

## **Discretion? Interrogating Decisions to Detain Non-Citizens**

**Weber, Leanne (2002). "The Detention of Asylum Seekers: 20 Reasons Why Criminologists Should Care." Current Issues in Criminal Justice 14(1): 9 - 30.**

**Weber, Leanne. and Todd Landman (2002). *Deciding to Detain: The Organisational Context for Decisions to Detain Asylum Seekers at UK Ports*. Colchester, Human Rights Centre, University of Essex.**

**Weber, Leanne. and Loraine Gelsthope (2000). *Deciding to Detain: How Decisions to Detain Asylum Seekers are Made at Ports of Entry*. Cambridge, Institute of Criminology, University of Cambridge.**

Weber builds on her coauthored research in the “Deciding to Detain” reports to make an early case in *20 Reasons* for increasing criminological attention on the international policing of immigration. In the “Deciding to Detain” works, Weber and her coauthors conduct qualitative research amongst UK immigration officers to discover how they employ their discretionary powers of detention. In *20 Reasons*, Weber argues that “ 'criminal justice-like' powers are escaping from the confines of the criminal justice system” (24) and that criminologists interested in accountability should follow them, even if immigration enforcement is not a traditional area of scholarship.

Weber identifies a number of themes that she sees as animating the literature on immigration control that should resonate with criminologists. These themes include: immigration control as the new purview of state-based social control; the pattern of criminalizing migrants that may be following a familiar cycle of deviancy amplification; the state’s rhetorical linking of “refugee problem” with “transnational organized crime”, and concurrent denial of any roles in creating an international marker in people smuggling and trafficking; the public’s perception that dangerousness and insecurity can be stopped at the border; the drift towards preventive detention; and the perils of discretionary powers. Each of these themes are linked to the growth of detention in the UK and elsewhere. In presenting these arguments for the professional incorporation of immigration as a field of criminological study, Weber makes a compelling argument for the importance of contextualising the growth of detention in a wide, interdisciplinary context.

Further reading:

- Banks, J. (2008). "The Criminalisation of Asylum Seekers and Asylum Policy." Prison Service Journal 175: 43 - 49.
- Cecchi, S. (2011). "The criminalization of immigration in Italy: Extent of the phenomenon and possible interpretations." Italian Sociological Review 1(01): 34 - 42.
- Demleitner, N. V. (2011). "Using the Pardon Power to Prevent Deportation: Legitimate, Desirable, or Neither in a Federal System?" Loyola Journal of Public Interest Law 12(02): 365 - 374.
- Gilboy, J. A. (1991). "Deciding Who Gets In: Decisionmaking by Immigration Inspectors." Law and Society Review 25(3): 571 - 599.
- Love, C. A. (2009). Balancing Discretion: Securing the Rights of Accompanied Children

in Immigration Detention. Columbia Public Law Research, Available at SSRN: <http://ssrn.com/abstract=1375645> or <http://dx.doi.org/10.2139/ssrn.1375645>.

- Menses, A. (2012). "The Deportation of Lawful Permanent Residents for Old and Minor Crimes: Restoring Judicial Review, Ending Retroactivity, and Recognizing Deportation as Punishment." St. Mary's Law Review on Minority Issues **14**(03): 767 - 869.
- Pratt, A. (1999). "Dunking the Doughnut: Discretionary Power, Law and the Administration of the Canadian Immigration Act." Social & Legal Studies **8**(2): 199 - 226.
- Pratt, A. and S. K. Thompson (2008). "Chivalry, 'Race' and Discretion at the Canadian Border." British Journal of Criminology **48**: 620 - 640.
- Walters, W. (2002). "Deportation, Expulsion, and the International Police of Aliens." Citizenship Studies **6**(3): 265 - 292.
- Weber, L. (2003). "Down that Wrong Road: Discretion in Decisions to Detain Asylum Seekers Arriving at UK Ports." The Howard Journal of Criminal Justice **42**(3): 248 - 262.
- White, C. (2012). "'Get me out of here': Bail hearings of people indefinitely detained for immigration purposes." Anthropology Today **28**(3): 3 - 6.