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3D threats to illegalised migrants – desertion, detention, deportation – during pandemic

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Barak Kalir, University of Amsterdam, Netherlands



Image credit: Author's own.

Illegalised migrants – people who are denoted an illegal status by the state authorities and are thereby rendered deportable (undocumented/irregular migrants and so-called failed or bogus asylum seekers) – mostly find work in notorious 3D jobs: dirty, dangerous and demanding. An oppressive treatment of illegalised migrants by the authorities presents this already marginalised and

weak population with 3D threats: desertion, detention and deportation. In the wake of the COVID-19 pandemic these threats take on dimensions in placing illegalised migrants under increased and palpable risk for their lives. Declaring people's status 'illegal', state institutions often deny them access to healthcare services, shelter and other basic needs. The new realities of the COVID-19 pandemic throw into question the institutional approach in managing illegalised migrants. Beyond the inhumanity implicit in abandoning tens of thousands of people within states' sovereign territory, can states now afford not knowing the whereabouts of illegalised migrants and their health condition? At a time that criminals are released from prisons in light of the COVID-19 risk, is administrative detention of non-criminal migrants can be considered an appropriate policy?

Right here

The horrendous lives of illegalised migrants unfold right here, often at a short distance from where many of us, who read this short essay, live and work. It is in fact in western states – and not in the global south – that we find the most staggering evidence for a systematic destruction of illegalised migrants' lives.

Let us take the Netherlands as our example here. The 15th richest country on the planet, with a society that praises itself for historically upholding tolerance towards Others, has an estimated population of around 100,000 illegalised migrants. Illegalised migrants in the Netherlands fear that any encounter with state officials, especially the police, can result in their violent arrest, a lengthy detention of up to 18 months, and a forced deportation. The most known Dutch group of illegalised migrants is called We Are Here. The group is known because it opted to make its abhorrent situation visible to the Dutch public. Most illegalised migrants lead invisible lives, working informally or begging on the streets, residing in overpopulated apartments without registration or in deserted buildings and relying on the charity or solidarity of concerned citizens and voluntary organisations that take on them to do the work that state has purposively forsaken.

Out of desperation, members in the We Are Here group decided to take their cause to the streets of Amsterdam; the place where they have been living in for years. Almost eight years ago, in the winter of 2012, a number of homeless illegalised migrants – mostly rejected asylum seekers from countries in Africa – put up tents and built a makeshift camp in a yard of a deserted school. After a few months, and some failed attempts to negotiate with the local authorities an alternative solution for the situation, hundreds of police agents, some on horses, arrived early in the morning to forcefully evict the camp. Some illegalised migrants were arrested, a few were deported, but the majority simply found themselves back on the streets of Amsterdam, deserted once more, with no shelter, no work permit, no access to healthcare, and no way to secure a minimal subsistence. Alarmingly, among the members in the We Are Here group were a few pregnant women and a number of families. Within a few days after their eviction, and in collaboration with some local squatters, a new deserted place in Amsterdam was inhabited by the group. A few months later the police arrived once more to evict the group. Ever since, this vicious cycle has been going on in changing intervals. Sometimes the We Are Here group is able to stay for a few months in one place, on other occasions it takes the police only a few weeks or even days to arrange for an eviction.

COVID-19 has infused with earnestness the realities of illegalised migrants. As many have been quick to observe, the call to stay at home only applies to those who have a home to stay in. The same goes for the call to frequently wash hands with soap, which only relates to those who have access to a steady supply of water and enough detergents. In fact, almost none of these measures for fighting the spread of COVID-19 are applicable for illegalised migrants. There is no way for people who live in overly congested makeshift camps or squatted spaces to keep a protective 'social distance'. Nor is it possible in case of suspected infection or mild symptoms to isolate oneself. A visit to the hospital is out of reach for most illegalised migrants who have no medical insurance and are afraid that putting their name on any medical document could lead to their arrest and deportation in the future.

In many respects, COVID-19 has revealed the dreadful limits of a governing modality that is based on an 'inclusive exclusion' (Mezzadra and Neilson 2011). Deserted illegalised migrants are always also included within the de facto governed population of the state in whose territory they reside. COVID-19 has brought to the fore the irresponsibility that marks states' attempt to reduce the legibility of their governed population; to no longer account for every subject within their sovereign territory but, instead, to legitimate the discounting of certain subjects, as if they no longer exist.

One would have expected that in light of the risk of COVID-19 new remedial measures would be implemented swiftly to protect vulnerable illegalised migrants. Yet, this has not happened in most countries. In the Netherlands, for example, by mid-February 2020, when global air traffic was brought to a halt, the Dutch authorities did not announce the immediate suspension of all deportation operations. Correspondingly, the authorities refused to set free illegalized migrants in

administrative detention, even when by 15 March 2020 it was announced that deportation would not be possible in a foreseeable future. One should recall here that administrative detention in the Netherlands, as in most western states, is only allowed on the ground of securing illegalised migrants' impending deportation. By default, if deportation is not possible, detention is not legal.

On 18 March 2020 the Dutch State Secretary for Justice and Security responded to a question in parliament concerning the sending away of asylum seekers who approached reception centers for refugees. The State Secretary conceded that new asylum claimants were denied access to reception centers: 'The need to control the spreading of the virus makes the handling of the asylum procedure impossible...in light of the intensive contact that the procedure requires, it is not responsible to take any other decision'. Interestingly, the State Secretary did find it feasible that 'in special situations, return interviews [with illegalised migrants] can continue taking place'. In the Dutch lexicon, 'return' stands for deportation, and 'return interviews' stand for an attempt to convince an illegalised migrant to agree on a planned deportation.^[1] In spite of a public campaign to release all illegalised migrants from administrative detention, the authorities declined such a move, and on 30 March 2020 the Netherlands kept around 360 detainees, although by then deportation operations had been completely suspended.

Back in Amsterdam, around one hundred illegalised migrants – mostly young male from countries in Africa with a Dublin claim or a rejected asylum case – have been living for months in an abandoned parking garage in bestial conditions. On the freezing cement floor, they put up their tents one next to another. Some sleep alone in a small camping tent, while others squeeze together in bigger tents. There are no running water and people must go to a nearby park to use the toilets and wash themselves up. It is dark and dirty inside the deserted parking garage. Basic cooking is done on portable gas stoves. Electricity cables have been improvised to allow for some light. The whole setup is a dismal safety hazard. As one of the illegalised migrants says, 'even dogs live better', signaling with his head towards the exterior of the parking garage.^[2]

Some concerned residents in the neighbourhood have taken on them to regularly bring food and basic sanitary gear to the migrants in the parking garage. Yet with the outbreak of COVID-19, neighbours stopped coming. The local authorities know for months about the conditions in the parking garage, but only by the end of March 2020 they placed a few portable toilet booths just outside the place. It was meant to help the migrants in practicing self-quarantine and managing the lockdown. The voluntary organisation 'Doctors of the World' has taken on itself to visit the garage once a week and offer medical attention for the migrants. As one of the doctors despondently vented: 'The right for healthcare and the right for shelter are human rights, and once upon a time this state signed for these [rights]! But, well, here we are now...'.^[3]

It's racism, stupid

Formally speaking, at stake in the deadlock that pits the Dutch government against illegalised migrants is the legal framework that regulates the status of migrants and refugees in the Netherlands. Dutch politicians insistently maintain that people who are processed by the immigration and asylum authorities, and are denied a legal status, must leave the country in line with the law. Most illegalised migrants refuse to leave the Netherlands. They maintain that their case was either not handled fairly or that they can simply not return to their country of origin for different reasons, from lacking identity documents to fearing for their life.

Practically speaking, thousands of illegalised migrants in the Netherlands live in horrific conditions for many years. It is clear that the authorities are unable to forcefully deport them. It is also clear that these illegalised migrants would never leave voluntarily. They prefer to stay and live a terrible life as abject members in Dutch society than to return to the places they escaped. The Dutch authorities doggedly believe that only by making their lives unbearable, would illegalised migrants give up and leave the country. This belief, which is not grounded in the direct experience of politicians and is refuted by several academic studies, is nevertheless staunchly upheld as the Holy Grail of getting the Dutch migration policy to work properly.

In 2014, some activists filed a complaint with the European Committee of Social Rights (ECSR) against the Dutch government for its callous treatment of illegalised migrants. It resulted in a special report by ECSR that condemned the Dutch government for its inhumane and degrading policies. In response, the then acting State Secretary for Justice and Security announced that he did not feel obliged by the report and was not planning to allocate 'a single cent' for improving the situation of illegalised migrants in the country. In 2015, the European Committee of Ministers ratified the ECSR report and obliged the Netherlands to take measures in reparation of its current policies. Forced to act, the Dutch government moved to subsidize a very basic shelter – with 'somber conditions', in the official language of the state – for a limited number of illegalised migrants in dire circumstances. In Amsterdam, where this new policy has been

implemented to its utmost extent, there are only 500 beds available. All beds were immediately filled up, and a huge waiting list of anxious illegalised migrants now exists.

Weeks into the spread of COVID-19, the Amsterdam municipality offered illegalised migrants in the parking garage to sleep in a nearby sport hall that was converted into an emergency shelter, keeping in line with social distancing and basic sanitarian conditions. Migrants could come every day after 4pm and leave in the morning before 9am. Yet, many illegalised migrants declined the offer. They feared that the authorities would condition their stay in the shelter by collaboration with the Dutch immigration unit on their future deportation. Tying up any assistance to illegalised migrants with an explicit agreement to work 'in good faith' with the Dutch deportation unit is a renowned pattern among the Dutch authorities. It is astonishing to realize that even in times of a deadly viral pandemic, securing basic protection for human beings in a vulnerable position is made tentative and negotiable.

From steadily underfunding national healthcare systems to slowly raising populations' susceptibility to state surveillance, the spread of COVID-19 has magnified some important existing dynamics in liberal democratic societies. With respect to the treatment of illegalised migrants in rich western country, the pandemic has exposed the authorities' authentic lack of concern for the lives of those deemed 'illegal'. Death – social, gradual or abrupt – is the unpronounced sanction that underlies 3D threats – desertion, detention, deportation – pugnaciously imposed on illegalised migrants. It is not that countries like the Netherlands lack the budget or the space to accommodate more humanly illegalised migrants. It is a conscious political decision to sacralise the legalistic immigration framework more than the lives of certain human beings who are considered disposable. This devilish political constellation condemns illegalised migrants to become 'the wretched of the earth', to evoke Franz Fanon's depiction of the tarnished mental and physical conditions under which colonial violence forced racialised people to live and to die.

Important debates are being weighed at the moment as to whether a push for a premature 'exit strategy' out of the COVID-19 crisis is propelled by a rapacious capitalist system that puts the economy before the lives of workers. We ponder on this question because we clearly realise that prioritizing capital over the lives of workers is not a speculative possibility here and now, but an historical fact in various periods and different places. Capitalism assumes its predatory quality, as Cedric Robinson (1983) has laid bare, from the fact that it has always been, from its inception, racial capitalism. In Robinson's words: 'The tendency of European civilization through capitalism was thus not to homogenize but to differentiate—to exaggerate regional, subcultural, and dialectical differences into "racial" ones' (26). Racism, which preceded and informed capitalism, is an ideology that squares more comfortably with the idea that the lives of some people are inferior – in value – to those of others.

'Not a single cent', said in 2015 the Dutch State Secretary for Justice and Security, when faced with a demand from the European Committee of Social Rights to improve the inhumane treatment of illegalised migrants. Can we expect that in dealing with the deadly implications of the COVID-19 pandemic, which will cost billions of Euros in direct and indirect cost to national economies, the logic of racial capitalism will be sidelined, and a different, more humane one will reign? Judging by examples worldwide – from the president of the US calling COVID-19 the 'Chinese virus' and threatening that China will pay for its damage, to the German authorities allowing gastarbeiters to fly in from Romania under conditions that completely disregard basic precautionary measures – we should all be concerned about the bleak answer.

[1] The complete written response of the state secretary is available online at:

<https://www.rijksoverheid.nl/documenten/kamerstukken/2020/03/18/antwoorden-kamervragen-over-het-bericht-dat-asielzoekers-niet-welkom-zijn-in-ter-apel-vanwege-het-coronavirus> (accessed April 18, 2020)

[2] A filmed report on the situation of this group of illegalised migrants in Amsterdam can be viewed online at:

<https://www.youtube.com/watch?v=KiUr591Nat>

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