



Policy Notes

PPCEUMI Policy Brief 2: Development in Migration Policy

As part of its Policy, Politics, Culture: EU Migration and Integration (PPCEUMI) network, the ANU Centre for European Studies (ANUCES) hosted a Policy Dialogue entitled 'Border Control in the Neighbourhood: EU, Australia and the United States' on 22 August 2018.

Attendees included diplomats, policymakers and academics.

The speakers were:

- > Professor Joseph M. Siracusa, Sciences School of Global, Urban and Social Studies, RMIT University
- > Associate Professor Linda Kirk, Faculty of Law, UNSW
- > Nick Tebbey, CEO, Settlement Council of Australia
- > Professor William Tow, Department of International Relations, School of International, Political and Strategic Studies, ANU
- > Associate Professor Laurence Brown, Director, Australian National Internships Program, ANU
- > Associate Professor Matthew Zagor, Acting Director, Law Reform and Social Justice, ANU
- > Professor Bruce Wilson, Director, European Union Centre, RMIT University
- > Dr Rita Parker, ANUCES Jean Monnet Research Fellow, ANU

This policy brief will summarise and explore some of the themes and issues raised by the speakers.



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The changing nature of the border

Understandings of the border in law and in practice are undergoing substantial changes, as the border is extended outwards and inwards through the use of internal and external controls and checks on migrants. These changes are frequently informed by the unique experiences of border making which countries have relied on historically. In Europe, states in the Napoleonic era saw migration control as a domestic function of the police. Today, Europe still relies on domestic forces, but has also strengthened and expanded the border. For example, despite the presence of a wall on the Spanish–North African border, there is still a reliance on the Moroccan police to control migration as the 'border' is extended beyond the physical line between states. Walls themselves frequently mark these physical lines, representing a politically symbolic more so than a practical barrier to migrants (who can travel around, over or under such walls).

Australia too is seeking to extend the border, relying on external states to host and process migrants. The need for symbolism has been important here too, as the launch of Operation Sovereign Borders by the Australian Government demonstrated. Migration flows were already slowing in south-east Asia before the operation came into force. It is easy to stop the boats when they have already stopped.

All borders, even historically open ones, are undergoing changes, as the US–Canadian border demonstrates. The 'Mexicanisation' of this border commenced in the years after 9/11 and has seen the construction of a vast security apparatus to control its more than 100 checkpoints and those who use them.

PPCEUMI Policy Brief 2: Developments in Migration Policy

The longest in the world, the US–Canadian border has become one of the most fortified through an increased use of technology and border personnel in an effort to prevent ‘undesirables’ crossing into the US. This is despite the historical permeability of the border, which emerged partly because 90% of Canadians live within 100 miles of the US border, and the formation of a loose North American identity.

The economic consequences of this border construction have been significant, adding red tape to businesses engaged in cross-border trade, and making it difficult to realise the benefits of an integrated North American economy. This largely represents an issue of mindset, one that can be contrasted to the free movement of goods, services and people in the European Union. While worsened by President Donald Trump, the mindset has been dominant since the terrorist attacks of 2001, and the status of the border is unlikely to change in the coming years.

The international nature of migration policy

The increasing need for international approaches to migration was noted throughout the PPCEUMI Policy Dialogue. It is a nativist myth that migration policy is, or can be, domestic policy, driven by domestic considerations and policy levers. Instead, migration policy is profoundly affected by international and cross-border developments in third-countries and transit countries, and has spillover effects into international relations and foreign policy.

International agreements increasingly seek to manage forms of migration, such as the student mobility and visa arrangements between the EU and China. The international nature of migration policy also makes it harder to cleanly demarcate regular and irregular migration policies – a fact the Global Compact on Migration is grappling with as it seeks to address both through international cooperation.

Beyond global cooperation, regional cooperation on migration is taking on increasing importance. The Asia–Europe Meeting (ASEM) was given as one such example, with others including the Union for Mediterranean (UfM) for cooperation in Europe and North Africa. ASEM is not a formal decision-making body but a dialogue, bringing together 53 migration policy stakeholders in forums which are then followed by leaders’ summits of participant countries. The most recent summit focused on connectivity, such as through people, culture and education, and an overriding concern in regularised mobility.

ASEM is often used by civil society groups as a platform to counter attempts to frame migration as ‘illegal’. These groups advocate an approach that addresses the root causes of irregular migration by establishing a broader multilateral framework that fosters regional development. Successful examples of such programs include facilitating the flow of migrant remittances back to home countries and the use of seasonal worker programs to support less developed Pacific Island states.

A goal of ASEM is to make migration mutually beneficial for both sending and receiving states, and to spread migration more evenly. An example of the imbalances associated with migration is that Asian students are 15 times more likely to seek education in the EU than EU citizens are to seek education in Asia.

The citizen and migration policy

Migration policies frequently have spillover effects and indirect or unexpected outcomes. For example, in the United Kingdom, a range of approaches were introduced under the Hostile Environment Policy in 2012. These generally sought to target people who became irregular migrants because they overstayed their visa, illegally crossed a border, violated a visa condition or had their asylum application rejected. The policies were underpinned by a recognition that the UK government did not have the resources to effectively remove such irregular migrants. The policy thus attempted to deter people from entering the UK illegally, and to get people who had become irregular migrants post-arrival to leave voluntarily.

The policies implemented included forcing the community to involve itself in the enforcement of migration laws by requiring banks and landlords to check the immigration status of people who sought to open an account or rent a property. Penalties could be imposed on people who failed state-imposed duties to deny services to irregular migrants. Such policies were frequently criticised as leading to racial division and profiling which resulted in discrimination and harassment of members of certain communities in their daily lives. The Windrush scandal, under which legal residents or British citizens were deported or discriminated against, brought an end to many elements of the policy. Other policies failed more conspicuously – most famously the ‘Go Home or Face Arrest’ campaign – which encouraged irregular migrants to report themselves or leave the country. Such policies struggled to distinguish between the citizen and the migrant, whether regular or irregular, and indiscriminately imposed obligations and checks on people.

The ‘Temporary Migrant’

States, grappling with the politics of migration, are increasingly developing migration policies which facilitate and favour temporary migration, and which are underpinned by the concept of a migrant as an economic contributor rather than potential citizen. Such policies are not entirely new, having precedent in such policies as the German guest worker programs for Turkish workers.

Historically, the temporary migrant frequently occupied an unstable or uncertain position in societies and legal systems. But their importance both to host-states and origin-states which benefit from remittances, increased skills and education, has led to new policies to more actively manage the temporary migrant. Different countries and regions do this in varied ways. In Australia, various visa classes, most famously the 457 visa, have been created to facilitate temporary residence in Australia for work and study purposes. These visas circumscribe the rights of migrants in various ways, such as by limiting access to state benefits, work rights and period of residence. The path from these visas to citizenship is a complex multi-step process, with increasing emphasis being placed on limiting these routes for certain visa classes.

In contrast, under the single market, the EU member states grant far greater rights to migrants, provided they are from other EU states, largely governed by principles of non-discrimination between citizens and those from other EU states. However, member states largely retain management of migrants from third countries, and this difference between third-country and EU migrants complicates any understanding of the temporary migrant in the EU. Austerity and the global financial crisis have stimulated the creation of a larger class of temporary EU

migrants who rely on their rights under the single market to move to wealthier countries in Western and Central Europe, often from Southern or Eastern European states.

Recent developments in the United States have centred on a market-orientated model for migration with temporary migration more prevalent and less access to citizenship, reflected in President Trump's attempts to limit family or 'chain' migration.

The evolving politics and policymaking of migration

There has been a global reshaping of migration politics and policy after the 2015 crisis, profoundly changing the principles and policies which affect migration policy. A sense of 'crisis' is now embedded in much migration dialogue, adding to a sense that normal policymaking has been suspended in favour of crisis-driven policies which may suspend certain rights or principles.

The 2007 Global Financial Crisis and the subsequent decade of austerity has also created fertile ground for economic grievances and populist parties willing to blame immigration for stagnant living standards. Consequently, the economic and demographic considerations which once drove migration policy and, to a lesser extent, politics, have been increasingly sidelined by other principles. For example, 'sustainability' has gained greater political salience in Australian politics, referring both to the lived and natural environments.

Previously dominant migration paradigms built around 'populate or perish' and 'nation-building', which historically underpinned Australia's economic growth, have been increasingly undermined. These paradigms saw a shift towards skill-based migration, which now comprises over 70% of new migrants, and a move away from family migration. But this has also amplified the concerns about domestic workers competing with new migrants, despite the fact that most new migrants fill skill shortages.

Labour concerns over sponsored visas and controversies over their excessive use in low-skill occupations like hospitality have affected the politics of migration policy and immigration intakes. In Britain, the social and cultural stability of the state, combined with the population concerns of mass immigration, contributed

to Brexit and the acceptance of the economic consequences of leaving the EU. This directly challenged the consensus that permanent migration improves the economic position of most citizens, acting as a human capital accumulation mechanism. Part of the changing politics reflects a failure to support migrants after they enter the job market. There is a need to address the 'taxi driver syndrome' in which skilled migrants enter low-skilled roles and may compete more directly with low-skilled domestic workers. However, the politics of migration is not affecting all types of migrants, as the recent growth in student visa programs and their recognised importance to economies demonstrates.

Finally, the most critical effect of the changing politics and policymaking of migration is the increasing difficulty faced by migrants in becoming citizens. This is a result of claims that migrants 'rely on' a state and its citizens and that immigration policy must carefully 'preserve' the status quo and 'select' new migrants.

Migration Policy and Human Trafficking

There is a pressing need to distinguish types of migrants and to modify and nuance policies to work for different classes of migrants. Human trafficking is a key example, with trafficking referring to the use of coercion to move or recruit people into exploitative working conditions. Policies designed to target irregular migration, such as deportation and detention, are not properly adapted to different types of irregular migrants. Human trafficking victims are often illegally present in the countries they reside in, having been forced across borders or made to overstay visa periods by traffickers. Yet, they are frequently not treated as a specific class of migrants nor treated as vulnerable and in need of assistance. This creates a policy conundrum. The states' policies punishing irregular migrants are used as a tool of confinement by employers and traffickers. The spectre of deportation is used to force trafficking victims to remain in their present conditions, lest they be reported for breaches of immigration laws. A fundamental clash between the goals of anti-trafficking and anti-irregular migration policies thus frequently arises. Consequently, it is necessary to make a clear distinction between types of migrants and separate general migration issues from trafficking policies.



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Policy, Politics, Culture: EU Migration and Integration network (PPCEUMI)

PPCEUMI is concerned with the analysis of policy and governance reforms based on explorations of existing EU approaches and the experiences of third countries such as the USA, Singapore, Australia and New Zealand. It provides a comprehensive avenue to improve the EU and its member states' implementation of best practice. Policy- and solution-oriented, PPCEUMI focuses on the immediate period of pre- and point-of-arrival of migrants, as well as the longer term process of integration. PPCEUMI welcomes interested academic members wishing to participate in network activities or publications. For further information, visit <http://bit.ly/PPCEUMI> or email europe@anu.edu.au



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