GODFRIED ENGBERSEN AND JOANNE VAN DER LEUN

THE SOCIAL CONSTRUCTION OF ILLEGALITY AND CRIMINALITY

ABSTRACT. In this article the illegal immigrants, a relatively new group of immigrants living at the margins of society are discussed. The question of the significance of crime for groups that are officially excluded from the formal labour market and public provisions is presented within the framework of the Unknown City research project, conducted in the four largest Dutch cities (interviews with illegal immigrants; an ethnographic study to determine the extent of support by various ethnic communities; and examination of the ways in which the restrictive policies towards illegal immigrants were implemented by the police, the Aliens Departments, and by professionals within public or semi-public institutions in the fields of education, healthcare and housing). Both the relatively limited involvement in crime in general and the differences between groups can be explained by the embeddedness of illegal immigrants in the labour sphere and the support by ethnic communities. Attention is paid to the social and legal construction of the illegal immigrant through new legislation and to the observation that illegality is increasingly linked to crime. The majority of illegal immigrants are not criminally active. One exception is the category that is active in the lower levels of the hard drug trade. The authors' analysis suggests that the perception of the 'criminal illegal immigrant' first and foremost reflects the division between wanted and unwanted immigrants, which is the result of the shift towards a restrictive policy.

KEY WORDS: crime, ethnic minorities, illegal immigrants, immigration policies, migration

THE IRREGULARISATION OF MIGRATION

Despite the controversies that surround the relation between crime and ethnic minority groups, it has received extensive scholarly attention over the past 20 years. A large number of studies contributed to a growing insight into the size, nature and causes of criminality in different ethnic groups (Tonry 1997). They often focus on established immigrants with legal residence status, particularly emphasising juvenile crime among second-generation migrants who came to Western Europe within the framework of family reunification or young immigrants who were born and grew up in Western European countries. In every single country there are certain groups who are disproportionately represented in registered crime, and this also holds for the Netherlands (Junger 1990; Bovenkerk 1994; Junger-Tas 1997). In the past 10 years, however, the nature of migration flows has
changed radically. A pluralisation and fragmentation of migration is tak-
ing place. This ‘new migration’ is characterised by new geographical pat-
terns of migration, new types of migrants with deviating legal statuses, who
are dependent to some extent on other existence strategies than formal paid
employment or social security (Koser and Lutz 1998; Snel et al. 2000).
The new geography of migration relates primarily to the increased long-
distance migration to Europe from a growing number of countries. In ad-
dition, we see that, within Europe, the traditional migration direction from
South to North is complemented by migration flows from East to West. To
some extent these altered migration flows become apparent in migration
statistics. Between 1990 and 1997, in the Netherlands, the proportion of
immigrants from other countries, both from non-industrialised Third World
countries and various Central and Eastern European countries, rose from
The new migration also becomes visible in the increasing significance
of new types of immigrants in addition to the traditional labour migrants
and migrants from former colonies and their offspring. Firstly, there are
the *asylum seekers*, whose number has increased dramatically since the
mid-1980s (Muus 1999). Due to the length of the asylum procedures, many
of them are kept in a state of suspension for considerable time as to whether
or not they will acquire a permanent or temporary residence status. Sec-
ondly, there is an increasing flow of *temporary immigrants* from Central
and Eastern Europe who travel back and forth to the countries of the Eu-
ropean Union, Germany in particular. Thirdly, there is the relatively new
type of immigrants known as *undocumented or illegal immigrants*. Many
illegal immigrants came to Europe on a tourist visa and then stayed, oth-
ers crossed the border illegally, and again others became illegal when they
were refused refugee status. The dividing lines between asylum seekers,
‘commuting’ immigrants and illegal immigrants often prove to be diffuse
(Gächter et al. 2000). Relatively little is known about the size of the cat-
egory of illegal immigrants (Delaunay and Tapinos 1998). Western Euro-
pean estimates run in the millions (Castles and Miller 1994, Widgren
1999), whereas Dutch estimates vary from approximately 50,000 ille-
gal immigrants to 200,000 illegal immigrants. Our own estimates, in
which illegal immigrants from Central and Eastern Europe were left out,

\[\text{\ref{footnote}}\] The ICMPD (International Centre for Migration Policy Development) in Vienna
maintains that the number of illegal immigrants who trespass the borders of Western
European States for the sake of illegal employment or residence, could be estimated to
be at least 400,000 in 1998 (Widgren 1999).
resulted in a minimum number of 40,000 illegal immigrants for the four major cities in the Netherlands (Van der Leun et al. 1998; Engbersen et al. 1999).

The irregularisation of migration has raised new research questions as to the relation between migration and criminality. This is particularly the case where illegal immigrants are concerned. Two themes are regularly referred to in this respect. Firstly, the issue of organised migrant trafficking (Koser 1998) and, secondly, the question of the significance of crime for groups that are officially excluded from the formal labour market and public provisions. In this article, we will discuss this second theme, using data collected within the framework of the Unknown City research project (Burgers and Engbersen 1999; Engbersen et al. 1999). As part of this research project conducted from 1993 to 1998, some 170 illegal immigrants were interviewed, all living in Rotterdam. In addition, an ethnographic study was carried out to determine to what extent illegal immigrants are supported by various ethnic communities. Further, we examined the ways in which the restrictive policies towards illegal immigrants were implemented by 40 police officers working for the police and the Aliens Departments, on the one hand, and by 90 professionals within public or semi-public institutions in the fields of education, healthcare and housing, on the other. Finally, the files of the Aliens Departments were analysed, including a Rotterdam file (1989–1994) on 330 apprehensions of illegal immigrants, which was compared with files on apprehended legal residents, and a file of all apprehensions of illegal immigrants in the four major cities in 1995, amounting to a total of nearly 7,000 (Van der Leun et al. 1998).

---

2We used a wide variety of search channels and came into contact with people from the traditional immigrant groups in the Netherlands (Turks, Moroccans, Surnames and Cape Verdeans) and with illegal immigrants from other countries such as Pakistan and Ghana. About one quarter of the research group was female. Most respondents were between 20 and 40 years of age. For more details see Burgers and Engbersen (1999).

3We focused on the Turkish community in Rotterdam, the Moroccan community in Utrecht and the ‘African’ community in Amsterdam, which consists mainly of Ghanaians. For the sake of clarity we use the word ‘community’ although it is obvious that there is no such a thing as one single community in these cases. With the help of interviewers who belonged to these communities we came into contact with 42 Turkish households (32 legal and 10 illegal), 40 African households (25 legal and 15 illegal) and 39 Moroccan households (28 legal and 11 illegal), see Engbersen et al. (1999, forthcoming).

4Of these interviews, 30 were held before the introduction of the Linking Act and 60 roughly one year after.
In this article, we will use the various data sources selectively to explain the relations that exist between illegality and criminality. Before going into the results, we would first like to discuss the emergence of illegality as a social problem and the automatic linking of illegality to criminality. Next, we will focus on the illegal immigrants’ differential involvement in types of crime. This differential involvement will subsequently be explained on the basis of the extent to which illegal immigrants have access to the labour market and supportive networks, and on the basis of the implementation of the policies towards illegal immigrants.

THE SOCIAL CONSTRUCTION OF ILLEGALITY AND CRIMINALITY

Illegal immigrants are no new phenomenon in Dutch society. Yet, since the beginning of the 1990s, their presence has been increasingly considered a social problem. In the post-war period, three phases can be differentiated in the ways in which the Dutch State reacted to the presence of illegal immigrants. In the first phase (1960–1969), the Dutch State showed considerable leniency in admitting ‘spontaneous migrants’, who came primarily from the Mediterranean region. This leniency was closely related to the great demand for low-skilled labourers in the expanding Dutch economy. Labour migrants could travel to the Netherlands under their own steam, without the help of any recruitment agency, to try their luck in the mining, shipbuilding, metal or textile industries. If they found a job, they could get a work permit, and subsequently a residence permit.

In the second phase (1969–1991), there was still considerable leniency, although less in terms of a liberal admission policy and more towards the presence and work of illegal immigrants. The 1980s were the years of tolerance par excellence. Although meanwhile a restrictive migration policy had been developed based on new legislation in respect of immigrants, there was still a large gap between legislation and its implementation in practice when it came to effectively combating illegal residence. It remained quite easy for illegal immigrants to acquire a social-fiscal number and be employed in certain sectors of the Dutch economy. Employment of illegal immigrants was checked and fined only to a limited extent. The actual toleration practices seem to have been partly based on economic considerations. Despite the high numbers of unemployed, it was difficult for certain sectors (e.g. agriculture and market gardening) to find workers. Then, at the beginning of the 1990s, a policy turnaround became apparent, leading to the third phase (1991–present). The toleration practices still continued to exist, but a number of legislative and other measures were
taken to combat illegality more effectively (including the Compulsory Identification Act of 1994, the Marriages of Convenience Act of 1994, the linking of the social-fiscal number to a valid residence status and the Linking Act of 1998, which aims at restricting entitlement of public services to legal residents). This stricter policy in respect of illegal immigrants can be explained as a reaction to two developments. First of all, since the end of the 1980s, the number of asylum seekers coming to the Netherlands had been steadily increasing. This influx and the bottlenecks in the selection and reception of asylum seekers led to heated debates about “the Netherlands being ‘full’” and to some concern about the illegal stay of asylum seekers who had exhausted all legal remedies. Secondly, another major policy turnaround took place in domestic politics. The lenient policy in respect of benefit recipients was replaced by a stricter and more activating approach (Visser and Hemerijck 1997). It now became less acceptable that unemployed citizens no longer wished to do certain types of jobs, as was more common in the 1980s. Various provisions and projects were developed to guide long-term unemployed, including the young, towards such types of labour. In this third phase, illegal immigrants are regarded with much less sympathy, and illegality is increasingly associated with ‘abuse of public provisions’, ‘disruption of the labour market’, and particularly with ‘crime’ (Tinnemans 1994). Commissioners of Police in Amsterdam and Rotterdam recurrently gained public attention when they stated that illegal immigrants were responsible for a substantial part of the property crime in the inner cities. However, it soon proved that the presupposed negative implications of illegality could not be substantiated. The limited research that was conducted to examine this matter led to the necessary differentiation in this negative perception. The same went for the ‘wild’ estimates regarding the number of migrants (Clermonts et al. 1991; Van der Leun et al. 1998).

The changes in the attitude towards illegal immigrants over time indicate a social reclassification of illegal immigrants. Whereas they once were welcome as ‘spontaneous guest labourers’ and later on were silently tolerated as ‘necessary workforce’ for certain economic sectors, they were now excluded as undesired ‘illegal immigrants’. This reclassification process became also visible in other European countries and North America (Gans 1995; Bourdieu 1998, pp. 15–18). In the course of the 1980s and 1990s, in various countries, illegal immigrants were defined more precisely and identified as a threat to the economy and society. In this, social myths played a significant part, particularly the myth of the illegal immigrant as ‘criminal’ (Quassoli 1999).
So far, there is very little systematic empirical support for the equation of illegal immigrants with crime. Within the framework of the Unknown City project, a first indication can be found in the interviews with 170 illegal immigrant in Rotterdam. Apart from the use of false or forged documents, which the respondents considered unavoidable, the majority of the interviewee illegal immigrants refrain from criminal activities. They do everything they can to keep on the right side of the law and commonly find other ways of making a living. A small part of the respondents is involved in prostitution (which can be labelled as a ‘semi-criminal’ activity) and in street-level drug trading. The latter is mainly the case with Moroccan and Algerian migrants, who work as ‘runners’ for dealers who cater for tourists in Rotterdam. They find themselves in subordinate and relatively marginal positions and their criminal activities are mainly oriented towards survival (Engbersen and Van der Leun 1998).

In order to find more substantial empirical evidence, the interviews were supplemented with an analysis of three samples drawn from the files of the Rotterdam police. The main sample consisted of 330 apprehensions of illegal immigrants and was taken from the files of the Aliens Police. Two control samples were used, made up of 590 apprehensions of legal immigrants and 640 crime suspects legally residing in Rotterdam. In addition, we analysed all apprehensions of illegal immigrants in 1995 in Amsterdam, Rotterdam, The Hague and Utrecht together, which were almost 7,000 files pertaining to more than 6,000 illegal immigrants. The illegal immigrants who are registered are apprehended by the Aliens Police or handed over by basic police units because of illegal labour and/or illegal residence. Furthermore, a small part was handed over by the Railway Police, the Military Police or by detention centres. It must be noted that the likelihood of being apprehended is highly dependent on the behaviour of the illegal immigrants. People who live their lives ‘in the shadows’ have a low probability of being asked to show their documents, whereas those who work together with other illegal immigrants and those who engage in criminal activities, or in other ways attract attention, run a higher risk. Although police data are inevitably selective, these were the only data that could help us to gain some insight in patterns of apprehension.

Police data have to be handled with care. Nonetheless, in many instances, they are still the most suitable data to gain insight into patterns of criminal activities (cf. Hagan and Peterson 1995; Tonry 1997). Rather than deny the validity of these data per se, the procedure followed here is to study the statistics as a useful source of information, in particular when combined with the ethnographic research.
overviews of the apprehensions of illegal immigrants in the four largest cities in relation to the legally residing immigrant population. The majority of the illegal immigrants are apprehended in Amsterdam and Rotterdam, the two largest cities. In the following, we will zoom in on the situation in Rotterdam, as the Rotterdam data enable comparison with legally residing suspects.

Arrests of illegal immigrants, however, cannot be taken as an indicator of criminal involvement as they can also be the result of illegal labour, illegal residence or misdemeanours such as fare dodging or hanging around in places where this is forbidden. In our view, the most adequate definition of crime among illegal immigrants is one that bears much resemblance with crime among legal residents. The reasons for apprehension can be classified into five categories:

– illegal residence;
– misdemeanours such as fare dodging, prostitution or illegal labour;
– minor offences, for example, shoplifting, car and house burglary, and vandalism;
– serious offences, including violence and robbery;
– drug-related crimes, which mostly come down to the possession of relatively small quantities of hard drugs.

The last three categories are labelled as ‘criminal activities’ as they fall under criminal law. In principle, this holds true regardless of the residence status of the apprehended person.

<table>
<thead>
<tr>
<th></th>
<th>Amsterdam</th>
<th>Rotterdam</th>
<th>The Hague</th>
<th>Utrecht</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apprehended illegal immigrants</td>
<td>2,558</td>
<td>2,218</td>
<td>1,094</td>
<td>410</td>
<td>6,280</td>
</tr>
<tr>
<td>Total of legal immigrants</td>
<td>232,236</td>
<td>148,322</td>
<td>116,202</td>
<td>48,392</td>
<td>545,152</td>
</tr>
<tr>
<td>Total of inhabitants</td>
<td>722,350</td>
<td>598,275</td>
<td>442,439</td>
<td>235,629</td>
<td>1,998,693</td>
</tr>
</tbody>
</table>

Source: Van der Leun et al. 1998, based on police data and municipal population registrations.

The patterns found in the other cities are largely consistent to the ones described here, but most apprehensions for criminal offences take place in Rotterdam and Amsterdam (see Engbersen et al. 1999)
The analysis of police files first of all demonstrated that most illegal immigrants are not apprehended for criminal activities. When we limit ourselves to the most recent reason for arrest (see Table II), nearly half of the registered illegal immigrants in Rotterdam were apprehended for illegal residence (47%) and an additional 13% for misdemeanours such as illegal labour or fare dodging. Furthermore, 26% were apprehended for minor offences such as shoplifting and car burglary, 5% for serious offences (robbery, murder, and possession of firearms), and 9% for offences against the Opium Act. Taking into account that criminal activities significantly enhance the risk of getting caught by the police, these figures indicate that the majority of illegal immigrants do not resort to criminal activities.

The high proportion of arrests for illegal residence (almost half of the cases) is as such paradoxical when you take into account that the police are not actively tracking down illegal residents. A more detailed look at the files (see Table III) reveals that this concerns people who are arrested during spot checks in the workplace or during general checks, as in public transport. Others were apprehended during checks that were directed at other people (they just happened to be around) or because of rather vague reasons such as ‘displaying suspicious behaviour’. A closer look at the reasons for apprehension reveals that drug-related offences and different categories of theft prevail. Traffic offences, which constitute one of the main reasons for apprehending legal residents, are negligible in the case of illegal immigrants.

Secondly, when we limit ourselves to arrests for criminal offences, we can draw a comparison between the arrests of illegal immigrants and those of legally residing suspects (see Table IV). This comparison makes clear that, across the board, illegal immigrants are less involved in crime than a comparable group of legal residents. This is not the case with drug-related crimes, on which illegal immigrants score evidently higher.

<table>
<thead>
<tr>
<th>Reason for arrest</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illegal residence/ labour</td>
<td>47</td>
</tr>
<tr>
<td>Misdemeanours</td>
<td>13</td>
</tr>
<tr>
<td>Minor offences</td>
<td>26</td>
</tr>
<tr>
<td>Serious offences</td>
<td>5</td>
</tr>
<tr>
<td>Drug related offences</td>
<td>9</td>
</tr>
</tbody>
</table>

Thirdly, the data suggest a differential involvement in crime. A breakdown by country or region of origin shows that the involvement in criminal activities varies significantly (see Table V). Illegal immigrants from specific countries are over-represented when it comes to arrests for certain offences. In short, we find the following patterns: undocumented migrants from Turkey and Eastern European countries are mainly apprehended for illegal residence and misdemeanours. Moroccans, Algerians and Eastern Europeans are arrested rather frequently for criminal offences (theft, false documents). Western Europeans (mainly French), Moroccans and Algerians score high in terms of the number of arrests and are most frequently arrested for drug-related crimes. Turkish illegal immigrants are rarely involved in registered crime. Criminal activities appear to be most common among illegal Moroccans, Algerians and Western Europeans (especially French tourists who often come to Rotterdam to buy hard drugs).

<table>
<thead>
<tr>
<th>Type of offences</th>
<th>(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic offences</td>
<td>0.8</td>
</tr>
<tr>
<td>False papers</td>
<td>13.8</td>
</tr>
<tr>
<td>Disorderly conduct</td>
<td>3.1</td>
</tr>
<tr>
<td>Non aggravated theft</td>
<td>16.9</td>
</tr>
<tr>
<td>Aggravated theft</td>
<td>27.7</td>
</tr>
<tr>
<td>Robbery</td>
<td>2.3</td>
</tr>
<tr>
<td>Ill-treatment</td>
<td>1.5</td>
</tr>
<tr>
<td>Intimidation</td>
<td>3.8</td>
</tr>
<tr>
<td>Murder, manslaughter</td>
<td>1.5</td>
</tr>
<tr>
<td>Opium act</td>
<td>22.3</td>
</tr>
<tr>
<td>Firearm act</td>
<td>3.1</td>
</tr>
<tr>
<td>Other acts/regulations</td>
<td>3.1</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Comparison of crime levels, in percentages.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illegal immigrants apprehended for offences (N = 142)</td>
</tr>
<tr>
<td>Minor offences</td>
</tr>
<tr>
<td>Serious offences</td>
</tr>
<tr>
<td>Drug-related offences</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Reason for apprehension</th>
<th>Turkey</th>
<th>Morocco</th>
<th>Algeria</th>
<th>Western Europe</th>
<th>Eastern Europe</th>
<th>Other countries</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Illegal residence</td>
<td>45</td>
<td>21</td>
<td>21</td>
<td>17</td>
<td>39</td>
<td>44</td>
</tr>
<tr>
<td>Misdemeanours</td>
<td>52</td>
<td>19</td>
<td>25</td>
<td>25</td>
<td>29</td>
<td>32</td>
</tr>
<tr>
<td>Criminal offences</td>
<td>0</td>
<td>34</td>
<td>29</td>
<td>19</td>
<td>32</td>
<td>17</td>
</tr>
<tr>
<td>Drug offences</td>
<td>3</td>
<td>1</td>
<td>25</td>
<td>39</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

These patterns cannot be solely accounted for on the basis of selective enforcement by the police.

A fourth conclusion we can draw from the apprehension files is that the police encounter serious problems when trying to combat crime among illegal immigrants by expelling them. Whereas this is the first formal priority in the government policy in respect of illegal immigrants, meeting this goal in practice turns out to be problematic. Some of the criminally active illegal immigrants are well aware how they can hamper their expulsion (cf. Cornelius et al. 1994). They make use of the fact that countries such as Morocco and Algeria are reluctant to take them back, and they are often quite successful in hiding their identity. In the sample of apprehended illegal immigrants, there were 43 people who had a history of drug-related offences and who managed to continue their activities despite the fact that they were arrested by the police more than once. Half of them had also been arrested before for other offences such as theft or robbery. Because it is so difficult to expel them, the police send them away or, worse, do not even bother to make an arrest in these ‘helpless cases’. In their reports, the police state euphemistically that such persons are ‘sent away in a southerly direction’, and of course the police are well aware of, and more than once frustrated by, the limitations of their interference. Paradoxically, we found that illegal immigrants apprehended for illegal residence and/or labour were more often effectively expelled (meaning that they were actually sent back to their country of origin) than illegal immigrants apprehended for criminal offences (see Table VI). This is in direct contrast with formal policy goals.

The difficulties in combating the most visible forms of crime committed by illegal immigrants reflect the gap between formal goals and actual outcomes, which immigrants policies are notorious for (Jahn and Straubhaar 1999). Yet, they also explain at least partially why the symbolic link between illegal immigrants and crime is fuelled unremittingly. Particularly the regular outcries of police officials must be considered in the light of persistent problems with illegal immigrants who are difficult to expel. The aforementioned findings, which are primarily based on police data, raise the question as to how to account for the illegal immigrants’ differential involvement in criminal activities. They also raise the question of how the majority of illegal immigrants manage to survive without turning to illicit ways of acquiring an income. We will try to answer these questions by looking at the broader findings of the project.
The differential involvement in the criminal sphere of groups of illegal immigrants can be explained by the extent to which illegal immigrants are able to acquire a relatively secure societal position despite their illegal status. This position is strongly dependent on three spheres of integration or embeddedness: the social network of relatives or the larger ethnic community; the labour market; and the extent to which illegal immigrants are tolerated or helped by lower officials from various public or semi-public institutions. In the following we will zoom in on these three spheres.

The Role of Ethnic Communities

The extent to which illegal immigrants can rely on established migrant communities largely determine their chances of making a living and prolonging their residence in the country. However, there are considerable differences between these ethnic communities. These differences become apparent in the existence of various ‘informal patterns of incorporation’ as observed in our sub-study of the Turkish and Moroccan communities in Rotterdam and the African community in Amsterdam (Engbersen et al., forthcoming). These ethnic community patterns of incorporation play a substantial role in explaining the illegal immigrants’ differential involvement in various forms of crime.

The first pattern of incorporation involves communal sharing (cf. Fiske 1991). Substantial support is given to an exclusive group of relatives. The assistance often covers a wide range of fields such as support in coming to the Netherlands or in finding a job or a place to stay. However, this incorporation pattern does imply a form of organised migration within a transnational community. This is particularly true for the Turkish community in Rotterdam, whose members have maintained close personal and economic relations with people from the mother country (Staring 1998). These intensive transnational relations lead to selective forms of migration. The arrival of a relative is cautiously planned and orchestrated, and often effectuated via a tourist visa. The dominant motive in this support pattern is solidarity with one’s own family. There is nonetheless an asymmetrical relation between the ‘legal’ support giver and the ‘illegal’ support recipient, which may cause conflicts. In the most extreme case, it can lead to the exclusion of an illegal immigrant from a certain household or network. Illegal immigrants can also withdraw from support relations that they experience as humiliating.
The second pattern entails bounded solidarity (cf. Portes 1995). Particularly Moroccan illegal immigrants are often confronted with limited forms of support from their own community. Support is given to a less exclusive and, consequently, larger circle of compatriots. In specific situations, people feel called upon to help illegal compatriots who are confronted with setbacks and who they feel connected to. However, this help is limited and restricted. It often pertains to financial aid, but it can also involve incidental help such as providing medicine, introducing illegal immigrants to potential employers and marriage partners, or serving as an interpreter in the contacts with lawyers or physicians. In this support pattern, the help is focused on illegal immigrants with whom the legal immigrants have weaker ties. In this model there is also an asymmetrical relation between the legal support giver and the illegal support recipient, but it is not a relation of permanent dependence, rather a more anonymous and less personal relation in which incidental favours are granted.

The third incorporation pattern is based upon market relations between the legal providers of jobs, housing, documents and so forth and the illegal immigrants who need these (cf. Mahler 1995). In our study, the groups of Moroccans and Africans were dependent on such market relations. Employers give them jobs (often low-paid), and landlords rent out apartments, rooms and beds to them. Illegal immigrants can also buy or hire the documents they need (passports, identification cards, health insurance cards, social-fiscal numbers). In this third incorporation pattern, there is an asymmetrical relation between the two parties. A contractual agreement can always be cancelled, for example, if illegal workers or tenants are not submissive enough or violate certain rules of conduct. Labour and housing conflicts are then settled by firing or evicting the illegal immigrants or by simply refusing to pay them for the work they have done.

The empirical results make clear that there are differences in the extent to which illegal immigrants are incorporated and helped by their ethnic communities. These differences in informal incorporation patterns provide a partial explanation for the illegal immigrants’ differential involvement in various forms of crime. The low crime rate among illegal Turks is partly the result of their embeddedness in the Turkish community. Their relations with relatives and other compatriots in the Netherlands grant them access to specific forms of support and make them less dependent on crime to survive in the Netherlands. Quite the opposite is the case with illegal Moroccans, who often have to manage on their own without a supportive network. Forms of survival criminality are the only option for some of them. Illegal Africans occupy a position that lies in between that of the Turks and Moroccans. They can rely on more support from their own ethnic
community than the Moroccans, but are involved to a far greater extent in illegal and informal ways of earning a living than the Turks.

However, from the descriptions of various informal incorporation patterns, it may also be deduced that these support patterns are not immutable. As a result of the conflicts described before, the supportive relations may change over time. A relevant question in this respect is to what extent restrictive policy will make the communal sharing pattern more problematic. In the past, illegal Turkish immigrants eventually often managed to find formal employment (and, partly as a result of this, also a marriage partner), which enabled them to lead an independent life. However, this has now become much more difficult. The result is that many illegal immigrants remain dependent on relatives and acquaintances for a longer period of time. Due to the problems concomitant with sustained support, members of ethnic communities have adopted a more critical attitude towards illegal immigrants and more often refuse to provide guarantees for their journey to, and stay in, the Netherlands. However, the weakening of informal support systems does not imply that illegal immigrants no longer come to the Netherlands or immediately leave the country. They can still come to the Netherlands illegally (via smuggling networks) and try to support themselves via the informal economy or criminal sphere. Thus, legal forms of exclusion by the State and informal forms of exclusion by ethnic groups may encourage illegal immigrants to go further underground. One important question is therefore whether or not the participation of Turkish illegal immigrants in criminal activities will increase in the future.

The Role of the Labour Market for Illegal Immigrants

A second element in the explanation is the access to the labour market. The practice to refer to illegal immigrants as undocumented workers makes clear that labour is seen as crucial when trying to understand the phenomenon of illegal migration (Portes and Rumbaut 1990). Yet, an analysis of the labour market position of illegal immigrants in Rotterdam shows that access to the highly regulated labour market is not as unproblematic as sometimes suggested (Van der Leun and Kloosterman 1999). Even when using a broad definition of work, including odd jobs, casual employment and prostitution, we found that about one third of the research group was without work at the time of interviewing. This was mainly the result of the difficulties in finding a permanent job. Typically, illegal immigrants regularly find themselves in and out of employment and frequently face periods of unemployment in between. The interviews show that, after 1991, it has become more difficult for them to find a secure job because they can-
not obtain a tax and social security number anymore. This implies that finding a regular job in which they pay income tax is now, in principle, impossible. Yet, both employers and their illegal employees find ways of circumventing the blockades, for example, by ‘borrowing’, leasing, buying or forging documents or making use of the services of employment agencies that conceal the illegal status of workers. The illegal immigrants’ high ‘search costs’ (in terms of time) are also reflected in the respondents’ fragmented careers. In most instances, they do not specialise in one type of job, but go from one sector to another, without being able to climb the socio-economic ladder.

As to the work they do, it is clear that the respondents are almost exclusively active in the secondary segment of the labour market. They do unskilled work, which requires little or no training. Employers turn to illegal workers for unattractive tasks such as cleaning, fruit picking and newspaper delivery. The respondents typically work in smaller firms in well-known sectors such as the cleaning industry, market gardening and, to a lesser extent, the manufacturing industry and construction. They work on a casual, sometimes even daily, basis and are mainly used to make flexible production possible. However, it must be noted that, besides paid jobs, we also found forms of unpaid work. Whereas some illegal immigrants are supported by their family and fulfil household or care tasks in return, others are entirely supported by family members or charitable organisations. Our research does not show any large involvement in the domestic sphere besides that of the family. Apparently, the respondents lack the ties that could link them to this growing demand.

More in general, illegal immigrants are highly dependent on immigrant networks when trying to find employment. Their opportunities are largely determined by the access that they have to relevant information, which will mainly be obtained through social networks that generate enough ‘trust’. When seeking employment, undocumented migrants cannot readily use regular organisations and channels. In this respect, we found that contacts within the ethnic communities are of prime importance. Some 80% of the respondents found work this way. This is particularly the case with respondents who come from strongly established communities, such as the Turkish respondents, and, to a lesser extent, the Cape Verdean respondents. The interviews reveal that the Turkish respondents are better off than the Moroccan respondents. The former can rely on a ‘Turkish economy’, which is reflected by the fact that it is only among the Turkish respondents that the majority work for employers with the same background. Moreover, many Turkish respondents work exclusively with Turkish colleagues and speak Turkish in the workplace, whereas the Moroccans either work for
Dutch employers and have a tax and social security number (when they came to the Netherlands before 1991) or are left to their own devices. Whilst 94% of the Turkish respondents look for work within their own community, this only applies to 67% of the Moroccans. Among the Moroccan respondents, about one fourth is involved in the drug trade. They come into contact with this type of informal or illicit work through other Moroccan migrants, but the interviews make clear that these ties are limited. These illegal immigrants are used as ‘messenger boys’ and do the risky part of the job in exchange for a ‘salary’. More encompassing forms of support are usually lacking. Not surprisingly, the illegal drug runners often fall back on organisations that support the homeless, rather than on their co-ethnics or family members. In sum, the illegal immigrants’ access to the labour market is increasingly dependent on immigrant networks and established immigrant communities.

The Role of Implementation of Policies in Practice

A third factor which influences the options for illegal immigrants is the policy towards illegal immigrants. The way in which these policy measures are implemented by, among others, the police, aliens departments, and officials of public and semi-public institutions is crucial in this respect. The interviews with professionals who have to implement the rules and regulations in practice, show that major policy priorities are not or insufficiently realised, and that lower level workers are often more lenient than the rules allow for. They use their discretionary autonomy to support people that they should officially exclude or they are not in the position to take effective measures. In other words: there is a certain social space, that some illegal immigrants can use to their advantage. The latter is particularly clear in the case of expulsions of illegal immigrants. Even when they are apprehended, many illegal immigrants who have committed crimes, are not expelled effectively and therefore can continue their activities.

The above-mentioned does not mean that the restrictive policies have no effect whatsoever. Measures to close off the access to the formal labour market (such as the Identification Act, the linking of the social-fiscal number to a valid residence status etcetera) have had considerable impact and so have the attempts to exclude illegal immigrants from social services. But this is much less the case where the other policy priorities are concerned, such as the apprehension and expulsion of criminal illegal immigrants and the exclusion of illegal immigrants from provisions in the fields of education, housing and healthcare. These observations are not unique to the Dutch situation. A similar gap between policy goals and policy
outcomes is obvious in most Western European countries (Cornelius et al. 1994; Jahn and Straubhaar 1999).

We argue that this gap is partly the result of the fact that professionals within various institutions in the fields of education, housing and healthcare are reluctant to exclude illegal immigrants from all types of support. Lower officials also take into account pragmatic, humane and professional considerations when dealing with illegal immigrants, thus they occasionally help and tolerate certain groups of illegal immigrants. This also goes for the police that leave alone illegal immigrants who do not cause any nuisance (Engbersen and Van der Leun 1999). The formal policy is thus primarily a symbolic policy towards an insoluble social problem. This policy is intended to have a symbolic effect both in the Netherlands and abroad: reassuring those parts of the Dutch population that fear the arrival of illegal immigrants, on the one hand, and informing undesired migrants that they are not welcome, on the other. At the same time, large groups of illegal immigrants residing in the Netherlands are de facto tolerated. Thus, in the Netherlands and also in other European societies, a situation has evolved in which there is, on the one hand, a very restrictive legal framework, vocally accompanied by tough statements from politicians on how they keep out illegal immigrants, and, on the other hand, an extensive toleration practice that is partly responsible for the fact that illegal immigrants are able to stay.

The implementation practices of the police and other institutions do not offer an adequate explanation for the illegal immigrants’ differential involvement in certain types of crime, but they do for the poor results of the expulsion policy with regard to illegal immigrants who committed criminal offences. Most of all, these specific implementation practices offer a partial explanation for the illegal immigrants’ limited involvement in the criminal sphere.

**Marginalisation and Criminalisation of Immigrants**

In the introduction, we pointed to the social and legal construction of the illegal immigrant through new legislation and to the observation that illegality is increasingly linked to crime. On the basis of large-scale empirical research, the involvement of illegal immigrants in crime was put into perspective. The majority of illegal immigrants are not criminally active. One exception is the category that is active in the lower levels of the hard drug trade. A second and associated finding is that the various groups of
illegal immigrants are distinct. The differential involvement reflects the
difference between those who can fall back on strongly established mi-
grant communities and those who cannot do so or only to a limited extent.
Remarkable in this connection is the difference between Turks, who have
access to their own solid resources, and Moroccans, who are sooner in-
clined to resort to (drug-related) crime. Africans were found to rely more
on market forces than the other groups. Our analysis suggests that the
perception of the ‘criminal illegal immigrant’ first and foremost reflects
the division between wanted and unwanted immigrants, which is the re-
sult of the shift towards a restrictive policy.

Secondly, we have argued that both the relatively limited involvement
in crime in general and the differences between groups can be explained
by the embeddedness of illegal immigrants in the labour sphere and the
support by ethnic communities. Certain groups of illegal immigrants have
sufficient opportunities to acquire income and, in addition, they can rely
on various provisions such as housing and the access to medical care.
Thirdly, we pointed to the practical realisation of the restrictive policy
towards illegal immigrants. Implementation practices, which are often more
flexible than one might surmise from legislation, function as buffers that
enable illegal immigrants to survive without having to resort to criminal
means.

These observations do raise the question as to whether the ‘arrangement’
described will hold in its current form. Various legal measures have made
it increasingly difficult for illegal immigrants to support themselves through
formal labour. Also, the access to public services have become subject to
increasingly severe checks, witness the implementation of the Linking Act.
At the same time, there are no clear indications that illegal immigrants are
leaving the country or that newcomers leave the Netherlands aside. As a
result, illegal immigrants do become more dependent on family and rela-
tives, and are forced into a more marginal social position. This shows that
the stricter policy has real and sometimes unintended consequences, both
for the illegal immigrants and their immediate social environment. By
implication, the exclusion of illegal immigrants can result in a greater push
towards criminality when these buffers loose their strength. This might
happen when (a) the restrictive policies are further pushed to their limits
and (b) when the illegal immigrants in question cannot rely on well-es-
tablished and resourceful immigrant communities. As, in the light of the
increasing fragmentation of migration, the latter is not unlikely to hap-
pen much will depend on the policy stand that will be taken in the near
future.
REFERENCES


Widgren, J., South-east Europe as a key area for illegal migration. Statement by Mr. J. Widgren, Director of ICMPD (International Centre for Migration Policy Development) in Vienna at the Symposium organised by Bundesnachrichtendienst (BND) in Pullach (Germany) on 28 October 1999.