Survival on the margins – summary of a research project on the Undocumented in Munich

By Philip Anderson

This article is based on the results of a study commissioned by the City of Munich to look into the social problems faced by the undocumented. The research was carried out from May 2001 until the final report was presented in August 2002. After intensive discussion on the part of departments of the local authority (primarily the Aliens Office, the Health department and Department for Social Affairs) the report, with a range of conclusions and recommendations for action by the local authority, was published in August 2003.¹

For reasons of brevity this paper is a summary of the main analytical results of the study. There will therefore be only limited reference to the empirical findings of the interviews and discussions conducted with the undocumented, trusted contacts and with experts (see below) who were the focus of the research. Thus the direct quotes from interviews upon which the findings are based can only be included in very limited numbers.

Background to the Study

The point of departure was the fact that while there is some empirical material on the day-to-day reality of life as an undocumented migrant in Germany no systematic in-depth study of the social problems related to life as a clandestine in a West German city had as yet been undertaken. When the study was commissioned in March 2001 it had been preceded by a long and controversial ongoing discussion within the local authority on the justification for a study on what is, in Germany, a highly-sensitive political subject. Questions that arose were: Can

the local authority take action in this field, considering that these are people who have no right of residence? How can the expenditure of taxpayers’ money for whatever measures be justified in these circumstances? Alternatively, is there not an obligation in terms of social and human rights for the local authority at least to collate empirical evidence in order to determine what action the local authority should take to maintain social and health standards for all the *de facto* residents in a city like Munich?

These questions are far from being resolved, but the study summarised in this paper is a contribution to at least getting some of these issues addressed. There is a greater reluctance about addressing this subject in the German context, in contrast for example to southern European countries in the EU (King and Harding). It is the author’s contention in this paper that research on the lives of the undocumented is an essential part of a broadening of perspective on these people, leading their „invisible lives“ in metropolitan centres.2

The ground-breaking study in Germany on this topic as part of an international project set up by the Jesuit Refugee Service (JRS) was Pater Jörg Alt’s *Illegal in Deutschland* (Karlsruhe 1999), based on wide-ranging interviews and extensive research in Leipzig.3 This was the first study to provide solid empirical evidence on patterns of migration, ethnic networks, social and economic issues and also specific problems of sub-groups like children among the undocumented. In the course of the subsequent socio-political discussion (in which the German media have played a substantively positive role in raising awareness of the human

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2 See the Brussels-based research and best practice project being run by PICUM (Platform for International Coordination on Undocumented Migrants) which has produced the three *Books of Solidarity* on various European countries trying to network organisations dealing with human rights issues surrounding „illegals“.

3 The context of the project was a comparison between Germany, the UK and Spain. See synthesis of the results in Gibney, Matthew: *Outside the Protection of the Law: The Situation of Irregular Migrants in Europe* (Refugee Studies Centre, RSC Working Paper No. 6), Oxford 2000. See the study on the UK by the present author under *In a Twilight World: Undocumented Migrants in the UK s:* Internet http: [www.geocities.com/jrsuk/Twilight.html](http://www.geocities.com/jrsuk/Twilight.html)
It became apparent that there was little or no comparative evidence of the situation in a West German metropolitan centre. Munich’s size, geographical position, economic importance and its political weight (some refer to it as the „secret capital“ of Germany) makes it the ideal focus for a study of this kind. The definition of the undocumented used in the research presented here is: those persons entering Germany without permission and/or residing in Germany without such permission who in case of control must reckon with criminal proceedings and/or removal or deportation.

**Methodological Approach**

An area of research of this type is *per se* a methodological minefield in terms of access, the development of solid empirical instruments, growth of trust between researcher and interviewees and of course validation of evidence. Networks of trusted contacts in the migration research and social work fields, among the politically-active and in the ethnic communities themselves had to be built up. Especially, confidence had to be established with key “multipliers“ in the migration and asylum scene to make clear that the study was not a subterfuge to enable the Bavarian police and Border Protection Service to crack survival networks of the undocumented – given the German political context an altogether understandable suspicion. The guarantee of anonymity for all non-official respondents plus an ongoing process of revision of the results and close supervision of the drafting of the report by associated (academic and other) experts with extensive knowledge of the Munich situation were thus essential elements in the research process.

Triangulation against the background of grounded theory was the chosen qualitative research method (Strauss/Corbin). Semi-structured interviews were conducted with experts and trusted contacts who were the main avenue to interviewees who were at the time of interviewing or previously had been undocumented. Experts in this study are people who are in the widest
sense „in the know“. The category of „experts“ covers a wide range from civil servants in administration, the police and lawyers to social service workers, representatives of a whole range of NGO’s, doctors and therapists, trade unionists, ethnic community leaders, members of solidarity groups and committed individuals. This empirical evidence was enlarged upon with statistics and internal information from a local authority working group assigned by the city council to support the project. Information from the media and research literature made up the third corner of the research triangle.

The most important themes covered in the interview guidelines were:

- What are basic living conditions for the undocumented like, e.g. relating to work, accommodation, health care, life planning, education and training, social contacts?

- What are the specific problems arising, such as health problems, exploitation at work, social isolation, constant fear of discovery, stress, discrimination, de-qualification? What are the problems particular to women and children?

- How do experts view the problems relating to de facto illegal immigration and what do they consider to be the tasks for the local authority arising out of them?

- What specific recommendations can be made regarding local authority policy on this basis, making due allowance for the legislative constraints set by Länder and Federal responsibility?

A team of three interviewers (two men and one woman) worked on the empirical phase of the study conducting a total of 84 interviews of from 15 minutes to 2 ½ hours: 39 extended expert
interviews, 21 short background and telephone interviews, 22 interviews with undocumented persons and two extended discussion groups of migrants without valid papers – making a total of twenty-seven undocumented persons in the sample. Of the undocumented interviewees 5 were from Eastern and south eastern Europe (all from EU applicant countries set to join the organisation in 2004), seven were from Africa (mainly north African) and fifteen from Latin America. 14 of the interviewees were men, 13 women, the ages ranged from the early twenties to mid-fifties.

The disproportionately high number of Latin Americans can partly be accounted for by availability of trusted contact persons for this particular group. But other empirical research has confirmed that there are larger numbers of Latinos among the „illegal“ population of large West German cities than previously thought (Rerrich). Contacts with knowledgeable Asian community leaders compensated for the lack of interviewees from these ethnic groups living in illegality to some extent. It became apparent that Asian community networks were particularly closed off and difficult to access. This article, like the study itself, reflects the empirical results from interviews with all of the ethnic groups interviewed, rather than concentrating on any single one.

In this paper only a few of the more important areas of the social reality of the undocumented can be covered (dealing with both categories of „illegals“ with a background of flight from persecution and as labour migrants). After a consideration of categories of the undocumented the focus will be on the accommodation situation and on health (including the vulnerability of women), thereafter work and the economic dimension (in the form of some hypotheses) are central themes. A subject which has received less attention in the literature until now, the dilemma of those providing help to the undocumented, will be treated. The article finishes
with a summary of conclusions based on the full results of the study. All quotations in the text have been translated by the author.

**On categories of the undocumented**

The following categories of undocumented person were discerned in the course of the empirical research in Munich as the most important groups.

**Motivation:**

- Refugees, within or outside asylum procedure
- labour migrants
- student or au pair overstayers
- family reunion (when not officially possible, e.g. elderly relative; or not granted)

**Status:**

- Illegal entrants (travelling on false papers)
- overstayers (tourist and visitor visas or no visa entry requirement)
- working in breach of permission

There are two broad divisions across the categories which are of importance: commuting migration (which mainly applies to Eastern European migrants) as distinct from entry and residence for a longer period of time as a clandestine; and the distinction between those with a (primarily) refugee background and those for whom the economic motive of a search for remunerative work is the main aim. Of course in practice the two latter motives are often difficult to distinguish, especially in those sender countries where economic and social destabilisation make earning a reasonable living almost impossible.
As far as the commuters are concerned an important pattern is that many try to adhere to the formula of returning home every three months so as to be, technically speaking, legal as residents. Nonetheless these are labour migrants who are working illegally. Often they do not view themselves as undocumented people, feeling that they follow the letter of the law, because they are entitled to be in the country for up to three months on a tourist visa, but not allowed to work. They try to ignore the latter misdemeanour. An expert in immigration law who was interviewed pointed out the fault in this reasoning. Experience has shown that Munich judges faced with „commuting“ migrant defendants of this type caught working in the informal sector tend to regard them as illegal residents. Judicial reasoning in these cases is: the centre of their lives has become Germany in actual fact by virtue of the primacy of their employment in determining their stay.

The research in the present project indicated that there is an important broad psychological difference between labour migrants and refugees in their attitude to life as an undocumented person. Whereas labour migrants usually adopt the attitude from an early stage, or indeed from the beginning of their stay, that they must try and escape detection for as long as possible, refugees usually choose going underground as a last option. If they are in the asylum procedure, they know that they have been registered and are more aware of both the likelihood and the consequences of discovery: detention and deportation back to a potentially life-threatening environment are a genuinely frightening prospect. They do not necessarily have the network of contacts for a life underground (e.g. one interviewee of West African origin stated that members of the ethnic community may even cut themselves off from them when they go underground, not wanting to be guilty by association). Perhaps they also do not have the strategies to remain „invisible“ or indeed the stress resistance that labour migrants tend to possess more of, in order to follow their chosen path. This is of course a general characterisation of difference – there are plenty of exceptions to prove the rule.
**Social Reality I: Accommodation**

Munich is one of Europe’s most expensive cities and finding a place to live is difficult for any newcomer to the city. This is all the more true for those who are, or have become, undocumented. Most of the newly-arrived find a place to stay somehow, somewhere. But those without status usually get poor quality, expensive living space a the bottom end of the market and are prey to exploitative landlords, some of whom specialise in an undocumented clientele. They have to cope with constant insecurity of tenure (as a rule they will have no contract of tenancy) and are faced with the threat of homelessness more acutely and frequently than the rest of the resident population. Some observers might contend – albeit somewhat cynically – that this is the price you pay for living as an „illegal“: low-standard, often crowded accommodation on insecure tenure for a price over the odds.

Interviewees stated that the first port of call on arrival may be a relative or acquaintance from the original home area of whom one can expect to be received with some hospitality, because guests are to be so honoured. The host family will normally be living in a crowded space at the best of times, the guest may well be welcome at first, but everyone assumes that the stay will be temporary. Interviewees described how it may last about two weeks before the first tensions start to surface because of lack of space and privacy and the constant demands of hospitality gradually become too much. This is particularly problematic with „guests“ from the home area whom the host family do not know, but to whom ties of kinship or local tradition imply obligation. Nonetheless the point will come when the newcomer is told it is time to move on – the landlord is getting suspicious, the family is afraid of what the neighbours might say, there is not enough space etc.
At this point it might be the extended network of the ethnic community which comes into play, visitors are passed around among those who can provide a bed for a few nights. But this is a merry-go-round which has to come to a stop sometime. The guests feel awkward, less able to cope with life in a strange land and culture than they had thought, mostly unable to speak the language, gradually they become aware of how ill-prepared they were for the whole migration undertaking. One middle-aged couple from Latin America who were interviewed gave a little insight into the random process involved in taking the migration decision. They stated they decided to come to Europe because it had become so difficult to make a living back home on account of ongoing economic destabilisation (the husband had been a school headmaster, the wife drove a taxi part-time): they wanted to go to Europe, opened an Atlas and decided spontaneously for Germany!4

There are also shared flats of undocumented migrants, large numbers living in one room and occasionally it is so crowded that – as in the centre of Munich at the time of the industrial revolution – the migrants take turns to sleep in the one bed, spending the rest of the time at work or out of the flat doing other things. One undocumented interviewee of North African origin talked of:

...people, who share a room with 8-12 people and come to Munich for six months to earn some money. They sleep in three shifts, four at any one time. The rest are out at work or running errands...

Above and beyond this there are charitable and church institutions, soup kitchens or hostels for the homeless which provide support for disadvantaged groups in general and which may

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4 An expert witness with a great deal of experience with the Latin American community confirmed that
be the next address on the list (or indeed the first). These organisations and groups – or at least their workers on the daily job – are not particularly interested in enquiring into the migrants’ residential status, turning a blind eye often goes with the job description.

We should not lose sight of the fact that it is quite possible under reasonable conditions for the undocumented to improve their accommodation situation with time. They need a steady income and good social contacts within and beyond the ethnic community to help them make the best of the highly-competitive rented flats market in a city like Munich – this might include a friend who will sign a contract of tenancy in his/her name (two interviewees had been living in a flat on this basis for some time). The right dress sense for the occasion to impress the landlord, self-confidence, good knowledge of German and, possibly „good quality documentation“ all help improve one’s chances of being able to live more „normally“, i.e. in a living space more appropriate to the context of the host society.

The reality for the great majority of the undocumented is that they are light years away from this fantasy goal. They usually have to be highly mobile and follow the motto „here today, gone tomorrow“. This experience is not confined to those without valid papers in attractive, high population density cities like Munich; but having to move house frequently wears you down. For these people constant uncertainty about where they live is one of the main psychological pressures leading to possible mental disturbance or breakdown, a fact mentioned by therapists and counsellors interviewed.

One interviewee of Latin American origin who has lived in Germany for many years without papers expressed her longing for a room of her own (possibly comparable with Virginia

he was frequently astonished at how little thought and preparation migrants had put into their trip to Europe. This frequently includes arriving in a central European country in winter lacking adequate warm clothing.
Woolf’s notion of this essential for Everywoman). She was fed up with moving around, living temporarily with friends or acquaintances in shared flats, sometimes being dependent on men for a bed for the night. Her few possessions are mainly in boxes, some have got lost in the course of her frequent moves. No longer young (she is a grandmother, her daughter and grandchild living in Munich, paradoxically, with valid papers), she described graphically how tired she is sometimes, wanting peace and quiet, a place simply to call her own.

**Social Reality II : Health**

*The perspective of the undocumented.* To survive for any length of time as an undocumented person in a large German city you have to be sharp, street wise and flexible. Migrants in the research sample without valid papers were as a rule (but not always) young (ca. 18-35) and it is their primary aim to manage to get by somehow. Almost invariably they entertain the hope of becoming regularised at some time in the future: marriage, a good job, training and college study, self-improvement in the broadest sense were the common goals and dreams mentioned alongside earning money. Against this background a number of interviewees described the attitude of the undocumented towards illness as follows: it is the flip side of the dream, they don’t get sick, that is, they do not allow themselves to get sick. Because the prospect is too frightening to contemplate.

If health problems occur regardless of this mental attitude, some resort to traditional remedies from their countries and areas of origin. Both Latin American and African informants described how they get hold of herbal medicines through the ethnic network. If necessary a group of friends may even club together to pay for the „import“ of the required remedy from the country of origin for a sick associate.
If an illness or pains develop which cannot be treated thus or ignored any longer, then the situation gets more complicated. Faced by more serious problems (including infectious diseases) the undocumented person may go into denial until an examination or treatment by a doctor can no longer be avoided. This can lead to serious medical complications.\(^5\) There is also a heightened danger of accidents because undocumented migrants tend to work under unsafe conditions – unscrupulous employers can make deliberate use of this competitive „advantage“ of playing off the unregistered against workers with status who can press for health and safety standards to be maintained. In case of illness access to the German medical insurance system is ensured via the health insurance chip card. It may be possible to „borrow“ a card from an acquaintance, at least if the treatment is not expected to be extensive.\(^6\) There is also a black market in this type of „documentation“, interviewees stated that the “trading points” were around the central station.

The professionals’ perspective. General Practitioners, social workers and therapists among others sometimes find themselves confronted with the problems of these patients – these are not the only groups of the non-insured who may appear (a lack of insurance cover is often a problem for the homeless, too, among others). Particularly on account of the small but constant numbers of the undocumented – and of asylum seekers for whom German law makes inadequate health provision – there have thus developed medical support networks in most large German cities for those who fall through the safety-net.\(^7\) These are normally groups of doctors and medical specialists, other professionals (e.g. lawyers), politically-active citizens and members of church groups who give their clients legal and other advice and pass them on

\(^5\) One medical expert interviewed (in Berlin) described the case of Polish worker who had waited until his condition became so serious that he needed to be hospitalised. The cost intensive treatment extended over a number of months and proved highly expensive.

\(^6\) Interviewees stated that this is much more of a problem in the case of dental treatment, because the dentist is likely to have records or indeed X-rays of the patient’s teeth.

\(^7\) See for example Medinetz, Freiburg (Article in the TAZ newspaper 11.06.00.), or Medizinische Flüchtlingshilfe, Nürnberg (Nürnberger Nachrichten, 10.8.99), which received the Multicultural Prize from the City of Nuremberg for its work in this field.
to doctors prepared to treat for a nominal or indeed for no fee. They do this work out of ethical and political conviction. In Munich the contacts and networking are organised on a voluntary basis – this means there are financial problems as soon as sophisticated medical equipment has to be used (e.g. X-Rays, electrocardiograms), because the costs cannot be recovered.

There is an additional problem. It is difficult to maintain the motivation for often frustrating counselling of the undocumented in the long term („what are we actually achieving in political terms?“) and keeping the ongoing voluntary support of medical professionals. Those involved in the network frequently ask themselves what attitude „authority“ in Munich actually adopts to this network? Officially it cannot be tolerated, because both providing support to those without legal stay and not reporting them to the Aliens Office are grey areas within the law (§ 76 and §92a respectively of AuslG/Aliens Law), increasing the sense of insecurity of those providing treatment. The City of Munich has moreover never stated that this group of people – self-evidently resident in the city – have a human right to health care. In practice, however, support networks of the kind described exist and are well known to those in social services and the health care sector – to say nothing of the police. They perform a specific function – to all intents and purposes they appear to be quietly tolerated and allowed to go about their business.

Hospitalisation is a an even more delicate issue. From the point of view of the undocumented person who is ill and requires hospital treatment with a stay on ward there is a considerable danger that this will lead to discovery of his/her lack of residential status. The fear is that they can be picked up by the police directly from the hospital and deported. The occasional cases in which this has happened get passed around as stories in the ethnic communities inflating
fears of the ever-present police state. Quite apart from the legal delicacy of the situation – that the hospital is theoretically obliged to inform the Aliens’ Office of the patient’s lack of status – the hospital faces the problem of funding the treatment. Who pays for a person who is not insured? Some undocumented migrants have travel insurance, but experience has taught hospital administrations in Germany that these companies usually do not pay for hospital treatment.

The individual doctor working in a hospital may have greater qualms of conscience about treating the undocumented patient than a GP. This is because under German law hospitals are “public institutions” and employees of such bodies (many of whom are civil servants, Beamte) are obliged to pass on information on „clients“ lacking in status. Over the last few years this paragraph (§76) has become highly controversial because many professional groups object to a compulsion to „inform“ on a person whom they are bound to serve in a professional capacity. As yet the Federal government has shown no signs of being willing to change the law – this in spite of a specific recommendation on these lines made by the Süssmuth Immigration Commission in 2001.

In this sense doctors employed in hospitals are rather more „in the firing line“ than GPs as regards these patients: on the one hand they certainly feel obliged to treat the patient. But they must decide what they do with the information – they might in fact only discover a patient’s lack of status after expensive treatment has already taken place, say in the intensive care ward after a car accident. At some point it becomes clear that this person is not insured, in fact does not „exist“. So the argument with the administration over funding of the treatment will have

A lawyer interviewed described one case of a student overstayer who was in fact picked up by the police directly from hospital while recovering from an operation and put in detention. These are cases which, the expert pointed out, from a juridical point of view „should not occur“.
to be settled – is the doctor prepared to look for other sources of funding (charities, foundations, wealthy individuals), or to pay out of his /her own pocket? This, according to interviewees employed in the health sector, is the kind of conflict that can develop. The patient, for his/her part, will usually try to disappear as soon as is humanly possible.

This is the extreme case which can happen. But interviewees in hospital management reported that personnel have as a general rule to try and sort out these awkward problems on their own and with discretion. Internal guidelines may be agreed on, whereby the administration makes use of reserve funding which does not have to be accounted for precisely on the books – an adequate strategy for the relatively small number of cases of undocumented migrants to be dealt with each year – always assuming they are not critically-ill patients requiring high technology expensive treatment in intensive care. Medical workers at reception or on ward for their part develop a sensitivity for these situations. There are the patients of foreign origin who want minimal treatment and insist on paying in ready cash. In these situations there thus develops an unspoken agreement between those immediately involved to co-operate with as few questions asked as possible, for the hospitals would not want to face the charge of refusing treatment – especially if a case were to end tragically. What is evident in toto is that the hospitals are left to their own devices to cope with this complex set of dilemmas. Once again “official“ Germany would seem to be choosing not to be aware that there is any problem.

Specific Vulnerability of Women

Interviewees in Munich (both experts in the field and undocumented women themselves) described how women without status who have medical problems present a special problem.

However, Ralf Fodor argues in his Legal Opinion Rechtlos that hospitals are not covered by this legal obligation to inform the authorities, pp. 162-181. Even if it is the the doctor’s prime duty to treat the sick, many are uncertain about the potential offence of thus abetting unlawful stay. (§ 92a Aliens’ Law)
For one thing they often experience more health problems on account of greater vulnerability to damaging work and living conditions (including periodic homelessness) as well as suffering stress symptoms caused by the combination of social circumstances relating to life as an undocumented person. It is, for instance, problematic for women not to have regular gynaecological examinations, contraception is difficult to regulate, even access to health/hygiene basics such as sanitary towels can be difficult – for financial and other reasons.

The situation becomes critical if a woman becomes pregnant unintentionally. Research in Munich (based on the statements of female undocumented interviewees as well as doctors, counsellors and psychotherapists) showed that in theory women have up to six options: first they can decide for an abortion, second they may find a way out of the country back to their country of origin in order to give birth – often handing care of the infant to a parent or other relative in order to return to Europe to start earning again as soon as possible. The third option: they can access the pre-natal support service through a pregnancy advisory centre and give birth in Germany. This will, however, almost certainly mean that they at some point during the pregnancy have to make the authorities aware of their identity and lack of status. Gynaecologists providing support to undocumented women stated that they feel obliged to urge this step, so that the rights of the child (health tests in infancy or kindergarten place etc.) can be pursued through official channels. Ultimately this will usually mean that mother and child are subsequently deported after the statutory maternity leave period of eight weeks has elapsed – assuming she does not disappear underground with her child before this time elapses.

Of course a woman can decide to avoid all official contact and try to give birth to the child privately with the support of friends or ideally the help of a midwife. Fifthly, there are of
course private hospitals – but as a rule this is too costly for most to be a realistic option – with the exception of certain charitable hospitals run by religious orders where a heavily pregnant woman’s claim to be, say, a newly-arrived tourist will not be questioned.

Finally, there is the „anonymous birth“ option offered by the city hospital in Schwabing in northern Munich. Mothers can give birth without registering officially here. But under German law the child has to be officially registered within seven days of the birth. Rather than give their lack of status away undocumented mothers feel compelled to give their child up for adoption, with all the heartache involved. The infants are passed on to foster parents to begin with and are ultimately made available for adoption. The mother will not have any contact with the child thereafter. This is current practice regarding women who choose this particular way out of a crisis situation, and it is not uncontentious. For undocumented females who become pregnant the situation viewed in all its various facets boils down to the practical result that most women feel compelled to have an abortion. Accordingly these women have to deal with the emotional and psychological pain – quite apart from any potential physical ailments – which this „choice“ under such circumstances involves.

**Help and Support**

The various contexts of help and support given to the undocumented were a central theme in the Munich study. One considerable difficulty that those expressing solidarity in the German context find themselves facing is the legal no-man’s land which only serves to heighten the sense of anxiety surrounding the whole issue of the undocumented in the Federal Republic.\(^\text{11}\)

These actions can prove problematic in a professional or a private context. The legal/professional consequences of giving material help to an undocumented person for a

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\(^{11}\) Cf. Study by Prof. G. Robbers in Beiheft 1 der Zeitschrift für Caritasarbeit und Caritaswissenschaft, Freiburg 1995, S. 41 ff. setting the legal framework for social workers counselling the undocumented. Prosecutions of „helpers“ are extremely rare in actual fact.
social worker for instance can (at least in theory) be considerable and on account of the climate of uncertainty both diffuse and threatening.

This became evident in the course of the present study when interviewees in the asylum and migration fields emphasised they were speaking „in a private capacity“, because their organisations could not consent to talk about the subject of illegality, even on an anonymous basis. Issues surrounding funding and dependency on local authority or other state support to maintain projects may be a part of this insecurity. In the course of interviews with those providing help and support for migrants without status it became clear that a conscious political-ethical decision was usually involved at some point. Providing help ranges from being a one-off matter to cases of long term commitment to a particular group over a number of years.

One interviewee active in the church who strongly supported the Munich study in the role of trusted contact winning over „illegal“ migrants for interviews and discussions has been a supporter of their human rights in practical and campaigning terms for a number of years. When asked why he has taken this stand – a subject of some contention in his church community – his reply was short and to the point:

„because I believe it is right.“

Research showed that the groups of those providing support is multifarious. At one end of the spectrum there are immediate members of the family, relatives and kin (this is especially, but of course not exclusively, true in the context of family reunion). As previously indicated, kinship ties may be ambivalent or irksome but they imply obligation, at least in the short term.
On the other hand the range of those helping in a professional or voluntary/ethical-political context is considerable. In the Munich sample there were the doctors and therapists who tend to be up-front about the medical and psychological problems of those without valid papers and criticise the state’s neglect or indeed patent dishonesty in not addressing the human rights issue of the undocumented. The social workers interviewed confessed to finding themselves in a more ambivalent field, whether working for local authority or charitable organisations. Do they help someone with nowhere to live or being abused at work, and if so how? Should they pass on this information to the Aliens’ Office forthwith, as the law requires? If they act according to their professional code of conduct and conscience (assuming these dictate in a similar fashion), will the head of department or the organisation in toto support this – or are they out on a limb acting alone, possibly even „unprofessionally“?

In this sense members of church or citizens’ groups may feel able to act more freely according to their conscience and provide humanitarian or political help for undocumented people in need. But there seem to even be certain situations where local authority personnel – say among those responsible for issuing documentation – may be prepared in certain circumstances to turn a blind eye. One example from our undocumented interviews was particularly striking in this regard: the status of a woman who was known to have recently given birth in a city hospital and taken her child home was patently unclear for the Aliens’ Office. The civil servant in the department which had been informed of the birth by the hospital subsequently phones the mother. He does not push the issue of the mother’s status but does insist that the child be registered so that it will have a right to a place in a crèche and later in Kindergarten. No, he assures the mother, it will not be necessary for the mother to present her own papers. So it comes about that an undocumented mother has a child who is officially registered with the local authority, i.e. she went along to the Aliens’ Office and
registered the birth of her child and went away again without any further questions about her own lack of status being asked.

Perhaps a cautious hypothesis based on this experience and previously-cited examples of hospital personnel being prepared to use unofficial “room for manoeuvre” to treat sans papiers may now be put forward: there are instances in which staff within public institutions prove to be more flexible in dealing with the needs of the undocumented than the inflexible structures of which they are a part would normally allow.

Whatever reasons individuals may have for helping those lacking status they all seem to have one thing in common. From their respective points of view they feel sympathy with undocumented people who are in need of help and at a more political level they are critical of society’s treatment of a group whose rights are being ignored – unconsciously or otherwise. Each person tries to find their own answer to the dilemma of steering close to or actually breaking the law on the one hand and meeting ethical and humanitarian requirements regarding the undocumented on the other. Until now the German state has tended to regard those without valid papers as a security problem to be dealt with primarily by the police and the Border Protection Service. The social and human rights problems arising in countless everyday situations are dealt with by single individuals alone or in small groups and networks. A doctor who has been involved in work with asylum-seekers for many years expressed succinctly his frustration at the fact that the authorities are well aware of the fact that many people provide this “safety net function” for the undocumented:

“In a way we (committed people) are just useful idiots for the state.”
The economic dimension: the attractiveness of employment of the undocumented

a) Areas of employment

The economic role of the large and heterogeneous group of migrants without valid papers cannot be ignored in a city like Munich. The focus of these remarks will be on areas of employment, the perspective of the “illegals” themselves and an analysis of the economic function of those without status as observed in the empirical research. The latter will be briefly summarised in the form of a number of hypotheses.

The range of employment activity covered by the undocumented in Munich is large. It extends from the building industry (primarily small businesses and sub-contractors) to private households in which a whole range of person-related services are covered such as cleaning, shopping, housekeeping, care of children and the aged (this last a very important and growing sector). Commercial cleaning, restaurants, catering and hotels and all sorts of small and medium-sized enterprises in the category of ethnic business are important, too. These can be car wash centres or garages, scrap metal and other recycling depots, storehouses or pizza and assorted other types of home delivery service. The list could be continued indefinitely.

The sex industry is relevant in Munich, too, though it seems that the exploitative end of the market (forced prostitution, sex trade in girls) is less in evidence than in some other larger cities. This can partly be explained by networks of co-operation between social agencies, women’s rights groups and the police to break up crime rings of this type. Moreover, Munich is not a very large city (ca. 1.3 Million inhabitants): this means that organised crime on a significant scale is not difficult to detect.
A point which should be emphasised is that private households are a large area of employment of „illegals“, this means work for a high proportion of female undocumented persons.

The sample in the study in Munich indicated that the general profile of those working without documents reveals above average (school and professional) qualification, high levels of motivation, a preparedness to work long hours and put in a good working performance. Not least on account of their vulnerability these workers feel under pressure to work that much harder, often under poor and stress-inducing conditions. From the employer’s point of view this means a relatively high return for low level investment – there have been minimal training costs (at most learning-on-the-job), pay is inevitably far below that of collective bargaining agreements. Standard benefits like remunerated holidays and sick pay are as a rule non-existent, or a matter of employer beneficence. Employment is generally on a casual basis, which means that the workers can be treated as a supremely „flexible reserve“ to be hired and fired on a weekly or indeed daily basis. Sub-contractors (probably with status) can be employed from the ethnic community as the middlemen to deal with all of the practical aspects of the job, so that the employer can keep clear of any immediate dealings with the undocumented themselves. These workers are an attractive working pool in another sense: they usually have their own limited-time „migration projects“ in mind (e.g. saving to build a house back home) and so will be single-minded in their determination to work, earn, save money and – if necessary – endure.

The macroeconomic context of the employment of these workers should not be forgotten. Germany has for some years been a country of high unemployment (relatively constant at around 4 to four-and-a-half million people). When it is sometimes claimed that in the fight against unemployment many of those without work could take the low-wage jobs being filled
by the undocumented in the informal sector, commentators are overlooking two important factors. First, many of those with regular status (whether of German or foreign origin) do not possess the same "virtues" as their undocumented competitors on the market – often quite consciously. They are not prepared to work under such poor conditions for such low pay – they view this kind of employment from the mainstream perspective of a wealthy European society, that is to say as exploitative. Secondly, in purely practical terms: if the out-of-work in other parts of Germany were to be "more mobile", as the populist politicians sometimes suggest, and come to cities like Munich on speculation of finding work they would discover that getting a job in Munich is frequently a dubious pleasure. The level of rents for flats on the housing market (with or without family) are so exorbitantly high that even those with high salaries have difficulty finding affordable accommodation. Those in the low-wage sectors simply cannot compete.

**b) Views of the undocumented**

The view of undocumented workers from a classical trade union perspective – as conveyed in interviews with representatives – is highly ambivalent. Not only are these migrants a "fifth column" undermining collective wage agreements, but also their preparedness to accept intolerably crowded living conditions in shared rooms and flats and readiness to work long hours is considered to generally undermine social standards for the organised labour force. From this point of view they allow themselves to be instrumentalised by unscrupulous employers as a tool with which to blackmail the remaining workforce into accepting poorer pay and a general worsening of conditions. The majority of the undocumented would appear to behave in a selfish, economically individualistic way and to want to have little to do with trade unions. Correspondingly, the unions find it difficult to be particularly vocal in
supporting the rights of these „economically selfish individuals“\textsuperscript{12}. Trade Union representatives interviewed in Munich stated that undocumented migrants seeking advice (mostly in cases of non-payment of wages) are given it, but also advised that taking their case to the Labour court would entail revealing their lack of status and virtually certain removal/deportation – before they receive the pay owing to them. In effect this means that the workers concerned never pursue the case through official channels.

But what about the migrants’ own view of their situation at the workplace? While the individualist attitude just described undoubtedly broadly applies for many of those without valid papers at least in the short term, nonetheless there is frequently a change in circumstances for the migrant concerned as time goes by. Just as migrants with status often discover that the focus of their lives almost imperceptibly shifts to the country where they are working, living and spending most of their time, so with the undocumented migrants interviewed in this project, too, a similar process comes into play at some point. Regardless of their lack of legal status there usually comes a time when they realise that they want to stay in Germany (it may be on account of a relationship, for family reasons, attractive job prospects etc.). This may correspondingly mean they increasingly see the need for worker organisation and solidarity.

Quite complex cultural processes can be involved here. One interviewee of North African origin who has been in Germany for ten years and until quite recently lived without valid documentation threw light on what „acculturation“ can mean in practice for people in his situation, a distancing in certain cultural respects from the values of people back in the country of origin (which therefore may no longer be regarded as „home“). This entails

\textsuperscript{12} But see publication of pamphlet by the DGB Bildungswerk (Trade Union Adult Education Institute) in December 2002 of Rechte aus dem Arbeitsverhältnis. Arbeitnehmer und Arbeitnehmerinnen ohne Aufenthalts- und/oder Arbeitserlaubnis. This document informs the undocumented about their rights as workers.
gradually coming to realise that Germany has become the centre of one's life. This man has regular work as a supervisor in a commercial cleaning business. It is very important to him to maintain close contacts within his ethnic community which provides a network of solidarity, e.g. for those in the asylum process who need support. He sends remittances of around 500 Euros per month to support his father back home, who has to live from a very small pension. Yet when asked whether he could imagine going back to his country of origin permanently he replied:

„I have been here for ten years. I can’t go back. I’m used to life here. My jacket costs DM 580,-. My shoes are from Adidas, my shirt is... xy and it costs DM180. If I were to tell my father that he wouldn’t understand. He gets DM130,- a month old age pension.“

c) Pay denied – the supportive approach

Employment is the central focus of their lives for most undocumented workers in Germany. Thus their lack of rights becomes most apparent when something goes wrong at work and they realise that they have no effective redress. This is particularly evident if they are denied the pay owing to them. Going to court will probably mean deportation. The chances of pursuing the case successfully from the country of origin are then slim. Another option is that some workers will be able to reckon with the support of their community – the employer may then be “persuaded” that it is better to pay up before he receives an unwelcome visit from the worker's friends. However, many of the undocumented faced with this problem in practice end up resigning themselves helplessly to it and accepting that the pay has been lost.

The German migration researcher Norbert Cyrus has argued consistently for the supportive approach for undocumented workers in this situation (Cyrus 1998). Based in part on the experiences of the Berlin NGO the Polish Social Council this entails providing counselling
and legal support for the undocumented worker to present his case at the Labour court and to contend that residential status is *not an issue* in such cases. This has been successful to the extent that Labour court judges have deliberately refrained from ascertaining status and workers have, in a few isolated cases, thus been able to prosecute successfully without being subsequently detained and deported. Cyrus argues that current practice is weighted in favour of crooked employers who are otherwise generally able to get away with cheating their workers of their wage without fear of punishment (Cyrus 2001). It is indeed true that the deterrent effect of the law *de facto* works against the employee, while many of those who profit from the system (unscrupulous agents, sub-contractors and employers) are not effectively sanctioned. One interview partner with extensive knowledge of the Munich scene commented:

„The factual presence of „illegals“ means that they have basic rights as employees which are being denied to them. An agreement should be reached whereby those effected (i.e. workers cheated of their wages) should be able to remain till they have initiated a legal action – the Employment Office, Police authority and Ministry could at least agree to that. “

**d) Five hypotheses on the economic dimension of the undocumented as a “silent reserve”**

It could be argued that there is a *convergence of economic interests of various groups* which make the employment of undocumented migrants an attractive option in large and relatively prosperous European cities like Munich. These convergent interests, building and enlarging upon the points which have been made so far, can be summarised in the form of hypotheses as follows:
For the employers. They are a useful „flexible reserve“. They bring skills (often highly qualified, quick-witted – they learn the basics fast) and a willingness to work long hours for a low wage (little interest in free time because they are usually without their families). Limited language skills can be an advantage (no discussions). They can be employed and dismissed at will, they have no redress. They can be played off against each other („If you don’t want to do it, there are plenty more waiting at the door!“). For these reasons they are particularly useful for low skill, tight profit margin sectors: textiles, catering and hotels, the building trade, small and medium-sized enterprises (SMEs) in the service sector, especially for person-related services.

For the authorities: The undocumented tend to work in sectors where regulation is low and the returns for employers are tight, i.e. pay and conditions for the regularly-employed are poor and unattractive. Yet these sectors are economically important, they do much of the „dirty work“ to keep richer societies ticking over and they are labour intensive. Globalisation of the skills market means many of the undocumented will have worked in their sector in their home country, e.g. textiles. This means they have experience of the work and thus dovetail neatly into the requirements of a low-to-medium skills reservoir in the receiving country (Stalker).

Inasmuch as there is a specific concentration of ethnic business in a part of the tertiary sector, e.g. in the gastronomy branch, where the incidence of employment of the undocumented is likely to be high, then from the point of view of governmental authority a dilemma arises: it is actually very difficult per se for the „host society“ to get access to communities in order to break into ethnic networks with tight economic organisation (an extreme example is the Triad networks of organised crime). The consequence of this combination of factors may be: it is attractive for the authorities to „let sleeping dogs lie“, or at least to make sure the dogs don’t bark too loudly.
For the migrants: Despite poor pay & conditions the majority of undocumented migrants regard the options as acceptable or indeed attractive most of the time – provided they don’t get sick or experience some sort of life crisis. They have a migration project for which they are earning and saving, this entails high motivation and/or an obligation to others, often those remaining back in the country of origin. (Debts to smugglers can, however, be a big problem). Moreover, in the black economy they know the score: He who dares, wins. If they can avoid criminal structures the investment of energy, work and time as an undocumented worker may well pay off – in the terms defining success set by the migrant for him/herself. The financial comparison will usually be with the country or region of origin. In Germany the pay and conditions will thus generally be comparatively "better", subjectively speaking.

The entrepreneurs: there is a small group of the undocumented who succeed independently. In our sample there were instances of “illegals” running their own businesses, as painters and interior decorators, cleaners, scrap metal dealers or as car mechanics. This group of the economically innovative are frequently self-employed (further “white collar” professional groups are language teachers, translators, IT specialists). The official side of their enterprise can be organised in another person’s name. Word-of-mouth is the best form of advertisement.

Specific situation of women: this is highly contradictory. On the one hand women are very vulnerable to economic, social and sexual exploitation (trafficking, forced prostitution, exploitative fake marriages etc.). On the other women can attain a degree of working and financial autonomy, if the social and ethnic networks provide support, e.g. as domestic „live-out“ cleaners or child-carers who organise their clients and working week for themselves.
Summary Conclusions

At the time of writing the study on which this article is based has just been published and Munich local authority is currently considering the implementation of the recommendations contained in the report. These conclusions thus give only a broad idea of the areas in which action is necessary and – given the legal constraints – possible.

As regards medical and health problems of undocumented migrants there is an imperative need to make provision for out-patient (GP or specialist) or on-ward treatment in hospitals. Medical personnel have at present to treat at least on a minimal basis, to improvise because of material and financial constraints and to be discreet while doing so for fear of the legal consequences. Unlike in other countries in Europe there are no institutions in the Federal Republic which have been assigned the task of securing at least rudimentary health provision for those who are living illegally in the country, whereby this group of the population should be regarded as particularly vulnerable in health terms.

One of the recommendations which the local authority is therefore considering is the establishment of a medical fund to pay for the treatment of the undocumented by general practitioners, specialists and in state-funded hospitals. For legal reasons these would have to be set up as funds for the uninsured in general.

Sans papiers constitute a „silent reserve“ in a number of employment sectors. This fact has hitherto not been acknowledged and the appropriate consequences derived in terms of social and economic policy and support of human rights. These migrants make a considerable contribution to maintaining the standard of living of the urban population through the wide range of person-related and other services they provide. In cities like Munich they make a certain lifestyle for different groups possible (e.g. single person households employing
undocumented cleaners; single parents dependent on informal child-care). In this sense „illegals“ have become an integral part of everyday urban life. But: in comparison with a number of neighbouring European countries Germany still ignores the undocumented as regards the socio-economic functions they fulfil.

It is the jobs in private households which show the economic context most clearly. Cleaning, child care, care of the elderly, ironing, shopping, all of these are „reproductive“ activities which have – in an age of ever-present pressure of lack of time on account of vocation, family, social life, further training, voluntary, political or leisure activity – to be delegated, but which nonetheless have to be done by somebody. Often it is the foreign woman whose status one chooses not to talk about in detail, who deals with these everyday things. Word of mouth confirms efficiency and reliability, limited verbal communication keeps argument to a minimum. Paradoxically it is often the migrant woman experiencing the heartache of separation from her own children who gives many a central European mother the practical and emotional space to combine family with profession with a clear conscience.13 But there are pay, health, pension and other issues for the female workers concerned arising out of this form of convenient arrangement – the more so, the longer it goes on – which need to be addressed.

A key strategy in improving the situation of the undocumented in general would be for ways out of illegality to be sought for undocumented people. In spite of legislative constraints there is a certain amount of leeway for developing these at local level. The keynote is breaking the taboo surrounding the undocumented, even if only in small steps:

To what extent can the Aliens Office make more „migrant-friendly“ use of its room for manoeuvre in individual cases? The debate surrounding immigration and integration into Germany as desirable and necessary has developed momentum in the last few years. It is most evident in the contentious debate surrounding the passage of an Immigration Law. This must be extended to discussion of the role of restrictive Alien’s Law making continuous stay difficult for many groups, hindering processes of integration and indeed sometimes „illegalising“ migrants. Processes and procedures should be simplified and made more transparent for all concerned.

Which networks of groups, institutions and services already dealing with the undocumented in assorted contexts can use their potential to support their human rights, help them get secure status or support campaigns of regularisation or amnesty?

What should be the criteria for a Hardship Commission dealing with individual cases of regularisation (such as length of stay in Germany, regular income, medical history, family commitments and focus of life in Germany)? A body of quasi case-law which a commission of this kind could accumulate over time could provide the empirical material for arguing for regularisation of certain groups – a step which is politically unthinkable under current conditions in Germany.

The essential issues revolve as much around basic (not merely) ethical attitudes to the undocumented and their rights. It is also about the meaning of mutual benefit and the role played by assorted intermeshing networks within urban – and civil – society. Many networks function as bridges between minority and mainstream society, sometimes it is not possible to draw clear distinctions between the two, e.g. networks and niches of ethnic business. The question which should be addressed is that of the actual life situation of migrants without
valid papers in the large German cities and whether a more inclusive, resources-orientated policy would not be more appropriate than the defensive „fortress mentality“ which all too often dictates policy constraints. The sharp distinction between „good and bad migrants“ which has characterised both the letter and spirit of immigration practice hitherto may well be increasingly out of step with the social and economic realities of European metropolitan life, and thus increasingly untenable.


**Literature**


