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**Undocumented Migration in the USA and Germany:
An Analysis of the German Case with Cross-References
to the U.S. Situation**

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Undocumented Migration in the USA and Germany. An Analysis of the German Case with Cross-References to the U.S. Situation.

Stobbe Holk

Introduction

Alan Greenspan (Denver Post January 3, 2000) recently said that “undocumented foreigners are keeping our strong economy afloat”. Such a statement from Wim Duesenberg or Hans Eichel, Germany’s Secretary of Finances, is unthinkable. Undocumented migration in Germany is a taboo when it comes to talking about the benefits of immigration. As in the U.S., undocumented migrants are singled out in the German public discourse with terms like “illegal aliens” and closely linked with criminal activities and the undermining the state’s authority.

But that many Germans do profit from the presence of migrants, both with and without proper documents, can be illustrated by one of the many anti-immigrant policies of the recent years. Instead of allowing asparagus growers to hire foreign seasonal workers to harvest their crop like in recent years, in 1997 the Labor Office ordered unemployed Germans to work in the fields. Asparagus is a very delicate vegetable and it needs quite some skill and patience to harvest it. A cohort of unemployed steelworkers, insurance salespersons, and political scientists was to substitute laborers from Poland, Rumania and France forced by the threat of reduced social security benefits. But only about one third of them showed up on the fields. Of those, most just worked one day and became fed up with the strenuous stoop labor (cf. article series in the Frankfurter Rundschau, June 1997).

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The crop started to rot on the fields not necessarily because the unemployed Germans felt that this type of work was below their social status; but they clearly lacked the required

motivation, since seasonal work did not offer them any type of perspective to get back into the labor market. For migrants, though, the seasonal work gives them the opportunity to save within two month just as much as they would have earned working a whole year as a teacher in Poland.

I am going to focus my presentation on the German case and will only make a few cross-references to the situation in the U.S., since the U.S. case has been discussed thoroughly elsewhere. First, a brief overview of some of the literature and methods used will be given. Secondly, this paper will show that a theory of undocumented migration is, if not inexistent, then at least still under construction. Thirdly, the pitfalls of quantitative data on undocumented migration are to be demonstrated. Finally, the paper will present some of the policies in Germany to control both documented and undocumented migration and their effects on the lives of undocumented migrants.

Overview: Literature and Methodology

To begin with, I would like to give you a short and very incomplete overview over the scholarly work on undocumented migration. Following, I will provide a brief introduction to the research and methods I have used in the past to study undocumented migration in Germany.

Germany

The number of scholarly works on undocumented migration in Germany is very limited. This is true despite the fact that the topic is almost ever-present in the media and immigration policy debates. But as I will point out later, the access to reliable information about undocumented migration is more restricted than in the USA.

To my knowledge, there is only one truly comprehensive study conducted by Jörg Alt (1999) on the policy outcomes of undocumented migration and the living conditions faced by these migrants. Aside from that, a few case studies on certain groups of undocumented migrants have been published within the last decade: Dita Vogel's work on female Brazilian workers in Berlin (1996); Norbert Cyrus periodically publishes on Polish migrants and sojourners (last 1998); Konrad Hofer did a study on migrants at the day labor markets in Vienna (1992) (even though this is an Austrian case, I found his experiences as an participating observer to be representative for all German speaking countries); finally, Harald Lederer undertook the difficult task and failed to quantify undocumented migration in Germany (1997).

USA

Countless works are dealing directly or indirectly with undocumented migration in the U.S. The scope of research ranges from economics and sociology to law and fine arts. To arbitrarily highlight just two, I recommend the works of Wayne Cornelius (last: 1997) and the Reference Handbook "Illegal Immigration in America" by David Haines and Karen Rosenblum (1999).

Comparative perspective

Some scholars have attempted to compare issues of undocumented migration between Germany and the U.S. Eberhard Eichenhofer edited a 1999 book on immigration laws and policies as well as on the effect that the different systems of welfare states have on undocumented migration; Kai Hailbronner, David A. Martin, Hiroshi Motomura 1997 discussed, how refugees and immigration controls differ; Wayne Cornelius', Philip Martin's, James Hollifield's (1994) book "Controlling Immigration", although focusing on the German case, unfortunately only discusses whether its immigration policy failed or not - and thus reflects the absence of research on undocumented migration in Germany; finally, the OECD's 1999 SOPEMI Report gives a brief overview on undocumented migration in general, without focusing on any particular state (even though aspects of the U.S. case are heavily over-represented).

My own work

During my studies of immigration in Germany it became apparent to me that there is a lack of research being done on the undocumented. Therefore, I was determined to research this topic throughout the summer and fall of 1998 for my master's thesis. Up until now, I have conducted twelve in-depth interviews with undocumented migrants and about the same number of interviews with experts, social workers, policy makers, union organizers etc. Additionally, I have reviewed and evaluated newspaper and magazine articles. I have chosen to use these "soft data" methods for more or less pragmatic reasons. As I have hinted above, little scholarly work has been done so far to research the German case. Even though interest has been rising during recent years, research in this field is still in its explorative phase. The question I have sought to answer was how undocumented migrants develop strategies to cope with immigration policies. In the course of my research, my findings seemed to coincide with the U.S. case in various ways.

Accordingly, I am currently trying to get familiar with the U.S. case by reading at least some of the vast amount of literature on this topic and by conducting in-depth interviews with migrants and experts (some of them in Mexico, but most in the USA). Again, in my comparative work I am going to answer the questions of how immigration and other policies, such as welfare policies, affect undocumented migrants and of how these migrants cope with and resist these policies' outcomes.

A Theory of Undocumented Migration? Under Construction...

A comprehensive theory of undocumented migration does not yet exist. Migration theory usually assumes that documented and undocumented migration are birds of a feather. Both theories on the initiation of migration as well as on the continuation and persistence of migratory movements are perceived, and indeed do, apply to undocumented migration as well: Push and pull factors apply, network theory applies (Massey et al. 1993), many aspects of transmigration theory apply (Guarnizo 1998), world system theory's assumption that historical, economic, informational, military, and social ties between sending and receiving countries interrelate with migration flows apply (Sassen 1999) and so do many other "laws of migration" (Ravenstein 1885).

But the question of how documented and undocumented migratory flows relate to each other is unanswered. Does documented migration induce undocumented migration or does undocumented migration substitute documented migration, e.g. when immigration policies are

restricted? Is undocumented migration just a side effect of documented migration or are there independent “laws of undocumented migration”?

Obviously, there would be no need to talk about undocumented migration, if immigration policies throughout the world would not “illegalize” certain forms of migration. Undocumented migration is an inherent effect of any type of restrictive immigration policy. But even though most countries have immigration restrictions, many do not have an undocumented population as large as the U.S. Therefore, apart from national immigration policies there must be other reasons, why migrants live in certain countries without regarding their own legal status.

Undocumented migrants rely more than documented migrants upon the services of networks. Information about the receiving country, travel routes, false documents, shelter for the very first days, housing and work are provided through these networks. Push factors and the interdependence of sending and receiving states through economic, political, military ties get migrants on the move, regardless if they are welcomed in the receiving country or not. Pull factors like income opportunities along with the lack of legal modes for family reunion will increase undocumented immigration. Bilateral agreements for visa-free travel of tourists can result in a growing number of irregularly working sojourners in the receiving country. These bilateral agreements can thus be both the cause as well as the consequence of the emergence of so called transnational communities.

Once in the country, undocumented migrants behave differently than other migrants. They have to avoid drawing the authorities’ attention to them at any cost. Therefore, they “assimilate” in a different way. Most often, the labor market as well as the housing market is not open to them. Social life is often restricted to a small private sphere. The daily ride to work on the public bus can be a risky adventure. Public services like health care or language education are often unavailable to the undocumented. Due to these hardships, the proportion of sojourners (i.e. migrants that return after working a certain amount of time in the receiving country) among undocumented migrants is usually higher than among other migrants.

Thus, in many ways, undocumented migration works like migration in general - but in many ways it does not. I hope that during my research I am going to get deeper insights into the structures and actors of undocumented migration.

Figure I: overview undocumented migration

Entry	<i>legal</i>		undocumented		
Residency	<i>legal</i>	undocumented		<i>legal</i>	undocumented
Employment	<i>legal employment</i>	not working	self-employed	irregular employment: not declared - status does not allow work	irregular employment - type of work not authorized

This figure gives an overview of undocumented migration in general. It shows on which administrative level policies can define migrants as “illegal”. Most of the public debate and most anti-immigrant policies focus on the first level: the entry level. Migrants either enter undocumented or legally, i.e. with visas or, as in the case of Poland, as tourists or businesspeople on the basis of bilateral agreements. Undocumented border crossers enter clandestinely hidden in trucks and ships, with forged papers or across borders that are not inspected, e.g. between states of the Schengen Agreement.

The second, or residence level, is often ignored both by governments and the media. This is true even though it is known that e.g. in the U.S. about 45 percent of the undocumented enter legally (INS 1998) - the ratio in Germany is even higher. Note, that both on the residence as well as on the employment level migrants can change their undocumented status to a legal status and vice versa. Legalization programs, marriages, and the granting of refugee status are a few of the limited possibilities for the undocumented to regularize their status.

The employment level again is very much in the focus of public discussion. Legal employment is, at least formally, only possible if the migrant is documented and authorized to work. Consequently, many migrants become undocumented e.g. if they start working even though their type of visa does not allow them to work. Also, some migrants may be authorized to perform only a certain type of work and become undocumented migrants as soon as they do something else (e.g. harvesting strawberries instead of asparagus). Oftentimes, migrants take irregular employment despite the fact that they could work legally. This is, as I will show later, true for foreign laborers in Germany, who face multiple discriminations in the labor market. A status regularization at the employment level would not be possible in Germany, but is in other countries under certain circumstances.

Quantitative Data on Undocumented Migration

For many, quantitative data on undocumented migration is the major focus for their study of undocumented migration and for policy making. Who are these migrants, where do they come from, what effects do they have on the labor market? As the terms “undocumented” or “clandestine” migration imply, the nature of this phenomenon is, that the access to “hard” data is both very limited, very difficult and usually indirect.

Chart 1 Undocumented population in the U.S. (1996) Total: 5,000,000

Country of origin	Mexico	El Salvador	Guatemala	Canada	Haiti	Other
undocumented population	2700000	335000	165000	120000	105000	1575000
in percent	54%	7%	3%	2%	2%	32%

Source: INS Statistical Yearbook 1996

However, in the U.S. many resources have been spent, and in my impression have been quite successfully spent, to investigate undocumented migration. Today, estimates of the total undocumented population and the in- and out-flows are less speculative than in the beginning of the 90's. The estimates vary between the INS and independent researchers “only” by a couple 100,000. This chart shows that of the estimated five million undocumented migrants residing in the States, more than half of whom are Mexican nationals. These figures have been calculated by compiling census data, INS apprehension data and CPS data (Current Population Survey) (Passel 1999: 31).

Chart 2 Foreign born population in the U.S. (1990) Total: 19,767,316

Country of origin	Mexico	Philippines	Canada	Cuba	UK	Other
foreign born population	4298014	912674	744830	736971	640450	12434477
in percent	22%	5%	4%	4%	3%	62%

Source: U.S. Bureau of the Census

Since data on the foreign-born population plays a crucial role in estimating the undocumented population, I prepared this chart from the rather antiquated 1990's Census data. It shows that Mexico and Canada are major sources for both undocumented as well as documented migration. Of course, undocumented migration from other major sending countries does exist, e.g. from the United Kingdom, but only to a much smaller extent. At the same time, undocumented migration from El Salvador or Haiti finds its equivalent among documented migration, but the undocumented/documentated ratio is much larger than for e.g. Filipinos.

Chart 3 INS Apprehensions FY 1997 Total: 1,536,520

Country of origin	Mexico	El Salvador	Honduras	Guatemala	Dominican Republic	Canada	Other
apprehensions	1478782	8772	8071	7437	4639	3892	24927
in percent	96%	>1%	>1%	>1%	>1%	>1%	2%

Source: INS Statistical Yearbook 1997

The net undocumented in-migration is about 275,000 p.a., a figure that is drawn mostly from the INS apprehension data shown in this chart. One should note that until 1997 the INS did not record the nationality of apprehended persons who "voluntarily" left the country, i.e. without going through the deportation legal procedures. The registration of these "voluntary" departures, which account for almost 1.5 Million or 96 percent of all expulsions, increased the share of Mexican nationals in the apprehension statistics, even though they already made up the vast amount of registered expelled immigrants in preceding years. The high number of apprehended Mexican nationals can be easily explained by the fact that the migrants simply try various times to cross the border until they succeed. The implementation of Operation Gatekeeper and the like does not, as claimed, deter migration, but in effect leads to a higher number of apprehensions per migrant until they manage to enter without inspection.

A short glance at the chart also shows that estimates of the undocumented population solely based on INS apprehension data, as was commonly done in the 70's and early 80's, are really nothing but "guesstimates". They tended to over-represent Mexican and South American nationals and to over-estimate by far the total undocumented population.

Chart 4 Apprehensions at the German borders (1998) Total: 40,201

Country of origin	Yugoslavia	Rumania	Afghanistan	Iraq	Other
apprehensions	13047	4086	2757	2068	18243
in percent	32%	10%	7%	5%	46%

Source: Bundesgrenzschutz Jahresbericht 1998

Whenever numbers on the undocumented migrant population in Germany are published, the term "guess" applies even more than "guesstimate". Church groups as well as the media often speak of about one million undocumented migrants in Germany. Others mention 500,000. One reason for this 100 percent variation is the definition of undocumented migration each of these guesses apply. Some define it solely on the basis of the residence status, some include the employment status. Some include deportable, but not detained refugees, some do not etc. pp.

(Lederer 1997). Another, more important reason is the fact that no other basis exists but Border Patrol apprehension statistics. But just by looking at the apprehensions, one cannot tell anything about the ratio of those being caught to those who cross without inspection. One does not know, how many overstay their visas and stay in the country undocumented. And finally, nothing is known about the outflows to assert anything about the size of the undocumented population.

Chart 5 Non-citizen population in Germany (1998) Total: 7,308,500

Country of origin	Turkey	Yugoslavia	Poland	Croatia	Bosnia	EU/other
foreign born population	2110000	719500	283600	208900	190000	3796200
in percent	29%	10%	4%	3%	3%	51%

Source: Statistisches Bundesamt 1999

This chart on non-citizens in Germany is not based on census data, but on the statistics of the residency registration office. Data on the population are, by the way, a good example for the differences in the public attitudes towards surveillance strategies of governments: While in the U.S. a census every ten years is broadly accepted, such is not the case in Germany. The last census in 1987 was highly contested by civil rights activists. This led to boycotts and the government's decision not to repeat such a census in the near future. On the other hand, the existence of a national identification card is unquestioned in Germany, but highly objectionable to the U.S. public.

Anybody who obtains residency in Germany has to check with the local residence registration office, regardless of citizenship. Landlords are required to ensure that all their tenants are registered. The figure for the size of the legal non-citizen population, therefore, is assumed to be quite flawless.

The chart shows that the statistics on the legal non-citizen population does differ even more from the apprehension statistics than in the U.S. case. Border crossers such as Iraqis or Rumanians are clearly underrepresented in the legal non-citizen population whereas Turkish and Polish citizens are not mayor groups among the apprehended border crossers.

The majority of the non-citizens residing in Germany are EU citizens, which I am going to exclude from my presentation since most of them cannot become undocumented. The largest single group of non-citizens residing in Germany are Turkish citizens (almost 30 percent). For many it comes as quite a surprise that more migrants from Turkey are not caught at the German borders. Not all Turkish families can reunite on a legal basis yet. The war against the Kurdish population reached its climax in 1998 and surely induced a flow of refugees. All this would suggest that Turkish citizens would try to enter undocumented. But they do not so because they can receive visas which they use to enter and then overstay or they rely upon migration networks that allow them to enter without inspection.

In my observation, the under-representation of undocumented Turkish citizens in the apprehension statistics is not the only clue that apprehensions are a bad indicator to measure an undocumented population. As I stated before, most undocumented are visa-overstayers. In the case of Poles, the German government allows them to enter the country as tourists for three month without a visa. But since they are not authorized to work, many live undocumented in Germany and sojourn quite frequently back to their families and friends.

What I have just demonstrated might frustrate friends of "hard data" - the lack of a decent data basis will prevent any measurement of undocumented migration in Germany at least for the next decade. Any figures given on the size and social structure of undocumented migrants in

Germany will thus remain highly speculative. Immigration policies and their outcomes are fortunately easier to observe.

Immigration Controls in Germany

Border Issues

Borders are thought to be the most visible manifestation of a state's sovereignty and undocumented border crossers are therefore often portrayed as a threat to sovereignty (Sieveking 1999: 91). Even though border control policies are often merely symbolic, they are wanted by the public and do affect some migrants whose passage becomes more dangerous with every step taken to militarize the borders. As the United States at the Mexico border, the German Border Patrol has increased its personnel at the Eastern borders more than threefold in less than a decade, with skyrocketing budgets in the first half of the 1990's (Bundesgrenzschutz Jahresberichte 1991-1998). This is especially remarkable in Germany since the Border Patrol lost many of its functions after the fall of the Berlin Wall. After 1989, the Border Patrol's administration along with the Ministry of the Interior rode the wave of xenophobic sentiment and exploited all available metaphors of water and natural disaster to create the picture of a "tidal wave" of immigrants (especially of refugees), which threatens the German borders. Accordingly, this "wave" could only be stopped by changing the immigration laws. These changes reached their peak in the almost complete elimination of the constitutional right to asylum. At the same time, increases in the Border Patrol's staff, the militarization of the borders to Poland and the Czech Republic, as well as the expansion of the powers of the Border Patrol were thought necessary (Sieveking 1999: 110).

Chart 6 Apprehensions at the German borders (1991-1998) Number of apprehensions of undocumented migrants by the Border Patrol / Federal Police; events and number of professionally organized crossings

Year	1991	1992	1993	1994	1995	1996	1997	1998
Events of organized crossings					1700	1775	1707	2725
Persons caught crossing organized					5848	6562	8280	12533
Apprehensions	23587	44949	54298	31065	29604	27024	35205	40201

Source: German Border Patrol statistics (Bundesgrenzschutz Jahresberichte 1991-1998)

As you can see in this chart, there had been a sharp decrease of apprehensions at the German borders after the change of the German constitution and the cutbacks in the Asylum laws in 1993. Since 1996, the number of apprehensions are increasing again, mostly due to the higher density of controls. As in the U.S., the Border Patrol is "squeezing the balloon": After the militarization of the Eastern borders more migrants get apprehended at the border to Austria (Bundesgrenzschutz Jahresbericht 1998). Migrants avoid the densely controlled regions of the border and seek entry at the less controlled parts; thus, localized controls hardly reduce the number of undocumented migration.

As you can also see in this chart, the number of migrants who were caught crossing with the help of a professional organization increased significantly in the recent years also. As the chart shows, the number of events in which these migrants were caught did increase only disproportionally, which leads to the conclusion that more and more immigrants use the services of a roughly constant number of professionals to cross the border.

Expanding the powers of the Border Patrol transformed it into a federal police force. Since August 1998, the Border Patrol is authorized to control anybody in the interior of Germany without any given suspicion. Between August and December 1998, 80,000 of such arbitrary checks have been carried out along major highways and railroad connections. These controls led to 500 immigration related apprehensions (Bundesgrenzschutz Jahresbericht 1998). But more importantly, they led to a vast amount of discriminating incidences, since the controls are not conducted on a random basis, but are aimed against anybody a Federal Police officer would consider to be a potential immigrant.

Bilateral and International Agreements

Policing the border is no longer a national objective alone. Germany reached bilateral and multilateral agreements on border issues with all its neighboring states. The most prominent examples are the Treaties of Maastricht, Dublin and Amsterdam, which lifted border controls to all neighboring EU countries, “harmonized” asylum procedures, created a common data base on refugees and asylum seekers etc. (Sieveking 1999: 96). To describe EU immigration policies would go far beyond the reach of this paper. Thus, I would like to hint at some aspects of the bilateral agreements between Poland and Germany. Both countries adopted a return-policy of undocumented migrants, especially of refugees (Sieveking 1999: 104). Any undocumented migrant who apparently entered through Poland can be deported to there and vice versa. The Polish government agreed to adopt a border surveillance program similar to that being carried out by the German Border Patrol. In return, the German government provides the money and training for the Polish Border Patrol. The Polish government also allows German police forces to operate on the Polish side of the border. And last but not least, as stated before, citizens of both countries are allowed to travel to the other state as a tourist or businessperson without a visa.

These visas allow many Polish citizens to enter the country and work e.g. as construction workers in Berlin, as house cleaners in Dresden or as farm laborers during the harvest season. If they get caught, their passports get stamped with a no-entry-seal, commonly called “little bear”, which does not allow them reentry for three or five years – unless they pass again without inspection or with the borrowed documents of a friend (Forschungsgesellschaft Flucht und Migration 1998).

Employer Sanctions

Sanctions against the employment of undocumented migrants are often thought to be the most effective policy instrument to control immigration and to prevent extreme exploitation of immigrant workers. In the U.S., employer sanctions did not exist until the 1986 IRCA (Immigration Reform and Control Act) law, but the IRCA sanctions remain mostly ineffective. The number of documents, which employees can provide to proof their work authorization, is abundant (25 different types), and fraudulent papers of reasonable quality are easily available.

Also, less than 2 percent of the INS’ resources are allocated to the enforcement of employer sanctions, so that only about 10,000 of the 6.5 million employers are inspected every year and only 2 percent of those are fined for hiring undocumented migrants (GAO Testimony 1999a: 5). In effect, employment sanctions in the U.S. are at the most not employer, but employee sanctions, because the employees are more effected through the constant threat of loosing their job and getting deported.

In 1996, in conjunction with the IRAIRA (Immigration Reform and Immigrant Responsibility Act) and the Welfare Reform Act, three pilot programs to test new techniques of employer sanctions were started. But instead of the expected 16,000 voluntarily participants, only 2,500 employers enrolled (GAO Testimony 1999b: 11). One might guess that these programs will not increase the effectiveness of employer sanctions either.

Chart 7 Sanctions against irregular employment in Germany (1991-1996) Number of legal proceedings against irregular employment and number of events when fines had to be paid

year	1991*	1992	1993	1994	1995	1996
legal proceedings against irregular employment	36661	45783	74227	77616	78581	85742
events fines paid	5685	7425	14903	18014	21948	24836

*1991 only West-Germany and Berlin Source: Federal Parliament reports on irregular employment (Deutscher Bundestag: AUG und BillBG: BT 12/3180, 1992; BT 13/5498, 1996)

Since the labor market in Germany is highly regulated, at least more than in the U.S., sanctions against both employers and employees show more effect. Any type of employment in Germany has to be reported to both the tax office and to one of the public health insurance agencies. Employers are required to pay half of the social security payments and to deduct these payments and all their employees' taxes. Thus, it can pay for both the employer and the employee, if the employment is not registered with the tax and social security agencies. Quite an amount of work is done on the side, both by citizens as well as by migrants.

To reduce this irregular employment, another governmental institution, the labor office, is in charge of controlling the labor market. Residents who are registered as unemployed and receive social security payments are regularly checked on, to make sure that they do not work on the side. More important for undocumented migrants, though, are controls and raids at worksites. Especially in industries such as construction and restaurants, where irregular employment occurs frequently and is lamented by the public, raids are numerous.

The chart shows that both the number of investigations by public prosecutors as well as the number of fines against irregular employment of non-citizens have been rising. The fines for the employment of irregular workers range from \$5,000 to \$250,000. Unfortunately, this chart creates a distorted view. It includes double counts: the investigations and fines against migrants and against employers are registered as separate events. But it reflects the trend of the 90's that more resources are spent on employer sanctions – maybe more than reflecting a trend of a growing number of migrants working irregularly.

The highly differentiated and hierarchical visa system does not allow every visa holder to work and restricts many who are authorized to work to a certain type of work (picking strawberries instead of harvesting asparagus).

Additionally, foreign laborers are discriminated against on the job market by law. Employers have to prove to the labor office, that they undertook at least three attempts to employ a German citizen or an EU citizen before they are allowed to hire a non-EU citizen. This (and the skill mismatch of some immigrants) explains on one hand why the unemployment rate among non-citizens (19.6 percent) is even higher than among German workers (11.0 percent) (Bundesanstalt für Arbeit 2000). On the other hand it explains why some employers prefer to hire migrants irregularly and therefore avoid the bureaucratic paper work.

Hence, various patterns of discrimination force many migrant workers to live undocumented in Germany. The fact that they are deported as soon as they get caught working irregularly makes them extremely vulnerable to many forms of exploitation.

I would like to give the sex industry and prostitution as an example. Prostitution in Germany is a multi-billion dollar enterprise. In Frankfurt alone, more than 2,500 women (and a few men) are working in this business. Prostitution is legal, but it is not a registered occupation. Since almost 75 percent of the prostitutes are non-citizens (Drucksache des Hessischen Landtags 14/3057 1997), it makes prostitution a “migrant business” in the sense that they do the work and take the risks, but they are most often not the ones to profit from it. And that is true because, since it is not a registered occupation, migrants cannot apply for a visa to work as a prostitute. They have to enter the country with tourist or artist visas, for example. If migrants get caught working as prostitutes, they are deported as undocumented migrants. Only a few are granted protection by the authorities until they testified in courts against clients, contractors, or brothel owners. This limited protection, of course, does not help them once they are deported after a trial. Consequently, only a few sex workers dare to take their case to the courts.

The sex industry, of course, is a drastic example of exploitation that undocumented migrants might face. But even for the common undocumented worker, the German legal system does not offer any protection comparable to that of the U.S. In the States, complaints against working conditions filed at the OSHA (Occupational Safety and Health Administration) or at courts should, at least in theory, not lead to checks on the immigration status of the plaintiff. In Germany it is common practice of the courts to investigate on the status of immigrant plaintiffs, which in the case of irregularities will result in an expulsion. Again in theory, legal rights should apply to undocumented migrants in Germany also and courts will prosecute employers who do not pay their undocumented workers. But since by the end of a trial the workers would be deported and therefore no longer be able to receive their paycheck, they do not file complaints in the first place. Consequently, even though this is not a wide spread practice, some employers do not pay the agreed upon wage, do not pay at all, or even call the police to rid themselves of their workers and their payment obligations.

Cultural Practices of Denunciations

Most striking for spectators from the U.S. and many civil rights groups, though, are the common practices of “snitching”. These practices are sustained and created by German authorities to enforce immigration regulations, and are popular among many Germans. I will try to illustrate what I mean with a few examples: Apprehensions within a 25-mile corridor on the East borders are not a result of the use of fancy surveillance technology like ground sensors or night vision goggles. In the border corridor the German Border Patrol uses posters and newspaper ads appealing to the public to call their service phone numbers and report “suspicious” looking people on the streets. Almost 70 percent of all apprehensions in the border corridor are due to such denunciations (Bundesministerium des Inneren: Texte zur Inneren Sicherheit: 66).

In Goettingen, about two thirds of the raids to enforce employer sanctions are conducted after complaints reach the local labor office: complaints of competitors, labor unions, frustrated regular employees and, most important, neighbors.

German taxi drivers at the Polish border have been fined for unknowingly transporting undocumented migrants. The police requires all taxi drivers to report either any “suspicious”

looking passenger or to transport them to Border Patrol checkpoints (Forschungsgesellschaft Flucht und Migration 1998).

Before a marriage, a couple has to submit marriage documents at least two weeks in advance. If the marriage registrars have a doubt on the authenticity of the papers provided (many of them are e.g. birth certificates of other countries), they are required to report to the immigration authorities and not conduct the marriage (§ 76 Ausländergesetz (Foreigner Law)).

Children of non-citizens cannot just be sent to school. German law requires immigrants to apply to schools through the municipality, which checks on the children's and parents' immigration status. Additionally, teachers and principals are obligated to report any change in immigration status of their students to the immigration authorities (§ 76 Ausländergesetz). Bus and train conductors are authorized to check their riders' ID if the passenger does not carry a ticket. They also will report any "suspicion" about the legal status of a passenger.

These and many other measures have two effects: First, they lead to wide spread discrimination against anybody who looks different than what many Germans think a German should look like. The incorporation of public servants and private enterprises like the taxi drivers into the immigration policy enforcement do nothing to reduce these racist sentiments. In contrary, some taxi drivers for example have pledged not to transport any foreigner again. Second, these measures do not prevent undocumented migration, but they make the lives of immigrants in general quite miserable. As I pointed out earlier, undocumented migrants are just the opposite of what the term "illegal alien" tries to imply - i.e. they are the most law abiding residents and try to become virtually invisible in order to evade detection by the authorities.

Living Conditions of Undocumented Migrants in Germany

I am going to describe in the final part of my paper how migrants cope with German immigration policies - again with a few examples.

Housing

It is almost impossible for an undocumented migrant to buy property. It is very difficult to rent a house, due to wide spread anti-foreigner sentiments and residency registration regulations. Therefore, undocumented migrants rely on social networks to organize housing. Some might use a friend's papers to rent, others crowd into an unofficially rented two bedroom apartment with nine other immigrants. Visa overstayers usually manage to find an apartment while they are still legal and are in most cases never checked upon a second time. Again others live unregistered with relatives who have legal documents (Cyrus 1997).

Undocumented migrants try to rent in areas with a dense immigrant population in order not to stand out. Sometimes housing is provided by the employer, for example for seasonal construction workers who are hired in Lithuania. In this case, a proportion of the already low wage is kept to pay for housing costs.

Public services

Health insurance and other services are not provided to undocumented migrants. Even though theoretically employers are obligated to pay social security payments, they do not so,

because through these payments the irregular employment would be detected. There are reports from Berlin construction sites that workers who are injured on the job are put into a van and driven to hospital across the Polish border to avoid trouble and high hospital bills. Other migrants again rely on their social networks and consult either doctors who are acquaintances or borrow insurance cards from family and friends. Those who cannot rely on social networks often try to ignore their illnesses and frequently end up in emergency rooms (Stobbe 1998).

These examples should suffice to show that undocumented migrants face a life without basic civil or human rights and develop various strategies to cope with this situation. Of upmost importance to both the process of migration itself as well as to the day-to-day live in Germany are social networks. But even those networks do not provide an environment which allows undocumented migrants to stay permanently. Thus, if the situation in their home country allows such, they remigrate or they try to legalize their status e.g. through marriage.

Conclusion

If one wants to follow Jesse Jackson's argument, Christopher Columbus was the first "illegal alien" in America (Reimers 1998: 35). This "heritage" might be a reason why undocumented migration is viewed differently in the U.S. than in Germany. The notion of being a "nation of immigrants" versus "Germany is not an immigration country" leads to different governmental strategies to cope with undocumented migration. A tradition of granting individual rights to everybody does exist in both countries; but without a strong immigrant or human rights lobby, the rights of immigrants maintain less recognized in Germany than in the USA.

This does not prove Martin's, Hollifield's and Cornelius' "convergence hypothesis" (1994) to be untrue. The chosen policy instruments for migration control and integration, as well as the public opinions on immigration, do converge. In both countries, immigrants have to face massive restrictionist, nativist, and racist sentiments. Both countries try to close their borders to certain types of immigrants. But the different perception of the migration traditions in each country does lead to differences in the situation undocumented migrants find themselves in. These differences allow, in my eyes, a fruitful comparative study of undocumented migration.

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