

## SYMPOSIUM ON TRANSDISCIPLINARY APPROACHES TO MIGRANT SOLIDARITY IN THEORY, LAW, AND PRAXIS

### THE SOLIDARITY SPECTRUM: DE-SOLIDARITY, ANTI-SOLIDARITY, AND RESISTANCE

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#### *Introduction*

In this essay, we examine legal and political challenges to solidarity with and among migrants. We begin by describing the disturbing and powerful turn toward *de*-solidarity, particularly in some Global North countries, that threatens to undermine the global refugee and migration law regime. Politicians seek to capitalize upon racial fears of migrants from the Global South to reject solidarity (with the latter group) as a concept and pursue anti-immigrant laws and policies. We next examine *anti*-solidarity, as shown by the criminalization of humanitarian assistance as migrant smuggling. Both *de*-solidarity and *anti*-solidarity operate through law and race to constrain human mobility and amplify the vulnerability of humans on the move. Yet then, whereas law and politics seek to prevent solidarity, praxis and resistance fosters it. In other words, solidarity toward and among migrants materializes in the very locations where law exerts violent control, despite and arguably because of the troubling, or even abject nature of those spaces. Anti-solidarity and *de*-solidarity inflict harm on migrants, at the same time that they can lead to resistance and change. Examining solidarity and its challenges from these three different angles (the *de*-solidarity trend, the manufacturing of humanitarian assistance as a crime, and the shelter-space) we explore the forms of solidarity and support that, in spite of the law, continue to emerge on the migration pathway and refuse to wane.

#### *The De-solidarity Turn*

Solidarity is not a panacea. It is a malleable concept that can also be used to advance ethnonationalism. Amid contemporary politics of xenophobia and anti-immigrant sentiment, the field of global refugee and migration law is at serious risk of being subverted by a firmer, sharper, and intensified turn, not just to decreasing international solidarity, but toward “*de*-solidarity.”<sup>1</sup> This does not merely mean the failure to express solidarity toward people from the Global South. Rather, it is the increasing tendency to fundamentally question or problematize solidarity toward them in and of itself, as a conception, praxis, or obligation (i.e., ideational *de*-solidarity) and/or to

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Authors are listed in alphabetical order to reflect the non-hierarchical solidaristic co-production of knowledge underpinning this essay, entailing a trans-disciplinary collaboration among scholars from different backgrounds and non-academics.

<sup>1</sup> Obiora Chinedu Okafor, *The Future of International Solidarity in Global Refugee Protection*, 22 HUM. RTS. REV. 27 (2021); Obiora Chinedu Okafor, *Cascading Toward De-Solidarity: The Unfolding of Global Refugee Protection*, TWAIR REFLECTIONS (Aug. 30, 2019).

intentionally work to dismantle the infrastructure of expressing solidarity toward these peoples (i.e., infrastructural de-solidarity) through criminalization.

The emerging turn to ideational de-solidarity is evident in the words of people like László Toroczkai, a far-right Hungarian mayor. Toroczkai has suggested that the expression of solidarity to Global South migrants and refugees by European people “looks more like suicide.”<sup>2</sup> To this high-ranking state official and those who think like him, it is not just that Europeans or citizens of other destination states ought to stop expressing solidarity to people from the Global South, but that the very idea that Europeans should express solidarity to refugees and migrants is somehow self-destructive.

For those whose words and actions are driving toward this turn, solidarity toward people from the Global South in and of itself must be thrashed, rooted out. It is worth emphasizing that the type of solidarity that underlies the right’s discussion is not the kind usually emphasized in EU migration and refugee discourse and praxis<sup>3</sup>—that is, it is not solidarity as “between member states” but rather the need for de-solidarity toward “migrants [and refugees] themselves.”<sup>4</sup>

One kind of de-solidarity, “ideational de-solidarity,” can be of two types. The first involves the bashing of the very idea of the expression of solidarity to refugees and migrants, which is aptly illustrated by the statement of the Hungarian mayor referred above. In 2022, Hungary’s president, Viktor Orbán, was widely condemned for defending his extremely anti-immigrant/refugee policies and laws by asserting that Hungarians did not want to become “peoples of mixed race.”<sup>5</sup> Earlier in his career, Orbán had declared that one of his major goals as president would be to ensure “ethnic homogeneity” in Hungary.<sup>6</sup> It is no wonder then that his ideology is also exemplified by certain developments that began or heightened under his rule within Hungary’s legal regime, including the criminalization of behavior associated with migrants crossing the border irregularly, fast-tracking of their criminal prosecution as a national priority, and the criminalization of the expression of solidarity to irregular refugees or migrants.<sup>7</sup>

The second type of ideational de-solidarity is more partial and contingent. In it, the extending of solidarity toward *some* foreigners is in and of itself problematized. The idea is that the admission of excluded kind(s) of foreigners is basically suicidal for the would-be recipient society. This is well illustrated by President Donald Trump’s (once repealed) “Muslim Ban.” Whatever its ostensible justifications might have been, the real impetus for this ban appears to have been Trump’s well-known and commonly-stated sentiment that solidarity with refugees and migrants from specific regions of the world is destructive of American society.<sup>8</sup>

One vision of the future of global refugee and migration law is an intensified tendency to ideational de-solidarity toward people from the Global South—to fundamentally question or problematize solidarity toward them, in and of itself, as a conception, praxis, or obligation. Yet another vision involves exploring the spaces where solidarity practices can counteract this turn, as we examine next.

<sup>2</sup> ITAMAR MANN, [HUMANITY AT SEA](#) 3 (2016).

<sup>3</sup> John Reynolds, [Fortress Europe, Global Migration and the Global Pandemic](#), 114 *AJIL UNBOUND* 342, 346 (2020).

<sup>4</sup> *Id.*

<sup>5</sup> Krisztina Than, [Hungary’s Orban Says His Anti-Immigration Stance Not Rooted in Racism After Backlash](#), *REUTERS* (July 28, 2022).

<sup>6</sup> *Id.*

<sup>7</sup> Elzbieta Gozdzia, [Using Fear of the “Other,” Orbán Reshapes Migration Policy in a Hungary Built on Cultural Diversity](#), *MIGRATION POL’Y CTR.* (2019).

<sup>8</sup> For instance, in early 2024, Trump declared that the arrival of refugees and migrants from all over the world to the United States were “poisoning the blood of the nation.” Peter Wade, [Confronted That His Rhetoric Echoes Nazis, Trump Repeats Racist Attacks on Migrants](#), *ROLLING STONE* (Mar. 17, 2024).

### *Counter-smuggling as Anti-solidarity*

Another way to combat solidarity has been to locate it in practices long constructed as inherently antithetical to it, in order to then manufacture it as heinous or criminal. Perhaps one of the clearest examples has been the frequent designation by state authorities of the provision of humanitarian aid and other forms of assistance to migrants in transit as “migrant smuggling”—a criminal offense involving the facilitation of illegal entry into a country for material profit. Governments across the Americas and Europe have used migrant smuggling’s alleged ties to drug trafficking or terrorism—despite their admitted lack of evidence and data<sup>9</sup>—to justify the intensity of migration control efforts. It is common to hear states refer to migration raids or mass apprehensions aimed to control irregular migration as “rescue operations,”<sup>10</sup> aimed to reduce migrants’ vulnerability to exploitative smuggling networks and organized crime.<sup>11</sup>

Empirical work along borders, however, has increasingly shown how rarely these counter-smuggling actions target the so-called networks. Justified by claims about the need for humanitarian response and the reduction of migrants’ vulnerability, most events aimed to counter smuggling involve instead the apprehension and penalization of migrants and refugees who rely on clandestine or criminalized mechanisms to reach their destinations.<sup>12</sup>

Furthermore, evidence shows many of the so-called rescues that occur in the context of counter-smuggling operations criminalize collective and community-based protection strategies aimed to save the lives of migrants and refugees. Significant numbers of those charged with smuggling are people who live, travel, and work along the migration pathway, including humanitarian organizations, local community-based groups, ordinary citizens, migrants, and individual volunteers who rescue migrants and asylum-seekers and provide life-saving and reception services.<sup>13</sup> Examples of NGO volunteers, citizens, and migrants, themselves charged and convicted of smuggling for piloting boats,<sup>14</sup> cooking meals, living with their undocumented spouses,<sup>15</sup> or assisting injured migrants during dangerous segments of their journeys,<sup>16</sup> suggest that, rather than tackling organized crime globally, the counter-smuggling project has been systematically used to criminalize demonstrations of solidarity with and among those traveling irregularly.<sup>17</sup>

A lesser-examined dynamic has been the case of those who profit from the provision of migrant smuggling services. The literature has increasingly shown that smuggling facilitators are often members of marginalized communities along the migration pathway, or migrant and refugees themselves, whose work, seeking to overcome the

<sup>9</sup> UN Off. on Drugs & Crime, [Global Study on the Smuggling of Migrants](#) (2018); Sheldon Zhang, Gabriella E. Sánchez & Luigi Achilli, *Crimes of Solidarity in Mobility: Alternative Views on Migrant Smuggling*, 676 ANNALS AM. ACAD. POL. & SOC. SCI. 6 (2018).

<sup>10</sup> Ahlam Chemlali, *A Mother’s Choice: Undocumented Motherhood, Waiting and Smuggling in the Tunisian–Libyan Borderlands*, 26 TRENDS IN ORGANIZED CRIME 30 (2023).

<sup>11</sup> See, e.g., UN Off. on Drugs & Crime Press Release, [Global Raids Rescue 3,200 Potential Victims of Human Trafficking and Identify 17,800 Irregular Migrants](#) (Nov. 6, 2024).

<sup>12</sup> Valentina Biondini et al., *Migraciones y movilidad humana Conflictos, políticas y derechos antes, durante y después de la pandemia*, CONSEJO LATINOAMERICANO DE CIENCIAS SOCIALES (2023).

<sup>13</sup> SERGIO CARRERA ET AL., [POLICING HUMANITARIANISM: EU POLICIES AGAINST HUMAN SMUGGLING AND THEIR IMPACT ON CIVIL SOCIETY](#) (2019).

<sup>14</sup> Vicky Taylor et al., *“No Such Thing as Justice Here”: The Criminalization of People Arriving to the UK on “Small Boats,”* BORDER CRIMINOLOGIES (2024).

<sup>15</sup> UN Off. on Drugs & Crime, [Women in Migrant Smuggling: A Caselaw Analysis](#) (2019).

<sup>16</sup> Naneke Winters, *Haciendo-lugar en tránsito. Reflexión sobre la migración africana y trabajo de campo en Darién, Panamá*, 27 REMHU: REVISTA INTERDISCIPLINAR DA MOBILIDADE HUMANA 235 (2019).

<sup>17</sup> [Taylor et al.](#), *supra* note 14.

violence inherent to migration controls, constitutes a legitimate form of protection from below.<sup>18</sup> Among migrants and refugees, access to reliable smuggling services (and even to those capable of providing the slightest layer of protection) is deeply dependent on community networks of support and solidarity.<sup>19</sup> This is not a claim that the processes connected with the facilitation of migration are devoid of violence, or that the experiences of people on the move while under the watch of smugglers are free from exploitation and abuse. Rather, it is an effort to highlight how the hegemonic discourse surrounding smuggling, which has relied on the vilification of its facilitators by monolithically labeling them as inherently violent members of organized crime, obscures the forms of radical care and support that characterize expressions of solidarity on the migration pathway.

### *The Migration “Space” as Solidarity*

Resistance is a long-standing space of solidarity. Working in spaces that are too often invisibilized, migrant-led community groups can act as conduits of personal and collective action that leads to change, and draw solidarity spaces within contexts of oppression, brutality and suffering. Just as solidarity is becoming increasingly malleable and can be legally exploited and shaped to amplify human suffering, it is also flexible and resilient, growing in even the most hostile of terrains.

Within an immigration system designed to exclude the vast majority of migrants and asylum seekers from securing legal rights in the United States, solidarity at its strongest can be defined and driven by the most marginalized, who, alongside allies (often non-migrants aware of their positionality and privilege) create a shared sense of purpose and identity, building ties across differences (such as nationality, migration status, race, gender, and/or class) which would otherwise divide them. Within migrant communities, solidarity can be a strategy for survival, and an antidote to despair.

As articulated by Leah Hunt-Hendrix and Astra Taylor, solidarity transcends the conventional bounds of mutual aid and collective action, presenting itself as both practice and theory—the “reflection and action upon the world in order to transform it.”<sup>20</sup> Unlike concepts like “liberty” or “justice,” solidarity is inherently dynamic and participatory, demanding engagement and specificity: “Solidarity does not lend itself to tidy philosophical formulations; unlike democracy, you cannot reduce it to a set of clearly defined procedures; unlike justice, solidarity is not objective and universal but is always invested in specific people and outcomes.”<sup>21</sup> This definition highlights how solidarity continuously evolves, shaped by the sociopolitical context and the personal relationships forged between participants, making it a fluid and context-dependent force in social transformation.

Using as an illustration the work conducted by and for migrants in collaborative spaces to accompany them in their struggles, solidarity emerges in places like *Espacio Migrante*—a migrant shelter and community center in Tijuana, Mexico—through collective, creative resistance, and political education. In the face of border enforcement and migration control laws and policies that foster death and destruction, migrant-led spaces as places of connection emerge, looking beyond suffering and providing a framework for transformation. In direct response to a geopolitical context that often places migrants in legal limbo—a situation of legal neglect or active state hostility—organizations like *Espacio Migrante* aim to create spaces that counteract systemic barriers by involving migrants as active participants and leaders within the organization and creating opportunities for creative expression and

<sup>18</sup> Tekalign Ayalew Mengiste, *Refugee Protections from Below: Smuggling in the Eritrea-Ethiopia Context*, 676 ANNALS AM. ACAD. POL. & SOC. SCI. 57 (2018).

<sup>19</sup> Luigi Achilli, *The “Good” Smuggler: The Ethics and Morals of Human Smuggling Among Syrians*, 676 ANNALS AM. ACAD. POL. & SOC. SCI. 77 (2018).

<sup>20</sup> LEAH HUNT-HENDRIX & ASTRA TAYLOR, *SOLIDARITY: THE PAST, PRESENT, AND FUTURE OF A WORLD-CHANGING IDEA* 12 (2024).

<sup>21</sup> *Id.* at xvi.

political resistance. Many staff members are migrants themselves—promoting a grassroots form of community support that assists individuals in immediate crises while integrating them into a broader movement.

*Espacio Migrante* provides a space for asylum-seeking families and also offers activities that promote and support the integration of migrants arriving in Tijuana. For example, in collaboration with volunteer teachers, it offers Spanish classes for communities from Africa and Haiti, legal assistance to help people regularize their immigration status in Mexico, and support for access to education, among other services. Staff meet with members of the migrant community to discuss their current needs and concerns, along with the challenges they face. These discussions center the voices of migrants and inform programs and strategies that address their needs.

In addition to these programs, *Espacio Migrante* creates spaces where newcomers to Tijuana can connect with other migrants who are facing similar challenges and, in some cases, share knowledge or strategies for navigating their circumstances. These connections have also led to the development of support networks, which, as mentioned earlier, reflect the solidarity within migrant communities. Such networks are not limited to life in Tijuana; in fact, many of these ties are formed during the migratory journey itself. These networks often provide more than just moral support—they can also function as mechanisms of defense or survival. For some, these networks are quite literally a matter of life and death.

For those forced to abandon the attempt to cross into the United States and remain in Mexico, many who find a home in Tijuana also discover opportunities within these community organizations to express solidarity with their own communities—whether through activism, working with civil society organizations, or founding new ones, often led by migrants themselves. Through their persistent fight for access to rights and their first-hand understanding of the needs and challenges faced by the migrant community, those who remain in Tijuana not only build bridges and open doors but also offer empathy, love, and care to newcomers.

### *Conclusion: Challenging and Resisting the Anti- and De-solidarity Turn*

We rely on the examples of de-solidarity, anti-solidarity, and resistance to demonstrate the multifaceted nature of solidarity, and how despite the troubling reach of migration enforcement and border control, solidarity persists. While de-solidarity and the potential turn of migration law to question solidarity are matters of great concern, we are also encouraged by the forms of resistance and resilience that we see in our day-to-day experiences as academics, activists, and residents along borderlands. Though we see efforts to dismantle infrastructures that support solidarity, those moves are countered by actors denouncing the criminalization of solidarity, and met with the mobilization of migrants, refugees, and asylum seekers toward social change.

In response to contemporary global shifts toward criminalization and xenophobia in immigration law and policy, the experience of migrants reaching their destinations, or opting to remain to generate change at home are still legitimate indicators that solidarity can grow and thrive despite de-solidarity efforts. Alongside open calls from politicians to racially homogenize or inoculate their countries against the alleged peril of migration, in this essay we have also described the emergence, or the continued persistence, of spaces and practices where hope and radical forms of care bring people together into action.

In the field, we are faced with political and legal efforts to demonize migrants as racial “others” unworthy of solidarity. We identify and interrogate anti-solidarity and de-solidarity across multiple locations, denoting the pain and suffering they create. Our essay highlights the impact of these phenomena on international migration law, from undermining international protections for asylum seekers and migrants, to furthering, in domestic and international law, the criminalization of migration and efforts to facilitate and support migration. Not only do migrants face great dangers on their journeys, in part due to their legal precarity, but the expression of solidarity among and with migrants, especially from the Global South, can be legally risky.

Yet in the spaces of migration like borders, camps, safe houses, and shelters that are often deemed as criminal or abject, we identify places of possibility and change. Exploring different ways to engage with solidarity, being able to identify it in different practices, and in spaces that are often invisibilized or stigmatized can be difficult, for in the current framework and the examples that anti-solidarity and de-solidarity gift us as onlookers, it is hard to expect that solidarity can flourish. Understanding the logic of solidarity in migration requires that we rethink the space where hope and possibility can emerge, for after all the most radical expressions of solidarity are those that flourish amid despair.