

TRANSNATIONAL CRIME, CRIME CONTROL & SECURITY

Fluid Security in the Asia Pacific

Transnational Lives,
Human Rights and State Control

Claudia Tazreiter
Leanne Weber
Sharon Pickering
Marie Segrave
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Transnational Crime, Crime Control and Security

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Preface

As this book was being finalised, the Australian government celebrated the establishment of the Australian Border Force on 1 July 2015 with the swearing in of the head of the agency, former Australian Capital Territory chief police officer Roman Quaedvlieg. The Australian Border Force brings together all 'operational border' functions, including customs, border security, investigations, detention, and immigration and citizenship governance and compliance, and has powers outlined in the new Australian Border Force Bill 2015, passed by the Australian Parliament on 15 May 2015. In launching the new entity, Prime Minister Tony Abbott described the force's officers as 'the guardians of Australia's safety, security and prosperity' (ABC, 1 July 2014). One key feature of the Border Force is the secrecy surrounding what are termed 'operational matters', referring primarily to the on-water activities carried out under 'Operation Sovereign Borders' (introduced in September 2013 with the election of the Abbott government) in intercepting and turning back boats carrying asylum seekers before they reach Australian shores. It is yet to be seen what impact the new Border Force will have on the less controversial, perhaps mundane, yet vital aspects of its broad mandate to ensure efficient and just immigration processes and regulations, to foster a holistic understanding of citizenship and access to it, and to work in ways that enhance rather than narrow tolerance and respect for the diversity that is a social fact in multi-ethnic and multicultural Australia.

This book focuses squarely on the experiences of temporary migrants in the Asia-Pacific region while at the same time locating the subject matter within the context of international migration and its global governance. According to the Global Commission on International Migration, the Asia-Pacific region is home to 57.7% of the world's population. Migration patterns within and beyond this region are fluid and complex. These movements involve asylum seekers using Asian nations as 'transit' points on their way to nations such as Australia, economic migrants travelling from rural to urban areas, sex trafficking networks, and temporary labourers. The economic, political, cultural and geographic complexity of the Asia-Pacific region make it impossible to generalise about migration patterns, as does the lack of concrete data on migration flows due to undocumented migration and corrupt official processes.

On his visit to Australia in November 2011, US president Barack Obama addressed the Australian Parliament. In his speech, the president outlined his intention to shift US foreign policy towards the Asia-Pacific region, undoubtedly a response to the growth of China as an economic and military superpower. In outlining US aims for the region, Obama focused on 'commerce and freedom of navigation' as hallmarks of development. This economic perspective inextricably couples democracy with financial growth, a prevalent theme of both US and Australian government rhetoric concerning the alleviation of poverty. The sole reference to human rights in the president's speech was to so-called first-generation rights: freedom of speech, association, assembly, religion and freedom of the press, enshrined in the 1966 UN *Covenant on Civil and Political Rights*. However, to be effectively realised, these rights ought to be understood in tandem with the rights enshrined in the 1966 UN *Covenant on Economic, Social and Cultural Rights*.

The Approach of This Book

This book addresses a significant problem for immigrant societies such as Australia, that of balancing national systems of migration control and border management with migrants' rights and the transnational lives and aspirations of individual migrants and their families. A number of variables shape the experiences of those who make the decision to migrate, including (1) levels of education, qualifications and skills; (2) access to and knowledge of regular/legal routes of migration; (3) feelings of cultural affinity and recognition in the host society; and (4) access to and knowledge of residency and membership rights in the host country. These variables interact with the primary decision-making drivers of migration for individuals. In other words, a person's position on a migration continuum relative to the variables outlined above interacts with their decision-making, access to information, entitlements and forms of social recognition.

Drawing on human rights and human security literature, this book explores the above variables within the framework of what we have labelled 'domains of security'—cultural, legal, economic and physical security. These often intersecting domains are defined from the perspective of the individual and are further analysed through the processes that (1) drive mobility, (2) mediate mobility and (3) influence reception and inclusion. The domains of security operationalised within this study are defined in more detail in Chap. 2. Our articulation of these processes as 'fluid security' is conceptualised as a flexible toolkit that can

be deployed by migrants to negotiate their everyday aspirations, needs, realities and self-understanding. Individuals with a temporary status in a receiver society and variable access to rights (even though they may contribute to that society through taxation) utilise adaptive strategies for support, conviviality and survival. In the four case studies explored in this book, we label such circuits of support and survival ‘hubs of security’. These hubs of security are conceived of as fluid formations that emerge and dissipate in line with the day-to-day needs of temporary migrants with little or no access to state support.

The Australian Context

In recent years, the Australian government has shifted the priority of its migration programme from permanent toward migration towards temporary employment visas. This shift has provided greater opportunities for workers to enter Australia’s employment market, including workers from throughout the Asian region. The *Australia in the Asian Century White Paper* delivered on 28 October 2012 highlights the economically and culturally transformative changes underway in Asia and calls on Australian businesses and governments to take advantage of these changes by forging partnerships in the Asian region. An example of a popular temporary worker visa used to engage Asian employees in Australia is the Business Long Stay—Standard Business Sponsorship (Subclass 457) Visa. There are currently some 620,000 temporary work visa holders in Australia (Ronson 2012). Key to the success of migration management in the twenty-first century will be the strategies adopted to regulate the other side of temporary migrations—unplanned and unauthorised migration. The new knowledge gained in this project will help Australia and other high-immigration countries to develop policies and practices that are more adaptable to the changing patterns of migration as they relate to the labour market, local and transnational cultures and transnational migrant communities.

Temporary employment arrangements for foreign workers are one important facet of an increasingly precarious global labour landscape that affects both migrant and domestic workers. The Australian Council of Trade Unions estimates that 40% of Australia’s population is engaged in ‘precarious employment’ (ACTU 2011; Howe 2012). However, a range of factors, including low levels of education and skills training and limited knowledge of and access to collective bargaining workplace rights, make migrant workers from poor countries of the Global South particularly vulnerable to discrimination and exploitation. The concept of

denizenship describes migrants' experiences of life on the fringes of society, unable to access residency or citizenship rights while often paying taxes and contributing to their host society in other ways. This living of 'shadow lives' is a growing problem in many parts of the world, including Australia. In such a scenario, residents and citizens become 'free riders' of the labour of precarious migrants (Rubio-Marin 2000). While individuals, groups and families seek to use migration as a pathway to fulfilling basic needs through paid work, as well as a means to other imagined futures, states restrict this pathway for some groups of migrants, often in reaction to domestic political currents (Buroway 2014).

States are faced with complex and fast-changing priorities in balancing the rights of temporary workers with the interests of businesses and long-term residents and citizens. The issue of precarious employment and its effects on Australia's migration programme has national as well as global ramifications. Similarly, the treatment of migrant workers, both by their employers and in the process of applying for temporary visas and permanent residency, impacts the conditions of employment for residents and the native-born. Nevertheless, temporary migrant workers are particularly vulnerable to exploitation.

In a recent report, the Organisation for Economic Co-operation and Development found that migrants were more likely than native-born workers to be employed in temporary jobs (OECD 2007). Gender also remains an important factor, with women continuing to dominate domestic and care work. Along with the broader services sector, domestic and care work is characterised by casualisation and the employment of migrants on a temporary basis, with reduced levels of unionisation and bargaining power in demands for better wages and conditions. A pathway to a regular migration status and permanent residency or citizenship is one aspect of basic rights.

Before outlining the substance of the book in Chap. 1, we cite a recent diagnosis of the times by the influential sociologist Saskia Sassen. Her recent work on expulsions (2014) develops an idea of great relevance to the everyday circumstances faced by temporary and particularly irregular migrants. She is interested in identifying the 'systemic edge', or the economic, social and biospheric tipping points which can lead to the expulsion of some populations from meaningful participation in a society. Sassen writes:

This edge is foundationally different from the geographic border in the interstate system. The focus on the edge comes from the core hypothesis ... that the move from Keynesianism to the global era of

privatizations, deregulation, and open borders for some, entailed a switch from dynamics that brought people in to dynamics that push people out. (p. 211)

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List of Abbreviations

ACTU	Australian Council of Trade Unions
AE	Australian employer
CBD	Central Business District
CCP	Chinese Communist Party
DEEWR	Department of Education, Employment and Workplace Relations
DFAT	Department of Foreign Affairs and Trade
DIAC	Department of Immigration and Citizenship
DIBP	Department of Immigration and Border Protection
DIMA	Department of Immigration and Multicultural Affairs
GDP	Gross domestic product
GFC	Global Financial Crisis
ICCPR	<i>International Covenant on Civil and Political Rights</i>
ICESCR	<i>International Covenant on Economic, Social and Cultural Rights</i>
ICRMW	<i>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</i>
IELTS	International English Language Testing System
ILO	International Labour Organization
NGO	Non-government organisation
NSW	New South Wales
OECD	Organisation for Economic Cooperation and Development
PNG	Papua New Guinea
PR	Permanent residency
PSWP	Pacific Seasonal Worker Pilot Scheme
R2P	Responsibility to Protect
SCV	Special Category Visa
SWP	Seasonal Worker Program
TTTA	Trans-Tasman Travel Agreement
UDHR	<i>Universal Declaration of Human Rights</i>
UK	United Kingdom

UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNODC	United Nations Office on Drugs and Crime
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
USA	United States of America

1

In Search of 'Fluid Security': The Outline of a Concept

This chapter introduces the key conceptual framework of the book and sets out the problems faced by temporary migrants in Australia that were revealed through the case studies carried out during the course of our research. We consider contemporary migration patterns at both a global and regional level (in the Asia-Pacific region) with reference to key literature on migrant transnationalism, labour mobility and the global market in tertiary education. The discussion explores the tension between mobility and security by considering the nexus of human (in) security, human rights and border control, with reference also to state practices that create insecurity by criminalising some border crossing activities and creating conditions conducive to the exploitation, marginalisation and victimisation of non-citizens.

The chapter ends by considering in broad terms the types of policy approaches made possible by a new ethical framing of borders, citizenship and rights, a framing that enables work towards reconciling national and human security in the context of mobility and that challenges the prioritisation of national security over human security in immigration and border control policies. This reconciliation is what we refer to as 'fluid security'.

Mobility in the Twenty-First Century: New Realities, New Challenges

Patterns of migrant mobility have fundamentally changed in recent decades, particularly affecting countries of immigration such as Australia, also referred to as 'settler' societies (Dauvergne 2015). The critique set forth in this book challenges the longstanding approach to nation-building of predominantly one-way, permanent immigration. In the twenty-first century, migration is organised and experienced in ways

quite distinct from earlier periods, when planned and largely state-led permanent or semi-permanent migration spurred the growth and economic development of large-scale immigration countries like Australia. Contemporary migration is increasingly characterised by multiple movements and circularity rather than one-way mobility. New migration patterns are increasingly fluid and unpredictable: south–south, north–south and south–north. Such changes emerge from a variety of factors, fewer permanent work opportunities; increasingly transnational family and friendship networks and wider social and political networks that open up opportunities for new forms of mobility; and the demand for a highly mobile yet dispensable workforce by neoliberal, globally connected economies. In keeping with neoliberal values, states have increasingly devolved responsibilities to individuals, with the result that wellbeing and life outcomes have become disconnected from broader socio-political processes. As David Harvey affirms, ‘Individual success or failure is interpreted in terms of entrepreneurial virtues or personal failings ... rather than being attributed to any systemic property’ (2005, pp. 65–6). Economic systems are increasingly globalised and must be highly adaptive and reactive to transnational rather than domestic needs and forces. Similarly, human mobility has become more globalised, with individuals and families reacting and adapting to signals both within and outside their country of birth or residence. These international market forces buffet local and distant economies and individual livelihoods.

Human mobility has been subject to the regulation and indeed re-regulation of borders in recent years, with uneven flows of authorised and unauthorised, planned and spontaneous mobility across national borders (Castles 2011a; Creswell 2010; Dauvergne 2008; Dauvergne and Marsden 2014; Sassen 2006). It is of critical importance to untangle the descriptions of migrant categories: those who enter legally under migrant worker schemes or on student visas (regular or legal migrants) versus smuggled workers and unauthorised entrants, including those on temporary visas who overstay and become classified as ‘illegal’ (irregular migrants). A qualitative difference in the economic and socio-cultural security experienced by high-skilled migrants in comparison to low-skilled or unskilled migrants has been identified as significant. This contrast is attributable not merely to the relative rewards for different types of work (economic security), but also to the invisibility of the rights deficits that irregular migrants face (cultural [in]security) (Barchiesi 2011; Pickering et al. 2013; Tazreiter 2013a, b). That is, those migrants who cannot fully participate in a society in which they reside, study or work—even if only temporarily—are likely to experience forms of social and cultural exclusion or

discrimination due to their 'in-between' status. In some cases, temporary, and particularly irregular, migrants may also guard themselves from full social immersion in a new society. Although this study focuses on temporary migration that is planned and authorised, the space between legal and illegal, authorised and unauthorised migration is fluid and porous.

Alongside the flow of global migrant labour, training and education are becoming increasingly global commodities, with individuals seeking opportunities outside their countries of citizenship or residence. The recruitment of international students to Australia has only recently evolved into the present business model of the marketisation of education. In earlier eras, the view of education as a form of aid and development in the Asia-Pacific region was promoted through such programmes as the Colombo Plan. Australia was one of seven founding nations of the Colombo Plan, which originated in 1950 to provide opportunities to students in South and South-East Asia to undertake tertiary education in western countries, including Australia, New Zealand, Canada, the UK and, later, the USA (Meadows 2011). In 2014, the Australian government announced a new Colombo Plan that seeks to build collaborations within the Asia-Pacific region by funding Australian students to study in the region for up to 1 year, with Indonesia a particular target destination.

The changes in migration patterns and the increase in temporary rather than permanent migration are new phenomena that impact individuals, communities and the governments that regulate the flow of populations. In this increasingly fluid context, temporary migrants are more susceptible to forms of abuse and exploitation because their status as non-citizens and non-permanent residents limits their options for redress in the countries in which they work or study. At the same time, temporary migration movements and the processes of globalisation prompt social change within host societies and neighbouring states, as well as in the migrants' countries of origin, through reappraisal of the fundamental definitions of citizenship, rights and residency. In this book we are particularly interested in understanding the consequences of temporariness for migrants and their families and for the host societies and countries of origin. While migrants are expected to cope with the uncertainties and insecurities that accompany the temporary status into which they have voluntarily entered, these are the very conditions of life that, when experienced by citizens and residents (who are able to access rights), can topple governments. There is an inherent contradiction between the desire for certainty and security among the members of a particular political community, often manifested in border control and restrictions for newcomers, and the reality of neoliberal globalisation

with its devolution of state responsibilities to the individual and the associated de-linking between state and citizen.

Temporary migrants, particularly those whose daily subsistence is precarious, are often invisible to the institutions, citizens and residents in the countries where they live, study and work (Bigo 2002; Boltanski and Chiapello 2005; Davis 2004; Appadurai 2006; Duffield 2008). The United Nations estimates that more than 214 million migrants, often without residency rights, live and work in a country other than that of their birth or citizenship (United Nations Development Program [UNDP] 2009). The fact that many of these individuals find themselves without adequate protections leads to a central problem with which this book engages: the jurisdictional and theoretical gaps that prevent non-citizen migrants from enjoying a secure life in a host country. The jurisdictional gap arises from nation-state sovereignty and its taken-for-granted logic of how protection is conferred on individuals. The theoretical gap is found between theories of justice and membership that articulate a post-national or supra-national world and the still-dominant, state-centric visions of security. The state-centric view is actualised in migration systems, migration governance and, importantly, in the rhetoric of the politics of migration—how belonging is imagined and communicated.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), adopted by the UN General Assembly in 1990 and entered into force on 1 July 2003, is a significant guide for countries hosting migrant workers, but no western state has as yet ratified the convention. Mindful of the lack of international legal obligations towards migrant workers, the International Labour Organization (ILO) has produced a framework of non-binding principles for a 'rights-based' approach to labour migration. The ILO principles, meant to guide states in national policy and bilateral and multilateral agreements, acknowledge the need for new approaches to rights and entitlements for temporary non-citizens.

The gap in international norms identified by the ILO is most evident at the level of national migration governance, where the state-based model of citizenship and its attendant obligations leave temporary migrant workers in vulnerable circumstances. Irregular or temporary migration status may mean, for example, that individuals have variable access to services such as healthcare, education and housing. Notably, scholars have highlighted a range of bottom-up approaches that promote more democratic, rights-based governance of international migration. In the absence of consistent, rights-oriented action by states, transnational social movements, unions and migrant associations are working towards a rights-producing politics (Piper 2015).

The Role of the Corporatised State in Migration Governance

States remain central to the granting of rights to individuals through formal membership (citizenship), while also extending partial rights to residents and denizens (those inhabiting a middle point between citizenship and illegality). Individuals born in poor or politically and economically fragile states and those who have migrated but retain their unauthorised status are largely excluded from the protections of citizenship. The model of state-based citizenship, with its linked bundles of rights, is increasingly recognised as a key driver of global inequalities and related insecurities. The state-based citizenship model is premised on strong forms of exclusion (Bauböck 2010; Bosniak 2006; Carens 2010; Fraser 2009) and rests on inequalities embedded historically through colonisation and empire (Mignolo 2011).

Recent migration scholarship has challenged the prevailing approaches and methodologies applied to the study of the lives of migrants who live in and between host societies and who often undertake multiple migrations to ensure their basic survival. This challenge arises from both conceptual and practical issues. Conceptually, migration has long been theorised primarily through the prism of the nation-state and its economic and demographic needs, with the nation-state seen as a 'container' of peoples, identities and culture (Amelina et al. 2012a, b; Wimmer and Glick Schiller 2003). Over the past decade, migration and legal scholars have increasingly pointed to problems in policy development and socio-cultural relations that result from a logic that understands the social realm as co-extensive with the national. This logic has not only dominated theories of migration and belonging, but it has also embedded itself in the administrative and policy-making functions of the state, resulting in tangible and symbolic exclusion of some individuals and groups. Scholars at the cutting edge of research on human migrations, rights and belonging are building an ethical framework that eschews the dominance of methodological nationalism, utilising a body of empirical evidence on the circumstances of populations situated outside of state protections. This new ethical framework has made significant contributions to new theories about the often abject life of populations who are regularly invisible to institutions and have variable access to basic rights (Benhabib 2004; Bigo 2002; McDowell and Wonders 2010; Nyers 2010; Papastergiadis 2010; Tazreiter 2004, 2012, 2013a, b).

Sociological critiques of the state in the era of late capitalism, or what some refer to as third-wave marketisation (Buroway 2014), lead to accounts of globalisation and neoliberalism that focus on unequal inclusion in market society (Polanyi 1985; Piketty 2014). The critique

of primary relevance to this study argues that inequalities discourses ought to be central in attempts to understand the root causes of mobility. Capitalism thrives on constant change, chaos and destabilisation—the constant creation of new enterprises and products and markets for them. Political interventions at the national, regional and international level operate to humanise the market (national and transnational consumer protection schemes, attempts to avert multinational corporations avoiding taxation in the countries in which their goods and services are purchased and attempts at a global financial transaction tax for example). While the state plays a central role in such interventions, civil society and methods to monitor and regulate the practices of transnational capital are also critical. Later in this chapter, a brief appraisal of the literature dealing with new forms of citizenship and global justice takes up these debates.

Many recent studies ask us to rethink the nexus of labour, capital and freedom of movement. These studies elaborate a theorisation of precarious populations with thick empirical detail of circumstances and forms of contemporary slavery, establishing indentured and bonded labour as social facts (Standing 2011, 2014; Ness 2011; Castles 2010).

Migration scholars have shown that the specifics of migrant categories (voluntary/forced, legal/illegal, wanted/unwanted) are likely to increase the precarious circumstances of individual migrants (Castles 2011a, b; Hugo 2011). What is less clear is whether different models of governance at the national, regional or international levels would improve the everyday circumstances of precarious migrant workers, or whether migrants' adaptation to changing conditions as they negotiate migration systems is independent of normative architecture. It is also unclear whether the hyper-mobility of precarious migrant workers is a feature of the low-skilled and irregular status more common to this category of migrant worker, or whether hyper-mobility is likely to become a common feature of other categories of more advantaged migrant workers (the high-skilled 'cosmopolitan elite'). It can be hypothesised, for example, that hyper-mobility without commensurate protections may well lead to increased insecurities, driving even relatively advantaged individuals and families into vulnerable circumstances, including illicit border crossings, dependence on smuggling networks to facilitate travel, and working in unsafe or bonded conditions outside national and international labour protections.

The economic and political restructuring that is integral to neoliberal globalisation is also a principal driver of migration, as are entrenched poverty and cycles of violence and conflict (Harvey 2005). As Standing,

Ness and others have identified, the 'global workers' (whom Standing calls the 'dangerous class') are one group of victims of the effects of neoliberal globalisation in that the work they seek is increasingly unstable, poorly paid and mobile (as dictated by the vagaries of where transnational capital wishes to relocate its operations and workers to maximise shareholder profits). As a result, increasing numbers of migrants are pushed to the involuntary end of a migration continuum (from voluntary to involuntary or forced migration), where rights, forms of recognition and other 'goods' associated with citizenship are often unattainable. These patterns are reproduced in all parts of the world with regional and localised differentiation.

Migrant Transnationalism

Migrant transnationalism, and the associated conceptualisation of new social spaces and cross-border communities that nurture social, economic and political ties between and across time, space and territory, encapsulates a key set of articulations (Glick Schiller et al. 1992; Portes et al. 1999; Faist 2000, 2010; Vertovec et al. 2003). This important field of research, established in the early 1990s, has matured through trajectories of critique and new theorising. Methodological nationalism in both research and policy settings has been highlighted as a dominant, deeply embedded approach that continues to naturalise the sealed nature of the nation-state as a container of identities and peoples, particularly when it comes to the question of immigration (Wimmer and Glick Schiller 2002).

Further, in considering the roles of the state, the interstate system and migrants' own agency, the 'regimes of mobility' approach, proposed by Nina Glick Schiller and Noel Salazar (2013), offers a framework that addresses not just migration but also its relationship with immobility or stasis, the connections between the local and the transnational, between experiences of migration and ways of imagining it, as well as between rootedness and cosmopolitan possibilities. The regimes of mobility approach seeks to reveal, for instance, the co-dependence between the movement of privileged individuals and the movement of stigmatised, hidden and vulnerable irregular and temporary migrants: 'It is the labour of those whose movements are declared illicit and subversive that makes possible the easy mobility of those who seem to live in a borderless world of wealth and power' (Glick Schiller and Salazar 2013, p. 188). This approach offers a highly flexible theorisation of intersecting regimes that normalise the mobility of some (travellers) while criminalising and entrapping others. As is discussed further below, the regimes of

mobility approach aligns with an approach taken by other scholars that eschews the naturalised link between mobility and freedom (Standing 2011; Ness 2011).

The Living Border

‘The border’ is a concept rich with multiple meanings and differentiated utility. In migration studies, the border obviously defines territory, and thereby the gatekeeping of the state, yet the concept simultaneously does the cultural work of sifting and sorting affiliations, loyalties and social ties built across generations and often in defiance of the fixed geography of the nation-state. As Mezzadara and Neilson (2013) argue with great clarity, the polysemy of the very idea of the border mitigates against a linear analysis of migrant experiences. Rather, the border relates as much to markets and human experiences of being in the world, the values and histories carried in the embodied self, as it does to the literal outline of the nation-state. Such analysis, which begins from the embodied reality of human life, acknowledges migrants not merely as border crossers (legal or illegal) but as ‘living labor’:

There is also a peculiar tension within the abstract commodity form inherent to labor power that derives from the fact that it is inseparable from living bodies. Unlike the case of a table, for instance, the border between the commodity form of labor power and its ‘container’ must continuously be reaffirmed and retraced. This is why the political and legal constitution of labor markets necessarily involves shifting regimes for the investment of power in life, which also corresponds to different forms of the production of subjectivity. (Mezzadara and Neilson 2013, p. 19)

Another relevant thread of analysis examines borders as ‘paper barriers’. In addition to physical borders, complex layers of law, or paper barriers, mediate the opportunities of potential migrants. While human geography focuses on terrain as a highly contested concept necessary to understand mobility and the desire for migration, sociological authors tend to study terrain as the place where state control is exercised and look at state regulations to understand mobility. Torpey (2000) first used the term ‘paper walls’ to describe the control of entry, while Vasta (2010) explores a ‘paper market’. Rather than focusing on ‘walls’, Vasta connects the significance of documentation to identity, and how to access cultural markers of identity and entitlements to cultural rights in new locations. Taking the document as the embodiment of state control, Bauböck (2001) compares

territorially bounded policies of migration in Canada, the USA, Israel and the European Union. The result is the delineation of a set of legal measures aimed at denying access to territory and entitlements.

Human Security and Human Rights: Divergences and Overlaps

There is often a gap between the theorisation of a problem and the resolution of the problem in practice. Theorists critique policy-makers for their narrow and often reactive approaches to policy development, and policy-makers in turn critique theorists for operating in a rarefied, ungrounded context. This gap is patently evident in the field of defining, advocating for and implementing the rights and security of persons. Serious consideration of human rights and security in the modern era can be dated to the post-World War II development of international human rights law and the subsequent decades that saw reconfigurations of development as 'human development' and the emergence of the concept of human security.

The topic of human security appears in international debates in the early 1990s in describing generalised risks that could potentially affect everyone—risks such as the effects of climate change, extreme poverty and international terrorism (McAdam 2010; O'Brien et al. 2010; Piguet et al. 2011). As an analytic tool, human security first appears in the UNDP report of 1994, where generalised risks to security are listed as 'unchecked population growth, disparities in economic opportunities, excessive international migration, environmental degradation, drug production and trafficking, international terrorism' (UNDP 1994, p. 34). The report recognises the insecurity of persons as integral to understanding potential state and international instability. Also fundamental to the use of the concept is the emphasis on the security of persons (the human) as not separate from state security, but embedded within it. That is, insecure people will result in insecure states. Importantly, while traditional membership (citizenship) matters in the human security approach, the insecurity of persons outside national borders also matters. Through the ethic of international governance, governments are asked to participate in the protection of citizens of other states—as a matter of self-interest but also in recognition of the shared responsibilities of states (see, for example, Howard-Hassman 2012, p. 90).

An example of the ethic of international governance is the Responsibility to Protect (R2P), first articulated in a report commissioned by the Canadian government as part of a human security initiative. The purpose of the R2P is to shape and legitimise international

interventions in cases where states fail to protect their own citizens, and in this way it aligns with the core concepts of human security. The R2P agenda promotes the 'remedial responsibility' of states to offer effective protection against vulnerabilities to their members and others. The ethical basis of the R2P and the spirit of human security rest on states with the capacities to alleviate the insecurity of persons outside of their own citizens and residents. Some scholars argue that access to immigration regimes such as temporary foreign labour programmes (such as the Seasonal Workers Programme outlined in later chapters) is part of this holistic approach to the protection of those who lack social and economic rights and do not have the benefit of the full protections of their state (Straehle 2012; Vietti and Scribner 2013).

The traditional understanding of human security as synonymous with state security has been challenged [or 'raises difficulties'], as has [does] the approach that aligns state security with territorial sovereignty that actively excludes, deports and criminalises. Over the two decades of the proliferation of the human security agenda, the concept has also arguably been overutilised and thereby stripped of precision. Critics contend that the overuse of the concept of human security has resulted in a hollowing out of related concepts, such as human rights and human development. Amartya Sen argues for the important complementary role human security discourse plays in discussions of human rights and human development and offers clarity on the reach and limitations of the concept of human security:

The majority of people are concerned with the security of their own lives and of the lives of other people like them. This general concern has to be directly addressed, and any understanding of security in more remote terms (such as military security or so-called national security) can be integrated with it to the extent that this makes human life more secure. (2014, p. 18)

While the policies and associated programmes, initiatives and priorities of national security may well be important for people's lives, it ought also to be remembered that this domain of security is removed from people's daily needs and activities. It is the more mundane issues, events and resources of daily life that shape the quality of people's experiences and interactions.

While recognising the legitimacy of both the narrow and broad interpretations of human security, Taylor Owen acknowledges problems with the definitional hybridity of human security as a concept. In response, he has proposed the use of a threshold in clarifying how