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Unwanted migration: Combating and unwittingly creating irregular migration in Ukraine

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With the expansion of Europe's borders, Ukraine has come under scrutiny as a source and transit country for irregular migrants. While concern, reflected in the proliferation of terms like 'combat' in association with 'irregular' has intensified, the phenomenon itself is extremely difficult to measure. Data on this topic tend to be lacking, unreliable, contradictory, or unavailable (IOM 2002). For example, while the State Committee on Nationalities and Migration counted 16,000 foreigners illegally residing in Ukraine in 2003, the Committee suggested to UNHCR that this was only 10 percent of the total. Estimates of the number of Ukrainian citizens who leave (mostly irregularly) vary between 2 and 7 million.

Irregular migration has risen to the top of the international security and political agendas because it is viewed as a threat to sovereignty, and has been linked to problems such as crime and drugs. What are sometimes lost in debates about irregular migration, however, are the voices of migrants themselves. Irregular migrants in Ukraine challenge some of our most deeply held assumptions about international movement, and require us to reconceptualize irregular migration.

While Ukraine is frequently mentioned at the top of the list of countries that have 'problems' with irregular migration, there are relatively few empirically based analyses that might begin to tell us in more depth who Ukraine's irregular migrants are and why they should or should not be construed as a target of intervention. This paper therefore has the dual purpose of exploring migrants' lives and extending the argument, based on the personal testimonies, that new ways of thinking are called for.

Ukraine as a source and transit country

Together with Moldova and Belarus, Ukraine's position in the western CIS makes it a focus of concern. Ukraine has become a major source of irregular migrants because political reforms have opened the borders for citizens to more freely leave, and because economic crisis has necessitated a wider search for income. It is also a transit country because its strategic geographic location between Europe and Asia place it on the path of asylum seekers and labor migrants from Africa and Asia. As one person phrased it, "Ukraine is the border between China and England."

Ukraine's appeal as a transit country is enhanced by long, sometimes un-demarcated borders without adequate control, an absence of strong bilateral agreements on return, and weak enforcement measures. Highly capable smugglers and traffickers should also be noted as drawing and unexpectedly depositing migrants from conflict-torn and developing countries. Smugglers are reshaping the global 'economy' of migration as it is increasingly they, and not the migrants, that select destinations. Ukraine's ability to address irregular migration has been limited by widely acknowledged but as yet undocumented corruption of consular, Border Guard, law enforcement, and state officials who may be facilitating irregular and illegal border crossing. In this regard, Ukraine is not unique (Mavris 2002). At the same time, significant efforts are being made with a view to harmonizing legislation, boosting government capacity, and promoting cross border cooperation in the region.

Methodology

The argument that follows is based on a review of the relevant literature including articles, governmental and nongovernmental reports, interviews, and analysis of personal testimonies collected in Ukraine. Initially, the author interviewed migrants and potential migrants in Ukraine in October 2003.[1] In December 2003, testimonies were collected from 8 asylum seekers, refugees, and irregular migrants in the caseload of the Department of Migration of the Autonomous Republic of Crimea. At the researcher's request, the Department of Migration specialist asked migrants from a number of source countries to reply to several open-ended questions in their own handwriting. It was expected that the replies would be tentative and cautious. One of the interesting elements was that the migrants were openly critical of the Migration Services. Another was that the letters were nevertheless sent, accompanied by a letter acknowledging that while significant improvements have been made, there is still room for effort.

The results of the initial phase were used to guide a second stage. In May 2004, in depth interviews with 20 asylum seekers and refugees were carried out in Odessa and Mukachevo. Odessa was chosen because it has one of the larger concentrations of recognized refugees and 'illegals,' and as a southern port city, is considered a major entry point. Mukachevo was chosen because it is the place where those caught exiting the border, or returned from 30 kilometers inside Hungary or Slovakia are detained, screened, and processed in centers devoted to this purpose. The countries represented in this main sample were Afghanistan (5) Iran (4) Sudan (3) Iraq (3), and one each from Palestine, Syria, Somalia, Ethiopia, and Congo.[2] The small size of the sample (38) means that while the inclusion of migrants' views enables the paper to have an empirical focus, the study is preliminary and does not claim to be representative.

Irregular and illegal

There is no universally agreed upon definition of irregular migration. This is perhaps because there are so many paths to being construed as irregular. Those who enter regularly may become irregular when they work without a permit, overstay a visa, or exit irregularly to another country. Similarly, those who enter irregularly may regularize their status by applying for asylum and obtaining refugee status.

Irregular migration is perhaps most clearly defined by UNHCR. In Excom Conclusion 58 (1989), UNHCR defines irregular movements as involving:

> entry into the territory of another country, without the prior consent of
> the national authorities or without an entry visa, or with no or insufficient

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[2] In the sample of 20 in-depth interviews, there were 13 males and 7 females between 20 (born 1984) and 49 (born 1955). The average age was 31. Most interviews took place in the informant's native language with the help of an interpreter. For those who were comfortable, interviewing took place in Russian.

documentation normally required for travel purposes, or with false or fraudulent documentation by people who have already found protection.

While this last clause about having found protection is vitally important, it is often overlooked in practice. In Ukraine, a much broader conception seems to apply. The difficulty is that with strict application terms and a narrow interpretation of the 1951 Convention, the number of asylum seekers who can regularize their status are few. Due to the high rate of rejection and the cumbersome nature of the appeals process, there are many asylum seekers who lack appropriate documentation and are treated by local law enforcement authorities as irregular and illegal, especially in Kyiv (Ruble 2003) and Crimea. This general situation will continue for the over 1,600 asylum seekers in Ukraine until new Ukrainian laws are implemented and harmonized with international norms and standards.

According to Article 9 of the new Refugee Law, asylum claims are now to be submitted within three working days of illegal entry, or five working days of legal entry. Otherwise, applications are refused. According to the State Committee of Nationalities and Migration (SCNM) 69 percent of asylum applications were rejected on this basis in 2002, and 70.5 percent in 2003 (UNHCR 2004: 5).

Although international instruments clarify the nature of irregular migration, the terms 'irregular' and 'illegal' are still used interchangeably in this region. Even asylum seekers refer to themselves as 'illegal' when they lack well recognized identity documents, or when ineligibility for residence registration and legal employment place them in violation of the rules of stay. Thus the lines between legality and illegality, regular and irregular lose much of their distinction here. This is particularly troubling when those in need of international protection are affected: a person's right to leave a country is established in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and must not be criminalized.[3]

The UNHCR parameters take into account Article 31.1 of the 1951 Refugee Convention: a refugee or asylum seeker may not be punished for the use of false documents or illegal border crossing. Excom Conclusion 58 also acknowledges that the reason so many move irregularly is because they feel impelled to: irregular movement occurs when educational and employment possibilities are lacking, and when opportunities for long-term durable solutions of voluntary repatriation, local integration, and resettlement are non-existent.[4] As we will see, this is especially important in Ukraine, where only about half of the refugees recognized since 1996 remain, according to data released from the State Committee on Nationalities and Migration (SCNM) to UNHCR. Recognized refugees face so many barriers to integration that they often move on.

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[3] Article 13 (2) of the Universal Declaration of Human Rights, United Nations, 1948; and Article 12 (2) of the International Covenant on Civil and Political Rights United Nations, 1966. There is evidence to suggest that the nationalities being smuggled and trafficked into Europe in order to claim asylum are not solely people who are abusing the asylum system: they tend to the same nationalities as those traditionally recognized as refugees by Europeans countries (Morrison et. al. 2001).
[4] Excom Conclusion 58(XL)(b)

Who are Ukraine's irregular migrants?

The problem with understanding irregular migration is not limited to distinguishing it from illegal migration. While it is reflexively referred to as an increasing and growing problem, it is not clear from a statistical standpoint that the trend is increasing.[5] It must also be said that Ukraine's irregular migrants comprise a complex and diverse group. Those who have been on the territory of Ukraine the longest are individuals who were invited during the Soviet era and lost their status when bilateral agreements and visas expired. They are a product of the Cold War: the Soviet Union was attempting to spread the Revolution by providing assistance to the developing world in the form of education and professional training. Those who came formed communities, especially in large cities and educational centers (Ruble 2003). With the disintegration of the Soviet Union these foreigners, who were typically fluent in Russian, were no longer protected and became irregular. Some returned to their country of origin, but a subset was for economic reasons not willing to go back, or unable due to political conditions in their homeland.

Ukraine is also a fairly predictable source of irregular migrants, given the number of individuals who are without work and need to find income in other countries. The scope of this migration is estimated to be very large. According to the Ministry of Labor and Social Policy, 20,000 Ukrainians worked temporarily abroad (officially) in 2002 (Maksymiuk 2003: 2). Irregular migration in search of work and earnings is estimated to be much higher. Ukrainian ombudswoman Nina Karpachova reported to the *Verkhovna Rada* (Ukrainian Upper Parliament) that between 2 and 7 million are working irregularly abroad owing to poverty and unemployment in Ukraine. Other estimates suggest as many as ten million.[6] The Ukrainian government estimates that one in five employable Ukrainian citizens works seasonally abroad, mostly illegally (Maksymiuk 2003: 2).

This is a highly 'regular' outcome considering that some 27 percent of Ukrainians live below the poverty line. More are at risk in impoverished regions. In the Transcarpathian *Oblast*, a noted source of migrants near the border, 47 percent live below the poverty line. The impoverishment of Ukrainian citizens is part of a broader economic picture that includes not only high unemployment, estimated to be at least 11 percent, but inflation and a crumbling social infrastructure.

There are also a significant number of Ukrainians that become irregular when they are trafficked for the purposes of sexual exploitation. Victims are in some senses forced migrants, but also irregular either by virtue of their movement across a border, or their economic activities abroad. Some of the women are moved across borders legally, but others have forged or nonexistent documents. Women in Ukraine are directly

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[5] For example, according to Border Guard data available from the International Centre for Migration Policy Development (ICMPD), Ukraine apprehended 12,558 in 2001 and 9,600 in 2002, a 23 percent decrease (ICMPD 2003: 5). The decrease is particularly significant in light of the increase in personnel, training, and technical equipment that would be expected to enhance apprehension. The number of Ukrainians apprehended within Central and Eastern Europe has also decreased from 9,695 in 2001 to 8,546 in 2002, an eleven percent decrease. For discussion on measuring this migration see Uehling, Greta. 2004. "Irregular and Illegal Migration through Ukraine," *International Migration* 42 (3) 77-107.

[6] According to the IOM, this figure was mentioned during the parliamentary discussion of the draft law "On immigration." The Ukrainian government estimates that one in five employable citizens works seasonally abroad, usually illegally (Maksymiuk 2003: 2).

recruited, or respond to ads for waitresses, dancers, or domestic workers, only to find that the terms are different than those they originally agreed to. There have been some public information campaigns to educate Ukrainians about the dangers associated with accepting offers to work abroad, but some Ukrainian women are still looking for ways to leave and this is a crucial factor in trafficking.

Finally, there are asylum seekers who are construed as irregular and make up another share of the so-called irregular migrants in Ukraine.[7] The number of would-be refugees classed as 'irregular' is in part a product of the legislative and administrative changes that followed accession to the Convention. Ukraine adopted a new Refugee Law in 2001 that is an improvement over the last (1996), but required administrative reform. It involved suspending refugee status determination (RSD) from summer 2001 until late 2002. Several of the irregular migrants interviewed for this study are products of this gap. Another major reason is the application terms mentioned above. For example, between the summer of 2001 and the end of 2003, less than 7 percent of the overall asylum applicants had due access to procedures. In this framework, many asylum seekers are erroneously classified as irregular.

Thus in the current political context, 'irregular' migration encompasses refugees, asylum seekers, and so-called economic migrants, underscoring the political rather than practical nature of the distinction.[8] This raises a conundrum for scholars of forced migration. As Turton has pointed out, the categories and concepts employed by policy makers may not be helpful. In fact, they can be at odds with the process of coming to a greater understanding (2003: 1). Jacobsen and Landau (2003) have described the difficulties associated with the dual imperative to meet the standards of the academy at the same time that knowledge is used to promote policies and practices that alleviate the suffering of forced migrants. They argue that in order for academic research to be relevant, research must define its subject matter in the terms used by policy makers. Turton argues, on the contrary, that the less slavishly academics follow policy related categories, the more useful they are likely to be. This is certainly the case with irregular migration when it becomes a tool for excluding some of the most vulnerable migrants from international protection.

In exploring the dynamics involved, this paper questions the distinction currently being drawn. While 'irregular' certainly marks an improvement on 'illegal' migrant, it still figures as an ill-defined and residual category. If we take a critical view, the racial and gender components of the migration patterns become more visible: those migrants characterized as irregular have not just crossed borders. Often, they are members of racial and ethnic groups perceived to carry a 'risk.' By obscuring important dynamics, identifying some forms of migration as 'irregular' only makes more difficult the task

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[7] The first large influx of asylum seekers came in 1988 and 1989 in response to violence occurring in Azerbaijan. Meskhetian Turks fleeing violence in Uzbekistan arrived during the summer of 1989. One of the largest influxes was from the conflict in the Transdniestria area in 1992. Ukraine received some 62,000 people at this time (UN 1999: 4). During 1995, Ukraine aided 1,500 asylum seekers from Chechnya most whom had family or other ties.

[8] Although asylum and immigration are related, asylum seekers and refugees must be distinguished. UNHCR takes the position that while there are clearly linkages between refugee and migratory movements, they require distinct policy responses and legislative measures.

of finding an equitable balance between protecting human rights to security and livelihood, and respecting state sovereignty.[9]

A closer look: assumptions built into irregular migration

Whether it concerns Ukrainians who leave irregularly, or rejected asylum seekers, irregular movement from and through Ukraine challenges many of our most deeply held assumptions about international migration.

In the literature on migration to Europe, whether one's position is that Europe should develop more effective mechanisms to 'manage' migration, or open channels in order to protect human rights, most assume that irregular migration from points south and east to Europe takes the form of an inexorable striving. Governments have responded to the misuse of asylum procedures and developed a range of practices to prevent people from seeking asylum on their territory. The concern is also evident in European Union officials' emphasis on irregular migration in the development of a common asylum and immigration policy, and the Greek Government's indication that curtailing irregular migration will be a priority under its Presidency of the EU. Discussions of 'fortress Europe' envision the continent as desirable, indeed *irresistible* to hundreds of thousands of potential migrants. The narratives of irregular migrants from Ukraine suggest this is an overly simplistic view that fails to accurately capture the complex range of emotions involved.

Potential irregular migrants from Ukraine to Europe tended to speak of their departures with fear and dread. Elvira, a 45 year-old widow, broke down in tears as she told me of her impending departure from Ukraine.[10] She has been living in a dormitory room with her 17 year-old daughter and 19 year-old son for the past five years. Her salary as a full-time teacher is not enough to pay for their expenses and she has acquired thousands of dollars of debt with her neighbors and friends in trying to meet their needs. The final straw was her son becoming an intermediary in a financial scheme that went awry. Referring to her plans to leave she said, "I am afraid. I don't know how I am going to do it. I don't want to do it, but I have to." She plans to travel on a tourist visa to a European country (where she lacks knowledge of the language), to find work as a housekeeper.

The other migrants I spoke with also framed their migration less in terms of betterment, than necessity. As such they often viewed the movement as risky, self-sacrificial, and altruistic. The widow is leaving to work in southern Europe because if she does not make money to pay debts, her son will be pursued by a local racket. She resigned from her position as a school teacher for what promised, in the best possible scenario, to be a very challenging existence in Europe. The strategy she chose hardly conforms to European images of migrants bettering themselves: her departure from the school will only diminish her social security, and she will be in considerable danger. It will also affect her children: there is a generation of Ukrainian children growing up without parents present. The willingness to undertake strenuous and demeaning work for the sake of dependents suggests something besides a 'European

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[9] There is a large literature on burden sharing and asylum policy that is beyond the scope of this article. See for example Boswell (2003), Cygan (2003), Morrison et. al. (2001), Peers (2003), and Thielemann (2003). Europe has been criticized for downgrading international refugee protection standards.

[10] Anonymous Ukrainian female born 1958, interviewed October, 2004.

dream' in which irregular migrants secure a piece of European prosperity. In many cases, it threatens neither the 'moral fabric' of European society nor its security. And yet these are the very arguments that are brought to bear when law makers and government authorities seek reelection (Nadig 2002).

To say that irregular migration from Ukraine to various parts of Europe is always undesirable, however, would be an exaggeration. There are many individuals who happily leave Ukraine. However, the migrants who had positive experiences also diverged from the view of irregular migration that circulates in international organizations and the popular press in one important respect. In underscoring the chance and even serendipitous nature of their involvement in income generating activities abroad, they challenged the purposiveness and striving that is typically assumed to characterize irregular migrants from Eastern to Western Europe. This idea is supported by a 1999 UN study. Informants prefaced their descriptions of economic activity with statements to the effect that they 'fell' into trading or seasonal labor by virtue of a fortunate but unlikely alignment of events. For example, one irregular migrant said,

> During a holiday in Yalta, my Crimean acquaintance, also a doctor, managed to get a pass for me to the beach of the Intourist hotel. At first I was lying in the sun and watching foreigners from a distance. Then I dared to speak to them. (United Nations 1999: 96).

She was invited to Germany as their guest and then began working as a domestic helper. Although she disliked the work, the income enabled her to bring cash home for her family.

In the past, fears of a deluge of migrants from the Soviet Union as it disintegrated led European governments to develop more restrictive measures to guard European borders. Far-right political anti-immigrant parties and politicians such as Helmut Kohl in his 1994 campaign channeled the diffuse fears of uncontrolled migration to his advantage (Nadig 2002). But the actual numbers of immigrants from the East was not in proportion to the perceived threat (Thraenhardt 1998: 259-264). Perhaps they are feared because like refugees, irregular migrants challenge the time-honored distinction between nationals and foreigners (Arendt 1973: 286) and are therefore viewed as 'polluting' and threatening. Malkki (1995) makes this point about refugees, and it can also be made with regard to irregular migrants. In addition to crossing state boundaries, they blur conceptual categories.

Assumptions affecting asylum seekers and their viewpoints

The narratives of asylum seekers and refugees overlap with those of Ukrainians on the regrettable and undesirable nature of their migration. This is hardly surprising from individuals who have been forced to leave their countries in search of international protection. What makes a strong impression, however, are elements of suffering and humiliation pronounced in descriptions of life in Ukraine. A man from Congo who had his request for refugee status rejected said,

> I am sure it is better to die in the homeland once, than to suffer humiliation and shame everyday in a different country, in which I am

trying to find refuge. In the course of my stay in Ukraine, I stopped being human, not to mention finding protection. They broke me.[11]

"It's better to die in the homeland"

His narrative points to a large gap between Ukraine's desire to raise its standards and provide protection, and a system that asylum seekers describe as dehumanizing.

While we tend to think that becoming a refugee is a restorative process that involves regaining a sense of integrity following trauma and flight, it was often the opposite for asylum seekers in Ukraine, who made the decision to seek protection and then had an even more difficult experience. For example, a young African asylum seeker was encouraged by his family not to join the army – it could involve being forced to kill or maim fellow clan members. As his social world contracted in response to xenophobia, lost educational opportunities, and detentions in Ukraine, he wished that he had not left. The periods of detention often exceed the time prescribed in regulations, and the conditions there tend to be unhealthy.

There are efforts to bring the Ukrainian system into line with European standards. Visiting a celebration of African culture, the Head of the Migration Services in Odessa stated, "A person remains a person no matter what corner of the earth he finds himself."[12] He has improved the system in southern Ukraine by helping to build a new Temporary Accommodation Center, and working closely with central authorities to resolve a number of issues. At the same time, the asylum seekers in the local center claimed they were being fed molded and worm infested food, and suggested, "They think we are not human, and we have no chance to complain."[13]

The statement to the effect that a person remains a person stands in even starker contrast other statements made by asylum seekers. An Iranian recently released from detention in western Ukraine and said, "animals could not live in those conditions."[14] This sentiment was echoed by many others, including an asylum seeker from Somalia, who tried to describe the three months he spent in detention before being allocated a room in a dormitory.

> They are suffering in there, to tell you the truth.
>
> How?
>
> The guards are bad. We were abused. It felt like being in the army. The food is bad. You have to run to the toilet. If you don't, you are beaten with a stick, like an animal. I am very worried - I do not want to live in this country. I want a piece of life.[15]

The theme of suffering and dehumanization is symptomatic of an approach to irregular migration that views the migrants as the threats.

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[11] Personal testimony of Congolese male, birth date unknown, collected December 11, 2003.
[12] Odessa, Ukraine, May 26, 2004,
[13] Anonymous Iranian asylum seeker, born 1973, interviewed May 24, 2004.
[14] Anonymous Iranian asylum seeker, birth date unknown, interviewed May 25, 2004.
[15] Anonymous Somali refugee born 1984, interviewed May 21, 2004.

"I have not stolen or killed"

Their feelings about the treatment they receive brings us to a second assumption that concerns irregular migrants in general, and rejected asylum seekers in particular: many assume that irregular migration is necessarily linked to illegal activity. Even though illegally crossing the border into Ukraine is an administrative, rather than criminal offense, the shadow of possible links with terrorist organizations, and the possibility of carrying exotic Asian diseases, hangs over asylum seekers and other newcomers. It should be noted here that the regulations enabling officials to detain asylum seekers pending identification contravene the national Constitution and refugee legislation, which exempt the people who illegally cross the border with the specific intention to acquire refugee status from liability.[16] Still, there seems to be a dangerous slippage that being an *irregular* migrant automatically involved participating in *illegal* activities.[17]

Rejected asylum seekers in Ukraine often spent time clarifying that they had not committed any crimes, and had every intention of abiding by the laws of Ukraine. For example, an asylum-seeker from Congo reported,

> The first time they took me in was 22 March 2001. They did not supply any charges, or indicate the reason. It was apparently just what those who are accustomed to violating human dignity felt like doing. About myself, I can say that I have not stolen, killed, and do not plan to violate the law of Ukraine. They made me illegal against my will, taking me off the list [of asylum seekers].
>
> That was only the start. For some reason unknown to me, the responsible party was not satisfied and two days after I was released, they took me in for six months. For the whole six months, no one came to investigate the illegality of my detention. They told my friends that I was not in detention.
>
> The period of my detention coincided with Independence Day in Ukraine. When they came from Kyiv for an inspection, at the moment I was the only foreigner in detention. Like the last homeless drunk, they hid me in a storage area.[18]

This asylum-seeker had studied in Ukraine and returned to Congo to start a family. He then discovered that as a result of his father's leadership in a political party, his family was under surveillance. Shortly thereafter his father and brother were shot, and his mother fled. He chose to return to Ukraine, where he is fluent in the language, to seek asylum. When RSD was suspended and he was detained, he announced a hunger strike and was then transferred to the regional hospital, where he stayed for 12 days. After that, he was returned to detention. He was located there until he announced a second hunger strike and was again taken to the regional hospital. Much later, he found out that there was in fact no order for his detention.

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[16] Articles 19 and 20 of the *Law on the State Border Service of Ukraine*, N 661-IV, 3 April 2003 and Article 11 of the *Law of Ukraine on Militia*, 20.12.1990 No. 565-XII.

[17] The Boas, Sapir, and Whorf axiom of 'linguistic relativity' suggests that the words used to describe something condition the way we think about it.

[18] Personal testimony of Kurdish asylum-seeker in Ukraine, collected December 11, 2003

The conflation between being irregular and being engaged in illegal activities was also clear in testimony of a Syrian asylum-seeker who claims his documents were stolen. He filed a report with the police, and applied for replacement documents from the Syrian embassy in Moscow, but was ultimately refused. He writes,

> From August 2001 to August 2002, the whole year, I sat in the apartment of my brother, a student, fearing to go out on the street as problems could arise with the police and migration services as result of not having documents. During that period, they were not accepting applications for refugee status.[19]

This asylum-seeker's behavior of isolating himself in an apartment was intended to reduce the likelihood of the harsh treatment at the hands of the police, who he reported to have said, "You came to steal. Leave!" He was eventually able to submit the documentation to receive refugee status, but was, after another year of waiting, rejected. He closed his testimony by saying that he was anticipating eviction from his home as a result of living in violation of the rules of residence. These types of statements are only too common. Another asylum seeker reported a police officer saying, "What are you doing here? Go home, nigger." To which he replied, "This is my home and I don't have anywhere else to be."

The suspicion and xenophobia migrants experienced seem to be part of a pattern. This migrant was one of several who emphasized that although local authorities assumed, primarily based on the color of his skin, that he was involved in crime, he came with every intention to abide by the law. His lack of protection and vulnerability in this situation is underscored by the statement that, "If I have to pay a fine, even if I do not understand what it is for, it is usually the maximum sum. But no one has asked me where I ever get the money, or what I have to eat."[20] The Congolese migrant who was detained summed up his experience in a concluding metaphor: "I hope this letter does not prevent me from receiving refugee status in the future, but to be honest, I have been chased into a corner."[21]

The image of being chased into a corner provides a sharp contrast to descriptions of migrant 'flows' and 'transnational networks' that characterize studies of globalization and migration (Gupta 1992; Gupta and Ferguson 1992; Rapport and Dawson 1998; Malkki 1997). This brings us to a third commonly held assumption challenged by irregular migration which is that it is best described in terms of transnational 'flows' of people, commerce, and ideas.

Globalization and 'prison' in Ukraine

An Afghan woman who had received refugee status in 1999 lamented,

> It's like a prison for us in Ukraine. If I didn't have a sick mother and a son, I would walk straight through those woods. We don't have hope in life, and this is the worst possible thing for a person. In our country, they

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[19] Personal testimony of Syrian asylum-seeker born in 1966 collected December 10, 2004.
[20] Ibid.
[21] Personal testimony of Congolese male, collected December 11, 2003.

say it's better to die than to live without hope. Every day, mother prays to die. [22]

She and her mother elaborated that their life revolved around the two small rooms they shared in a large apartment block and the dry food rations they received. The idea (shared by others) that it would have been better to have been killed than receive refugee status in Ukraine is a startling one. It emerges in part from the lack of hope she mentioned, and more broadly the lack of opportunities for local integration or resettlement. This refugee said she has been unable to find steady work, make friends, or socialize. She felt the pressures led her mother into depression.

There is a sophisticated literature sensitizing us about the extent to which the cosmopolitan effects of globalization are unevenly distributed (Kibreab 1999; Stepputat 1999; Warner 1999; Turton 1999). As Turton (2003) and Bauman (1998) have argued, globalization brings new freedom to some while severely localizing and impoverishing others. The testimonies from irregular migrants in Ukraine seem to confirm that prior wealth, race, and national origin play an important role in determining who is protected and who is not. For example, a Baath party official found asylum in Western Europe. His son refused to join and thereby became estranged and impoverished. Eventually in fear for his life, he resorted to illegal channels to leave the Middle East. His smugglers promised to take him to Germany, but he only made it as far as Ukraine. Whether an individual is able to use the 'regular' asylum channels or must resort to 'irregular' migration depends in part on having wealth and the right connections.

So far we have seen that interviews with irregular migrants reveal a very different vantage point: whereas we are accustomed to thinking of irregular labor migrants as striving for western Europe or the United States, their narratives stress the basically undesirable nature of their departures, and the often serendipitous alignment of events. Assumptions about the involvement of irregular migrants in illegal activities suggest that there is still a great deal of advocacy that must take place on behalf of the most vulnerable migrants, especially those from Africa. If irregular migration is a hallmark of globalization, it also exposes a seamy side: the irregular migrants who have been 'localized' in Ukraine find it difficult to build new lives.

Regularizing irregular migration

I have argued that 'irregular' migration is an awkward and in many ways poorly understood phenomenon. Even more importantly, testimonies of irregular migrants challenge basic assumptions about this kind of migration, suggesting we find new ways to approach it.

In many respects, it is the international system that produces irregularities by defining what can be taken as 'regular.' In radically shrinking the space available for legal migration, a lack of normative measures effectively creates irregularity. So there is a direct relationship between the scale of irregular migration and the shape of a given migration regime (IOM 2002). What this means for governments in the Eastern European region is that in addition to thinking about 'combating' irregular migration,

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[22] Anonymous Afghan female born 1975, interviewed May 20, 2004.

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they can consider transforming it through regulatory and other measures. A better way to understand irregular flows is as relatively patterned and predictable, if unwanted, migration.

We need to think twice before imputing irregular movers with tainted intentions. A great number of the policy and position papers on irregular migration describe the situation in terms of the incorrect conduct of refugees and asylum seekers. But this eclipses the role that the setting has played in inspiring onward moves. As an asylum seeker stated, "I have tried to live here, but I cannot. I am thinking it is either the cemetery or over the border."[23]

As officials describe a courageous process of ridding the country of potential terrorists and criminals, migrants describe a transformative experience of being 'bent,' 'broken,' and 'turned into illegals.' Interviews suggested a traumatic process that in many cases leads to personal transformation. An Iranian stated,

> Ukraine has broken me. I see that I have begun to walk like a hunched man, not straight or proud as I did in Iran. One of my friends has gone to Odessa, He is not the same person that he used to be. He is a broken person. We no longer have the same views.[24]

He went on to describe the ways in which his friend had been morally altered, 'corrupted' first by the experiences in detention, and then as a rejected asylum seeker. This speaker had an asylum claim in the Kiev court, but planned to move irregularly as soon as he was financially able. The misconception that irregular migrants are somehow 'faulty' to begin with, reinforced when migration officials speak of them as 'dregs' of various societies, suggests we may benefit from a closer examination of how the migrants who use irregular channels experience their migratory movements.

A great deal of emphasis has been placed on irregular mover's obligations to observe the law. What should perhaps be commanding more attention are the allegations concerning officials. Police accuse migrants of coming to steal, but asylum seekers describe being stripped of their watches, jewelry, money, and other valuables (without return) by Border Guards when they are detained for identification. There is currently an investigation into the allegations that authorities, private lawyers, and the Border Guards have operated their own networks to receive money from migrants who transit to Europe. Mutual allegations of illegality are one of the deeper ironies that create a negative atmosphere surrounding migration politics in this region.

Irregular migration through and from Ukraine is in fact a highly predictable outcome given the gaps and difficulties faced by the asylum system in Eastern Europe, and at a much broader level, an international migration regime poorly calibrated to the needs of the world's most vulnerable. Here, the ostensibly rational bureaucratic regime has played a key role in consigning some migrants to peripheral spaces. It is therefore necessary to recognize the ways in which gaps in international protection 'create' irregular migration, at the same time that it is being 'combated' on a number of fronts.

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[23] Anonymous Syrian female, born 1966, interviewed May 25, 2004. Like several others, she had attempted suicide.
[24] Anonymous Iranian male, born 1977, interviewed May, 2004.

Is combat what is required? Those who exploit migrants through trafficking and smuggling must of course receive the full approbation of international law. But this should not be at the expense of the people who are in need of international protection. As Morrison has argued, if European governments are successful in stopping illegal migration, it will end European asylum policy as we have known it (2000:4). To the extent that they frustrate the arrival of individuals in need of protection, external border controls represent a fundamental contradiction in European refugee policy and the Convention on Human Rights. Smuggling is simply one of the few remaining means of entry into Europe. There are no visas or 'regular' possibilities for potential refugees. Although they can use 'tourist,' 'business,' or 'student,' categories, their request is likely to be turned down if they are suspected.

Given the pressure on the legal instruments and norms that govern the international refugee regime, Crisp argues that a new migration 'management' paradigm is emerging. It is based on the idea that if the tools and techniques of a rational, bureaucratic regime are brought to bear, movements will take place in a more orderly fashion (2003: 3). The difficulty is that the migratory movements of refugees, asylum seekers, and others are inherently chaotic and unpredictable. Not only are the global politics that contribute to migration beyond the reach of complete control, but individuals move with strong emotions and aspirations (Crisp 2003). While 'migration management' has a reassuring ring to it, population movements inevitably take place in complex and controversial ways. Attempts to manage must not sacrifice rigorous standards of universal human rights and refugee protection.

Recent changes

Fortunately, Ukraine has been developing relations with the European Union to address the issues. Part of the attention is focused on the border. Since May 2004, as part of fulfilling the Schengen requirements, Poland's boundary with Ukraine has been secured as the European Union's eastern border. The restrictions at this border have already decreased the number of relatives, labor migrants, and traders transiting westward. Hungary and Slovakia have also been upgrading customs and visa requirements for a number of years. The European Union Neighborhood Policy (ENP) is aimed to prevent the emergence of new dividing lines in this context. Launched in 2003, the policy is designed to promote a mutually beneficial environment by identifying common values, setting mutual priorities, and developing Action Plans. Although it is yet to be fully operational, it is hoped that through addressing some of the issues, the ENP will be able to facilitate Ukrainian participation in the EU market, policies, and programmes, in spite of closed borders.

UNHCR has been at the center of a number of activities, partnering with the European Commission's technical assistance programme for the region (TACIS) to increase reception facilities and enhance the capacity of the government. With the construction of 4 centers (Kyiv, Kharkiv, Odessa, and Zakarpattya) to house asylum seekers, the number of places will rise to approximately five hundred persons in 2005. Among the sub regional initiatives, the Söderköping process (of the Swedish Immigration Board, IOM, and UNHCR) is designed to promote a dialogue on asylum and irregular migration issues along the European Union's eastern border. The Secretariat has held conferences, identified gaps, and conducted studies. UNHCR has also held trainings

for Border Guards as well as seminars on asylum and refugee protection for the judges and prosecutors involved in refugee status determination.

Substantive improvements have been observed: the number of appeals decided in favor of asylum seekers is increasing, conditions in the detention centers have been enhanced, and there is greater sensitivity to the idea that there is a category of individuals attempting to cross the border that is in need of international protection.

The way forward

There are a number of measures that would cushion the shock for migrants who 'fall' into or are 'caught' in Ukraine. The production of unwanted migrants could be reduced with concerted effort in four primary areas.

First, it is imperative to continue the effort to establish more generous application terms. The current terms are unrealistic given many are not even aware they have been left in Ukraine. The semiotics of exile can be devious: smugglers (believed to be aiding the vast majority of asylum seekers) stop in a western Ukrainian cemetery, point to the Hungarian, Polish, or German language on the grave stones, and tell them they are in the West. The expectation that a person could document a reason for delay in applying is similarly unrealistic.

Another way to reduce unwanted migration is to build capacity. The various departments of migration and the courts are typically overburdened and understaffed. As well as slowing RSD, it contributes to some of the protection gaps and irregularities described above. For example, the Department of Migration in Uzhgorod stated they had been able to interview less than half of the asylum applicants. Those they were unable to process had left or been 'voluntarily deported' by Border Guards.

A third way to eliminate irregularities is by introducing complementary/subsidiary or humanitarian status. Until current lobbying efforts are successful, rejection will prompt irregular movement, especially among those who originated in zones of war or conflict and are unable to return.

However, the fourth and largest problem is that even after capacity is built and status is granted, many refugees will still move on. The reasons are tied up in a complex nexus of social, political, and economic factors that prevent them from either being resettled (impossible for all but highly exceptional cases) or becoming locally integrated. Without prospects of local integration, and without a framework in which a refugee can enjoy basic rights such as the right to work, a refugee's international protection is not effective. So even if issues related to documentation are resolved, a spectrum of measures to promote local integration, including access to education, social assistance, and pensions. Ukrainian officials point out with tongue and cheek humor that refugees 'enjoy' the same benefits as citizens. Even if this were true, the conditions in which they live are so difficult that Ukrainians themselves deplore them.

Xenophobia and local integration

Refugees cite a lack of opportunities for gainful employment, the hostility or ambivalence expressed by law enforcement, lack of opportunities for higher education, low quality medical care, and xenophobia as the primary reasons they feel unprotected in Ukraine. The latter is particularly sensitive. The general position in Ukraine is that migrants are subject only to the same violence Ukrainians are exposed to. An authority in the Department of Migration in Odessa stated that, "In our city it does not call up any emotions, the presence of refugees. They rent apartments and live like everyone else." But the asylum seekers felt they were at risk. In an interview in Odessa, a migrant from Sudan emphasized, "I am willing to go to any country, just not to stay here. I can't live here." Why?

> It is too dangerous for me to live here. If I go to the store I will be murdered for being a nigger… If we get in a *marshrutka* (public transport), there will be problems. This country is not for Africans.[25]

Although these claims have led refugees to make an argument they should be eligible for resettlement, Ukrainians have tried to minimize the issue. The manager of the temporary accommodation center (who was monitoring our interview) challenged the migrant on whether he would be able to go to the store replying, "Let's try it, show me." He also suggested that if the African asylum seeker did not like the graffiti, he should use the supplies he has been offered to remove the racial epithets.

The response to xenophobia is similar to reactions to other complaints. To allegations that the conditions in which identities are established and RSD is conducted are prison-like, the Border Guards respond that anyone who thinks that has not seen a Soviet prison. They go farther to point out that many Ukrainians do not have the conditions enjoyed by asylum seekers (for example a hot water heater and the opportunity to take a shower). Ukraine undoubtedly lacks financial resources for the social protection of its citizens, and asylum seeker and refugees experience many of the same resulting gaps. What the asylum seekers are talking about, however, is somewhat different because native Ukrainians do not experience xenophobia or, as a rule, need international protection. In a statement that throws into bold relief the changes that must take place, an official dismissed charges that detainees were going hungry by joking that the migrants detained at the border are fed three times. Monday, Wednesday, and Friday. Only when these attitudes shift will we close the protection gaps in Ukraine.

The debates about irregular migration have unfortunately revolved around the qualities of the individual migrants, as though this could absolve a state of its responsibilities. But it is the attitudes and beliefs, not the migrants that need improvement. The 'problem' with irregular migration is not that it is irregular, but that it is unwanted.

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[25] Anonymous Sudanese male, born 1970, interviewed May 25, 2004.

Conclusion

This paper has argued that there is a distinct lack of congruence between assumptions about irregular migrants in policy and position papers, and migrant's experiences. Whereas officials and workers in nongovernmental organizations picture international migration from East to West in terms of an inexorable striving, what migrants emphasize most is the undesirable nature of their movement. And while the need for enhanced security has led police and law enforcement officials to take aggressive measures, we must question whether migrants construed as irregular should so quickly be assumed to be involved in illegal activities. Many sources view irregular migrants as a symptom of globalization. However, asylum seekers who become irregular in the absence of a strong asylum system in Ukraine describe highly constrained lives that include detention and isolation. The common misconceptions attending to irregular movement in the area require a deeper investigation into the issues associated with unwanted movement to and from Ukraine.

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