Migration, Human Rights and Security in Europe

UCL Migration Research Unit
Student Conference

including a presentation by
Bail for Immigration Detainees (BID)

11th June 2012
UCL
Welcome from the Committee

Welcome to “Migration, Human Rights and Security in Europe”, a student conference organised in collaboration with the UCL Migration Research Unit and the International Human Rights Programme at UCL.

Problems surrounding migration management and the rights of migrants in Europe belong to the most salient issues in studies of migration, whether approached from a legal, political or geographical perspective. With this conference, we wanted to provide a platform for students from different disciplines to share their current research in this area. We are delighted to say that we will hear from students from 18 different universities from all over the UK and Europe, representing numerous academic disciplines, including Law, Human Rights, Politics and Migration Studies. Their presentations will cover issues as diverse as the externalisation of EU's border and migrants’ right to health.

The conference will conclude with a presentation by Pierre Makhlouf and Adeline Trude from Bail for Immigration Detainees (BID), one of the UK’s leading charities in the migration field. Their presentation on the current challenges to immigration detention in policy & litigation will relate to a lot of the topics covered earlier in the day.

Make sure you also have a look at the installation by artist Jake Raslan, architecture student at London Metropolitan University, displayed in room G08 in the Chadwick Building. The installation provides an artistic exploration of the humanitarian crisis in Lampedusa.

We would like to thank the UCL Department of Geography, the International Human Rights Programme at UCL and the UCL Graduate School for their generous support. We would also like to thank Thirty Nine Essex Street Chambers, one of the UK’s top barristers sets dealing with human rights, for sponsoring the drinks reception at the end of the day which we hope all of you can attend.

We hope you enjoy the conference,

Siril Berglund, Helen McCarthy and Agata Patyna, MSc in Global Migration, UCL
11th June 2012, 9am - 6.30pm, G08 and Lecture Theatre, Chadwick, UCL

9.00am    Registration          - G08, Chadwick

9.30am    Conference Opening    - Lecture Theatre, Chadwick

9.40am    Where we are: key issues          - Lecture Theatre, Chadwick

Immigration Control in the United Kingdom and the Liberal democratic paradox
Cosmas Ukachukwu Ikegwuruka, University of Newcastle

‘Brava Gente’ vs. ‘Immigrazione’: Italian Approaches to Immigration
Elif Cetin, University of Cambridge

The erosion of refugee status in law
Anne Neylon, University College Cork (Ireland)

Looking ahead: Evaluating the proposal for reinforced solidarity and responsibility sharing in the Common European Asylum System
Carolyn Amstrong, LSE

11.10am    Refreshments          - G08, Chadwick

11.30am    Participants choose one of the following sessions:

Session 1: Whose rights? Vulnerable and particular social groups
- Lecture Theatre, Chadwick

Chair: Chaired by Dr Virginia Mantouvalou, UCL Faculty of Laws

Knockin’ on Europe’s door: women, war and gender-based persecution
Olga Jurasz, University of Aberystwyth

Protection for Who? The Protection of Trafficked Persons
Jean-Pierre Gauci, Kings College London

Challenging the borders of intimacy and legality: The cultural construction and transnational implications of Danish marriage migration policy
Tess Hellgren, University of Oxford

Session 2: Migration, Counter-terrorism and security
- G07, Chadwick
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<th>Time</th>
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<tr>
<td>1.00pm</td>
<td>Lunch</td>
<td>- G08, Chadwick</td>
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<td>2.00pm</td>
<td>Participants choose one of the following sessions:</td>
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<td><strong>Session 1: Irregular migrants: rights and strategies</strong></td>
<td>- Lecture Theatre, Chadwick</td>
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<td>Chair: Chaired by Dr Claire Dwyer, UCL Department of Geography</td>
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<td><em>Irregular migration: Are the Scandinavian countries really exceptional?</em></td>
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<td><strong>Stine Laursen</strong>, University of Sussex</td>
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<td><em>Lying Low and Not Giving Up: strategies of undocumented migrants</em></td>
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<td><strong>Natasha Posner</strong> and <strong>Oonagh Skrine</strong>, School of Advanced Studies, University of London</td>
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<td><em>Risk-Taking in Transit: The Case of Afghan Migrants in Turkey</em></td>
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<td><strong>Esra Kaytaz</strong>, University of Oxford</td>
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<td><strong>Session 2: EU Borders and human rights</strong></td>
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<td>Chair: Chaired by Dr Ingrid Boccardi, UCL Faculty of Laws</td>
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<td><em>Assessing the externalisation of European Union’s migration control in the light of the Charter of Fundamental Rights</em></td>
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<td><strong>Vito Todeschini</strong>, University of Venice, Italy</td>
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<td><em>Expanding European Borders: Extraterritorial Immigration Control and the case of Hirsi Jamaa V. Italy</em></td>
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<td><strong>Ruth Clinch</strong>, University of Sussex</td>
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<td><em>Playing their cards early: Lessons for Schengen from the Arab Spring</em></td>
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<td><strong>Maia Rotman</strong>, School of African and Oriental Studies (SOAS)</td>
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<td>3.30pm</td>
<td>Refreshments</td>
<td>- G08, Chadwick</td>
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3.50pm Participants choose one of the following sessions:

**Session 1: Migrants’ (right to?) health**
- Lecture Theatre, Chadwick

**Chair:** Chaired by Dr Saffron Karlsen, UCL Department of Epidemiology and Public Health (University College London)

*Asylum-seekers, violence and health: A systematic review of research in high-income host countries*  
**Anne Kalt,** UCL (University College London)

*The human right to health of migrants in Europe (perspectives from the Council of Europe)*  
**Claire Lougarre,** UCL (University College London)

*The embodiment process of the Italian policies planned to preserve irregular migrants’ health rights*  
**Roberta Bova,** University of Bergamo (Italy)

**Session 2: Immigration detention and temporary accommodation**
- G07, Chadwick

**Chair:** Chaired by Dr JoAnn McGregor, UCL Department of Geography

*Strategies of social control in Europe*  
**Bani Gill** and **Ina Jahn,** University of Stavanger, Norway

**Immigration detention, security and human rights**  
**Mairead De Faoite,** University of Nottingham

**Immigration detention in Switzerland: Toward a new management of ‘unwanted’ foreigners?**  
**Clément de Senarclens,** Université de Neuchâtel, Switzerland

5.30pm  
**Challenges to immigration detention: policy & litigation**
**Pierre Makhlouf,** Assistant Director and **Dr Adeline Trude,** Research & Policy Manager, Bail for Immigration Detainees (BID)
- Lecture Theatre, Chadwick

6.30pm  
**Drinks reception sponsored by**  
**Thirty Nine Essex Street Chambers**
- Exhibition Room, Pearson
PRESENTATION ABSTRACTS
Where we are: key issues

Cosmas Ukachukwu Ikegwuruka
University of Newcastle, PhD candidate in International Human Rights Law

*Immigration Control in the United Kingdom and the Liberal democratic paradox*

Abstract: A liberal democracy such as the United Kingdom believes in certain values and actively promotes them. This paper will evaluate the salient features of those liberal values such as the rule of law in the amphitheatre of immigration control. It will use the United Kingdom’s practices in immigration control to measure its compliance to liberal democratic ideologies and thus explore the dilemma -if any - faced by the UK in what is referred to as the ‘liberal democratic paradox’. The emerging question then is how will the UK respect these values and at the same time marry them with immigration control? If there are conflicts between these values, what will be the remedy?

By way of analysis, this paper will conceptualize the rights of migrants in their precarious, irregular or stranded immigration status otherwise called ‘the precarious migrants dilemma’ and in doing so will address the issues as to whether the rights of these precarious migrants in the UK are merely theoretical and illusory or whether they are real and practical? By engaging in this investigation, the paper will draw a distinction between the enforcement of immigration control on the one hand and the protection of basic human rights of migrants on the other hand in the sense of ‘bifurcation or firewall argument’.

The methodology is purely documentary analysis, as the study will draw immensely from existing literature, case laws, soft laws and the applicable international legal instruments.

Elif Cetin
Cambridge University, PhD Candidate in the Department of Politics and International Studies (POLIS)

*‘Brava Gente’ vs. ‘Immigrazione’: Immigration Approaches in Italy*

Abstract: Immigration has become an issue often framed with reference to the protection of external borders, welfare state, cultural and ethnic identity, and increased risk of terrorism in most of the major migrant receiving countries in Europe. Yet, despite restrictive immigration controls and exclusionary rhetoric in these countries, population inflows continue. Building on the literature which points out that migration policies often ‘fail’ to achieve restrictive objectives due to various institutional constraints preventing governments to realise their electoral promises (Boswell 2003; Calavita 2004; Castles 2004; Freeman 1995; Geddes 2008), this paper analyses the relation between policy debates and policy-making in migration domain. The processes through which immigration debates and policies evolved in Italy, a late country of immigration which was quick in terms of developing a highly politicised immigration approach, are investigated by drawing on qualitative data for the period covering 1996-2010. The paper elaborates on how, facing with the so-called immigration pressures, different discursive categories of immigrants and immigration are created through elite political debates in Italy, to what
extent nodal points of immigration debates were reflected in the design of immigration control tools and what the link between rhetoric and practice reveals about the processes shaping politics of immigration control.

Anne Neylon
PhD Candidate Faculty of Law, University College Cork

The erosion of refugee status in law

Abstract: The rights of the refugee living in the state extend beyond the right that she should not be returned to her country of origin. There are clearly rights accruing to the refugee on the basis of her physical presence in the state. There is an intention laid out in the content of the Refugee Convention which suggests that the refugee’s legal status in the state must at least be such as to allow her to gain access to the rights which are set out in the Convention. Therefore, the legal status that the refugee is entitled to in the state must be a meaningful one and not merely a representation of the state’s inability to return her to her country of origin. There is an ever increasing division in treatment in states between those with temporary and those with a permanent residence status. Where refugees are only provided with a temporary status, the refugee is treated as temporary on the basis of her status as a refugee, but she is also affected by a general trend where fewer rights are afforded to immigrants with a temporary status in the state. While the concept of the “disaggregation of citizenship” is supported through the idea that there has been a proliferation of human rights, there is nonetheless a tendency for states to be quite minimalist in terms of the rights that they in fact will make available to those present on the basis of a temporary residence permit. This paper interrogates the concept of temporariness of refugee status, taking account of the increased likelihood of states to grant a temporary status to refugees. While taking account of recent practises of the UK and the EU, the paper also reflects on the recent move by Turkey to grant refugees from Syria a status below that of refugee in order to ensure their non-permanence in the state.

Carolyn Armstrong
PhD Candidate in the Department of Government, London School of Economics and Political Science. Co-authored with Eiko Thielemann

Looking Ahead: Evaluating the Prospects for Reinforced Solidarity and Responsibility Sharing in the Common European Asylum System

Abstract: In December 2011, the European Commission recently issued a communication ‘on enhanced intra-EU solidarity in the field of asylum’ that seeks to create ‘an EU agenda for better responsibility sharing and more mutual trust’. In this communication, the Commission proposes that the strengthening of intra-EU solidarity and responsibility sharing should be reinforced around four axes: practical cooperation and technical assistance, financial solidarity, allocation of responsibilities, and the improvement of tools for governance of the asylum system. They also advocate for an increase in the use of internal relocation of asylum applicants among Member States and for the possibility of a move towards the joint processing of asylum applications in EU territory. While the focus on solidarity as an essential component of the CEAS is not new and instead builds on
previous efforts by the Commission to improve responsibility sharing among Member States, recent events have highlighted the difficulties and the shortcomings still facing the operation of the system, and are indicative, at least in part, of the lack of progress made in this policy area in recent years. This has arguably led to a renewed impetus to improve the system and to ensure that those states that are facing higher levels of responsibility are receiving adequate support in order to ensure that they are able to uphold their commitments under both EU and international law. This paper will examine and analyse this most recent articulation of the Commission’s plan for improving and enhancing solidarity and responsibility sharing while simultaneously ensuring that the fundamental rights of asylum seekers are upheld. While many of the recommendations made by the Commission should be encouraged, it will be argued that the proposed action points attempt to address the repercussions of the uneven distribution of costs and responsibilities but fail to address the structural, institutional features of the system that are perpetuating these inequalities.

**Whose rights? Vulnerable and particular social groups**

**Olga Jurasz**
Aberystwyth University PhD Candidate

*Knockin’ on Europe’s door: women, war and gender-based persecution.*

**Abstract:** Recent experience of armed conflicts has exposed significant flaws, from the humanitarian and human rights perspective, in how International Refugee Law (IRL) addresses the status of women escaping conflict and post-conflict zones. In its current form and application, the international system of refugee protection remains largely gender-blind. In particular, the current mechanism heavily disadvantages women who are persecuted due to their gender, especially when it takes place during armed conflict. Although the gender-specific impact of war on women has become increasingly recognized in international law, the precarious position of women in the aftermath of armed conflict and practical implications it has on their lives, is yet to be adequately addressed. Conflict-related displacement and search for asylum (in mostly gender-blind IRL system) remain key practical consequences of war on women.

In 2004, the European Union issued its Qualification Directive, which forms part of the Common European Asylum System. The Directive sets “minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted”. As such, it brings together the classical refugee status (1951 Convention) and subsidiary, or complementary, protection status. Furthermore, it attempts to give effect to rights contained in the ECHR in conjunction with humanitarian practices adopted by EU states with regard to persons, who may not qualify for right to asylum under 1951 Convention.

This paper discusses from a legal and gender perspective the extent to which the Qualification Directive may be viewed as a mechanism assisting women persecuted
because of their gender, who seek asylum from conflict-affected zones. This particular example will be used to illustrate and further discuss the overall legal challenge of ensuring gender equality of women in post-conflict situations.

Jean-Pierre Gauci  
Kings College London, PhD candidate in Law  
*Protection for Who? The Protection of Trafficked Persons*

**Abstract:** This paper will seek to discuss two facets of how trafficked persons, as a particular subset of forced migrants in Europe are addressed through European and national legal frameworks. It will start with a discussion of a rights based approach to trafficking and how this has failed to permeate into the counter-trafficking legal framework. This failure will be discussed with reference to the stated purpose of the instruments, the nature of the provisions, the content of the protection afforded to trafficked persons and the time limitations thereon as well as the question of accessibility of such rights. The paper will then discuss a further option available to trafficked persons in seeking protection and that is through the use of the refugee law framework. It will therefore discuss whether, and the conditions under which trafficked persons may be protected under the provisions of the Qualification Directive. This includes an analysis of whether the various components of the definition of refugee as enshrined in the Geneva Convention and elaborated in the Qualification Directive can be considered met with regards to trafficked persons. This analysis will build on theories by various authorities in the field, case law as developed over the past years in various European countries as well as the preliminary findings of fieldwork.

Tess Hellgren  
Oxford University, MSc in Migration Studies  
*Challenging the borders of intimacy and legality: The cultural construction and transnational implications of Danish marriage migration policy*

**Abstract:** Preliminary abstract: Based on my dissertation work, my presentation will explore the formation and consequences of the Danish ‘24-year rule’ limiting transnational marriage migration, using this case study to consider the national evolution and regional resonance of immigration policies in the modern Danish state. My presentation will contextualise recent Danish policy in theories of integration and belonging, examine its intentions and outcomes, and investigate the relevant interaction (and conflict) of state and supranational authority in dictating marriage migration policy. Over the past ten years, immigration discourses have been increasingly politicized in Denmark, tied to the enhanced influence of the right-wing Danish People’s Party over mainstream political leadership. Amidst the societal normalization of anti-immigration sentiments, the 2002 legislation on marriage migration places strict requirements of age, income, and ‘national attachment’ upon any third-country national (TCN) wishing to marry a Dane. Justified under gender equality discourses seeking to prevent forced marriages, the legislation has created culturally normative judgments on ‘divergent’ marital practices, declaring that arranged and kinship partnerships are unacceptable in Danish society. Marriage
restrictions have simultaneously been a pragmatic immigration control, considerably restricting the eligibility of potential applicants for family migration. My presentation examines how the law has impacted the decisions, identities, and livelihoods of Danish-migrant couples, particularly drawing attention to their agentive responses shown in new migration flows to southern Sweden. By relocating across the Danish border, impacted couples are strategically navigating intersecting levels of Danish, Nordic, and EU law in their determination to form a partnership. This provocative outcome raises important questions about present and future interactions of national and supranational legal structures in the realm of EU family migration and beyond.

Security and Counter-Terrorism

Robin Stünzi
PhD Candidate University of Neuchâtel/ Centre de Droit des Migrations (CDM)
“Whose security? Swiss Politics of Asylum and the “Securitization” of Migration”

Abstract: Since the end of the 20th century, the nexus between security issues and migration has become more prominent in major countries of immigration, both among policy-makers and among researchers in social sciences, law and international relations, where it is referred to as the “securitization” of migration. This complex relationship is particularly at stake within the domain of asylum, where the tension between human and national security is a contentious issue. This paper aims at exploring this relationship and its evolution within the development of asylum policy in Switzerland since the 1970s. After describing some characteristics of the contested meaning of security and the way it has been conceived as inherently linked to political and state practice, this paper focuses on legal, political and administrative discourse and practices to examine how specific understandings of the concept of security are constructed and transformed within the field of asylum policy in Switzerland. Using the theoretical contributions of both the “human security” and the “securitization” frameworks, I analyse data produced during the legislative process (federal legal bases, reports, records of parliamentary debates), especially the creation and the successive development of the Swiss Asylum Act (AsylA). The paper draws attention to the fact that security rhetoric has been used to talk about asylum and refugees since the creation of the first Asylum Act in 1979 and that its meaning has experienced significant transformations, as regards the kind of threat that has been perceived to endanger various referent objects, and the measures that have been taken afterwards. In the concluding part, I turn to some political and philosophical implications of using security rhetoric within the politics of asylum and refugees.

Sarah Singer
PhD Candidate in Law at Queen Mary, University of London
Exclusion from Refugee Status: asylum seekers and terrorism in the UK

Abstract: Recent legal and political discourse on terrorism within the United Nations (UN) has presented refugee status as a means by which terrorists can seek entry to a
country to perpetrate terrorist acts, or evade prosecution for their crimes. For example, UN Security Council Resolution 1373 of 2001 urges states to ‘ensure ... that refugee status is not abused by the perpetrators, organisers or facilitators of terrorist acts’. The drive to deny the benefits of refugee status to suspected terrorists has led to a radical reinterpretation of the exclusion clause of the 1951 UN Refugee Convention, both at national and international levels, so as to bring terrorism within the ambit of this provision. An asylum-seeker will now be excluded from refugee status if he or she has committed or prepared for an act of ‘terrorism’, or has encouraged or induced someone else to do so. However, ‘terrorism’ is not a legal label, but an undefined political term: there is at present no internationally agreed definition of ‘terrorism’, nor an internationally agreed list of ‘terrorist organisations’. The discretion inherent in the undefined nature of the term ‘terrorism’ therefore leaves the Refugee Convention’s exclusion clause open to abuse by Member States seeking to exclude genuine asylum seekers from refugee status. In this paper it will be argued that, in light of the serious consequences of exclusion from refugee status, there is a need for a principled approach to the application of the Refugee Convention’s exclusion clause which is not served by the undefined political term ‘terrorism’. Furthermore, since fleeing persecution for political opinion is an archetypal reason for seeking asylum, injecting subjective political notions of ‘terrorism’ into refugee exclusion has the potential to undermine the very foundations of the international refugee protection framework.

Maria Anggita Kusalasari
European Master in Migration & Intercultural Relations, University of Stavanger (Norway)

Border Control and the Securitization of Migration in the European Union: Case Study of Tunisian Refugees Fled to Italy during North African Uprising 2011

Abstract: This paper depicts the recent condition in the European Union, concerning free movement within the region versus tight security at the external border. To portray the condition, this research will observe the North African refugees who fled from their countries after political turmoil since the end of 2010. It highlights the case of Tunisian migrants who reached the Island of Lampedusa, Italy from the period of January to May 2011, constituting of no less than 25,000 people seeking for a more secure life. This flow of people has drawn a lot of attention worldwide; however, reaction came when finally Italian government granted them residence permit for six months which enable them to travel within Europe. The French government who halted a train loaded by those migrants and even demanded a suspension and reconsideration of Schengen Agreement at that time showed a restriction towards free movement in the Union for non-EU people. Furthermore, Brussels who decided not to provide “burden sharing” as well as reinforcing the FRONTEX in this case showed an unwillingness to accept those migrants to further enter Europe, despite of their needs to be protected. This debate will be analyzed through the concept of border and securitization of migration. In this particular case, border is no longer situated at the outer edge of territories, but also dispersed inside the region. How the concept of border plays a significant role in this event both in national and regional level, as well as critical analysis on their policies will be highlighted. How the conception of European border has influenced the way of
viewing migration issue to the area of European Union will be the main research question that has to be answered. Furthermore, it is to answer whether the action of securitization is effective to eradicate migration flow. In terms of methodology, this research will be based on literature studies, observation on policy documents, reports, and news articles.

Irregular migrants: rights and strategies

Stine Laursen
University of Sussex DPhil Candidate in the Department of Politics and the School of Global Studies

Irregular migration: Are the Scandinavian countries really exceptional?

Abstract: Irregular migration has become a major topic worldwide in the past 10-15 years, but little is known theoretically and empirically about irregular migration in a Scandinavian context. Therefore, this thesis investigates the extent of irregular migration to Scandinavia, i.e. to Denmark, Sweden and Norway and focus in particular on two theoretical issues. First, it is often argued in the current literature on irregular migration, that state policies are ineffective in curbing irregular migration, and that irregular migration therefore affects all developed countries (Chiswick, 1988; Cornelius et al., 1994; Albrecht, 2002; Bhagwati, 2003). However, at the same time, it is also argued by several authors, for example Duvell as part of the Clandestine project (Clandestino, 2009), that the Scandinavian countries are an exception from this general rule, since there appear to be very few irregular migrants in Scandinavian. Second, another assumption in the literature is about Scandinavian homogeneity in relation to irregular migration in terms of both policies and outcomes (Clandestino, 2009), this is slowly being challenged (Thomsen et al., 2010) but overall there is still a lack of comparative and empirical research on irregular migration in Scandinavia which could challenge these assumptions about Scandinavian exceptionality and homogeneity. In my thesis I will empirically investigate the claim that the Scandinavian countries have low levels and similar types of irregular migration using a mixed methods research design, and I will then examine the discourses, attitudes, and policies which have shaped irregular migration to the three Scandinavian countries; Denmark, Sweden and Norway to uncover if they are indeed as homogenous as is often assumed and whether they really constitute a special case compared to other countries – or in other words, whether they are indeed exceptional?

Natasha Posner
PhD ICS, London University, Co-authored with Oonagh Skrine MA (QMUL)

Lying Low and Not Giving Up

Abstract: Lying low and not giving up was one strategy adopted by some of the undocumented migrants and failed asylum seekers interviewed in our research carried out as interns with Praxis – an organization in East London providing help and support to people who find themselves displaced and unwelcome. The focus was on the experiences of our 27 interviewees (15 men and 12 women) in seeking legal help and advice to negotiate their immigration status. We documented their difficulties with
finding and paying for a solicitor and their mixed views of the treatment they received. If the solicitor appeared knowledgeable, motivated to help, and communicated with them regularly, they were happy. Too often however, the opposite was the case. A solicitor who can provide realistic and supportive help to a client with their immigration status can make a very valuable contribution to a life that is otherwise in limbo.

In their accounts of complex trajectories towards leave to remain, there were several common themes. It was clear that both they, and sometimes their solicitors, had insufficient knowledge of current law and procedures. Exploitation and abuse, particularly of women, from befrienders and partners, was not uncommon. The apparent inhumanity of the immigration processing system became evident in judgments and very difficult processes that our interviewees experienced. In some cases, people were denied the opportunity to access the immigration system due to the paucity of high quality representation available. Instead, their desperation led them into the hands of unscrupulous solicitors. Most remain undocumented and/or waiting for decisions – unable to go backwards or forwards in life with any confidence. Were they wrong to seek refuge in a developed democracy, party to a full complement of international human rights law?

**Esra Kaytaz**
Oxford University

*Risk-Taking in Transit: The Case of Afghan Migrants in Turkey*

**Abstract:** This paper is concerned with how migrants and asylum seeker perceive and negotiate insecurities created by the increased “securitization” of state policy through the case study of Afghan migrants and asylum seekers in Turkey.

Pursuant to the institution of restrictive policies towards Afghan migrants and refugees in Pakistan and Iran, as well as continuing insecurity in Afghanistan, Turkey has become a significant country of transit and the closest country asylum in the region. When in Turkey, however, Afghans are subject to policies designed to legally marginalize and prevent integration. Furthermore, anti-smuggling measures and tighter controls on the EU border appear to have increased the financial cost of irregular travel and possibility of apprehension. This paper seeks to explain how recent Afghan arrivals view and negotiate insecurities associated with their migratory options whilst in Turkey within framework of social and cultural theory of risk perception and acceptability.

The migratory options for Afghanis in Turkey, such as irregular travel or asylum, expose migrants to uncertainties and vulnerabilities. Typically Afghans pursue a combination of these options. Current migration theory on decision making fails to capture the diversity of intra-group variation as witnessed among Afghans in Turkey, because of its focus on macroeconomic and political factors. Based on ethnographic research since December 2010, including 55 in-depth interviews with Afghans across several cities in Turkey, it is argued that the heterogeneity of Afghani migratory trajectories arises from their subjective evaluation of risks in the broader cultural and social context of their decision making. This paper goes towards challenging the common perception of migrants as “risk-averse actors” while demonstrating the discrepancy between the impact of “migration controls” as viewed by states versus individual migrants.
EU Borders and human rights

Vito Todeschini
European Master’s Degree in Human Rights and Democratisation, European Inter-university Centre (Venice, Italy)

Assessing the externalisation of European Union’s migration control in the light of the Charter of Fundamental Rights

Abstract: Since the adoption of the Tampere Programme in 1999, the European Union has pursued the aim of moving the control of migration flows from its territory to third countries. Such a process is known as ‘externalisation’ and basically consists in the involvement of countries of origin and transit of migration in the management of both legal and illegal flows. The externalisation process encompasses a wide range of policies and actions such as: creation of detention camps outside Europe’s territory; improvement of external border control measures; repatriation of migrants and establishment of re-admission agreements; movement of the processing of asylum claims outside Europe. The aim of the present paper is to assess whether the policy of externalising migration control mechanisms does comply with human rights obligations by which the EU is bound. After the entry into force of the Lisbon Treaty, EU human rights framework has acquired a new legal value in particular as regards the Charter of Fundamental Rights. Subsequently, the compliance of EU acts with human rights may be judicially reviewed. In the first part of the presentation, an overview of the development of EU migration policy will be provided. It will be showed how the approach to migration has changed up to the present and what are the main characteristics of the policy framework thereupon. The second part will illustrate several concerns as regards the respect of migrants’ human rights in relation to the improvement of borders control and to the establishment of readmission agreements. The last part will deal with EU human rights framework. The externalisation process will be analysed in the light of human rights obligations, in order to assess whether and to what extent it violates those fundamental rights upon which the Union in founded.

Ruth Clinch
Sussex University, Masters in Human Rights

Expanding European Borders: Extraterritorial Immigration Control and the case of Hirsi Jamaa v. Italy

Abstract: Following the recent case of Hirsi Jamaa V. Italy this paper will explore interdiction, push backs and the plight of ‘boat people’ through the lens of ECHR law. Tracing the history of these migrants from Vietnamese refugees to those fleeing Haiti in the early nineties and the current situation in the Mediterranean brings into focus the nexus of maritime law, obligations under international and refugee law, and attempts by states to secure and control their borders. The ruling of the European Court of Human Rights in Hirsi Jamaa V. Italy marks the first time the extraterritorial measures of member states for migration control have been decisively condemned in international law. The case is indicative of a new phase of such controls as practiced at the borders of Europe, often in partnership with non-member third party states such as Libya and Mauritania.
as well as with the EU agency Frontex. If subsequently followed the case could help establish greater accountability for such relationships and measures. As such it is a crucial first response to this emerging phenomenon which should remind states that while developing practices to regulate and control the entry of aliens - as is their well-established right - they are obliged to keep in mind the object and purpose of the ECHR by whose rules they are bound.

Maia Rotman
School of Oriental & African Studies London, Masters in Migration, Mobility & Development

Playing their cards early: Lessons for Schengen from the Arab Spring

Abstract: From the end of 2010 through the fall of 2011, overcrowded boats of North African migrants braved the Mediterranean Sea in the hope of reaching European soil. While such migration flows are commonplace and the numbers of migrants who landed in Europe was barely out of the ordinary, because the migrations occurred in tandem with Arab Spring revolutions throughout North Africa the response from the European Union was one of panic. Italy declared a State of Emergency and France responded to the ‘threat’ of irregular migrants by closing its borders with Italy. Such a manoeuvre broke the Schengen Agreement, which eliminates internal border controls within the European Union. The disaccord did not last long and the heads of EU states have since articulated their renewed support for Schengen, but the event remains significant for it symbolizes larger issues with the Schengen agreement and the EU’s relationship with North African ‘buffer zone’ countries. In this paper I will outline the history of migration from North Africa to Europe, specifically highlighting economic arrangements such as the European Union - Libya Framework Agreement and the European Neighbourhood Policy (ENP) agreements. In particular, I will examine Libya’s role as ‘buffer zone’ for the EU within the larger context of extra-territorialisation and securitisation of European borders. I will correlate the panic associated with the boats of North African migrants with a larger fear of losing Libya as a buffer for incoming ‘undesirable’ migrants. I will argue that the existence of the Schengen agreement and the willingness of European Union states to abide by the accord is in fact entirely dependent on these extra-territorial ‘buffer zones’. Finally, I will conclude with thoughts about the future of the Schengen Agreement and Libya’s role as a third country buffer zone.

Migrants’ (Right to?) Health

Anne Kalt
University College London Masters in Philosophy, Politics & Economics of Health

Asylum-seekers, violence and health: A systematic review of research in high-income host countries

Abstract: Populations displaced by conflict and persecution are thought to experience high rates violence with significant public health implications. Yet, scarce data exist to identify the prevalence and nature of violence and inform policies and health services for the approximately 367,000 asylum-seekers in high-income host-countries. The objective
of this study was to systematically review evidence on prevalence and health effects of violence among adult asylum-seekers in high-income countries. The data was selected from a pool of 5454 articles identified through Medline, Pubmed, Embase, Web of Science and the Cochrane Library published in peer-reviewed journals January 1, 2000-August 30, 2011. Studies were selected that employed experimental or observational designs reporting physical or sexual violence prevalence (risks, rates, proportions, mean scores on validated instruments) and/or health associations among asylum-seekers 15 years or older in high-income host-countries. Data were extracted according to PRISMA guidelines on study population, design, sampling method, instruments, violence prevalence, and violence/health associations. Data quality and suitability were assessed using a peer-reviewed appraisal tool.

23 studies met inclusion criteria. Prevalence of torture was above 30% across studies, though convenience sampling posed risk of bias. Reported torture and suicide were more prevalent among men and reported sexual violence was more prevalent among women. 78% of studies did not disaggregate findings by sex. No studies examined intimate-partner, family or post-migration community violence. Only two studies reported significant adjusted health effects of violence. Torture history in clinic populations was significantly associated with hunger (OR=10.44, p=0.032) and PTSD (OR=4.93, p=0.03). One study observed significant interaction between past violence and length of immigration detention on depression (F(1,86) =5.97, p=0.017).

In conclusion, the studies suggest asylum-seekers experience high levels of abuse, but representative findings on violence and health are scarce, with current evidence drawn primarily from convenience samples, based on irregular definitions and not sex-disaggregated. Fair and humane asylum responses are needed and should rely on high-quality research.

Claire Lougarre
M.Phil/PhD candidate in UCL Laws

The Human Right to Health of Migrants: Perspectives from the Council of Europe

Abstract: Human Rights Law is being shaken by rising debates on the justiciability of social rights: how rights such as education, housing or health can be legally enforced. However, very little is said on how these rights apply to migrants and through the lens of this research, on how the human right to health applies to migrants in Europe. Different aspects of the human right to health have been examined in the existing literature but no attempt to clarify its legal content in Europe has been made, even less in the context of non-nationals. It is however fundamental to analyse what rights and obligations the right to health entails in order to improve its realisation among these individuals. The Council of Europe offers unique perspectives in this respect, thanks to the interpretation made by the European Court of Human Rights and the European Committee of Social Rights.

I intend to discuss this by first, providing a brief account of international human rights law on the right to health recognised to non-nationals. Second, I wish to examine the contradicting jurisprudence of the European Court of Human Rights in respect to states’
obligation to provide healthcare to illegal migrants. Third, I will assess the restrictive definition of the right to health of non-nationals in the European Social Charter. And fourth, I will analyse the extensive interpretation of this definition made by the European Committee of Social Rights (in its procedures of states' reporting and collective complaints).

Roberta Bova
University of Bergamo, visiting UCL. PhD Candidate in International Cooperation

*Embodyment Process of the Italian Policies planned to preserve irregular migrants’ health rights.*

**Abstract:** The main purpose of this research is to understand the embodiment process of the Italian policies planned to preserve irregular migrants’ health rights. Aiming at this, I carried out a qualitative analysis of the patients/migrants’ points of view. This study is based on my fieldwork experience at a volunteer consulting room for undocumented migrants in Milan. In a period of five months, I took part to the association’s activities and I prepared 28 interviews with the patients. As a result of my research, I noticed that the national health policy foresees a complete range of health rights. However, the symbolic actions and the false information campaigns ran by the police and some newspapers led to a criminalisation of undocumented migrants and to a partial use of their rights. Moreover, interpreting the metaphors adopted during the interviews, I found out that this social context has a direct influence on the relationships that the migrant/patient has with his body as well as with the doctor. In fact, most of the patients describe themselves with metaphors of passivity, powerlessness and humiliation. This often because they perceive an atmosphere of danger and oppression and they are scared to employ the public health services. However they care about the state of health of their body as it is fundamental to work and provide them their living. For all these reasons their expectations for volunteer health care are really high and are perceived as a matter of dignity. In fact, being visited is seen as a rare occasion to be treated firstly as a person. In conclusion, this study, once highlighted that the migrant’s body is a crucial element of the contemporary political trends, aims to enrich the theoretical debate about the concepts of biopolitic and embodiment process, with a peculiar fieldwork experience.

*Immigration detention and temporary accommodation*

Bani Gill and Ina Jahn
European Master in Migration and Intercultural Relations, University of Stavanger (Norway) Co-authored with Emilie Blackburn, Thea Grydeland Ersvik and Nadzeya Husakouskaya

*From Blankenburg to Fliegerhorst: An Exploration into Strategies of Social Control*

**Abstract:** This paper attempts to analyze the common European Asylum policy with a specific lens on human rights of the asylum seeker through the prism of ‘social control’. The authors attempt to elucidate if and how strategies of social control are enacted on
the body of the asylum seeker taking the social housing centres at Blankenburg and Fliegerhorst, in Germany, as case studies. The official function of these pre-admission ‘communal housing centres’ is ostensibly to provide for ‘safe’ accommodation and basic needs of asylum seekers who are presumably unfamiliar with Germany. On the contrary, this paper argues that although a non-punitive measure, the banal bureaucratic logic underlining these institutions enables the enactment of border control by ensuring that ‘unwanted’ migrants can be located and identified and cannot abscond while their application, and potential expulsion, is prepared. Through a series of semi structured interviews- with social workers, government representatives, activists and NGOs themselves- as well as regular field visits combined with media and discourse analysis, conducted over a period of 6 weeks in November- December 2011, this paper seeks to analyze the strategies of social control enacted over the personal and political figure of the asylum seeker. This is explored through the prism of space, management of daily life and discourse of protection, and through representation in media. Simultaneously, the paper explores strategies of resistance to this hegemonic discourse, by investigating how alternate representations beyond a narrative of victimhood are realized. The theme of immigration detention and human rights is thus explored through systems of surveillance as well as resistance.

Mairead De Faoite
Nottingham University, LLM in Human Rights Law

Abstract: The attacks of September 11 led many states to introduce new administrative detention powers. Under international law such legislation is permitted but is subject to certain safeguards. Essentially, administrative detention exists as a supposed solution to a problem Governments have in relation to international terrorism. It is forbidden under international law to return an individual to a country where they might be tortured. However, States are also unwilling to allow an individual, which they believe to be a risk to National Security, to remain free within the Country.

The first part of this presentation will briefly outline the development of national legislation surrounding administrative detention since 9/11. The second section will analyse whether there is a need for administrative detention. The third part will examine two case-studies the UK and the US. The UK is examined as its legislation has evolved from physical detention to a system whereby the individual is submitted to restrictions and surveillance. The US is examined because it provides an example of a system without the influence of the ECHR and because there is a certain confusion as to which system of law to apply. (The Government have given mixed signals as to whether the detainees are considered “enemy combatants or not.) Thus, the American system can provide a contrast to European countries. Lastly, this article will examine what approach International and Regional Treaty Bodies should take in relation to detention.
Clément de Senarclens
PhD Candidate, Centre for Migration Law, University of Neuchâtel (Switzerland).

*Immigration detention in Switzerland: Toward a new management of ‘unwanted’ foreigners?*

**Abstract:** The administrative detention of irregular migrants aiming at enforcing removal orders has been introduced within the Swiss Federal Act on Foreign Nationals (FNA) in 1986. At that time, detention was allowed for a maximal period of 30 days for foreigners when a final decision regarding their removal had been made by the authorities. In 1995 and 2008, the so-called coercive measures were introduced and further developed in the FNA. The measures extended the maximal length of detention to 12 and subsequently 24 months, and the scope of foreigners which may be detained – including foreigners whose removal had not yet been ordered. While the debate regarding the introduction of coercive measure departed from public concerns regarding the criminality of asylum seekers, the measures were finally legitimated by the Parliament and in front of the Swiss population as means to protect ‘real refugees’ and the Swiss ‘humanitarian tradition of asylum’. Despite such positive justifications, the evolution of the legislation regarding the administrative detention of foreigners in Switzerland demonstrates a clear mix between criminal and immigration law, which has been documented in the case of other countries as the emergence of a ‘crimmigration law’ system (Stumpf 2006). This paper will be divided in three sections. Section I presents a detailed analysis of the evolution of the administrative detention of foreigners in Switzerland. Section II analyses the arguments used by the Swiss Parliament to justify the implementation of such measures. Section III highlights convergences between criminal and immigration law in the Swiss context. To conclude, I will argue that the evolution described in the case of Switzerland should be understood as a more general trend of implementation of new ‘techniques of control of unwanted foreigners’ within liberal democracies.
Profiles of Session Chairs

Dr Ingrid Boccardi, UCL Faculty of Laws
Ingrid Boccardi has been teaching part-time at UCL since 1997, where she obtained her Ph.D in EU Law in 2001. She teaches jointly in Laws and in the Department of European Social and Political Studies. She previously worked for the European Commission in Brussels and has been acting as a source to the BBC and CNN with regard to EU asylum/refugee issues and developments since 2000. She has also acted as an external consultant for the European Council of Refugees and Exiles and the UNHCR. Ingrid Boccardi’s main research focus is on the development of EU Migration Law and Policy, EU Citizenship and Home and Justice Affairs. She has presented numerous international papers on the development of the EU Common Asylum System. Her research projects include a monograph on the external dimension of EU Asylum policy, an article on new modes of governance in the EU Migration field and an analysis of the impact of EU Immigration initiatives on the development of the EU Citizenship concept.

Dr Claire Dwyer, UCL Department of Geography
Claire Dwyer is the co-editor of New Geographies of Race and Racism (2008) and Transnational Spaces (2004) and Co-Director of the Migration Research Unit. Claire’s research interests include geographies of race, racism and ethnicity, transnationalism and diaspora identities as well as geographies of gender and feminist geography. Claire graduated in geography from the University of Oxford in 1987. She gained a Masters Degree in Geography from the University of Syracuse (USA) and then moved to the department of Geography at University College London where she completed her PhD in 1997. Claire has been on the teaching staff in the department of geography at UCL since 1995. Claire currently serves on the editorial boards of Gender, Place and Culture and South Asian Diaspora. She has previously served on the editorial boards of Social and Cultural Geography (2002-8) and the Journal of Geography in Higher Education (2001-2006).

Dr Saffron Karlsen, UCL Department of Epidemiology and Public Health
Dr Saffron Karlsen is a Senior Research Fellow at the Department of Epidemiology and Public Health. Her research interests include ethnic and religious inequalities in health and socioeconomic position, the role of victimisation in the generation of ethnic and religious inequalities and the processes of ethnic identification and their relationship with other forms of social group awareness and exclusion. Her most recent work explores the differences in the circumstances and experiences of different ethnic/religious groups in Europe has highlights important variations in the health and socioeconomic circumstances and experiences and attitudes of different religious groups in the UK and Europe and how this is intersected by considerations of ‘ethnicity’, migration and status. Saffron is also the course organiser for the ‘Ethnicity, Migration and Health’ module on the MSc in Society and Health. She has been facilitating workshops with professionals involved in health and social services around recognising and minimising the impact of victimisation on health, in collaboration with the Race Equality Foundation via local PCTs in England.
Dr JoAnn McGregor, **UCL Department of Geography**

JoAnn is Reader in Human Geography and convenes the MSc Global Migration. She was educated at Oxford University, where she gained a first class degree in Geography, and at Loughborough, where she secured her doctorate. She worked as a researcher in the Refugee Studies Programme and St. Antony’s College, University of Oxford (1991-1997), then lectured in the University of Reading before joining University College London in 2006. Her research interests are in African history and contemporary society, particularly in conflict, migration and refugees, and the politics of land and the environment. She is also interested in Africans in Britain and diaspora studies. Her current projects include a study of experiences of immigration detention in the UK (funded by the Nuffield Foundation), and an historical investigation of the newly formed Zimbabwe ‘diaspora’ in the light of the experiences of previous generation of exiles (funded by ESRC). She is Editor of the Journal of Southern African Studies, and council member of the African Studies Association.

Dr Virginia Mantouvalou, **UCL Faculty of Laws**

Virginia Mantouvalou joined the Faculty in September 2011 as Co-Director of the UCL Institute for Human Rights and Lecturer in Law. Virginia’s main research interests are in human rights, labour law and European law. She works on theoretical and legal aspects of social and labour rights, privacy, the rights of undocumented migrants, domestic labour, modern slavery, the interplay between human rights and labour law and the constitutionalisation of labour law. Virginia holds a PhD in Law from the London School of Economics, an LLM in Human Rights from the London School of Economics and an LLB from the University of Athens. In 2010 Virginia was Dean’s Visiting Scholar at Georgetown University Law Centre in Washington DC. Before joining UCL, she was Senior Lecturer in Law and Deputy Director of the Centre for European Law and Integration at the University of Leicester. She previously taught at the London School of Economics. She has also worked as a consultant for the International Labour Organisation.

Dr Antonios Tzanakopoulos, **UCL Faculty of Laws**

Antonios Tzanakopoulos joined UCL in September 2011, after having taught public international law at the Universities of Oxford (2006–9) and Glasgow (2009–11). Antonios’s research covers all aspects of public international law, with particular focus on the law of international responsibility, the law of international organizations, the law of treaties, the settlement of international disputes, and the relationship between international and domestic law, including the application of international law by domestic courts. Antonios studied law in Athens, New York, and Oxford. During that time, he worked as a researcher for the Hellenic Ministry of Foreign Affairs in Athens (Special Legal Department) and New York (Permanent Mission to the UN), and for the UN Office in Geneva (International Law Commission). Antonios is Associate Editor for the Oxford Reports on International Law in Domestic Courts, Co-Rapporteur of the ILA Study Group on Principles on the Application of International Law by Domestic Courts, and an advocate with the Athens Bar in Greece. He has worked on a number of cases before international and domestic courts and tribunals, including the International Court of Justice, EU courts, ad hoc and ICSID arbitral tribunals, and the High Court of England and Wales.
Keynote speech: Challenges to immigration detention: policy & litigation

Pierre Makhlouf, Bail for Immigration Detainees

In the UK around 20% of immigration detainees are held for over six months, many of these for over a year, and a small number for up to five years. Concerns have been widely expressed about the prolonged detention of migrants and asylum seekers, many of whom cannot be removed from the UK due to legal or other barriers, such as problems in establishing nationality and obtaining travel documents.

There are limited though growing powers to detain under the various immigration acts in the UK. However, access to challenging the legality of ongoing detention is difficult. In practice, for most detainees, this involves making an application for release on immigration bail. A bail application is currently the only independent review of the Home Office’s decision to detain, though bail courts have no jurisdiction to examine the legality of detention.

Bail for Immigration Detainees’ strategic litigation seeks to assist in challenging legality, forcing scrutiny both of decisions to detain initially and to maintain detention over months or years. Problems that BID has addressed through litigation include the failure on the part of the Home Office to follow its own policy on detention, for example the requirement to carry out regular reviews of detention, and the operation of secret policies in relation to certain categories of immigration detainees. Other cases BID has been involved in have addressed the failure of the government to act in the best interests of children when making decisions about the detention of families, in line with the statutory duty, and the treatment of detainees with serious mental illness and breaches of Article 3 that places a positive duty on the government to prevent inhuman and degrading treatment of those for whom it has a duty of care. BID’s litigation work sits alongside detailed lobbying work on processes for separated families, and the provision of bail addresses to enable applications for release, to name but two. Our litigation work takes place as a result of preparation and referral in individual cases, or invitations to intervene in cases where the outcomes for policy and practice have implications for the detained population as a whole.

The cuts to legal aid, which will affect much immigration legal work when they come into force in April 2013, lend urgency to this type of strategic litigation and policy work, since the ability of individuals and their lawyers to bring individual challenges in many cases will simply be wiped out.

Pierre Makhlouf has twenty three years experience in the field of asylum and immigration law. Before coming to BID he worked in private practice (1989-1995) and at Hackney Community Law Centre (1995-2007), where he specialised in cases involving the detention of asylum seekers, children in care, and national security cases, and took a
large number of cases to judicial review. As Assistant Director for BID he manages all legal casework, and leads on BID’s strategic litigation work, including Walumba Lumba (Congo) and Kadian Delroy Mighty (Jamaica) [2011] UKSC1, the leading authority on whether, and in what circumstances, breaches of public law are capable of rendering unlawful the detention of foreign national ex-offenders pending their deportation, in which BID acted as intervener. He co-convenes the Immigration Law Practitioners’ Association Detention and Fast-Track Sub-Committee.

**Dr Adeline Trude** (UCL 2007) has over ten years experience working with irregular migrants in London and Ghana, and over four years working in the immigration detention field. She is Research & Policy Manager for BID, where she leads on work related to the bail process, access to justice, factors leading to long term detention, the nexus of the criminal justice system and immigration control, and mental health in detention.

Bail for Immigration Detainees is an independent charity established in 1999 to improve access to bail for those held under Immigration Act powers. BID provides legal advice, information and representation on bail to people held in immigration detention; through telephone helplines, a self-help book ‘How to Get out of Detention’, bail workshops in six detention centres, and through the preparation and presentation of bail applications in court. BID also engages in policy, research, and parliamentary work, and in strategic litigation.

Contact: Pierre Makhlouf pierre@biduk.org
or Adeline Trude biduk.adeline@googlemail.com
Thirty Nine Essex Street is regarded as one of the leading chambers, said to be an “extremely professional outfit, with strong practitioners who offer a good service,” by Chambers & Partners and described by The Legal 500 as “a colossally talented set”.

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