



# Ethical issues in irregular migration research

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## Summary

This paper is concerned with the ethical issues arising for researchers engaged in the study of irregular migration. Irregular migration is by definition an elusive phenomenon as it takes place in violation of the law and at the margins of society. This very nature of the phenomenon raises important issues of sensitivity of the question, vulnerability of the research subjects, and a series of ethical issues to be addressed when conducting fieldwork with irregular migrants, as well as at the stage of analysis of data, processing and disseminating the findings of the research. In the first part of this report we define research ethics and briefly outline their development during the last decades in the social sciences. We also consider the relevance of research ethics for the study of irregular migration. The following section discusses the differences between sensitivity and vulnerability and their particular implications for irregular migration research. Section three looks at the ethical challenges involved in fieldwork and discusses the sensitive issues involved in the relationship between researcher, irregular migrant and society. Ethical issues on data protection and the ethical challenges involved in the production and use of quantitative data on irregular migration are considered in the fourth section. Section five discusses the question of disseminating findings (qualitative or quantitative) to wider audiences. In conclusion, we highlight the key points that researchers should take into consideration when studying irregular migrant populations.

Keywords: research ethics, irregular migration, sensitivity, vulnerability

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## 1. Defining Irregular Migration and Research Ethics

Irregular migration is a multi faceted reality that is often presented in media and policy debates as a simple and coherent phenomenon. Different terms are used by media, politicians and researchers in varied combinations: the adjectives irregular, illegal, undocumented, unauthorized or clandestine are put together with different nouns such as migrants, immigrants, aliens or foreigners. There are also idiomatic expressions in different languages such as *sans-papiers* (in French), *clandestine* (in Spanish and Italian), or *lathrometanastes* (in Greek, literally illegal migrants). The reality they connote however may differ in important ways.

Following the definition adopted in the CLANDESTINO project (Vogel and Jandl 2008), the term '*illegal migration*' reflects, in its broadest sense, an act of migration that is 'not legal', or an act of migration that is carried out against laws of entry and residence in a country. This term however associates this type of migration with criminal or otherwise 'illicit' behaviour and some researchers have argued that it should be avoided (Sciortino 2004: 17). Human rights advocates have long argued that the notion of 'illegal migrant' is inappropriate, since 'No human being is illegal.' In a narrow sense, the term 'illegal migration' designates the act of entering a country in breach of migration laws and refers mainly to the act of crossing a border without appropriate authorization.

Researchers and advocacy groups have proposed the term 'irregular migration' as more appropriate to denote both the fact that irregular migrants are not criminals and the double nature of irregularity in which a migrant may be involved, notably irregular entry or irregular stay/residence. The term 'irregular' embraces all types of violation of the law, whether minor or major, related to migration and includes both issues of border crossing, non-authorized stay or violation of the visa conditions. Almost synonymous to the term irregular is the notion of 'undocumented migrants' pointing to 'a migrant who is not in possession of the required and appropriate travel or residence papers'. A similar term is that of 'unauthorised' migrant who refers to people how enter or reside in a country without legal authorization (to enter or stay). This is a term mostly used in the North American scientific literature on migration to refer to irregular/undocumented migrants. In conclusion, the three terms irregular, undocumented and unauthorised are seen by a majority of researchers as more appropriate to speak of irregular migration than the term 'illegal' (Pinkerton et al 2004: 1).

In the CLANDESTINO project and in this paper in particular we look at all forms of irregular migration involving different forms of entry or stay without appropriate authorisation and documents. We define the entire group of people affected by irregular migration laws as 'residents without any legal resident status in the country they are residing in, and those whose presence in the territory – if detected – is subject to termination through an order to leave and/or an expulsion order because of their activities.' (Vogel and Jandl 2008)

In researching irregular migration various designs are applied: face to face in-depth interviews with irregular immigrants (e.g. Alt 2003); anonymised questionnaires with irregular immigrants (e.g. Chiuri 2004); analysis of secondary data such as quantitative enforcement agencies' records (e.g. Düvell and Jordan 2003, Jandl 2007); analysis of secondary data such as personalised police records (Heijden 2003, 2006), qualitative interviews with experts on irregular migration or anybody else who has some knowledge without being an irregular immigrant him or herself (e.g. Bilger et al. 2006). Qualitative interviews and (participant observation) usually produce highly personal and confidential

data; quantitative research produces very detailed knowledge of travelling, living and working patterns including nodal points of irregular immigration; police data and notably interrogation records contain personalised data; and expert interviews may produce detailed quantitative or qualitative data or only reveal perceptions and beliefs. Each approach has its ethical challenges which will be discussed in this report.

Our aim here is to offer a framework within which researchers can find guidance in their own decision making when ethical issues arise. Thus, the report considers ethical issues in the research process as well as ethical considerations regarding the data use and dissemination phase. We also try to cover both qualitative and quantitative type of research in the field of irregular migration.

The paper is structured into two parts which largely correspond to our two main areas of ethical concern in irregular migration research. The first regards the empirical study (through fieldwork) of irregular migration, the ethical problems arising from such research and strategies to address them. The second part concentrates on the use of quantitative ‘data’ on irregular migration (to the extent that there can be data on a phenomenon that is by its nature not registered), their dissemination and overall the (ab)use and dissemination of qualitative and quantitative data on irregular migration. We consider the two parts as equally important for the development of ethical practice in research on undocumented migration. To the best of our knowledge there are as yet no specialized codes of practice or studies on the study of irregular migration, hence we believe that this report contributes towards filling this gap.

## **1.1 Defining ‘research ethics’**

The term ethical refers to a code of practice or a set of principles and guidelines that are adopted by an individual researcher, a group or an institution in line with a set of moral principles that guide these researchers/institutions in their work. Research is defined as

‘any form of disciplined inquiry that aims to contribute to a body of knowledge or theory,’

Research ethics refers to the

‘moral principles guiding research, from its inception through to completion and publication of results and beyond – for example, the curation of data and physical samples after the research has been published.’ (ESRC: 20)

The EU-funded project RESPECT (Professional and Ethical Codes for Technology-related Socio-Economic Research) has developed an ethical code for socio-economic research practice. The aim of this code is to

‘(..) offer a framework in which researchers can work. [Codes of practice] do not however, offer all the answers. Making ethical decisions still involves addressing a series of dilemmas and, ultimately, decisions have to be reached by the researchers involved. Ethical guidelines enable these decisions to be made from an informed position. Ethical guidelines also offer protection to researchers, providing them with a source to quote if pressured by others to adopt unethical practices. These guidelines aim to offer minimum acceptable standards for the conduct of ethical research in Europe. However, guidelines on their own are not enough; they only offer a starting

point. What is needed is an 'ethical conscience' so that making ethical decisions becomes an automatic part of the research process. (Dench et al.2004: vii-viii).

In other words, research ethics is a process of making decisions that are informed from an ethical position. Ethical codes and guidelines are conducive to this aim but are neither sufficient nor necessary conditions for ethical research.

With a view to providing a clear outline of the field covered by research ethics, the main UK research funding institution for the social sciences, the Economic and Social Research Council (ESRC) notes that research ethics covers both human participants (or subjects) as living human beings but also data and records on these people, such as, but not restricted to medical, genetic, financial, personnel, criminal or administrative records and test results including scholastic achievements. The ESRC distinguishes between primary and secondary data but 'the fact that an original piece of research has gone through ethical review for its collection does not rule out ethical issues arising over its secondary use' (ESRC: 20).

In order to grasp the full implications of ethics for research and the different challenges faced by researchers in various disciplines, we will present a short discussion of the origins of research ethics and the special problems arising in different scientific disciplines.

## 1.2 The development of research ethics

Research ethics have emerged as a subject matter in the aftermath of World War II in relation to the medical war crimes committed by the Nazi regime. Thus the Nuremberg Code was developed with regard to the ethical requirements of biomedical research proclaiming that the 'voluntary consent of the human subject is absolutely essential' for ethical research. The Code underlined the investigator's duty to prevent physical and mental suffering or injury of the study participants. Later there were several international statements of ethical requirements in the biomedical sciences, notably the 1964 Declaration of Helsinki, the 1978 Belmont Report and the International Ethical Guidelines for Biomedical Research Involving Human Subjects which expanded the ideas contained in the Nuremberg Code (Cooper et al. 2004: 30).

Although ethical standards as set out in the codes of various disciplines of social sciences are almost identical, small differences can be found according to the particular remit or focus of interests of the discipline and its members. All of them follow to ensure that the interests of subjects in research are safeguarded, to value integrity, impartiality and respect for persons and findings and to prevent harming the subjects in all respects. Likewise, concerning all disciplines, ethical standards highly depend on each individual project of research. Although codes are often organised around a set of themes serving as a checklist, a research project in the field of criminology that involves interviews with serial killers needs different ethical parameters than a project that questions the illegality of irregular migrants. Entirely different ethical precautions would be needed when looking at new pharmaceutical products against stomach-ache than commencing a research on stem-cells.

There are however three issues that give rise to specific ethical questions in some disciplines. The first question of concern is the *non-conformity of conduct with the law*. This especially concerns criminology but also political science where findings could lead to a direct threat to the freedom of a research participant, for instance leading to her/his apprehension. Research of political science might be involved with underground organisations or groups which are not *per se* unlawful, but are not welcomed by the society or political regime in a given country. As regards criminology, the nature and extent of crime is

central to the discipline. The view of the criminal offender and victim patterns or the behaviour and beliefs of involved actors in the system of justice are important questions subject to investigation and analysis. Thus, by definition, the relationship between the researcher and the subject involves a complex set of legal and unlawful circumstances in which the subjects are enmeshed, including the root causes of these circumstances. Ethical codes are important tools in this field and the 'Code of Ethics for Researchers in the Field of Criminology' published by the British Society of Criminology draws recurrently special concern to 'those who are vulnerable by virtue of factors such as age, social status, or powerlessness'.<sup>1</sup>

The second question that requires special attention is *affection*. It relates mainly to the research in nursing/caring, clinical psychology and medical science, but might also involve social work research. Here the researcher may be intensively engaged in the study and ethical standards are based on the relationship between the researcher and the research subject.

In the field of nursing and caring, clinical psychology and medical science, research ethics emphasise the need to observe the highest standards during clinical practice with altruism, compassion and affection – three features that are difficult to separate from this research area and the related professions. The suffering and vulnerability of the subjects are associated with situational circumstances or the development of an illness, which may diminish the subjects' ability to give her/his informed consent<sup>2</sup> and take part in the inquiry and thus requires highest standards of ethics as well as professional surveillance. For instance, in the case of stem-cell research the legitimacy of the very existence of this research can be questioned.

The third issue concerns *interrogative or intrusive research*, which particularly concerns the field of political science as well as social anthropological and sociological research. Intruding the life and privacy of other individuals or collectives demands legitimacy. It leads to the question if it is legitimately justified to make unknown life stories or private narrations accessible to the public for the purposes of research findings.

Until the 1960s and early 1970s, the research area of political science was predominantly concerned with ethical questions regarding access and disclosure in studies of the organisation, operation and outputs of government. There were controversies on issues including the public's rights to know about one's government or the citizens' demands for efficient and responsive public institutions (Barker 1976, Nejelski 1973). But meanwhile, it seems increasingly accepted practice in liberal democratic countries that governments, non-governmental agencies and their staff are accountable to the public and often it is media and researchers who scrutinise conduct of these institutions and report to the public.

For now, a larger proportion of social or political research focussed on subjects who were socially and geographically 'distant' including criminals, financially disadvantaged groups or ethnic minorities. Thus, research turned to the ethical question of unwarranted invasion of such persons and the related subject's power to withhold such an invasion. Most political science associations developed their research codes of ethics during the 1970s (Frankel 1976a). The emphasis in this discipline stems from the political ideologies or paradigms in which research might be 'nested'. This highlights the importance of ethical considerations in this discipline regarding not only the researcher-subject relationship, but also the relationship between researcher and her/his institution or the funding agent of a study.

In the area of social work too, the relationship between the researcher and the subject as well as the legal component of this relationship is often emphasised. Most of the ethical

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<sup>1</sup> <http://www.britisoccrim.org/ethical.htm>. Nonetheless, Rhineberger (2007) found that criminal justice and criminology textbooks do not cover in appropriate and sufficient ways the topic of research ethics.

<sup>2</sup> Informed consent is discussed in more detail below.

prescriptions such as the 1996 Code of Ethics of the National Association of Social Workers in the US, underline the ‘handling’ of subjects and the need to protect them from physical or mental distress (Reamer 2006). In contrast, Davison (2004) pointed to the potential harm of the social work researchers themselves. Notably empathy and emotional resonance with research participants might be comparatively high and therefore may make social work researchers particularly vulnerable to conflict and distress.

### **1.3 Ethical sensitivity, uncertainty and irregular migration research**

Although ethical codes of practice seem identical, in practice there can be important conflicts. For instance, Hoeyer et al. (2005) demonstrate that tensions over ethics in research can emerge when scholars from the social sciences (especially anthropology) conduct studies in the area of health services. And occasionally, clashes between social scientists and medical staff occur over impediments to informed consent in qualitative research projects as well as property rights in data.

Ethical sensitivity in research practice develops in contexts of uncertainty and through a relationship that depends both on the researcher and the research subjects. On this basis an assessment of the nature and level of sensitivity and vulnerability can only be tentatively accomplished in a general ethical code. In practice there may be a risk of harming the subject even if the researcher seeks to respect the ethical code. Such propensity to harm becomes particularly important in research areas such as irregular migration where harm ranges from apprehension of the subjects as a consequence of conducted research to violation of the privacy of the person (the research discloses private experiences, knowledge or feelings of the subjects which were not meant to be known by others, and were not made for a public audience.)

On the one hand, irregular migration as a subject of research shares common features with criminology and political science; this is because irregular migrants engage to a lower or higher degree in unlawful behaviour. They may only violate migration laws regarding the entry and residence in a given territory but they may also be involved as perpetrators or victims in activities of organised criminal networks to the extent that they use the services of human smugglers and traffickers. Victims of traffickers face double risks: by the offenders and by the state, while other irregular migrants fear state sanctions only. They are liable to prosecution and in case they are apprehended by the authorities they may face fines, detention, removal or deportation. Research on irregular migration may also touch upon wider criminal activities and structures, such as smuggling goods or corruption.

On the other hand, irregular migration research may involve people who are ill or in psychological distress due to the harsh conditions in which they live and work. Thus, the question of compassion is also relevant in terms of the research ethics to be respected. Last but not least, research on irregular migration may at time become intrusive and interrogative when research is trying to elicit information regarding for instance the mode of travel and the networks of the subject with a view to understanding better the mechanisms and processes of irregular migration.

After this brief discussion of the main issues of concern in research ethics and having provided the vertical (historical) and horizontal (across disciplines) background of the topic, we shall discuss in the following section the concepts of sensitivity and vulnerability.

## **2. Sensitivity, vulnerability and risks in irregular migration research**

Sensitivity and vulnerability are two notions that are crucial for understanding and addressing the ethical questions in social science research and in particular in research on irregular migration. Both concepts and the related concerns are inherently linked with the notion of risk. The Economic and Social Research Council in the UK (ESRC) defines risks as

‘(a) potential physical or psychological harm, discomfort or stress to human participants that a research project might generate or (b) risk to a subject’s personal social standing, privacy, personal values and beliefs, their links to family and the wider community, and their position within occupational settings, as well as the adverse effects of revealing information that relates to illegal ...or deviant behaviour. Research which carries no physical risk can be disruptive and damaging to research subjects either as individuals or as whole communities or categories of people’ (ESRC undated: 22)<sup>3</sup>.

Further to this, the ESRC explains that

‘Risks of social science research are specific and could be framed as social risks or psychological distress in opposite to physical harm. Notably research ‘involving vulnerable groups – for example... individuals in a dependent or unequal relationship, ‘sensitive topics – for example participants’ illegal or political behaviour, their experience of violence, their abuse or exploitation, ...or their gender or ethnic status; ‘groups where permission of a gatekeeper is normally required for initial access to members – for example, ethnic or cultural groups, native peoples or indigenous communities’; deception or which is conducted without participants’ full and informed consent at the time the study is carried out’ (ESRC: 8).

Finally, the argument is made that

‘access to records of personal or confidential information ...concerning identifiable individuals’ [is considered involving] ‘*significant risks*’ (ibid.)<sup>4</sup>.

It is taken as the major principle that any research has to ensure that the potential for risk or of harm to participants and others affected by the research is minimal (ESRC undated: 3). In other research contexts, as in clinical studies it is expected that research results shall even be to the advantage of the group which is researched (Clements et al. 1999).

By the very nature of its subject, research into irregular migration inevitably deals with sensitive issues. Qualitative fieldwork on irregular migrants involves individuals who are violating the law. As a consequence, any information produced by social scientists may involve risks for the research subjects as well as for the researchers. If irregular migrants themselves are the subjects of study, such information might potentially be of relevance to enforcement agencies and some information, if becoming known to enforcement agencies could potentially have far-reaching consequences for the subjects of such research. Research in this area might discover places that could be of interest to enforcement agencies and

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<sup>3</sup> Risks of the category b ‘may be difficult or impossible to quantify or anticipate in full prior to the start of a social science research project. Nevertheless, researchers should endeavour to determine possible risks and their management (not least through the methodological strategy and instruments they adopt) prior to the start of a project. Certain questions help anticipate ethical difficulties. Once risks have been identified, researchers should ensure that these are discussed with research participants in order to secure proper informed consent’ (ESRC undated: 22).

<sup>4</sup> Emphasis added by the authors.

reveals patterns and strategies that could inform combating irregular migration. Thus, ethical challenges arise when research could harm subjects in the research area in question or when ‘social knowledge’ might be used or misused for ‘investigative knowledge’<sup>5</sup> (O’Hara and O’Hara 1994). Therefore, the researcher needs to consider carefully whether the knowledge that s/he produces can be of immediate use to enforcement agencies and if this is the case to consider whether such use is ethical for her/him and justified.

Past experience of empirical research into irregular migration and employment (Düvell and Jordan 2003) has shown that enforcement agencies are often aware of irregular entry, stay or employment strategies of migrants but have their own priorities as to which types of entry/stay/employment to target. However, this may not always be the case – a researcher may step into a new field of irregular migration patterns or activities or the information produced by a researcher may lead to a change in the priorities of enforcement agencies. Hence, careful consideration is absolutely necessary.

The study of irregular migration may also be conducted through cooperation with non governmental organisations (NGOs) that offer assistance to irregular migrants or with enforcement agencies that check or apprehend irregular migrants (Vogel 1999). This cooperation would not be feasible if the researchers would not respect the main goals of the organisations they are involved with (be they NGOs or state authorities). This, however, does not imply that researchers contribute to these aims, instead they still have their own agenda, knowledge production, and should remain neutral to such agencies’ aims. Moreover, some researchers may study irregular migration with the explicit aim to increase the effectiveness of migration control. This could be considered a biased approach. Our aim here is not to pass a value judgement on whether irregular migration as such is ethical or whether it is ethical to study irregular migration with a view to assisting or persecuting irregular migrants. Our aim here is to alert the researchers about the ethical challenges involved in the study of irregular migration and provide them with guidance in their own specific, context-bound decision making which takes place at the individual and team level and within specific institutional frameworks.

Furthermore, the study of irregular migration may concentrate on macro data such as police data on apprehensions of irregular migrants, or data on sending countries and absent members from households, or also regularisation data or small scale surveys of specific employments sectors (and the related detection of irregular foreign workers). Access and use of such data also involves ethical challenges since the researcher may need to disclose the aims and design of her/his study to state authorities or other public bodies including police forces. Such data are sensitive and may raise issues of privacy as well as vulnerability.

In order to clarify the ethical issues at stake, we shall distinguish below the concepts of sensitivity and vulnerability. The former refers generally to an area of research while the latter is a feature of the subjects of research. Thus, there are two forces at stake that lead to somewhat mutual process at two levels of analysis. One level is the actual state of vulnerability of the subject, this might be denoted as the micro-level. The other level is the concept of sensitivity; this might stand for a meso-level of analysis, i.e. the additional, external influence creating the circumstances and implications of a ‘propensity to harm’. Herewith the interplay between the concept of vulnerability and sensitivity becomes apparent hinting to a requirement of special safeguards to ensure that corresponding welfare and rights of social groups are protected (Lee 1993, Thywissen 2006).

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<sup>5</sup> With reference to the distinction made by Raphael (2000) different types of knowledge have a different basis of knowledge production. Investigative knowledge and critical (reflective) knowledge are henceforth underlying differing types of methods where investigative knowledge is dominated by an ‘evidence-based’ paradigm in contrast to the methods used to seek social knowledge.

## 2.1 The sensitivity of irregular migration

It is suggested that 'studies in which there are potential consequences or implications, either directly for the participants in the research or for the class of individuals represented by the research' must be considered sensitive (Sieber and Stanley 1988: 49). We may distinguish between two types of sensitivity: sensitivity that concerns the subjects of research, and sensitivity that relates to public opinion and the political context of a study.

Renzetti and Lee (1993) exemplify that sensitive topics are those that seem either threatening, or contain some risk to the subjects of research, for example, because such research involves potential costs and consequent problems for the participants. Lee (1993: 4) further elaborates that sensitive research potentially exposes stigmatising or incriminating information and can cause pain and harm to individuals who are already experiencing oppression or that it is related to politicised issues which are subject to controversy or social conflict. Furthermore, any 'direct contact with vulnerable people, with whom sensitive and difficult topics are often raised and sometimes raised within difficult contexts' (Johnson and Clark 2003: 422) and any fieldwork that includes interviews, participant observations or in any respect personal data are of a *highly* sensitive nature. Cowles (1988) adds that sensitive topics can be regarded as intensely personal experiences. They have the potential of arousing emotional responses and will therefore probably be approached with some apprehension. The subjects of research might in fact not want to discuss sensitive issues and any attempt to make them talking might potentially undermine their coping strategies (e.g. Davies et al., 1998). Research into irregular migration meets all these criteria and must therefore be considered sensitive. It has 'potential consequences' for the researched group, therefore certain precautions are required to take by the researcher both in methodology as in dissemination to keep these to a minimum. Such precautions are guided by general research ethics and an overview will be given below.

A 'Western' perspective or a perspective from predominantly 'receiving countries' of irregular migrants concentrates on the reactions of the public and politicians in receiving countries. There often is a plethora of social actors and interest groups involved in migration issues that may have opposed policy agendas. The issue of immigration in general and the fight against irregular migration or the question of asylum seekers have often been important election campaign issues in different EU countries (France, the UK, the Netherlands, only to name a few prominent examples). When irregular migration is under the spotlight, a study that shows for instance that migration control has been particularly ineffective during the past years, may be highly 'useful' in the election campaign. Thus, research on irregular migration can be highly sensitive and particularly prone to be abused. Researchers need to assess carefully and in advance the timing and context of publication of their findings.

A non-Western or mainly 'sending countries' perspective of irregular migrants engages more intensively with issues of human security or safety. Beyrer and Kass (2002: 246) claim that there are no codes of research ethics requiring an 'explicit assessment of the background rights' context or political circumstances of participants or communities.' In other words, most ethical codes neglect the socio-political environment in the country of origin. For instance, the ethical considerations necessary to study human trafficking in Britain, Romania and Thailand may be different. The political and human rights conditions and the overall regime in a specific country or region are to be considered first. Second, the values of the subjects of the research and what they consider to violate/intrude into their intimacy or the way they negotiate their relationship with the researcher (who is by definition an outsider) is also of relevance. Studies on irregular migrants in regions that are considered politically instable or undemocratic could lead to severe harm of the participants. Research on

irregular migration is often itself interwoven with rights violations and thus research activities might put participants under risk increasing the ‘propensity to harm’. If this could be the case, researchers might consult colleagues, acquaintances, or NGOs familiar with local politics and social networks to clarify the propensity of harm.

The cultural aspects of research need also special consideration. Research in irregular migration ultimately is research in a group that is to some extent alien to the host society; this inevitably brings about issues of cultural sensitivity. As a consequence, in order to gain access to individuals researchers must first learn about their research subjects’ lifestyles, beliefs and values and to communicate in ways that the individuals understand. Sieber (1992, p.129) argues that:

‘Cultural sensitivity has ...to do with respect, shared decision making and effective communication. Too often, researchers ignore the values, the life-style and the cognitive and affective world of the subjects. They impose their own, perhaps in an attempt to reform people whose culture they would like to eradicate, or perhaps simply out of ignorance about the subjects reality’.

Thus in order to attain cultural sensitivities, researchers must make a special effort to understand the participants’ basic assumptions about their experiences and the context within which these take place. For instance, the needs and fears of the participants, including their views, norms and values need to be understood and responded to in a constructive manner. Concerns about control, autonomy, and exploitation will always emerge in any research, which involves the attempt by one group to study or influence the characteristics of another group. Therefore, it is essential to establish a relationship between the researcher and the participants built on mutual respect and on trust that the informed consent reached is kept. Similarly, it is also important that the researcher keeps in touch with all opinions circulating in the community in relation to the research. These may include views about the researcher’s motives and the risks or benefits of participating in the research.

The notion of sensitivity with regard to the social, cultural and value context of the research brings us somehow naturally to the consideration of the research subjects’ vulnerability, indeed a related even if distinct notion.

## **2.2 The vulnerability of irregular migrants**

The term ‘vulnerable people’ is used to refer to ‘people who are stigmatized, have low social status and who have very little power or control over their lives’, who ‘live under damaging’ legal, social or institutional regimes (Clements et al. 1999: 104). Vulnerable people are at risk from various sources, such as more powerful members of their peer group, other social groups, and the scientific community, and may suffer from violations of human rights (ibid).

Irregular migrants by the very nature of their project hide their doing from any actor that could be a threat to their project, notably immigration or police officers or any other civil servant with a policing and reporting function; other members of the public who do not condone such behaviour and instead report them to the police; or other migrants who might seek benefits from denouncing them to the authorities. It is logical that irregular migrants would not want any individual that might fall within one of these three categories to know more about their journey, activities and plans.

On the other hand, it is the researchers’ task to investigate their practices or to discuss sensitive data referring to vulnerable people such as irregular migrants. Thus, research in irregular migration can be hugely invasive. But why should an irregular migrant disclose to

the researchers their project or strategy? Such research could well be irrelevant to their needs and failing to improve their material circumstances and quality of life. Such research can also undermine the strategies of the individual and of the group as such. Thus, the question is whether a concerned individual would agree in participation if they are told that such research does not contribute to improving their situation and even allows enforcement agencies to improve their fight against irregular migration or policy makers to introduce tougher laws? The subjects of a study may fear or indeed experience threats to their social and psychological safety as a consequence of their involvement in research; on the other hand subjects of research may also feel that research interviews have a therapeutical meaning and that they feel better afterwards, for example, because finally someone got to listen to them, because their voice is made heard or because it is done in the hope that such research might contribute to the design of solutions to their fate. All this was experienced by the researchers and their colleagues in various projects.

There are some more subtle ways of vulnerability however that may characterise irregular migrants. First of all, irregular migrants may be illiterate or suffer such economic or social disadvantage that they are unable to assess the risks (if any) involved in a research that concerns them and give their informed consent about it (see Cooper et al. 2004).

Subjects of research can be vulnerable both as individuals and as a group. Vulnerable people are broadly understood as individuals or groups that because of their characteristics are exposed to risk, notably to greater risks than other groups. In this context vulnerability is understood as the possibility that participation in research may cause the participants some harm (James and Platzer 1999). This is because of the virtue of factors such as age, social status, or powerlessness. Hence, vulnerable groups are, for example, low status populations, minors, members of oppressed groups, unemployed or impoverished persons, people in emergency situations, prisoners or people in detention, homeless people, minorities and refugees, those traumatized, people with mental illnesses and mentally incompetent people.

Vulnerability can also be defined as a person's susceptibility to physical or emotional harm; it then denotes the inadequate means or ability to protect oneself from external influence. The degree of vulnerability represents a function of how sensitive a subject is liable to external changes or impacts, and its inability to adapt to such changes and therefore experience harmful effects. Moore and Miller (1999: 1034) refer to vulnerable people who 'lack the ability to make personal life choices, to make personal decisions to maintain independence, and to self-determine'. Others, such as Birman (2005) point explicitly to the vulnerability of groups of people stemming from their legal status - as it is the case for irregular migrants. She elaborates on further implications that might arise from conducting sensitive research in relation to cultural differences.

Irregular migrants suffer both from individual and from group vulnerability. As individuals, irregular migrants are generally hiding from executive authorities and in case they are identified and apprehended they may be subject to persecution. The nature of persecution depends on national regulations and on the character of their offence and range from fines or imprisonment to removal or deportation procedures. Thus, any disclosure of the identity or whereabouts of certain individuals could immediately jeopardise their residence. Also disclosure on information of points of gatherings of collectives of irregular immigrants, of workplaces, NGOs they approach could be used by enforcement agencies to plan and carry out operations and arrest and remove irregular immigrants. Thus, any such specific information would jeopardise their position. Although many irregular migrants have kinship and social networks that help to make their living their living conditions vary substantially; nevertheless it is often assumed that a large proportion live in comparatively poor condition (Alt 2003, Anderson 1999). Other research shows that irregular immigrant sometimes manage to live undiscovered for many years, gain relatively comfortable living standards and

become active members of the host society (see Jordan and Düvell 2003), whilst still being liable to detention, removal or deportation from one to the other day.

In most European member states, irregular migrants have minimal rights, which makes a legal way of appealing against removal almost hopeless (Cohen 2003). Likewise, the access to public services and benefits is highly restricted (Gibney 2000). Only access to medical treatment is available in most countries, though usually limited to emergency treatment and sometimes to primary care (PICUM 2003). Likewise, access to primary education for the children of irregular immigrants is often legally possible (ibid.). In some countries (e.g. in some of the German Laender) hospital administration or school principals are indeed directly or indirectly obliged to report irregular migrants (either because they seek the refund of services provided or because they report data on pupils attending the school, for instance). The reality on the ground may be different – school principles, teachers, doctors or social workers may disobey the law and provided services to individuals and communities in need.

Nonetheless, the constant feeling of fear of discovery often leads to psychological problems (chronic stress for instance) and lack of trust towards unknown persons such as researchers. Cases are reported where irregular migrants have psychological problems due to their detention during asylum application, which in numerous cases was the trigger that made such people eventually escaping from the detention centre. Being detained and waiting for their removal puts many people in an unbearable situation (Leaning 2001). Others were deeply traumatised from their hazardous journey to their country of destination, some were sexually harassed, some mistreated by various people on their way. When crossing borders illegally, irregular migrants may use the services of smuggling networks to ‘facilitate’ their journey (Goodman 2004). These range from loosely organised agents across countries to highly organised criminal cartels. People hiring such agents are to a large extent dependent upon them; many of these agents are coercive and threaten their ‘clients’ after the journey ended if there is still a debt to be repaid.

Irregular migrants are particularly vulnerable as a group because their irregular status prevents them from asking for the assistance of social or political institutions in the host society. They cannot normally form non-government organisations, such as trade unions, civic associations or be members of parties or other political organisations although to our knowledge they are able to join most organisations except some political parties. They run risks if they present themselves in the public and challenge misrepresentations in the media, public or policy domain. Even though the reality on the ground shows that irregular migrants have sometimes organised public rallies and protest marches such as the *sans papiers* movement in France in the 1990s and/or the revolt of irregular migrant workers in the Peloponnese in Greece this spring (2008), overall they are a disenfranchised and disempowered group.

Special ethical concerns arise when irregular migration involves organised crime and violent coercion of the subjects involved such in the case of women and children trafficking. Research on the flourishing sex industry in Europe needs to be conducted by researchers who are aware of such implications and of the related vulnerability of their subjects. For these and other reasons, human trafficking should be considered a separate issue requiring according ethical considerations that will not be covered by this report.

### **2.3 The risks for the researcher**

A full discussion of the ethical concerns involved in irregular migration research requires us to consider the risk and safety issues concerning the researchers. Principally, the researcher

enters a shadow area where s/he could be confronted with health risks as well as organised crime or petty criminal activities and networks. On one hand, those involved in criminal activities – human smugglers, illegal agents, and corrupt officials - might try to stop the researcher from pursuing the study either by a mild warning, threats or by force. This situation was experienced by one of the authors who as a consequence had to keep a low profile, interrupt fieldwork for a while but nevertheless continued the study.

On the other hand, enforcement agents too might approach the researcher in order to retrieve enforcement-relevant information from the researcher. As things stand, social science researchers have no right to refuse witness statements as for instance medical personnel have. So far, however, the authors are not aware of any such case arising and the matter remains to be clarified by legal means.

Finally, researchers, their seniors and funders should consider the impact of unpopular or controversial research on the reputation and career perspective of the concerned individual. For reasons like these, Gibson (1996) expands the definition of sensitive issues and integrates the researcher into the concept. He suggests that all areas and topics that are potentially threatening, or even damaging, areas and topics to both to the researched *and* the researchers must be considered sensitive. One of the authors of this report is aware of cases in which researchers have been put under considerable pressure from funding or research commissioning agencies to omit from certain conclusions and adapt others. Thus, precautions should be taken to ensure that risks are reported to the line manager as soon as they arise, that risks are kept to a minimum, that they are kept at an acceptable level and that measures are taken, including change of staff, location and even termination of the project if this is in the best interest of the researcher.

Furthermore, researchers who engage in studies on sensitive, controversial and even politicised issues often cannot escape polarisation and take sides too. After all research is also a political issue. Hidden beliefs or emotions brought about by the stories of interviewees may shape the way data is selected, presented and analysed. For example, researchers might turn to justifications instead of explanations of irregular migration, or they might apply language that is that of the opponents of research subjects, notably enforcement agencies and engage in talks on ‘combating illegal migration’. Thus, it is particularly important that researchers seek to spell out the bias that may characterise their approach and also to methodologically clarify their insertion into a specific study context (the extent to which they are outsiders or insiders and the ways in which they may be connected to particular study group. For instance a researcher of Mexican origin in the US who is studying irregular Mexican migration to the US may need to negotiate and indeed define her/his position as an insider/outsider towards the host society and the studied group, see also Chavez, 1991).

### **3. Ethics at work**

In the following sections we shall discuss first why one may study irregular migration, and which research questions may be asked. Second, we shall consider which methods may be applied in fieldwork, how and to what extent to protect the subjects of research. Third we shall discuss ethical issues related to the production and use of quantitative data on irregular migration and, last but not least, ethical challenges arising in the phase of disseminating results.

#### **3.1 If and why shall irregular migration be researched?**

One of the very first questions with an ethical dimension is whether irregular migration should be researched at all. In the past, it was found that irregular migration was an issue too hot to touch (Düvell 1998). At various seminars one of the authors was confronted with colleagues arguing they would never research irregular migration or reject researching the quantitative dimension. It is also sometimes felt that quantitative research in particular in immigration research only leads to ‘number crunching’ and ‘number games’ (van Dijk 1996, Weber 1998) and to some scholars it should be omitted as Dorling (2007) argued. Obviously, after considering the ethical dimension of irregular migration research the answer to this question could be ‘no’, or it could be a partial ‘no’. Thus researchers could decide that there are ethical limits to what they believe can be researched and what cannot and that certain questions should not be raised and certain answers not be given. Most researchers have some intuitive idea of what they should not ask and sometimes it is the research subject who has clear ideas about what they believe should not be researched, in that case they would refuse collaboration, refuse or give misleading answers.

Other researchers argue that not researching irregular migration is no option as ‘shying away from controversial topics, simply because they are controversial, is also an avoidance of responsibility’ (Sieber and Stanley 1988: 55). And Humphreys (1970: 173) believes that ‘ignoring the problems of discriminated groups by not researching them adds more to the discrimination as the investigation’, notably research that aims to ‘help overcoming superstition and atrocities that characterise previous responses’ to a certain group, behaviour or phenomenon should be conducted. Furthermore, during a workshop on irregular migration<sup>6</sup>, it was suggested that society should also be aware of the size of a social problem as this has implications both for the urgency and for the solutions discussed. The arguments made here are that social research should not simply be conducted as a means without end but because all relevant stakeholders must be informed and put into the position to make informed decisions on how to best address, ease or solve the social problem. Thus, it is the professional responsibility of social researchers to research irregular migration and to inform society about the phenomenon<sup>7</sup>. Indeed, there meanwhile is a long list of publications on irregular migration which illustrate that many researchers have already made their choice and that the answer to this question often seems to be ‘yes’.

Leino-Kilpi (1991) argues that researchers should explain why it is important to investigate the intended topic and clarify whether there is a possibility that the research process might offend or disparage the informants. In other words, one should apply the ethical rule-of-thumb question whether potential social benefits from the research are higher than potential social harm that the research may induce. Further to this, potential unintended negative side-effects should be identified, potential (mis)use anticipated and according precautions taken.

Equally, the risks and benefits for all stakeholders should be identified and efforts should be made to minimise potential risk or harm and maximise benefits (Dench et al. 2004: 17-18). The ethical justifications for the selection of the research topic as Noble-Adams (1999) and Smith (2000) argue are then the anticipated research outcomes and the overall potential benefits. Unfortunately, irregular migration research rarely explains and justifies why such research is undertaken, instead this seems to be taken for granted.

Research also rarely explains, if at all, where its limits lie. In some other fields of science, such as medical research, some lines are suggested that should not be stepped over such as embryo research or human cloning (UNESCO 2005). No such lines seem to exist in irregular migration research. Nevertheless most researchers would possibly avoid finding out

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<sup>6</sup> Berlin Science Centre (WZB)

<sup>7</sup> Research in non-liberal and non-democratic societies raises a very different set of issues.

about or publish detailed criminal practices, such as who is the smuggler, where is the safe house, when are groups escorted across borders, or which official has been bribed. Such detailed information is rather important for criminal or journalistic investigations, while they do not help to understand the extent and social processes of irregular migration and are thus of less interest to researchers.

Finally, there are limits to the extent to which the researcher can be held responsible for the risks and benefits of their research. Once research is in the public domain its use or misuse falls under the ethics of media, politics and other potential user groups.

### **3.2 Ethics of fieldwork**

Doing fieldwork on irregular migration is the most sensitive aspect as it brings the researcher into direct contact with irregular immigrants and its environment. But because the immigration status is no visible marker the first challenge lies in identifying where to find and how to identify irregular immigrants within the wider group of immigrants. The second challenge is to get access to irregular immigrants and to get consent for an interview. Research will either be conducted by the principle researcher or by research assistants; sometimes research assistants are hired who are of the same ethnic, cultural or linguistic background with a view to creating a point of contact and building a relationship of trust and familiarity with the research subjects more easily than it would be with a researcher who is a clear 'outsider' to the group. Such a strategy may be strategic to the success of the study in that it facilitates contact and communication and neutralises the power imbalance that can be perceived between, for instance, an irregular migrant manual worker and a University graduate who belongs to the host nationality group. Such strategies may also be of particular importance in balancing gender sensitivity issues. However, if this choice is made the researcher in the field has to explain who they are working for (supervisor and institution) in order not to deceive their research subjects.

If the principle researcher or the assistant do not share the main characteristics with the researched group, have no intimate knowledge of the research group and do not belong to the researched group they will need to apply certain techniques in identifying potential interviewees. Usually, they will get information from the media, from specialised publications (e.g. immigrant community magazines or leaflets of support NGOs), or through experts in agencies (e.g. immigrant support or campaigning organisations) that deal with the researched group or with key persons in the community. Such experts or key persons in the community often hold sensitive information which was obtained under conditions of confidentiality. Thus the researcher must win trust of the holder of such information who can act as a gate opener to the researched group. The researcher will have to convince the key person in the community or an NGO that the study is of no harm to the researched group, sometimes the researcher will have to go a step further to demonstrate how the study might instead benefit the researched group and fit the line of, for example, an NGO. The next step will be to obtain references from the gate opener, for this purpose the gate opener will first have to get back to potential interviewees for their consent before passing on names or making arrangements for a meeting<sup>8</sup>.

Once a meeting is agreed, this can take place in a public area, e.g. on a park bench, in a public place such as a cafe, in a shelter, such as the premise of an NGO or a faith

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<sup>8</sup> The selection of the interviewees is crucial to a study, sometimes key persons in the community will play a role in selection informants and that may be done on grounds of a certain agenda the key person has; hence the impact that has on the sample are important but cannot be discussed within the scope of this contribution.

organisation, or even at home of the researcher or the interviewee. The principle researcher, in case s/he is an outsider to the researched group, will often only be able to meet informants in a public or sheltered space. Afterwards, the interviewee will be able to leave the place of the interview without further traces. But in case the research assistant shares some characteristics with the researched group s/he will sometimes be invited to the homes of irregular immigrants. This has certain advantages as the informant might feel more comfortable at home and an intimate atmosphere is unfolding which allows for an open conversation. On the other hand, the place of residence of an irregular immigrant will become known and the informant cannot dive back into anonymity. This not only demonstrates a high level of trust into the interviewer, it also poses considerable responsibility on him or her. But because the relationship between the interviewer and the interviewee is either established on recommendation or the result of a rather short period of trust-building it is actually resting on very thin ice. As a matter of principle and even in case the researcher is invited to the informant's house it might be preferred not to meet in an informant's house but instead at the place of a friend. This is because for the purpose of a scientific study certain personal information, such as names, date of birth or address will usually be irrelevant for the study. The researcher can either avoid obtaining information surplus to the study or to ignore and delete from his or her memory, though it will always be better not to obtain surplus information as this could accidentally find its way into wrong hands.

Equally relevant is the issue of the type of information asked by the researcher and given by the informant. Ideally, the terms of the interview will be agreed in advance and the researcher will explain that for the purpose of an academic study no personalised data is relevant, thus names, addresses, or specific locations and exact dates shall be omitted. The informant, given an open in-depth conversation is unfolding, will sometimes let down security measures and will disclose names or places irrelevant to the study or the informant might disclose very detailed violations of the law; equally, the interviewer will insist that certain information is irrelevant to the study or that it is too sensitive but sometimes the researcher will let this happen in order to not disrupting the flow of the conversation. It is part of the ethical responsibilities of the researcher to secure such data.

Another set of issues lies in the relationship between the researcher and the informant, the level of trust emerging from this encounter and the consequences this has on both. After an interview, the informant might question him or herself whether the information given is actually in safe hands and might therefore undergo a period of stress; therefore the informant might ask for another meeting just to reassure him or herself that the information given is in good hands or the informant might want to continue the relationship in the hope that the researcher can do something to improve his or her situation. Often, this is not the case and the relationship will be terminated once the interview is conducted. In some cases though, the researcher might have obtained information that emotionally bothers him or her to a great deal or the informant may have requested a favour that s/he finds difficult to turn down. A researcher should have made up their minds in advance as to what kind of reciprocity is ethical in their relationship with informants. They may for instance be willing and available to provide interviewees with useful information that they may ask for but decline further favours like helping them find employment or lending them money for instance.

### **3.3 The ethical dimension of relationships between researcher, irregular migrant and society**

Researchers and irregular immigrants enter into a complex and uneven relationship. Irregular immigrants are not normally represented in public and have very little legal or political power

at all. Neither can they challenge a researcher violating ethical principles or trust nor can they challenge misrepresentation in the public. They hold an important power in the research context that is to tell their story and participate in the research or refuse to do it. The relationship between interviewer and interviewee is quite ambivalent as the interviewer has higher social prestige and power but at the same time provides a 'service' to the interviewee who finally finds someone who is willing to listen to their personal story and valorise it. At the same time the interviewee may be misled or simply misinterpret the role of the researcher and believe that s/he can influence positively their situation because s/he is somebody 'powerful'. This power imbalance cannot be fully solved but how the interviewee's weaker position can be protected will be discussed in the following sections.

### *Informed Consent*

Any research into human beings and human actions take as a principle the respect for the moral autonomy of each human being and the subject's right to make autonomous decisions so as not to infringe upon self-determination (Faden and Beauchamp 1986: 8-9, 27-28). Therefore, researchers normally require a written or verbal agreement with the research subjects explaining for both sides the basis of their interaction, the ground rules and the implications. Researchers have then the duty to explain as comprehensively as possible what the project and the researcher are about to undertake. This principle is understood as informed consent which is a

'provision of information to participants, about purpose of the research, its procedures, potential risks, benefits and alternatives, so that the individual understands this information and can make a voluntary decision whether to enrol and continue to participate,' (Emanuel et al. 2000).

This includes the context in which the project is placed including funding institutions, applied research methods and final dissemination plans. Significantly, it should be made clear that the subject has the right not to take part or they can withdraw their participation at any stage of the project. Obtaining informed consent is required for any research (Christians 2005, Hoeyer et al. 2005), while a special sensitivity is required in case of sensitive groups (McCarthy 1998, Bosk 2002, Melrose 2002). However, some scholars such as Roberts and Indermaur (2003) consider ethical codes and related consent forms for participants as a protection for the researcher and the involved ethical committee, instead of a guarantee of protection for the researched participant. They demonstrate that some participants lose their rights to sue the researcher by signing a consent form and suggest an alternative option to provide greater protection of research participants' confidentiality. Above we say that researchers normally *require* an agreement, because there can be circumstances under which informed consent is either impossible or impractical.

Informed consent may be impracticable or meaningless in some research, such as research on crowd behaviour, or may compromise the objective of the research. In some circumstances – such as trafficked, smuggled or irregular immigrants – written consent might also create unnecessary risks for the research subjects. A researcher should seek informed consent where possible to secure the trust and confidence of those involved and make sure they have understood the nature of the research.

In some contexts consent may need to be managed at a point beyond the completion of research fieldwork, for example, where covert observation is necessary and warranted.

This might apply to research in the field of trafficking for instance where criminal behaviour is involved.

Covert research may be undertaken when it may provide unique forms of evidence or where overt observation might alter the phenomenon being studied. The broad principle should be that covert research must not be undertaken lightly or routinely. It is only justified if important issues are being addressed and if matters of social significance which cannot be uncovered in other ways are likely to be discovered. Normally, social scientists should ensure that research participants are aware of and consent to arrangements made with regard to the management and security of data, the preservation of anonymity, and any risk that might arise during or beyond the project itself, and how these might be minimised or avoided' (ESRC: 21).

Some sources justify that certain research involves 'risks to research subjects in a way that is legitimate in context of the research and its outcomes (see Canadian Institutes of Health Research, Natural Sciences and Engineering Research Council of Canada, Social Sciences and Humanities Research Council of Canada 1998). Research may be 'deliberately and legitimately opposed to the interests of the research subjects' in cases where the objectives of the research are to reveal and critique fundamental economic, political or cultural disadvantage or exploitation. Much social science research has a critical role to play in exploring and questioning social, cultural and economic structures and processes (for example relating to patterns of power and social inequality), and institutional dynamics and regimes that disadvantage some social groups over others, intentionally or not. Such research results may have a negative impact on some of the research subjects (ESRC: 22) but possibly a beneficial impact to the larger group of research subjects involved. In other words, there may be individual risk or possible harm for the subjects participating in a study on human trafficking but the knowledge produced about the social and economic structures that produce such phenomena may be to the benefit of the wider group that is the target of human trafficking in a particular region (for instance women and children). But in the last consequence, research ethics may also and with good reason constrain the practice of research (Buchanan et al. 1988: 53) and not all that is possible is deemed ethical.

### **3.4 Inter-personal relations in fieldwork**

Often, the researcher will find that the research subject has certain expectations on the researcher. They might ask for some financial help, they might ask for legal, social or employment related advice. This sometimes reflects beliefs of mutual obligations: 'if I, the irregular immigrant, give you the information you need for your research, you, the researcher should give me the help I request from you'. Sometimes, the researcher might think that his or her research will help to improve the situation of the social group under consideration, and that thereby the contribution of the research subject will be returned. But for the research subject this might be a very abstract idea of reciprocity and he or she might hold more personal ideas of reciprocity. The researcher, in such cases might be well advised to do what is possible to live up to such reciprocal deals, as long as these are not considered unduly, amoral, illegal or disproportionate. For example, if the irregular migrant interviewee asks for some advice on a regularisation programme, to find a good lawyer or psychosocial support this should not be declined. Often, the researcher would be best advised to actually facilitate contact between the individual and an agency that has the expertise, such as a social worker, a faith organisation, a lawyer or an NGO. Sometimes, the irregular migrant will only use this as a test case to establish whether s/he understands the ethics of such interactions and whether the researcher is a good-hearted and principally helpful person.

An additional caveat might emerge from a gender induced perspective. The inter-personal relationship could be very different in the view of a male researcher interviewing a female research subject or a female researcher interviewing a male research subject. The former constellation could be problematic in terms of personal or cultural background of the research subject amounting to an arising uncomfortable situation for the female interviewee. The latter case of emerging inter-personal tension has been reported concerning several occasions of fieldwork (Ryen 2004) where female researchers may sometimes be challenged by intimidating offers by the male interviewee (e.g. marriage proposals with the purpose of obtaining legal residence status). Thus, researchers should be aware of possibly occurring situation where gender relations might be needed to be sensitively balanced.

### 3.5 Conflicting Interests

The prime interest of the researcher is to produce knowledge, what may also be on their mind is satisfying the funders of their research and produce results, to meet deadlines and produce results with certain time limits, to produce results that put them in the position to produce relevant publications and last but not least to successively improve their career. Irregular immigrants' interests may significantly differ from the researcher's interests. They usually aim to veil their status and strategies, there is no obvious advantage or benefit for them to take part in research and they are likely not to agree in participating in any activity that they believe or suspect would worsen their conditions.

Thus the question arises how the researcher will manage to obtain consent in research that has the potential to damage their livelihood and plans? One approach is not to promise anything but anonymity and confidentiality; another is to promise that research aims at a fair and balanced discourse, the third is to argue that research gives them an opportunity to make their voices heard; and the fourth is to promise that research is basically on their side in that it aims to improve their vulnerable situation.

Often the researched are found to be little concerned over the research, do not worry for themselves, may simply trust the researcher and after the interview dive back into anonymity. In any case they will often not be in the position to follow what the researcher is doing with the findings and in case they do they will not have the power to intervene or to challenge the researcher. In case they are dissatisfied with the dissemination of research what they can do is to refuse participation in any future research.

As a consequence the researcher has some responsibility towards the researched, must pay back the trust paid into him or her and to ensure that access to the researched is not spoiled by his or her practice. This however, still is a hierarchical relationship which is based on the goodwill of the researcher. Some suggest that the relationship of researchers and the researched should be one of partnership and mutual advantage (Oliver 1992) and that the researched have a say in the way data is analysed and results are disseminated.<sup>9</sup>

Others suggest that participants should have first access to draft reports and to have editorial power over them (Australian Psychological Society 1997). There would undoubtedly be difficulties in implementing such conditions either because the researched are disorganised or because there is genuine disagreement over the best approach, one of the authors found that this offer was appreciated but never taken by the interviewees. Thus decisions over dissemination will ultimately lie with the researcher. The role of ethical review boards or scientific committees advising a researcher can be very important in assessing the

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<sup>9</sup> The question of dissemination is discussed in detail below.

overall cultural and political framework within which the research takes place and the ethical and practical questions involved with a view to clarifying questions regarding feedback to the research subjects and dissemination of findings.

Another delicate balance is to strike between the interests of the irregular immigrants and the interests of society. Notably irregular migrants might either wish to continue with their project or they might wish to be regularised; society, or the majority of the electorate and its representatives, instead might wish to put an end to irregular immigration by introducing effective enforcement measures and to reduce migration all together. This is not a question with a clear answer as different groups within society have not only differing views but also differing interests with regard to migration that are often disguised in public debate. Rhetorical definitions of the 'common interest' or the 'national interest' are often used by politicians and policy makers to justify their migration policies while neglecting and silencing concerns about the exploitation of irregular migrant workers. Here again a power relation is at stake between the different groups of the host society and the irregular migrants. We believe that a critical position towards power and a careful ethical consideration of the implications of her/his study can help emancipate the researcher from such 'false' dilemmas about conflicting group interests.

#### **4. Ethical issues related to data protection and vulnerability**

It is commonly agreed that both qualitative and quantitative data must be depersonalised and protected against use by unauthorised parties. Most quantitative data are organised on case-basis, hence information is transformed to a numerical variable and therefore the source of information is disguised (Dale et al. 1988).

Meaningful quantification of the scale of irregular migration can only be achieved by some qualitative interpretation, which does not demand high vulnerability arrangements as long as individuals of the group in question were not involved. However, as soon as quantitative data is triangulated with primary qualitative data all vulnerability precautions need to be taken into account. Along these lines, Seale (2004) refers to quality research that encompasses 'inner and outer dialogue' in order to ensure the standards for internal and external validity in quantitative studies. This 'dialogue' method entails a self-reflection of the research quality as well as an external review of the research quality checking the validity of data and results as presented by the researchers (e.g. at conferences, in written work for academic audiences or policy makers, in interviews and meetings with the media or other stakeholders). This method aims at the minimisation of possible errors. Errors may concern both qualitative and quantitative data collection. Regarding the former these may be transcription or written text errors. With reference to the latter there may be the so called econometric 'type III errors' that is interpreting statistical significances in the wrong direction (producing right answers to wrong questions).

Some quantitative data collection methods ensure the permanent anonymity of respondents for all possible involved actors in a survey. The so-called three-card method for instance, derived from previous anonymity techniques and demographic methods of residual estimations (Warren and Passel 1987), was designed to survey foreign-born persons as regards their immigration status (Droitcour et al. (2001). This method involves three slightly different answer cards, which result in three different samples of less sensitive information; and when putting those samples together they provide the missing pieces of information in order to say who can be categorised as most sensitive, as for instance the category of irregular migrants. Significantly, no respondent would ever be asked directly whether s/he is one of persons classified in the 'sensitive' category.

#### **4.1 Ethical challenges in the production and use of quantitative data on irregular migration**

Selecting an appropriate research method on the basis of informed professional expertise is not only a social scientific or methodological but also an ethical question. Research must be accountable and of the highest quality (ESRC). In other words, all applied methods and data presented ought to be double-checked and triangulated in order to ensure their accuracy and unbiased nature.

Irregular migration research presents here a special challenge as it is often very difficult to check the accuracy and validity of quantitative data. The reason is that there are no such data referring to ‘irregular migrants’ as such (if there were the phenomenon would be registered and probably not irregular). Vogel and Jandl (2008) note that even European institutions and expert public officials may quote ‘data’ whose source cannot be traced back to its original source and which are highly dubious. Also there is a certain laxity in quoting estimates that are of very poor quality as the range quoted is extremely large (e.g. there are 5 to 8 millions of irregular migrants in the EU) and neither the basis nor the method on which they were calculated can be identified. There are actually poor quality ‘guesstimates’ presented as ‘approximate data’ on irregular migration.

Numbers presented in the media or indeed in political documents and policy papers as ‘data’ on irregular migration often actually refer to border apprehensions of aliens trying to enter a country, irregular alien apprehensions within a country’s territory, refused entries at the border, irregular workers, trafficking victims detected by police, or any combination of these categories. Statements noting the increase on irregular migration often refer to increases in border apprehensions without noting that this actually does not necessarily mean in an increase in irregular migration. It is indeed equally possible that an increase of apprehension data is due to an increase in enforcement measures.

In the age of information technology, mass communications and mass media numbers may gain considerable symbolic power and numbers quoted may become powerful tools for politics and policy. This is even more true in the field of migration. Consequently, misuse or misinterpretation of data or estimates in irregular migration is an ethical issue (for definitions of misinterpretation, see 5.1 below). For that reason quantitative data should be double-checked and verified by researchers in terms of both their validity and reliability. Therefore, researchers must handle quantitative data with great care and responsibility.

Ethical guidelines in the research area of quantitative studies are heavily geared towards ‘professionalism’ or ‘quality standards’. The scholarly literature on professional ethics in statistics is burgeoning (see for instance Deming 1986; American Statistical Association 1999; Frankel 1976b; National Academy of Science 1995). Nonetheless, the development of this kind of scholarly literature cannot warrant the production of dubious statistical data, or the misinterpretation and abuse of valid data. And indeed, such flaw in quantitative studies may have more important consequences than misinterpretation of qualitative data.

Governmental policy decisions regarding immigration related policies, but also public health, criminal justice, social equity, education, the environment, often rely largely on existing statistical data. Importantly, statistical tools and methods may be easily twisted to serve one or other policy aim. Benjamin Disraeli famously noted that ‘there are three kinds of lies: lies, damned lies, and statistics’ witnessing effectively his suspicion over the obfuscation or outright dishonesty hidden under the techniques and technological sophistication of

statistics.<sup>10</sup> Indeed, there are good reasons why books such as Huff's (1954) entitled 'How to lie with Statistics or Best's (2001) 'Damned Lies and Statistics: Untangling Numbers from the Media, Politicians and Activists' have gained popularity.

Vaderman and Morris (2003: 21) argue that 'society also recognizes that when arguments are abused, whether through malice or incompetence, genuine harm is done'. Nevertheless, media and politicians seem usually eager to give numbers and quantify social phenomena. This is either because numbers are considered hard and simple facts or because they are considered powerful arguments. Unfortunately, often little attention is paid to what these numbers actually represent, how they were produced and by whom and for what purpose. The ethical challenges involved in the production and use of quantitative data is largely neglected in everyday media and political discourse.

This awareness of ethically practiced statistical work seemed to be actively promoted by people involved in quantitative methods. Symbolically, the first item on the website of the International Statistical Institute (ISI) is their 'Declaration on Professional Ethics' adopted in 1985.<sup>11</sup> The code emphasises that greater access to well-grounded information produced by statistical research is beneficial to society, while it also draws attention to the possible misuse of statistical information: 'Statisticians should consider the likely consequences of collecting and disseminating various types of data and should guard against predictable misinterpretations or misuse.'

The code addresses the question of objectivity underlining the value systems of statistician societies and their attempt to uphold professional integrity. The code draws attention to the question of maintaining confidence in statistics in the public arena. It is the statisticians' work to promote and preserve such 'confidence without exaggerating the accuracy or explanatory power of their data.' This can also be supported by exposing and reviewing methods and findings so that colleagues can reconstruct and assess applied methods, procedures, techniques and findings (see also Diener and Crandall 1978). More specifically, problems involved in presenting the limitations on the accuracy of statistical data can be found in the seminal elaboration of this topic by Gonzales et al. (1975).

Seltzer and Anderson (2001) underline the care that needs to be devoted to population data systems when these are used to investigate vulnerable population groups. Potential misuse of population data systems that might be motivated by one or the other ideology as well as bureaucratic opportunism need special attention when it comes to vulnerable groups who may require special protection by the national statistical services (see also Begeer et al. 1986).

## 5. The ethics of dissemination

Once a study is finished and all data analysed the subsequent step is its dissemination by written and verbal means such as research reports, journal articles and books but also briefings, policy papers and press statements; and by seminar and conference presentations but also public talks, and discussions. Any such dissemination addresses a variety of audiences such as other researchers in the field, policy-makers, state officials, IGOs, NGOs, but also the media and the wider public as well as the research subjects themselves. But

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<sup>10</sup> This proposition can be traced back to several authors in the beginning of the 1890s such as Price Collier, or Walter Bagehot, before it was commonly related to Benjamin Disraeli as he was frequently quoted; an early quote can be found for instance in a letter to the editor of *The Times* (*The Times* 27 July 1895).

<sup>11</sup> <http://isi.cbs.nl/ethics.htm>

‘there is a vital area to do with *how* participants are portrayed’ (Clements et al. 1999: 112)<sup>12</sup>. Notably the semantics of power structures (Luhmann 1996) potentially reinforce the exclusion of certain groups, contributes to their stigmatisation, criminalisation and subsequently leads to their adisphorisation from the realm of moral subjects (Bauman 1996). Clements et al. (1999: 112) demands that researchers must ‘avoid adding to the burden of stigma that vulnerable people bear’. Thus, in case the research issue is sensitive the researcher must apply similar ethical consideration to the dissemination of research findings as s/he did in course of the research as such.

This leads to a related aspect, the issue of terminology. Often, students’ papers and even some academic reports utilize the terminology they find in policy documents, such as ‘combating’, ‘illegal immigrants’, ‘third country nationals’, ‘transit countries’, ‘migration management’, or ‘readmission and return’ et cetera and not as quotes and in quotation marks. Thereby, technical legal or political expressions or political jargon find their way into academic literature; this practice even implies that terms and concepts are accepted and their meaning taken for granted. Much of these terminologies, however, serve a certain purpose, such as administering migration, facilitating certain policy processes or manipulating public discourses and are accordingly loaded with ideology and politics. Social science instead aims to (critically) analyse and theorise (understand) social phenomena (e.g. Sayer 1992: 39), thus a specific terminology is required that is as neutral as possible to such policy processes and discourses and that is adequate to the specific purpose of social science. In other words scientists need other ‘tools’ (Grix 2002: 176) than civil servants, policy makers or the media to pursue their profession.

It is the researcher’s responsibility to ethically judge on content and timing of any dissemination and s/he will have to address a number of questions. Is all or only some results to be published; how will the results be received, discussed and utilised; whether and how to influence how data is utilised; what is the best timing for publication; what will be the benefits, who benefits and what could be the risks and who would bear these?

Academic researchers ‘enjoy probably the greatest degree of autonomy’ whereas ‘social researchers employed in the public sector and those employed in commerce and industry [and in partisan think tanks] tend to have less autonomy over what they do or how their data are utilised’ (SRA 2003: 16). However, this does not mean they have less of an ethical responsibility towards their research subjects and towards themselves.

It is also the case that some public or private bodies have detailed rules of ethical conduct addressing explicitly and in detail many of the challenges involved in dissemination research. Some organisations have ethical review boards and procedures in place to assist their researchers in addressing such issues. This is often the case with large international organisations involved with irregular migration research and vulnerable subjects or sensitive issues at large.

## **5.1 Disseminating quantitative data**

Quantitative data in a research area as sensitive as irregular migrants is a double-edged sword. Certain interest groups might misuse it, but at the same time it does also have the power to end the unfounded ‘numbers game’ that has been played at formal political level as well as in the mass media and other public discourses for a long period of time (Jandl et al. 2008). The back and forth of estimates and ‘guesstimates’ could be put into a context of reliable quantitative data and indicative trends. The ‘veil of ignorance’ which is often used in discourses at formal political level serving certain interests groups to pray the political

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<sup>12</sup> Emphasis added by the authors.

powerlessness and hence the uncontrollable situation of the phenomenon of irregular migration, might be reduced. New quantitative knowledge might facilitate highly ideologised and disputed discourses that are imbued by the use of numbers and claims of ‘flooding the country’.

Before discussing the possible uses and abuses of quantitative research data, we would like to distinguish between the two terms. Abuse or misuse of data refers to the intentional misinterpretation of numbers with a view to supporting an argument or policy. Misinterpretation may refer to the labelling of quantitative data: i.e. numbers that are estimates to be presented as data, or the quality of the estimate given to be overstated, or it may refer to dubious links: linking for instance unemployment with irregular migration.

Use and abuse can therefore range from a certain unawareness or carelessness of using quantitative data in this policy domain, to intentional misinterpretation and spin-doctoring scientific results.

Using quantitative data in a careless or neglected fashion might occur when it is referred to quantitative findings, while the background of research is not revealed in terms of a possible ideology bias or methodological pitfalls that might be inherited in the quantitative study. This has also been demonstrated in the Clandestino country reports.

Intentional misinterpretations take place, for instance, in parliamentary debates such as in the UK. Some members of parliament belonging to a particular political spectrum refer occasionally to astonishingly high figures in order to mobilise certain policy aims. For instance, in late 2002, MP Letwin addressed the House of Commons on the subject ‘illegal immigration’ as regards to Northern France and underlined the “prospect of 700,000 additional people, who are failed asylum seekers, coming to this country and remaining in it for the next 10 years” (Hansard, Vol. 395, col. 613). In a similar tone, the Greek Minister of Interior Prokopis Pavlopoulos was stating in the Greek Parliament on 3 June 2008: ‘We had 112,000 illegal migrants in 2007. We have no cooperation from Turkey. I will accuse [Turkey] on Thursday [5 June 2008] when I go to Luxembourg [for the Justice and Home Affairs summit of EU Ministers] (...) forgive me for the tone. Do not consider it hypocritical or emotional. It is the anxiety that I feel every night when they release all the slave ships at the coasts of Greece, without any control from Turkey, all these people that we have to take care of with respect to their rights and their life’. In this statement it appears that Greece received 112,000 irregular migrants in 2007. The number actually refers to irregular migrants detected in Greece in 2007 – nearly half of whom were detected far from the border. In other words, it is unclear how many of those were new arrivals. Moreover from those actually detected on the border, only 35,000 were detected in the Greek-Turkish border, and of those 35,000 less than 15,000 were arrested in the Aegean sea. However, as the statement and apparently the speech in Parliament goes, the 112,000 people figure is directly related to the arrival of irregular migrants (and asylum seekers) on the coasts of the Greek islands in the Aegean. This is an interesting and indeed probably typical example of how data on irregular migration can be misrepresented and misused by simply omitting to specify what is it *exactly* that they refer to.

Another source of frequent abuses of quantitative data can be found in the media coverage of several EU member states. For instance Simon Heffer’s columns in the UK tabloid *The Daily Mail* referred to “14 million illegal immigrants, few of whom speak a word of English” (*The Daily Mail*, 9.2.2001). He failed to note that the migrant and ethnic minority population of the UK in total does not reach 14 million and the country’s population is around 60 million – if his estimate was true, 1 out of every 5 residents in the UK would be an irregular migrant.

Quantitative data delivers numbers and these are very powerful clear-cut messages in academic, political and public circles. Data used for quantifying irregular migrants which are

based on governmental statistics have been frequently criticised for being inaccurate (e.g. Holmes 1988; National Audit Office 2004). Naturally this is not the case for all methods (see Jandl et al. 2008). Moreover dissemination of such estimates needs to emphasize that these are only estimates and not actual data.

Before making the research findings of a study available to the public, the consequences of such dissemination for national or regional discourses on irregular migration should be considered. New quantitative data on irregular migrants are often placed at the heart of discourses staging the struggle against irregular migration. The visibility of such data may be high as combating irregular migration has been set out as a top priority for the European Union and for many member states that support this view.

Moreover, many policy discourses of irregular migrants are interwoven with smuggling and trafficking of people and the related criminal aspect of organised crime. In other words, new quantitative knowledge in this area is liable to a very wide range of policy discourses, which makes this knowledge highly prone to possible misuse. It might start a new debate on how effective the current system is and what is needed to improve the system. This is why quantitative results, especially in a sensitive discourse environment as irregular migration represents, need to be combined with appropriate qualitative data that put numbers in context and help the interested reader draw her/his interpretations. Bare numbers could be almost classified as politically dangerous in this policy domain, since some interest groups might try to interpret these numbers as to their own good and thus try to misuse these numbers in order to forward certain policy measures. Research design and findings might be deliberately formulated in a way which does not leave a chance of misinterpretation or possible misuse of numbers. Qualitative data and further explanations are necessary here.

Depending on the comparatively higher or lower figures of irregular migrants residing in the given country, potential user groups might react accordingly. For instance, political parties in countries such as Germany, France or the UK might use or misuse research results. In the past, right wing parties have used the subject irregular migration as one of their main points on their agenda and referred to sometimes unfounded numbers which were used to justify and mobilise their agenda towards the very policy item.

The same applies to mass media coverage. Many social scientists prefer when their research does not attract media attention or the public-at-large, since they are afraid that their work get trivialised or sensationalised by journalists (e.g. Roberts 1984). Research is often misused for dramatic effects and results are put into story frames, which is in the case of the phenomenon of irregular migration surely at stake. Mass media, and especially newspapers, have demonised irregular migration over the years and research in this area is highly prone to be subject to media coverage (Greenslade 2005). Some research centres and scholars, however, take different positions and intervene and inform media and public opinion in general. This is a deliberate move to take on right wing anti-immigration partisan agencies, such as Migration Watch. Thus, the argument could be made, just with the question whether or not to research sensitive issues, that researchers should not shy away from publicity. Instead they have some responsibility to inform the public, to challenge misperceptions and to contribute to debates even if the issue at stake is controversial. One could also argue that they are accountable to the taxpayer which ultimately funds their research. Still, what should guide any such intervention or dissemination is to act in a morally responsible way, to abstain from ideological statements, to present their results in a balanced and careful manner so as to prevent harming their subjects of research.

In light of the above, in the CLANDESTINO project we have been particular concerned with protecting our data and results from being used in simplified ways by the media or in political discourse that could lead to misinterpretations or misled conclusions. Taking into account that numbers are always presented in a simplified way in the media and

in political discourses we have taken the following steps with a view to maximising the correct and responsible use of our estimates/data on irregular migration.

Our first rule of thumb has been: simplicity. We present numbers in an easily accessible way. Tables in our database admittedly simplify the definitions of irregular migrants.

Our second rule of thumb has been providing basic information about the methods through which the estimates or data on irregular migration were produced. Providing this type of information is a real progress compared to the currently common habit of stating outdated data or unreliable estimates, without indicating how they were calculated and how reliable or valid they are. The database on irregular migration produced by the CLANDESTINO project offers a simple classification that indicates whether readers may have high or low trust in the estimate. Even if a low quality estimate is taken from our database and misrepresented by some social actor, we are confident that other actors may equally use our database to show that the specific estimate or data are of poor quality and that a specific argument is ill-founded.

Third, our simplified and classified estimates/data are embedded in more in-depth discussions of the dimensions, type, and dynamics of irregular migration in each country. Thus, the interested reader, whether a scholar, a politician or a media professional, can find interesting and useful information about what lies behind the sheer numbers, how these numbers relate to policies and/or to public opinion, and how irregular migration is linked to wider socio-economic structures and processes. Thus, we believe that we provide a further measure for enabling the ethical use of data/estimates on irregular migration and for preventing the misuse of such data/estimates.

## **5.2 Taking a stand?**

Researchers in irregular migration inevitably come across the legal and social conditions under which their subjects live. These might range from relatively comfortable lives to conditions of extreme hardship, from mild to severe exploitation, from autonomous lives to slave-like conditions, and from lacking certain social rights to serious violations of human rights. Researchers, as Clements et al. (1999: 104) suggests, should ‘comment upon the outrageous circumstances in which their ‘subjects’ were living, conditions that no ordinary adult, least of all the researcher, would tolerate for themselves’.

Researchers usually cannot and do not want to avoid forming political opinions relating to their research field. Some researchers conclude that the migration control system should be expanded and made more effective so that it is less likely that irregular migration with its human tolls occurs. More researchers doubt that this may substantially reduce irregular migration, and argue in favour of human rights protection for irregular migrants. Both conclusions are related to research and can be supported with research findings, but cannot be directly deducted from research.

Researchers, however, are not primarily advocates or human rights activists but academics. As such they hold a set of complex responsibilities for high quality and ethical research. They have responsibilities towards their subjects, their profession, their funders, the various social institutions and society at large and must balance between these. Thus, they will not be able to promote a single perspective, they might also find themselves in the position to receive requests for information or invitations to seminars from both the Ministry for Interior and migrants support agencies, to give just one example.

And because of their mixed responsibility they should not decline any but offer their expertise to both and defend whatever their conclusions are. Of course, researchers often

develop a certain profile which will be recognised by other parties and which influences such processes. For example, a researcher who is constantly in the media for taken an anti-immigration stand or who speaks out for the regularisation of irregular immigrants will not be appealing to an agency that takes an opposing standpoint.

Anyway, if researchers wish to go down the advocacy line they will often be well advised not to do this in their capacity as members of a university, indeed, in case a researcher is using the full weight of his academic title, affiliation and thus the reputation of his employer, this might be challenged by the institution. Instead, the researcher would be better advised to joining a civil society agency and engage in advocacy in that capacity.

## **6. Concluding Remarks**

This contribution reviews briefly the field of research ethics and provides for operational definitions to demarcate the field and nature of the question. We have discussed here the different types of ethical questions and implications involved in irregular migration research, notably implications for the individual participants of research and the entire social group, implications and risks for the researcher, the relationship between researcher and subject(s) of research, conflicting interests and priorities, the relationship between the researcher and her/his funding agency or society at large, the ethical choices involved in the use of quantitative and qualitative data and methodologies, and the actual research and the subsequent dissemination of research. We have sought to discuss and assess the ethical implications separately for each dimension.

The bottom line is that research in irregular migration must be conducted and disseminated in a way that prevents enforcement agencies from identifying the whereabouts of individual or collectives of irregular immigrants. Research must also avoid disclosing information that facilitates enforcement agencies' planning and operations. A useful practice may be to cross check findings by involving both irregular immigrants and enforcements agencies into research and establish what is known already. Information which is already known to enforcement agencies can often be disclosed without violating research ethics but the release of new data must go through ethical review assessing the potential to harm versus the benefit that these findings will bring.

Research ethics is not free of political bias. Research has always a political dimension and researchers touching such sensitive issues like irregular migration should openly acknowledge this. They should be as explicit and as aware as possible of their own views, preferences and the bias that will creep into their research and openly discuss it. Also researchers need to always discuss the ethical implications of their research methods, strategies, questions and findings and properly justify their choices. What our reports shows is that often answers are not clear cut and there can be no blanket ethical standard applied to all studies or empirical research projects. Researchers must apply their critical spirit and use (or develop) ethical codes to assess the ethical questions involved in their work and take informed decisions safeguarding their subjects' well being (psychological, physical and social), their own integrity, taking into account the priorities and interests of their funding organisations (here ethical implications need to be addressed already at the level of accepting to conduct a research for a particular funder). Detailed explanations and justification of ethical issues need not find always a place in standard reports or scientific journal articles but should certainly be included in the overall documentation of a research project (and/or in a book length publication) and of course should also find their way into the academic literature that focuses on research methods and ethics.



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