Criminalization of Solidarity

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The expression “crimes of solidarity”, currently popular among human rights organizations, refers to the problem of prosecuting the “facilitation of unauthorised entry, transit and residence of migrants” in the European Union (Tazzioli 2018: 4). Guided by the same principle, Article 53 of the Croatian *Aliens Act* prescribes that: “It is prohibited to assist [...] a third-country national in illegal crossing of the state border, in transiting across the state territory [...], and in his illegal stay. Exceptions to the ban on helping irregularized persons include saving lives, providing emergency medical and humanitarian aid and other humanitarian reasons, provided that “assistance in illegal stay” does not prevent “measures which are to be taken for ensuring return”. These stipulations are problematic primarily because they criminalize systematic, effective aid, and allow only necessary, biopolitical aid – that which keeps migrants alive, while also participating in the migration control regime, denying them civil rights, and contributing to human rights violations. Furthermore, when we take into account that the police, through direct and indirect action, endangers the lives of people on the move, these legal restrictions are also paradoxical. If there is a justified suspicion that the police/state services are expelling migrants to Bosnia and Herzegovina or Serbia and exposing them to suffering and physical violence, thus endangering their lives, aren’t we obliged by law to react without the risk of punishment?

In the context of the European border regime there have been a number of attempts to criminalize **solidarity**, and one of the more significant cases involves the arrest of the captain of Sea-Watch 3, Carola Rackete, due to an unauthorized docking in Lampedusa in 2019 with forty rescued migrants on board. In the local context, examples range from verbal threats and intimidation of male and female volunteers, and even court verdicts against volunteers, and in one case, a partner of an activist and former employee of the organization Are You Syrious (AYS) having his asylum status revoked. The activist was intimidated by the police by sending her parents “a hearing summons based on a suspicion that she was involved in obtaining an ‘illegal’ power of attorney for the family” of the deceased Madina Hussiny and threats of arrest. The case of Dragan Umičević is particularly important, as Umičević was a volunteer who tried to help the Hussiny family, but, as reported by the media, “a misdemeanor charge was filed against him for allegedly assisting in the illegal crossing of the state border”, and the Ministry of the Interior was also seeking imprisonment, a fine of 230,000 HRK, and a ban on the Are You Syrious organization. The misdemeanor court sentenced Umičević to a fine of 60,000 HRK, an amount that was later raised, according to the same source, through “civic solidarity”, i.e., a fund-raising campaign initiated by AYS.

The criminalization of solidarity is one of the strategies employed by the migration control regime. When discussing this regime, we generally refer to the policies and practices that do not have a universal origin and are not always coordinated with each other; however, the externalization and control of refugee and irregularized movement is certainly a goal on which most actors and creators of migration policies agree. In this sense, encouraging empathy, aid and, especially, resistance, within the framework of state and international management, is twisted in meaning and presented as a security problem – encouraging “illegal migration” – instead of as resistance to “European apartheid” (Balibar 2004). In this specific context of the institutionalization and normalization of violence against people on the move, the practices of solidarity “from below”, whether we are talking about its humanitarian, legal or protest form, figure as drivers of the transformation of current power regimes that create and perpetuate social and geopolitical hierarchies and dismiss the possibility of equal mobility.

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Literature

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