INTRODUCTION

The regulation of international migration in Europe and elsewhere has created the possibility for unauthorized immigration (Miller, 1995). The control of what is more commonly referred to as illegal immigration has become a central issue of politics and public policy in the advanced industrial democracies over the last decade. Although it is very hard to quantify the scale of illegal immigration, there has been a growing convergence between these countries in terms of the tightening of policy to control these migration flows, and in terms of increasingly negative public reactions to them (Cornelius et al., 1994).

This chapter, however, suggests that Europe’s new illegal immigrants include asylum seekers and refugees. It has become clear that most European governments have opted to extend restrictive immigration policies to cover asylum seekers too (Escalona and Black, 1995). This is despite sound reasons grounded in international law why asylum seekers should be assessed within an alternative paradigm to that used for other migrants (Hathaway, 1994), and despite fears that such restrictions impinge upon bona fide refugees as much as they do upon other asylum seekers (Collinson, 1993). Drawing upon a case study amongst Iranian asylum seekers in the Netherlands, this chapter shows how asylum seekers, just like many other migrants, are being forced into illegality to overcome restrictions upon legal means of entry.

One of the central implications of their illegality for the asylum seekers in this case study is demonstrated to be increased vulnerability. It is suggested that far from targeting assistance upon refugees, current asylum policies are instead exacerbating the need of all asylum seekers for protection by engendering their transformation into illegal
immigrants. In this way, the case study also carries broader implications for the definition and conception of, and for responses to, the phenomenon of illegal immigration in Europe today.

DEFINING ILLEGAL MIGRATION

When applied to migration, the term 'illegal' has been used to cover a variety of situations normally concerning conditions of entry, residence and employment. It has been used in the context of the entry strategies of migrants to describe people who enter a country without a passport or those who have a passport but enter clandestinely, avoiding control (Couper and Santamaria, 1984). It has also been applied in the case of foreigners who overstay short-term visas; or to those who work despite visa restrictions upon their employment (Miller, 1995). It has also been used on occasion to describe foreigners who are perceived as a threat to state security or who commit a crime, or legally resident foreigners who work in illegal activities.

Turning to the question of the definition of illegal migrants, an important distinction can be identified. While many illegal migrants consciously violate laws or restrictions, there are at the same time situations where illegal migrants can be produced overnight by changes in policies or by the complexities of maintaining legal residency. One example of such a process was when thousands of Palestinians were made illegal and expelled from Kuwait after the defeat of Iraq in the Gulf War. Similarly, some of the estimated 25 million Russians presently living outside the borders of the post-USSR Russian Federation risk becoming illegal migrants if they decline to become citizens of a Soviet successor state or otherwise cannot adjust their status to conform with altered political circumstances (Miller, 1995).

Illegal migration nevertheless continues to be surrounded by negative connotations, and political attention has focused almost exclusively on the issue of control (Miller, 1994). This observation is true also of illegal migration as a subject of academic inquiry (Cornelius et al., 1994), and the enrichment of migration studies generally by the opening-up of analyses to questions relating to the experience of migration for the individuals concerned has rarely occurred in the specific case of illegal migration (Dumon, 1983). There are, however, indications that beyond its political implications, illegality has very important implications of a different nature for migrants. One example from the European context covers the increasing incidence