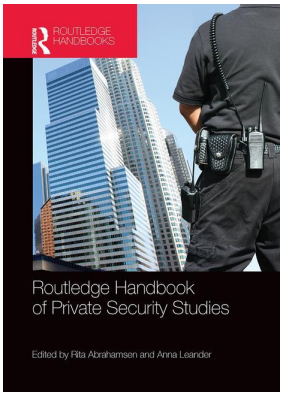

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Rita Abrahamsen, Anna Leander

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PRIVATE SECURITY AND THE MIGRATION CONTROL INDUSTRY

Thomas Gammeltoft-Hansen

Border control has always been a core sovereign prerogative of the state. Yet, as unchecked immigration is increasingly perceived to challenge sovereignty, the response – paradoxically – has been a substantial outsourcing of border control itself to private security actors. The popularity of private migration management can be linked to several factors. Immigration is an area wrought with fundamental policy dilemmas; who and how many to admit and how to balance efficient immigration control and human rights principles? Private companies promise to cut the Gordian knot of separating the wanted from the unwanted in an efficient manner, often promoting technological innovations such as biometrics, digital surveillance and elaborate electronic entry–exit systems. Second, the migration control industry is part of a general commercialization of international migration, with equally profitable companies engaged in facilitating both legal and illegal migration (Gammeltoft-Hansen and Nyberg Sørensen 2013). Third, as in other sectors of public governance, privatizing migration management has been presented as cost-saving, though several studies have challenged this presumption, pointing out that if governments are not footing the bill, migrants will through the cuts on services provided (Menz 2013). Last, but not least, as immigration has come to be perceived as a security matter for many states, the move to privatization can be interpreted as part and parcel of the turn to private security more generally (Salter 2007; Guiraudon 2006; Bigo 2002).

While the growing use of contractors in migration management raises a number of questions related to private security, new public management and sovereignty that are gradually receiving increasing attention within migration studies, this chapter focuses on those related to the legal obligations of states. It argues that at least part of the explanation for the current drive towards privatization in this area is the belief that by delegating authority to private actors states are able to release themselves – *de facto* or *de jure* – from obligations otherwise owed. The migration control industry fundamentally impacts both the human rights of those subjected to control and the mechanisms to ensure democratic oversight and rule of law. At a time when asylum and immigration are highly politicized, the private migration control industry gives the appearance that migration management is, precisely, private and thus external to the state itself.

This chapter sets out by surveying the scope of the migration control industry. The subsequent sections examine the human rights implications of privatized migration management, arguing that while human rights law is in principle neutral regarding the mode of governance, privatization is nonetheless likely to raise additional barriers to ensuring state responsibility for

human rights violations by non-state actors. The final section looks at the issue of transparency, pointing out that privatization also brings about procedural barriers and that a 'corporate veil' often obstructs both access to remedies and democratic oversight.

The migration control industry

In the United States, 478,000 immigrants were detained in 2012; half were held in privately run facilities (see Chapter 20, this volume). In the United Kingdom, private contractors currently run nine out of thirteen detention centres, and in Australia a single company, Serco, operates detention centres at twenty different locations. Private actor involvement in migration management is far from limited to detention, however. From airlines carrying out pre-boarding checks, to defence contractors setting up billion-dollar high-tech border surveillance systems, and to security companies ensuring deportations, the last decades have seen the emergence of a distinct 'migration control industry' (Gammeltoft-Hansen 2013) with private companies taking over a wide range of erstwhile governmental functions to screen, control, detain and return migrants.

This industry is rapidly growing and a number of defence and security contractors are currently expanding into migration management. The world's largest security company, G4S, currently operates immigration detention centres in both Australia and the United Kingdom, and passenger screening at airports in North America, Europe and the Middle East. In the United States G4S operated a fleet of custom-built fortified buses that serve as deportation transports, and until 2010 the company held the exclusive contract to carry out forced returns from the United Kingdom. Boeing's contract to set up and operate a high-tech border surveillance system along the US–Mexico border was worth US$1.3 billion and involved nearly 100 subcontractors until it was terminated in 2011. Similarly, the two largest prison companies in the United States, Corrections Corporation of America and Geo Group, have each more than doubled their revenue stemming from immigration detention in the period 2005 to 2012. Last, but not least, Serco's financial reports show that while profits in other areas have been stagnating, its immigration contracts – estimated at AU$3 billion – nonetheless ensured a 28 per cent growth in operating profits from 2009 to 2013.

However, it is important to note that at least certain parts of private actor involvement in migration management long predates the current outsourcing trend prompted by neoliberal governance. As early as 1751 Denmark levied fines from shipmasters bringing in Jewish passengers (Lausten 2012). Those found inadmissible by US immigration officers were to be transported back at the cost of the steamship company. The modern variant of such carrier sanctions emerged from the 1950s onwards in response to the increase in 'jet age' asylum seekers, which has made almost all asylum countries impose financial penalties on airlines for bringing in passengers without visas or passports. In the US, carrier liability for bringing in aliens without valid passports and visas has been part of the Immigration and Nationality Act since 1952 (the MacCarran-Walter Act, Section 273). In Canada, similar rules were introduced as part of the 1976 Immigration Act. In the European context, legislation to impose obligations and concurrent fines upon carriers was implemented by Belgium, Germany and the United Kingdom in 1987, and since 1990 required by all states party to the Schengen Convention (Cruz 1995: 5). This kind of 'indirect privatization' has made private airline companies gradually take on elaborate control functions related to document checks, forgery control and passenger profiling.

Human rights implications

The adverse effects of private involvement in migration management on migrants' rights are well documented and analysed (Gammeltoft-Hansen 2011: ch. 5). The original rationale for carrier sanctions was to physically prevent refugees from reaching the territory of prospective asylum states and thereby triggering relevant obligations under domestic and international law prohibiting return. The involvement of private actors in migration management is thus paralleled by a similar trend to 'externalize' migration control by shifting the geographical location of border control to the high seas or foreign territory (Gammeltoft-Hansen and Hathaway 2015). At the same time, the introduction of a private intermediary served to politically and legally insulate governments against wrongful rejections. Private companies such as airlines are not bound by international refugee and human rights law, nor domestic requirements to provide appeal mechanisms or to keep public records of those rejected. Given the high fines, any lack of proper documents or suspicions of document forgery are thus likely to lead to carriers rejecting passengers at the point of departure. Under EU law the amount is currently €5,000 per passenger, in addition to which airlines are liable to carry costs related to detention and return flights. As pointed out by UNHCR:

> Forcing carriers to verify visas and other travel documentation helps to shift the burden of determining the need for protection to those whose motivation is to avoid monetary penalties to their corporate employer, rather than to provide protection to individuals. In so doing, it contributes to placing this very important responsibility in the hands of those (a) unauthorized to make asylum determinations on behalf of States (b) thoroughly untrained in the nuances and procedures of refugee and asylum principles, and (c) motivated by economic rather than humanitarian considerations.
>
> *(UNHCR 1991: 3)*

Similar criticisms have been raised in connection with privately run immigration detention centres. As noted by former UN Rapporteur on Torture Nigel Rodley, 'the profit motive of privately run prisons in the United States and elsewhere has fostered a situation in which the rights and needs of prisoners and the direct responsibility of states for the treatment of those they deprive of freedom are diminished' (Rodley 2003:7). As a starting point, the very detention of asylum seekers may constitute a violation of international refugee law. Article 31 of the 1951 Refugee Convention obliges states not to penalize refugees for irregular access to their territory and was specifically inserted to recognize that refugees may occasionally have an overriding need to seek entry, even if under false pretences or not in possession of proper documentation. The coincidence of private companies running prisons and immigration detention centres has further led to situations where guards fail to recognize the difference between punitive and administrative detention, in some instances even placing asylum seekers in general prisons (Robbins 2005: 86). In 2010 an Angolan refugee died on board an aeroplane during a G4S deportation operation. Following the incident, a number of former and current G4S staff came forward, claiming that senior management had disregarded internal warnings about poor training and unsafe restraining techniques. In 2007 the Western Australian Human Rights Committee similarly ordered G4S to pay a US$500,000 fine for inhumane treatment, after G4S drivers had ignored detainees begging for water during a transport journey, leaving one to drink his own urine.

International human rights law is in principle neutral on privatization (Isa 2005: 16). Governments remain free as regards their mode of governance and nothing in the human rights

treaties explicitly prohibits decisions to contract out or privatize service provision. Yet various human rights institutions have emphasized that in the process of privatization, continued respect for human rights must be ensured. As the European Court of Human Rights asserted in the *Costello-Roberts* case, a state 'cannot absolve itself from responsibility by delegating its obligations to private bodies or individuals.'[1] Certain human rights obligations are, broadly phrased, making the issue of private or public implementation irrelevant. Article 10 of the International Covenant on Civil and Political Rights thus demands that 'All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.' In other words, although the means and actors through which human rights obligations are realized may change in the course of privatization, states maintain ultimate responsibility under international law.

In practice, however, this view is moderated by the public–private distinction, creating a legal threshold for state responsibility in cases of privatization. As noted by the International Court of Justice, 'the fundamental principle governing the law of international responsibility [is that] a State is responsible only for its own conduct, that is to say the conduct of persons acting, on whatever basis, on its behalf'.[2] The separation between public and private spheres has been a constitutive element of liberal societies and remains a key norm of both domestic and international law. In the modern vision of the nation-state, regulatory functions and the exercise of power came to be centralized and monopolized by the state. Outside this, the market and private relations are both considered to be apolitical and thus subject to regulation under distinct legal regimes both at national and international levels (Sassen 2006: 187). As, politically speaking, the public – private distinction has become increasingly artificial, certain inroads have been made to ensure legal responsibility in cases of privatization. Yet, as a legal construction, the public–private distinction still retains importance in setting certain thresholds for establishing state responsibility and in separating the legal venues through which migrants and refugees subjected to the migration control industry may seek redress.

Under general international law, a state maintains direct responsibility for the conduct of private actors when private actors are either exercising 'governmental authority' or where it can be shown that the state is 'directing or controlling' the particular conduct.[3] Yet, the test in each instance is onerous. There is no internationally accepted definition of what constitutes governmental authority, and states have thus been seen to apply different and varying tests. According to the US Supreme Court, it is not enough that a private actor serves a 'public function', the particular task has to be one that is considered 'traditionally the exclusive prerogative of the State.'[4] While this definition ought to encompass established contractors carrying out border control and immigration detention to the extent that these functions are indeed considered traditional functions of sovereignty, it may still eclipse certain scenarios where private actors are merely considered adjunct to the immigration control performed (e.g. pre-arrival control performed by airlines). This test is not necessarily correct, however. The International Law Commission implies that under certain circumstances airlines may be exercising 'governmental authority' when carrying out security functions (Gammeltoft-Hansen 2011: 181).

Proving that a private actor acts under the direction or control of a state is no less demanding. Following the International Court of Justice, the fact that a government finances, trains and in other ways supports a private entity is not enough; it has to be shown that the particular actions in question are imputable to the state.[5] Establishing this 'real link' may become particularly problematic where privatization involves the use of subcontractors. Moreover, it may insulate the state from responsibility where private contractors act outside or in excess of their instructions. In the case of *Medina v. O'Neill*, concerning the detention of 16 stowaways by Danner Inc. mentioned above, the US Court of Appeal found that while the 'public power'

test was satisfied and the government thus responsible for the detainees, the lack of knowledge of the deplorable conditions under which the immigrants were held did not constitute a violation of the stowaways' due process rights.[6]

As a matter of international human rights law, states also maintain certain positive or due diligence obligations that may provide additional avenues where the causal connection between state and private actor does not fulfil the requirements above. In *Velásquez Rodríguez v. Honduras*, the Inter-American Court of Human Rights thus found that the widespread occurrence of disappearances in Honduras, even though it could not be proved that these were directly imputable to the Honduran government, nonetheless engaged the responsibility of Honduras; not 'because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the convention.'[7] In practical terms this may require states to ensure, for example, proper regulatory frameworks for all private actors exercising migration control, relevant training and regular monitoring (Hoppe 2008: 993). Determining the exact content of due diligence obligations, however, is a matter of interpretation and depends on the factual circumstances. Consequently, what may reasonably be expected from a state is open to contestation and states have been keen to argue that they were either unknowing or incapable of taking action to prevent human rights abuses. Moreover, the application of due diligence obligations to actions overseas remains contested, possibly excluding responsibility in cases of airline control, private visa contractors and offshore detention centres (Gammeltoft-Hansen 2011: 200–204).

The legal difficulties in ensuring state responsibility for private conduct may appear paradoxical in light of the fact that privatization today constitutes a systemic feature of modern governance. Most legal responses have been characterized by ad hoc solutions with little coordination and a sometimes circular logic (Flinders 2006: 239). The very definition of the private sphere is based on its consisting of non-state actors; inter alia autonomous and independent of government funding, control, authority or direction. By defining private actors simply by what they are not, it first of all becomes difficult to discern between the very different actors in this field and their rather different relationships to the state: from bands of private vigilantes to international security or military contractors. Second, and more fundamentally, this dichotomous definition serves to reinforce the notion that private actors are prima facie removed from the sphere of public international law (Alston 2005: 3). It is in this sense that establishing state responsibility in cases of privatization becomes problematic, as it sets out by assuming a distinction that may simply not be there in the first place.

Lifting the corporate veil

Closely connected to the question of legal responsibility is the issue of institutional monitoring and public accountability. Even though norms do in principle exist to ensure state responsibility for human rights violations by private actors exercising migration control, it is quite another matter to ensure that such cases are in fact brought to public attention and prosecuted by national or international courts.

Proponents of privatization argue that governing through market mechanisms may increase accountability. Noting that control and accountability of governmental actors and institutions are often far from perfect, it has been argued that clear economic incentives and contracts may actually prove more efficient in regulating agent behaviour. Second, the distance between governments and private contractors makes it easier to carry out a critical appraisal, and private entities may be more open to reform and change. Third, the competitive environment surrounding private contractors may lead major corporations in a given market to themselves

develop codes of conduct and accept accountability mechanisms in order to create a market brand vis-à-vis potential customers (Dickinson 2007: 230; McDonald 1991: 189; Logan 1990).

Several counter-arguments may, however, be raised with regard to this position, suggesting that market-based migration control is inherently difficult to govern. Even where clear contracts or other regulatory frameworks are in place, the legal barrier between states and private actors breaks the ordinary administrative chain of command (McDonald 1991: 188). Even the best of contracts may not foresee the full need for appraisal and monitoring and may thus equally become a straitjacket preventing further action and scrutiny. Second, public employees are both more visible and in many countries have explicit guarantees against repercussions for expressing opinions publicly or for whistleblowing. Third, even where legal provisions for public scrutiny are in place, the resources for governmental monitoring often lag behind the pace and scale of privatization itself (Isenberg 2007: 87–8). Lastly, private companies seldom have a direct interest in public oversight as any critique may entail negative economic consequences and be detrimental to the company's competitive position. Where such convergence of interests nonetheless exists (e.g. for reputational reasons), voluntary codes of conduct or soft law accountability mechanisms have so far not proven particularly effective (Chapters 23 and 26, this volume; Leander 2010, 2011). Studies show that codes of conduct risk being either 'ceremonialized' or used by companies to further different agendas (Leander 2012; Cockayne 2007: 207–8).

The existence of a corporate veil is perhaps most evident in regard to the use of airlines to perform de facto immigration control. Governments have been reluctant to produce and publish figures of the amount of fines imposed and seldom systematically gather data the numbers and the identities of those rejected (Guiraudon 2006; Nicholson 1997: 598). The carrier sanctions legislation is, by design, weak in terms of democratic control, accountability and judicial avenues for those rejected (Scholten and Minderhoud 2008: 131). Save for reasons of protesting against the imposition of fines mentioned above, carriers themselves have little further incentive for giving out information on these issues which may convey a negative picture of companies to customers. Thus, even where airlines are asked by governments or NGOs to provide 'denied boarding' figures, they do not always do so (Nicholson 1997: 598).

Rejection by a private company such as an airline is, moreover, not subject to national administrative regulations. It is not a public decision, and those rejected can thus be sent back without any notification of the decision and, in principle, without leaving any trace (Guiraudon 2006: 8). In addition, the extraterritorial venue of most rejections makes it even more difficult for both national institutions and civil society to access those rejected (Nicholson 1997: 598; Vedsted-Hansen 1997: 176). As a result, only a handful of cases concerning carrier controls have ever been brought before national courts, despite modern carrier legislation having been in place for more than 20 years.

Where privatization of migration control is governed by contracts, the possibilities for monitoring and visibility are somewhat improved. The higher likelihood of state responsibility for any human rights violations in these situations – as compared with the mere use of economic sanctions – may, first of all, give a greater incentive for governments to ensure accountability. Second, contracts give added possibilities for states to require vetting, adequate training of privately employed personnel, regular monitoring and performance reports. The United Kingdom has thus introduced both clear contractual limits for responsibility and a national supervisory function for the use of privately contracted immigration search officers.

Nonetheless, even where a clear contractual relationship is established, accountability and public scrutiny may still remain insufficient. This becomes clear when examining the growing number of cases of human rights abuses in privately operated detention facilities, as also

mentioned in the previous section. In Australia, the conditions in some privately managed asylum and immigration detention centres have been described as gravely lacking in external accountability and monitoring.[8] Access to information about conditions in the centres has been further hampered by attempts by those managing them to prevent access from outsiders. Australasian Correctional Management (ACM), which runs four detention centres in Australia, has thus been known to require all external professionals entering their facilities (such as medical staff or teachers) to sign confidentiality agreements preventing them from disclosing any information regarding detainees or the administration of the centres.

Parallels may be found in other countries using private contractors to run asylum and immigration detention facilities. Following a BBC documentary documenting racism and physical abuse of immigrant detainees at Oakington detention centre, the UK Prisons and Probation Ombudsman issued a report pointing to several cases of misconduct by G4S in the running of the facility and their forced escort operations (Prisons and Probation Ombudsman 2005). The report further pointed to a number of problems relating to monitoring and oversight. In the United States, NGOs have pointed to the lack of oversight of privately operated immigration detention facilities and accused Corrections Corporation of America of overcrowding cells and cutting supplies and medical care to save costs.[9] An employee in charge of reviewing disciplinary cases at one of the company's Houston facilities squarely told the *New York Times*, 'I am the Supreme Court' (cited in Robbins 2005: 61).

Conclusion

This chapter has pointed to the multiple human rights issues stemming from the growing migration control industry. Of course, one should be careful not to overstate the negative human rights implications of privately run migration management. There is no shortage of examples of human rights violations by public immigration officers. Yet, as this chapter argues, by its very design the migration control industry creates certain barriers that risk further undermining the rights of migrants and refugees. Legally, privatization serves to insulate governments from liability to human rights violations following from immigration control. Institutionally, privatization works to distance control functions from the state by creating the appearance that migration control is, precisely, private and thus external to the state itself. Looking to similar cases in regard to for example military contractors and private prisons, there is much to suggest that these dynamics apply equally to other areas of private security. This is not to say that avenues for ensuring state responsibility and public accountability do not exist. Yet both legal and institutional developments are needed in order for human rights law to remain effective in the current wave of privatization.

Notes

1 *Costello-Roberts v. The United Kingdom*, European Court of Human Rights, Appl. No. 13134/87, 25 March 1993.

2 *Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, International Court of Justice, 26 February 2007, paragraph 406.

3 See Responsibility of States for Internationally Wrongful Acts, International Law Commission, annexed in UN General Assembly resolution 56/83 of 12 December 2001, articles 5 and 8.

4 *Rendell-Baker v. Kohn, United States Supreme Court*, 457 US 830 (1982), 842.

5 *Case Concerning Military and Paramilitary Activities in and against Nicaragua*, International Court of Justice, ICJ Reports 1986, 27 June 1986, paragraph 17.

6 *Medina v. B. O'Neill Garcia, United States Court of Appeal*, 5th circuit, 838 F. 2d 800 (1988), paragraph 17.
7 *Velásquez Rodríguez v. Honduras*, Inter-American Court of Human Rights, Series C, No. 4 (1988), 29 July 1988, paragraph 88.
8 Professor Richard Harding, speaking of Curtin Immigration Reception and Processing Centre in a speech delivered at International Corrections and Prisons Association on 30 October 2001. Excerpt available from www.refugeeaction.org.
9 The issue gave rise to a lawsuit, *Kiniti et al v. Myers et al*, Second Amended Complaint. United States District Court of the Southern District of California. Filed 24 January 2007. The case was settled with the Department of Homeland Security and CCA 4 June 2008.

Bibliography

Alston, P. (2005) 'The "Not-a-Cat" Syndrome: Can the International Human Rights Regime Accommodate Non-state Actors?', in P. Alston (ed.), *Non-State Actors and Human Rights*, Oxford: Oxford University Press, pp. 3–36.

Bigo, D. (2002) 'Security and Immigration: Towards a Critique of the Governmentality of Unease', *Alternatives* 27: 63–92.

Cockayne, J. (2007) 'Make or Buy? Principal–Agent Theory and the Regulation of Private Military Companies', in S. Chesterman and C. Lehnart (eds), *From Mercenaries to Markets*, Oxford: Oxford University Press, pp. 196–216.

Cruz, A. (1995) *Shifting Responsibility: Carriers' Liability in the Member States of the European Union and North America*, Stoke-on-Trent: Trentham Books.

Dickinson, L. (2007) 'Contract as a Tool for Regulating PMCs', in S. Chesterman and C. Lehnart (eds), *From Mercenaries to Markets*, Oxford: Oxford University Press, pp. 217–38.

Feyter, K. and Isa, F. G. (eds) (2005) *Privatisation and Human Rights in the Age of Globalisation*, Antwerp: Intersentia.

Flinders, M. (2006) 'The Politics of Public–Private Partnerships', *British Journal of Politics and International Relations* 7(2): 215–39.

Gammeltoft-Hansen, T. (2011) *Access to Asylum: International Refugee Law and the Globalisation of Migration Control*, Cambridge: Cambridge University Press.

Gammeltoft-Hansen, T. (2013) 'The Rise of the Private Border Guard: Accountability and Responsibility in the Migration Control Industry', in T. Gammeltoft-Hansen and N. Nyberg Sørensen (eds), *The Migration Industry and the Commercialization of International Migration*, Abingdon: Routledge, pp. 128–51.

Gammeltoft-Hansen, T. and Hathaway, J. C. (2015) 'Non-refoulement in a World of Complex Deterrence', *Columbia Journal of Transnational Law* 52(2): 235–84.

Gammeltoft-Hansen, T. and Nyberg Sørensen, N. (eds) (2013) *The Migration Industry and the Commercialization of International Migration*, Abingdon: Routledge.

Guiraudon, V. (2006) 'Enlisting Third Parties in Border Control: A Comparative Study of Its Causes and Consequences in Borders and Security Governance', in M. Caparini and O. Marenin (eds), *Borders and Security Governance: Managing Borders in a Globalized World*. Geneva: Geneva Centre for the Democratic Control of Armed Forces, pp. 79–100.

Hoppe, C. (2008) 'Passing the Buck: State Responsibility for Private Military Companies', *European Journal of International Law* 19(5): 989–1014.

Isa, F. G. (2005) 'Globalisation, Privatization and Human Rights', in K. Feyter and F. G. Isa (eds), *Privatisation and Human Rights in the Age of Globalisation*, Antwerp: Intersentia, pp. 9–32.

Isenberg, D. (2007) 'A Government in Search of Cover', in S. Chesterman and C. Lehnart (eds), *From Mercenaries to Markets*, Oxford: Oxford University Press, pp. 82–93.

Lausten, M. S. (2012) *Jøder og kristne i Danmark: Fra middelalderen til nyere tid*, Copenhagen: Anis.

Leander, A. (2010) 'The Paradoxical Impunity of Private Military Companies: Authority and the Limits to Legal Accountability', *Security Dialogue* 41(5): 467–90.

Leander, A. (2011) 'Risk and the Fabrication of Apolitical, Unaccountable Military Markets: The Case of the CIA "Killing Program"', *Review of International Studies* 37(5): 2253–68.

Leander, A. (2012) 'What Do Codes of Conduct Do? Hybrid Constitutionalization and Militarization in Military Markets', *Global Constitutionalism* 1(1): 91–119.

Logan, C. H. (1990) *Private Prisons: Cons and Pros*, Oxford: Oxford University Press.

McDonald, D. (ed.) (1991) *Private Prisons and the Public Interest*, Piscataway, NJ: Rutger's University Press.

Menz, G. (2011) 'Neoliberalism, Privatisation and the Outsourcing of Migration Management: A Five Country Comparison', *Competition and Change* 15(2): 116–35.

Menz, G. (2013) 'The Neoliberalized State and the Growth of the Migration Industry', in T. Gammeltoft-Hansen and N. Nyberg Sørensen (eds), *The Migration Industry and the Commercialization of International Migration*, Abingdon: Routledge, pp. 108–27.

Nicholson, F. (1997) 'Implementation of the Immigration (Carriers' Liability) Act 1987: Privatising Immigration Functions at the Expense of International Obligations?', *International and Comparative Law Quarterly* 46(3): 586–634.

Prisons and Probation Ombudsman (2005) *Inquiry into Allegations of Racism and Mistreatment of Detainees at Oakington Immigration Reception Centre and while Under Escort*, report, July, London: Prisons and Probation Ombudsman for England and Wales, www.statewatch.org/news/2005/jul/prison-ombs-Oakington.pdf.

Robbins, I. P. (2005) 'Privatisation of Corrections: Violation of US Domestic Law, International Human Rights, and Good Sense', in K. Feyter and F. G. Isa (eds), *Privatisation and Human Rights in the Age of Globalisation*, Antwerp: Intersentia, pp. 57–90.

Rodenhäuser, T. (2014) 'Another Brick in the Wall: Carrier Sanctions and the Privatization of Immigration Control', *International Journal of Refugee Law* 26(2): 223–47.

Rodley, N. (2003) 'Foreword', in A. Coyle, A. Campbell and R. Neufield (eds), *Capitalist Punishment: Prison Privatization and Human Rights*, Oxford: Clarity Press, p. 7.

Salter, M. (2007) 'Governmentalities of an Airport: Heterotopia and Confession', *International Political Sociology* 1(1): 49–66.

Sassen, S. (2006) *Territory, Authority, Rights: From Medieval to Global Assemblages*, Princeton, NJ: Princeton University Press.

Scholten, S. and Minderhoud, P. (2008) 'Regulating Immigration Control', *European Journal of Migration and Law* 10(2): 123–47.

UNHCR (1991) 'Position on Conventions Recently Concluded in Europe (Dublin and Schengen Conventions)', WorldWide Operations, 16 August, www.unhcr.org/43662e942.html.

Vedsted-Hansen, J. (1995) 'Privatiseret Retshåndhævelse og Kontrol', in L. Adrian (Ed.), *Ret og Privatisering*, Copenhagen: Gad Jura, pp. 159–79.

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