REVIEW ARTICLE

Crisis, the State and Irregular Migration


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*Seeking Asylum: Human Smuggling and Bureaucracy at the Border* is an examination of the Canadian Government's response to the arrival of irregular migrants by boat at the turn of the millennium. Using critical theory, it moves from an analysis of the bureaucracy, to the border and finally to those places where national sovereignty is ambiguous. While predominantly concerned with the Canadian example, it does engage with other international examples, including Australia.

This book aims to undertake an ethnographic study of the state during its response to the 'crisis' of the arrival of irregular maritime migrants facilitated by human smugglers. The first half of the book focuses on the Canadian Government, in particular the Canadian Immigration Citizenship (CIC), response to the arrival of Chinese migrants in 1999 and 2000. The analysis then moves to look at how state borders operate and then to examine the margins of states; those spaces where irregular migrants are detained and sovereignty brought into question.

Mountz’s ethnographic study of the state’s response is based on extensive interviews with many of the public servants at the centre of this reaction. In doing so, she is able to provide a perspective that is often missing from studies of irregular migration. It also reminds the reader that although the state is often seen as single entity, it is in fact the cumulative effort of a number of people. One of the major findings of Mountz’s study is that much of the policy developed to deal with the arrival of irregular migration does so in a reactive manner. In the
Mountz’s analysis of the bureaucracy’s reaction to the arrival of irregular maritime migrants provides many insights into not only Canada’s immigration department, but departments across the globe. As with her later analysis of the manipulation of geography, many of the points made by Mountz appear to also relate to the Australian case. This was particularly evident in the discussion about the role of the media and the CIC’s ‘management’ of the media. One departmental official is quoted as describing the dominance of the department’s communications area as ‘the tail wagging the dog’ (p. 71), as the media became part of the ‘crisis’ that the CIC was attempting to respond to. Anyone who has followed Australian politics, or politics in most Western countries, will have noticed similar issues, with the management of the media seemingly taking dominance over policy development and delivery. The Australian department of immigration’s role in the media has grown over the past decade, with the current departmental media spokesperson Sandi Logan’s profile growing substantially. No other departmental official, apart from perhaps the recently retired Treasury Secretary, Ken Henry, has the media profile of Sandi Logan, demonstrating the importance that the immigration department places on responding to media stories.

When discussing the role of the bureaucracy, in the case of Australia it is hard to go past the detention of Cornelia Rau and deportation of Vivian Alvarez Solon. This was particularly noticeable when Mountz outlined how the increase in the number of irregular maritime arrivals caused CIC to divert resources from its everyday business (p. 65). In his report into Rau’s detention, Palmer noted the increased workload placed on officials in the Department of Immigration and the result that policy was developed ‘on the run’ (Palmer 2005, pp. viii-ix). The state’s response is analysed from a post-structural perspective, using, but also building on, the work of Italian political philosopher Giorgio Agamben. Of particular interest to Mountz is the development of what is described as the ‘long tunnel thesis’ (p. xiv). This comes from discussions with departmental officers who described the detention of asylum seekers at the Esquimalt Naval Bases on Victoria Island (and other places on the Canadian West Coast) as being the equivalent of a long tunnel at an airport. They have left their country of origin, usually China in this case, but were yet to officially enter ‘Canada’. Taking a lead from Perera (2002), Mountz describes them as being in ‘not-Canada’ (p. 124).

While Mountz’s focus on the role of the bureaucracy provides a number of important insights into policy development and responses to irregular migration, it does seem to forget what could be described as the elephant in the room: politicians. Although the vast majority of analyses in this field place the political class at the centre, Mountz is attempting to provide a different viewpoint. While she should be congratulated for doing so, for it does provide a number of different
insights, some acknowledgement of the role of politicians would be useful. For example, when discussing the growing role of the media and its role in the crisis that the CIC faced, nothing is said of the role of the minister for immigration. The department’s concern with media stories was not only to ensure that it was seen as a well-functioning bureaucracy, but presumably also an attempt to protect its minister from criticism.

Moving out from what Mountz describes as ‘the administrative centre’ (p. 168), this book continues by looking at the operation of borders. Although often seen as the physical limits of a nation’s sovereignty, this book demonstrates that borders are not as concrete as this conception provides. In particular, Mountz examines how the body becomes the border and how the body becomes the place where the state enforces the border (p. 151). In doing so, she draws on Foucault’s work on governmentality and panopticism. Mountz focuses her analysis on Mexican and Salvadoran temporary migrants in the US. Due to their temporary status in the country, these migrants were required to reapply for their visa annually, meaning that they were always living in fear of being found ineligible for a visa and sent home. They were therefore very unlikely to cause problems, particularly in the labour market, as this may be seen by the US Government as a reason to deny them a visa. Although the government was unable to know of their every movement or action, these migrants felt they were constantly being monitored by the state; a perfect example of panopticism.

Mountz also points to the psychological issues that may arise from this constant fear of state surveillance. As she notes,

> The temporary status programs exacerbated PTSD by prolonging uncertainty about home and belonging in formal and informal spheres of citizenship. The feeling of being watched was pervasive, perpetuated by the experience of a criminalized existence in the United States and the psychological trauma caused by insecure trajectories. (p. 159)

Again, similar issues can be easily seen in Australia’s immigration system of the past decade. Temporary Protection Visas (TPVs) were introduced by the Howard Government in 1999 and meant that those people arriving in Australia by boat to seek asylum were not granted permanent protection, but were required to regularly reapply for temporary protection. As with the migrants in the US that Mountz discusses, asylum seekers on TPVs were stuck in an uncertain space between belonging and not-belonging, and there has been much research done to show that these TPVs often resulted in mental illness (Mansouri & Cauchi 2006; Sexton 2003). This was one of the reasons behind the Rudd Government’s decision to dismantle the TPV system upon gaining power (Evans 2008a).

While the Rudd Government scrapped TPVs, they have continued to promote the 457 visa, whereby sponsored migrant workers can come
to Australia for periods of up to four years, as 'vital' to the Australian economy (Evans 2008b). As with the examples provided by Mountz, 457 visa holders are likely to feel like they are under constant surveillance. The vast majority of 457 visa holders seek permanent residence in Australia (Khoo et al. 2005, Table 14), meaning that they will not speak out about abuses they may suffer in the workplace because if they do, they may be seen as not suitable for a permanent visa. As former Immigration Minister Chris Evans has noted, the 457 visa scheme produces the 'perfect migrant', because it allows the Government to screen potential migrants and ensure they only accept those that will provide a benefit to Australia (Evans in Joint Standing Committee on Migration 2007, p. 27). This has led to a number of 457 visa holders suffering in silence, accepting workplace exploitation in the hope that it will prove to the Australian Government that they are worthy of a permanent visa. However, this has also led to circumstances where this exploitation has led to serious accidents and even death (Moore 2007; Knox 2007; Moore 2008).

It is in her analysis of state attempts to manipulate the legal and political aspects of geography that Mountz engages with the international literature on zones of exclusion. Guantanamo Bay is used to outline the main points of Agamben's theory of the camp and homo sacer. In addition to explaining the work of Agamben, this also provides further evidence of the state's (in this case the United States) attempts to conflate irregular migrants with terrorists, and therefore securitise what should be seen as a humanitarian issue.

However, the Australian Government's policy of excision, whereby islands to the north of Australia have been removed from Australia for the purposes of the Migration Act, provides a very good example of this. Asylum seekers arriving at these islands are considered not to have made it to Australia, and are therefore unable to access the same mechanisms, particularly in regard to reviews of their cases, that those who arrive on the mainland do. There are clear similarities between this and the long-tunnel thesis.

It is also in her discussion of Australia’s response to asylum seekers that Mountz makes a number of factual errors. In particular, she states that the ‘coast of the Australian mainland’ had been excised (p. 127). Although floated as an idea by former Prime Minister John Howard, the excision of the Australian mainland was never achieved.

In addition, Mountz uses the example of the Pacific Solution, and in particular the detention of asylum seekers on Nauru and Manus Island to discuss how irregular migrants can become stateless ‘by geographic design’ (p. 129). Although such an example can be used, particularly for those asylum seekers who made it to an excised territory, thinking they had made it to Australia, a better example appears to be that of Christmas Island after the Rudd Government dismantled the Pacific Solution in early 2008. Those asylum seekers who have been detained on Christmas Island since this
announcement have been in Australia in every sense except for under the Migration Act. The Australian Government has therefore managed to manipulate Australia's geography and sovereignty to ensure that these asylum seekers receive fewer rights than others who, generally by plane, make it to the mainland.

Many writers use Christmas Island as an example of Agamben's 'camp'. It is at once, both part of Australia and part of 'not-Australia' (Perera 2002). The Government has removed it from the sovereign nation for the purposes of the Migration Act, but has maintained sovereign control of it—shown recently by the violent reaction of the Australian Federal Police to asylum seeker protests.

The ambiguous legal position of Christmas Island was challenged in the High Court in 2010, with the Court unanimously deciding that two Sri Lankan asylum seekers who had arrived on Christmas Island claiming asylum had been denied procedural fairness after being processed as offshore arrivals. In response, the Government announced changes to its offshore processing system. While this appeared to be the start of the dismantling of Australia's policy of excision, those asylum seekers arriving on excised territories are still treated differently to those who arrive on the mainland. The continued significance of this is apparent in reports that an Australian Custom's vessel recently allowed rescued asylum seekers to disembark on Ashmore Reef, another excised territory, before reboarding to continue to the mainland. The reason for this appears to be that it ensured they would be treated as offshore applicants, because they first 'arrived' on an excised territory, rather than an onshore applicant (Maley 2011, p. 1).

By demonstrating that a number of governments have used similar methods to manipulate geography and by doing so adjust their own sovereignty, Mountz shows that rather than being unique to one country, such efforts appear to be part of an international pattern. In fact, Mountz demonstrates that public servants from Canada have met and kept in contact with their counterparts in other countries such as Australia. As Mountz notes, it is often those countries that are seen as being the most welcoming of new migrants that implement the harshest policies towards irregular migrants—for example, Canada, Australia and the US. This contrast is demonstrated by Mountz when she explains how Canada's political leaders were hesitant to talk about the Government's attempts to prevent the arrival of irregular migrants when human smuggling was not in the news, concerned that doing so would harm Canada's well-honed immigration publicity program (p. 40). A similar concern was noted by the Australian Government after a campaign to demonstrate to potential asylum seekers the racism of Australians towards those who arrived in an irregular manner was cancelled when it was realised that that this was in direct contrast to the message for tourists and other lawful migrants that Australia was a tolerant, multicultural country (Crock et al. 2006, p. 50).
One criticism I have with this book is the slightly disjointed nature of it. The first half of the book focuses on the actions of the Canadian bureaucracy. It shows how the department’s response was unplanned and the important role that senior bureaucrats had in the policy response. The second half of the book looks at the manipulation of geography to make it difficult for irregular migrants to access the legal systems of their destination countries. While there are some links between these two issues, they are not made very well.

Nevertheless, overall this book provides a number of interesting insights into how bureaucracies respond to crises and the manipulation of geography by states to restrict the access of irregular migrants to their legal systems. By analysing the state as made up of thousands of separate people, rather than one single entity, it reminds readers that decisions that affect the lives of irregular migrants are not made by ‘the bureaucracy’, but by people working in it. This and the international comparison provided, demonstrating that policies introduced in one country are often also introduced elsewhere, are real strengths of the book, and make it an important addition to the ever-growing literature on irregular migration.

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References


Khoo, S-E, McDonald, P & Hugo, G 2005, Temporary skilled migrants in Australia: employment circumstances and migration outcomes, Department of Immigration and Multicultural and Indigenous Affairs.


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