The Crimmigration Trend in the Netherlands:
Some Critical Reflections

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1. Introduction

In a rather short period of just fifteen years, the concept of ‘crimmigration’ has developed from a novel legal concept into a widely used theoretical paradigm, both among academics and within wider social and political debates. The term was introduced in 2006 by Juliet Stumpf in her seminal article entitled ‘The Crimmigration Crisis’.\(^1\) In it, Stumpf addresses the increasing convergence of immigration law and criminal law in a way that seeks to exclude irregular migrants from incorporation into broader society. At its inception, the notion of crimmigration was adopted primarily by legal scholars who observed the convergence of criminal and immigration enforcement through various judicial and legislative developments. However, as scholars from other fields have rightly observed, ‘crimmigration’ transcends the purely legal realm.\(^2\) It includes also the absorption of ‘theories, methods, perceptions, and priorities associated with criminal enforcement’ into the immigration control field.\(^3\) Crimmigration has therefore since been applied to a much broader range of discussions surrounding the exclusion of undesirable migrants from wider society through a blurring of the boundaries between crime control and immigration control. As Van der Woude and Berlo describe, ‘although scholars provide different explanations for the crimmigration trend, they are unanimous in concluding that it creates an ever-expanding population of outsiders, making criminals into aliens and aliens into criminals without the protections that citizens enjoy’.\(^4\) The definition of crimmigration has in this way been ‘torn open’, developing over the years into a ‘sensitizing concept’ for scholars of immigration control – one that has been stretched to apply to all manner of issues relating to the securitization or criminalization of migrants. Over the past decade, ‘crimmigration’ has emerged as one of the dominant criminological paradigms through which to observe contemporary immigration control. Notwithstanding the success of the concept, we as researchers who participate in the academic and societal debate on crimmigration, increasingly wonder how fruitful and critical the debate on crimmigration has become. Much of the scholarship,
as we will argue, seeks to confirm the processes of crimmigration by providing an account of how the state criminalizes migrants and migration through increasingly punitive processes of selective exclusion. In this article, we would like to provide a somewhat more inductive and critical approach, whereby we would encourage academics and scholars of migration not just to consider crimmigration as a process singularly trending towards increasing securitization, punitiveness and exclusion, but also to consider other parallel and counter-processes that interact with crimmigration, and impact the incorporation of irregular migrants into society. In particular, we focus on the Netherlands as a case study by which to offer a critical reflection on the ‘crimmigration trend’. We submit that, as with any trend, scholars ought to carefully discern the manner and appropriateness by which it is followed, and be vigilant about potential blind spots that we have missed.

This article is broadly organized into three sections: First, we provide a brief overview of the ‘crimmigration trend’ in the Netherlands as both a social and policy trend and as a scholarly trend that has dominated the academic study of immigration control over the past two decades. Second, we provide a reflection and critique of this trend and try to assess some of the underlying assumptions and potential risks it presents. In doing so, we also consider three concrete examples of developments and processes that have taken place in the Netherlands which may be seen to mediate or in some cases mitigate the effects and impact of crimmigration. Finally, we provide a discussion on the need to depart from a single-track study of crimmigration and instead opt for a broader perspective that examines how punitiveness is intermingled with myriad other processes of incorporation and inclusion of migrants.

2. A Brief Overview of Crimmigration Research in the Netherlands

Three years after Stumpf’s seminal article, the concept of crimmigration was for the first time introduced in the Netherlands by Joanne van der Leun, who devoted her 2009 inaugural lecture to exploring how the phenomenon manifests itself within the Dutch immigration control landscape. Drawing on a number of key areas of immigration control in the Netherlands, she concluded that there was indeed evidence of a ‘crimmigration trend’ in the Netherlands. It is useful to first provide a (rough) historical overview of key policy developments that have played a pivotal role in terms of defining contemporary immigration control in the Netherlands, and which have been regarded in the broader literature as ‘manifestations of crimmigration’. In 1991, the Netherlands for the first time restricted access to social security numbers only to those who had a valid residence permit and prohibited irregular mi-

6 J. van der Leun, Crimmigratie (oratie Leiden), Apeldoorn/Antwerpen: Maklu 2009.
7 Van der Woude, Van der Leun & Nijland 2014, p. 566.
grants from being able to register themselves in local population registries. Until this point, persons without residence status in the Netherlands were able to request and obtain a social insurance number and legally register themselves at local municipalities. In 1994 the Identification Act (Wet op de identificatieplicht) was introduced, requiring that all persons age fourteen or older in the Netherlands show a valid proof of identification. Shortly thereafter, the Foreign Nationals Employment Act (Wet arbeid vreemdelingen, or WAV) came into effect, formally restricting irregular migrants from gaining access to the formal labour market. In 1998, the Linking Act (Koppelingswet) excluded all persons without an official residence status from being able to access social security benefits and public services. Finally, the Aliens Act (Vreemdelingenwet) 2000 represented a transformation of the Dutch immigration system, setting out all the relevant rules pertaining to unlawful residence, asylum procedures, and administrative detention and deportation. While the Dutch government has made repeated efforts to criminalize unlawful residence, it has failed largely as a result of pushback from political opposition parties and civil society actors. As a result, unauthorized residence remains to this day an administrative offence, not formally criminalized in law. However, in some situations an irregular migrant may be held criminally responsible if they have been convicted of certain crimes, if they have been repeatedly arrested for unlawful residence or if they are found to have violated an official ‘entry ban’. In the decade since the concept of crimmigration was first introduced in the Netherlands, Dutch scholars have generated a rich body of empirical scholarship exam-

9 Leerkes, Engbersen & van der Leun 2012; Bot 2020, p. 391.
10 Identification Act (Wet op de identificatieplicht), Article 2; J. van der Leun, Looking for loopholes: Processes of incorporation of illegal immigrants in the Netherlands, Amsterdam: Amsterdam University Press 2003, p. 89.
11 Van der Leun & Kloosterman 2006; Bot 2020.
ining the nature and impact of these key policy developments. While it is not possible to provide an exhaustive review, it is useful to briefly consider a few examples. First, some scholars have assessed crimmigration and increasingly restrictive immigration control on levels of crime among irregular migrants. For example, Leerkes, Engbersen and Van der Leun trace the connection between state efforts to exclude irregular migrants from the formal labour market and public services and an increase in registered crime among irregular migrants. The authors identify a variety of complex factors contributing to this rise in crime, while finding that the marginalization of irregular migrants through exclusion from the formal labour market and public services results in heightened criminal involvement. The authors highlight that this in turn results in a stronger association between unlawful residence and crime, arguing that it is not only law enforcement discourse and practice that has changed, but also the behaviour of irregular migrants themselves. Other scholars have focused on the criminalization of informal migrant labour, and the role this has played in exposing migrant workers to increasing vulnerability to labour exploitation and abuse. In particular, Hiah and Staring have drawn on qualitative research to examine processes of crimmigration within the context of the moral economy of the Chinese catering industry in the Netherlands. In their analysis, the authors highlight the intersection not just of crime and immigration control, but also the central role that administrative and labour market controls play in the exclusion of irregular migrants.

Still others have examined the nature of ‘crimmigration’ processes in Dutch prisons and administrative immigration detention centres. Most recently, Brouwer has explored the experiences in Dutch prisons intended for foreign national prisoners – or ‘crimmigration prisons’. Drawing on fieldwork and interviews within a Dutch prison for foreign nationals, the author draws on the experiences of prison


17 Leerkes, Engbersen & Van der Leun 2012.


19 Hiah & Staring 2012; see also Staring 2012.


officers and prisoners to explore the ‘pains of imprisonment’ under crimmigration regimes.  

Finally, a growing body of scholarship has emerged which has focused on the nature and role of discretionary decision-making in crimmigration. While still focusing primarily on the role of state agencies and their bureaucrats, these studies inject a valuable degree of nuance and complexity into our understanding of crimmigration by analyzing it as a process that is mediated through different levels of the criminal justice and immigration control system, from policy-makers to street-level bureaucrats.  

For instance, in their study of border checks by Dutch Mobile Security Monitor (also known as MTV checks), Brouwer, Van der Woude and Van der Leun identify that the convergence of immigration and criminal enforcement is highly dependent upon discretionary power of law enforcement actors at different levels, and the interaction between lawmakers and enforcement officers on the ground.  

Even from this brief and selective review of studies, it may be observed that the Netherlands has produced a rich body of knowledge on the phenomenon of ‘crimmigration’. Together, this body of knowledge covers numerous different points of entry into the Dutch immigration control landscape, drawing on a wide range of methodological techniques, quantitative and qualitative, including media and discourse analysis, in-depth interviews, focus groups, ethnographic fieldwork, and participant observation.

3. Crimmigration: Some Critical Reflections

In light of the developments detailed above, and the expansive and ever-growing body of academic scholarship studying and analyzing them, it is no surprise that ‘crimmigration’ is regarded as one of the defining features of current immigration control in the Netherlands. ‘Crimmigration’ has become not just a policy trend, but also a scholarly trend. However, as the late Left Realist criminologist Roger Matthews warned in his poignant critique of ‘new punitiveness’ in contemporary criminal justice, with any alleged new departure in modalities of control, there are also risks. In particular, there is a risk that we become preoccupied with questions and topics that reinforce and confirm the new trend we claim to observe, and neglect

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23 These studies have emerged in particular under the larger project entitled ‘Getting to the Core of Crimmigration: Assessing the Role of Discretion in Managing Intra-Schengen Cross-Border Mobility’, see www.universiteitleiden.nl/en/research/research-projects/law/getting-to-the-core-of-crimmigration.


other parallel or counter processes that mitigate or even challenge the presence of pervasive ness of this new trend. As Matthews described, we may thereby ‘fail to do justice to the diversity, contradictions, reversions and tensions…[and] the growing array of agencies and institutions with their different roles, discourses and specialisms, as part of an increasingly complex, opaque and expanding network of crime control, involving a diverse range of interventionist strategies’.27 It is this critique in particular that we wish to focus on for the remainder of this article by drawing on a number of concrete examples.

Case 1: Administrative Immigration Detention in the Netherlands
There is a general tendency among criminologists to downplay the non-punitive developments within penal policy,28 and scholars of immigration control are no exception to this. However, understanding current immigration policy as singularly trending towards increasing securitization, punitiveness and exclusion reflects a failure to appreciate the contradictions and ambiguity of government policy. To illustrate this point, the case of administrative immigration detention in the Netherlands is an instructive example.

Given the obvious structural and symbolic similarities with criminal detention as a mechanism of control, immigration detention is often regarded within the crimmigration scholarship as a clear-cut example of where the blurring of criminal control and immigration control is most apparent. As scholars of crimmigration in the Netherlands have observed, ‘strategies to control immigration are increasingly being imported from the criminal justice system. […] This aspect of the process of crimmigration in the Netherlands is most clearly visible in the field of administrative immigration detention.’29 Criminologists in the Netherlands have therefore focused on the excessive use of detention to manage and control migrant groups — a phenomenon referred to by some as ‘immcarceration’.30 In 2010, Broeders observed that ‘total detention capacity has been steadily increasing since 2000. However, [criminal detention] seems to be stabilizing and more recently even decreasing slightly, whereas the capacity for immigrant detention keeps on rising steadily.’31 Cornelisse similarly argues that ‘the everyday practice of immigration detention in EU Member States fits these observations: immigration detention is a large-scale instrument... that explicitly targets categories of persons, leaving ever less scope for the individual circumstances of each and every case’.32

In light of these observations, it is useful to observe more closely what has happened in recent years with respect to the overall detention figures for irregular migrants in the Netherlands. Far from the alleged expansion of ‘immcarceration’, it is in fact the case that over the past several years overall detention rates in the

31 Broeders 2010, p. 176.
Netherlands have declined dramatically, while at the same time an increasing number of immigration detention centres have closed their doors. In particular, the total number of irregular migrants detained in administrative detention in the Netherlands has declined rapidly over the past several years. Total entries into administrative immigration detention declined from 8590 in 2008 to 3780 in 2019, representing a decline of more than 75%. More strikingly, total detention capacity saw a 60% reduction over a five-year period from 2011-2016, while the total number of detention places occupied on any given day declined almost 70%, from 1191 in 2011 to 382 in 2017. More recently, this figure has risen again to 400 in 2019, while dropping again considerably again in the first half of 2020. In addition to these declines in overall detention rates, there has also been a decline in the number of immigration detention centres. In 2008, Amnesty International reported that there were up to thirteen administrative detention centres in the Netherlands in use for irregular migrants, including a number of dual-use and youth-specific detention centres. However, currently the Netherlands only operates three administrative immigration detention centres: in Schiphol, Rotterdam and Zeist. From the period of 2011 to 2017 no fewer than five immigration detention centres have been closed.

Although numerous commentators have speculated as to the reason underlying this significant reduction in the use of administrative detention, the actual reasons are complex and multifaceted, likely involving a combination of factors. The 2011 implementation of the ‘Returns Directive’ likely played a particularly salient role. Although the Returns Directive has attracted much criticism among migration scholars, observers have also noted that the Directive introduced a number of important substantive and procedural safeguards, including formally requiring that administrative detention only be used as a ‘last resort’; ensuring a greater obligation to consider alternatives to detention; and guaranteeing the procedural right to receive individual and independent judicial assessment to determine if there is a reasonable ‘prospect of removal’ before detention may be applied – there-


by creating and defining specific legal criteria for detention.\footnote{G. Cornelisse, ‘Guarding the external border: immigration detention in the Netherlands’, in: A. Nethery & S.J. Silverman (eds.), Immigration Detention: The Migration of a Policy and its Human Impact, Abingdon, UK: Routledge 2015.} Perhaps most importantly, the Returns Directive also for the first time introduced maximum detention limits in the Netherlands. According to the 2013 report of the Advisory Committee on Migration Affairs (ACVZ), this downward trend may also reflect a general reduced interest in detaining irregular migrants by immigration enforcement actors at the street-level.\footnote{ACVZ, Vreemdelingenbewaring of een lichter middel? Advies over de besluitvorming bij inbewaringstelling van vreemdelingen, Den Haag: ACVZ 2013, p. 45.} Another contributing factor that has likely had an important impact on the reduction of detained migrants is the growing attention from civil society and high-profile human rights observers, which has put increasing pressure on the Dutch government to re-examine and confront its use of administrative detention.\footnote{Amnesty International 2008; Amnesty International, Submission for the UN Universal Periodic Review, Amsterdam: Amnesty International 2016; United Nations Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 27 February 2017.} Finally, the reduction in immigration detention is likely partially attributable to the overall decline in number of irregular migrants resident in the Netherlands.\footnote{P. van der Heijden, M. Cruyff, G. Engbersen & G. van Gils, Schattingen onrechtmatig in Nederland verblijvende vreemdelingen 2017-2018, Den Haag: Wetenschappelijk Onderzoek- en Documentatiecentrum (WODO) 2020.} To be clear, the purpose here is not to present a romanticized view of the declining trend in immigration detention or to suggest Dutch migration control has become in any way less hostile toward irregular migrants – though it has become both quantitatively and qualitatively less carceral. There are of course many reasons to remain critical and vigilant about the prevalence of administrative detention as one of the central and most coercive features of the European migration control apparatus. Instead, the purpose here is to demonstrate that not all developments in immigration control reflect a singular trend towards punitiveness. The dramatic decline of immigration detention in the Netherlands is rarely discussed and has, until recently, gone largely unacknowledged by crimmigration scholars.\footnote{See for instance Brandariz, who has likewise observed the general decline or stabilization of immigration detention at the European level; J.A. Brandariz, ‘An Expanded Analytical Gaze on Penal Power: Border Criminology and Punitiveness’, International Journal for Crime Justice & Social Democracy 2021; see also M. van der Woude, ‘Doing criminology in the global borderlands’, Research Handbook on Comparative Criminal Justice 2021 [forthcoming].} Yet, it may raise important questions about the potentially shifting nature of crimmigration in the Netherlands, as we will reflect on later in our discussion. For now, we turn to consider a few other examples.

\textit{Case 2: Free In, Free Out}

As a second example, we shift to a different policy area that has gained increasing attention in recent years; namely, that of ‘safe reporting’ [veilige aangifte] for irregular migrants. For this example, we draw in particular on a recent exploratory study on the so-called ‘free in, free out’ policy, which we conducted together with
colleagues as part of a larger research project led by the University of Oxford’s Centre on Migration, Policy and Society (COMPAS). Briefly, the ‘free in, free out’ policy allows irregular migrants to enter into a police station to report a crime, whether as a victim or witness, and be permitted to freely leave without being subject to arrest of detention. In other words, whereas Dutch immigration law would in principle require police officers to arrest and detain irregular migrants upon reasonable suspicion of unauthorized residence, under the ‘free in, free out’ policy these officers are explicitly prohibited from doing so if the migrants are victims or witnesses of a crime. It functions as ‘firewall protection’ intended to shield irregular migrants from immigration enforcement while in the process of obtaining essential services. The policy has in this way been regarded as a European best practice in the area of victim protection. There are a number of aspects regarding both the evolution and nature of this policy that are relevant to our current discussion.

First, the ‘free in, free out’ policy evolved as part of a local-level pilot initiative in the neighbourhood of Amsterdam Zuid-Oost. In collaboration with community religious groups and civil society organizations, the police introduced the new policy as part of an effort to improve their awareness of the public safety needs of migrant communities. It emerged largely from a sense among local police that a large portion of their community was ‘invisible’ to them. In particular, migrant neighbourhoods refused at all costs to interact with or ask help from the police out of fear of being arrested or detained. The ‘free in, free out’ policy therefore emerged from this social reality with two key aims; namely, (1) to ensure a greater degree of protection for victims and witnesses of crime, and (2) to foster greater community trust between irregular migrant communities and local law enforcement and thereby improve public safety.

In the years following the initial pilot project, the initiative eventually gained some popularity within civil society circles and spread to other municipalities, including Utrecht and Eindhoven. Finally, the initiative was incorporated into national policy alongside the implementation of the EU Victims’ Rights Directive in 2015. However, the process by which the policy finally evolved into national policy is an interesting and instructive one. Policy-makers inside the Ministry of Justice and Security described their intention to keep the policy ‘low-key’, decoupling it from politicized questions surrounding migration control that would attract too much publicity and attention, and framing it instead as an issue of crime prevention and

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46 Kamerstukken I, 2014/15, 34236, nr. 3, p. 4; Memorie van Toelichting [Explanatory Memorandum] 2014/2015, 34236 nr. 3.
public safety. Furthermore, the coming into force of EU Victims’ Directive also played an important role in providing the legislative opportunity to implement the policy nationally as part of a broader victim protection and public safety agenda.\textsuperscript{47} In terms of practice and implementation of the policy, there are also a number of points worth highlighting. First, it was found that, despite the ‘free in, free out’ policy’s explicit requirement that police officers not enforce immigration control, these officers carry a considerable degree of discretionary authority. In particular, this discretion allowed them to (1) contact and inform the immigration police (AVIM) and ask them for advice and information, and (2) determine whether or not an irregular migrant in question should be considered a ‘legitimate’ victim. This discretionary power resulted in a ‘weak’ firewall between irregular migrants and immigration authorities,\textsuperscript{48} whereby the effective use of the ‘free in, free out’ policy by irregular migrants was severely limited by a lack of consistency in practice and implementation. Irregular migrants could not be effectively guaranteed that they would not be exposed to risk of arrest or detention. This resulted in a lack of trust among irregular migrants. It was found that irregular migrants who were able to make effective use of the policy often required the mediation of civil society actors to extract assurances from police that their clients would not be arrested.\textsuperscript{49} However, despite these limitations, through the support and mediation of civil society organizations, irregular migrants who are victims of crime are generally speaking able to obtain access to victim protection under the ‘free in, free out’ policy. As we have argued elsewhere,\textsuperscript{50} the policy represents an essential first step in developing ‘firewall protection’ for irregular migrants in Europe. Again, the ‘free in, free out’ policy raises a number of important questions for scholars of crimmigration which we reserve for the discussion. For now, we turn briefly to a third example.

\textit{Case 3: Claiming Rights at the Local Level}

At the same time that the Dutch state was expanding its efforts to exclude irregular migrants from access to basic public services, other developments were taking place at the European and national level which attempted to respond to the exclusionary effects of state efforts by carving out (limited) exceptions and minimum standards in a number of essential domains, such as healthcare, education, housing, and access to legal services. These rights are based on fundamental international and European human rights norms, as enshrined within, \textit{inter alia}, the European Convention on Human Rights,\textsuperscript{51} the Charter of Fundamental Rights of the European Union,\textsuperscript{52} and the European Social Charter.\textsuperscript{53} While these legal instruments do not guarantee fully equal protection to non-nationals in all areas, they do

\textsuperscript{47} Timmerman, Leerkes & Staring 2019.
\textsuperscript{48} Timmerman, et al. 2020.
\textsuperscript{49} \textit{Ibid}.
\textsuperscript{50} Timmerman et al. 2020.
\textsuperscript{53} Council of Europe, \textit{European Social Charter} (Revised), 3 May 1996, ETS 163.
set out ‘minimum standards’ in areas of social and economic rights, irrespective of the persons residence status. In turn, local level humanitarian organizations and advocates increasingly draw on European norms in the area of fundamental rights to ensure a basic level of access and incorporation of irregular migrants into these essential public services. In this example, we wish to briefly sketch some examples of practices that have been adopted at the local level to mobilize and secure these basic standards, and then also consider state efforts to respond to these practices.

First, one notable example in the area of fundamental rights for irregular migrants is access to essential healthcare services. In a recent study on irregular migrant’s access to Dutch health care, it was found that the level of formal legal health rights of irregular migrants in the Netherlands is relatively high. Formally, Dutch law prohibits health service providers from discriminating on the basis of immigration status. According to Article 122a of the Dutch Health Insurance Act, healthcare providers can reimburse costs incurred for the medical treatment of undocumented patients. However, the study also concludes that irregular migrants often stay ‘below the radar’ and use formal healthcare institutions only for emergencies due to fear of apprehension and deportation and the exclusionary attitudes of some health providers towards them. According to the study, irregular migrants again rely on social networks with friends or family with legal status as well as humanitarian organizations that were willing to provide advocacy and support to access health care providers. Humanitarian organizations thereby again play an important role in supporting irregular migrants in claiming their rights. While it is not possible here to discuss in detail irregular migrant’s incorporation in all areas of basic public service, similar observations can be made in the other domains, such as work, education, housing and legal support.

Building on this observation regarding importance of social support networks, there are myriad other practices that have emerged in the area of integration at the local level. One such example in the Dutch context relates to citizens who participate in so-called ‘circles of integration’ by voluntarily offering ‘a room in their home and in their heart’ to a refugee without status. These citizens, although they are aware of the illegal character of their support, still feel it is important to contribute to the incorporation of asylum seekers and other irregular migrants. Next to these individuals, there are all kinds of humanitarian organizations in the Nether-

55 FRA 2011, p. 7.
57 Ibid. 8.
lands that have sprung up to support migrants without a legal status in response to the state’s exclusionary crimmigration policies. Many of these humanitarian organizations emerged during the 1980-1990s, coinciding with the expanding criminalization of irregular migrants as we detailed earlier in this article. At the same time, however, the government has in recent years made concerted efforts to challenge the mobilization of humanitarian organizations and civil society against processes of crimmigration. A recent study has detailed the gradual and subtle responsibilisation process whereby the Dutch authorities have used specific measures and redirected monetary flows in an effort to incorporate these organizations into its broader migration control policies. This has resulted in a decrease in the number of support organizations for unauthorized migrants, less independence and autonomy, and an increased focus on the ‘voluntary return’. States have also adopted more overt strategies. For instance, European governments have attempted to prevent activism and solidarity with irregular migrants through the criminalization of a wider range of organizations, agencies and individuals in the context of humanitarian support through so-called ‘crimes of solidarity’. On the one hand, this criminalization of solidarity underscores the dominant trend of the merging of criminal and immigration law, but simultaneously these supportive acts show the resistance of citizens in response to the humanitarian need generated by these exclusionary and criminalizing practices. These processes demonstrate the complex dialectic between governments that try to control mobility, and citizens that react on and reach out to calls for help. It is clear from these examples that the field of crimmigration does not represent a purely unilateral trend by the state towards greater punitiveness and exclusion, but rather an interplay between competing and intersecting processes.

4. Discussion and Conclusion: Towards a More Complicated Story of Crimmigration

There are a few observations that can be made with respect to the examples provided above. First, each of these examples interacts with the phenomenon of crimmigration at different levels and in different ways. In the case of ‘free in, free out’, it is clear that the policy emerged as a direct response to expanding crimmigration policies in the Netherlands, which increasingly demanded that irregular migrants avoid at all costs interaction with law enforcement, and pushed a wedge between local police and migrant communities. Similarly, we can observe that efforts to in-

61 M. Kox & R. Staring, ‘“If you don’t have documents or a legal procedure, you are out!” Making humanitarian organizations partner in migration control’, European Journal of Criminology, June 2020. doi:10.1177/1477370820932079.
crease local-level integration of irregular migrants into the purview of basic rights reflects in large part an effort to respond to the humanitarian gap generated by exclusionary crimmigration policies. On the other hand, processes with respect to immigration detention have occurred primarily as a result of legal developments at the European level. In this respect, they appear more general and incidental, running parallel rather than directly oppositional.

Second, the manner in which these examples emerge is strikingly varied and diverse, unfolding at vastly different levels of governance, and even outside areas of formal governance. In the case of immigration detention, we see that shifting norms in the field of international and regional human rights, as well as attention from high-profile international human rights observers, played an important role in introducing new European procedural norms in the area of administrative detention. Similarly, local-level humanitarian efforts have drawn heavily on European ‘minimum standards’ to secure basic rights for irregular migrants. On the other hand, the ‘free in, free out’ policy was introduced in a largely informal manner by an eclectic collection of pragmatic policy-makers, law enforcement actors, community leaders, and civil society advocates. It eventually developed into national policy through a combination of political ambivalence, coincidental legal developments at the European level, and sheer Dutch pragmatism.

Third, each of the examples discussed illustrates the importance of understanding interactions, engagements, and confrontations between different actors operating at different levels of governance. In this respect, they also highlight the role of discretion and individual decision-making in crimmigration outcomes, and how crimmigration law is mediated through various institutions, agencies, and actors operating at different levels.

In recent years, other scholars have also become increasingly critical of the application of the crimmigration ‘concept’, calling for a more complex understanding of the intersection of immigration and criminal justice. For instance, Moffette and Pratt have criticized the ‘methodological nationalism’ of existing crimmigration research, and called for a more multiscalar analysis of ‘different legal and quasi-legal regimes, scales, and jurisdictions’. While we certainly identify with and build upon these existing commentaries, our critique goes further than just calling for a greater emphasis on the role of differing legal regimes or other longstanding criticisms of ‘methodological nationalism’. We argue that even these recent criticisms provide a predominantly one-sided focus on the penal power of the state and the processes of punitiveness, securitization and exclusion exercised by its enforcement actors. While these processes undoubtedly exist, there are at the same time (counter)processes and developments unfolding that interact with, mitigate or even challenge these processes, and which impact the incorporation of irregular migrants in crucial ways. This is of course not to suggest that they are all effective

63 Such as for instance in the case of the ‘circle of integration’ as discussed above.
in challenging crimmigration. Indeed, these developments largely represent a narrow kind of ‘selective inclusion’, often applying to only a subset of particularly vulnerable irregular migrants – minors, the homeless, persons requiring emergency medical care, victims of crime. Nevertheless, these examples force us to recognize the myriad other actors and processes – beyond purely ‘the state’ and its bureaucrats – that respond to the same political and social realities underlying crimmigration, and which are anchored in human rights and civil society groups, local-level activists or religious organizations, as well as municipal policy-makers and public service providers daily confronted with the ordinary realities and experiences of undocumented clients or constituents within their communities. We should not ignore the role these play in mediating, mitigating and even challenging, to greater or lesser extents, the effects of crimmigration policies.

While crimmigration undoubtedly provides clarity on some of the most crucial developments in the field of immigration control, it has perhaps also closed our attention to others. We submit that the field of crimmigration is not one-dimensional, but multidimensional; not a street, but a square – open, messy, and frenetic. Our study of crimmigration should therefore likewise try to reflect this complex multidimensionality. We would stress the importance of producing a more complete image of the different processes that can reinforce the punitive impact of crimmigration control, but can also interact with it in such a way that its effectiveness is softened or mitigated. This plea for greater complexity is not a goal as such, but a necessity for gaining a better understanding of the contemporary empirical reality surrounding the inclusion and exclusion of migrants in society. By neglecting the countless processes and trends that run together, parallel and even contrary to the trend of crimmigration, we may in turn also become blind to the crucial opportunities for policy reform and improvement that are unfolding around us. Let us remind ourselves that a punitive and exclusionary ‘crimmigration’ tells just one side of the dynamic, complex, and at times contradictory story of contemporary immigration control – and perhaps not even the most interesting one.