Breaking the Convention: Researching the “Illegal” Migration of Refugees to Europe

Richard Black
Sussex Centre for Migration Research, University of Sussex, Brighton, UK; R.Black@sussex.ac.uk

The study of refugees by geographers and other social scientists is, almost by definition, framed around a series of legal categories, which provide us with more or less neat categories of types of involuntary migrants. Yet the process of migration emerges in relation to legal categories and is not simply dictated by them. Thus, as legislation on migration in general and the interpretation of the 1951 Geneva Convention in particular have become more restrictive, patterns of migration have increasingly emerged that manipulate, circumvent or simply break existing legislation.

This paper examines the responses by researchers in geography and related disciplines to asylum-seeking and other forms of migration that are increasingly categorised as “illegal” as a result of recent European policy developments. Specifically, the potential for participatory and/or emancipatory research in such circumstances is explored, through comparative analysis of the ethical issues involved in radical research on a range of “trafficking” scenarios. The interaction of such research with public policy-making is also examined.

Introduction

This paper is concerned with approaches and justifications for the study of forms of migration and asylum-seeking in Europe that are categorised as “illegal”, “irregular”, “undocumented”, “clandestine” or, indeed, “bogus”. The recent surge of interest in such research appears generally to be based on three starting premises. First, it is assumed that recent years have seen a dramatic increase in such migration, specifically in the use of “illegal” channels of entry to European and other northern countries to seek asylum. Secondly, it is assumed that there is increasing public concern in Europe with taking action to prevent “illegal” migration. A third—though perhaps less widely held—assumption on the part of radical social scientists is that migrants, and refugees in particular, are the primary victims of “trafficking”. As such, there is a prima-facie argument for research that helps to remove situations of abuse, coercion or danger.

The first section of this paper briefly considers the evidence on which these assumptions are based. For example, how robust is the evidence for a numerical growth in “illegal” migration to Europe? In relation to “public” concern, should not a distinction be made between public
concerns and perceptions and the actions of states and particular interest groups? It is interesting to compare the discourses about “illegal” migration in European states that are currently considering loosening immigration controls, or international organisations that are advocating doing so, and those in states where stricter immigration control is still very much on the agenda. Also, to what extent are asylum-seekers—and other types of migrants whose movement is considered or rendered illegal—the “victims” of trafficking?

Following on from this review, the paper goes on to consider ways in which academic or research interest in “trafficking” and “smuggling” of migrants—and asylum-seekers in particular—has been or might in the future be concretised.\(^1\) A focus on trafficking or smuggling implies a focus on ways in which legislation on migration is broken or circumvented, rather than migration simply being “unregulated” or “undocumented”. Clearly, there is a state-driven objective in many European countries with respect to trafficking and smuggling that is concerned with reducing their incidence, thereby enhancing control of territory and reducing pressure on hard-pressed asylum regimes. To what extent is there or might there be a more radical, refugee- or migrant-driven research agenda, in which research on trafficking or smuggling could help to reduce abuse and enhance access to the protection promised by the Geneva Convention 50 years ago?

**“Illegal” Migration as a Problem**

*The Growth in “Illegal” Migration*

That the trafficking or smuggling of migrants—whether asylum-seekers or those looking for work or a better life—is on the increase appears little in doubt. The Web site of the International Organization for Migration (IOM) talks of there currently being an estimated 15 to 30 million irregular migrants worldwide, of whom 700,000 are “women and children [who] are trafficked across borders” (IOM 2000b). If accurate, such figures would suggest the number of irregular migrants significantly outweighs the number of officially recognised refugees in the world and probably the number of people “of concern” to the office of the United Nations High Commissioner for Refugees. IOM’s figure of 700,000,\(^2\) drawn from a US Department of Justice estimate, could be seen as a humanitarian problem of the scale of Kosovo, Rwanda or Liberia. Meanwhile, estimates of the monetary value of human trafficking and smuggling of US$5–10 billion, discussed at two recent conferences on the subject in Bamberg, Germany and Washington, DC, make this a global business of significant proportions, in which Europe is a major destination (Martin and Miller 2000).
Naturally, there are some problems with such statistics. For example, IOM does not make it clear on its Web site whether it is describing stocks or flows of migrants, or how far it is possible to distinguish migrants who have been “trafficked” or “smuggled” from those who have not, or from each other. However, even if such figures are not taken at face value, there is reason to believe that “illegal” migration is on the increase.

First, as much of North America and Western Europe enjoys a prolonged economic boom yet maintains continued strong immigration controls, it would be surprising indeed if illegal routes of entry were not important to supply much needed skilled and unskilled labour to keep this economy buoyant. Moreover, the recent vibrancy of the European economy, combined with an emphasis on control and removal of migrants primarily at borders and ports of entry, makes integration in informal labour markets relatively easy for a newly arrived migrant in some countries, such as the UK (Liedtke 2001) or parts of southern Europe (Mendoza 2001). This contrasts with the legal and administrative sclerosis affecting formal asylum and immigration channels in many of the same countries. Given such circumstances, it is clearly in the interest of migrants—including those fleeing violence and persecution—to make it past the border and then avoid the authorities altogether, rather than follow the rules and establish the legitimacy of their claims.

At the same time, if one considers the movement of refugees specifically, it is clear that even in order to be in a position to make a formal asylum claim, individuals must increasingly adopt technically illegal strategies to get to that point (Morrison 1998). In most European countries, for example, a combination of pre-border controls—including visa requirements, carrier sanctions and readmission agreements with “safe third countries”—make false documents and an obscure route of entry almost a requirement for would-be asylum-seekers. Some European states have gone much further, with the turning back of boats on the high seas in the Mediterranean looking much like straightforward *refoulement* in Geneva Convention terms. Faced with such barriers, it is unsurprising that refugees—whether their claims are well-founded or not—should turn to professionals who are skilled in understanding such rules and measures and can get around them.

Of course, there are some grounds for being cautious. Clandestine migration has long been an important form of international movement, both in search of employment and because of violence and persecution. Much of the large-scale emigration from southern European countries to northern Europe during the 1960s and early 1970s involved clandestine departure from the south and hidden entrance into northern labour markets. Even when formal labour-recruitment
schemes existed between northern Europe and a range of Mediterranean countries, a combination of complex rules, expense and a need for connections with influential patrons effectively ruled these schemes out for many would-be migrants. This was particularly so for the poorest and most disadvantaged or disenfranchised sections of sending-country communities. In the case of Portugal, whilst over 10% of the country’s 10 million people fled from poverty and dictatorship during this period, only a small fraction were able to use official channels to leave, as the Portuguese state picked carefully those who would be allowed to travel.

There is also the significant problem of where existing estimates of “illegal” migration come from. Several standard routes exist for generating statistics on “illegal” migration. In the absence of any census data or much survey evidence, the most obvious data source on apprehensions and deportations of would-be illegal migrants is immigration authorities. These figures are sometimes extrapolated on the basis of a fairly arbitrary multiplier figure, on the grounds that not every illegal migrant is apprehended. However, in many countries, it is known that individuals try repeatedly to enter after each deportation, casting some doubt on the validity of multipliers—indeed, a “theoretical model of undocumented migration” developed by Singer and Massey (1998:567) for the Mexican border is based precisely on this fact, as it notes that people become more skilled at migrating illegally after a few attempts. Meanwhile, the lack of independence of immigration authorities in generating statistics hardly promotes confidence in the data’s reliability.

An alternative route through which data is often generated is from estimates by groups working with migrants or refugees. Labour unions, local authorities and migrant-support organisations might be willing to put their heads above the parapet and provide an estimate of the number of illegal migrants with which they are dealing. Once again, however, the temptation to overestimate is too strong to place much faith in such figures. For example, those providing assistance to migrants and refugees may have a funding-based incentive for internalising and then publicising larger figures rather than smaller ones, whilst labour unions have been known to inflate figures to underline the threat posed to indigenous jobs by large numbers of new arrivals. Meanwhile, as Bloch (1999:371) has noted for the UK, “[R]eliance on community groups for sampling purposes can be problematic”, as this will limit the reach of the research to those migrants who form part of the group’s network.

An additional source of useful statistics in some European countries is the regularisation of illegal migrants, carried out, for example, in Italy (Mingione and Quassoli 2000:50–51), Spain (Arango 2000), Portugal (Baganha 2000) and Greece (Fakiolas 2000:74–75; Lazaridis
and Poyago-Theotoky 1999). Such regularisations arguably provide a better snapshot of the number of migrant workers in illegal situations, although they often exclude some illegal migrants and may also generate additional anticipatory flows from outside (Knights 1996). However, such measures are unlikely to provide much information specifically on would-be refugees, who have chosen to enter and work in Europe illegally rather than enter an asylum procedure that is technically open to them but offers low practical prospects of being granted refugee status.

Overall, the lack of independent sources of information in much of Europe on the extent of “illegal” migration is certainly cause for caution. However, it is also arguably a powerful incentive for the promotion of research on trafficking and smuggling, especially insofar as those seeking to flee from violence and persecution use the services of “traffickers” or “smugglers”. If the numbers are in doubt, then serious, independent and scholarly research could help to counter inflated figures, challenge rhetoric on “bogus asylum-seekers”, and dampen down the xenophobia generally associated with public discussion of “illegal” migration.

**Public Concern over “Illegal” Migration**

The extent of public concern over the trafficking or smuggling of asylum-seekers is something that is often taken for granted and used as a justification for research, without necessarily being confirmed by hard evidence. Certainly, it is natural for governments to assume that large amounts of “illegal” migration, as with large amounts of illegal anything else, will pose a fundamental problem. The function of governments is, after all, to make and enforce laws, and legislation concerning the external borders of the state could be considered rather more sensitive than that in most other areas. The same fundamental interest in the legality or otherwise of migration does not apply for public opinion more generally. Nonetheless, it is commonly assumed in Europe that most members of the public are alarmed by large-scale breaking of the law, whether by migrants or by anyone else. Coupled with the assumed salience of the “race card” that right-wing (and sometimes left-wing) politicians play at times when their votes need shoring up, it is not unreasonable to suppose that the general public wants to see action taken against rising levels of “illegal” migration.

Certainly there is evidence of concern. For example, Singer and Massey (1998:561) report that three-quarters of Americans view “undocumented migration” as a “serious social problem”, and periodic surveys in Europe also highlight widespread xenophobic attitudes. However, reference to the “race card” should sound a further note of caution in our analysis, for the whole notion of a “race card” is based
on the idea that an issue that is not normally of overriding concern to voters can be made so in particular circumstances by politicians. In the UK, market research by political parties suggests that immigration (and, within that, “illegal” migration) comes fairly low on most peoples’ list of priorities when compared with other issues—well behind issues such as the economy, jobs, education, health and crime more generally. Elsewhere in Europe, evidence exists that support for anti-immigration parties reflects a wider disenchantment with the political process and desire to register a protest, rather than necessarily a prioritisation of immigration as the most important issue (Fysh and Wolfreys 1992; Hagelund 2001).

Linking concern with immigration to a much stronger concern with crime and breaking the law is one way in which politicians wishing to justify restrictive immigration and asylum policies can garner more public support and concern than they would otherwise receive. This perhaps helps to explain some of the existing research and policy interest in links between migration and criminality (Schloenhardt 1999; Taran 2000). In addition, public concern with “illegal” migration can be seen as a symptom of wider disenchantment with the capacity of states to govern in the interest of people. For example, in the case of postapartheid South Africa, there is no particular reason why immigration should have become a salient issue, except insofar that the failure to “control” immigration is symptomatic of the government’s perceived failure to control and guide the development process (Morris 1998).

Governments, too, may not always be as concerned about “illegal” migration as some might think. For example, Castles and Davidson (2000:73) note that “illegal” migration “is often tacitly permitted or even encouraged, just because illegals lack rights and are easy to exploit”, adding that this avoids the need for states to provide services or legal protection. This may help to explain the recent commitment of some centre-left European countries to cracking down on “illegal” migration at the same time as they loosen immigration controls with respect to certain groups that are now perceived as “needed” in the European economy. As nurses, teachers or workers in the high-tech sector are encouraged to apply for legal status, the UK government, at least, is equally committed to measures to prevent the abuse of “illegal” immigration, which is seen as harming both migrant and host states.

**Illegal Migrants as Victims**

The allegation that “illegal” migration has fundamentally negative consequences for the migrant or asylum-seeker himself or herself represents perhaps the most convincing reason for a focus on the matter. The death of 58 Chinese migrants, asphyxiated in a truck at
Dover in 2000, brought home to the British public the very real danger that many migrants run in order to join what is usually the lowest end of the British jobs market. Tragic accidents, such as the loss of a further 45 migrants’ lives in the shipwreck of a supposedly empty Georgian freighter off Turkey in the first few hours of 2001, only reinforce this view (Times 2001). Eschbach and colleagues (1999) have documented up to 1,600 deaths of migrants on the US–Mexico border in the years from 1993 to 1998, rising to over 200 each year. Massey, Durand, and Malone (2002) estimate the death toll even higher, at 350 undocumented migrants a year, of whom 160 die as the result of increased border-enforcement measures. Another area in which reports of abuse and danger are becoming ever more common is in migration into the sex trade (Altink 1995; Kelly 2000), with a particular focus on the trafficking of children (Asia Watch 1993; Council of Europe 1993; Poudel and Carryer 2000). A recent Sunday newspaper exposé in the UK highlighted “the horrific plight of young girls from around the world who are shipped to Britain to work as child prostitutes. Too terrified to break free from their captors, they are locked into a world of sexual cruelty, exploitation and drugs” (Observer 2000:8–9).

Asylum-seekers, too, are painted as victims of these traffickers, powerless to control their own destinies as they flee from war and persecution.

However, here again we would perhaps be unwise to take at face value the assumption under which these conventional views of “illegal” migration to Europe operate. For example, for the vast majority of adults, at least, those migrating presumably have some agency in arranging an often long and highly expensive journey, even if only to ask a family member or professional smuggler to make arrangements on their behalf. Whilst trafficking and smuggling may involve elements of deceit, harm, exploitation or even violence, it is unusual for migrants to neither have any choice nor receive any element of benefit in the process. A common theme of the antitrafficking agenda is the huge debts run up by migrants that leave them at the mercy of traffickers, and yet Chin (1999) has suggested that most do manage to pay their debt, whilst some of those who are smuggled actually move on to work as smugglers themselves. Meanwhile, as Wijers (1998:70) argues in relation to the trafficking of women into the European sex industry, “[W]omen who have become victims of trafficking can not be classified as passive or stupid victims”—even if this fact often escapes members of the police and judiciary.

Ironically, it could be argued that where illegal migrants are really “victims” is in the rising tide of legislation designed specifically to target those moving illegally, to refuse them access to legal instruments as basic as the Geneva Convention on refugees or the Universal Convention on Human Rights. For example, grounds for refusal of
asylum claims in the UK now include a number of elements that are likely to be present for many or most of those who used an “illegal” route into the country. These include the existence of a time lapse between arrival in the UK and making the claim for asylum, failure to make a prompt and full disclosure of material factors in the claim, the immigration status of the applicant (they should not have already been refused leave to enter, or be subject to a deportation order) and the presentation of “manifestly false” evidence, such as a false name or identity document, or the inability to produce a valid passport (Lester 2000). These measures were introduced to crack down on what the UK government insists on calling “bogus asylum-seekers”, yet it is clear that genuine asylum-seekers are just as likely to find themselves penalised, as these criteria are effectively unrelated to validity of claim itself. In contrast, it could be argued that the victimhood of the Chinese migrants who died at Dover, or the child prostitutes trafficked from Nigeria to Europe, lies less in the illegality of their migration and more, for example, in the conditions of their movement or subsequent work. Such conditions are clearly exacerbated by the clandestine/illegal nature of movement, but might exist (and would still be unacceptable) even were migration itself to be legal.

**Current Research on Trafficking and Smuggling**

Despite various caveats about the appropriateness of a focus on “illegal” migration, the previous section has suggested several areas in which current knowledge on “illegal” migration is lacking. For example, there is a lack of reliable field research evidence to support with confidence the extent of trafficking or smuggling of people both worldwide and specifically in the European context. More particularly, little systematic evidence exists of the negative consequences for migrants or asylum-seekers of the criminalisation of entry to Europe. The role of migrants and asylum-seekers themselves in illegal movement is poorly understood, as are the variety of ways in which migrants and the individuals and institutions that assist them seek to circumvent the law. As a consequence, it would not be unfair to typify European public policy concern with trafficking and smuggling as being based primarily on a series of “myths”—for example, that prostitution is becoming dominated by the sexual slavery of young girls, that migration is becoming the preserve of international criminal gangs, or that most or all asylum-seekers are “bogus”. These are myths that could be exploded by well-executed research, which could also provide a better understanding of how European public policy itself can and should change.

At this point, it is useful to return to the issue of definitions: in this case, the value and nature of a focus on “illegal” migration, as
opposed to “irregular”, “clandestine” or “undocumented” migration, all terms that have seen a fair amount of often interchangeable use in academic literature and, to a certain extent, in popular discourse. Indeed, some authors have argued strongly against the designation “illegal” migration, on two main grounds; first, it is argued that migration is only made “illegal” by the action of states, rather than through any intrinsic quality; second, there is concern that “illegality” in migration could arise from breaking laws other than immigration laws, leading to confusion and a lack of focus on the core element of the “problem” (Collyer 2001). However, I intend to maintain a focus on migration that is considered “illegal” (though not “illegal migrants”) here, for several reasons:

- First, it is important to respond directly to increased European public (and especially state) interest in trafficking and smuggling, both activities that imply that (elements of) the migration flow itself (are) is “illegal”;
- Second, particular methodological and practical issues for the development of a research agenda may arise precisely from the fact of migrants or refugees breaking the law, rather than from the fact that they lie outside the formal, regulated and/or documented sector;
- Third, it is also interesting to consider which elements of “illegality” are rooted in the migration and asylum-seeking process and which elsewhere. In this context, “irregularity” and/or the fact of being “undocumented” or “hidden” are just as likely to apply to other elements of a migrant’s experience (eg integration in the labour market) as is “illegality”.

Retaining, then, at least for the moment, this notion of “illegal” migration, it is clear that some recent empirical studies, including work based in the discipline of geography, aid in our understanding of the process. Within Western Europe, and considering first the movement of refugees and asylum-seekers, Koser’s (1998) work with just 32 smuggled Iranian asylum-seekers in the Netherlands has provided interesting insights into the strategies adopted by this group to obtain secure status in the Netherlands and the vulnerability they face until such status has been secured. The conclusions drawn reinforce those of my own work (Black 1994) with a group of 90 asylum-seekers from Iran and Iraq living in Athens, almost all of whom had entered the country illegally and most of whom had only a tenuous basis on which to continue residence. Both studies suggested that the effective criminalisation of asylum-seeking by laws that restrict entry and ability to claim asylum had significant negative effects on “genuine refugees”, although the research on which they were based was limited both spatially and temporally.
Rather more available work focuses more generally on the trafficking or smuggling of migrants, rather than specifically of those fleeing from violence or persecution. Most active in this regard has been the IOM, which has both sponsored and collected research (IOM 2000a), and whose senior researcher has published a substantial book on the subject (Ghosh 1998). However, although Ghosh’s work notes that what he terms “irregular” migration may be considered “rational”, in general the IOM’s contributions have tended to emphasise the organisation’s public concerns with the links between migration and organised crime, drug-running and prostitution. This reflects a wider literature that has placed the study of “illegal” migration firmly within a security framework—exactly where states themselves prefer to see it (Green 1998).

Two interesting studies that overcome the problems of temporal depth, at least, are the “Unknown City” project in Rotterdam (cf Burgers and Engbersen 1996; Engbersen and van der Leun 1998), and the work of Johan Leman (1997) in Brussels. Based on fieldwork that was started in both cases in 1993, these studies have shown the diversity of strategies and aspirations of migrant groups characterised by what Leman (1997:25) calls “migrant residence illegality” and “migrant employment illegality”. However, neither study is concerned directly with refugees. Meanwhile, rather more evidence is available in the US, especially in relation to illegal crossing of the border with Mexico. Here there are a number of anthropological studies (cf Heyman 1995), as well as oral histories (Davis 1990; Durand 1996) and personal accounts (Pérez 1991), of “illegal” migration. These highlight the hardship endured by the migrants and the important role played by friends, family and personal experience in ensuring successful clandestine transit of the border. They provide a clear case for the benefit of understanding migrants and refugees’ own perspectives of the process of migration.

Nonetheless, despite such limited case studies of “illegal” migration, there has been relatively little attempt at comparison or theory-building beyond these specific empirical contexts, either within or outside geography as a discipline. Of course, there are attempts to assemble theories of the migration process, including recent work within geography (see Boyle, Halfacree and Robinson 1998) and radical geography (Samers 1999). For example, Samers (1999) argues that migration is a strategic issue within the global political economy and emphasises that forced and/or encouraged repatriation of migrants represents a form of “spatial vent” for advanced capitalism. Yet this work and earlier arguments on the historical production of diaspora (Samers 1997) are hardly comparative; the emphasis is firmly on developments that affect legally present workers responding to active state policy, rather than those migrants falling outside the law.
Given that there have been few attempts—by geographers, at least—to draw out conceptual issues that are distinct for the production and process of “illegal” migration and/or trafficking, it is unsurprising that the position of those fleeing violence and persecution but doing so outside the law is also understudied both theoretically and empirically. For example, a recent collection of studies that includes a number of contributions by geographers on emerging “illegal” migration to southern Europe focuses almost exclusively on illegal migrants in the labour market, and thus again emphasises demand over supply, and arguably structure (and trafficking networks) over agency (King, Lazaridis and Tsardanidis 2000). This failure to compare experiences of refugees and migrants is a shame, as such comparison might hold interesting lessons for developing the field as a whole.

Ironically, one conclusion of such studies that focus on refugees and asylum-seekers might be that there are more characteristics that they share with other migrants than there are that differentiate them. Work by Bailey and Hane (1995:171) on Salvadoreans in the US concludes that “[C]haracterising those displaced as either refugees or economic migrants represents an impoverished view of the range of mobility options that are available to, and practised by, those who are uprooted”. They argue that a more useful categorisation would distinguish between “émigrés” who do not return, “return migrants” who return and resettle in El Salvador and “circulators” who continually shuttle between El Salvador, the US and elsewhere. This, in turn, is seen as representing a “profound shift” in the social structure of El Salvador that has its roots in civil war and violence (Montes 1988). The point here is not that there is no difference between political and economic causes of migration, but rather that theorisation of the process and experience of “illegal” migration could be considerably enriched by a greater focus on those whose migration does not derive primarily from economic circumstances.

Ways Forward for Research on Illegality
There are various potential arguments for moving forward to more substantial work on “illegal” migration. Perhaps the most obvious and mainstream reason for governments to fund research on “illegal” migration is put powerfully by Salt and Stein (1997:469) in an already well-cited argument for a focus on “the illegitimate end of the migration business”. They (1997:485) argue that “Unless the operational systems of trafficking are properly understood, and the vested interests involved in the process and contradictions of migration policies directly confronted, countries will lose control of their borders.” Such an approach would move beyond the dilemma of whether to focus on an actor-orientated perspective that seeks to
understand the decision-making process of individual migrants and refugees or to concentrate on the structural causes of migration, which might be seen as rooted in the economic and social inequality thrown up by global capitalism. As such, it is in line with much recent writing in the migration literature that emphasises the importance of mesolevel institutions in both facilitating movement and constraining migrant outcomes (Faist 2000)

However, there remains a clear danger that an understanding of “trafficking networks” also represents a key objective of state authorities that would prefer to prevent asylum-seekers from being used (or, perhaps, “being exploited”) by traffickers. Starting with a research agenda that asks “How do migrants/asylum-seekers move when controls are so tight?” or “How do human traffickers or smugglers manage to circumvent laws restricting movement?” risks that research on trafficking will simply seek knowledge that serves state interests in clamping down on “illegal” migration, even if there might be some wider interest in some of the conclusions.

Such is the case for work recently funded by the UK Home Office to develop a survey of asylum-seekers coming to the UK, which would include information on how asylum-seekers’ travel was financed and facilitated and the extent to which their movement was facilitated by smugglers. This survey was also expected to reveal information on geographical, occupational and educational backgrounds, patterns of movement and other factors thought to be of interest to the government, academics and organisations providing assistance to refugees and asylum-seekers. It is linked to the emerging interest on the part of an allegedly left-of-centre government in building a more constructive relationship with academic and professional partners working on refugee issues.

Such research, both on asylum-seekers in general and on the role that traffickers play in asylum-seeking in particular, could be used to help reduce abuse and enhance access to protection for this vulnerable group, although some fairly stringent ethical safeguards might be expected to be required, especially where the research is funded by a government department. However, whilst a clear laying out of ethical principles—confidentiality, openness, justice, doing no harm—would obviously be important, these would still miss the point of the need for trust and mutual understanding between the researcher and the researched regarding the objective of the research. Indeed, understanding the context of research is crucial for the way information is provided and “results” then transmitted. For example, when migrant sex-workers are questioned about how they reached their destination, it is common for them to describe abusive trafficking networks, not because these necessarily exist, but because it is clear that this is generally what their questioners wish to hear. In short, they...
are aware that being a “victim” of such networks is the surest way to avoid prosecution themselves (Murray 1998).

If a blind search for data per se is not the answer, one direction in which our attention could shift is to areas in which theoretical or political arguments mark out a field in need of empirical evidence, whether as support or for refutation. One starting point is recent feminist theorising about the role of women’s agency in resisting and contesting exploitative structures, which has been applied to the situation of women working in the sex industry by Kemala Kempadoo and Jo Doezema, amongst others. Kempadoo (1998:9) argues that such an approach “position(s) sex workers as actors in the global arena, as persons capable of making choices and decisions that lead to transformations of consciousness and changes in everyday life”. Kempadoo (1998:9) explicitly contrasts the ability of many feminists to accept the notion of women’s agency in response to exploitative structures in general, yet to reject it in the specific case of prostitution, so that “sex workers remain relegated to the status of objects, seen to be violently manipulated and wrought into passivity and acquiescence.” Thus, Campani’s (2000:150) review of the experience of immigrant women in Italy, for example, talks of women who “migrate more and more alone, for work purposes, taking migration decisions both individually and in the context of their families”, and yet emphasises deceit and abuse in relation to those working in the sex industry, stressing the relationship to criminality of traffickers.

Doezema (1998:41) highlights how one response to the notion that some sex workers make conscious choices is to draw a distinction between “voluntary” and “forced” prostitution. International agencies and radical thinkers then accept the agency of the former and focus instead on stopping the human-rights abuses associated with the latter. Doezema (1998:42) argues that this position has tacitly contributed to a transformation of the “voluntary/forced” dichotomy into a “guilty/innocent” dichotomy, which does little to oppose society’s condemnation of women who willingly transgress sexual norms and seeks instead to rescue others who are “passive, naïve and ready prey for traffickers.”

A similar contrast can be observed in relation to much conventional yet outwardly radical thinking on migrants and refugees, although here the same forced/voluntary dichotomy can be seen to have had slightly different consequences. Thus, emerging radical research is increasingly focused on championing the agency of “voluntary” labour migrants, highlighting how processes of “globalisation from below” are increasingly generating transnational migrants who are capable of transgressing state rules and borders (Smith and Guarnizo 1998; Vertovec 1999). Although the existence of institutional and structural
constraints is recognised, this literature sits in contrast to earlier scholarship that focused on the structural nature of exploitation of temporary workers (Castles and Kosack 1984). Yet, with few exceptions, explicitly radical writing on refugees and asylum-seekers—in Europe, at least—remains primarily focused on challenging restrictive asylum systems and the violence and exploitation faced by this group of “forced” migrants (Joly 1996).

In contrast, one interesting field for “committed” research on “illegal” migration of refugees and asylum-seekers would be to address the ways in which the criminalisation of the migration process affects the capacity of this group to exercise agency. How far does criminalisation increase the vulnerability of refugees and asylum-seekers, and under what circumstances can this lead to transformative action that challenges their situation? A control for investigation of this hypothesis could perhaps be provided by comparative study of movement from a country to one state where the process of migration or asylum-seeking is criminalised and another where it is not. Another alternative would be to compare the arrival of two groups in the same country where one can obtain entry visas and the other cannot. An interesting parallel for comparative work on the vulnerability of illegal migrants is provided by Bridget Anderson, whose research comparing five different European cities formed the basis for a new network of migrant domestic workers (Anderson 2001).

What is crucial here is the issue of how to conceptualise research on “illegal” migration, since this conceptualisation forms a crucial underpinning to subsequent design and use of the research. Conceptualising “illegal” migration as simply against or outside the law yields a strong tendency to seek to assign “blame” for this abnormal state of affairs, leading to a fruitless debate about the level of guilt of migrant “traffickers”. In contrast, by seeing “illegal” migration as an area in which human activity has essentially become criminalised, we shift the research agenda to attempts to challenge assertions of the powerful and respond to discrimination. Rather than “need(ing) to know more about how the trafficking business is developing” (Salt and Stein 1997:484), we need to know more about why actors within trafficking networks structure opportunities or respond in the ways that they do, and how refugees respond to this, as part of a process of unlocking the potential for alternatives. Indeed, the active strategies employed by migrants and refugees in responding to existing legal frameworks can contribute to reinterpretations of the law, enabling them to shape definitions and categorisations, as Coutin (1998) has shown for Salvadoreans in the US.

Given the potential responses of refugees and migrants to discriminatory and obstructive legislation, it is also relevant to investigate the ways in which criminalisation of migration has nonetheless been
developed into a more or less hegemonic discourse in many European countries, and how public discourses about asylum-seekers that reinforce their victimhood have been elaborated. Studies do exist on discourses of migration and asylum-seeking, especially focused on the voices of politicians (Rojo and van Dijk 1997) and the popular press (Pickering 2001). Some of these—a set of recent studies on South Africa, for example—have sought to confront media stereotypes with the reality of migrant existence (cf McDonald et al 2000) or highlight the centrality of migrant discourses to the construction of national identity (Croucher 1998). However, rarely do such studies focus on attempts by refugees and asylum-seekers themselves to redefine the terms of public discourse. At the same time, there is a place for radical geographical research to interrogate the interaction between the development of and challenges to particular kinds of discourses, and their historical and geographical specificity.

This leads to a further issue concerning the geographical location of work on “illegal” migration, in that many of the empirical studies that are available on “illegal” migration and asylum-seeking in Europe are based within receiving countries. In the case of research on refugees and asylum-seekers, such a focus is perhaps obvious, since individuals do not become asylum-seekers or refugees until they have moved. However, it could be argued that migrant communities—whether voluntary or involuntary, clandestine or open—are increasingly “located” both in a home and one or more host societies, such that attempts to understand the lived experience of these communities must make reference to at least two physical places. Even in quite difficult circumstances, in which physical return is not possible, there is emerging recognition of the “transnational” social fields of refugees as well as of other migrants (Al-Ali, Black and Koser 2001a).

Far from being a problem for research, this could represent an opportunity. For example, the difficulty of building sampling frames, contacts and trust within refugee communities are well known (Bloch 1999), and it is now widely recognised that snowball sampling from a small set of initial contacts is almost a prerequisite for meaningful surveys in this field. Such problems are likely to be magnified in cases where refugees or migrants have moved illegally, especially where residence issues continue to be unresolved. Yet Massey and Zenteno (1999:766) describe a reliable “ethnosurvey” carried out since 1987 as part of the “Mexican Migration Project” on migration across the US–Mexico border, which they argue is a “good source of reasonably representative data on documented and undocumented migration” (emphasis added). This survey involves random sampling of households in known sending communities, carried out at a time when seasonal migrants are known to be back in Mexico and supplemented...
by nonrandom samples of migrants in US destination areas contacted through connections established in Mexico. An alternative strategy of starting with snowball samples of respondents in western Europe followed by interviews with respondents’ families and friends in the two sending states of Bosnia and Eritrea has also proved fruitful in recent work at Sussex and University College London. In this case, work across international borders has provided an opportunity to consolidate trust and understanding with refugees and their families both at “home” and in “exile” (Al-Ali, Black and Koser 2001b).

Conclusion
Faced with a situation in which increasing numbers of refugees and asylum-seekers must break national laws in order to avail themselves of the international protection afforded by the Geneva Convention, and with a breaking-down of the barriers between different types of (legal and “illegal”) migration, the challenge of developing a coherent research agenda that deals with (il)legality remains before us. This paper has sought to highlight difficulties in focusing specifically on the illegality of contemporary migration, whilst at the same time accepting the need to address the fact that much current-day migration and asylum-seeking operates (or is forced to operate) outside the law. In such circumstances, it might be unrealistic to expect a research agenda to emerge, unmediated, from within what are usually fragmented, marginalised and disenfranchised communities. Nonetheless, an actor-orientated approach remains critically relevant for work on a population that is too often assumed to consist of passive victims. At the very least, it is appropriate to seek the views of these communities and facilitate their contribution to research design.

Of course, it could be argued that research on “illegal” migration is not necessary or desirable at all. By revealing migrants’ or asylum-seekers’ strategies that lie outside defined legal limits, research might simply assist states in the process of controlling both individuals and groups and thus breach the accepted ethical guideline of doing no harm to those being researched. However, the widespread evidence of harm—and vulnerability to harm—that characterises both the use of “illegal” migration channels and the failure to access such channels seems reason enough for research to be at least considered. The potential for research to benefit asylum-seekers and other migrants is worth exploring.

In carrying out such research, a particular problem emerges in response to what Coleman (2000:280) has described as “the organic connection between asylum-claiming and illegal immigration”—what Western governments increasingly prefer to describe as “bogus refugees”. It is simply not realistic to argue that no asylum-claimant is
abusing the system as a way around “regular” immigration rules. Nor is it valid to claim that all asylum-claimants refused entry are engaging in such abuse. However, it is also arguably not the job of academic researchers to pass judgement on the legitimacy of any particular asylum claim. Rather, nonprejudicial research—or, indeed, action research that is placed at the disposal of the disenfranchised—can legitimately focus on process and lived experience for those whose lives have been placed on the edges of the law.

Such an approach is not easy. As with emerging research on transnational migration more generally, there needs to be an acceptance that the issues and priorities for would-be refugees and asylum-seekers might not correspond with those of a primarily middle-class, elite and often white European research community, and that the claims of different migrant and refugee groups may themselves compete. Yet research needs to remain close to those whose migration is categorised as illegal in order to build the trust and understanding that can allow frank, nonprejudicial exchange. That implies building up the research capacity of marginalised groups themselves as much as studying their experience from an academic ivory tower. There is also a need to connect together the narratives of different groups and individuals that find themselves in similar positions. Only in such a way can a coherent case be made for political and practical changes that will enhance the well-being of those fleeing violence and persecution.

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Endnotes
1 “Trafficking” is generally distinguished from “smuggling” in that it involves coercion on the part of the person arranging the illegal movement of migrants. However, conflation of the two in much popular discourse reinforces inflated estimates of the extent of a “problem” and thus represents a further justification for research that deconstructs these notions.
2 In contrast, in a recent book, IOM’s leading researcher on “illegal” migration, Bimal Ghosh (1998), describes annual flows of “irregular migrants” to the US of 200–300,000, and to Europe of 300–500,000.
3 Or, in the case of the Immigration Officers’ union in the UK, to stress the need for more immigration-officer jobs.

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