

'Borders and Belonging: Towards a Fair Immigration Policy'

Event report for ISS Development Research Seminar¹

Introduction:

The UCLA Law-The Promise Institute Europe, the Legal Mobilisation Platform and ISS Development Research Seminars (DRS) co-organized the seminar *"Borders and Belonging: Towards a Fair Immigration Policy"*, in which Professor Hiroshi Motomura introduced and presented key arguments and reflections from his recently published book (with the same title). The seminar offered a comprehensive rejoinder on some of the contemporary issues and themes of critical importance in migration governance, as Prof. Hiroshi highlighted the complex and contradicting ways in which national *borders* are politically framed against competing notions of *belonging*, along with a discussion of on key takeaways for efforts required in moving towards a conceiving more humane, inclusive and sustainable migration policy and governance. Along with the Prof. Hiroshi² as the keynote speaker, the discussion was led by an expert panel comprising Dr Zeynep Kasli³, Amanda Brown⁴ and Dr Sandra Mantu⁵ who all shared key insights and perspectives from their research expertise. The panel discussion was followed by questions and comments from the audience. The event was at held at International Institute of Social Studies (ISS) on June 12, 2024.

Background:

Migration has been one of the most defining and politically divisive governance challenges in recent times. There has been growing rise of anti-immigrant politics across the world, fuelled by the rise of far-right populism and political narratives/rhetoric that frame migrants as threats to security, national identities or social cohesion, and domestic economies. The global populist rise is manifesting in concerning developments as states increasingly securitise borders and adopt restrictive legal measures aimed at deterrence, to solve the "migration issue". Recently, for instance, under the US administration, there has been a significant rise in anti-immigrant policies and rhetoric, as laws facilitating rapid deportations, and executive orders invoking "protection against invasion" are increasingly adopted⁶. States are turning to restrictive migration policies and border deterrence using sovereignty as a justification. Similarly, the European Union has also pushed for externalization deals while concerns about increasing migrant deterrent violence on seas and borders is also being reported. Contrarily, the scale of migration flows because of factors like conflict, climate breakdown, and economic inequality is also increasingly globally which further complicates the precarity of this issue. As of 2024, over 123 million people were

¹ Event moderated and reported by Daniela Raad Sierra, ISS LMP Research Fellow.

² Susan Westerberg Prager Distinguished Professor of Law. Faculty Co-Director, UCLA Center for Immigration Law and Policy.

³ Assistant Professor in Migration and Development at International Institute of Social Studies.

⁴ Legal Associate at UCLA The Promise Institute Europe and doctoral researcher at SOAS School of Law, focusing on migration, racial discrimination and human rights at sea.

⁵ Assistant Professor of Sociology of Law and Migration at Radboud University, the Netherlands.

⁶ *Executive Order 14159: Protecting the American People Against Invasion* — Signed January 20, 2025 by President Trump.

<https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/>

forcibly displaced worldwide due to conflict, climate change, economic precarity, and political persecution (UNHCR), while displacement rates have doubled in the last decade⁷

As migration becomes a political fault-line amid complicated global challenges, it raises several key questions including the need to rethink how states balance their sovereign right to control entry with their ethical and legal obligations to protect the vulnerable. Policymakers are faced with several ethical and legal dilemmas as migration governance is increasingly defined by a struggle between ethical imperatives (what should be done) and political realism (what can be done). Policymakers navigate a deeply polarized terrain, balancing obligations to protect vulnerable populations with domestic concerns over integration, security, and democratic legitimacy. In this context, Prof. Motomura's recent book⁸ is a timely contribution, in which he both explores the tensions (and synergies) of competing notions of belonging across borders, while also advancing his vision of a "realistic utopia", synthesizing the ethical imperatives and political realities/constraints of the nation-state system we inhabit, inviting a reflection on how a migration policy might better reconcile competing imperatives and how "fairness" in immigration could be reimaged in both ethical and pragmatic terms.

Keynote address:

Hiroshi Motomura opened his keynote address by highlighting recent issues and structural shifts in global politics and their implications on migration laws and governance. He noted, citing examples like Trump administration's use of restrictive immigration orders, increased use of detention and deportations (ICE raids), and the rise of anti-immigrant politics in Europe, to explain how migration has become a major political flashpoint, which is increasingly mobilized by populist far right politicians to either create scapegoats/distractions for structural economic or capacity crises, or itself used or constructed into a crisis despite overwhelming evidence otherwise, pandering to the economic and social anxieties of the majorities. He highlighted that along with these developments, there are also emerging challenges like climate change, conflict-driven displacement and economic inequality which will further complicate migration flows in future.

In this context, he reminded the audience that amid these developments, national borders are upheld and reified as significant and central sites of control and deterrence as governments frame migration flows as a national security issue, and justify deterrents by the notion of upholding the sovereignty of their borders and territory/space. This, for Prof Hiroshi, has several implications both in terms of how it licenses various forms of racial, gendered, and other forms of structural violences not only at borders and detention sites, but also how it furthers processes of social othering and dehumanization which also has grave implications for the society. He linked this to illustrate how Trump administration's recent executive order invoking "protection against invasion" (foreign aliens) normalizes and frames anti-immigrant violence through securitizing both borders and internal mobility.

Drawing on the complexity of these challenges, Prof Hiroshi explained the inspirations and motivations for his book highlighting how policymakers and legal practitioners can strive for conceiving governance agenda that are both pragmatic (given various constraints he highlighted) but also morally defensible, one that seeks to preserve human dignity and realization of human

⁷ UNHCR Global Trends: Forced Displacement in 2023 <https://www.unhcr.org/global-trends>

⁸ Motomura, Hiroshi. *Borders and Belonging: Toward a Fair Immigration Policy*. Oxford University Press, 2025.

rights. Prof Hiroshi calls this the “*realistic utopia*” in his book, realistic in the sense that engages, incrementally and institutionally within the existing strictures while also advancing and being anchored to ethical imperatives-its utopian counterpart. To address and explain this, he analysed that it is useful to think about the two broader categories of ‘claims’ in the migration law field: *claims of humanity* and *claims of belonging*.

The *claims of humanity* rest on universal principles and ideals; all people, regardless of citizenship or status (temporary or permanent, guest worker vs. involuntary migrant) possess inherent dignity and deserve protection. These claims are legally institutionalized in international human rights duties norms that states adhere to and are backed by appeals to moral conscience, particularly in cases involving refugees, stateless persons, or undocumented migrants fleeing violence or poverty. In contrast, the *claim of belonging* is grounded in the embeddedness of the individuals in specific nation-state memberships. The idea is that some individuals, through affective ties, long-term residence, their contributions to society, or cultural integration have or can develop a legitimate claim in the communities they inhabit.

Prof Hiroshi explained that while these categories of claims are distinct and in principle legitimate (in ways that one appeals to universal moral conscience while the latter purports to agency through community) they are necessarily not mutually exclusive, they interact or are instrumentalized in both complementing or contradictory ways; highlighting contemporaneously it seems as though the belonging claims are overriding with the global populist surge. Moreover, the *claim of humanity* is perceived as ethically compelling but politically utopian within a world organized around national sovereignty, territorial borders, and democratic accountability to citizens (in this vein, he also highlighted how short-term/immediate utility or considerations are often prioritized in numerous democracies). Contrarily the *claim of belonging* is also politically persuasive, however it is limiting because its exclusionary impetus, as it marginalizes recent arrivals, undocumented migrants, and those who lack visible contributions to society.

Though polarization is prevalent and it is itself an arduous endeavour, Prof Hiroshi argued, that an effective and a just migration policy must find ways to harmonize these two competing claims, acknowledging both the universalist ethical obligation to protect vulnerable migrants, regardless of how their vulnerability is defined (Prof Hiroshi contrasted the way refugee populations or migrants fleeing wars and disasters are afforded some recognition while labor migrants are still assumed to be less vulnerable, or the notion that ‘there’s nothing permanent than labour migrants’) and the practical need to understand and engage with economic and institutional constraints within receiving states as well as public anxieties. Migration law and policy, cannot be guided solely by either idealism or realism, it must engage and draw on both, the ethical and the pragmatic co-constitute an alternative understanding of a migration policy landscape that makes space for care, fairness, and long-term inclusion while also remaining responsive to the institutional and political conditions of the present. It is in this way, that borders could also be reimagined (as opposed to being erased, as a cosmopolitan view would entail or strengthened/secured) more than mere demarcations of sovereign control but also as zones/sites of responsibility, ethical judgements and negotiation.

Concluding his keynote comments, he highlighted the importance of the dimension of time in forwarding the “*realistic utopia*”. Such a deeply transformative endeavour that fundamentally reimagines a just border regime requires time and is only acquired through incremental change and reform, and by nuanced understanding of our systems and the potential of law. The focus ought to be ethically anchored but also intuitively pragmatic and responsive.

Discussion:

Following the keynote speech, the discussion was led by a round of comments and questions by panel discussants who all reflected on the theme of Borders and Belonging both in relation to Prof Hiroshi's work but enriched the discussion with insights from their own experience and expertise.

Dr Zeynep Kasli emphasized on the question of belonging- a central theme in the discussion (as she added how notions of belonging and citizenship are politically constructed and bureaucratized) and offered a rich historical perspective on the co-evolution of global trends in migration and development paradigms, what she referred to as "*migration-development nexus*". She explained through how EU border externalization and migration management evolved from the way Marshall Plan was used to in restructuring global labour flows to post-9/11 securitization showing how migration policies and agenda historically changed and evolved in conjunction with imperatives of capitalist accumulation and control. Especially in context of labour migration, she explained borders as zones of "**mobilities and immobilities**" how movement is just not contained at borders in a binary sense, but also how movement is always continually structured by power and access. Mobility is celebrated and granted for tourists and elites for instance, it is often heavily policed for migrants and asylum seekers. Zeynep emphasized the importance of colonialism and how neo-colonial tendencies are reproduced as central to understanding the experience of migrants and also for re-informing and bridging policy silos.

Amanda Brown, reflecting on Borders and Belonging, emphasised the concern around growing securitization of border control highlighting increasing humanitarian crises at maritime borders, particularly on the Aegean Sea, as pushback practices and non-rescue operations are routinized, often in breach of international maritime and refugee law, exposing migrants to grave risks, denying them access to safe asylum procedures. Drawing on recent cases and legal precedents⁹, she highlighted the erosion of the principle of non-refoulement and the impunity practiced by coast guards and border agencies under the guise of security enforcement. In addition, Brown's contribution also brought critical attention to the legal and cultural complexities surrounding family reunification policies, highlighting how immigration systems often operate on narrowly defined, Western-centric understandings, which often misrecognize or excluded diverse kinship structures. This not only leads to increased procedural barriers and discriminatory exclusions but also exposes deeper tensions in how legal systems determine who is deemed worthy to "belong" within a nation-state which can be often discriminatory at outset, as the vantage point is often biased or based on distrust. Amanda, highlighted also the contemporary relevance of approaching critical borders or ethical borders as necessary, concurring also with Prof's Hiroshi's point about the dimension of time, its sensitivity and but its also value, in conflict, migration and access to legal rights.

Dr. Sandra Mantu brought a critical EU-focused perspective to the discussion as she explored various contradictions and issues in the legal landscape of European migration governance, especially in the context of labour migration or the rise of what she termed as "market-based citizenship" highlighting the neoliberal outlook of labour migration policies in the EU. She emphasized how EU citizenship, often celebrated as a marker of post-national inclusion, is not

⁹ A.R.E. v. Greece (ECtHR, January 2025) <https://www.ecchr.eu/en/case/greece-before-the-european-court-of-human-rights/>

just governed by rights but are conditioned by economic utility and labor market participation of the migrant workers. Mantu underscored, extending on her contribution, how this is in turn also reflected in migrants' access to legal and socio-economic resources, stressing also the role of social welfare's dwindle with neoliberalism, and how hierarchies are created between productive and non-productive migrants. Her contribution reinforced and echoed the seminar's central concern; the question of how legal frameworks determine who belongs, under what conditions, but also as she highlighted, to what extent.

Professor's Hiroshi reflected on the panel's contributions and comments. He highlighted and reiterated the importance of bridging academic and policy silos in studying the complexity of migration governance, and stressed inter-disciplinarity. Referring to the panellists' comments, he stressed the importance of studying economic, political and especially historical factors in understanding the contemporary migration impasse. In response to audiences' question about the role of colonial histories and imperialist wars, he highlighted also the importance of *'reparatory claims'* in the discussion especially in relation to histories of colonialism. Responding to Dr Mantu's question about the use of categories of exception in executive orders in US, he re-emphasized on the growing circumvention and instrumentalization of law highlighting also how these political developments can also be studied or situated in the underlying tensions and competing notions of belonging and how they reify borders as politically exclusionary. The "realistic utopia" is a take-taking but also a time-sensitive endeavour, yet it is an important invitation to critically examine and re-imagine borders and claims of belonging. Prof Hiroshi and the other panellists also responded to and answered audience's questions concluding the seminar. The final remarks were made by Kate Mackintosh- director UCLA Law The Promise Institute Europe.

Annaliese Herms, Ani Shvelidze, Shahjahan Tahir, LMP Interns 2025