detainees. In the following years a set of measures were taken to increase the autonomy of the detainee and the quality of the working conditions of the staff (CIM 2014b).

The walls in the day rooms were repainted to make them look cleaner and the quality of the food went up to make the stay in the centre more pleasant. Extra rest and shower moments were introduced and the compulsory yard walk was abolished to increase the detainees' autonomy. This was accompanied by a further responsabilisation of the detainee who, since February 2009, is made aware of his responsibility for whatever personal belongings he takes to the wings from his luggage. He has to sign a declaration in which he acknowledges what he has taken and that he is aware of a "calculated risk" that things may disappear, thus waiving any damage claim. The document is signed by two staff members and by the detainee.

Among the other measures taken between 2009 and 2013 to relax the regime: in March 2009 the first "intimate visit" was allowed; in May 2010 digital TV was installed in the day rooms; in June the detainees could take their personal mobile phone to the wings if it had no camera or internet and was provided with a charger; in October extra daily fitness was added; in June 2011 the possibility to receive money through Western Union was introduced; in August 2011 coffee vending machines were installed in the wings and in 2013 the list of cleaning chores was enlarged. On a yearly basis the centre transforms one wing into a "Ramadan wing" where all the Muslims who wish to partake are gathered, implying changing the daily schedules, kitchen hours, cooking activities. During the summer time an extra yard walk is added in the day schedule (CIM 2014c).

Simultaneously measures were taken to better the working conditions of the staff. In 2010 new riot helmets were bought and the centre negotiated a procedure by which the director could press charges against a detainee who had hit or injured a member of staff. In 2011 a trauma support team for colleagues was created (CIM 2014b).

8. A negotiated process

The changes are the result of negotiations, animosities between different teams and services and supervision from the GCC. Within the centre there have always been certain antagonisms, the most important one here being that between security and educators. The former often considered the latter as naïve do-gooders, and still do to a certain extent. As N.V., an educator since 2000, puts it:

When we started working here we were the scapegoats... For the majority of SCs we were merely doormats, because there used to be no educators – the centre

had worked for years without educators – and then we came along being all jovial and social and so, and it just did not fit the picture. So in the beginning it certainly was not obvious for us. The educators were always being blamed. Now, over the years we have created our position and you see that our job is appreciated, but you still notice that we have a different angle of approach than security. [...] There is a fair amount of security who considers we just come here to play at “Club Med”... that is my job, but it is not always appreciated by security (N.V., educator, interview 5 November 2014).

When in 2009 the working group on dynamic security identified the attitude of staff, in particular of security, as one of the causes of verbal aggression – an observation that was made by the social teams, which include educators, and direction – security accepted to adapt its behaviour on condition that educators paid more attention to safety. «For example, when there were cooking activities, all the knives were to be counted before the start of the activity and then they had to make sure that they were all returned» (K.B., attaché, interview 9 December 2014). Security was to participate in sporting activities in order to change the relationship with detainees.

So little by little they started doing that and indeed they discovered that a different kind relation with the residents resulted, and that they got along better and that they could intervene more easily when something happened. [...] residents intervened when there was a fight, for instance, or started telling “this guy and this guy are planning to evade” [...] such information became more frequent and the security staff found out by itself and so it started thinking in that direction” (K.B., attaché, interview 9 December 2014).

So the steps that were taken were the result of a negotiation to which each party could agree. The educators were somehow accountable to security, and in turn security tried to act more socially because they were compelled to by the others and eventually discovered that it actually was a good strategy. Furthermore, as M.H., an SAC, frequently told me, the volume of the intervention reports has drastically diminished in recent years. This reflects what many members of staff say about a period when “you would run from one intervention to the other”.

But the tension between services did not disappear and in September 2010 security staff organised strikes and demanded to talk to the director because they found the social approach had gone too far. Though security represents 80% of the staff at Merksplas, the unions claimed that security was being marginalised by the other services, in particular the educators, and that if each member of staff bent the rules according to his or her competence, safety would be undermined. An external consultancy agency, Innerlink, was hired

to find solutions to this discord among services. Its diagnosis was that though the different services had the same mission, they interpreted it differently and concluded they had to try to see the job through the eyes of the others and to support one another (CIM 2010). This became a grounding principle in the GPC known as the “Innerlink Charter” and a series of diagrams for the different services with the vision of each one and how they relate to each other was distributed.

The Innerlink charter sheds light on the collective interpretations of the job each service has. If management wishes its decisions to be implemented, it has to take these interpretations into consideration or the street-level workers might practice collective strategies (e.g. strikes, work-to-rule) to challenge such decisions (Lipsky 1980; Sandfort 2000; Meyers, Nielsen 2012).

The unions, thus, also played a role in the negotiations. As we have seen the creation of a working group on aggression management came after a long strike and the impulse was given by the head of the GCC. In August 2008 the unions urged the GCC to renovate an entire block, to downsize the capacity of the centre and to refine the privilege system of detainees. Following an incident in the centre a few days later, security staff practiced a work-to-rule playing out the *chef-resident* antagonism which led to serious frictions in the centre. This urged the higher levels of direction and the Minister of unions to call a meeting to solve the situation (CIM 2014d). Hence, directions also came from the GCC, but they were not always solicited. Since the centres had started off without know-how or guidance in the mid-nineties each centre had developed its own practices and the GCC wanted to standardise as much as possible. As M.H. says, «you cannot always blame the infrastructure in order not to try and change» (M.H., SAC, interview 26 November 2014).

It was not easy to change route. H., an SAC, says everybody «used to be convinced of doing a good job, but then we started working with this dynamic security, but there were people who were absolutely opposed to it». She says she can't believe they actually thought their old approach was any good (Field notes, 12 November 2015). In fact, for these reasons the changes are considered a “work of Titans” because little by little «we had to change the mentalities and create a majority» (M.H., SAC, interview 26 November 2014).

9. *The ethopolitics of humanisation*

How does this humanisation fit within the thesis of the penal state, which is characterised by the decline of the penal-welfare, that is, of social measures intended to counter-balance the inequalities engendered by the

market (Garland 2001)? Is this not a sign that within the limited framework of immigration detention efforts have been made to counter-balance a disproportionate measure for the detainee? Yes and no. As we have seen the humanisation of the regime was prompted by concerns for better working conditions of staff, but it is the result of antagonisms between the social and the securitarian approach. Even so, a regime of penal-welfare, which combines both social and punitive aims (Garland 2001; Fassin *et al.* 2013), is still punitive. Above that, the social measures are only internal to the centre and have no broader scope of rehabilitation of the detainee. Their purpose is not to compensate the inequalities engendered by the capitalist economy, but is of strategic and managerial nature.

In fact, in the post-social era, crime control measures have abandoned the idea of the state as having the monopoly of control. Governments rely on the diffuse powers of social control to prevent and detect crime. Instead of merely acting *against* others, this approach operates *through* others, seeking partners and alliances to combat crime and exercise control (Garland 2001; Rose 2000). Considered to be rational actors, individuals are asked to act prudently – to prevent becoming a victim – and to cooperate with the authorities. Within this framework, becoming excluded (whether victim of perpetrator) is a consequence of one's own choices. In turn, those who are excluded are given a chance to redeem themselves and reintegrate society by showing that they want to be a part of it and that they share its values (e.g. welfare-to-work programmes). However, those who fail, are considered as not willing to become responsible and so harsh measures are justified (Rose 2000).

This is no different within the microcosm of immigration detention. In fact, the new regime aligns and organises all the detainees, incorporating them in the functioning of the centre: through the autonomisation they lighten the work of staff in terms of order and security, and thus help to filter out the irreducible, who end up being excluded. They are subsequently given a chance to reintegrate in the group, while others are contained via sustained isolation or removal to another centre.

There are various examples that show how the cooperation of the detainee is stimulated. The introduction of recompensed chores is one of them. The various ways of building trust is another way. When staff talks and listens to detainees and tries to help, when it plays games with them, it is building the necessary trust to get the detainees to do what is asked, as many employees of the centre report. This cooperation leads detainees to tell staff members about evasion plans of room-mates. Though this attitude is nurtured, it is considered natural to the extent that detainees who are not implicated in room-mates' plans and who do not tell, are punished.

A measure, which at the time of writing has recently been introduced, illustrates further how the autonomisation and responsabilisation of the detainee is mobilised in the functioning of the centre. Detainees spend the night before their removal in isolation (CIM 2013) if they are leaving before 11.00 am. In case the detainee has said he will not refuse the flight, he will only be separated at 8.00 pm. If he is “involuntary” he will be separated at 2.00 pm. However, the steering committee on dynamic security has asked to give the detainee a chance: if he prepares his luggage, he will only be separated at 8.00 pm, if he refuses, meaning a staff member has to pack his stuff, it remains at 2.00 pm.

On a more formal level, conduct is regulated through the disciplinary rule of the Royal Decree. Staff is given a small arsenal of measures it can take to compel the detainee to behave in the desired way. According to the GPC the first step is to *mark* unwanted behaviour, i.e. saying what is not allowed and trying to talk to the detainee. The second step is to *correct* it, i.e. saying what conduct is desired. The third step is to *sanction*. Sanctions take different forms and are also progressive. The lowest sanction is a warning. Each warning is accompanied by a report stating facts and reasons. When a detainee is up to 4 warnings a cleaning chore is imposed. The latter is supposed to be a first effort to reintegrate the detainee as the warnings are dropped once he has finished the chore. If he refuses, his “privileges” (i.e. right to smoke, use his mobile phone, partake in activities) (Goffman 1991) can be suspended (CIM 2013). He may also be considered unfit for group life and be isolated for security reasons. In case of certain violations of the rules, in particular the use of violence, the applicable sanction is 24 hours (or more according to the facts) isolation (CIM 2013).

This regulation of conduct through the incorporation of the detainee in the maintenance of order and tidiness and his responsabilisation is similar to what happens in prison. As Bosworth (2007) has shown, prison inmates are no longer considered as detainees within the managerial framework of the prison, but rather as rational clients who are capable of self-regulation and thus «bear full responsibility for the decisions they make and must, as a result, be prepared for negative consequences if they choose not to follow prison rules» (Bosworth 2007, p. 73). The formal demarcation between immigration detention and penal institution thus completely vanishes.

10. *Conclusion*

Though immigration detention centres have a legal basis they have always been contested by citizens (of every status), NGOs, human rights advocates and small leftist political parties for being an unfair punitive measure. The humanisation of centres must therefore be analysed as a legitimisation discourse directed at a public audience to show that within the necessarily unpleasant setting of immigration detention all is being done to ensure the moral and physical well-being of the detainee. Yet this humanisation has only been possible because it implied an improvement of the working conditions of the staff. As we have seen, it was the demand for more security in the work place that prompted thinking about violence in the centre. In this respect, the humanisation of the centre has a similar function to the managerial language in the prison handbooks analysed by Bosworth (2007). It is intended to mask the power relation on which the institution is based and to normalise it in the eyes of the broader public.

This change did not come without contestation from the security staff. Different approaches on how to handle detainees vied with each other. The added value of the ethnographic approach lies within this unravelling of diverse opinions and approaches within this institution that seems so monolithic from the outside. The street-level approach helps us understand how the various degrees of accountability and workers' ideology influence the stances of the various actors, the decisions that are taken and their ability to be implemented. Humanisation was only possible through the concurrence of three factors: the fact that the social teams and certain security teams were in favour of a more social approach towards detainees forming a majority in favour of change; the fact that it was taken in order to decrease acts of aggression; and lastly the fact that efforts were taken at different management level in this direction. Among these actors the interests might have been, and might still be, different, but they converged. For the direction of the centre and for the IO it was to show that detention conditions are good, up to standard and therefore respectable. For the socially inclined teams, in particular social assistants and educators with a background or degree in the sector of care, it was to be less patronising and create a more homely atmosphere for the detainees. And in general, for the staff, it was to tackle and eliminate aggression and thus to create better working conditions. For these last two categories, public opinion is of little matter as they are not accountable to it, though they often complain about being depicted negatively whenever they appear in the media.

The techniques employed to humanise are ethopolitical and managerial. They are intended to incorporate detainees into functions of maintenance of order and tidiness of the centre and vary from cleaning chores to reporting potential disruptive plans of other detainees, lest they become guilty by association. The social approach has a double function: it eases the strain of detention, but its power is more insidious and thus becomes a lever of control (Tassin 2014). So ultimately, the humanisation of the centres has reinforced immigration detention twofold: publically, as the IO can present a correct functioning of the centres, which meet certain standards; and internally as the power of control has been incorporated by the detainees themselves.

Andrew Crosby
 Université libre de Bruxelles
 (andrew.crosby@ulb.ac.be)

References

- Bosworth M., 2007, *Creating the responsible prisoner – Federal admission and orientation packs*, in «Punishment & Society», vol. 9, n. 1, pp. 67-85.
- Brion F., 2014, *Chronique de criminologie. Cellules avec vue sur démocratie*, in «Revue de droit pénal et de criminologie», n. 9, pp. 879-940.
- Brodkin E.Z., 2008, *Accountability in Street-Level Organizations*, in «International Journal of Public Administration», n. 31, pp. 317-336.
- Chacón J.M., 2009, *Managing Migration Through Crime*, in «Columbia Law Review», n. 109, pp. 135-148.
- Id., 2013, *The Security Myth: Punishing Immigrants in the Name of National Security*, in Dowling J.A., Inda J.X. (eds.), *Governing Immigration through crime: a reader*, Stanford, University Press, pp. 77-93.
- CIM, 2010, *Probleemschets Centrum voor Illegale Merksplas dd. 05/10/2010*, (unpublished document, hard copy received in September 2014).
- Id., 2013, *Gids voor procedures en samenwerking*, Merksplas.
- Id., 2014a, *Jaarverslag 2013*, Merksplas.
- Id., 2014b, *Jaarverslag agressie 2013*, Merksplas.
- Id., 2014c, *Aanpassingen dagelijks regime*, (unpublished document, hard copy received in September 2014).
- Id., 2014d, *Syndicale spanningen*, (unpublished document, hard copy received in September 2014).

- Crosby A., 2012, *Strengthening the legal position of aliens*, in Francois A., Smis S., Van Laethem K., Van Limberghen G. (eds.), *Juridische Meesterwerken VUB 2010-2011- Selectie van de beste masterproeven in de rechten*, Brussels, Larcier, pp. 321-367.
- Id., 2014, *The Political Potential of the Return Directive*, in «Laws», vol. 3, n. 1, pp. 117-140.
- Dauvergne C., 2008, *Making People Illegal. What Globalization Means for Migration and Law*, Cambridge, University Press.
- Fassin D. et al., 2013, *Juger, Réprimer, Accompanyer. Essai sur la morale de l'état*, Paris, Seuil.
- Federale Ombudsman, 2009, *Onderzoek naar de gesloten centra beheerd door de Dienst Vreemdelingenzaken*, Brussel.
- Feeley M., Simon J., 1992, *The New Penology: Notes on the Emerging Strategy of Corrections and its Applications*, in «Criminology», n. 30, pp. 449-474.
- Garland D., 2001, *The Culture of Control. Crime and Social Order in Contemporary Society*, Chicago, University Press.
- Goffman E., 1991, *Asylums. Essays on the social situation of mental patients and other inmates*, London, Penguin.
- Grattet R., Jenness V., 2005, *The Reconstitution of Law in Local Settings: Agency Discretion, Ambiguity, and a Surplus of Law in the Policing of Hate Crime*, in «Law & Society Review», vol. 39, n. 4, pp. 893-941.
- Gregory R., 2012, *Accountability in Modern Government*, in Peter B.G., Pierre J. (eds.), *The SAGE Handbook of Public Administration*, second edition, London, Sage, pp. 681-697.
- Hernández D.M., 2013, *Pursuant to Deportation. Latinos and Immigrant Detention*, in Dowling J.A., Inda J.X. (eds.), *Governing Immigration through crime: a reader*, Stanford, University Press, pp. 199-215.
- Hill M., 2009, *The Public Policy Process*, 5th edition, New York, Pearson Longman.
- Inda J.X., 2006, *Targeting Immigrants. Government, Technology, and Ethics*, Malden, Blackwell Publishing.
- Lipsky M., 1980, *Street-Level Bureaucracy. Dilemmas of the Individual in Public Service*, New York, Russel Sage Foundation.

- Meyers M.K., Nielsen V.L., 2012, *Street-Level Bureaucrats and the Implementation of Public Policy*, in Peter B.G., Pierre J. (eds.), *The SAGE Handbook of Public Administration*, second edition, London, Sage, pp. 305-318.
- Miller T.A., 2003, *Citizenship & severity: recent immigration reforms and the new penology*, in «Georgetown Immigration Law Journal», n. 17, pp. 611-666.
- Romzek B., Ingraham P., 2000, *Cross Pressures of Accountability: Initiative, Command, and failure in the Ron Brown Plane Crash*, in «Public Administration Review», vol. 60, n. 3, pp. 240-253.
- Rose N., 2000, *Government and control*, in «British journal of criminology», n. 40, pp. 321-339.
- Sandfort J.R., 2000, *Moving Beyond Discretion and Outcomes: Examining Public Management from the Front Lines of the Welfare System*, in «Journal of Public Administration Research and Theory», vol. 10, n. 4, pp. 729-756.
- Salyer L.E., 1995, *Laws harsh as tigers: Chinese immigrants and the shaping of modern immigration law*, North Carolina, The University of North Carolina Press.
- Simon J., 2007, *Governing through crime. How the war on crime transformed American democracy and created a culture of fear*, Oxford, University Press.
- Stumpf J.P., 2013, *The Cimmigration Crisis: Immigrants, Crime, and Sovereign Power*, in Dowling J.A., Inda J.X. (eds.), *Governing Immigration through crime: a reader*, Stanford, University Press, pp. 59-76.
- Tassin L., 2014, «*Ne cassez pas ce qui vous profite.*» *Le rôle ambivalent des objets dédiés au confort en situation d'enfermement*, in «Champ pénal/penal field», XI, <http://champpenal.revues.org/8851> (consultato il 29 novembre 2015).
- Torpey J., 1999, *The Invention of the Passport: Surveillance, Citizenship and the State*, Cambridge, University Press.
- Wilsher D., 2012, *Immigration Detention. Law, History, Politics*, Cambridge, University Press.