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The Vicious Cycle of Migration Criminalisation

By Dr Matilde Rosina

ANALYSIS

Rather than fostering security, restrictive measures such as the criminalisation of migration create a vicious cycle of insecurity and irregularity. So why do states increasingly turn to these measures?

Around the world, governments are placing more and more emphasis on stringent and exceptional measures to curb irregular migration. From Australia's [Migration Amendment Bill](#) to Denmark's decision to [confiscate asylum seekers' valuables](#); from the (now abandoned) [UK-Rwanda deal](#) to the criminalisation of migration across Europe, restrictive policies are on the rise.

But what are the consequences of these measures, for both migrants and receiving societies? How do they shape security perceptions and dynamics? I argue that exceptional and restrictive migration policies can create spirals of insecurity and irregularity, fostering a vicious cycle that ultimately undermines the goals they aim to achieve.

A case in point is the criminalisation of migration. This refers to the practice of introducing and enforcing a "crime of irregular migration" in national legislation, punishing irregular entry or stay with criminal sanctions such as fines or imprisonment.

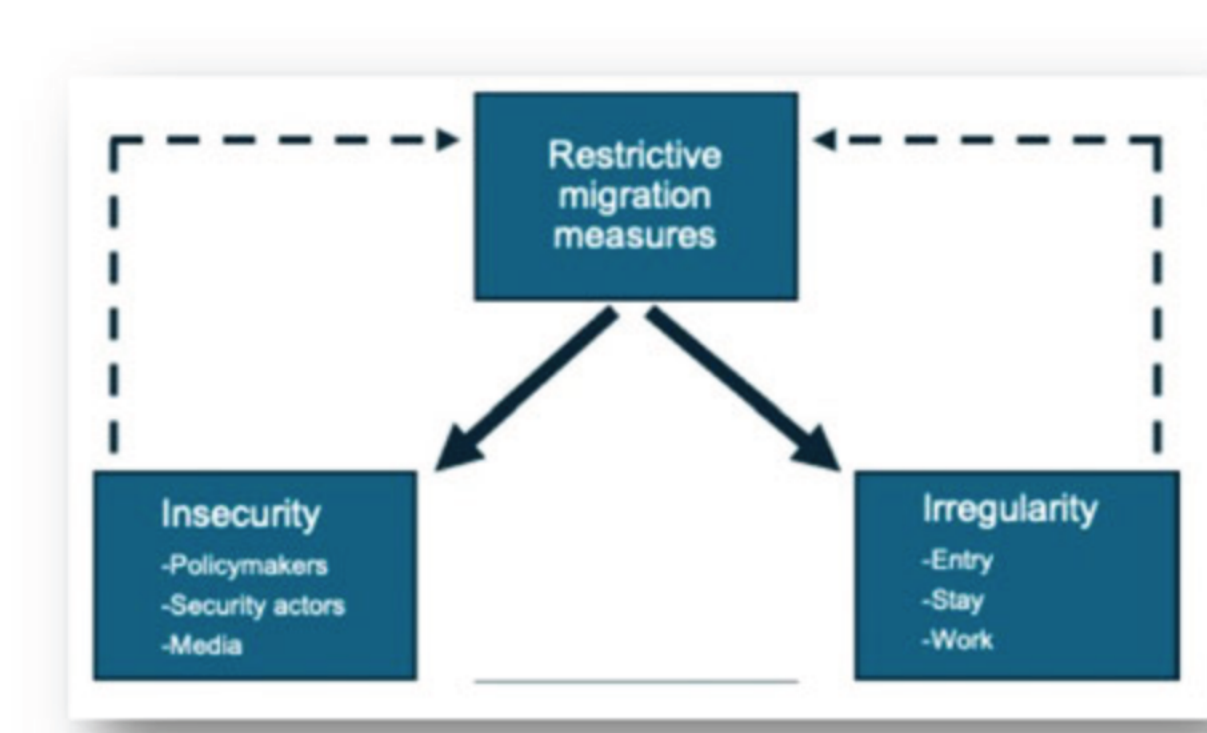
This approach is widespread. Currently, all but two EU member states (Portugal and Malta) have in their legislation [sanctions for irregular migration](#). Australia's recent Migration Amendment Bill also seeks to impose [prison terms of one to five years](#) for migrants who fail to comply with return procedures.

And yet, despite the prevalence of criminalisation, there is strikingly little evidence on its real impacts and unintended consequences.

Italy and France are crucial cases to illustrate the consequences of criminalisation. They are two European countries with some of the most severe sanctions for irregular migration. In both cases, the criminalisation of migration has contributed to a self-reinforcing cycle with profound consequences.

This vicious cycle unfolds along two intertwined dimensions: insecurity and irregularity. While [previous studies](#) have [analysed](#) each dimension individually, few have examined their combined impact, particularly in the context of criminalisation. This dual focus reveals the complex ways in which restrictive policies simultaneously undermine security and drive further irregularity.

The two-fold vicious cycle



Source: Rosina (2024)

Insecurity

The first dimension of the vicious cycle centres on insecurity.

When politicians adopt restrictive, high-profile measures to address migration, they not only raise public expectations of control, but also amplify the visibility of migration itself. For instance, in a country such as the UK, the number of [visa-overstayers](#) (individuals who enter regularly but then overstay the expiration of their visa) often surpasses that of sea arrivals. Yet, public and political debates focus intensely on sea landings, with visa-overstaying rarely entering the conversation.

When restrictive policies fail to achieve their intended goal of deterring migration, the public's sense of insecurity increases. This perceived lack of control then fuels public demands for more stringent—but often largely symbolic—measures.

The criminalisation of migration in Italy and France illustrates this process well. By introducing a "crime of migration," governments created and [reinforced the association between migrants and criminality](#) in the public's mind. This, in turn, made it politically unfeasible to repeal these laws, even once they were proven counterproductive.

In France, every attempt to reduce criminalisation was paralleled by the introduction of new sanctions or new categories of migration-related offences. For example, in 2012, the French Parliament repealed the offence of irregular stay, but simultaneously made it a crime to remain after an expulsion order. Similarly, in 2018, unauthorised entry from another Schengen state was de-criminalised, yet penalties for related infractions were increased.

In Italy, despite strong opposition from [public figures](#) who highlighted the ineffectiveness of criminalisation, the government ultimately refrained from repealing the offence due to anticipated [political fallout](#).

Consequently, in both Italy and France, criminalisation has become entrenched, reinforcing a vicious cycle in which the reliance on migration-related offences perpetuates feelings of insecurity. Rather than reducing these concerns, the policies deepen the "spiral of criminalisation," making it increasingly challenging to break free from the cycle.

Irregularity

The second dimension of the vicious cycle centres on irregularity. Policies intended to deter and restrict migration often drive migrants to rely on irregular networks to enter, stay, and work in the EU. In an effort to avoid police apprehension, and lacking access to the formal labour market, many migrants are pushed toward informal and often precarious means of survival.

[Criminalisation intensifies](#) this dynamic. A criminal record further limits access to legitimate employment, reinforcing migrants' marginalisation. As a result, migrants are disproportionately represented in statistics on [irregular work](#) and specific types of [crimes](#), underscoring the link between restrictive policies and irregularity.

In this way, measures like criminalisation end up reinforcing migrants' dependence on irregular networks to enter, stay, and work in Europe. Not only does this bolster criminal organisations, but it also heightens migrants' vulnerability to exploitation and abuse. In turn, these conditions increase overall levels of irregularity and feelings of insecurity, perpetuating and completing the vicious cycle.

Conclusion

In sum, the criminalisation of migration in Italy and France produced several counterproductive effects, both for migrants and receiving societies. Instead of reducing insecurity and irregularity, it perpetuated a vicious cycle that intensified both—increasing the visibility of irregular migration flows and driving migrants to rely on underground organisations.

Since the logics of criminalisation are fundamentally at odds with the structural drivers of migration, establishing legal pathways for both labour and refugee migration presents a more promising alternative. Such pathways hold the promise of breaking this cycle and fostering a more effective and humane migration system.

This analysis is based on the author's journal [article](#) on the same topic.

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