CINETS
Crimmigration Control
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List of Students– workshop CINETS February 2014 – Student Workshop Sessions

10-14th February

Workhop 3: Immigration, Crime and "Crimmigration" – 13 Feb 2014

Student	Origin	Workshop session	Order of Presentation
Orlando Muhongo; Lutina Bleise Santos, Milagres Tchitungo;	Angolan Migration Service; SMERC Design	Immigration, Crime and Crimmigration	**1 – 13 feb – 13h30**
Tim Dekkers	Leiden	Immigration, Crime and Crimmigration	**2 – 13 feb – 13h45**
Patrick van Berlo	Leiden	Immigration, Crime and Crimmigration	**3 – 13 feb – 14h00**
Christopher Dykzeul	Leiden	Immigration, Crime and Crimmigration	**4 – 13 feb – 14h15**
DISCUSSION			**14h30**

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Students Resume/CV and Abstract

Student	Origin	Resume/CV	Abstract	Workshop session
Lutina Santos	Angolan Migration Service		***Crimmigration in Angola (Joint presentation)*** To foster a better understanding of the Angolan reality, we start first by presenting briefly the "socio-political development of the Angolan State", which was initially characterized as a Republic based on Mono partisanship, and sixteen years later, evolved based regime to a multiparty legal and constitutionally as a Democratic State and Law . In the background, we bring the approach to human rights in Angola, where it reflects the various stages by now, and it indicates the evolutionary picture of compliance as a result of political and social changes, characterized by forty years of armed conflict. Also bring the central approach to our presentation on Crimmigration in Perspective Angolan, outcropping in the light of the discussion, a brief foray into the history of migration in Angola, accentuating the phenomenon of illegal immigration and its impact on social, cultural and political, as well as the evolution of immigration legislation, with the worsening of sanction measures meet the challenges that the current migration situation presents. Finally, we present our conclusions, based on future perspectives on the evolution of migration and in particular the Crimmigration, seen as a very recent approach to the Angolan reality. **Key Words**: Society, Human Rights, Immigration and crimmigration	1 13 Feb 2014

Tim Dekkers	Leiden	Tim Dekkers is a Junior Researcher at the Institute for Criminal Law and Criminology at Leiden University. His current work focusses on the role of technology in border surveillance, specifically the Royal Netherlands Marechaussee. Tim obtained both his bachelor's degree in Criminology and master's degree in Forensic Criminology at Leiden University.	***Actuarial Decision-Making in Border Areas*** The concept of actuarial justice (Feeley & Simon 1994) is used to describe the development of thinking in risk assessment and threats instead of clinical diagnosis and retributive judgment. Information is the key to a safe society, so there would need to be a focus on the gathering of information. Several trends could be spotted that supported this view. For example, professional judgment and intuition were replaced by formal risk assessment tools and technology started to play a bigger role in surveillance and control. The last couple of years, the development of actuarial justices has increasingly be related to what is referred to as the process of crimmigration, the merger of crime control and immigration control (Miller 2005; Sklansky 2012). This paper applies the theoretical framework of actuarial justice to crime and migration control in border areas as enforced by the Royal Netherlands Marechaussee (Dutch: Koninklijke Marechaussee, KMar). By means of the so-called Mobile Security Monitor (MSM) the KMar is able to monitor the flow of people and vehicles passing through the border areas with Belgium and Germany. In their performance of the MSM, the KMar is assisted by a range of advanced technologies to help them perform their duty. They have access to large digital databases containing information on citizens and recently a system of "smart camera's" collecting a wide array of information to be used for profiling was added as a new powerful tool. This increased use of technology to enhance both mobility and security in border areas fits the latest plans introduced by the European Commission in their "Smart Border Package" (2013). The first part of the paper is a theoretical assessment of actuarial justice in the light of crimmigration and ongoing technological developments. In order to demarcate this part of the paper, as far as possible, the focus will be specifically on crime and immigration control in *border areas*. After having set out the theoretical framework, the second part of the paper will further delve into the case of the Netherlands while – as far as relevant - also taking into consideration the influences from the European level. Attention will be paid to the historical development of the use of risk assessment tools as well as the practical implementation of these news tools and systems in the daily practice of the KMar and the MSM. In the final part of the	2 13 Feb 2014

			paper, the theoretical framework will be applied to the Dutch case-study in order to provide further insight into the risks and advantages of the increased use of – technological – risk assessment tools in enhancing mobility and security in border areas.	
Patrick van Berlo	Leiden	Patrick van Berlo holds a bachelor in International and European Law from Tilburg University (2011, cum laude and with honours) and an LL.M degree from Cambridge University (2012, First Class degree). He has also been an exchange student at the Law faculty of the University of Oslo, and participated in the John W. Adams Summer School Programme at Oxford University. In 2012-2013, Patrick undertook internships at the Chambers of the International Criminal Court and the Case Analysis Unit of Eurojust. Currently, he is studying Criminal Justice at Leiden Law School. Within the faculty, he is involved in research related to migration control and crimmigration.	**Asylum Seekers in the Pacific: Criminals, Threats or Merchandise? Examining*Crimmigration* and *Commodigration* in Pacific Offshore Detention Policies** Recently, Australia has re-commenced offshore asylum processing as part of the so-called 'Pacific Solution'[1] (Memorandum of Understanding, 2013). It entails that asylum seekers, trying to reach Australia by boat, are transferred to detention centres in Nauru and Papua New Guinea which effectively prevents them from making claims under the UN Refugee Convention (1951) on Australian soil (Afeef, 2006; Magner, 2004; Mathew, 2002; Rajaram, 2003). The issue has received substantial critique, amongst others because of the lack of fair trial and human rights standards (Amnesty International, 2012; Hyndman &Mountz, 2008; Taylor, 2005), with some commentators even labelling the detention centres as "concentration camps" (Barlow, 2013; Tomlinson, 2005). The issue of offshore processing has been examined at great length from a crimmigration perspective. Crimmigration theory holds that migration policies and criminal law are increasingly merged and has advanced the idea that asylum policies increasingly construct a "mythic image of a deviant and criminal asylum seeking population" to justify draconian, restrictive legislation and policies (Banks, 2008). Welch (2011), examining the Pacific Solution, explicitly states that claims-making on asylum seekers in Australia is a form of crimmigration since it merges immigration and crime control, with deterrence-aimed offshore detention practices as the result of both loud panic and quiet manoeuvring by the Australian government. This move towards a more crimmigration-informed approach is also witnessed by the fact that the Australian government frames asylum seekers as	3 13 Feb 2014

[1]Although the term 'Pacific Solution' comprises a range of deterrence techniques (such as 'excising' territory) implemented by the Australian government in the aftermath of the MS *Tampa* incident in 2001, in this proposal it refers specifically to Australia's offshore/extraterritorial asylum processing policy.

			illegal migrants who intend to jump the queue, and subsequently tries to ensure that detention is as unpleasant as possible (Welch, 2011). Most recently, the links between Australian offshore asylum policies and crimmigration were re-affirmed by the implementation of a mandatory code of conduct for asylum seekers in Australia, which holds that asylum seekers can be transferred to offshore processing centres when they commit a crime or anti-social behaviour, or when they do not show up for an interview (Taylor &Laughland, 2013). Support for framing the Pacific Solution as a crimmigration policy can be found elsewhere as well (e.g. Hyndman &Mountz, 2008; Klocker& Dunn, 2003; Kneebone, 2006; Mathew, 2002; McNeill, 2003; Mountz, 2011; Philpott, 2002; Rajaram, 2003; Taylor, 2005). Thus, offshore asylum policies have been examined extensively from a perspective of crimmigration, studying the increasing intertwining of migration policies and criminal law. However, during my previous research on the implementation of Australian offshore asylum policies in Nauru, I came across various accountsthat seem to hint at a possible simultaneous merger of migration policies on the one hand and commodity-rationales on the other. This intertwining has, in my opinion, remained understudied in scholarly literature, although various writers have implied its existence. Indeed, in the case of Nauru, it is little contested that Nauru accepted to host asylum seekers mainly because of financial motives, as it received substantial financial aid packages from Australia in exchange (Afeef, 2006; Flitton, 2013; Mares, 2002; Taylor, 2005). Nauru, once a rich country due to its phosphate deposits (Afeef, 2006; Mares, 2002), is now considered one of the weakest, poorest and most failed states of the Pacific region due to poor investments and high corruption. Since most of the phosphate deposits have been depleted and most of the gains have vanished, Nauru now stands on the verge of bankruptcy and has to rely on other sources to fund its existence (Connell, 2006; Dobell, 2003; Forbes, 2003; Hughes &Gosarevski, 2004; Unicef, 2005). Indeed, as Connell (2006) notes, “as a microstate with only one resource, Nauru had only one chance”. However, where Australia’s motives to install offshore asylum policies have been extensively covered in crimmigration theory, no similar coverage of Nauru’s motives	

			to accept such policies can be found. As pointed out above, it is often merely hinted at: for example, Gordon (2006) explains in his book concerning his visit to Nauru that the Nauruan authorities in the detention camps viewed the asylum seekers as migrants, not illegal migrants, and the camps as processing centres, not detention centres. Also, he states that for many Nauruans, the camps are viewed from a purely economic perspective (Gordon, 2006). Indeed, existing literature seems to hint at the idea that the residents of the offshore asylum camps are hardly ever seen as threats to the national security or as potential terrorists by Nauruans, contrary to the existing ideas in Australia's political and public debate. Rather, asylum seekers – and wider asylum policy – seem to be regarded as commodities and merchandise, to be traded whenever a sufficient amount of financial means is offered. Thus, interestingly, in the case of Australia and Nauru, crimmigration rationales seem to play a much less influential role in the host country than in the sending country, and seems to be substituted for a more commodification-informed rationale. Although understudied, this possible intertwining of migration policy and commodity-thinking is of importance for the current debates on crimmigration as well, since it offers a new perspective which is hypothesized to be a *conditio sine qua non* for the instalment of offshore asylum policies. Indeed, although it seems that offshore asylum policies are implemented from a crimmigration-rationale in Western countries (of which Australia is a primary example), it also seems that these policies are simultaneously implemented from a commodity-rationale in host countries (such as Nauru). Without this commodity-perspective on migration policy in host countries, however, the crimmigration-based proposals in Western countries could perhaps not be as successful since host countries would have little incentive to agree on such policy plans. Consequently, my thesis proposal hypothesizes that crimmigration – i.e. the increasing intertwining of migration control and criminal law – is only one side of the story when offshore asylum policies are concerned: the other side, which has remained largely understudied, is the hypothesized increasing intertwining of migration control and commodity-rationales in host countries. For conceptual and analytical purposes, I will propose to label this development as '*commodigration'* as	

			opposed to crimmigration. I will hypothesize that both concepts are mutually dependent and closely related in various ways. My research will be a first attempt to highlight and delineate this development and will focus on Nauru (and Australia) as a case study, althoughI might comment more generallyon the broader implications when discussing my conclusions. Nauru is chosen for four reasons: first of all, Australian offshore asylum policies are often regarded as archetypical and inspire policy makers across the world, including in the EU-context. Second, as mentioned above, Nauru is often described as a failed state which is highly dependent on Australia for its future existence. Therefore, it provides an excellent platform to test whether weak, dependent states indeed view their migration policies to an increasing extent from a commodification perspective. Third, Nauru is one of the smallest nations in the world (and even the smallest outside of Europe, with approximately 10.000 inhabitants and a total land mass of 21m2), which makes it relatively easy to gather a representative view from government officials and local inhabitants. Fourth, Nauru has recently ratified the UN Refugee Convention (1951), which would be a perfect example for my research since there have been announcements that Nauru has only ratified this Convention after pressure of the Australian government, which could arguably be construed as a concrete instance of 'commodigration'. Thus, this recent development is a solid reference point for my research and provides further insights in the question whether refugee seekers are seen as commodities as opposed to criminals in Nauruan political and public debate. In light of the foregoing, my proposed preliminary research questionis as follows: *To what extent can a development of 'commodigration' (i.e. the increasing intertwining of migration policy and commodity-rationales) in Nauru as a host country be discerned and distinguished from the development of crimmigration (i.e. the increasing intertwining of migration policy and criminal law) in Australia as a sending country when regarding the implementation of offshore asylum policies, and to what extent are both concepts mutually dependent and interconnected?* To support my hypotheses, I will not only use crimmigration theory but also	

			political theory to take into account the asymmetrical economic and political relationships between sending country (*in casu*Australia) and host country (*in casu*Nauru). Indeed, as Rumley, Forbes & Griffin (2006) have set out in their book "Australia's Arc of Instability", Australia maintains an asymmetrical international relationship with most nations in the Pacific as part of a regional security policy. For Nauru, moreover, Rumley et al. (2006) specifically note – by examining the example of offshore financial centres – that sovereignty has previously been used as a commodity by the tiny island nation. Since I hypothesize similar commodification developments *vis-à-vis* migration policy, this branch of political theory will offer a valuable perspective on the extent of commodigration in Nauru. In terms of data gathering, I am planning to travel to Nauru and Australia later in this year to interview government officials and possibly the local inhabitants (in Nauru) and to do research at Monash University in Australia, which is a centre of expertise in this field and maintains its own Border Crossing Observatory. In this way, I can not only map the extent of commodigration perspectives within the Nauruan government, but it will also enable me to compare my interview data with existing knowledge on legal developments and crimmigration rationales within the Australian policy making process. Moreover, since I will be in direct contact with NGOs and scholars, it will provide me with the opportunity to make a more normative assessment of the research at hand. By now, I have established a network of contacts in both Nauru and Australia and I am currently in the process of applying for scholarships (from both university and private funds) and visas. Mr. Bernard Grundler (Acting Director of Human Resources and Labour, Government of Nauru) has approved my request to interview government officials in Nauru andms. Leanne Weber (Monash University) has offered me the opportunity to work as a visiting researcher at Monash University. She also offered to put me into contact with NGO's, other scholars, and PhD students who are looking into similar or related issues.	
Christopher Dykzeul	Leiden		There is a reoccurring dichotomy between proactive and reactive measures within the realm of criminology. As exemplified in relevant legislation, resources are rarely allocated to encompass both measures and tend to focus on one in contrast to the	4

			other (Berg, 1999, p92). For example, police philosophy may emphasize reactive measures by combating petty crime with the intention of deterring larger and more serious crime; this philosophy is known as zero tolerance policy (Punch, 2007). On the other hand, police philosophies may diverge from the prior example and attempt to prevent or deter crime from occurring. Community Policing supports this mentality by increasing the presence of officers within a community and thus – through personal interactions – are able to deter crime (Miller & Hess, 1994). The same dilemma is found within detention, a dilemma that fundamentally poses the question: is detention a means of rehabilitating a criminal (reactive), or is it a means of deterring crime through the prospect of punishment (proactive)? Or is it both? Scholars have posed numerous answers to the question above, which, in culmination, has covered both sides of the spectrum; but only within the realm of criminal detention – not immigrant detention, which is inherently different. Immigrant detention is considered by many as a filtration system, one that stalls the respective process in attempts to separate legal migrants (skilled workers, asylum seekers, students, family reunification claims, etc…) from illegal migrants (those who lack documents, criminals, denied asylum seekers, etc…); this can only be done if the relevant agencies have time to assess each migrant's case, and thus detention is used as a leash to keep respective immigrants close-by during these assessments. In examining immigrant detention the same proactive vs. reactive dichotomy is found. Robert Koulish respectfully places this dichotomy in two categories – Modernism and Late Modernism (Koulish, p62). The prior uses border detention as described above, as a proactive means of filtering adequate immigrants from inadequate immigrants. In this instance the risk of allowing foreigners into a country (The Netherlands, US, or UK – still need to decide on 2, possibly 1) is reduced. Late Modern philosophy is primarily concerned with that very risk, namely, the array of consequences that can occur by allowing a given migrant to stay within the country's borders. This philosophy uses immigrant detention as a post-sovereign means to hold criminals and irregular migrants before deportation, that is, a reaction to an existing risk; whether that is an asylum seeker who has overstayed their	13 Feb 2014

			allotted time, or an irregular migrant who has committed 'serious' crime. But what are the risks associated with irregular migration, and how do these proactive and reactive responses play a role the given detention discourse? It is established that any society can be – and arguably is – a risk society, one that requires a governing body to account for the vast uncertainties that may arise and result in some social harm. The pertaining risk that immigration elicits is a flowing plague that can result in health, economic, social, and political issues. The following paper will discuss each of these 'risk-categories' in depth and assess both sides of each argument. As for a teaser, for example, it is commonly held that irregular immigrants lack the necessary funding to receive health care, and thus place the rest of society at risk. And those that do receive funding for health care are the very people that dilute social welfare programs designed for citizens of the given country – not non-citizens. Irregular migrants are commonly thought to take potential jobs that a citizen could take; again placing a genuine part of society in economic turmoil – these are the arguments that will be laid out, and these are the arguments that will be countered in order to present an objective (non-biased) view of the current immigration 'problem' in the Netherlands (and/or the UK and US) In answering the second part of the question, the nature of immigrant detention within the NL/US/UK will be examined, in particular the extent to which respective policy and practices are products of proactive or reactive philosophies – or both. In examining immigrant detention I will exemplify Dutch detention policies which are only relevant once implemented; thus detention practices will also be examined through a spectacle which – I believe – is empirical. During my time here in the Netherlands I have met two immigrants who have been detained and continue their process with frequent trips to and from the IND office; these people present the opportunity in conducting an interview about their expenses within the Dutch detention facilities – an experience that I am eager to hear about. Ultimately, the goal of my master thesis is to first depict the current problems associated with irregular migrants and asylum seekers, than I will wash away misconceptions by presenting counter arguments; for example: jobs taken by	

			migrants actually stimulate the economy, which in turn benefit the pertaining society, which inherently involves politicians and thus will, in time, influence policy and legislation. Then I will focus on the surviving risks, the uncertain dangers that still loom within the context of irregular migration and asylum; this will properly introduce – and in the end come to justify – immigrant detention. I will first clarify the pertaining immigrant detention policy within one (possibly two) given region(s). If there is a juxtaposition to be had, such comparison will primarily focus of the implementation of policy, and thus reference contrasting procedures. As for empirical research, I have yet to find (or map out) a useful methodology as to how to gather original data of any-kind; therefore I will not be collecting new data, I will stick to existing data and use such information in support of my potential arguments. Ex ante, these arguments will most likely reference human rights issues, issues of effectiveness, and issues concerning (monetary and temporal) efficiency. In conclusion it would be ideal to present alternatives to the given critiques, and further, these alternatives should be explored in-depth. Before walking away from my paper the reader will know the current issues around irregular immigration, and in particular, immigration detention. Finally, the reader will not only be able to rearticulate these problems, but also be able to present rationale answers to these problems.	