EUROPEAN BORDERSCAPES & THE ILLEGAL(IZED) MIGRANT

Undeportability and Repeated Detention in the Dutch Migration Control Field

MASTER THESIS IN GLOBAL CRIMINOLOGY
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European Borderscapes & the Illegali(ized) Migrant:
Undeportability and Repeated Detention in the
Dutch Migration Control Field

by
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The cover photo is an original photo taken by the
author at the front gate of Detention Centre Zeist
during a flower vigil organized by local churches.
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Nearly two years ago, my wife and I, two excited young students from Canada, made the decision to move across the ocean and continue to pursue our studies in the Netherlands—my country of birth. For me, these two years have been both the most inspiring and in many ways the most challenging: moving away from family and friends, setting up a ‘new life’—finding a job, an apartment, new friends—and all at once attempting to complete two masters degrees: criminology and international law. However, these two years have also been driven by a genuine love and interest in what I do, which I regard as a unique and profound blessing. In particular, I have for many years been fascinated by the topic of migration. I am often struck by how a rather ordinary natural phenomenon—people on the move—evokes such visceral public and political reaction: how it informs people’s identity and politics, how it conjures up timeless myths, and how it awakens at the same time people’s best and worst instincts. It has been a fascinating, and at times troubling, experience for me to explore how issues of migration have unfolded and are continuing to unfold in Europe. This thesis explores one small corner of this complicated and messy universe of investigation and study, and I feel that my interest in this topic has only just begun.

While completing this thesis has been an incredibly challenging and trying process—and over the past two years I often found myself biting off much more than I could chew—it has also been deeply formative for me, both personally and academically. In the end, I finally feel that I can be proud of the research that I am able to present in this thesis, and for that there are many people to whom I owe a great deal of gratitude.

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 Ruben Timmerman
 Utrecht
ABSTRACT

Administrative immigration detention has for decades served as a core feature of European migration control, allowing states to apprehend, detain, and (forcibly) remove unauthorized irregular migrants found to be within its national territory. However, while immigration detention is (formally) intended to serve the purely bureaucratic and administrative function of facilitating the removal of unwanted irregular migrants from the country, in many cases these removal procedures are hindered or unsuccessful for a variety of practical, legal, and procedural reasons. The migrant is then eventually released from detention, only to be re-apprehended and detained again at a later date. In these cases, many of the migrants are de facto ‘undeportable’, caught in a perpetual cycle of endless detainment on the one hand, and precarious illegalized residence on the other. Drawing on nine-months of ethnographic fieldwork, in-depth qualitative interviews—with irregular migrants, immigration lawyers, migrant support workers, and state officials—dossier analysis, and official data, this thesis explores the problem of undeportability and repeated detention as an especially analytically interesting site from which to examine the (shifting) nature and impact of the contemporary detention-deportation system in the Netherlands. In particular, this thesis offers a counter-narrative to much of the existing criminological scholarship on immigration detention, which has focused primarily on the alleged expansion of increasingly actuarial forms of ‘new punitiveness’ and rising immigration detention rates. However, in recent years detention rates for irregular migrants in the Netherlands have plummeted, and a growing number of immigration detention centres are closing their doors. In this respect, drawing on the accounts of irregular migrants affected by undeportability and repeated detention, and situating these accounts within the theoretical and conceptual framework of ‘contested borderscapes’, this thesis explores how state efforts to deport are heavily mediated through the discretionary and associative processes of power that take place at the street-level of immigration bureaucracy and enforcement. In turn, this research focuses on the experiences and strategies of irregular migrants and their support networks to circumvent this discretionary power, and to challenge and contest processes of arrest, detention, and deportation. Ultimately, in contrast to the image of a rational-mechanical and impervious ‘iron cage’ of punitiveness that has dominated much criminological debate on immigration detention, this thesis demonstrates that the detention-deportation field indeed reflects a deeply contested borderscape; one that is often highly ambiguous, irrational, and, at times, overtly arbitrary and detached of its formal legal and institutional function. It highlights in particular the need to develop new theoretical and conceptual frameworks for understanding the shifting role of immigration detention within the rapidly evolving context of contemporary European migration control.
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Introduction

1.1. Mass Migration & Securitization in Europe

Few issues have dominated public and political discourse in Europe in recent years as that of irregular mass migration. In an era of increasing globalization and transnational flows, it is not the dizzying movement of information, (economic) capital, images, or ideas that has most captured public and political concerns in recent years; rather, it is the movement of people—and people are on the move. According to the most recent estimates by the United Nations (UN) Department of Economic and Social Affairs (2016), since the turn of millennium global migration rates have continued to climb rapidly, from 173 million people in 2000 to 244 million in 2015—the largest proportion of which reside in Europe. In particular, considerable attention has been drawn to so-called ‘mixed flows’, referring to “complex population movements including refugees, asylum-seekers, economic migrants and other migrants…who move without requisite documentation, crossing borders and arriving at their destination in an unauthorized manner” (UN High Commission for Refugees [UNHCR], 2009, para. 3). According to the most recently published report of the European Border and Coast Guard (Frontex), in 2015 European Union (EU) Member States reported over 1.8 million detections of such unauthorized border-crossings along the EU’s external frontiers—a six-fold increase over the number of ‘unauthorized’ detections reported the previous year.

On the one hand, the mass displacement and movement of people crossing territorial boundaries—predominantly across European borders from the Middle East and Africa—has been regarded by the international community as ‘the worst humanitarian crisis of our time’, emphasizing the need for solidarity and humanitarian cooperation among states, particularly since the onset of violent conflict in Syria in 2011 (UNHCR, 2015). On the other hand, however, it has also reignited debates in the nation capitals of Europe’s liberal democracies in relation to sovereignty, security, and the need for tighter control of state borders; particularly in response to growing public fears and anxieties around terrorism, crime, and other perceived migrant-related concerns (Fijnaut, 2015; Ghimis, et al., 2016; Guild, et al., 2015). In 2016, the Organization for Economic Co-operation and Development (OECD)—an intergovernmental economic collective comprising the majority of the world’s wealthiest states—in their annual migration outlook report issued the claim that “the public is losing faith in the capacity of governments to manage migration”, further stating that “many feel that migration is threatening their economic, social, as well as personal security” (OECD, 2016, p. 7). It has become clear that as people continue to be on the move, the idealized model of a perfectly ordered globe, with clearly defined and spatially demarcated territorial boundaries, appears to be increasingly precarious and unsettled.
Within this contemporary context of global mass migration, then, “migration laws and their enforcement are increasingly understood as the last bastion of sovereignty” (Dauvergne, 2008, p. 2). In recent years, European states have indeed expressed a newfound urgency to reassert their sovereignty and control over the migration issue, reflecting a climate of deepening securitization. In particular, EU states have resorted to myriad new migration control measures, including the reintroduction of internal border controls within the Schengen region, and the fortification of security fences across the EU’s external frontiers (Fijnaut, 2015; Ghimis, et al., 2016; Guild, et al., 2015). Some European states have also relied on a number of internal migration-control measures, including the removal of various kinds of support for non-nationals; stricter citizenship regulations; and greater surveillance, monitoring and control mechanisms (Broeders, 2009; Broeders & Hampshire, 2013; Hess, 2016; Léonard, 2011; Nagy & Oude Breuil, 2015).

However, one migration control measure that has particularly grown in prominence and engendered much attention among human rights and migration scholars in Europe in recent years is that of administrative detention. This form of detention operates as a central part of a larger European removal system, whereby states are able to apprehend, detain and (forcibly) remove unauthorized irregular migrants found to be within its national territory. In this respect, it is among the most overt and coercive forms of state efforts to manage and control migration. Within the European context, administrative detention is unlike criminal detention in that it is not intended to serve a punitive legal function, and those detained in immigration detention are not being detained because they have committed a criminal offence. Rather, immigration detention in Europe is intended to serve the purely bureaucratic and administrative function of facilitating the removal of ‘unwanted’ irregular migrants from the country’s national territory, and back to the migrant’s ‘country of origin’ (Baldaccini, 2009; Cornelisse, 2010; 2016). Therefore, irregular migrants who are not admitted into the country may be detained as a measure of last resort in order to prepare or carry out the return or removal process, and only where detention is necessary to (1) prevent the individual from absconding, or (2) if the individual avoids or hampers the return or removal process. In this respect, the formal function of administrative detention is inseparable from the broader removal system, and is therefore also commonly referred to as ‘pre-removal detention’ (Cornelisse, 2010; Moraru, 2016). As part of this removal system, then, administrative detention has in recent years indeed been understood as a core feature of the contemporary EU migration-control apparatus.

1.2. Understanding the Research Problem: Undeportability & Repeated Detention

Although the description provided above presents a rather straightforward narrative in terms of the nature and function of administrative detention, in reality the story is far more complex. Although it is indeed intended to serve the formal administrative function of removal, in many cases expulsion procedures are hindered or unsuccessful during the migrant’s period in detention for a variety of practical, legal and procedural reasons—often because migrants have lost, destroyed, or falsified legal
identification documents, or because countries of origin do not cooperate with repatriation procedures. Since removal procedures were unsuccessful, the detained migrants are eventually released from detention. However, their unauthorized status remains intact, and they may therefore at any time be re-apprehended and detained again. In these cases, migrants subject to re-arrest and repeated detention are both ‘unwanted’ and at the same time de facto ‘undeportable’—caught in a perpetual cycle of re-arrest and detention on the one hand, and precarious illegalized residence on the other. As Leerkes and Broeders (2010) point out “modern society has not yet found a definitive solution for the presence of migrants who are formally not admitted, but are also difficult [or indeed, impossible] to expel” (p. 845). This problem of repeated detention is particularly prevalent in the Netherlands (Global Detention Project, 2016). The most recently published statistical figures collected in 2010 revealed that nearly one-third of all administratively detained migrants in the Netherlands had already been previously detained in immigration detention on at least two occasions (Custodial Institutions Agency [Dienst Justitiële Inrichtingen (DJI)], 2012). It may be said that each of these periods in detention represents at least one unsuccessful interaction with the detention-removal system and, as the findings of this thesis will later show, some irregular migrants in the Netherlands have been detained in administrative detention more than ten times. Nevertheless, the Dutch state persists in its attempt to carry out removal.

The problem of undeportability and repeated detention presents various practical challenges to Dutch immigration officials and policymakers. However, it also has a significant human impact, particularly on the lives of irregular migrants who are subject to repeated periods in detention, often amounting to months or years. In view of this human impact, administrative detention practices in the Netherlands have been routinely criticized by prominent international and national human rights bodies and migrant support organizations, challenging in particular the routinized use and overreliance on administrative detention; the length of detention; the lack of consideration of alternatives; the conditions inside the detention centres; and the treatment of detainees (Amnesty International, 2008; 2013; UN Human Rights Council, 2012; 2017). In 2016, Amnesty International raised the problem of repeated detention in its submission for the 2017 UN Universal Periodic Review of the Netherlands, expressing concerns in particular that cumulative periods in detention exceed the 18 months limit as set out by national and regional standards, and arguing that in practice administrative detention in the Netherlands is essentially unlimited (see also Amnesty International, 2013; European Network on Statelessness, 2015).

In view of these various challenges and concerns, this thesis examines more closely the problem of undeportability and repeated detention as an especially analytically interesting site from which to explore the complex dynamics and inner-workings of the contemporary Dutch detention-deportation system. In particular, this research aims to critically examine the nature and impact of contemporary detention and deportation practices in the Netherlands by focusing on the accounts and experiences of the irregular migrants affected by undeportability and repeated detention. In doing so, this research
seeks to understand how irregular migrants experience repeated detention and the impact it has on their everyday lives, and in turn how they confront, challenge, and contest processes of arrest, detention, and deportation. In view of these aims, I therefore adopt the following primary research question: *How do irregular migrants experience and contest state deportation efforts in relation to undeportability and repeated detention, and how does this shape the dynamics of the detention-deportation system in the Netherlands?*

In responding to this primary research question, this thesis also addresses a number of important secondary questions; namely, (1) who are the irregular migrants most commonly subject to repeated arrest and administrative detention in the Netherlands; (2) how do they experience repeated detention and what impact does it have on their everyday lives; (3) what are the specific challenges and barriers to their successful removal from the Netherlands; and (4) what strategies do they adopt in an effort to undermine or resist repeated detention and deportation. The specific research approach will be further discussed and elaborated upon in the methodological reflection (provided in Chapter 4). For now, it is important to explain how this research distinguishes itself from existing scholarship in the Netherlands, and why it uniquely academically and socially relevant.

### 1.3. Reviewing the Existing Literature: Repeated Detention & the Actuarial Politics of Migration Control

In recent years, numerous scholarly commentators have similarly identified the challenges surrounding the undeportability of unwanted irregular migrants in the Netherlands, and there has been no shortage of attempts to effectively conceptualize this phenomenon (see Bolhuis, Battjes & van Wijk, 2017; Leerkes & Broeders, 2010; Leerkes, 2016; Kalir, 2017; Kox, 2011; Reijven & van Wijk, 2014; van Alphen, et al., 2013; Van Kalmthout, et al., 2004). It has commonly been referred to as a legal or procedural ‘vacuum’ or ‘limbo’ (London School of Advanced Studies, 2016; Reijven & van Wijk, 2014). In fact, the European Commission itself has identified the need to avoid this problem, stating that EU member states have an obligation “to either return irregular migrants or to grant them legal status, thus avoiding situations of ‘legal limbo’” (see European Commission, 2013, p. 5). Most recently, the acronym UBUs—‘undesirable but unreturnable’—has been popularized to refer to this group of irregular migrants (see Bolhuis, et al., 2017; London School of Advanced Studies, 2016). However, the majority of recent scholarly discourse on this problem has revolved primarily around failed asylum seekers and those who have been determined to be ‘undesirable’ by the Dutch state as a result of alleged crimes or criminal convictions (Bolhuis, Battjes & van Wijk, 2017; Kalir, 2017; Reijven & van Wijk, 2014; London School of Advanced Studies, 2016). However, in focusing on asylum seekers and those with criminal or alleged criminal backgrounds, it excludes the myriad other categories of irregular migrants in the Netherlands who have not been formally declared to be undesirable by the state, but are similarly impacted by the bureaucratic, legal, and procedural vacuum of undeportability, legalized residence, and repeated detention. This may include irregular migrants
who attempt the myriad other avenues for legal residence that do not include asylum procedures, or those who have never attempted to obtain legal residence in the Netherlands at all. Further, it may include irregular migrants who have lived in the Netherlands for a short period of time, or those who have lived in the country for decades and have fully established lives in the Netherlands. In this regard, these existing commentaries largely focus on a narrow subset of irregular migrants in the Netherlands that are impacted by the problem of undeportability and repeated detention.

Additionally, a large body of empirical work highlighting the challenges to removal has focused on the decision-making processes of migrants with regard to voluntary return, referring in particular to the impact of administrative detention on the willingness of migrants to cooperate with removal procedures (Leerkes, 2016; Kox, 2011; van Alphen, et al., 2013; Van Kalmthout, et al., 2004; van Wijk, 2008). The empirical findings of these studies may be approached in two ways: (1) to better understand and promote migrant willingness to cooperate, and thereby facilitate more humane and orderly removal procedures to the alleged benefit of both irregular migrants as well as Dutch immigration officials; or (2) to empirically demonstrate that repeated detention has a minimal or inverse effect on the willingness of migrants to return to their country of origin, and is therefore ineffective and should be avoided. However, as will now be detailed, these studies have produced largely inconclusive and competing results:

In 2004, an extensive study on administrative immigration detention was conducted by Van Kalmthout, et al., which included an examination of administrative legal data from 400 irregular migrants, as well as in-depth interviews with a number of migrants in immigration detention (Van Kalmthout, et al., 2004). It was shown that the rate of successful expulsion halves to just 25 percent in cases where migrants have been previously detained. As a result, some Dutch commentators have claimed that “lengthy or repeated detentions are a hindering factor for return” (Kox, 2011, p. 34). However, based on the actual findings of the study it may perhaps be more accurate to suggest not that repeated detention serves as a ‘hindering factor’ for return, but rather that it signals that these cases of repeated detention already face inherent systemic or administrative barriers to return. In 2011, in a study conducted for the International Organization for Migration (IOM)—an organization tasked with providing information and assistance to detained migrants to enable them to return voluntarily to their countries of origin—the author found that repeated detention played only a modest role in the decision-making of irregular migrants to leave the Netherlands. Most recently, however, in a study conducted for the Custodial Institutions Agency (DJI) of the Netherlands, which included a survey of 461 irregular migrants detained in the Netherlands, it was found that “respondents who had been detained repeatedly were indeed more likely to report an increased willingness to leave the Netherlands than those who were being detained for the first time”—although this effect on return decisions was rather modest, and diminished after the fifth occasion in detention (Leerkes, 2016, p. 29; van Alphen, et al., 2013).
However, in terms of understanding the nature and impact of undeportability and repeated detention these studies carry two key limitations, which are largely interrelated. First, they represent a decidedly ‘actuarial approach’ to migration policy and administrative detention, focusing on the (in)effectiveness and (in)efficiency of particular migration control outcomes, and thereby developing critiques concerning their use. This actuarial approach I regard as problematic for a number of reasons. First, it shoulders two analytical assumptions: (1) that administrative detention in The Netherlands is in fact intended to serve its formal administrative function to facilitate the removal of unwanted migrants; and (2) that the detention-removal system is rational in terms of weighing the costs and benefits of particular policy outcomes. As will be later shown, the findings of the present study challenge both of these analytical assumptions in fundamental ways. More importantly, however, these studies are decidedly ‘state-centric’ and policy-driven in orientation in that they have focused primarily on charting the challenges of removal procedures for the Dutch government, and problematize the non-cooperation of migrants without similarly addressing the myriad other bureaucratic and legal reasons that hinder and complicate removal procedures. In this regard, this body of research largely shares the same limitations and risks of other policy-driven research (Bosworth, 2014; Sampson, 2013; Castles, 2007); namely, that it encourages “simplistic and short-term remedies to complex, long-term social processes” (Castles, 2007, p. 363). Rather than reflecting critical engagement with topics of migration control and its enforcement, these studies instead risk encouraging what C. Wright Mills (1959) referred to as simply “a refinement of technique for administrative and manipulative uses” (p. 180). In doing so, they lose sight of more fundamental critiques of migration control and enforcement from a harm and justice-based perspective, and instead engage in what I regard as the actuarial ‘politics’ of migration control. Losing sight of these more fundamental considerations raises a number of important concerns. If, for instance, it is indeed shown that the repeated detention does significantly increase the willingness of migrants to return to their country of origin, ought we then to conclude that its use is legitimate and effective because it is helping to achieve the expressed policy outcomes? I argue that much of the existing empirical scholarship on the phenomenon of repeated detention in the Netherlands has reduced—perhaps unintentionally—long-held debates and criticisms surrounding administrative detention to precisely these sorts of menial deliberations on efficacy. In doing so, we must not, as Bosworth (2014) warns, risk ‘reproducing what we seek to critique’ (p. 221).

1.4. Criminological & Social Relevance

In view of this existing literature, then, the present research project distinguishes itself in a numbers of ways. First, although the problem of undeportability and repeated detention has long been recognized among Dutch migration scholars and human rights commentators, to date there have been no empirical analyses conducted to more closely examine this phenomenon and the number of basic questions it raises surrounding administrative detention and removal practices. In this regard, this
research represents the first empirical study conducted in the Netherlands focusing specifically on the problem of repeated administrative detention. This study regards the problems of undeportability and repeated detention as being largely interrelated and inseparable, and therefore also examines the challenges, processes, and interactions that characterize undeportability. In this respect, focusing on repeated administrative detention is analytically valuable on two fronts: (1) these cases represent at least one previous failed attempt by the state to return or remove the unwanted subject; and (2) it allows the research to widen its analytical gaze beyond ‘failed asylum seekers’ to a broader group of irregular migrants affected by the systemic and legal vacuum presented by undeportability.

Further, although much of this existing scholarly commentary has focused on addressing the legal and practical challenges that the problem of undeportability presents to immigration officials as well as policy and decision-makers, strikingly little empirical work has been devoted to understanding the experiences of undeportability and repeated detention for the irregular migrants themselves. Administrative detention and removal is among the most serious and coercive of contemporary migration control efforts, depriving its subjects of their liberty, and causing a significant degree of personal, social, economic, physical and psychological harm and deprivation. There is also evidence that many irregular migrants subject to repeated detention may face a number of unique vulnerabilities that contribute to their marginalization, including complex health problems, mental illnesses and trauma, and substance dependency issues (Amnesty International, et al., 2016; Bosworth, 2014; Leerkes 2009; Leerkes & Broeders, 2010). Administrative detention practices in general should therefore elicit a healthy degree of interest and critique from criminologists and migration scholars. In the case of repeated detention, the effects it has on the lives of irregular migrants are all the more acute. An empirical analysis examining the nature and impact of repeated administrative detention is therefore much needed and long overdue.

Lastly, as unprecedented public and political attention is directed toward the humanitarian concerns surrounding asylum seekers and refugees in recent years, the unwanted and undeportable ‘illegal migrant’ occupies a special place of social exclusion within the migration control context. It is a figure that does not engender the same degree of political and public attention or sympathy (Chauvin & Garcés-Mascareñas, 2014; Schuster, 2011), and is thereby particularly symbolically disenfranchised and uniquely vulnerable to the coercive securitization tactics of the state. It is precisely within this space of social exclusion that the figure of the unwanted/undeportable illegalized migrant is relevant for criminological inquiry. It is both a space of social and cultural ‘forgottenness’, and at the same time a systemic ‘nowhereland’ between the competing bureaucratic processes of states, and between deportability and legal residence. To date very little is known about the experiences, challenges, motivations and impulses of this group. Further, there have been no systematic empirical studies providing a more in-depth examination of the nature and function of this phenomenon of repeated detention. This research intends to respond to these gaps both empirically and theoretically.
The Dutch Detention-Deportation Landscape

Within the Netherlands, the context of administrative immigration detention and deportation has evolved dramatically over the past ten years. New legal and regulatory frameworks have developed at both the European regional and national level, and a broad range of new institutional actors have been introduced to facilitate state detention and deportation policies. However, perhaps most strikingly, in recent years the overall detention rates for irregular migrants in the Netherlands have declined dramatically. In this respect, before moving on to the theoretical framework and methodology underlying this thesis, it essential to first examine more closely the detention-deportation landscape in the Netherlands. This chapter provides an overview of the developments that have unfolded over the past number of years, and how they are continuing to unfold today.

This chapter will first provide an overview of the various legal and policy measures and standards at the international, regional, and national level that govern and regulate the use of administrative detention. Second, it will provide of brief description of how administrative detention has evolved in the Netherlands from an exceptional measure in the 1980s to a fundamental feature of the Dutch migration control system. It will herein also provide an overview of the key institutional actors responsible for administering the detention-deportation system in the Netherlands. Lastly, it will provide an overview of the prominence of administrative detention. The developments in relation to each of these areas of discussion will become deeply theoretically and empirically relevant in subsequent chapters of this thesis.

2.1. Transnational Migration Control & the EU ‘Returns Directive’

Detention is such a serious measure that it is justified only as a last resort, where other, less serious measures have been considered and found insufficient to safeguard the individual or public interest which might require that the person concerned be detained.


The unique severity of administrative detention as a deprivation of the fundamental rights of migrants has long been understood and well-established in both international and regional human rights standards and jurisprudence. In this respect, it is worth emphasizing the fundamentally distinctive nature of administrative immigration detention from other forms of social control and legal deprivation. Most notably, administrative immigration detention involves the detainment of an individual not because they have committed a criminal offence and through due process and the deliberation of individual circumstances been tried and convicted of a crime in a court of law. Rather, it is based primarily on administrative factors rooted in modernist notions of ‘territoriality’—referring
to the sovereign right of nation states to determine who enters and does not enter their national territory. In this respect, it is impossible to understand administrative detention apart from its territorial logic (Cornelisse, 2016).

Nevertheless, administrative detention is broadly guided by a number of basic human rights principles. Most notably, these include the principles of last resort, proportionality, and non-arbitrary confinement, as well as the procedural right to receive individual and independent judicial assessment. In this respect, over the past decade detention and deportation practices within Europe have been guided by an increasingly robust human rights and legal framework. At the regional level, administrative detention is first and foremost regulated by the EU Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Returns Directive) (Baldaccini, 2009; Cornelisse, 2015), which came into effect in the Netherlands in 2011. The Returns Directive introduced three key developments that are relevant to the present study: (1) it introduced the ‘return decision’ [terugkeerbesluit], whereby the Member State declares to the unauthorized migrant that they must leave the country either immediately or within a 28-day period, depending on the circumstances of the case (Art. 6); (2) it introduced the ‘entry ban’ [inreisverbod] for those unauthorized migrants who do not comply with the return decision and fail to leave the country within the designated period of time, prohibiting entry into and stay on the territory of all EU Member States (Art. 11); (3) it introduced an 18-month maximum limit for administrative immigration detention (Art. 15); and (4) it introduced new regulations permitting administrative detention only in cases where there exists a ‘reasonable prospect of removal’. The stated purpose of the Returns Directive was to organize an integrated and coordinated approach to the return of so-called ‘third-country nationals’ illegally entering into Member States. In this respect, it signals an expansion of what some migration scholars have referred to as the ‘transnationalization’ of border control (Aas, 2007; Loyd, et al., 2012).

Although the Returns Directive has attracted much criticism among migration scholars (see in particular Baldaccini, 2009; Moraru, 2017), a number of commentators have also pointed out that it has limited the duration of detention in many EU Member States—including the Netherlands—which did not previously have a limited duration period for administrative detention (Cornelisse, 2015; Moraru, 2017). It also provided greater judicial control over the use of immigration detention. For instance, whereas prior to the provisions of the ‘Returns Directive’ unauthorized residence alone was enough to automatically result in detention, immigration authorities must now make an individual assessment and determine if there is a reasonable ‘prospect of removal’ before detention may be applied—creating and defining a specific legal criteria for detention (Cornelisse, 2015). On the other hand, however, some legal scholars have also pointed out that the domestic provisions of European Member States represents a lack of uniform national legal instruments defining these key legal notions, allowing for a wide range of definitions and the use of ‘catch-all criteria’ (Moraru, 2017). In this respect, it may be argued that in fact the ‘Returns Directive’ serves not as a constraining function,
but rather has provided states with legal justification for the use of administrative detention. These concerns will indeed emerge in important ways throughout the course of this thesis.

In March 2017 the European Commission launched a new set of recommendations to its Member States, reaffirming its commitment to the ‘Returns Directive’ and the use of administrative immigration detention for irregular migrants. These new recommendations are intended to make the Directive more ‘effective and efficient’, and encourage more restrictive measures to respond to the issue of irregular migration, including wider and stricter use of detention and deportation practices. In particular, it encourages Member States to, among other things: make full use of the maximum duration period of 18 months for detention where necessary; avoid repetitive assessment ‘which can cause unnecessary delays’; remove total prohibitions on the use of detention for families and minors; ensure that return decisions have unlimited duration so that they can be enforced at any moment; make full use of IT systems (such as Eurodac and the Schengen Information System [SIS]); increase and mobilize law enforcement and immigration authorities, if necessary on a ‘24/7’ basis, encouraging greater coercive practices such as night raids; and coordinate with medical, judicial, detention authorities, guardianship systems and social services to implement return (European Commission, 2017). In view of these recommendation, the Commission further reaffirmed its commitment to the use of administrative detention as “an essential element for enhancing the effectiveness of the Union’s return system” (European Commission, 2017, para. 16).

2.2. Administrative Detention in the Netherlands: Current National Context

Within the Netherlands, the use of administrative immigration detention emerged only as an ‘exceptional measure’ up until the 1980s, but has since become a routine and central element of Dutch migration control (Cornelisse, 2015; Leerkes, 2009). Specifically, in 1984 a Dutch policy document emerged which declared immigration detention to be an integral part of a restrictive and effective migration policy (Notite vreemdelingenbewaring, kamerstukken II 1984-85, 18 373, nr.1-3; Amnesty International, 2013). In 2001, upon the implementation of the Dutch Aliens Act 2000, the number of administratively detained migrants skyrocketed: new detention centres were constructed, and by 2005 over 12,000 migrants were being administratively detained in the Netherlands annually. However, that same year a fire broke out in detention centre complex Schiphol-Oost, Oude Meer, which resulted in the deaths of 11 detainees, and injuring 15 more (Amnesty International, 2013). This incident ignited greater public attention and criticism among human rights critics toward administrative detention practices in the Netherlands (Amnesty International, 2008; 2013). However, the numbers of irregular migrants administratively detained continued to rise under the Aliens Act 2000 until 2007 (Ministry of Justice, 2008). The Aliens Act remains in effect in the Netherlands to this day, and under this Act irregular migrants may be held in administrative immigration detention under two legal bases: (1) Article 6, whereby a migrant who has been refused entry into the Netherlands may be
detained until such time that they can be removed from the country—also referred to as ‘border detention’; and (1) under Article 59, whereby unauthorized migrants who are already present on Dutch territory may be detained if necessary in the interests of public order or national security, with a view to expulsion—also referred to as ‘territorial detention’ (Global Detention Project, 2016). The present research is primarily concerned with the latter legal regime, with the clear policy objective to detain unwanted irregular migrants and facilitate their removal from the country.

Since the Returns Directive came into effect in the Netherlands in 2011, Dutch law now sets out a maximum duration for detention of 6 months, which may in certain cases be extended for an additional twelve months as a result of (1) a lack of cooperation by detained migrant, or (2) delays in obtaining the necessary documentation for the detained migrant and if it can be demonstrated that a travel document will be issued soon. In alignment with the Return Directive, the Dutch government is also able to issue an entry ban for undocumented migrants who do not comply with a ‘return decision’ and fail to leave the Netherlands within the designated period (Kalir, 2017; Leerkes, et al, 2014). In the Netherlands, these migrants may be issued a light entry ban for those who fail to comply with their return decision, with a maximum duration of 5 years; or a ‘heavy’ entry ban, which has a maximum duration of 20 years, for those migrants who have been convicted for criminal offences, or are believed to be a threat to public order or national safety (Leerkes, et al., 2014).

In 2013, administrative immigration detention in the Netherlands underwent a number of important changes. After years of increasing national and international attention and criticism—as well as recommendations from a variety of high-profile human rights bodies, including most notably the Universal Periodic Review of the UN Human Rights Council (Amnesty International, 2016; UN Human Rights Council, 2012), the Netherlands for the first time accepted recommendations to reduce the use immigration detention and further promote alternatives to detention (Amnesty International, 2016; Government of the Netherlands, 2014). Further, in December 2013 the Dutch government published a draft bill on immigration detention and return (Government of the Netherlands, State Secretary of Security & Justice), which would provide a number of important changes to the circumstances and living conditions in administrative detention to reflect the non-penal nature of administrative detention and provide more freedom for detainees. Currently in the Netherlands the regulations governing the conditions and rules within immigration detention have been predicated upon the Dutch Custodial Institutions Act [Penitentiaire Beginselenwet](PBW) for rules governing penal (criminal) institutions. In this regard, the proposed bill intended to more clearly distinguish between criminal and administrative detention, and reflect the non-punitive nature of the latter. However, parliamentary debate on the proposed bill has been subject to numerous delays, and has most recently been ‘declared controversial’ by the Dutch lower House of Representatives—or ‘Second Chamber’ [Tweede Kamer]. It was to be further suspended from debate for an unknown period of time (House of Representatives, 2017). As such, substantive changes to the circumstances and conditions for irregular migrants held in administrative detention in the Netherlands have not
occurred, and rules governing these conditions remains in principle under the same legal regime as those governing penal detention.

2.3.1. Key Institutional Actors in the Dutch Detention-Deportation Field

In addition to the detention centres themselves, which are operated by the DJI of the Ministry of Justice and Safety (earlier mentioned), there are several other institutional actors that are important to the administration of the detention-deportation system in the Netherlands. In particular, three Dutch state agencies play an especially salient role in the experiences of irregular migrants relevant to this study; namely, (1) the Immigration and Naturalisation Service (IND); (2) the Repatriation and Departure Service (DT&V); and (3) the Aliens Police [vreemdelingenpolitie](AVIM) and Royal Netherlands Marachaussee or ‘military police’ (KMar).

In the first place, then, the IND is responsible for assessing all applications from foreign nationals and irregular migrants who want to live in the Netherlands, including asylum and temporary or permanent residence applications. As earlier described, if an application is rejected the IND is also able to impose a ‘return decision’ [terugkeerbesluit] and an entry-ban [inreisverbod] if the individual has not complied. Additionally in the case of administrative detention, when the prospective detainment of an unauthorized migrant is presented for independent judicial review, the IND plays a role in endorsing the detention decision before a judge. On the other hand, the DT&V is responsible for facilitating and arranging both voluntary and forced removal of irregular migrants not permitted to remain in the Netherlands. In this respect, the DT&V plays a central role throughout the migrants period in detention, and is often in regular (monthly) contact with detainees in an effort to motivate them to cooperate with return procedures. Lastly, the AVIM and KMar are responsible for supervising and enforcing compliance with the Aliens Act and preventing unauthorized residence. The KMar primarily carries out its functions at the external borders of the Netherlands, while the AVIM does so internally. Both agencies are able to conduct arrests of unauthorized migrants, conduct identity investigations, and carry out finger-printing. Most importantly, assistant public prosecutors [hulpofficiers van Justitie, or HOvJ] of the AVIM and KMar are the actors ultimately responsible for determining whether or not an unauthorized migrant who is arrested should be held in detention. In this respect, they play a particularly crucial role in the everyday experiences and interactions of irregular migrants at the street-level.

Within the larger Dutch migration control apparatus, each of these institutional actors are intended to cooperate in an integrated way through information-sharing and other activities as partners in an institutional ‘chain’—referred to in Dutch as the ‘vreemdelingenketen’ (Ministry of the Interior and Kingdom Relations, 2013). The specific role of each of these actors will be discussed in more detail throughout the course of this thesis as they emerge and re-emerge in the experiences and interactions of irregular migrants who have been repeatedly detained in the Netherlands.
2.3.2. Administrative Detention in Numbers: Current National Data & Trends

The significant developments that have occurred with respect to administrative immigration detention in the Netherlands may be most strikingly observed in the national detention figures and trends. In particular, the total number of irregular migrants detained in administrative detention in the Netherlands has declined rapidly over the past several years, as illustrated in Figures 1 and 2. It may be observed that total entries into detention declined from 8,590 in 2008 to 2,176 in 2015, representing a decline of nearly 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 85%, from 1,191 in 2011 to 301 in 2016.

In addition to these declines in overall detention rates, there has also been a decline in immigration detention centres, as illustrated in Figure 3. In 2008, Amnesty International reported that there were up to 13 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 DJI only operates three administrative immigration detention centres: in Schiphol (DCS), Rotterdam (DCR), and Zeist (DCZ). Furthermore, since 2017 all irregular migrants detained under Article 59 of the Aliens Act 2000 were transferred from Schiphol to Rotterdam. As such, Schiphol now only detains migrants held under Article 6, or ‘border detention’. As Figure 3 illustrates, from 2011 to 2017 no fewer than five immigration detention centres have been closed.

![Total Detention Entries (2008-2016)](Image)

*Figure 1. Total entries into administrative detention from 2009-2016. This data is drawn from several official governmental reports (DJI, 2012; 2016; 2017; Ministry of Safety & Justice, 2012; 2013).*
Figure 2. Total detention capacity versus the typical number of detention places occupied on any given day from 2011-2016. This data is drawn from official reports from the DJI (2016; 2017).

*The number of detention places occupied is calculated based on a ‘reference date’ [peildatum] for each year (typically 1 Sept). Prior to 2011, occupied detention places were calculated by yearly average (see DJI, 2012), and this data is therefore not represented in this figure. However, in general there is downward trend in both total detention capacity and places occupied since 2009 (see DJI, 2012).

Figure 3. Administrative detention centres in The Netherlands from 2011-present.
*As the figure illustrates, since 2011 no fewer than five immigration detention centres have been closed or are no longer in use for administrative detention purposes. Further, in 2017 all irregular migrants detained under Article 59 of the Aliens Act 2000 were transferred from Schiphol to Rotterdam. As such, Schiphol now only detains migrants held under Article 6 (i.e., ‘border detention’).
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 a number of factors (Advisory Committee on Migration Affairs [Adviescommissie voor Vreemdelingenzaken][ACVZ], 2013; Cornelisse, Global Detention Project, 2016; European Network on Statelessness, 2015). The 2011 implementation of the ‘Returns Directive’ likely played a particularly salient role, for the first time introducing a maximum detention limit in the Netherlands, as well as explicitly requiring that administrative detention only be used as a last resort with a view to removal, and ensuring a greater obligation to consider alternatives to detention (Cornelisse, Global Detention Project, 2016). According to the 2013 report of the Advisory Committee on Migration Affairs (ACVZ), this downward trend reflects the Dutch government’s new embrace of the ultimum remedium (or last resort) principle. However, it may also be reflected in a more general reduced interest in or aversion to detaining irregular migrants by immigration enforcement actors at the street-level. The ACVZ report highlights that, whereas a number of years ago the attitude of immigration police concerning whether or not to detain an individual in administrative detention reflected the position that ‘the irregular migrant will go to detention, unless’, in recent years this has shifted to an attitude that says ‘the irregular migrant will not go into detention, unless’ (ACVZ, 2013, p. 45). This seemingly subtle change in attitudes at the street-level appears to have a significant impact on overall detention figures, and is a development that will be examined more closely throughout this thesis. 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 (Amnesty International, 2008; 2013; 2017; UN Human Rights Council, 2012; 2017). Lastly, the reduction in administrative detention may be attributed to a general reduction in government spending in the Ministry of Security and Justice, the government ministry broadly responsible for overseeing administrative detention (Government of the Netherlands, 2013), whereby reduced administrative detention may be seen in part as the outcome of shifting fiscal priorities.

In terms of the issue of repeatedly detention specifically, the most recently available official data was provided in a report by the DJI published in 2012. The data provided in this report was gathered through an internal study conducted by the DJI in 2010. No such study has been conducted since. As such, since 2010 there exists no official data on the total prevalence of repeated detention of irregular migrants in the Netherlands. However, recently in November 2017, a special committee was organized to respond to formal questions raised by the Dutch lower House of Representatives (Tweede Kamer) concerning budgetary statements for the Ministry of Justice and Safety for 2018. Among the responses, there included some data on the repeated entry of adults and unsupervised minors into administrative immigration detention over the period of January 2013 to September 2017. This information is summarized in English in Table 1.
Table 1. Influx of adults and unsupervised minors into administrative immigration detention (from Jan 2013 to Sept 2017)

<table>
<thead>
<tr>
<th>Number of times entered into administrative detention</th>
<th>Number of Persons (n)</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>10,790</td>
<td>90.3</td>
</tr>
<tr>
<td>2</td>
<td>920</td>
<td>7.7</td>
</tr>
<tr>
<td>3</td>
<td>170</td>
<td>1.4</td>
</tr>
<tr>
<td>4+</td>
<td>70</td>
<td>0.6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>11,950</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>


This table reveals that at least 1,160 persons were repeatedly detained within a period of less than four years between 2013 to 2017. Although it is difficult to draw further conclusions from the information provided, it may at the very least be said that the issue of repeated detention remains prevalent in the Netherlands in the years since the last official data was published in 2012.

### 2.4. Conclusion

In summary, over the past several years the detention-deportation landscape in the Netherlands has evolved in dramatic ways. In the first place, the use of administrative detention in Europe in general, and in the Netherlands in particular, is governed by an increasingly robust legal and regulatory framework as part of the broader EU return policy for irregular migrants. In this respect, immigration detention has in particular undergone significant socio-legal developments over the past six years since the onset of the EU Returns Directive in 2011, which has, among other things, set out a absolute maximum detention limit of 18 months, and restricted the use of administrative detention only to cases where there is a reasonable and likely prospect for removal. However, there remains a host of legal complexities and uncertainties in relation to the issue of repeated detention in particular, which remains a prevalent issue in the Netherlands. In this respect, the socio-legal framework identified in this chapter will be referred to throughout the course of this thesis in relation to the specific case-studies identified. Furthermore, this chapter has introduced a number of key institutional actors that are central in shaping the dynamics of administrative detention in the Netherlands, and will likewise re-emerge repeatedly throughout the course of this this. However, most strikingly among the developed that have taken place is a dramatic reduction in overall detention rates for irregular migrants. These developments are deeply empirically and theoretically relevant, as they challenge in fundamental ways much of the existing criminological scholarship that has dominated the topic of immigration detention in the Netherlands, as will be further explored in the following chapter.
The detention and deportation practices of liberal democratic states have elicited no shortage of theoretical explanations and conceptualizations from migration scholars across varied disciplines. In this chapter, I attempt to delineate some of the main thematic and theoretical strains that have provided a framework for understanding the prevalence of administrative detention as a measure to respond to contemporary global migration flows, as well as the various ways in which the phenomenon of repeated detention and undeportability may be seen to both challenge as well as reinforce these existing lines of explanation and inquiry. In doing so, I first provide a brief overview and critique of the ‘new penology’ thesis, which has dominated much of criminological scholarship of administrative immigration detention in the Netherlands. Second, I provide an alternative framework in light of important developments within the Dutch detention-deportation landscape in recent years. In particular, I draw on the notion of ‘borderscapes’ as a theoretically valuable point of departure for re-conceptualizing the ‘border’ in response to changing dynamics of contemporary global mobility. Lastly, in this chapter I introduce an integrated approach that intends to provide a more nuanced and complex understanding of contemporary administrative detention practices in the Netherlands.

3.1. Re-visiting the New Penology Framework: A Reflection and Critique

The theoretical framework that has particularly dominated criminological scholarship on administrative immigration detention in the Netherlands in the past decade is that of the ‘New Penology’ (see, inter alia, Broeders, 2010; Cornelisse, 2016; Leerkes & Broeders, 2010; Van Kalmthout, et al., 2007; van der Woude, et al., 2014). The concept of the ‘new penology’ essentially constitutes a broad set of observations concerning the apparent changes in late-modern penal practices within liberal democratic states, which were first detailed in the 1990s by Malcolm Feeley and Jonathan Simon (Feeley & Simon, 1992; Simon, 1998), and expanded upon by other prominent sociologists such as David Garland (2001). In a general sense, four key observations concerning the changes in contemporary penal practices may be identified under the new penology framework, each of which are closely interrelated:

First, the new penology is focused primarily on the mitigation of ‘risk’ to public safety (and public expenditures), rather than individualist notions of responsibility, guilt, and moral judgment (Feeley & Simon, 1992). It is in this way also closely associated to the advent of ‘risk society’ (Beck, 1992), under which the penal system may be seen to reflect a broader societal obsession with the need to systematically respond to social hazards and (ontological) insecurities introduced by modernization
(Beck, 1992, p. 21; Rigakos & Hadden, 2001). Second, the new penology is less concerned with the traditional normative aims of the criminal justice system—such as retribution, punishment, and rehabilitation (Rigakos & Hadden, 2001). Rather, as Feeley and Simon describe, “the task is managerial, not transformative” (1992, p. 452). The new penology therefore focuses primarily on the purely instrumental aim of incapacitation, with a particular reliance on imprisonment (De Giorgi, 2006; Leerkes & Broeders, 2010; Feeley & Simon, 1992; Wacquant, 1999). Third, in becoming more managerialist, the penal system has also become more ‘actuarial’ in nature (De Giorgi, 2006; Feeley & Simon, 1992; McLaughlin & Muncie, 2013)—alluding to the probabilistic techniques adopted by insurance companies, involving logic inferences, cost-benefit analyses, and statistical models (De Giorgi, 2006; Rigakos & Hadden, 2001). In this respect, Feeley and Simon (1992) further emphasize that “the discourse of the new penology is not simply one of greater quantification; it is also characterized by an emphasis on systemic and on formal rationality” (p. 454). Lastly, penal practices have shifted from the ‘individual’ to the ‘aggregate’, capturing a wider range of social groups. In particular, De Giorgi (2006) refers to the practice of classifying and assigning individuals to a peculiar ‘risk-class’ regarded as particularly problematic or dangerous: ‘drug addicts’, ‘the unemployed’, ‘inner city kids’, ‘illegal immigrants’. As Leerkes and Broeders (2010) describe, “the net of the penal system has been cast wider” (p. 833).

The new penology thesis emerged largely within the social context of rapidly expanding incarceration rates in the United States beginning in the late-1980s, commonly described as signaling a ‘punitive turn’ within late-modern practices of social control among liberal democratic states (Feeley & Simon, 1992; Matthews, 2005; McLaughlin & Muncie, 2011). In this respect, perhaps the most basic observation underlying the new penology is the general expansion of penal sanctions and mass incarceration (Feeley & Simon, 1992). In relation to the migration control context specifically, criminologists in the Netherlands have likewise observed the excessive use of detention to manage and control migrant groups—a phenomenon referred to by some as ‘immcarceration’ (Kalhan, 2010; Bowling, 2013). 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” (p. 176). Similarly, other commentators have held that “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” (van der Woude, et al., 2014, p. 12). Most recently, Cornelisse (2016) draws heavily on the new penology framework in her analysis of immigration detention in the Netherlands, arguing that “the everyday practice of immigration detention in EU Member States fits theses 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” (p. 75).
Although the new penology framework has in some ways served as a helpful theoretical tool for understanding the expansion of administrative detention in liberal democratic societies beginning in the late-1980s, it is worthwhile to revisit some of these observations in view of the present context in the Netherlands. As a starting point, it is valuable to observe more closely what has happened with respect to the overall detention figures for irregular migrants. As detailed in the previous chapter, far from the assertions (and perhaps expectations) of many criminologists and migration scholars concerning the alleged expansion of ‘immcarceration’, it is in fact the case that over the past several years overall detention rates in the Netherlands have plummeted (see Figures 1 and 2), while at the same time an increasing number of immigration detention centres have closed their doors (see Figure 3). In this respect, it is at the outset worth reconsidering to what extent the new penology framework can still be said to honestly and effectively capture contemporary administrative detention practices.

However, looking beyond the numbers, the new penology has also engendered a broader range of scholarly criticism (Cheliotis, 2006; Matthews, 2005). In the first place, a number of commentators have expressed doubt as to the degree to which the ‘new penology’ can truly be considered a ‘marked break with the past’, as Feeley and Simon describe (1995, p. 148; as cited in Cheliotis, 2006, p. 316). For instance, scholars have traced many of the observations detailed above already to the early days of 17th-century English capitalism and the foundation of modernism itself (Cheliotis, 2006; Cornelisse, 2016; Matthews, 2005; Rigakos & Hadden, 2001; Pratt, 1995). Indeed, as Matthews (2005) describes, “the modern prison has since its inception…been disproportionately concerned with the imprisonment of the ‘lumpenproletariat’, the ‘dangerous classes’, the poor and the feckless” (p. 185). However, for the present purposes, the critique I wish to offer relates more specifically to the application of the new penology thesis to the migration control context. In particular, I observe two key limitations in its application to administrative immigration detention; namely, (1) it largely ignores the unique territorialist aims of administrative detention within the larger migration control context; and (2) it dramatically overestimates the actuarial and rational-mechanical nature of the detention-deportation system, while at the same time downplaying the role of discretion, human agency, and contestation at the level of policy implementation.

In relation to the first point, I argue that the migration control system should not be loosely conflated with the criminal justice system. Although in practice immigration control closely resembles many aspects of the criminal justice system—as tirelessly emphasized by the expansive and ever-growing body of ‘crimmigration’ literature (Stumpf, 2006)—there remain important conceptual distinctions that should not be ignored. As Cornelisse (2016) rightly emphasizes:

Even if contemporary developments undeniably bear witness to an uneasy blurring of the line between criminal law and immigration policies, we need to pay attention to the distinctiveness of the context in which immigration detention takes place, one that differs
profundely from the purely domestic, national context within which criminal law enforcement is principally carried out (p. 77).

In this respect, much of the existing criminological commentary on administrative detention has reflected a decidedly ‘territorialist epistemology’ (Brambilla, 2015), largely ignoring the significance of the international and regional dimensions under which immigration detention operates. Furthermore, it operates not only in a distinct context, but are also driven by a distinct set of instrumental aims. For instance, the absence of any rehabilitative or reintegrative purpose for immigration detention has little to do with the alleged increased ‘actuarial’ nature of the new penology, as some have asserted (Bowling, 2013; Leerkes & Broeders, 2010), but is rather largely incidental to its territorialist aims—that is, to facilitate deportation. Simply put, there is little need to reform or reintegrate someone who is already on their way out.

In relation to my second point of critique, I argue that the new penology framework reflects a decidedly structural functionalist account of state efforts to manage and control migration—or as Matthews (2005) describes, a ‘mechanical functionalism’. These accounts risk overstating the ‘systemic rationality’ of the detention-removal system, while at the same time oversimplifying and ignoring the important role of human agency in its implementation (Cheliotis, 2006; Matthews, 2005). Indeed, this functionalism closely reflects the ‘actuarial criminology’ (Rigakos, 1999) that has so far dominated existing empirical studies on administrative detention in the Netherlands (as described in Chapter 1), driven by the assumption that the detention-removal system is both intended to serve its formal function, and rational in its attempt to do so. In relation to this underlying functionalism, Matthews (2005) provides a particularly poignant critique:

In this twin-track, bifurcated and zero-sum world of punitive versus non-punitive, inclusion versus exclusion, populism versus elitism, ‘new’ versus ‘old’ penologies, ‘civilizing’ versus ‘decivilizing processes’, we are in danger of becoming lost in a series of false dichotomies…rather than seeing 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 (pp. 195-196).

In light of this critique, the theoretical framework adopted in this thesis reflects a significant departure from the discourse of the ‘new penology’, seeking instead to provide a more complex and nuanced understanding of contemporary migration control practices, and the (shifting) nature and role of administrative immigration detention therein. It is perhaps not surprising that much of the criminological discourse on immigration detention appears to have naturally found its theoretical home within the broader field of penology. However, in an effort to lift the theoretical discussion outside of its territorialist epistemology, I intend to situate it instead within the emergent and multidisciplinary field of border studies. Additionally, in an effort to challenge the ‘mechanical
functionalism’ that has in many ways characterized existing criminological scholarship on administrative detention in the Netherlands, I instead draw largely on post-structuralist accounts of contemporary bordering practices. Both of these theoretical departures are further elaborated upon below.

3.2. Reconceptualizing Contemporary Borders: From Static Lines to Dynamic Social Spaces

In recent years, a growing number of criminologists have indeed recognized the need to step out of the territorialist epistemology that has in many ways dominated the field of criminology, and to enter into a ‘criminology of mobility’—or in other words, to ‘bring migration and borders to the criminological home front’ (Aas & Bosworth, 2013, p. viii; Bowling, 2013; Pickering, Bosworth & Aas, 2014). In line with this commentary, the theoretical framework adopted in this thesis borrows a number of key themes from the broader multidisciplinary field of border studies, relying on various post-structuralist accounts that emphasize the need to re-conceptualize our understanding of contemporary borders (Brambilla, 2015; Lemberg-Pederson, 2011; Rajaram & Grundy-Warr, 2007; Parker & Vaughan-Williams, 2009).

In particular, I draw on the concept of ‘borderscapes’—first popularized in the field of political geography (Lemberg-Pederson, 2011; Brambilla, 2015; Brambilla, Laine & Bocchi, 2015; Rajaram & Grundy-Warr, 2007; Mezzadra & Neilson, 2013; Perera, 2007)—as a valuable conceptual entry point for understanding the (shifting) nature of contemporary bordering practices. In the first place, the borderscapes concept communicates the basic observation of the border not as a static line that is territorially fixed, but rather a mobile, dynamic and relational space. As Brambilla (2015) describes:

[The border] is established and at the same time traversed by a number of bodies, discourses, practices and relationships that highlight endless definitions and shifts in definition between inside and outside, citizens and foreigners, hosts and guests across state, regional, racial, and other symbolic boundaries (p. 19).

The borderscapes concept in this way effectively communicates the basic observation of the spatial and conceptual complexity of the border, evoking the imagery of a landscape constantly evolving in space and time. As Brambilla (2015) goes on to explain, borders are “inherently unstable and infused with movement and change” (p. 27). This applies not only to the physical nature of border, but also to its instrumental and symbolic nature as a medium that works to organize categories of political belonging (Brambilla, 2015; Rajaram & Grundy-Warr, 2007). Furthermore, the ‘border’ does not exist exclusively at the territorial edge of the nation-state, but rather permeates the whole of society (Rajaram & Grundy-Warr, 2007; Parker & Vaughan-Williams, 2009). Within this framework, the detention centre may likewise be understood as both an instrumentally and symbolically powerful ‘border site’, but one that is at the same time traversed by constantly evolving practices, technologies, discourses, and bodies.
In line with this broader reconceptualization of the border, a number of post-structuralist accounts have further emphasized how the ‘state’ may be understood not as a unified or abstract national authority, but rather as “fractured, peopled, and multiscalar” (Sampson, 2013, p. 44; Gill, 2010; Painter, 2006). As Painter (2006) describes, understanding states through the mundane practices by which they infuse social life “reveals their heterogeneous, constructed, porous, uneven, processual and relational character” (p. 754; Sampson, 2013). Others have likewise observed the ‘disaggregated structure of the state’ (Kalir, 2017), highlighting the myriad disassociated and often competing governmental agencies and organizations that make up its structure. In this respect, various scholars have observed the ways in which upper-level policy aims of governments are heavily mediated through human agency and individual discretion exercised by practitioners and bureaucrats at the street-level (Lipsky, 1980; Sampson, 2013; Wonders, 2006). Similarly within the migration control context, a number of criminologists have in recent years emphasized the importance of the discretionary power of law enforcement and immigration practitioners and bureaucrats (Brouwer, et al., 2017; van der Woude & van der Leun, 2017). More broadly speaking, the borderscape is occupied by a wide and complex web of actors beyond merely ‘the state’ and ‘the migrant’—including a multitude of street-level practitioners, civil society actors, family members, employers, and so on—each of which play some role in diluting the exercise and experience of power.

In light of these accounts, under the borderscapes concept the dualisms of ‘citizen’ versus ‘foreigner’, ‘inclusion’ versus ‘exclusion’ become similarly theoretically dissatisfying. It challenges for instance Giorgio Agamben’s (1998) much-cited conceptualization of homo sacer, referring to the figure in Ancient Rome of an individual stripped of their citizenship and protection under law, and thereby subject to a political and symbolic death—what Agamben describes as ‘bare life’. Although popularly applied to the context of administrative detention, such conceptualizations risk, as Bhui (2013) describes, reducing the life of an irregular migrant to “an empty monochrome existence characterized by misery, lack of self-determination, and irrelevance” (p. 11). In contrast, a number of scholars have instead emphasized the notion of ‘differential inclusion’ (Mezzadra & Neilson, 2011; Könönen, 2018), highlighting the ways in which contemporary borderscapes involves the selective inclusion of irregular migrants within the sphere of rights, blurring the boundaries of ‘inclusion’ and ‘exclusion’. Within this framework, irregular migrants are not wholly ‘powerless’, but are agentive and exert power and resistance in diverse ways (Ellermann, 2009; Kubal, 2014).

Taken together, these accounts indeed present a more nuanced and complex understanding of contemporary bordering practices, and avoids the imagery of the ‘twin-track, bifurcated and zero-sum world’ of which Matthews (2005) warns. The contemporary European borderscape is far from ‘zero-sum’; it is rather a deeply contested space wherein the blunt exercise of power is mediated and diluted through a wide range of social processes. The following section describes how I apply this understanding specifically to the problem of undeportability and repeated detention as it is explored in this thesis.
3.3. Contested Borderscapes: Adopting an Integrated Approach

It should in the first place be emphasized that the theoretical accounts detailed above are not intended to constitute a denial or dismissal of the state’s continued relevance in contemporary political life, but are rather intended to serve as “a rethinking of the meaning of both state territoriality and political space in an era of globalization and transnational flows” (Brambilla, 2015, p. 19). Furthermore, it is not intended to diminish the states ability to exercise real penal power. Certainly, as the accounts of the participants involved in this research will later attest, many irregular migrants subject to repeated detention have experienced first-hand the states penal power in intense and visceral ways. However, I do wish to emphasize that there is more to the story in terms of understanding power relations and subjectivity within contemporary borderscapes. Indeed, as Cheliotis (2006) importantly highlights, “the exercise of power is not a one-way, top-down street, but rather a fundamentally associative process involving negotiation between those placed in a position of domination and those subordinated” (p. 323; emphasis added). Similarly, then, I seek to apply the post-structuralist accounts detailed above to examine the ‘associative processes’ that take place within the Dutch detention-deportation field. I argue that these processes are essential to understanding how and why repeated detention occurs, and what it means for our broader understanding of contemporary borderscapes.

In doing so, I draw primarily on the (micro)accounts of irregular migrants subjected to repeated detention. However, I argue that it is also important not to lose sight of the larger background factors that play an important role in formulating the context in which repeated detention takes place. Indeed, the meaning of borderscapes is not derived purely from its social interactions. Nor is it entirely ‘disembodied from intentionality’ as Rajaram and Grundy-Warr (2007, p. xxix) claim. Instead, the framework adopted in this thesis focuses on the interplay between foreground and background factors, and between subjectivity and power relations. As Pickering, Bosworth and Aas (2014) importantly emphasize:

Focusing on the interplay between subjectivity and power relations emphasizes both the affective nature of penal power and the attempts people make to resist it. The point is not to substitute first-hand or micro accounts with structural of macro ones, but to bring the two into dialogue in order to develop broader understandings of penal power and its effects.

In this thesis, I similarly examine the (micro)accounts of the irregular migrants impacted by the problem of repeated detention to develop a broader understanding of the contested nature the contemporary Dutch borderscape, and the associative processes of power that take place therein.

3.4. Conclusion

In sum, the theoretical framework adopted in this thesis in many ways reflects a departure from the ‘new penology’ thesis that has dominated existing empirical studies on administrative immigration
detention in the Netherlands. In this respect, I argue that assumptions regarding the rise of a ‘new’ actuarial punitiveness and the alleged expansion of ‘immcarceration’ are no longer theoretically satisfying in view of the unprecedented decline in detention rates in the Netherlands over the past several years. More fundamentally, though, I argue that this existing framework bears two key limitations in terms of its application to the migration control context; namely, that (1) it largely ignores the unique territorialist aims of administrative detention within the larger migration control context; and (2) it dramatically overestimates the actuarial and rational-mechanical nature of the detention-deportation system, while at the same time downplaying the role of discretion, human agency, and contestation at the level of policy implementation.

In contrast to this new penology framework then, I attempt the lift the criminological discussion around administrative detention outside of this functionalist and territorialist epistemology, drawing instead on post-structuralist theoretical accounts that have increasingly emerged within the multidisciplinary field of border studies. In doing so, I draw in particular on the concept of ‘borderscapes’ as an especially valuable theoretical entry-point; one that allows us to understand contemporary borders not as static lines, but as dynamic social spaces, constantly evolving, and traversed by numerous bodies, technologies, discourses and practices. Within this conceptual framework, the exercise of power within contemporary bordering practices should not be understood as a ‘top-down’, ‘zero-sum’ process, but rather as a fundamentally ‘associative process’, through which irregular migrants are able to exercise decision-making, agency, and power in diverse ways. In this respect, the theoretical framework adopted in this thesis seeks to draw primarily on the (micro)accounts of irregular migrants subjected to undeportability and repeated detention, and thereby develop a broader understanding of the contested nature of contemporary borderscapes, and the associative processes of power that take place therein. In applying this theoretical framework, the following chapter moves on to provide a detailed overview and reflection of the specific methodological approach and research techniques that were adopted.
Methodology

4.1. Framing the Research Question(s)

In view of the theoretical and conceptual framework just outlined, this research focuses on the problem of ‘undeportability’ and repeated detention as an especially analytically interesting site from which to examine the nature and impact of the administrative detention-deportation system within the broader context of contemporary European migration control. In this respect, drawing on the framework of ‘contested borderscapes’, this thesis seeks to address the following primary research question:

How do irregular migrants experience and contest state deportation efforts in relation to undeportability and repeated detention, and how does this shape the dynamics of the detention-deportation system in the Netherlands?

In responding to this question, I shift the analytical focus in the present study onto the figure of the ‘illegallized migrant’ as the core actor affected by the problem of ‘undeportability’ and repeated detention. I focus in particular on what may be learned about the research problem through examining the lives of those most affected by it. In a proverbial sense, this research may be understood in part as an attempt to diagnose the problem of repeated detention by more closely examining the symptoms as they may be observed in the lived experiences and accounts of the irregular migrants themselves. In particular, I attempt to trace the day-to-day interactions, challenges, and confrontations of irregular migrants with Dutch immigration bureaucracy and enforcement.

In view of this general approach, and in order to effectively respond to the primary research question, this research seeks in the first place to address a number of important secondary questions; namely:

(1) Who are the irregular migrants most commonly subject to repeated arrest and administrative detention in the Netherlands?
(2) How do they experience repeated detention and what impact does it have on their everyday lives?
(3) What are the specific challenges and barriers to their successful removal from the Netherlands?
(4) How do these irregular migrants respond to, challenge, or resist repeated detention and deportation?

With respect to these secondary questions, it is worth reiterating that the present study is largely exploratory in nature. The issue of repeated detention remains an understudied phenomenon in the Netherlands, and a number of basic facts surrounding its existence and prevalence remain largely
unknown. In this respect, the first of the secondary research questions identified above reflects a general curiosity in relation to the research problem, seeking first to identify in a basic sense who is repeatedly detained. The second sub-question presented above reflects the underlying question: so what? This question is intended to speak to the nature of the detention-deportation system in the Netherlands by examining how it is experienced by those affected by it, and the impact it has on their everyday lives. The third sub-question seeks to gain an understanding of the ‘mechanics’ of repeated detention, addressing in particular how this group of irregular migrants are repeatedly admitted into detention despite numerous ‘failed’ interactions with the system. In doing so, I explore the myriad legal, practical and bureaucratic hurdles that limit the ability of the Dutch state to remove unwanted irregular migrants. Lastly, the fourth sub-question seeks to understand how irregular migrants in turn respond to and challenges repeated detention and deportation, exploring in particular the strategies they and their support networks adopt to circumvent and resist state deportation efforts.

As will be shown throughout the course of this thesis, the findings obtained with respect to each of these four sub-areas of inquiry provide valuable insight into the contested nature of the detention-deportation system, and by extension the (shifting) nature and role of immigration detention practices in the Netherlands. The remainder of this chapter provides a detailed overview of the specific methods adopted in this research, as well as the various challenges, limitations, and ethical considerations that affected (and in some ways dictated) my efforts.

4.2. Data Collection Methods and Techniques

In a general sense, the methodology adopted in this thesis reflects a qualitative and ethnographic approach, allowing for greater explanatory and interpretive quality in terms of the nature, values, and meanings underlying the various interactions and narratives that emerge in the research (Brewer, 2004; Davies, et al., 2011). In particular, the research was undertaken primarily within the context of nine-months of fieldwork at a migrant support organization, during which I adopted a variety of ethnographic methods and techniques, such as participant-observation and ethnographic conversations, combined in an integrated way with other dominant social science methods, such as formal interviews and dossier analysis (Cosgrove & Francis, 2011; Davies, et al., 2011). Although not wholly ethnographic in nature, the approach adopted in this research reflects the underlying focus of ethnography, which has been effectively described by Brewer (2004) as:

The study of people in naturally occurring settings or ‘fields’ by means of methods which capture their social meanings and ordinary activities, involving the researcher participating directly in the setting, if not also the activities, in order to collect data in a systematic manner (p. 312)
In this respect, the core feature of this research that speaks to its general ethnographic character is the focus on exploring social meanings by way of close involvement in the field (Brewer, 2004)—in the present case, the Dutch detention-deportation field.

In addition, ethnography has been described as “a style of research rather than a single method”, constituting a broad ‘repertoire’ of techniques (Brewer, 2004, p. 312). In my research, I similarly adopted a range of techniques, which I broadly organize within this subsection under the following headings: (1) ethnographic fieldwork; (2) in-depth semi-structured interviews; (3) dossier analysis; and (4) secondary data analysis. Although separated by heading for the purposes of discussion, it should be emphasized that each of these sources of data collection were adopted in an integrated fashion throughout the course of this research, allowing for a triangulation of methods. In the remainder of this section I provide an overview of the specific ways in which each of these methods contributed to the findings presented in this thesis, and provide a critical reflection on the data collection process, including the advantages, challenges and limitations underlying each component of the research methodology. Furthermore, I elaborate on the precise manner in which these methods were integrated throughout the course of the research.

4.2.1. Ethnographic Fieldwork

In the first place, then, this research was facilitated in large part by way of a nine-month research internship at the National Support Centre for Undocumented Migrants [Landelijk Ongedocumenteerden Steunpunt, or Stichting LOS], an independent not-for-profit organization that focuses on providing support for irregular migrants in the Netherlands. In particular, the fieldwork took place under the organization’s Meldpunt Vreemdelingendetentie, an initiative specifically intended to provide support and assistance to irregular migrants held in administrative immigration detention. The initiative provides a free telephone hotline for persons inside detention whereby they are able to request information or advise, make complaints and share concerns regarding their treatment, or otherwise share their experiences inside detention. Furthermore, support workers regularly conduct personal visits with detained irregular migrants inside the detention centres where they are being held. The initiative is unique in the Netherlands in that it is the only independent resource specifically intended for migrants held in immigration detention. For some of those being held, it serves as the only independent channel available to them to receive help or advise. The initiative is also in this way intended to serve as an oversight mechanism for Dutch detention centres, providing greater transparency regarding the experiences, treatment, and concerns of those being held.

My internship position under this initiative constituted the bulk of my fieldwork, which took place over the course of nine-months and helped to facilitate access to both research locations as well as participants. During this period, I was in daily contact with irregular migrants being held in administrative detention in the Netherlands, both over the telephone as well as in-person. My
involvement and participation in the field included a variety of activities primarily revolving around providing various forms of support to individuals in detention. This included carrying out visits to detention centres; contacting lawyers and providing clarification on legal matters; helping individuals draft and submit formal complaints to the Complaint Commission of the detention centre, and following up with appeals processes; obtaining copies of individual’s medical dossiers and connecting them with relevant health services both inside or outside of detention; providing information and advise about their rights and privileges inside detention; and helping them connect with relatives and other contacts outside of detention.

In general, individuals in detention phoned for a variety of different reasons: to share details about an incident they were just involved in or had witnessed, such as a confrontation with a staff member, a fight, or a suicide attempt; to share or request information regarding specific health-related concerns; to ask for help submitting a formal complaint; to request information online to which they themselves did not have access, such as the phone number of a lawyer’s office or another migrant support organization. However, often individuals did not phone for any specific reason at all; only to vocalize their anger, sadness, frustrations, anxieties, or doubts. Telephone conversations sometimes lasted only a few minutes, while on other occasions they lasted for over an hour. Conversations often included not only topics related to detention, but also general topics or personal matters, including their lives outside of detention: the football team they supported; their opinion on the Dutch national elections; a fight they had recently had with their spouse or partner; details about their children’s successes in school; the hopes they had for their own lives—where they would one day go, and what they would do there.

Further, personal visits to individuals in the detention centre were carried out to address a specific concern in more detail, to meet a new client face-to-face, or simply if the individual had not had any visitors over a long period of time. Visits at the detention centre always took place in regular visiting rooms and during regular visiting hours, which varied significantly between detention centres. Throughout the course of the research project repeated requests were made to gain access to a private room within the detention centre to carry out visits. However, these requests were ultimately unsuccessful within the period of research. The specific details of each phone call and visit was recorded in a systematic way into a database stored by the organization where fieldwork took place. Additionally, I made daily personal fieldnotes to record specific details or observations that were uniquely relevant to my research.

Important insights were also gathered through daily informal interactions and discussions—or ‘ethnographic conversations’ (Davies, et al., 2011)—not just with the migrants themselves, but also with a variety of other actors and stakeholders with personal experience or expertise relevant to the research topic. This included partners, family members or friends of detainees who would often phone to ask for help or provide additional information regarding their loved one in detention. It also included support workers from other organizations, immigration and detention lawyers, and high-
ranking detention centre employees and immigration officials. These interactions during fieldwork were often spontaneous, and required me to be flexible and adaptive in terms of recognizing details that were specifically relevant to my research. I also had to make choices about which interactions and contexts were appropriate for eliciting further information related to the research topic. Ultimately, such conversations and discussions provided a valuable glimpse into the general attitudes and perspectives of these key actors, and provided an important broader perspective on the migration and detention landscape in The Netherlands.

In addition to participating in these daily spoken interactions, a number of migration scholars have also observed the various ways in which migration control and its enforcement is heavily mediated through visual and symbolic forms and images (Bosworth, 2014; Bischoff, Falk & Kafehsy, 2010). Similarly, the migrants who participated in this research explained their experiences of illegality and administrative detention not just objectively as a complicated legal matter, but also as a deeply subjective and visceral experience. When describing the impact of detention on their lives, participants often reflected on how the detention centre ‘looked’ and ‘felt’. In this respect, I also adopted observation and visual techniques in an effort to capture some of the spatial and symbolic dynamics of the detention centres: their geographic location, look, décor, clothing, symbols, lighting, smell, atmosphere, and mood. Each of these contribute in important ways to how repeated detention is experienced by irregular migrants, as will be illustrated throughout the course of this thesis.

Ultimately, the ethnographic fieldwork conducted in this research significantly enriched both the quality and humanity of the data presented in this thesis. As Bosworth (2014) importantly observes:

[Fieldwork] challenges easy assumptions about the exercise of power, its effect, effectiveness, and legitimacy, by considering how such matters are made concrete in everyday interactions and experiences…[and] reveals the salience in these institutions of identity rather than regime, estrangement rather than enforcement, inconsistencies, uncertainties, and ambivalence (p. 53).

Similarly, by focusing on the ordinary and everyday interactions and experiences of those within the detention-deportation field, the ethnographic fieldwork conducted in this research above all intended to capture these important dynamics.

4.2.2. In-Depth, Semi-Structured Interviews

Although the ethnographic component of this study indeed enriched the quality of this research as just described, the core strength of the findings presented in this thesis emerges when combined with other data collection techniques, allowing for triangulation of methods (Davies, et al., 2011). In this respect, among the most important findings were collected by way of in-depth, semi-structured interviews. These interviews were conducted with two broad categories of participants; namely, (1) irregular migrants who have been held in administrative detention on more than one occasion; and (2)
expert and third-party stakeholders with experience and expertise relevant to the topic of repeated detention, including immigration and detention lawyers, migrant support workers, Dutch immigration officials, and academic and civil society researchers.

In relation to the first group of participants, a number of irregular migrants who had been repeatedly detained were already known to the organization where fieldwork took place, and could thereby be recruited for participation in the study. Additionally, migrant participants were recruited by way of snowball sampling through other participants in detention, or were referred by other migrant support organizations. On the other hand, expert and third-party stakeholders were selected by way of purposive sampling, based on the theoretical and empirical relevance of their expertise (Davies, et al., 2011). These individuals were contacted by telephone and email. In total, thirty-one individuals participated in formal in-depth interviews, which included twenty-one irregular migrants who had been repeatedly detained, two researchers, three lawyers, three migrant support workers, and two Dutch immigration officials from the DT&V (see Appendix A for an overview of the details of the interviews, including locations and dates).

The formal interviews that were conducted were in-depth and semi-structured in nature, as opposed to standardized interviews or a closed questionnaire. The advantage of this form of interview technique was two-fold: first, it allowed the participants to provide greater depth and richness of answers in terms of their insights and unique critical perspective. It allowed them to use their own language and frames of reference to explain and translate the meanings of their experiences and interactions (Davies, et al., 2011). For the migrant participants, this was particularly important given the emphasis of this project on capturing the lived experiences of those impacted by repeated detention. Second, semi-structured interviews provided me as the interviewer greater flexibility to improvise, probe responses, and ask for further details or explanation on relevant points (Davies, et al., 2011; Legard, Keegan & War, 2003). For interviews with irregular migrants, a common topic list was developed which focused on four broad areas of discussion; namely, (1) the participant’s general socio-demographic background; (2) the participant’s arrest and detention background; (3) the participant’s experiences in detention; and (4) the impact of detention (see Appendix B for a sample of the interview topic list that was used). One main question for each area of discussion was prepared, while key words were used to improvise follow-up questions and probe responses (Davies, et al., 2011). For interviews with expert stakeholders and informants, specialized topic lists were developed that were tailored specifically to the participants particular area of expertise. The majority of interviews were conducted in Dutch, and some were conducted in English. One of the participants was only able to speak broken-Dutch, and asked another participant to assist him as an informal translator.

Interviews with repeatedly detained participants were conducted both inside and outside of administrative detention. Nearly all of the interviews were conducted in-person, but two were conducted over the telephone. Given that repeated requests to obtain a private were unsuccessful,
Interviews conducted inside administrative detention were conducted primarily during ordinary visiting times at one of the three detention centres in The Netherlands—Rotterdam, Schiphol, and Zeist. These visiting hours are typically only one hour in length. However, on a number of occasions participants were visited a second time to further discuss the research topic. Three interviews were also conducted with irregular migrants outside of detention who were repeatedly detained. Two of these were conducted in ordinary public spaces, and another at the location of another migrant support organization.

Interviews conducted with irregular migrants were not audio recorded for both practical and ethical reasons. First, for interviews conducted inside of the detention centres, it was determined that obtaining permission from the detention centre to take a recording device inside during regular visiting hours would be both time-consuming and unlikely. Second, given the precarious legal status of many of the participants and the highly sensitive subject matter of the interviews, it was held that many of the interview participants would not be comfortable with having the interview audio-recorded, and that doing so could negatively impact the trust and rapport between interviewer and participant. Instead, I made detailed handwritten fieldnotes during the interview, and then more fully transcribed these fieldnotes immediately after. Scheduling interviews with migrant participants both inside and outside of detention presented a number of challenges. On some occasions the participant would arrive late to the interview or would not arrive at all. Some interviews had to be rescheduled a number of times, or were altogether cancelled because the participant was released from detention before the interview could take place, and subsequent contact was lost. Interviews ranged from thirty minutes to over two hours in length. A number of participants were also later contacted by telephone following the interview to ask for further clarification on particular details.

The data derived from these interviews with irregular migrants were important to the research on a number of fronts. First, it provided the opportunity to hear from the migrants themselves about the circumstances and situations surrounding their (re)arrest and repeated detention, their interactions and confrontations with Dutch immigration officials, and their interpretations of these interactions. Furthermore, it allowed them to describe in detail their experiences in terms of the various social, economic and personal impacts that repeated detention have had on their everyday lives. It allowed them to reflect on the barriers and challenges (both systematic and personal) that they have encountered over the course of their trajectories within the detention-deportation field, and how they have attempted to respond to or resist deportation and detention.

As earlier mentioned, in addition to interviews with repeatedly detained irregular migrants, a variety of expert and third-party stakeholders—including immigration lawyers, migrant support workers, and researchers—were also consulted. These interviews were included in order to provide a broader range of perspectives on the research topic. Interviews with lawyers and Dutch immigration officials were audio-recorded due to the detail-oriented nature of the subject matter of these discussions—often involving highly complex and technical legal matters. Ultimately, interviews with
expert stakeholders were valuable on two fronts: First, they provided insight in terms of understanding how various actors within the detention-deportation field communicate, behave, and interact with one another. These interviews helped to clarify a number of aspects related to the ‘mechanics’ of arrest and repeated detention. In particular, they provided important details surrounding the discretionary power of state agents and bureaucrats in deciding whether or not to detain a particular individual. They also provided important insights into the counter-strategies of irregular migrants and supporting social networks to resist detention and removal. Second, interviews with expert informants were valuable in that they provided access to a wealth of knowledge and expertise related to the research topic (Davies, et al., 2011). This was particularly the case with respect to lawyers and migrant support workers, who were able to reflect on the collective experiences of their clients, providing a broader overarching perspective of the issue.

4.2.3. Dossier Analysis

In addition to the ethnographic and interview-based components of this research, this study also involved an analysis of the personal dossiers of the migrant participants. This component of the research was largely separated into two phases. First, the internship organization where the fieldwork took place maintained detailed dossiers of their clients, which contained various details regarding the client’s trajectories and interactions with the detention-deportation field in The Netherlands. These dossiers also included daily records of telephone conversations and personal visits, which provided various details about the individual’s experiences, concerns, and challenges within administrative detention. Further, the majority of these dossiers contained the names, contact information, and basic socio-demographic characteristics of the migrants. These dossiers were valuable on two fronts: (1) they allowed me to identify ‘case studies’ directly empirically relevant to the problems, questions, and aims of the research; and (2) they allowed me to identify potential research participants that could be recruited for in-depth interviews. In terms of the second phase of the dossier analysis component of this research, I also requested official dossiers from Dutch state agencies (such as the DT&V and IND) for a number of participants. These were either obtained directly through these state agencies, or copies were obtained through the participant’s lawyers.

Both phases of dossier analysis were empirically valuable in that they provided a concrete set of details about cases of repeated arrest and detention, tracing the particular trajectories of migrants in and out of the ‘system’. However, obtaining the official records of participants presented numerous challenges in terms of access. Given the non-institutional nature of this project, the research was conducted without the direct involvement or cooperation of Dutch state agencies (such as the DT&V or IND) or other quasi- or intergovernmental organizations (such as the International Organization for Migration). In this respect, official records could only be obtained by way of making formal requests on behalf of the participants to official state agencies who held this information. This proved to be both a complicated and time-consuming process. First, participants were asked to sign a letter of
consent alongside a second letter requesting particular details regarding the participant’s background information. The information requested included details concerning previous periods in both administrative and criminal detention (including dates, locations, and duration of detention); the reasons for arrest and subsequent release; and their present legal status. Once signed consent was obtained from the participants, the letters were sent to the relevant Dutch agencies. Given the time-consuming nature of this process, for some participants copies of these records were instead obtained from their lawyers, with the participant’s expressed permission. However, on some occasions lawyers were uncooperative or unresponsive.

Ultimately, the unofficial dossiers held by the fieldwork organization were examined for all of the migrants participants. However, a full examination of the official records was beyond the scope of this study. Official dossiers were therefore not obtained for every participant; rather, they were primarily requested for those with particularly complex migration and detention trajectories—for instance, if the participant had been in and out of detention on numerous occasions, or could no longer recall the specific details of each of his periods in detention. Additionally, a number of participants had not provided explicit consent to consult their official personal dossiers because (1) they refused due to concerns surrounding trust and privacy, or (2) the participant had been unexpectedly released from detention following the initial interview, and subsequent contact was lost. In total, official records were obtained for five of the migrant participants. However, those that were obtained belonged primarily to the participants who had been detained most often. In this respect, the official dossier analysis component of this research, although somewhat incomplete, nevertheless served as an especially important source of triangulation, adding an additional layer of concrete and verifiable details concerning the most complex—and in some ways most valuable—case-studies examined in this research.

4.2.4. Secondary & Institutional Data Analysis

Lastly, this project involved an extensive review of the broader secondary literature, including academic journal articles, governmental and non-governmental reports, books, conference papers, and numerous relevant national and European regional policy and legislative instruments. However, despite the extensive body of literature on this topic, there remains significant gaps in knowledge as well as general concerns surrounding the transparency of the detention and deportation practices of the Dutch state. In this regard, this project also involved the submission of a Freedom of Information request [Wob-verzoek] to the DJI of the Dutch Ministry of Justice and Security to retrieve a number of important statistical figures related to the research problem; including updated figures concerning the prevalence of repeated detention; the nationalities of those most impacted by repeated detention; detention release figures; and updated deportation figures. Although the research underlying this
thesis remains primarily qualitative in nature, these figures are useful for gaining a more meaningful understanding of the nature and extent of the problem of repeated detention in the Netherlands.

After a lengthy period of waiting, however, I finally received a response from the Dutch Ministry of Justice and Security indicating that official data concerning the problem of repeated detention was not available. More specifically, the response stated that the previous data on repeated detention collected in 2010 was gathered by way of an internal study, and that obtaining this information would require a new study to be conducted (see Appendix C for a full copy of the official response from the Dutch Ministry of Justice and Security, available only in Dutch). As such, since 2010 there still exists no data in The Netherlands on the overall prevalence of repeated detention. Nevertheless, through the Freedom of Information request other useful data was obtained relating to detention release and deportation figures (see Appendix D). This data will be relied upon throughout this thesis in order to better understand and contextualize a number of key features of the Dutch detention-deportation field.

4.3. Methodological Challenges & Limitations

In relation to the various research methods and sources of data detailed above, I encountered significant challenges and limitations throughout the research process, particularly in relation to (1) obtaining access to the research data and establishing trust with the research participants; (2) mitigating concerns surrounding research validity; and (3) taking into consideration complex ethical concerns. This section provides a detailed reflection on each of these limitations and challenges.

4.3.1. Obtaining Access & Establishing Trust: A Complicated Relationship

First, this research presented a number of significant challenges in terms of obtaining access within detention centres and establishing trust with migrant participants. Many of these challenges related largely to the non-institutional nature of the research project. In this respect, accessing state criminal justice and penal arenas has proven to be notoriously difficult for critical researchers (Bosworth, 2012), and this is no less true for Dutch immigration detention centres. As Bosworth (2012) identifies in relation to her ethnographic research on immigration detention in the UK:

Detention centres…pose multiple methodological demands. Most fundamentally, it is extremely difficult to gain research access to such places as governments have refused to allow rigorous academic study of these institutions or those who stay or work in them (p. 124).

This observation closely reflects my own experiences in the present study. Similar to the challenges discussed in relation to obtaining official records, outside of the context of institutional research it is exceedingly difficult to obtain research access within immigration detention centres in the Netherlands. Although the relevant Dutch state agencies and detention centres had been notified about
the project, the research was ultimately conducted without their involvement or direct cooperation. My access to the detention centres was therefore largely restricted to ordinary visitor access. (although, I was permitted to bring an interview topic list, pen, and notebook into the visiting area, only after submitting a formal request). I was not able to enter or view any individual cells of detainees; the courtyard where detainees were permitted to go outside to get fresh air; or any other common areas. Most importantly, as earlier mentioned, I was also unable to obtain access to a private room to conduct interviews, despite several requests.

It should be emphasized, however, that this limited access was due in large part to a conscious effort to maintain the independence and non-institutional nature of this research. In this respect, challenges surrounding ‘access’ and ‘trust’ were found to be largely interlinked. Early in the research process a high-ranking official within one of the detention centres offered to allow me to ‘shadow’ detention centre staff in order to gain a greater understanding of the inner workings of the detention centre ‘from their perspective’. Similarly, the DT&V offered to allow me to attend departure meetings [vertrekgesprekken] in which case managers attempt to encourage detainees to cooperate with removal procedures. Although cooperating in this way would undoubtedly have provided greater access within the detention centres, it would also have involved entering common areas and institutional settings where irregular migrants who participated in the study would also be present. Ultimately, in order to maintain the perception among the migrant participants of my independence as a researcher from the detention centre and other Dutch state agencies, I declined. Although such offers to obtain greater institutional access are tempting to any social science researcher, there have already been numerous studies conducted in the Netherlands which have provided an institutional perspective on administrative detention (see Leerkes, 2009; Kox, 2011; van Alphen, et al., 2013; Van Kalmthout, et al., 2004; van Wijk, 2008). I argue that these studies, alongside the myriad internal reports that are regularly produced by Dutch state agencies (see, inter alia, DJI, 2017; Ministry of Justice and Security, 2017), already effectively reflect an institutional understanding of administrative detention ‘from their perspective’.

Furthermore, I argue that the link between researcher independence and participant trust has been largely ignored in these studies. As earlier emphasized, in the present research I focus primarily on capturing the perspectives not of Dutch state institutions, but of the irregular migrants who have been subjected to the administrative and penal power exercised by these institutions. As a critical researcher, then, maintaining the trust of the migrant participants was among the core principles underlying this thesis. Although it remains a contested debate whether or not ‘institutional research’ is more or less valid, or elicits a greater or lesser amount of quality data (Sandberg, 2010; Wheeldon & Heidt, 2007), from my own experience in the present study, migrant participants valued the fact that both the research, and the organization where the fieldwork took place, was independent from Dutch state institutions. Participants would often ask if I was ‘working for’ or otherwise representing or cooperating with the detention centre or other state agencies before agreeing to participate. Within the
context of administrative immigration detention, this dynamic between research independence and trust is particularly important given the deeply precarious legal situations of many of the participants. To further illustrate this dynamic, one participant in detention shared with me his concerns:

“I have a lot of anxiety about doing this kind of thing. I have a lot of these meetings with people, and I don’t know who is working against me and who is working for me. A lot of people in here tell me that you should be careful about what you say, because they keep you here longer if you say the wrong thing, or they will make a report about you and you will end up in isolation or something” (Simon, DCR, July 2017).

In view of these challenges, then, in the present research lesser institutional access was in some ways treated as a necessary trade-off for greater independence and participant trust. Many of the participants opened up about their migration and detention background, criminal histories, actual names and ‘countries of origin’ only after they were (relatively) certain that the study was being conducted independent of Dutch state institutions, and that the information they were sharing would not be used against them. Additionally, trust and rapport with participants grew throughout the course of fieldwork through ordinary and everyday interactions. Eventually, many of the participants who were initially unwilling to provide information were later remarkably open with me, often sharing detailed information regarding their personal lives or criminal backgrounds. A number of participants shared with me that they had fabricated information that they had provided to Dutch state agencies, including falsified names, travel documents, and details about where they were from. In sum, establishing trust with irregular migrants involved in this study was therefore largely dependent on two main factors; namely, (1) my ability to effectively demonstrate my independence as a researcher from the detention centre and other Dutch state institutions; and (2) the length of fieldwork and the quality of everyday and ordinary interactions with participants.

4.3.2. Reflections on External & Internal Validity

In addition to the challenges pertaining to research access and trust, this research also presented several important concerns surrounding both external and internal validity. These concerns are largely inherent to the limited scope and qualitative nature of the research project. First, in terms of external validity, there are a number of important limitations in terms of the generalizability of the findings. The sample of irregular migrants who participated in this research constitutes only a small proportion of the total population of irregular migrants in the Netherlands who have been subject to repeated administrative detention. In this respect, the data collected is limited in terms of the diversity of individuals represented. Conversations and formal interviews were conducted only in Dutch and English (with one exception where an informal translator could be utilized). In this respect, non-English or non-Dutch-speaking irregular migrants were largely excluded from this research. However, as will be demonstrated in subsequent chapters of this thesis, irregular migrants most affected by the
problem of repeated detention have commonly lived in the Netherlands for several years or decades. Although I did come across a few individuals throughout the course of my fieldwork who has been repeatedly detained and struggled to communicate in either Dutch or English, these situations were generally rare. Nevertheless, a wider range of available languages would undoubtedly have allowed for a greater diversity of experiences and a broader range of perspectives.

Another significant limitation in terms of the diversity of experiences represented in this research is reflected in the fact that all of the migrant participants are male. Although it is true that the overwhelming majority (approximately 90 percent) of irregular migrants held in administrative detention are men (DJI, 2017), it is undoubtedly the case that women have also been subjected to repeated administrative detention in the Netherlands. However, since 2016 the Dutch government has introduced a separate facility [Gesloten Gezinsvoorziening, or GGv] in Zeist for families with children who are minors (see Ministry of Safety & Justice, 2016). As part of a pilot initiative, this facility now also accommodates single women found to be unlawfully residing in the Netherlands. This new facility is far more open and residents are provided significantly greater freedoms, services and amenities. Since this pilot initiative began, women are in principle no longer held in administrative detention centres in the Netherlands. As such, the fieldwork organization rarely maintains contact with women being held. Further, women could also not be reached by way of snowball sampling through other participants in detention. On one occasion, another migrant support organization attempted to connect with one woman who had previously been held in administrative detention on a number of occasions, but she was ultimately unwilling to participate in the research.

Additional concerns surrounding validity also relate to the self-reported nature of much of the data collected. In terms of verifying the credibility of specific details of the case studies examined in this research, I attempted to address these concerns surrounding the self-reported nature of the information gathered by adopting a triangulation of the research methods earlier described (Davies, et al., 2011). For instance, combining qualitative interviews with official and unofficial dossiers enabled me to examine and compare different sets of ‘facts’ and validate certain claims. However, given the nature of the research group, even official records are often filled with significant gaps and inaccuracies. From the perspective of the Dutch state, failing to obtain accurate information on this particular group of irregular migrants is often precisely the challenge when attempting to facilitate removal procedures. Indeed, as earlier mentioned, a number of participants indicated to me that they had given falsified information to Dutch state agencies. It should therefore not be assumed that official records are necessarily more credible. Nevertheless, through a triangulation of both unofficial and official data sources, I attempted to trace as reliably as possible a number of key elements underlying the specific cases of repeated detention identified in this thesis; most notably, the participant’s age and ‘country of origin’; the number of years of residence in the Netherlands; the precise number of periods of detention; and the duration of each period of detention.
Apart from attempting to assess the credibility of these specific details concerning case-studies of repeated detention, my efforts to address concerns surrounding validity should not be construed with a need to at all times draw the ‘truth’ from participants in relation to their subjective experiences of repeated detention. As Sandberg (2010) observes, “for many researchers, eliciting the truth from participants is the hallmark of sound research” (p. 448). In this respect, concerns regarding the validity of research data are commonly reduced to a need to assess whether or not the stories presented by participants are ‘factual’ in a positivist sense. However, Sandberg rightly goes on to argue that in fact “‘truth’ may not be the best measure of interesting and theoretically relevant data” (2010, p. 448). Similarly in the present research, rather than treating participant narratives simply as ‘storehouses of data’ (Presser, 2009), I attempted to remain open and allow the participants themselves to frame and communicate to me their experiences. It must be recognized that in doing so participants are never able to provide a fully complete recollection of their lives, and must therefore instead draw selectively on lived experiences (Presser, 2009). As such, there is always a risk of under-reporting or over-exaggeration in self-report data (Davies, et al., 2011). Nevertheless, such underreporting or exaggeration should not be regarded as inherently problematic. Particular points of emphasis or lack of emphasis may in fact reveal important insights into the nature of the research problem. As Sandberg (2010) argues, “by seeking answers to what narrative repertoire is available, why particular people emphasized particular stories, and how they go about doing this, we shed light on both them and their social context” (p. 462). In this respect, when attempting to understand how migrants experience repeated detention, my focus was not to attempt at all times to minimize exaggeration or distortion. Rather, it was to remain open and attempt to arrive at an understanding of how and why participants constructed their identities and narratives in particular ways. This dynamic repeatedly emerges throughout the course of this thesis, and provided important insights into the accounts and experiences of the irregular migrants who participants in this research.

4.3.3. Ethical Challenges and Considerations

Finally, this research presented a number of important ethical challenges and considerations, particularly in relation to the components of the study involving irregular migrants. First, the topics of discussion during conversations and interviews with migrant participants often involved highly sensitive or challenging personal issues regarding the participant’s background or legal status. A number of the migrant participants both inside and outside of administrative detention also struggled with a variety of unique vulnerabilities, including mental health concerns, traumatic personal histories, substance dependency issues, and other complex health problems. In this respect, conversations and interviews with migrant participants were often quite emotional—not only for the participants, but at times also for me. Participants often expressed anger, tearful frustration, sadness, confusion, and doubt. A number of migrants shared with me that they regularly struggled with suicidal thoughts. The detention centre in general represents an intensely high-stakes emotional
environment for those detained. In this regard, the irregular migrants who participated in this study in many ways represent a uniquely vulnerable research group. As such, avoiding harm to the participants and maintaining the dignity and respectful treatment of the irregular migrants who were involved in the study was among the central ethical concerns of this thesis (Davies & Francis, 2011).

Challenges relating to participant vulnerability were further complicated by the nature of my fieldwork role as a support worker, which in some ways placed me in a position of power, trust, and dependency in relation to the participants. These dynamics have particularly important implications in relation to informed consent (Davies & Francis, 2011). In this respect, a number of important steps were taken. First, all irregular migrants who were involved in the study were clearly informed of the aims and purposes of the research project. During interviews, participants were reminded that their participation was entirely voluntary, and that they could withdraw from the interview at any time or refuse to respond to any questions that they were uncomfortable with. Furthermore, participants were assured that their involvement in the project would not in any way affect their ability to obtain support or services that they would ordinarily receive from the organization where the fieldwork took place. Lastly, it was important to make clear to the participants that their involvement in the research project would not in any way secure their release from detention or otherwise directly affect their legal status. Despite my efforts, however, on a few occasions during conversations and interviews it became apparent that the participant had hoped that I would be able to help them with their residence procedure, release them from detention, or prevent their removal. One participant later expressed frustration that I was ‘not able to do anything for him’. In these cases, it was necessary to again reiterate the purpose and nature of the research project.

Given the precarious legal situations of many of the participants, confidentiality was also a core ethical consideration in this research (Wahidin & Moore, 2011). First, as both a researcher and support worker, I held privileged access to official and unofficial dossiers of the participants which included personal and identifiable information regarding their illegalized residence, potential criminal background, medical records, and personal family circumstances. In this respect, to mitigate concerns surrounding confidentiality, a number of important steps were taken. First, as earlier emphasized, all official and unofficial records were securely stored at the fieldwork organization. Second, all of the data presented in this thesis has been fully anonymized. Pseudonyms were used for all of the irregular migrants who took part in the study, while expert and third-party stakeholders are identified only by their particular organizational function or role (see Appendix A). Additionally, for interviews involving migrant participants no precise dates are provided, as visits to the detention centres are officially recorded by the detention centres themselves, and participants could potentially be identified by date of visit.
4.4. Organizing & Analyzing the Research Data

Despite the challenges, limitations and ethical concerns just detailed, this project produced a considerable amount of research data in the form of fieldnotes, audio interviews and transcripts, official and unofficial dossiers, and institutional and governmental data. This section provides a detailed overview of my efforts to organize, code, and analyze all of this data in a systematic way. First, all handwritten fieldnotes were electronically transcribed into English as soon as possible after they were initially recorded. Separate password-protected digital folders were created for each of the irregular migrants who participated in this study, and all fieldnotes drawn from formal interviews as well as any informal interactions and discussions relating to a particular participant was organized within their respective folder. Additionally, digitalized copies were made of all unofficial and official dossiers, and then similarly organized into the participant’s individual folder. Paper copies of these dossiers were securely stored at the location of the fieldwork organization. All audio-recorded interviews were fully transcribed in Dutch with the assistance of audio transcription software. Only the direct quotes selected and included in this thesis were then eventually translated into English.

All of the data derived from interviews and fieldnotes was then analyzed with the help of computer-assisted qualitative data analysis software, NVivo. This software allowed the fieldnotes, transcripts, and other texts to be organized, segmented, and coded to identify relevant themes, patterns and regularities in a more effective and systematic way (Davies, et al., 2011). This software also served as a valuable tool for identifying and examining similarities, structures, and relationships between different themes and (sub)codes. However, I also attempted to identify not only commonalities, but also contrasting experiences and perspectives. I further attempted to identify the various ways in which participants constructed their experiences into broader overarching narratives. I thereby also trace the inconsistencies and contradictions that emerge in the research data in an effort to understand what they reveal about the nature of the research problem (Aas & Gundhus, 2014).

In general, the coding structure I finally adopted was rather basic. I first developed a broad set of codes that reflected each of the core areas of inquiry underlying the secondary research questions earlier described. These broad codes then further branched into narrower sub-codes based on a variety of sensitizing topics. Although fully importing and coding all of the fieldnotes and interview transcripts into NVivo was a time-consuming and tedious process initially, it ultimately allowed me to produce a comprehensive common database for all of the data that was collected, which proved to be an invaluable tool that was regularly consulted throughout the process of analyzing the data and finally drafting this thesis.

4.5. Conclusion

Ultimately, the methodology developed in this thesis allowed me to draw from a variety of primary and secondary sources of data, including ethnographic fieldwork, qualitative in-depth interviews,
dossier analysis, and official governmental data. I was able to capture the perspectives of both irregular migrants subjected to repeated detention, as well as a variety of expert and third-party stakeholders—including other migrant support organizations, immigration lawyers, Dutch immigration officials, and NGO and academic researchers. Drawing from each of these sources in an integrated way allowed for a triangulation of methods, thereby significantly enhancing the quality and validity of data that serves as the basis for the analysis that follows. Although I encountered several challenges and limitations in terms of my lack of institutional access to detention centres and official data, the independent and non-institutional nature of the research on the other hand allowed me to establish a greater degree of access and trust with the irregular migrants who participated in this research. Ultimately, despite the various challenges, limitations and ethical concerns detailed in this chapter, the data that finally emerges as a result of this research methodology provides the most comprehensive look into the problem of repeated administrative detention in the Netherlands to-date.

The remaining chapters of this thesis will now provide a comprehensive analysis of all of the research data that was collected, in line with the problems, aims, and questions underlying this thesis. In particular, the following three chapters explore three basic areas of analysis that correspond with the secondary research questions earlier identified in this chapter; namely, (1) who are the irregular migrants most affected by repeated detention and how do their accounts challenge dominant institutional conceptions of migrant illegality in the Netherlands (Ch. 5); (2) how do these irregular migrants experience repeated detention and undeportability and what impact does it have on their everyday lives (Ch. 6); and (3) how do these irregular migrants in turn respond to, challenge, or resist repeated detention and deportation in light of the barriers and processual complexities that restrict state removal efforts (Ch. 7).
When I entered the visiting room an old man wearing a light grey suit jacket with a neatly matching tie and flat-cap was standing behind the small waste-high barrier separating visitors and detainees. He was smiling at me—the four front teeth on the top row were missing. As we sat down and began our conversation he was sure to politely remove his cap and lay it on the surface of the table. He was over 60 years old. Under his arm he had a large stack of papers tucked into a folder—all of his correspondence with immigration officials, lawyers, and organizations outside of detention. He showed me two documents he received from his lawyer. The first was from the immigration police, which stated that he was born and grew up in Algeria. The second, more recent document was from the Royal Dutch Marachaussee, which stated that he was born in Morocco: ‘I don’t understand. They know I am from Algeria. Why does it say Morocco? I don’t understand any of it anymore’.

Fieldnotes, Detention Centre Rotterdam, July 2017.

5.1. Dutch Institutional Conceptions of Migrant Illegality: Young, North African, Criminal

The ‘illegal migrant’ has become a prominent figure within securitization discourse in Europe in recent years, and one that stirs-up and evokes a variety of images and assumptions within mainstream public and political imaginations. Similarly, within the institutional context of Dutch law enforcement, the reliance on generalized conceptions of illegality among minority groups (particularly in relation to young men from North Africa, Suriname, and the Dutch Antilles) has been well-documented in recent years, most notably in the literature dealing with issues of discrimination and ‘ethnic profiling’ (see Amnesty International, 2013; Bovenkerk, 2014; Brouwer, et al., 2017; Mutsaers, 2015; van der Leun, et al., 2014). In particular, Mutsaers (2015), in a detailed public anthropology on policing practices towards migrants in the Netherlands, describes the commonly-made assumptions regarding the generic category of ‘Moroccan youth’, highlighting in particular the use of the derogatory term ‘NAFer’, which he describes as “an umbrella term often used by police officers to denote people who seem to come from North Africa” (p. 101). However, generalizations around young North African males is not restricted to the policing context, but is also prevalent in institutional discourse within the Dutch detention-removal system, particularly surrounding the issue of repeated detention. This matter was also identified among migrant support workers and lawyers interviewed in this study, who similarly raised concerns about the manner in which Dutch immigration officials and bureaucrats share in broad-based assumptions on migrant illegality in relation to their own clients.

One interview with a Dutch immigration official closely captured the dominant conception of the ‘detained illegal migrant’ as it is understood within the institutional context of administrative detention in the Netherlands. This particular respondent was a departure supervisor [regievoerder]
with the DT&V, and responsible for all of the central tasks for coordinating the return of a detained migrant to their country of origin, including administering departure meetings [vertrekgesprekken] with the migrant; developing a departure plan; obtaining travel documents; and making all of the necessary arrangements for both voluntary and forced departure. The respondent shared the following observation in relation to the perceived profile of repeatedly detained irregular migrants:

*I actually talked to a few of my colleagues about this as well, like ‘hey, how do you see this?’, and I think the picture is pretty clear. [Repeated detention] is a problem because in general these are young Moroccan or North African men who all have a criminal past, and in that way always come back. Because it is with these young men…that they choose very deliberately to be in this situation (expert interview, immigration official, DT&V).*

The purpose here is not to suggest or prove that these broad-based observations do not bear any (at least superficial) resemblance to reality. Rather, the purpose of this chapter is to challenge these conceptions by injecting a degree of nuance into our understanding of the individuals affected by this problem, and to advocate moderation in the degree to which these conceptions are (often too easily) relied upon to justify and endorse policy and practice in this area. As Dauvergne (2008) poignantly describes, “the veneer of precision and neutrality embedded in the term ‘illegal’ is an apt guise for assumption and stereotype” (p. 11). In order to therefore challenge these assumptions and gain a more meaningful handle on the nature and impact of undeportability and repeated detention on the irregular migrants affected by it, it is necessary to first gain an appropriate understanding of who these individuals are, and the complicated and storied lives that they lead.

5.2. Getting to Know the Participants: An Introduction

The purpose of this section is to introduce the reader to the ‘undeportable’ and repeatedly detained irregular migrants who participated in this research, and whose accounts serve as the foundation of the analysis presented. In doing so, this chapter traces a number of key details concerning the participant’s lives in the Netherlands, and their trajectories through the detention-deportation system. In particular, woven through the analysis presented in the chapter is a number of basic details about the migrant men who participated in this study in terms of their socio-demographic characteristics, their arrest and detention background, and their present legal status (see Table 2 on the following page for a summary overview of some of the core background details). The findings presented in this section are valuable on two fronts. First, they provide essential data concerning the problem of repeated detention in the Netherlands, providing dozens of concrete case-studies that form the basis of the analysis that follows. Second, these findings serve to further contextualize the accounts and narratives presented. Indeed, given that this thesis draws heavily on the accounts of the migrant men who participated in this research, it is helpful to know who is speaking, and what backgrounds and experiences they are speaking from.
Table 2. General overview of the socio-demographic characteristics and detention background of migrant participants.

<table>
<thead>
<tr>
<th>Participant Pseudonym</th>
<th>Country of Origin</th>
<th>Age (years)</th>
<th>Born in the NL</th>
<th>Length of Residence in the NL</th>
<th>No. of times in administrative detention</th>
<th>Total duration of stay in detention</th>
<th>Previously Deported</th>
<th>Previous Criminal Detention</th>
<th>Lived in another EU Country prior to the NL</th>
<th>Children in the NL</th>
<th>Marital Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Didier</td>
<td>French Guiana</td>
<td>37</td>
<td>No</td>
<td>22</td>
<td>3</td>
<td>12 months</td>
<td>No</td>
<td>Unknown</td>
<td>No</td>
<td>Yes</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Zaahir</td>
<td>Morocco</td>
<td>31</td>
<td>No</td>
<td>8</td>
<td>2</td>
<td>18 months</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Wassim</td>
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<td>28</td>
<td>No</td>
<td>13</td>
<td>3</td>
<td>Unknown</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Hassam</td>
<td>Morocco</td>
<td>32</td>
<td>Yes</td>
<td>30</td>
<td>6</td>
<td>31 months</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Samuel</td>
<td>Liberia</td>
<td>31</td>
<td>No</td>
<td>11</td>
<td>6</td>
<td>30 months</td>
<td>No</td>
<td>Yes</td>
<td>Unknown</td>
<td>Yes</td>
<td>Separated</td>
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<tr>
<td>Solomon</td>
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<td>46</td>
<td>No</td>
<td>19</td>
<td>5</td>
<td>Unknown</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Julian</td>
<td>Burundi</td>
<td>47</td>
<td>No</td>
<td>11</td>
<td>2</td>
<td>8 months</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Karim</td>
<td>Algeria</td>
<td>35</td>
<td>No</td>
<td>4</td>
<td>2</td>
<td>17 months</td>
<td>No</td>
<td>Unknown</td>
<td>Yes</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Nassim</td>
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<td>36</td>
<td>Yes</td>
<td>8</td>
<td>4</td>
<td>Unknown</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Isaac</td>
<td>Ghana</td>
<td>22</td>
<td>No</td>
<td>7</td>
<td>3</td>
<td>13 months</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Anwar</td>
<td>Algeria</td>
<td>45</td>
<td>No</td>
<td>28</td>
<td>6</td>
<td>46 months</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Divorced</td>
</tr>
<tr>
<td>Omar</td>
<td>Algeria</td>
<td>53</td>
<td>No</td>
<td>27</td>
<td>4</td>
<td>33 months</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Married</td>
</tr>
<tr>
<td>Basim</td>
<td>Algeria</td>
<td>31</td>
<td>No</td>
<td>6</td>
<td>3</td>
<td>12 months</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>David</td>
<td>Suriname</td>
<td>56</td>
<td>No</td>
<td>43</td>
<td>9</td>
<td>Unknown</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Mahir</td>
<td>Algeria</td>
<td>67</td>
<td>No</td>
<td>45</td>
<td>2</td>
<td>11 months</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Simon</td>
<td>Suriname</td>
<td>33</td>
<td>No</td>
<td>17</td>
<td>4</td>
<td>15 months</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Married</td>
</tr>
<tr>
<td>Wahid</td>
<td>Algeria</td>
<td>56</td>
<td>No</td>
<td>25</td>
<td>11</td>
<td>28 months</td>
<td>No</td>
<td>Unknown</td>
<td>Yes</td>
<td>Yes</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Ahmed</td>
<td>Algeria</td>
<td>38</td>
<td>No</td>
<td>20</td>
<td>3</td>
<td>10 months</td>
<td>No</td>
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<td>No</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Jamal</td>
<td>Morocco</td>
<td>31</td>
<td>No</td>
<td>6</td>
<td>4</td>
<td>23 months</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Abdul</td>
<td>Morocco</td>
<td>54</td>
<td>No</td>
<td>27</td>
<td>2</td>
<td>13 months</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Unmarried</td>
</tr>
<tr>
<td>Nessah</td>
<td>Suriname</td>
<td>62</td>
<td>No</td>
<td>30</td>
<td>5</td>
<td>Unknown</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Married</td>
</tr>
</tbody>
</table>

Note: The gaps in the data provided above (indicated as ‘unknown’) arose primarily as a result the various challenges and limitations related to access; these are discussed in detail in Chapter 4. This table reflects information at the time the data was collected; some of the participants have since been rearrested and detained again.
It is worth reiterating that this research remains largely exploratory in this respect, and provides a rather limited glimpse into the lives and experiences of a relatively small group of migrant participants. However, establishing a neatly monolithic or generic profile of ‘the repeatedly detained migrant’ is also not the purpose of this research. Instead, the purpose here is to challenge the narrow and essentialized dominant institutional conceptions of migrant illegality in relation to the problem of repeated detention, to develop a more nuanced perspective, and ultimately to provide a valuable point of departure from which to further explore the complex and contested nature of the detention-deportation system in the Netherlands.

5.2.1. Socio-Demographic Background: Some Brief Notes

In the first place, then, a number of initial points must be made concerning the basic socio-demographic backgrounds of the migrant who participated in this research. Among the twenty-one migrant participants, seven different ‘countries of origin’ were represented: Algeria (8), Morocco (5), Suriname (4), French Guiana (1), Liberia (1), Burundi (1), and Ghana (1). The prominence of Algeria, Morocco, and Suriname among those countries identified was largely anticipated, and corresponds with official data last collected in the Netherlands in 2010, which similarly identified these nationalities as the top three nationalities affected by repeated detention (DJI, 2012, p. 31). Furthermore, a number of immigration lawyers and migrant support workers interviewed for this study also independently identified these three nationalities as featuring most prominently among their clients affected by repeated detention. As such, we can be reasonably certain that the overrepresentation of these three countries within the research sample reflects a similar overrepresentation within the broader population of repeatedly detained migrants in the Netherlands. Briefly, this overrepresentation is due in large part to diplomatic tensions with the Dutch state, which has resulted in an general unwillingness among these three countries of origin to cooperate with forced repatriation. A more detailed exploration of these underlying diplomatic tensions and the various challenges they present will be provided in Chapter 7.

In stark contrast to the earlier-mentioned stereotype that it is only young migrant men who are affected by repeated detention, the ages of the participants in fact ranged significantly from 22 to 67, with an average age of 42. This average is significantly higher than that of the total immigration detention population in the Netherlands in 2016, for which the average age was calculated to be 33 (DJI, 2017). The majority of the participants were long-term Dutch residents, with over two-thirds having resided in the Netherlands for over 10 years. The average number of total years of residence in the Netherlands was 19. However, it should be emphasized that this figure refers to total number of years of residence in the Netherlands, and on at least three occasions respondents indicated that they had left the Netherlands to live in another country (their country of origin or a separate third-country) before later returning to the Netherlands.
Nearly two-thirds of the participants also had important family connections in the Netherlands, including parents and siblings, as well as extended family (aunts, uncles, grandparents, nephews, nieces). At least four of the participants stated that they were currently married or had been married in the past. A number of other participants who were unmarried indicated that they had a partner or girlfriend outside of detention. One participant indicated that he was recently separated from his long-time partner with whom he had a child. In total, eight of the participants shared that they had children, and two of the participants indicated that they currently had grandchildren living in the Netherlands. Furthermore, in a number of cases the participants shared that they had immediate family members (including children) who were legally permitted to live in the Netherlands, while they themselves were not. The underlying reasons for this are complex, and engage a variety of factors, such as involvement in criminal activity; differing periods of arrival to the Netherlands; half-siblings born under different parents; family members born before (or after) key post-colonial developments (for instance, in the case of Suriname). These will be explored in more detail in a moment. For now, the basic socio-demographic background details presented here will provide important insights into understanding how the participants in this research construct their identities and narratives of belongingness in the Netherlands. These details will now be situated within the accounts of the migrant men who participated in terms of their migration trajectories to the Netherlands, their detention backgrounds, and their current legal statuses.

5.2.2. ‘Countries of Origin’ and Coming to the Netherlands: A Complex Roadmap

Within the field of migration control, the term ‘country of origin’ [land van herkomst] has been universally adopted by policy makers, practitioners, and academics. However, the term carries a number of important limitations in terms of understanding the nature of the migration trajectories of irregular migrants. While the International Organization for Migration (IOM) has defined ‘country of origin’ generally as “the country that is a source of migratory flows (regular or irregular)” (2014, p. 15), in practice the term evokes a much more ordinary and colloquial meaning, which in everyday institutional circles often refers to the migrant’s ‘country of birth’ or, even more plainly, their ‘own country’. In general, the term largely reflects classical notions of the movement of people, in which migration is generally presented as a mostly static process whereby individuals or communities of people move from one ‘country of origin’ (point A) in a relatively straight line to another ‘country of destination’ (point B)(Cresswell, 2006). Although I initially attempted to trace in a similar way the migration trajectories of the research participants from ‘countries of origin’ to the Netherlands, this narrative was ultimately found to be a dramatic oversimplification of what was in fact a complicated and often messy collection of stories and narratives that reflected the broader complexity of contemporary mobility. In this respect, the notion of ‘country of origin’ indeed risks oversimplifying the migration trajectories of irregular migrants. However, perhaps more fundamentally, the terms
‘country of origin’, ‘country of destination’, or one’s ‘own country’ were also found to serve as a prominent form of institutional language that reflects particular assumptions regarding the identities and backgrounds of irregular migrant participants in relation to their lives in the Netherlands. In this respect, it is worthwhile to examine more closely the accounts and trajectories of the irregular migrants who participated in this research, which were at times found to challenge these assumptions in fundamental ways.

In the first place, then, it was found that at least two of the participants from Morocco were in fact born in the Netherlands, and had moved back to Morocco with their family for some time before returning to the Netherlands again. Others had indicated that, although they were born elsewhere, they had grown up and spent the overwhelming majority of their life in the Netherlands. Two of the participants from West Africa claimed that, while they were born in their respective ‘countries of origin’, they had fled with their families at a very young age to neighboring African countries as a result of violent conflict before finally coming to the Netherlands. For at least one of the participants there was formal uncertainty surrounding his place of birth. He ultimately identified Ghana as his ‘country of origin’, but was de facto ‘stateless’—a matter that was discussed at length with his support worker who belonged to an organization specializing in legal matters surrounding ‘statelessness’. Several other participants described residing in numerous countries for years or even decades before finally arriving in the Netherlands. One participant, Mahir, indicated that he was in fact illegally residing in Belgium, but was arrested while travelling through the Netherlands to visit a friend. He shared that he often travelled back and forth between Belgium and the Netherlands for travel or work.

In light of these observations, participant accounts were remarkably diverse in terms their trajectories as well as the underlying reasons for coming to the Netherlands, reflecting a complex cross-contamination of nomadic travellers, permanent settlers, and everything in between. Many participants from Morocco and Algeria described having originally come to the Netherlands alongside other family members during a time when historically large numbers of people from these countries immigrated. For instance, Abdul described having come to the Netherlands from Morocco over 25 years ago: “At that time it was very difficult to live in Morocco. For everyone. There was almost no work. We just came here, no papers or nothing. We just wanted a better life”. Similarly, Nassim, who was born in the Netherlands and had been previously deported, described how his parents and grandparents originally immigrated:

“When my grandparents first came to this country, they just worked here and I don’t even think my opa had documents, you know? And my dad worked here too, and he has never been in detention. They helped build this country. But here I am. I am the only one from my family who was deported” (Nassim, DCR, Jul 2017).
Participants from West African countries more commonly described having left their countries of origin to flee violent conflict or civil war. Mahir described having come to the Netherlands to avoid conscription into the Algerian military. Some participants came to the Netherlands with distant relatives, such as grandparents or uncles, with whom they no longer had contact. The youngest participant, Isaac, indicated that he had come to the Netherlands when he was underage with an older man who arranged to falsify travel documents for him, but who later abused and exploited him. Simon described coming to the Netherlands from Suriname while he was still underage:

“I was 16 when I came to the Netherlands. I have lived almost 20 years without both of my parents. That is a very difficult thing. I have experienced a lot in my life, and I have had to do everything on my own... But I am still a positive person, you know? After all of this. I am strong and smart. But it has been very difficult” (Simon, DCR, July 2017).

Strikingly, one of the participants had in fact been previously deported to Morocco on two occasions, and each time had returned to the Netherlands. On the first occasion he indicated that he did so almost immediately after his arrival in Morocco. On the second occasion, he shared that he had returned after a period of a decade, entering Europe through Turkey during the mass migration that occurred in the years following the onset of violent conflict in Syria.

In view of these accounts, the migration trajectories of men who participated in this study reflects a complex roadmap. In some case, these accounts were found to challenge the ordinary and institutional assumptions underlying the notion of ‘country of origin’, which for many participants was found to be a rather unsatisfying descriptor of their lived experiences. For instance, Mahir, the oldest participant, described having lived on the same street in Amsterdam for over 40 years before he was first detained. When I first asked him about ‘his country’, he insisted: “the Netherlands is my country. I am a true Dutchman. I am a true Amsterdamer. My whole life is here”. Similarly, Hassam, who was born and had lived 30 out of the 32 years of his life in the Netherlands, strongly contested the assertion that the Netherlands was not ‘his country’. In this respect, dominant institutional conceptions of illegality were in many ways found to clash starkly with the participants own perceptions of belonging and constructions of identity in the Netherlands. These dynamics will continue to emerge in important ways within the accounts of the participants in relation to their experiences of repeated detention.

5.2.3. Participant Detention Backgrounds

Among the core objectives of this thesis was to collect data and gather case-studies of irregular migrants who had been repeatedly held in administrative immigration detention. In this regard, in this sub-section I examine the information that was gathered with respect to the participants’ detention background. It should be reiterated that since 2010 there exists no official data on the total prevalence of repeated detention of irregular migrants in the Netherlands, and my own attempts to obtain this
data through a ‘Freedom of Information’ request submitted to the DJI of the Dutch Ministry of Justice and Security was ultimately unsuccessful (as discussed in Chapter 4). As such, it is impossible to know with any certainty whether or not these figures are representative of the overall population of irregular migrants who have been repeatedly detained, particularly given the relatively small sample. Nevertheless, the data that was obtained in relation to the 21 case studies examined in this thesis reveal a number of important details both in terms of the problem of repeated detention in the Netherlands more generally, as well as the experiences of the research participants in particular.

As earlier detailed, participants were selected for this study on the basis that they had been detained in administrative detention in the Netherlands on at least two occasions. However, the majority of the participants had been detained on at least four occasions, and one of the participants had been repeatedly held in administrative immigration detention 11 times (see Table 2). It is worth emphasizing that this includes only periods in administrative pre-removal detention, and does not include periods in criminal detention or remand. It should also be highlighted that the greater number of periods in detention does not necessarily correlate with a greater number of years of residence in the Netherlands, as one might expect. This in the first place depends heavily on the year of onset of illegalized status, as well as intermediary periods wherein the participant may have been granted temporary legal residence—for instance, while waiting for deliberation on an asylum claim. On the other hand, some of the participants were able to live illegally for years or even decades without being arrested and detained (the specific factors underlying this dynamic will be discussed in more detail in Chapter 6).

The total duration of time spent in administrative detention also varied significantly between participants. This was also an area where it was difficult to obtain consistent data, particularly where it was not possible to access official dossiers. Nevertheless, at least seven of the participants had been held in administrative detention for a cumulative total of 18 months or more, and at least four had been detained for over 30 months. It is also especially worth highlighting that the findings confirm that in the cases of at least three participants (Samuel, Omar, and Jamal), the cumulative total exceeded 18 months within the period following the onset of the EU Returns Directive in the Netherlands in 2011, which set out a maximum detention limit of 18 months. Although this matter has been the subject of significant human rights criticism in recent years, this criticism has been largely based on suspicion and unconfirmed ‘reports’ (see Amnesty International, 2013; Committee Against Torture, 2013, para. 15). In this respect, these findings provide concrete case-studies confirming such reports, and allow for the possibility to examine this criticism more closely. The Dutch government has long maintained that the absolute 18 month limit as set-out in the EU Returns Directive does not refer to cumulative periods in detention—a (legally) precarious interpretation at best, and one that will be explored in more detail in Chapter 7. Interestingly, at least three of the participants (two from Suriname, and one from Morocco) had been previously deported many years prior to this study, under a significantly different diplomatic and political climate. Strikingly, one of the participants, Nassim,
had in fact been deported to Morocco on two occasions, and each time had returned to the Netherlands. Since his most recent return to he has been held in administrative detention on two further occasions.

5.2.4. Current Legal Status: It’s Complicated

The matter of establishing the present legal status of the men who participated in this study was especially challenging. I attempted in particular to identify (1) whether or not the participant was currently engaged in a legal process to obtain permanent and temporary legal residence in the Netherlands, and (2) if they had any travel bans or ‘undesirable declarations’ imposed on them. Without more consistent access to official dossiers of the participants, it was difficult to ascertain the precise nature of their present legal status. Nevertheless, a number of key details were learned. In general, it was clear that the majority of the participants had exhausted all of their legal avenues to receive asylum or other residency status in the Netherlands, and were formally considered ‘out-of-procedure’ [uitgeproceeederd]. Many of the participants were so-called ‘failed asylum seekers’. Others had their previous residency statuses revoked due to repeated violations of immigration laws, or had lost the opportunity to obtain legal residence altogether due to previous criminal records. However, one participant who was detained outside of detention was still in the formal process of an asylum application, and could in principle not be detained until his application was finally adjudicated. Another participant was attempting (with the help of his migrant support worker and his lawyer) to be formally declared ‘stateless’, which was identified as being a decidedly complex legal process and, if arrested, the participant could still be detained at any moment.

Several of the participants indicated that they had never even attempted to obtain formal legal residency status in the Netherlands at all, particularly those who had come to the Netherlands many decades ago. As earlier detailed, many of these participants had arrived to the Netherlands from their countries of origin before strict visa requirements were put in place. In this respect, participants often described their legal situations as overly complex and technical. Some felt that their legal status was far beyond their control and that they were helpless to change it. For instance, Solomon, who was born in Suriname, explained how his legal situation was affected by the post-colonial complexities that he and others faced when Suriname received its independence from the Netherlands:

“I was five years old then. Most of us didn’t know anything that was happening. And many parents didn’t do it for their children—get them proper papers and stuff. I was born under the Dutch flag. But I was a little boy when all of that happened” (Solomon, June 2017).

The majority of the participants also shared that they had ‘travel bans’ of varying lengths and degrees of severity, of which they were often uncertain about themselves. A number of participants had been formally declared ‘undesirable’ by the Dutch state—a former legal designation that was used prior to the onset of the Returns Directive in 2011. This designation was assigned to irregular
migrants who refused to depart the Netherlands; those who had committed serious criminal offences; or those who were determined to be a danger to public safety (Leerkes & Boersema, 2014). This designation has since been replaced by the travel ban system as set out under the Returns Directive (detailed in Chapter 2). However, the legal statuses of many participants might be better described as ‘fluid’ or ongoing. For instance, a number of participants indicated that their lawyers were actively involved in the process of attempting to have their ‘undesirable declaration’ reduced to a less severe travel ban, or to reduce their existing travel ban to a shorter duration. However, tied to the complexities of the legal processes surrounding their illegalized status, many of the participants described their legal situations with a general sense of confusion and ambivalence. A number of the participants shared that they in fact had no idea what their lawyer was currently up to, and many had multiple different lawyers—a lawyer for residency or asylum, for criminal detention, and for immigration detention.

In view of these complexities, for many of the participants it was difficult for me to delineate and confirm key elements of their present legal status. However, it was generally observed that the overwhelming majority of the participants had exhausted all legal remedies to obtain residence. The impact of the various legal complexities just detailed are important to keep in mind, as they will be further explored in subsequent chapters of this thesis in terms of the role they play in shaping participant’s experiences of undeportability and repeated detention.

5.2.5. Deconstructing the Criminal Label

Among the most commonly held institutional rationales in support of the existence and prevalence of repeated administrative detention in the Netherlands relates to assumptions concerning the criminal or alleged criminal backgrounds of the irregular migrants affected by it. Not only among immigration officials, but also among the lawyers and migrant support workers interviewed for this research, the perceived criminality among the population of repeatedly detained migrants was a commonly identified area of concern. In this respect, a number of important points must be made in an effort to deconstruct the criminal label commonly attached to this group of irregular migrants:

First, it was found that thirteen of the participants involved in this research had previously spent time in criminal detention in the Netherlands. However, the reasons and durations of criminal detention in these cases varied dramatically between participants. While a handful of the participants were detained for serious offences, amounting to months or even years in detention, many who had spent time in criminal detention had been detained for only a few days or weeks, often due to outstanding fines or other minor offences. At least five of the participants indicated that they had never been criminally detained in the Netherlands, which was confirmed either through official dossiers, or verified informally by their lawyer or migrant support workers. For three of the participants there was uncertainty around whether or not they had been held in criminal detention.
Several of the participants who had more long-term criminal sentences shared that they had been involved in drug dealing during their time outside of detention, which they often characterized as a form of informal work to make money and pay rent. A few participants shared that they had been convicted of more serious offences, such as assault and other violent crimes. Those who shared that they had previous criminal involvements often identified that these involvements had likely sabotaged any chance they had for obtaining legal residence in the Netherlands. As Anwar explained:

“I have a brother who lives here. After 13 years he finally got his papers. It worked out for him...For me it was too late. I had made mistakes, and it didn’t work for me. I told my brother, don’t make the mistakes I made, or you’ll never have a chance” (Anwar, DCR, July 2017).

Similarly, Ahmed shared that he had received a six month sentence in criminal detention 15 years ago, five years after he had first arrived in the Netherlands. He described to me how this criminal record still haunted his chances for obtaining legal residence today:

“When I was 22 I made a mistake. I was young and stupid. I went to criminal detention then for six months. But I served my time there...Should that follow me my whole life?” (Ahmed, DCR, July 2017).

Many of the participants similarly drew on identity-based claims to challenge the institutionally assigned label of ‘criminal’. Some participants argued that, if given the opportunity to find a regular job, they would be able to work legally and pay taxes. Many of the participants with criminal backgrounds claimed that their criminal involvements were necessary for their survival outside of detention—to make money, to find work, to find a place to sleep. In this respect, a number of empirical studies conducted in the Netherlands have indeed demonstrated the criminogenic potential of the institutional exclusion of irregular migrants through their illegalized status, reducing the opportunities the conventional forms of work (Leerkes, 2009; Leerkes, van der Leun & Engbersen, 2012). Other participants insisted that their criminal involvements were merely a distant part of their past. For instance, Anwar drew on his identity as a father:

“You know, since that time I chose for a family. I have children here. I am not dangerous to society or something. I didn’t choose to come here to become a criminal. I have lived here now for 28 years. I’m not going anywhere...I just want to take care of my children” (Anwar, DCR, July 2017)

In view of the accounts detailed in this section, it should be reiterated that there currently exists no comprehensive empirical data concerning the alleged criminality of this group of irregular migrants, not only in relation to the overall prevalence of criminal activity among those affected by repeated detention, but also—and perhaps more importantly—in relation to the nature of the crimes committed, in what contexts, and under what circumstances. Responding to such questions in the first
place demands far more rigorous empirical evaluation, requiring greater access to information and extending well-beyond the scope of the present thesis. For now, it must be pointed out that, although many of the migrant men who participated in this research had indeed spent time in criminal detention, it also demonstrates that many have not. In addition, those who did spend time in criminal detention, the reasons and durations of detention varied dramatically between participants. In this respect, wholesale generalizations and assumptions concerning the alleged criminality of this group again reflect the stereotypes and assumptions that underlie institutional conceptions of repeated detention, and an oversimplification of the identities and realities of irregular migrants affected by it. Furthermore, such dominant institutional conceptions reflect a popular conflation between migrant ‘illegality’ and migrant ‘criminality’ in a way that ignores the formal administrative and non-criminal nature of the detention-deportation system. In this respect, it is worth reiterating that the migrant men who participated in this research were not formally being detained on the basis of crimes they had committed, but rather on the basis of their identity as unwanted irregular migrants. Nevertheless, in practice the implicit—and at times explicit—conflation between ‘the criminal’ and ‘the administrative’ were found to crucially shape the experiences of irregular migrants affected by repeated detention, and will re-emerge in important ways throughout the rest of this thesis.

5.3. Recognition and Belonging in the Netherlands

What the accounts presented in this chapter highlight is the central role that ‘identity’ plays in relation to understanding the nature of repeated detention and undeportability in the Netherlands. In this respect, numerous migration scholars and criminologists have in recent years observed how detention and deportation serve an important function within the contemporary migration control practices of Western liberal democracies as a means of shaping and maintaining national narratives of identity and belongingness (Aas & Bosworth, 2013; Bosworth, 2014; De Genova & Peutz, 2010). In particular, the detention-deportation system participates in what some scholars have referred to as the ‘politics of belonging’, referring to the ‘dirty work’ of establishing and maintaining the boundaries of the political community (Crowley, 1999; Yuval-Davis, 2006)—of identifying and determining who is welcome, and who is not; who is in, and who is out. Within these processes, immigration detention centres are the sites where unwanted irregular migrants are confined, where their identity is vigorously interrogated, and where the processes of removal from the body politic eventually unfold. Conceptions around the ‘illegal migrant’ importantly feeds into these processes.

On the flipside, however, identity also plays a central role in shaping the experiences of irregular migrants in relation to the detention-deportation system. As Yuval-Davis (2006) describes, identities are “narratives, stories people tell themselves about who they are (and who they are not)” (p. 202). In this respect, as other scholars have likewise identified, although irregular migrants are formally recognized as ‘illegal’, there often exists a significant gap between the migrant’s sense of self, and the
identity attributed to them by the state (Bosworth, 2014). Migrant experiences of immigration detention are therefore characterized in large part by a struggle for recognition. As the accounts presented in this chapter likewise illustrate, some participants engaged in what some scholars have referred to as ‘acts of citizenship’, that is “laying claim to an equivalent kind of membership—as a hard worker, [father], tax-payer—unrecognizable in law, but grounded in familiar moral hierarchy” (Bosworth, 2014, p. 88). As will be further expanded upon in subsequent chapters, this struggle for recognition indeed plays a fundamental role in shaping the dynamics of the detention-deportation system, both in terms of the experiences of irregular migrants of repeated detention and undeportability, as well as their efforts to respond to and challenge it. The accounts presented in this chapter therefore already provide an important glimpse into how the participants in this research construct their identities and narratives of belongingness in the Netherlands, and serve as an important point of departure for understanding how these dynamics later shape the contested nature of the detention-deportation system.

5.4. Conclusion

In this Chapter I have sought to provide an introduction to the group of migrant participants whose experiences and stories form the basis of the analysis presented in this thesis. In doing so, I have provided an overview of some of the basic background details of the migrant men who participated in this study in terms of their lives in the Netherlands, and their trajectories through the detention-deportation system. The accounts that emerged were found to challenge in fundamental ways the narrow and essentialized representations of the ‘undeportable’ illegalized migrant—young, North African, criminal—that dominates institutional conceptions in relation to the problem of repeated detention. It was shown that the majority of the participants were in fact long-term Dutch residents, with over two-thirds having lived in the Netherlands for over ten years, and some of the participants even having been born in the Netherlands. The ages of the participants ranged widely, from 22 to 67. The majority of the participants had close family connections in the Netherlands: wives, parents, siblings, children, and in some cases even grandchildren. It was further shown that, far from representing a static process from ‘country of origin’ to ‘country of settlement’, the participant’s migration trajectories represented a complicated roadmap that reflected the broader complexities of contemporary mobility in an increasingly globalized context. In view of the accounts presented, it is particularly important to emphasize the heterogeneity of the backgrounds and migration trajectories of the participants. Indeed, what the findings of this chapter show is a remarkably diverse and complex mosaic of individuals and stories.

In terms of their detention background, the majority of participants had been detained in administrative detention on at least four occasions, and one participant had been detained up to 11 times. Several of the participants had been detained in administrative detention for a cumulative total of more than 18 months (including following the onset of the EU Returns Directive in the Netherlands
in 2011), and one participant had been detained for up to 46 months. Although many of the participants had spent time in criminal detention, it must be emphasized that several had not. Furthermore, it was found that for those who did spend time in criminal detention, the reasons and durations of detention varied dramatically between participants.

Finally, the accounts presented in this chapter illustrated that for many of the migrant men who participated in this research their illegalized status clashed starkly with their own perception of identity and belonging in the Netherlands, particularly for those participants who had lived in the country for years and decades, or held important family or other ties to the Netherlands. As Mary Bosworth (2014) importantly identifies, there exists a fundamental tension at the heart of border control: “identity is broader than identification. Not all strangers are unfamiliar” (p. 213). In this respect, this chapter also provides an important point of departure in terms of understanding the various ways which migrant experiences of repeated detention and undeportability is likewise characterized by the struggle for recognition and belonging in the Netherlands. This chapter therefore serves to contextualize the analysis that follows, particularly as they emerge in the accounts of the participants in relation to their experiences both inside and outside of immigration detention.
6

6.1. Everyday Life in Detention and Detention in Everyday Life

Examining the problem of repeated detention provides a unique and valuable perspective on migrant experiences of illegality. Most empirical studies that have attempted to capture such experiences have focused primarily on one side of the detention centre walls; that is, they have focused either on migrant experiences inside detention (see inter alia Bosworth, 2014; Hall, 2012; Fischer, 2013) or migrant experiences outside detention in illegalized residence (see inter alia Kubal, 2014; Kox, 2010; van der Leun & Kloosterman, 2004; van Meeteren, 2014). These studies thereby often explore these accounts in isolation from one another, treating them largely as distinct experiences (with some notable exceptions; see for instance Klein & Williams, 2012, on migrant post-release experiences). However, in order to more fully understand the human impact of repeated detention on the irregular migrants affected by it, the purpose of this chapter is to bring these two accounts—‘inside’ and ‘outside’—into dialogue, exploring how they may be understood together as part of a broader narrative of migrant illegality.

In the first place, then, although immigration detention has been much discussed from a theoretical perspective, there have in fact been relatively few empirical studies examining what life in detention is actually like. Indeed, as Bosworth (2014) importantly identifies, “in its predominantly theoretical bent, academic scholarship is sometimes difficult to square with life in detention” (p. 7). In this respect, this chapter draws on two sources that allows us to peer behind the detention centre walls, and gain a more concrete understanding of life inside. First, I draw on my own ethnographic fieldwork, including observations and fieldnotes taken during my many visits to Dutch detention centres, focusing in particular on the physical and symbolic elements that characterize the detention centre. However, more importantly, I draw on the daily accounts of migrant detainees themselves who participated in this study, and through which we are able to gain an important glimpse into the ordinary and everyday experiences and challenges of life in detention.

However, as emphasized, this chapter focuses not only on capturing the experiences of everyday life in detention, but also ‘detention’ in everyday life. In particular, this latter dynamic draws on what De Genova (2002) refers to as ‘deportability in everyday life’—or in other words, “the palpable sense that deportation is always a possibility” (Mutsaers, 2014, p. 14). This dynamic reflects the reproduction of the physical borders of the nation-state within the ordinary and everyday lives of irregular migrants (De Genova, 2002). As Mutsaers (2014) goes on to explain, the impact of such reproduction of the borders means that “for some people boundaries are virtually everywhere because mundane activities such as working, learning, driving, residing, or travelling are turned into illicit acts due to a person’s
illegal status” (p. 14). This chapter likewise examines this dynamic more closely specifically in relation to the problem of repeated detention.

6.2. **Peering Behind the Walls of the Detention Centre**

Life in detention may be characterized by two broad categories of experience. On the one hand, they are places where irregular migrants experience a high degree of coercive and punitive state power—their liberty and freedom is severely restricted; their contact with family and friends is tightly regulated; they are compelled to cooperate with deportation procedures; and they may be subject to strict disciplinary and punitive sanctions. On the other hand, detention centres are also fundamentally places of waiting—waiting for a response from the embassy; for an appointment with medical and healthcare services; for a visit from immigration officials; for an update from a lawyer; for deportation; for release. In this respect, everyday life in detention is also characterized by frustration, ambivalence, routine, and boredom. In an effort to gain a more complete view of life inside detention, this section will examine both of these categories of experience in relation to (1) the symbolic and instrumental punitiveness of administrative detention, and (2) the temporal punitiveness of administrative detention. Both of these accounts provide important insights into understanding the nature and impact of repeated detention.

6.2.1. ‘God, Give Me a Good Location’: The Symbolic and Instrumental Punitiveness of Administrative Detention

It is busy today. There are families here with little children, waiting to be escorted into the visiting area to meet their detained loved ones. A young girl runs circles around the table where I am sitting with four others. In the background, the television is playing a National Geographic documentary on the Second World War. No one is watching. All of the visitors take advantage of the free hot beverage dispenser in the corner of the room—one of the small luxuries of visiting this particular detention centre. Guards in plain-looking clothes observe the group of visitors, thirteen in all, separated by soundproof glass.

In the visiting room a variety of decorations hang on the walls, each with vaguely motivational inscriptions: one painting displays the word ‘love’ three times, while another reads ‘don’t give up’. Two decorations, however, stand out most: on the one side of the bright red-painted wall nearest the door where the visitors enter is printed, in large black-stenciled lettering, the Dutch word ‘binnen’—meaning ‘inside’—and on the other side of the wall, ‘buiten’—meaning ‘outside’. I notice other visitors examining these decorations with puzzled looks.

Fieldnotes, Detention Centre Zeist, May 2017.

Although formally intended to be purely administrative, immigration detention centres are nevertheless both instrumentally and symbolically punitive. They are, as Leerkes and Broeders (2010) aptly describe, ‘formally administrative’ yet ‘effectively penal’. Despite the government’s efforts over the past decade to make them more modernized and agreeable-looking, immigration detention centres in the Netherlands indeed look and feel decidedly prison-like. However, there are significant
differences between each of the three immigration detention in operation in the Netherlands in terms of their spatial and symbolic characteristics, as well as the custodial rules under which they operate. In this respect, DCS and DCR are modern design buildings which, on the outside, may not immediately resemble a detention centre. Both of these detention centres are located near airports, and are relatively accessible by public transit. On the other hand, DCZ is older and looks especially prison-like. The external perimeter is surrounding by high razor wire fencing, and the building itself is inaccessible without first being admitted at the gate outside the parking lot. The detention centre is also far less publicly accessible and is located in an wooded area on the outskirts of town. The nearest bus stop is a 15 minute walk down an isolated street along a barbed wire fence, with signs warning potentially aspiring trespassers of ‘guarding dogs’ (see Figure 4). On a number of occasions I observed families with children walk this path on their way to visiting someone in detention.

Figure 4. The image below was taken on the walking path beside the road leading to Detention Centre Zeist. In Dutch, the sign reads: No trespassing. Dangerous. Guarded with dogs.

However, there are also several important commonalities between the different detention centres. For instance, all detention centres are equally inaccessible in terms of mobile or digital communication with the outside world. Mobile phones and internet access are strictly prohibited in all of the detention centres (in contrast to, for instance, IRCs in the UK; Bosworth, 2014), and detainees must pay to use regular telephones inside the detention centre (which may be monitored by detention staff). Furthermore, common to all of the detention centres are tight, airport-like security measures for anyone who wishes to enter. All visitors must be formally registered with the visitor’s administration.
beforehand. They are not permitted to take electronic devices inside and must enter through body scanners—removing their shoes, belts, caps, and jewelry. Waiting areas are watched by CCTV surveillance cameras. During my many visits to the detention centres, it was not uncommon for me to hear other visitors react with surprise at the level of security, often commenting that ‘it feels like a prison’.

This observation, however, represents a more fundamental concern among many of the participants in this study, particularly in relation to the impact on their contact with family and friends in the outside world. Indeed, due to the spatial and symbolic punitiveness of the detention centre, many of the participants refused to have family or friends visit them in detention. As Solomon described:

“I don’t want anyone to visit me like this—in this prison. Especially my [eight-year-old] son. He will see things here that he doesn’t need to see. He doesn’t need to think about this. He should be thinking about football and stuff, you know? That is what his future should look like” (Solomon, DCR, June 2017).

In addition to the spatial and symbolic distinctions identified above, there are also striking differences between the custodial rules applied at each of the detention centres. As detailed in Chapter 2, current regulations governing the conditions and rules within immigration detention are set out under the PBW governing penal (criminal) institutions. However, as part of the a pilot project, DCR has already begun proactively implementing several of the features of the newly proposed bill that was intended to make immigration detention in the Netherlands more humane and set out a firmer distinction between criminal and administrative detention. In this respect, DCR provides a greater degree of freedom to detainees within the walls of the detention centre, providing more recreation time, longer periods outside of the cell, and more visiting hours.

In terms of understanding the relevance of these distinctions, the issue of repeated detention provides a particularly unique perspective as most of the participants in this study had experienced detention at several different detention centres throughout the Netherlands over the years. For a number of the participants, the location where they were detained was deeply important to their experiences in detention. As one participant described, “when they arrested me and told me I have to go detention, I prayed ‘God, give me a good location’” (Abdul, DCR, August 2017). Some participants wanted to be transferred to a different location that was more accessible for family and friends to come and visit them. Others valued greater time for recreation or outside of the cell. In general, there was consensus among the participants that DCR was better than other locations:

“Rotterdam is much better. The whole day you can go outside for recreation. Zeist is crazy. It’s really like a prison. If you miss recreation time by 30 seconds because you are in the bathroom or something, then they will not let you go outside anymore” (Basim, DCR, July 2017).
“Rotterdam is the best place I have been to so far. You can go outside for the entire day except one hour when you have to be in your cell. So in that way, it’s pretty chill—better than it used to be. But at the end of the day, you’re still here” (Nassim, DCR, July 2017).

However, other participants more closely shared the sentiment expressed at the end of this last quote: ‘at the end of the day, you’re still here’. As one participant responded when I asked him if he noticed a difference between now and his previous times in different detention centres: “I don’t really notice the difference between now and the other times. What should I say? I’ve gotten older. That’s the only difference that I notice” (Simon, DCR, July 2017). Likewise, when I suggested to another participant that Rotterdam provides more freedom, he began to laugh: “Freedom? We are still locked in here” (David, DCR, July 2017). The punitive nature of administrative detention is perhaps most overtly expressed in the use of various disciplinary and other sanctions on irregular migrants in detention, including in particular isolation (or solitary confinement); strip searches and body cavity searches; and the use of handcuffs and waist restraints during transit to a hospital, embassy, or court. Such practices have generated consistent criticism among prominent human rights organizations due to their inappropriateness within the administrative non-criminal context of immigration detention (European Committee on the Prevention of Torture, 2012; Amnesty International, Stichting LOS/Meldpunt Vreemdelingendetentie & Doktors van de Wereld, 2015; Amnesty International, 2018). These practices were also often the subject of formal complaints to the complaint commission [commissie van Toezicht] of the detention centre. As one participant expressed to me while drafting a complaint after having been transported to the hospital in handcuffs and waist restraint: “It’s not right. We are not criminals”. In this respect, participants commonly expressed concerns regarding to perceived conflation between criminal and administrative detention. In particular, many of those participants who had been criminally detained had experienced being transferred from immigration detention directly to criminal detention, and vice versa. As Anwar answer explained:

“When I was in Zaandam, after my immigration detention they took me to criminal detention for a few weeks for a fine. Then they tried to bring me back to immigration detention again. At first the guard wouldn’t tell me where I was going. I told him that I am not some animal—some dog, that you can just take from one cage to the other. I am not going. I am not an animal...Eventually he told me, and I had to go back anyway” (Anwar, DCR, July 2017).

The discussion provided in this section illustrates the various ways in which immigration detention, despite its formal administrative function, is in practice both symbolically and instrumentally punitive. Although there are significant differences between the detention centres in the Netherlands in terms of both how they look and operate, they nevertheless remain decidedly prison-like. This punitiveness has an important impact on the irregular migrants detained in terms of their connections with family and friends outside detention; their freedom inside the detention centres;
and their overall sense of dignity as persons not formally being held for having committed a crime. Ultimately, this punitiveness reflects a failure to effectively set-out the non-criminal administrative nature of immigration detention.

6.2.2. The Temporal Punitiveness of Administrative Detention: Boredom, Uncertainty, and Waiting

However, migrant experiences in immigration detention are not characterized purely by the instrumental punitiveness detailed above. As one of the participants plainly described while attempting to explain to me what everyday life in detention was like: “Most people are just bored to death in here” (Simon, DCR, July 2017). Indeed, other commentators who have provided ethnographic accounts of life in immigration detention have similarly highlighted the ordinary routines, boredom, and coping strategies of those detained (Bosworth, 2014). In this respect, this section borrows in particular from migration scholarship that has emphasized the—often unexplored—temporal dynamics underlying migration control (Andersson, 2014; Bosworth; Johansen, 2013). As Bosworth (2014) describes, immigration detention centres are fundamentally places where ‘time trumps space’ (p. 177). This section intends to illustrate in particular that the problem of repeated detention serves as a valuable window through which to explore these dynamics, which—alongside the symbolic and instrumental elements earlier detailed—are likewise oriented towards a kind of ‘temporal punitiveness’.

In the first place, then, many of the participants described to me the various ways in which they attempted to keep busy and cope with detention. These included all of the regular activities that were ordinarily allowed by the detention centre: football, exercise, reading, cooking, video games, table football, and so on. One participant shared that he liked to write. When I asked him what he liked to write, he explained: “Just my own thoughts. I think it’s just good to write things down. I also like to read the books here sometimes. You have to try to keep busy, otherwise you make yourself crazy and it’s impossible to stay calm” (Jamal, DCR, August 2017). Other participants tried to keep busy by helping other detainees with practical matters, such as writing a complaint, filling out forms, arranging visitors, and translating documents. Some participants who had a greater amount of experience in detention described the rather elaborate strategies and routines that they had developed over previous periods in detention. For instance, Simon, who had been in detention four times, explained how he had figured out a way to make wine inside the detention centre:

“When I was in detention for nine months last time I would take some apples and fruit back to my cell, and add a little bit of sugar and stuff, and I made wine. It helped to keep me busy with something. But they wrote me up for it and I had to stop”. There was a brief pause as I looked at him in surprise, and we both starting laughing: “Yeah, I’m serious. I can make very good wine!” (Simon, DCR, July 2017).
In addition to the everyday routines and activities of the participants, one of the notable features uniquely connected to the problem of repeated detention was that many of the participants had in fact developed close networks and relationships with other repeatedly detained irregular migrants over the years, not just inside detention but also outside. As one participant described: “I know lots of people here from other times that I have been in detention. Even from outside detention. We are friends” (Omar, DRC, July 2017). Describing his friendship with one detainee in particular, he further explained, “I know him already 20 years. He lives in Rotterdam. I know his wife too”. Another participant shared that he had in fact first met many of his friends in the Netherlands during his time in detention: “I met many people [in detention]. I heard many, many stories. I made friends there... I still have contact with them outside detention” (Isaac, Amsterdam, July 2017).

Although some other empirical studies examining life inside have similarly identified the kinds of social networks and small internal ‘communities’ that develop within the detention centre (see Bosworth, 2014), the problem of repeated detention is unique in that these networks extend beyond the walls of the detention centres to the outside world, as acquaintances and friends are released and re-detained over years and even decades. The development of such connections are also important to understanding how some of the participants involved in this study coped with repeated detention through social interactions. One participant described the following in relation to his connections with other detainees inside detention:

“We were very close friends...when we were outside smoking, we used to ‘rap’, you know?” He laughs as he gestures holding a microphone to his mouth. “But they hate to see us happy in here. They don’t want us to be happy” (Samuel, DCZ, May 2017).

The dynamic presented in this quote highlights an important tension. On the one hand, it again demonstrates the diverse ways in which detainees attempt to cope with life in detention and to make it more tolerable. On the other hand, as the participant describes, it also highlights the limitations of such efforts, as the background sense of watchful guards never quite disappears. It is important to therefore recognize that both the ‘punitive’ and the ‘mundane’ coexist within the detention centre in an uneasy tension; one that has a significant impact on those detained. It should also be emphasized that ‘mundane’ does not mean benign. Indeed, for some participants, reflecting on the activities described in this section only served to reinforce even more strongly the sense of ambivalence and confusion around why they were even in detention and what they were waiting for. As Simon described:

“Some people here walk around here like they are without a soul. You can just notice it. This place has just destroyed them. There’s a lot of people in here who I know won’t survive this mentally” (Simon, DCR, July 2017)

Nearly all of the participants shared that repeated detention had a significant impact on their mental health—that it ‘made them crazy’. Several of the participants took various kinds of prescription drugs
while in detention, such as anti-depressants and sleeping pills. A number of participants also had regularly scheduled visits with a psychiatrist inside detention. In this respect, it was often not the overt experiences of punitiveness that was most impactful for the repeatedly detained migrants, but rather the maddening sense that their life was being wasted away inside detention for no reason. As Wassim poignantly describes:

“They tell me that I can’t stay here, but I also can’t go back to Algeria because the embassy doesn’t respond to me. So what should I do? If you tell me that I am illegal, okay fine, but then tell me what I should do. Don’t make me sit here for six months for nothing. If you have a good solution, welcome! Otherwise let me go. My life is wasting away here. I have my own things and my own life. I don’t live on the street or anything. I take care of myself” (Wassim, DCZ, March 2017).

Six months earlier when he had first arrived to the detention centre, Wassim had submitted a request to the Algerian embassy to receive a laissez-passer (LP)—a travel document issued by the embassy of a prospective country of return to an irregular migrant without adequate identification documents allowing them to travel. Shortly after my interview with him, he was released from detention before ever receiving a response.

Closely connected to the sense of ‘wasted time’ described by Wassim, many participants described the uncertainty around when they would be released as being among the most difficult features of administrative detention. Due to this sense of uncertainty and frustration, participants often favorably compared immigration detention to criminal detention:

“It is the uncertainty. Everyone in here is just waiting, and you can never know how long. At least if you are in criminal detention you know what date to look forward to. It makes some of the people in here crazy. Just waiting for nothing” (Basim, DCR, July 2017).

“In criminal detention at least you know when you will come free. They say that there is a 6 month limit, but there are lots of people in here who have been here for 9 months or longer” (Ahmed, DCR, July 2017).

“If you do something criminal, and you have to sit for 6 months or a year or something, you know why. I can understand that. But this is different” (Abdul, DCR, August 2017).

In this respect, although strikingly few empirical studies have explored the temporal nature of bordering practices (Andersson, 2014), many of the migrant participants in this research identified precisely these dynamics as among the most challenging features of life in immigration detention. Most importantly, these impacts were significantly amplified in situations of repeated detention, as migrants often knew with almost absolute certainty that they would eventually be released anyway, and were just waiting out their time.
In sum, this section has attempted illustrate that administrative detention is not only characterized by the overtly symbolically or instrumentally punitive or prison-like characteristics that has attracted so much criminological attention over the years (Bosworth, 2014). Rather, it is also importantly characterized by the boring, routine, and mundane practices that make up the inner social worlds of the detention centre. However, both of these forms of punitiveness exist alongside one another in an uneasy tension, and in this respect the detention centre is characterized perhaps more than anything by a sense of confusion, arbitrariness, and ambivalence (Bosworth, 2014). These experiences coalesce into a form of temporal punitiveness that represents perhaps the most challenging and harmful impacts of repeated detention. It may in some sense even be described as more punitive than the more overt symbolic and instrumental practices, to the degree that administrative detention was at times described as being ‘worse than criminal detention’. Ultimately, however, the accounts presented in this section tell only one half of the story. For the rest, it necessary to step back outside of the detention centre walls.

6.3. (Un)deportability in Everyday Life

Bicycles and pedestrians hurry through the cobblestone square where we sit on patio chairs in the sun—a typical Dutch ritual on warm summer afternoons. Four months ago, Julian was able to begin a new asylum procedure and was waiting for the final decision. As he tells me the story of how he came to the Netherlands, a police officer on a bicycle glides past at a noticeably slower pace than everyone else, keeping a watchful eye on the happenings of the square. As he passes us by, Julian points to him: ‘four months ago, if I saw him like that, a policeman, my heart would be pounding out of my chest’. He smiles and begins to laugh. ‘Now, if he wants to talk to me, I don’t say nothing. I just show him this pass’. He pulls a small blue-green card out of his wallet and shows it to me. It is a type ‘W’ identity card intended for asylum seekers still in the process of their asylum claim. ‘I show him that, and he will just let me go’. Still laughing, he sits back and stretches out his hand: ‘just like that’, he says. Just like that.

Fieldnotes, Utrecht, June 2017.

Less than a year before I met with Julian in that sunny square in Utrecht, he had nearly been deported to Burundi. He had already arrived at Schiphol Airport when his deportation drew such protest from local community members and friends that he was unable to be boarded onto the flight. He was returned to the detention centre, and was eventually released. Upon his release he was able to submit a formal request to receive asylum in the Netherlands. Although the final outcome of his request was yet far from certain, for the time being he was safe from detention and deportation. Still, the thought of being re-arrested and detained does not leave his mind: “I am still scared that they will not accept my asylum request and that I will end up in detention again” (Julian, Utrecht, June 2017).

This case reveals a number of interesting and complex dynamics in relation to migrant experiences of illegality in general, and repeated detention in particular. On the one hand, it highlights the precarious and volatile nature of the legal situations of many repeatedly detained migrants, as well as the constant sense of uncertainty and fear of being arrested and returned to detention. On the other
hand, it also reveals the associative processes that limit the state’s exercise of power to deport. However, this latter point will be explored in more detail in the following chapter. For now, the remainder of this chapter will focus on the impact of repeated detention by exploring the participants’ experiences outside of the walls of the detention centre. In particular, this chapter looks at the following two areas of discussion; namely, (1) migrant precarity and fear of arrest; and (2) the disassembling nature of repeated detention. As will be explored, both of these areas of discussion are central to understanding migrant experiences of repeated detention.

6.3.1. Migrant Precarity and Fear of Arrest

Similar to the experience described in Julian’s account presented above, all of the participants involved in this study described the general sense of precariousness that characterized their lives outside of detention. Participants described having been arrested in most cases while doing ordinary activities in public spaces or committing minor infractions. For instance, Jamal was homeless and living on the street when he was arrested and detained for the fourth time: “I didn’t have a place to stay, so I was sleeping at the train station at night. They saw me and asked for my identity and then arrested me” (Jamal, DCR, August 2017). Zaahir describes having been arrested in Den Haag after running a red light on his bike. The police stopped him and asked him for identification: “I told the police that I was illegal. It was my own fault. It was really stupid of me, something so small. I should have been more careful” (Zaahir, DCR, June 2017). This quote illustrates how a brief moment of carelessness or a small infraction can have a life-changing impact for many of the participants. As Abdul similarly explains:

“The first time I was arrested I walked across the street when the light was red. They were only going to give me a 35 euro fine. I still remember that perfectly. They asked me for my identity document, and I didn’t have one. I ended up going to detention for 9 months” (Abdul, DCR, August, 2017).

As this quote illustrates, in many cases the formal legal connection between unauthorized residence and administrative detention does not correspond with the ordinary perception and lived reality of many of those arrested: in Abdul’s case, the mistake was crossing the street during a red light, but the consequence was nine months in detention.

Many of the migrant participants described a similar sense of arbitrariness surrounding their arrest and detention. In particular, several participants described elements of police profiling, and felt that their arrest was a result of their skin colour and ethnicity. As Solomon explained, “They can just stop you for anything. I have Rasta, you know? So they just stop me” (Solomon, DCR, June 2017). Similarly, Samuel described how he experienced his most recent arrest:
“It was a busy day because it was sunny and everybody was outside drinking and stuff. When I was arrested there was lots of people around—a lot of people. But the police don’t ask them, they just ask me. Because they see my skin” (Samuel, DCZ, May 2017).

Many of the participants from North Africa described similar experiences. As discussed in the previous Chapter, practices of ethnic profiling in the Netherlands have been well-documented in recent years, particularly for migrants from North African or Dutch Antillean descent (see Amnesty International, 2013; Bovenkerk, 2014; Brouwer, et al., 2017; Mutsaers, 2015; van der Leun, et al., 2014), and these dynamics play an important role in contributing to the sense of injustice and arbitrariness of repeated detention as described by participants.

In general, most of the participants expressed a constant and lingering fear of arrest while outside of detention. Many emphasized in particular the need to at all times avoid police. As Nassim described, “I was biking in Amsterdam and I saw a police. I didn’t have a light or anything, so I put my bike against a tree and just started walking instead. I’m telling you, you become scared of your own shadow” (Nassim, DCR, July 2017). Similarly, Ahmed described his fear of arrest:

“I can tell you when I am outside of detention, I am terrified whenever I see the police. My heart right away starts to pound. I am terrified of being arrested and coming here again, to this place, and not knowing for how long I have to sit here. I have a psychologist outside detention that I go to see. Just because of the anxiety” (Ahmed, DCR, July 2017).

However, despite this constant potentiality of arrest, some of the participants described how they were able to live for years or even decades without being arrested and detained. For instance, Didier described having lived in the Bijlmer neighborhood in Amsterdam for nearly 20 years before he was first arrested. There was, however, a general sense among many of the participants that life outside detention had become progressively more precarious for irregular migrants over the years. Indeed, Abdul, who was 54-years-old, came to the Netherlands from Morocco nearly 30 years ago, and described how he had never attempted to obtain legal residence. He recalls coming to the Netherlands at that time with many others who also did not have documents:

“It was a good time back then. You could just live your life. You just did your work and stayed quiet. You could find a small place to live. That was a good time...I just came straight here by plane. Back then you didn’t have visas or any of that stuff. A lot has changed since then...In Amsterdam, I remember one time playing football on the street with the police. No papers, no problem. As long as you didn’t make problems, you know? Now I am terrified if I see police. If I see them 50 meters ahead, I know to turn up the next street. If you walk down the wrong street, that could be it” (Abdul, DCR, August 2017).

Undoubtedly, the thought of playing football in the street with police would be unimaginable today for most of the participants involved in this study.
In view of this growing precariousness, participant’s ability to successfully avoid arrest during periods of non-detention was largely attributed to their ability to secure stable and reliable housing and employment, allowing them to move more easily between daily activities without drawing too much unwanted attention. In this respect, however, several participants further described the difficulties of obtaining both reliable housing and steady work without papers. Many participants described finding work sporadically, helping out here and there for friends or acquaintances. One of the participants had obtained part-time training and work as a welder, which was facilitated through a migrant support organization. As Abdul explained, “Without papers now you can’t do anything. It is very hard to work in the Netherlands without papers. People are scared to give illegal people work” (Abdul, DCR, August, 2017). Similarly, Jamal explained his experience when I asked him if he was able to find work outside of detention:

“Ya, I found some small jobs on the side, laminating, painting, cleaning. Never found steady work, and usually not the whole day. There is an 8000 euro fine for people who hire illegals. People are scared. It’s very difficult to work under the table in the Netherlands, but you have to make money. I stole things or sold drugs if I had to” (Jamal, DCR, August 2017).

Under the Aliens Employment Act (1994), there indeed exists an initial fine of 8000 euros for employers and businesses found to be employing irregular migrants (see Inspectorate SZW, n.d.). Many commentators have in recent years observed the rapidly expanding efforts by the Dutch government to curb illegal employment (de Lange, 2011; Hiah & Staring, 2016; van der Leun & Schijndel, 2016). In this way, the sense that unauthorized residence outside detention had become increasingly precarious likewise bled into shrinking opportunities to find steady housing and work. As Ahmed described:

“I used to help friends out at the market in Rotterdam, but now there is a police office right inside the market. Before, I used to get a message that there would be a police check-up that day and that I shouldn’t come. So I would stay home that day and come the next day. But now, the police can come whenever, and you don’t know when they will come” (Ahmed, DCR, July 2017).

As a result, a number of participants described having to take on difficult work for little pay. As Abdul describes, “I eventually found work in a bakery. Heavy work. Sometimes really late at night. Difficult work for almost no money. That’s where I was arrested before they brought me here” (Abdul, DCR, August, 2017). Similar dynamics were at play in relation to finding housing. In particular, some participants described how their housing situation translated into increased dependency on others. As Isaac explained:
“I roof with one friend in Amsterdam. Sometimes I have to wait very long for him. I don’t have a place to put my house key, you know? Sometimes he asks me for money...I rely on him” (Isaac, Amsterdam, July 2017).

In sum, for the majority of participants there was a deep sense of precarity in relation to both the informal labour and housing markets that added to the participant’s sense of ‘borders’ in everyday life (De Genova, 2002; Mutsaers, 2014). Participants often described the emotional and psychological toll this precarity played in terms of their experiences of illegality. In particular, Jamal poignantly described his experience:

“If you do find somewhere to live you still always have to be careful. You have to watch out and make sure you don’t run into the neighbor or something if he finds out you’re illegal. It’s impossible, you know? It’s impossible to just live calmly. To chill. To forget. You can’t live normally. You just always think, and think, and think” (Jamal, DCR, August 2017).

Taken together, the accounts detailed in this section closely reflects broader discussions among migration scholars in relation to the notion of ‘precarity’, referring in particular to migrant “lifeworlds that are inflected with uncertainty and instability” (Lewis, et al., 2014, p. 581; Waite, 2009). Although Lewis, et al. (2014) refer to this notion primarily with respect to irregular migrant labour market integration, the term effectively captures what these commentators describe as a ‘layering of insecurities’ within contemporary migrant illegality (p. 593). This layering is similarly reflected in the accounts detailed in this section, particularly in relation to the ever-present fear of arrest and detention, and the inability to find stable work or housing. Drawing on these accounts, in the following section I attempt to illustrate how such precarity is dramatically amplified by the problem of repeated detention, particularly in relation to what I refer to as repeated detention’s ‘disassembling’ nature.

6.3.2. ‘I Lost Everything Again’: The Disassembling Nature of Repeated Detention

In view of the contextual framework presented above, many of the participants described the challenges of repeated detention particularly in terms of its disruption of their efforts to achieve social integration and to construct and maintain stable and meaningful lives in the Netherlands. For instance, in relation to the challenges surrounding integration into the labour and housing markets, Abdul effectively described how these challenges intersect with and are amplified by repeated detention:

“Before I was detained I had a place in Amsterdam. I was able to make a little bit of money to pay some friends for rent. I lived there for almost 10 years. After detention, I lost everything. I had to live on the streets for three years...I told the IND many times, just give me a SOFI number. I can work. I can pay taxes. But I never got a chance like that. After three years living on the streets, I finally found a small place again. I found some work. I
just stayed quiet. But then they came to the bakery where I work, and now here I am. I lost everything again” (Abdul, DCR, August 2017).

This quote indeed highlights a crucial dynamic related to the impact of repeated detention on the lives of irregular migrants. Many of the participants described the difficulties, time, and effort that it took to assemble the basic features of ordinary life, only to have their efforts again ‘disassembled’ by yet another period in immigration detention. Participants explained in rather plain terms the reality that housing and work are not put on-hold for six months or more while they wait to be released. In this respect, many of the participants echoed Abdul’s frustration at having lost everything and having to start the ‘assembly’ process over. As Mahir explains:

“I lived in the same street in Amsterdam for 40 years. When they arrested me, I lost my house. Now I have nothing. I have to go to the [shelter], or I live on the street. I had a house and my own life” (Mahir, DCR, July 2017).

As Mahir describes, many of the participants in this research who did not have close family connections in the Netherlands were likewise forced to live on the street, seek out an emergency shelter, or stay with friends upon their release. During the course of fieldwork, they often phoned me desperate for information about available shelter space or other possibilities. As other commentators have similarly observed, immigration detention centres offer no post-release strategies for detainees (Klein & Williams, 2012). They may not even be warned of their imminent release so as to make appropriate arrangements. On one occasion during fieldwork the detention centre phoned to tell me that they were releasing a detainee in the afternoon, but that he had nowhere to stay. They were requesting information on housing or support organizations that would potentially be able to take him in. It is worth pointing out that such concern is a rarity. In most cases detainees were simply left onto the street. In this respect, many irregular migrants who had employment and housing prior to arriving to the detention centre were often released from detention months later with nothing.

In general, participants with spouses, partners, or other strong family connections in the Netherlands were often less likely to be affected by the challenges just described. However, even among this group, participants were not entirely immune from the disassembling effects of repeated detention. In particular, a number of participants described the challenges repeated detention presented in terms of maintaining functional relationships with their partners, relatives, and children. As Anwar explained:

“I was married to my ex-wife for 12 years. We have a child who is 14-years-old now. But it is very difficult, you know? To keep a marriage going when you are always stuck in detention. One moment you’re there, and the next you’re gone again. It’s impossible” (Anwar, DCR, July 2017).
In this respect, it is also worth emphasizing that while the fear of arrest and the general sense of instability was described as a constant feature of life in illegality, the actual experience of repeated detention—particularly for those participants with well-established family and community connections in the Netherlands—was often described as frustratingly episodic. As Anwar went on to explain:

“When I am out of detention, I have children and a new girlfriend. The neighbors know me. I have friends, and we have meals together outside. I just try to have a normal life. Only when I come here again, then I no longer have a normal life. Then I have this” (Anwar, DCR, July 2017).

This sentiment was similarly expressed by Wassim, one of the younger participants who tried to explain to me that apart from detention he was in fact able to live a relatively normal twenty-something life in Rotterdam: he worked, he went out with friends, he had a Dutch girlfriend. To repeat his words: ‘I have my own things and my own life. I don’t live on the street or anything. I take care of myself’.

It is worth emphasizing that, while I have attempted to delineate some of the core themes that emerged in the various accounts presented, participant’s descriptions of the impact of repeated detention were far from monolithic. Some participants emphasized repeated detention as part of a fluid or constant experience of precarity, while others emphasized its deeply episodic nature. Such emphasis does not mean that both of these experiences are necessarily mutually exclusive. In fact, it is likely that they often coexist at once. In any case, it is clear that the effects of repeated detention reach well beyond the walls of the detention centre itself, and linger long after confinement’s legal limit. As other scholars have similarly observed, “for so-called illegal migrants, even if detention is made definite by law, social practices of control underpinning detention are quite indefinite” (Bigo, 2007, p. 20; Rajaram & Grundy-Warr, 2007). The issue of repeated detention serves as a particularly notable illustration of this indefinite nature, not only of social practices of control in general, but of the administrative detention-deportation regime in particular.

6.4. Conclusion

In an effort to provide a more complete understanding of the experience and impact of repeated detention for irregular migrants, this chapter has attempted to understand the dynamics of both everyday life in detention and ‘detention’ in everyday life. In the first place, then, although immigration detention has long engendered much theoretical discussion among criminologists, there have in fact been relatively few empirical studies examining what detention is actually like (Bosworth, 2014). In this respect, this chapter has attempted to peer behind the wall of the detention centre, to gain a more complex and holistic understanding of its inner world. What ultimately emerges
is an uneasy tension between, on the one hand, the kind of overt symbolic and instrumental punitiveness that has attracted so much criminological interest in immigration detention, and on the other hand, a comparatively more mundane—although no less impactful—form of temporal punitiveness. This discussion of temporal punitiveness provides a valuable introduction to the analysis of a broader ‘temporal topography’ of contemporary borderscapes, which will be expanded on in more detail in the following chapter.

In relation to understanding the experiences and impact of repeated detention in terms of the participants’ lives outside of the detention centre walls, a number of points may be made. First, although this chapter earlier introduced the notion of ‘deportability in everyday life’ as described by De Genova (2002), in fact for many of the irregular migrants impacted by repeated detention the most immediate fear was often not deportation (although it certainly remains a serious, however unlikely, possibility), but rather detention itself: the fear that at any moment one might once again be pulled away from their life—their home, work, family and friends—to spend whatever uncertain amount of time behind the walls of a detention centre, and to have to re-connect and re-assemble their lives when they are once again inevitably released. This experience might therefore indeed be more aptly characterized as undeportability or ‘detention’ in everyday life.

Ultimately, by examining the problem of repeated detention, this research was able to effectively bring both of these accounts into dialogue, exploring how they may be understood together as a part of a broader and more holistic narrative of migrant illegality. In view of these accounts, the following chapter will now explore how these irregular migrants in turn respond to and contest processes of arrest, detention, and deportation.
Contested Borderscapes

All the world’s a stage,
and all the men and women merely players.
They have their Exits and their Entrances.
And one man in his time plays many parts.

William Shakespeare

7.1. Confronting the Detention-Deportation System

The problem of repeated detention provides a powerful lens through which to examine the contested nature of contemporary Dutch borderscapes. While the previous chapter examined the experiences and impact of repeated detention on the lives of irregular migrants, the purpose of this chapter is to explore how these irregular migrants in turn confront, respond to, challenge, and resist processes of arrest, detention, and deportation. It is generally observed by commentators that the reason repeated detention persists as a problem in the Netherlands is two-fold: (1) the migrants do not possess the requisite identification documents or refuse to cooperate with return procedures; and (2) the countries of origin are unwilling to cooperate with forced repatriation (Leerkes & Broeders, 2010; Kox, 2011; van Alphen, et al., 2013). However, few empirical studies have examined more closely precisely how these two dynamics operate in practice. This chapter aims to respond to this gap by examining the complex associative processes and moments of contestation that occur between various different institutional and non-institutional actors throughout the detention-deportation process. These dynamics will help to provide a closer understanding of the failures of this system in carrying out its formal institutional function to remove unwanted irregular migrants.

This chapter focuses in particular on the strategies adopted by irregular migrants and their support networks to challenge, undermine, and resist state detention-deportation efforts. In building my analysis, I draw on a number of scholarly accounts that have likewise identified the complex and diverse ways in which irregular migrants exercise agency and resistance in the face of detention and deportation (Campesi, 2015; Ellermann, 2009; Kubal, 2014; Engbersen & Broeders, 2009). For instance, Ellermann (2009), in his examination of immigration enforcement practices in Germany, draws on what James Scott (1985) memorably termed the ‘weapons of the weak’, referring to everyday acts of resistance in the form of “passive noncompliance, sabotage, subtle evasion, and deception” (Scott, 1985, p. 31). Similarly in this chapter, I identify the various ways in which irregular migrants and their support networks engage in such tactics in an effort to circumvent or undermine the detention-deportation process. On the other hand, however, I also observe various situations in which state institutional actors are individually agentive in their interactions with
irregular migrants and in their efforts to facilitate deportation. I draw in particular on recent scholarly accounts that have focused on the role of individual discretion and agency of immigration enforcement actors within the migration control landscape (Alpes & Spire, 2014; Brouwer, et al., 2017; Cheliotis, 2006, van der Woude & van der Leun, 2017). By bringing these two accounts into dialogue, the findings reveal that, in contrast to the image of a rational-mechanical and impervious ‘iron cage’ of punitiveness that has dominated much criminological theory on immigration detention, the detention-deportation field in the Netherlands in fact reflects a deeply contested borderscape; one that is often highly ambiguous, irrational, and at times overtly arbitrary and detached of its formal legal and institutional function.

To help organize the analysis presented in this chapter, I examine the key points of contestation and interaction between institutional actors (law enforcement and immigration officials) and non-institutional actors (irregular migrants, support workers, and lawyers) at three distinct ‘stages’ of the irregular migrant’s trajectory through the detention-deportation system; namely, (1) arrest and onset of detention; (2) removal procedures; and (3) judicial review and release. What emerges is a more complete understanding of the complex processes that underlie the problem of repeated detention and undeportability.

7.2. To Detain or Not to Detain: Street-Level Discretion in Detention Decisions

This section first examines the associative processes and moments of contestation that take place at the street-level during the process of arrest and application of administrative detention. A growing number of criminologists and migration scholars have in recent years emphasized the central role that individual discretion and agency exercised by street-level immigration officers plays in enforcement and policy implementation (Brouwer, et al., 2017; Cheliotis, 2006; Mutsaers, 2014; van der Woude & van der Leun, 2017). This scholarship derives heavily from Lipsky’s (1980) much-cited work on ‘street-level bureaucracy’, which has highlighted the ways in which the upper-level policy aims of governmental and political actors are heavily mediated through the everyday and ordinary decision-making practices of bureaucrats at the street-level. Such street-level discretion is likewise essential to understanding the administrative detention context in the Netherlands. As was earlier indicated in Chapter 2, in 2013 the Dutch Advisory Committee on Migration Affairs attributed the significant decline in immigration detention rates in recent years in part to an attitudinal shift among immigration officers at the street-level, which generally reflected a greater reluctance to detain (ACVZ, 2013, p. 45). The report refers in particular to the role of ‘assistant public prosecutors’ [hulppofficiers van Justitie, or HOvJ] of the police, who are the institutional actors primarily responsible for determining whether or not an irregular migrant who is arrested should be detained.

This observation from the ACVZ report in fact closely aligns with my own findings obtained during the course of fieldwork. Many of the migrant participants indicated that even though they were
arrested by police quite regularly, their arrest often did not result in detention. They identified that such detention decisions were indeed largely dependent on the decision-making and attitude of individual officers at the street-level. As Jamal describes:

“I get stopped all the time. I have probably been stopped by the police more than 20 times. Before they held me here the last time, I was arrested a week earlier and they let me go. Then a week later, they all of a sudden did take me...sometimes you have a good police officer, and he will just say ‘go home’, but then sometimes you will get one who will take you” (Jamal, DCR, August 2017).

Throughout the process of fieldwork many of participants shared similar experiences. In order to further gain handle on this dynamic, I interviewed an expert informant who worked as a researcher for a prominent Dutch NGO. This particular informant had specifically investigated the processes of detention decisions among Dutch immigration police, and was able to shed some more light on the underlying decision-making processes of police actors at the street-level. In particular, he identified that when the HOvJ of the immigration police hold an irregular migrant in custody, they must engage in a six-hour process of drafting a legal motivation (or detention warrant), outlining the specific reasons and legal justifications for detention. He highlights how this task importantly shapes decision-making processes of officers.

“The HOvJ can themselves make the decision. So you have to imagine: you’re a migrant, I am an officer, and I hear your story. Then I have to make a couple of considerations. I can now work six hours and draft a motivation and everything. Or I can just say, ‘you know what, you get a warning, keep quiet, that’s it, goodbye’. That can happen. So the character, the humanity, the feeling of the officer has a really important influence” (expert informant, Den Haag, July 2017)

This observation closely reflects broader scholarship on discretionary power within the penal system. As Cheliotis (2006) describes, “more often than not, street-level bureaucrats work…in situations that require flexible, on-the-spot decisions of human dimensions… [they] are given broad leeway to decide who to stop, who to search, who to search intrusively and who to arrest” (p. 323)—or in this case, who to detain.

However, these dynamics are also particularly important in terms of understanding the strategies and tactics adopted by irregular migrants and their support networks to circumvent or challenge detention-deportation efforts. In particular, the importance of the individual decision-making of officers at the street level was observed not just among irregular migrants themselves, but also among the migrant support workers who were interviewed. Indeed, in response to the individual discretionary power of HOvJ officers, a common strategy among many Dutch migrant support organizations was to provide their clients each with an individual ‘card’ that essentially functioned as an informal piece of
identification. These cards contained the telephone number of the organization, the client’s name, and sometimes even a printed photo of the client. As one of the informants explained:

“We give our clients a little pass. It looks very legitimate. It even has the logo of the city on it. Of course it’s not really an identification document at all—it’s not official. But it’s something. And at least the police have someone to phone, and then we can try to make an argument so that they are released. It really makes a difference that we can make arguments for them” (migrant support worker, Utrecht, July 2017)

All of the migrant support organizations interviewed for this research indicated that they had some similar form of informal identification document so that they could operate as a kind of intermediary—often alongside the client’s lawyer—to prevent their client from being placed in detention. Another civil society participant further elaborated on how this tactic operated in practice:

“We just had a case where the police called and said that they were holding one of our clients, and that he had a card from us. We were on the phone with [the officer] trying to explain that he was known to us and that he was in procedure...His lawyer told [the officer] that it would be impossible to deport him anyway. When [the officer] phoned I could hear in his voice that he was thinking ‘oh god, I really don’t feel like dealing with this’. It was by pure chance I think that he was released. I think it’s totally random” (migrant support worker, Amsterdam, July 2017).

These observations illustrate a degree of reluctance among individual police officers in entering into the task of formalizing and carrying out the detention of an irregular migrant, particularly if it is unlikely that detention would actually be successful in facilitating removal. In this respect, one of the expert informants again further elaborated on the reasons that officers at the street-level may be reluctant to detain, emphasizing in particular the contrasting organizational aims of the police and the DT&V—the agency principally responsible for carrying out deportation:

“There used to be a sort of ‘quota’, also for the police. But that doesn’t exist anymore...The police have no interest in detention. That is the big difference between the police and the DT&V. The DT&V does have an interest. They have to score points on deportation, but not the police...This is one of the smallest problems for the police that exists. They are concerned with, I don’t know—murder, rape, violence, you know?...For the police, it is totally not a priority” (NGO researcher, Den Haag, July 2017).

There are two interesting dynamics at play in relation to this observation. First, the informant emphasized that HOvJ officers are also busy with a variety of regular policing tasks related to issues of crime and public safety, which are often considered far more pressing than detaining migrants. Indeed, the task of entering into a six-hour process of drafting a detention warrant for an irregular migrant who was in all likelihood going to be released anyway was regarded as a frustratingly tedious
However, a second dynamic at play is the divergent organizational goals of two of the main institutional actors within the Dutch detention-deportation system. Whereas police are indeed primarily busy with concerns surrounding crime and public safety, the core incentive of the DT&V is to carry out deportation. This latter dynamic will be discussed in more detail in following sections, as it re-emerges at the later stages of a migrant’s trajectory through the detention-deportation system. For now, these findings already begin to illustrate how individual moments of discretion, contestation, and agency at the early stages of arrest importantly impact migrant experiences of repeated detention. In particular, this section has provided some insights into the simple but inventive strategies adopted by irregular migrants and their support networks to respond to the discretionary power of immigration enforcement actors at the street-level, and thereby avoid being detained. Furthermore, these findings illustrate how state efforts to deport unwanted irregular migrants are mediated by the everyday decision-making powers exercised by these individual enforcement actors. The following section moves on to explore how these dynamics operate after the migrant has been detained, within the much more complicated and shady world of ‘return procedures’.

7.3. Understanding the Challenges and Complexities of ‘Return Procedures’

Once a migrant has been admitted into detention, Dutch immigration enforcement actors immediately begin the process of attempting to facilitate their removal from the country. This section attempts to trace the various challenges and complex processes that disrupt state efforts throughout the course of these so-called ‘return procedures’. During these procedures, the primary institutional actor responsible for facilitating the removal of unwanted irregular migrants in the Netherlands is the DT&V. When a migrant enters into detention, their case is immediately taken up by a departure supervisor [regievoerder] of the DT&V, who arranges monthly departure meetings [vertrekgesprekken] with the migrant in question to attempt to encourage them to voluntarily cooperate with their return. Other intergovernmental organizations such as the International Organization for Migration (IOM) may also play a role in providing irregular migrants with information and resources to assist in the process of voluntary return. If the migrant is unwilling to return voluntarily, the DT&V will also attempt to coordinate with the authorities of prospective ‘return countries’ to facilitate forced repatriation. In this respect, the remainder of this chapter builds on the previous section by examining the key moments of interaction and contestation between detained irregular migrants and immigration enforcement actors—including most notably the DT&V—during the course of return procedures. However, it also introduces an added layer of complexity by examining the role of inter-state and diplomatic processes that underlie repatriation efforts. In relation to both of these dynamics, the analysis that follows is divided into three areas of discussion; namely, (1) the role of the legal notion
of ‘prospect of removal’ as a fundamental dynamic on which state removal efforts are hinged; (2) the role of migrant non-cooperation within return procedures, which has in recent years engendered a significant degree of attention among Dutch governmental agencies and institutional researchers; and (3) the various procedural and structural challenges that underlie repeated detention. Taken together, each of these areas of discussion builds to a more complete understanding of the various complexities and moments of contestation that underlie repeated detention, particularly as they relate to state removal efforts.

7.3.1. False Promises: Repeated Detention and the ‘Prospect of Removal’

When it appears that a reasonable prospect of removal no longer exists for legal or other considerations…detention ceases to be justified and the person concerned shall be released immediately.

EU Returns Directive, Chapter VI, Article 15(4)

The notion of ‘prospect of removal’ (in Dutch, referred to as ‘zicht op uitzetting’, or ‘view to expulsion’) in many ways serves as the legal yardstick under which administrative immigration detention operates in the Netherlands. Briefly, under EU law as set out in the Returns Directive (as earlier detailed in Chapter 2), the Netherlands is not permitted to detain an irregular migrant unless there exists a ‘reasonable prospect’ that the person in question will in fact be successfully deported. If there is any indication that the prospect of removal no longer exists, the migrant must be immediately released. In this respect, the notion of prospect of removal serves a central role in shaping how various actors within the Dutch detention-deportation field respond to the problem of repeated detention, and the confrontations and interactions between actors on both sides of the enforcement aisle. This section details how there exists significant ambiguity surrounding the ‘prospect of removal’, and how the problem of repeated detention is often hinged on false promises concerning this key legal notion.

One level on which the notion of ‘prospect of removal’ operates is that of diplomatic processes between the Dutch government and the authorities of countries of return, particularly in relation to the willingness of these countries to cooperate with ‘forced return’ [gedwongen terugkeer]. Facilitating such forced return often requires that the irregular migrant have a meeting at the embassy of the prospective country of return and be issued a laissez-passer (LP)(Broeders, 2010). However, many states are unwilling to cooperate with removal procedures, particularly if there exists uncertainty surrounding the individual’s identity. In this respect, it was found during the course of fieldwork that during removal procedures Dutch authorities often bring detainees to a number of different embassies in the hopes that one of these embassies will be willing to recognize them as a national. Several of the participants in this research likewise indicated that they had been presented at various different embassies during their many periods in detention. One particular participant had been presented at the embassies of five different West African countries, but had never received an LP. This practice has
been identified by some commentators as ‘embassy shopping’ or ‘embassy tourism’ (Broeders, 2010; Ellermann, 2008; van Kalnfhout, et al., 2004). In combination with the ‘prospect of removal’, these practices in the first place highlight the dependency of the Dutch government on inter-state cooperation and diplomacy in carrying out removal procedures, particularly in relation to issuing necessary travel documents and ensuring that deportees are granted entry upon return. This was perhaps most overtly illustrated in 2014 when, as a result of a diplomatic dispute between Morocco and the Netherlands surrounding social security payments to Moroccan families, the Moroccan authorities refused to grant LPs to any irregular migrants in the Netherlands. As a result, there was—legally speaking—no longer any prospect of removal. Eventually, all of the detentions for irregular migrants from Morocco during that period were found to be unlawful, and they were all immediately released from detention and awarded compensation—including a number of the participants involved in this research. Other scholars have examined this dynamic more closely in terms of what may be described as ‘the limits of unilateral migration control’ (Ellermann, 2008; Broeders, 2010). Although an in-depth analysis of this topic extends beyond the scope of this thesis, the following accounts illustrate how an awareness of such processes among institutional and non-institutional actors deeply informs the way in which repeated detention emerges.

In the first place, then, the majority of the participants shared that it was well-known among detainees that certain authorities simply refused to issue LPs to irregular migrants. As one participant explained: “Everybody inside detention knows that Morocco doesn’t give out LPs. Everyone is just in here waiting until they’re free” (Zaahir, DCR, June 2017). Similar observations were made about Algeria and Suriname. In this respect, a number of participants believed that immigration officials were not being honest during judicial review processes about the prospect of removal and the non-cooperation of prospective countries of return. As Simon describes:

“They just lie to the judge—the DT&V and the IND. When they meet with me they tell me that they will not be able to get travel documents for me and that I will just keep on being detained if I don’t leave the Netherlands, but then in court they say to the judge that they will be able to return me and that there is a so-called ‘view to expulsion’. That is just a lie” (Simon, DCR, July 2017).

I brought this observation to the attention of one of the immigration detention lawyers interviewed, and she agreed that this was a common experience among her clients: “Yes, that true. That’s exactly right”. She pointed out that in her experience this had in fact been exposed as a more widespread problem within Dutch detention and deportation practices, referencing in particular the earlier-mentioned diplomatic dispute between Morocco and the Netherlands:

“Look, with Morocco, we were intensely busy with them for months after the Netherlands cancelled the social security treaty with them [in 2014]. That was a period that we suspected that something was going on, because in the press it came out that the Moroccan
authorities were very angry. And we also saw that our Moroccan clients were no longer being presented [at the embassy], let alone receiving an LP. So we kept telling the court ‘this isn’t right, no LPs are being given out, what’s going on?’. Finally we went to the court with two cases, and the legal representative during the proceedings finally confirmed that Morocco officially stopped giving out any LPs...So during all those months the state secretary knew that, and with a straight face just consistently lied in the court...After that we realized, okay, this is how it is in practice” (detention lawyer, Amsterdam, August 2017).

As the informant describes, an irregular migrant’s continued detention is in practice often hinged on false or disingenuous claims regarding the ‘prospect of removal’. In particular, Dutch authorities maintain that currently none of the embassies of the countries of return have formally indicated that they will no longer issue LPs, and as such there always remains in principle a prospect of removal—no matter how distant that prospect may be. From the perspective of Dutch authorities, it was not technically impossible to carry of removal in these cases. However, this was common point of contention between Dutch enforcement actors on the one hand, and lawyers and civil society informants on the other. In particular, a number of informants highlighted that the official handbook on the Returns Directive issued to national authorities by the European Commission in 2017 explicitly distinguishes between the notion of ‘reasonable prospect’ and ‘impossibility to enforce’. Most notably, the Handbook emphasizes that reasonable prospect refers to a certain degree of ‘likeliness only’ and not impossibility, emphasizing that a migrant should not be detained “if it appears unlikely from the beginning that the person concerned will be admitted to a third country within the maximum detention period” (European Commission, 2017, p. 72).

However, Dutch immigration enforcement actors—most notably the DT&V—were found to adopt a decidedly different interpretation, which importantly shaped the attitudes and responses of these actors in relation to their interactions with irregular migrants, often in diverging or even competing ways. As one of the expert informants observed:

“For a HOvJ it’s really simple. The officer will go into discussion with the DT&V about ‘view to expulsion’...and if he is a bit critical, he asks them ‘how often are they actually being returned? One out of the eighty? Okay, bye, I’m not going to go along with that. I’ll let him go. Good luck’...But the DT&V has to deport. So they will try everything. Doesn’t matter how or what, even if it is one out of a thousand, they will try it” (expert informant, Den Haag, July 2017).

This observation highlights how the DT&V, an agency with the exclusive institutional task of facilitating the removal of unwanted irregular migrants, adopts an interpretation of the notion of ‘prospect of removal’ that aligns with their narrow organizational interest to deport. Indeed, deportation is essential to their organizational relevance. In this respect, in an effort to find out the
precise number of detained irregular migrants returned to the ‘countries of origin’ represented in my research sample, I submitted a Freedom of Information (FOI) request to the DT&V to obtain data on the total number of irregular migrants deported from administrative detention by country of return in 2015 and 2016. In the response letter that was finally received, it was indicated that in 2016 a total of 33 irregular migrants were returned to Morocco, out of approximately 295 Moroccans detained (see DJI, 2017). Additionally, it was indicated that 20 irregular migrants were returned to Suriname, out of approximately 60 detained (see DJI, 2017). Algeria and none of the other countries represented in the research sample appeared in the figures (see Table 3). Interestingly, by an overwhelming margin the most prominent country of return for detained irregular migrants in 2015 and 2016 was Albania—a European Commission candidate country that has closely coordinated with EU Member States over the past decade to negotiate so-called ‘readmission agreements’ (Mackenzie, 2006). Since 2016, the Netherlands and Albania in particular have developed lucrative channels of cooperation in the area of ‘forced return’, most recently allowing the Dutch government to carry out mass deportations of Albanian nationals on specially chartered flights to Tirana (see Government of the Netherlands, 2018)—again highlighting the essential role that interstate cooperation can play in return procedures.

Table 3. Total number of detained irregular migrants removed from the Netherlands by country of return (top 10) in 2015 and 2016.

<table>
<thead>
<tr>
<th>Country</th>
<th>2015</th>
<th>%</th>
<th>Country</th>
<th>2016</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>167</td>
<td>22.5</td>
<td>Albania</td>
<td>382</td>
<td>41.8</td>
</tr>
<tr>
<td>Armenia</td>
<td>51</td>
<td>6.9</td>
<td>Afghanistan</td>
<td>36</td>
<td>3.9</td>
</tr>
<tr>
<td>Nigeria</td>
<td>45</td>
<td>6.1</td>
<td>Morocco</td>
<td>33</td>
<td>3.6</td>
</tr>
<tr>
<td>Poland</td>
<td>33</td>
<td>4.4</td>
<td>Nigeria</td>
<td>33</td>
<td>3.6</td>
</tr>
<tr>
<td>Ukraine</td>
<td>32</td>
<td>4.3</td>
<td>Georgia</td>
<td>30</td>
<td>3.3</td>
</tr>
<tr>
<td>Turkey</td>
<td>32</td>
<td>4.3</td>
<td>Armenia</td>
<td>29</td>
<td>3.2</td>
</tr>
<tr>
<td>Serbia</td>
<td>28</td>
<td>3.8</td>
<td>Turkey</td>
<td>25</td>
<td>2.7</td>
</tr>
<tr>
<td>Morocco</td>
<td>26</td>
<td>3.5</td>
<td>Poland</td>
<td>20</td>
<td>2.2</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>23</td>
<td>3.1</td>
<td>Suriname</td>
<td>20</td>
<td>2.2</td>
</tr>
<tr>
<td>Pakistan</td>
<td>17</td>
<td>2.3</td>
<td>Serbia</td>
<td>16</td>
<td>1.8</td>
</tr>
</tbody>
</table>

Note. The data presented in Table 3 was obtained by way of a freedom of information request submitted to the DT&V. A full copy of the response letter from the DT&V is provided in Appendix D (in Dutch).

Unfortunately, the data finally received from the DT&V did not distinguish between forced and voluntary returns. In this respect, while little is known about the specific circumstances under which these removals were carried out, when I brought these figures to the attention of the immigration lawyers who were interviewed it was emphasized that in their experience such removals to countries such as Morocco, Algeria, and Suriname were carried out exclusively in situations of voluntary
return. It is therefore important to more closely examine this distinction between forced and voluntary return, exploring in particular the perceived role of migrant cooperation (or non-cooperation) in relation to state efforts to carry out removal.

7.3.2. ‘If they would just cooperate, this wouldn’t be a problem’

In recent years, the Dutch government and other intergovernmental organizations such as the IOM have invested in numerous studies and reports that have attempted to understand how irregular migrants in detention might be ‘stimulated’ to cooperate with state removal efforts (see Kox, 2011; Klaver, et al., 2015; Leerkes, 2016; van Alphen, et al., 2013). In this respect, the complex challenges surrounding state removal efforts have been commonly reduced to generic assumptions surrounding the role of migrant cooperation, particularly among Dutch institutional actors responsible for carrying out deportation. However, this section begins to interrogate these assumptions by more closely examining both the individual and structural challenges surrounding migrant cooperation and non-cooperation, and how they may be seen to shape the dynamics of removal procedures specifically in cases of repeated detention.

In the first place, then, the DT&V officials interviewed in this research strongly insisted that irregular migrants themselves choose to be in a situation of repeated detention due to their unwillingness to cooperate with removal procedures. The departure supervisor interviewed for this research expressed her frustration and bewilderment that irregular migrants who are repeatedly detained simply persisted in their refusal to cooperate: “if they would just choose to cooperate, this would not be a problem” (Departure Supervisor, DT&V, October 2017). The respondents from the DT&V repeatedly referred to the ‘departure obligation’ [vertrekpligt] of the irregular migrant, requiring them to do everything they can to cooperate with state removal procedures, including making every attempt to collect all relevant documents, requesting an LP from their country of origin, and indicating to the embassy that they in fact want to return. It was therefore argued by DT&V officials that the ‘prospect of removal’ in principle always exists, dependent only on the willingness of the irregular migrants themselves to cooperate:

“The migrant has a return obligation, and that is stated in your return decision, or in your decision from the IND. That from now on your are illegal, and that you then have to cooperate with your return. And that is also then your ‘view to expulsion’, because you are expected to do that. To start collecting your documents, and cooperate with return” (Senior Advisor, DT&V, October 2017).

It was further insisted that every irregular migrant detained could be successfully deported if only they made a ‘real effort’ to comply with their departure obligations. For those irregular migrants who were still unsuccessful despite their efforts, there existed a special legal status referred to as
buitenschuld, or ‘beyond blame’—which is granted to only a miniscule number of irregular migrants in the Netherlands (Kalir, 2017).

In reality, however, the situation was found to be rather more complex. In the first place, neither the immigration officials or lawyers interviewed were able to identify a precise or minimum set of activities or criteria necessary for a migrant’s cooperation to be considered sufficient. In general, there appeared to be significantly diverging attitudes among immigration officials, lawyers and the migrants themselves around what ‘cooperation’ precisely entailed. In particular, a number of migrant participants expressed confusion as to why they should be expected to cooperate with their own deportation at all, and what exactly immigration officials expected them to be doing during their time in detention: “The DT&V comes here every four weeks. We sit down and they ask me ‘do you have something for me?’ I say ‘no, do you have something for me? You are the one keeping me here’” (Omar, DCR, July 2017). Other commentators have likewise observed how the precise nature and role of ‘cooperation’ has in this way remained a significant point of contention between irregular migrants and Dutch authorities (Kalir, 2017). It was generally clear among the DT&V and immigration lawyers that cooperation meant more than simply signing and submitting a request form to receive an LP from the prospective country of return. It also included, for instance, collecting all of the necessary identification documents from one’s country of origin. However, as one of the immigration lawyers identified, some states will simply refuse to cooperate with forced departure altogether, even if the identity and country of origin of the migrant in question is known with absolute certainty:

“At the moment that a person indicates that they don’t want to cooperate, no LP is given. So we have clients that just say at the embassy ‘I don’t want to go back’, but they have identity documents, everything. There is not a single doubt about the identity or nationality of this person…and yet, we have a number of cases of Moroccan clients where, after six months, a meeting at the embassy hasn’t even been planned yet” (immigration lawyer, Amsterdam, August 2017)

In view of this observation, it was evident that if a detained migrant (1) submits a formal request to the embassy of a return country to receive an LP, and (2) possesses all of their necessary identification documents, from the perspective of Dutch authorities this still does not qualify as ‘cooperation’. In this respect, what in fact lies at the heart of this process is the paradoxical expectation that migrants not only cooperate with their own deportation, but also pretend that they are doing so voluntarily. Indeed, many states will not cooperate with removal procedures if there exists any indication of non-voluntariness. As one of the informants therefore effectively explained:

“The government actually wants you to lie at the embassy…they say that, even if you don’t want to, you have to tell them ‘I want to go back’. The government says that that can be expected of someone, and actually required of them. So it sounds strange, but as a migrant you are actually obligated to voluntarily return” (expert informant, Den Haag, July 2017).
However, there also remains a significant degree of uncertainty around the nature of interactions between irregular migrants and embassy authorities. Most notably, it was identified that meetings at the embassy are often conducted in a language not understood by Dutch immigration officials present, and it is therefore difficult to know if the migrant might be indicating, even passively, that they are in fact being forced to return involuntarily. One of the migrant support workers who commonly dealt with cases involving statelessness similarly identified such ambiguities, pointing in particular to the summary reports of embassy meetings:

“Sometimes the DT&V official will basically just write an empty report that will only say that the interview at the embassy was in a different language, and that they couldn’t understand what was being said. You read that sometimes right in the report” (migrant support worker, Amsterdam, July 2017).

A number of migrant participants further identified that there were often inconsistencies between what Dutch immigration officials told them and what they were told by the embassy authorities. As one participant identified: “The DT&V just came by and they told me they are going to try with Algeria to send me back. But I talked to the person at the embassy. He told me, ‘don’t worry, you can sleep calmly’” (Mahir, DCR, July 2017).

These accounts in the first place expose the significant limitations of (unilateral) state removal efforts. Particularly in cases where prospective countries of return are unwilling to cooperate with forced repatriation, it was found that a simple or even passive indication of non-voluntariness on the part of the irregular migrant can play a significant role in disrupting the deportation process. In these cases, the Dutch state not only demands that irregular migrants cooperate with removal procedures, but in fact depends on them to do so in order to be successful. However, there remains a significant degree of ambiguity and contention surrounding the precise threshold of ‘cooperation’ that must be met. In this respect, due to the limitations of the state’s ability to carry out removal, irregular migrants are in fact required to pretend on behalf of the state that they are voluntarily willing to return—in other words, they are obligated to voluntarily return.

7.3.3. ‘Another Round, Another Try’

However, the reasons underlying repeated detention are more complicated than merely the migrant’s ‘cooperation’. Added to these dynamics are broader underlying structural and systemic challenges that affect return procedures. One challenge in particular that was identified by both migrant participants as well as lawyers was the generally unpredictable and long-delayed responses of prospective return countries. Several of the participants identified that it often took months to receive any word from the embassy, and many were often released before they ever did. As Ahmed explained:
“More than two months ago I signed a paper to request an LP. I gave them everything that I have. Every paper that I have. I haven’t heard anything for two and half months. The embassy just hasn’t responded. The man from the DT&V literally told me—told me to my face—that I am sitting in detention for nothing” (Ahmed, DCR, July 2017).

One of the detention lawyers likewise identified this challenge in relation to his clients, pointing out that for many detained irregular migrants ‘cooperation’ within the context of removal procedures was mostly characterized by waiting for a response they would never receive:

“With Morocco you just have to wait, and even then only if the immigration services have real papers in their dossier is there a small chance that they might issue a travel document. But they are very reluctant about it. The frustrating thing is that they take a really long time to respond and don’t say that they won’t do it. So sometimes they are sitting 8 or 9 months and you still don’t even have a response from them. Ya, and then the person gets let free, and its another round, another try. That’s how it goes” (immigration detention lawyer, Amsterdam, July 2017).

Another round, another try. This dynamic highlights a central concern that was raised by all of the detention lawyers interviewed for this research; namely, the utter lack of procedural progress across different periods in detention. Each time a migrant is released from detention as a result of unsuccessful removal procedures, they can be detained again without the presentation of new facts or circumstances indicating that the ‘prospect of removal’ has somehow changed or improved. As a result, the process simply starts over again, in a seemingly endless cycle. One of the immigration detention lawyers in particular expressed frustration on this point, arguing that the legal standards surrounding the ‘prospect for removal’ were intended to protect against precisely these sorts of situations:

“What frustrates me is that when these cases come up [in court], what is not taken into consideration is the fact that someone has, for example, already sat in immigration detention six times, over a long period, and that it has never lead to expulsion. You never see that come up, you know?...Look, just what you said, if someone has already been in detention 11 times, sorry, but what do you expect to accomplish on the 12th time!? And even then, I think that...[repeated detention] needs to be taken into consideration. That you can’t just disregard it” (immigration detention lawyer, Amsterdam, July 2017).

This observation again reveals how Dutch administrative detention practices shift away from the notion of ‘reasonable prospect of removal’ in cases of repeated detention, and take on a new role. In particular, these accounts begin to reveal how immigration detention is in practice used by Dutch authorities not purely as an administrative measure to facilitate removal, but rather as a tool to compel cooperation and to punish non-cooperation. Indeed, many of the participants in this research identified
that immigration officials would often threaten during departure meetings that if they did not cooperate with return procedures they would continue to end up in detention repeatedly: “The DT&V told me that they would detain me over and over again until I decided to leave or until they would be able to deport me” (Isaac, Amsterdam, July 2017). Such practices align with the findings of other scholars who have similarly observed the deeply contested nature of removal procedures. In particular, Campesi (2015) details how immigration detention persists as a form of punishment for non-cooperation, to ‘wear down the resistance’ that irregular migrants engage in to confront and undermine removal processes. Indeed, one of the DT&V respondents shared a similar sentiment, identifying that detention was in practice necessary not purely as an administrative mechanism for removal, but also as a necessary tool for them to exert pressure on irregular migrants to return:

“If you got rid of detention altogether for these people...then there would be no pressure, and that is—ya, I don’t know. That sounds really harsh from our side maybe. But this is our job...This is just how the system is working. This is just how the world works” (departure supervisor, DT&V, October 2017).

This observation in fact highlights a more fundamental tension that immigration enforcement actors are confronted with: on the one hand, they are required to carry out state efforts to remove unwanted irregular migrants; a task that requires a remarkable degree of coercive state power and force. On the other hand, however, they are expected to comply with what has in fact developed—at least within the European context—into a comparatively robust and rigid human rights and legal framework; one that permits the use of administrative detention only in narrowly prescribed administrative circumstances. These dynamics closely reflect what many European migration scholars have in recent years termed ‘humanitarian borders’, referring to the various ways in which contemporary bordering practices have become increasingly infused with the rhetoric of humanism (Little & Vaughan-Williams, 2016; Johansen, 2013)—what Johansen (2013) describes as the “complex and often contradictory interplay of exclusion and rights” (p, 258). Likewise, while the formal detention-deportation policies of the Dutch state are increasingly infused with legal and human rights-based rhetoric—‘proportionality’, ‘reasonableness’, ‘last resort’—the findings of this section illustrate that there in fact remains a serious disconnect between formal policy and the practices of enforcement actors. This tension is particularly amplified within an agency such as the DT&V, which maintains as its exclusive organizational purpose the task of carrying out deportation. In situations of ‘undeportability’, immigration detention in large part sheds its formal and legal administrative purpose, and may be seen to operate fundamentally as a tool used by immigration enforcement actors to deter, punish, and ‘wear down’ the resistance of irregular migrants. Likewise, the legal notion of a ‘prospect of removal’ in practice only operates as a distant calculation, reflecting the hope of Dutch authorities that at some point, after whatever unknown number of periods in detention, the irregular migrant might eventually ‘give up’. As Johansen (2013) poignantly describes, “the overall objective is
to force the unenforceable, locking these people in a situation that is so unbearable that they ‘choose’ to leave” (p. 258). However, in contrast to Johansen and other scholars who have similarly observed the punitive and deterrent effects of administrative detention (Leerkes & Broeders, 2010), the findings presented in this section do not suggest that such developments are part of some holistic logic, an ‘overall objective’, or the result of conscious and deliberate policy choice, but rather quite the opposite. As Campesi (2015) rightly argues, the persistence of immigration detention as a mechanism to pressure, punish, and provoke irregular migrants is primarily the result of strategies adopted by immigration enforcement actors in their attempts and repeated failures to carry out the removal of unwanted irregular migrants who contest and resist such removal efforts. Repeated detention is therefore the outcome of the limitations and failures of the detention-deportation system to carry out its formal institutional purpose, and fundamentally a symptom of its deeply contested nature.

7.4. ‘It’s Just a Game’: Ambivalence, Confusion & Arbitrary Detention

It was nine o’clock in the morning and Nassim and I were sitting alone in the corner of the visiting room. He had just been released a few months earlier, but was now back in detention again. During his time inside, Nassim phoned me on a regular basis—sometimes to tell me about an incident that had happened, but often just to chat about his day or about life in detention. This time, he phoned to tell me that a young detainee from Afghanistan had attempted to hang himself with his bed sheets in the cell directly across the hall. He asked if I could come and visit him. During our visit, Nassim described to me the commotion that unfolded when detention centre staff discovered the young detainee in his cell, and how it made him feel sick: ‘these young guys in here are not used to this. That is why they try to hang themselves. They can’t handle it, even just a day. But I am used to this country. I grew up with this, brother. If I spend a year without being here, then I feel like I am missing something in my life. What am I missing?’ He began to laugh, and answered: ‘being stuck in here for no reason at all’.

Fieldnotes, Detention Centre Rotterdam, July 2017.

At the centre of the dynamics of state removal efforts and repeated detention are the irregular migrants themselves. For them, the removal processes leading up to eventual release were experienced as fundamentally arbitrary and punitive. This final section of analysis focuses on how the dynamics detailed in the previous section serve to reinforce the sense of ambivalence among the irregular migrants, and to further ignite and amplify their unwillingness to cooperate with return procedures. In this respect, the everyday realities of removal processes leading up to eventual release were characterized perhaps more than anything else by a tense contest and struggle between the irregular migrants and Dutch authorities. One of the participants in particular poignantly described his interactions with the DT&V during departure meetings, and how these shaped his experiences of repeated detention:
David: They just tell me that I should go back. So I tell them, ‘well if you want that then you should arrange it. That’s your job, not mine’. But they can’t send me back, and I don’t want to go back, so I won’t go back.

Researcher: Then what do they say?

David: They tell me that I will just keep ending up in detention. And it just stays in this circle. It’s just a game. (David, DCR, July 2017).

The sentiment that the process of removal procedures and repeated detention was a ‘game’ between irregular migrants and state authorities within the detention-deportation process was almost uniformly expressed by all participants: irregular migrants, immigration officials, lawyers, and migrant support workers. Another migrant participant similarly described this dynamic to me—citing what I recognized to be a well known quote from Shakespeare, first in Arabic and then in Dutch: “‘the world is a stage, and we are all just players’: the IND plays. The judge plays. The lawyer plays. I play. You play” (Omar, DCR, July 2017). These sentiments indeed reflect the underlying sense of ambivalence that characterized migrant experiences of repeated detention, which in turn had an important impact on their attitudes towards removal procedures. As Omar went on to explain:

“They are just playing games with me. So I play games with them. I use a fake name here. When I lived in France my friend gave me his paper. I played around with it a bit, and changed the picture. I did it to find work. The IND found this other paper, and then thought it was my real name, and they think they finally have me. So they bring it to the embassy from Algeria, but the embassy tells them that it’s fake [laughs]. I think they go crazy” (Omar, DCR, July 2017)

In this respect, the sense of ambivalence that characterized migrant experiences of repeated detention was in many cases indeed shown to further ignite their willingness to engage in the kinds of everyday acts of resistance earlier described as a means to confront and undermine the detention-deportation system (Ellermann, 2009; Scott, 1985; Campesi, 2015). In particular, many of the participants described their interactions and clashes with immigration officials, referring especially to their monthly departure meetings with the DT&V.

On other hand, many participants indicated that they no longer even attended departure meetings, describing in particular the pointlessness and frustration that such meetings generated. As Hassam explained: “I don’t speak with them anymore. I have spoken with them 1000 times. I’m tired of telling my story. I don’t even go to the visits anymore when they come” (Hassam, DCR, June 2017). Another participant echoed this experience, and further elaborated:

“The last time the DT&V came I did not even want to talk to them anymore. I got a new DT&V case manager from last time. First thing she said was ‘I want to get to know you’. I
had to laugh. I told her, ‘you know everything about me. You have my file for the last 20 years. You know exactly who I am’” (Anwar, DCR, July 2017)

This account also reveals how individual enforcement actors—and the significant discretionary power they wield—can play a profound role in shaping the experiences of irregular migrants and, in many ways, the outcomes of their lives. Indeed, during my interview with Julian outside of detention he recited the full name of the DT&V departure supervisor who had worked on his case: “I will never forget her. I will never forget that name” (Julian, Utrecht, June 2017). In this respect, the accounts of removal procedures indeed reflected a tense struggle and contest between the irregular migrants and officials from the DT&V. As Anwar described:

“They ask me ‘why are you playing games with your life’. I tell them ‘no, you are playing games with my life! You just released me three months ago and now you arrested me again. For what?’ They messed up everything for me. They took everything away. I wanted a normal life. They separated me from my children. They have broken my family up” (Samuel, DCZ, May 2017).

While the problem of repeated detention may in some sense indeed be characterized as ‘a game’, it should be recognized that the power exercised by ‘the players’ remains decidedly asymmetrical. While the tools available to irregular migrants and their support networks (support workers, lawyers) to avoid and resist repeated detention and deportation are on some level certainly effective, the state’s exercise of power remains dominant, with the discretionary power of immigration enforcement actors dictating the freedom and the direction of the lives of irregular migrants in fundamental ways.

In view of these accounts, however, it is worth emphasizing that feelings of ambivalence among migrant participants often pulled strongly in two directions: on the one hand was the sense of confrontational anger and frustration just described, but on the other hand there was a sense of hopelessness and confusion.

7.4.1. Trying to Make Sense of It All

Participant experiences of hopelessness and confusion were commonly connected to the legal and procedural complexities surrounding their detention. In this respect, repeated detention in particular was found to dramatically amplify these sentiments, as the majority of the participants had already exhausted all of their formal avenues to receive asylum or other residency status. Several participants indicated that they in fact had no idea what their lawyers were even up to. As Basim explained when I asked him what his lawyer was currently busy with: “I don’t know. He comes here sometimes to talk to me. I don’t know what he’s doing. They all know how everything works—the IND, DT&V, lawyers. I just have to sit here and wait” (Basim, DCR, July 2017). Although there was significant divergences between participants in terms of their relationships with their lawyers, in
general the participants found the legal situations surrounding their detention to be overly complex, and were often unaware of their legal rights and possibilities for release or potential residence. While lawyers commonly insisted that there was no reason that anyone should not be detained for longer than six months in cases of repeated detention, detention periods regularly extended well beyond six months for many of the participants. Throughout the course of fieldwork there was often discrepancy between what the lawyers said was (legally) possible (or not possible), and the reality for the irregular migrants in detention. When I interviewed David, he had already been in detention for nine months. When I asked him if he had contacted his lawyer about his situation, he simply responded: “I don’t understand anything that’s happening right now. It’s all so complicated. I don’t understand any of it” (David, DCR, July 2017). Similarly, other lawyers insisted that for many long-term irregular migrants there existed various possibilities to obtain residence under domestic and European human rights law—for instance, under Article 8 of the European Convention of Human Rights pertaining to the right to private life. However, the majority of migrant participants expressed ambivalence around what they perceived to be excessively complicated legal technicalities. During my interview with Abdul—who had already lived in the Netherlands for nearly 30 years—I asked if his lawyer had ever attempted to make such efforts to pursue residency. His response:

“That is exactly the problem. I don’t understand that legal stuff. It doesn’t make any sense to me. I am almost 60 now. How long do you think I still have to live? Look at how thin I am. I will thank God if I am able to live until I am 65. Of course I’m not going back to Morocco now. Just leave me at peace for the last few years of my life. I just want to live quietly, nothing more” (Abdul, DCR, August, 2017).

In this respect, driven by a sense of confusion and hopelessness, many of the participants had long given up attempting to make sense of their complicated legal situations. Repeated detention had simply become an frustratingly arbitrary but inevitable feature of their lives, and one that they had little power to change.

7.4.2. ‘I Won’t Go Back’

In view of the contested nature of the detention-deportation system as it has been examined in this chapter, the final sentiment expressed by migrant participants affected by repeated detention reflected one of persistent refusal to cooperate with return. However, while the practices of Dutch authorities commonly reduced the complex challenges surrounding state removal efforts in cases of repeated detention to generic assumptions surrounding the role of migrant cooperation, the account of the irregular migrants who participated in this research provide a somewhat different picture. Recalling the earlier discussion surrounding the struggle for recognition and identity that in many ways shape migrant experiences of immigration detention, many of the participants in this research likewise emphasized how institutional assumptions reflected a dramatic oversimplification of the
realities of their lives and of the choices they faced. For instance, describing his meetings with his DT&V departure supervisor, Anwar explained the situation as follows:

“When she comes to meet with me she brings a pen and paper, and I talk to her, and I tell her about my children and about my family, and she doesn’t write anything down. But when I say something that can be used against me, if I say something wrong, she writes it down right away. She only writes down the bad things. She is not interested in anything else—in hearing about my life” (Anwar, DCR, July 2017).

In this respect, many of the participants stressed how immigration officials often ignored what ‘cooperation’ within this context would actually mean for their lives, and what they would in reality be ‘choosing’ to do. As David expressed: “I have lived [in the Netherlands] since I was 14. I have no contact with anyone anymore in Suriname. I’ve lived here for over 40 years. What am I supposed to do in Suriname?” (David, DCR, July 2017). Many other participants expressed similar concerns. As Abdul explained:

“How can I go back? I’ll tell you something. I lived in Amsterdam for years. But after that time that I spent almost a year in detention, when I went back to the neighbourhood where I lived, it already felt like a different place. That’s just how it felt, and that was after one year. Imagine how things have changed in Morocco after 27 years. It’s not even the same country anymore. How can they ask me to go back?” (Abdul, DCR, August 2017).

It is again worth emphasizing that the majority of the participants affected by repeated detention were long-term Dutch residents who had lived in the Netherlands for years or even decades. For those participants for whom the Netherlands had become the country where they had often spent the majority of their lives, and where they had established and held many of their closest and most meaningful relationships, ‘returning’ was not really a choice at all. As David expressed: “If they try to deport me, I will just be on the first plane back to the Netherlands” (David, DCR, July 2017). These accounts indeed challenge dominant institutional perceptions of migrant ‘non-cooperation’, which often reflect a simplistic understanding of the nature of the ‘choice’ that migrants are confronted with in the face of deportation.

However, further underlying this dynamic was a broader sense of injustice around being expected to leave, particularly for long-term Dutch residents who had lived in the Netherlands for the majority of their lives, or in some cases were even born in the Netherlands:

“Even if I could go back, I don’t want because it’s not right, you know? It’s not my home. I was born here, and I grew up here. I have a much right to stay here as anyone. It would not be right to go back” (Hassam, DCR, June 2017).

“Go back where? My life is here. I have lived here for 45 years. Those 45 years don’t disappear just like that. This is my country” (Mahir, DCR, July 2017).
The role of ‘injustice’ in relation to migrant cooperation has in fact been explored in a number of institutional studies conducted in the Netherlands to examine how deterrence policies impact migrant compliance with return procedures (Leerkes, 2016; van Alphen, et al., 2013). These studies have likewise found that a sense of ‘injustice’ among irregular played a central role in decreasing migrant willingness to cooperate with return. In this respect, the arbitrary nature of repeated detention may in particular been seen to undermine the legitimacy of administrative detention, particularly as it drifts further and further away from its formal administrative purpose to facilitate removal.

Although many of the participants in this research had made some degree of attempt to ‘cooperate’ with return procedures, none of participants involved in this research indicated that they in fact wanted to return to their ‘country of origin’. However, a number of participants who had minimal family connection in the Netherlands shared that they were considering travel to a neighboring country in EU, such as Belgium or Germany:

“I have to try somewhere else. Maybe Belgium or something. Otherwise I will just keep going in and out of detention like this... I told my lawyer that I wanted to try to leave the Netherlands. He told me to stay. To try to stay quiet and try to avoid the police” (Jamal, DCR, August 2017).

Ultimately, the accounts presented in this section highlight how repeated detention is experienced by those detained as an exceedingly arbitrary but inevitable part of life in illegalized residence. In this respect, repeated periods in detention in general did not facilitate greater willingness to cooperate with return, but rather quite the contrary: it dramatically amplified the sense ambivalence and injustice among irregular migrants, in a way that at times served only to escalate their defiance and resistance to the detention-deportation system.

7.5. Conclusion

In exploring how irregular migrants confront and contest repeated detention and deportation, the findings presented in this chapter have provided unique insights into the nature and mechanics of the detention-deportation process—an area that has been largely unexplored in existing scholarship. In the first place, then, this chapter has illustrated the important processes of power that take place at the street-level during the early stages of arrest (Brouwer, et al., 2017; Cheliotis, 2006; Mutsaers, 2014; van der Woude & van der Leun, 2017). In particular, the findings have illustrated how the formal function of administrative detention is heavily mediated (often in unpredictable ways) through the discretionary power of immigration enforcement, and the efforts of irregular migrants to circumvent that discretion and avoid the deportation process. In this respect, at times key institutional actors within the detention-deportation system were shown to have diverging, and even competing, organizational goals and practices.
Once inside the detention centre, however, things become rather more complicated. In particular, it was found that there existed significant ambiguity and uncertainty surrounding the notion of ‘prospect of removal’. Many of the participants were taken through process of ‘embassy shopping’, often without any reasonable expectation that they would actually receive travel documents or be permitted to return. It was further found that Dutch institutional actors often made disingenuous or ‘false promises’ in relation to the ‘prospect of removal’ during deportation processes. Furthermore, it was shown that irregular migrants are not only expected to cooperate with return, but to pretend to do so voluntarily on behalf of the state in order to overcome the limitations of unilateral migration control. We see then that repeatedly detained migrants are in fact often caught between competing diplomatic and bureaucratic processes of various institutional actors and of states themselves.

Ultimately, what these accounts demonstrate is that the Dutch detention-deportation field in the Netherlands indeed reflects a deeply contested borderscape. In line with the theoretical framework that has guided this thesis, the findings presented in this chapter venture far from the image of the centralized and rational-mechanical penal system popularized within the discourse on the ‘new punitiveness’. Instead, the detention-deportation system is revealed as being deeply processual, fractured, and porous in nature. In particular, the realities of removal procedures were characterized by a tense struggle between the irregular migrants and Dutch authorities. The outcome that ultimately emerges is one in which repeated detention and undeportability is characterized perhaps more than anything else by a sense of uncertainty and ambivalence. As Bosworth (2014) similarly describes in her fieldwork in IRCs in the UK, immigration detention centres “have no clear, inherent purpose or legitimacy. They are institutions defined by competing aspirations that, when we pay closer attention to them, often seem to bear little relationship with reality” (p. 85). Similarly, then, this chapter has demonstrated how processes of removal are in practice often based on vague or distant aspirations of ‘wearing down’ or pressuring the irregular migrants to cooperate with deportation, and in turn the detachment of immigration detention from its formal legal and administrative purpose to facilitate return. In this respect, the findings of this chapter suggest that, although the use of immigration detention in the Netherlands has indeed been declining in recent years, for a particular group of ‘undeportable’ irregular migrants it is being used in increasingly arbitrary ways.
8

Conclusion

8.1. Repeated Detention: An Autopsy of the Dutch Detention-Deportation System

Administrative immigration detention has for decades served as a core feature of the EU migration-control apparatus, allowing states to apprehend, detain, and (forcibly) remove unauthorized irregular migrants found to be within its national territory. However, in the Netherlands the context of administrative detention and deportation has evolved dramatically over the past ten years. New legal and regulatory frameworks have developed at both the European regional and national level, and a broad range of institutional actors have been introduced to facilitate state detention and deportation policies. However, perhaps most strikingly, during this period we have also seen the overall detention rates for irregular migrants in the Netherlands plummet. This development in particular stands in stark contrast to the assertions—and perhaps expectations—of many criminologists and migration scholars. Indeed, despite these recent developments, the overwhelming majority of existing criminological scholarship on immigration detention in the Netherlands has continued to emphasize the alleged growing use of administrative detention and the expansion of the ‘new penology’ and so-called ‘immcarceration’ (Broeders, 2010; Bowling, 2013; Cornelisse, 2016; Kalhan, 2010; Leerkes & Broeders, 2010; Van Kalmthout, et al., 2007; van der Woude, et al., 2014). In this thesis I have therefore sought to revisit this existing scholarly commentary in light to current context as it is unfolding in the Netherlands. In doing so, I have focused in particular on the issue of undeportability and repeated detention as an especially valuable analytical site from which to examine the (shifting) nature of the Dutch migration control landscape.

In contrast to the largely functionalist framework of the ‘new punitiveness’ that has in many dominated theoretical debates on immigration detention, in this thesis I have adopted an alternative framework; one that has sought to examine the deeply contested nature of the detention-deportation system through the accounts of irregular migrants impacted by repeated detention and undeportability. In this respect, situating the research within the theoretical and conceptual framework of ‘contested borderscapes’—as detailed in Chapter 3—this thesis has sought to address the primary research question: How do irregular migrants experience and contest state deportation efforts in relation to undeportability and repeated detention, and how does this shape the dynamics of the detention-deportation system in the Netherlands? In order to effectively respond to this primary research question, I have explored three basic areas of analysis that correspond with the secondary research questions identified in Chapter 4; namely, (1) who are the irregular migrants most affected by repeated detention and how do their accounts challenge dominant institutional conceptions of migrant illegality in the Netherlands (Ch. 5); (2) how do these irregular migrants experience repeated
detention and undeportability and what impact does it have on their everyday lives (Ch. 6); and (3) how do these irregular migrants in turn respond to, challenge, or resist repeated detention and deportation in light of the barriers and processual complexities that restrict state removal efforts (Ch. 7). In relation to each of these areas of analysis, the problem of repeated detention was indeed found to serve as a valuable window through which to examine the Dutch migration control system, in many ways providing an ‘autopsy’ of the broader detention-deportation system. The following subheadings provide a brief overview of the core lessons drawn from the research findings in relation to each of the three areas of analysis.

8.1.1. Identity and Belongingness in a Global Age

In Chapter 5 it was shown that Dutch institutional conceptions of repeated detention are largely dominated by narrow and essentialized representations of the ‘undeportable’ illegalized migrant. In particular, these conceptions reflect the stereotype of young, North African (or Antillean), criminal men who have self-willingly chosen to be subject to repeated detention by refusing to cooperate and ‘go back’. However, to date there exists no other empirical studies examining more closely the characteristics of individuals repeatedly detained, their experiences, and the complex and storied lives that they lead. In this respect, this chapter in the first place reflected a broader curiosity around who these individuals are. It represents the first empirical attempt to understand that question, examining in particular how the migrant men who participated in this research understood and constructed their narratives and identities in relation to their lives in the Netherlands.

What in fact emerged from the findings presented in this chapter was a remarkably diverse and complex mosaic of individuals and stories that challenge in fundamental ways the narrow and essentialized representations of the ‘undeportable’ illegalized migrant that dominates institutional conceptions on this topic. The migrants affected by repeated detention represented a wide range of age groups; they were overwhelming long-term Dutch residents, with some having been born in the Netherlands; and the majority had close family ties in the Netherlands, including spouses, partners, children, and even grandchildren. The findings highlight how institutional and socio-legal categories of migrant illegality often reflect an oversimplification of the lived realities and experiences of irregular migrants affected by repeated detention, and were in many cases found to conflict sharply with the participants’ own perception of identity and belongingness in the Netherlands. Immigration detention centres serve as sites where unwanted irregular migrants are confined, where their identity is vigorously interrogated, and where the processes of removal eventually unfold. However, as Mary Bosworth (2014) eloquently describes, there often exists a fundamental tension at the heart of border control: “identity is broader than identification. Not all strangers are unfamiliar” (p. 213). In this respect, migrant experiences of undeportability and repeated detention were in many ways characterized by the perpetual struggle for identity and recognition. The information provided in this chapter therefore served as an essential entry point for understanding how this struggle for identity
importantly feeds into the contested nature of the detention-deportation system more broadly, shaping the experiences and response strategies of irregular migrants in fundamental ways.

8.1.2. Assembling, Disassembling, and Reassembling Lives

However, in addition to these key observations surrounding the basic profiles and identities of the participants, Chapter 5 also introduced a number of important basic findings concerning the nature of repeated detention in the Netherlands, providing concrete case-studies and accounts of repeated detention that form the basis of the analysis provided in this thesis. In particular, it was found that the majority of participants had been detained on at least four occasions, with some have been detained in immigration detention up to 11 times. In this respect, Chapter 6 went on to examine the experiences and impacts of repeated detention and undeportability. In doing so, it focused on the experiences of irregular migrants both inside and outside detention, exploring how these two accounts may be understood together as part of a broader narrative of migrant illegality.

Within the detention centre walls, what emerged was not only the overt symbolic and instrumental forms of punitiveness that has attracted much criminological scholarship on immigration detention, but also a comparatively more mundane—though no less impactful—form of temporal punitiveness (Andersson, 2014; Bosworth, 2014; Johansen, 2013). For repeatedly detained irregular migrants, life inside detention was therefore characterized perhaps more than anything else by a sense of confusion, ambivalence, and arbitrariness. Beyond the detention centre walls, repeated detention also reflected a uniquely challenging experience for irregular migrants. In particular, while many observers have referred to the notion of ‘deportability in everyday life’ (De Genova, 2002; Mutaers, 2014), for many of the irregular migrants impacted by repeated detention the most immediate fear was often not deportation, but rather detention itself—an experience that I characterize as undeportability or ‘detention’ in everyday life. Taking into consideration accounts both inside and outside of the detention centre, what emerges is the harsh ‘disassembling’ effects of repeated detention. In particular, this dynamics refers to the challenges among participants of having to attempt to assemble productive and socially meaningful lives in an environment outside detention that was recognized as increasingly hostile and precarious, only to then have their efforts disassembled by yet another period in administrative detention. A process that would repeat when they were once again inevitably released, in a seemingly endless cycle.

8.1.3. The Not-So-Iron Cage of the Detention-Deportation System

In view of the experiences and impacts described in Chapter 6, the final chapter of analysis examined how irregular migrants and their support networks were in turn able confront, respond to, challenge, and resist processes of arrest, detention, and deportation. In particular, this chapter focused on key points of interaction and contestation between institutional and non-institutional actors at various stages of the irregular migrant’s trajectory through the detention-deportation system—from
arrest to eventual release. What the findings illustrate is that administrative detention and deportation practices in the Netherlands do not reflect the functionalist and instrumental ‘new punitiveness’ that has so far dominated criminological scholarship and discourse on this topic. Nor do they function as the extension of some holistic or actuarial logic of migration control. Instead, by examining the problem of repeated detention, the contemporary Dutch borderscape is primarily revealed to be a deeply porous, fractured and contested space; one that fundamentally exposes the limits of state power to successfully carry out removal. In particular, it was found that state efforts are heavily mediated by the competing aspirations and organizational aims of key institutional actors within the Dutch detention-deportation field, and by the myriad discretionary and associative processes of power that take place at the street-level. In turn, it was found that irregular migrants and their support networks were able to develop simple but inventive strategies to circumvent these processes, and avoid detention and deportation.

The findings presented in this chapter further illustrated that Dutch detention-deportation practices—particularly in relation to removal procedures—were often characterized by a high degree of ambiguity and arbitrariness, and at times found to be driven by false promises on the part of state institutional actors regarding the ‘prospect of removal’. Particularly in situations of repeated detention and ‘undeportability’, immigration detention was in practice found to shed its formal and legal administrative purpose, and was instead used by immigration enforcement actors as an arbitrary tool to wear down resistance and to pressure unwanted irregular migrants to cooperate with return. These practices in turn served to reinforce a sense of anger and ambivalence among irregular migrant participants, many of whom were not only unwilling to cooperate with state removal procedures, but also found them to be fundamentally unjust. Finally, the findings of this chapter suggest that, although the use of immigration detention in the Netherlands has indeed been declining in recent years, for a particular group of ‘undeportable’ irregular migrants it is being used in increasingly arbitrary ways.

8.2. Reflections on the (Shifting) Role of the Detention Centre

In a relatively short period of time, the detention-deportation landscape in the Netherlands has evolved dramatically. In this respect, many of the observations and findings presented in this thesis indeed represents a sharp departure from existing criminological scholarship on immigration detention in Europe, which has widely emphasized the expansion of an increasingly actuarial ‘new punitiveness’ for unauthorized irregular migrants, reflected in the alleged growing phenomenon of ‘immcarceration’ (as detailed in Chapter 3). However, certainly within the present Dutch context, the evidence seems to provide a rather different picture, particularly as a growing number of immigration detention centres close their doors. It is therefore worthwhile to reflect for a moment on what these recent developments might mean in terms of the (shifting) role of the detention centre within contemporary migration control, and how criminologists might continue to adopt new frameworks for understanding the nature of the detention-deportation system.
It should in the first place be emphasized that by no means do the developments in relation immigration detention in the Netherlands suggest that Dutch migration control has become any less hostile toward irregular migrants. However, it has become both quantitatively and qualitatively less carceral. Other criminologists and migration scholars have rightly emphasized that the so-called ‘punitive turn’ within Western liberal democracies is not only characterized by greater use of incarceration, but also by myriad other bureaucratic and technological innovations, such as advanced surveillance and monitoring instruments, digitalized welfare systems, electronic profiling, fingerprinting, and so on (Broeders, 2009; Wacquant, 2008). In view of these observations, it is again worth emphasizing that a growing body of literature has focused on the various ways in which ‘the border’ for legalized migrants no longer exists at the territorial edge of the nation state, but has rather increasingly permeated the whole of society (Rajaram & Grundy-Warr, 2007; Parker & Vaughan-Williams, 2009). These observations similarly align with the accounts of the irregular migrants who participated in this research, and who unanimously experienced and observed that everyday life outside of detention had become increasingly hostile and precarious over the years.

In light of these observations, it is indeed worthwhile to consider how the role of immigration detention might be changing in relation to these developments. For now, it is still too early to determine whether or not immigration detention might be taking a diminishing role within contemporary European migration control. Indeed, as recently as 2017 the European Commission again forcefully reaffirmed that administrative detention will continue to serve a central role within the European migration control apparatus as an ‘essential element for enhancing the effectiveness of the Union’s return system’ (European Commission, 2017, para. 16). Although the Netherlands has experienced a dramatic reduction in overall number of irregular migrants detained, it is nevertheless clear that immigration detention is here to stay. It is therefore important for criminologists to continue paying close attention to how detention and deportation practices will develop in the coming years. In view of the significant challenges that states face in relation to their (unilateral) deportation efforts as they have been detailed in this thesis, one area of development that deserves particular attention is that of increasing multilateral cooperation between migrant-receiving European states and non-EU third countries of return. Within the Dutch context, we may already begin to observe the importance and striking proficiency of such channels of cooperation in relation to deportation trends over the past two years for countries such as Albania (as detailed in Chapter 7). As other commentators have likewise identified, such developments signal the increasing ‘transnationalization’ of contemporary European migration control, allowing states to overcome the various practical, bureaucratic, and legal hurdles that currently prevent them from more effectively carrying out the systematic deportation of unwanted irregular migrants (Broaders, 2010; Ellermann, 2008). These developments therefore demand greater attention, specifically in terms of how they impact and shape the dynamics of immigration detention and deportation.
8.3. Final Thoughts

It is precisely that which must haunt our discussion of borders: the pathos of merely human acts to draw fixed and tangible territorial lines, and to expect that no one will dare to cross them.

Parker & Vaughan-Williams, et al., 2009.

As issues of global mobility and securitization continue to dominate public and political discourse within Europe, what the findings of this thesis highlight is the continued importance of the critical study of contemporary borders. In this respect, the immigration detention and deportation practices of Western liberal democracies serve as an especially important area for criminological inquiry, as they remain among the most overt and coercive forms of state efforts to manage and control irregular migration. In particular, the importance of continuing to develop empirical research to meaningfully examine and investigate these rapidly expanding developments within Europe demands that criminologists challenge their assumptions, and develop new theoretical and conceptual frameworks for understanding the rapidly evolving contemporary context of European migration control, and the (shifting) role of immigration detention therein. As such, within this thesis the problem of undeportability and repeated detention has provided a uniquely powerful lens through which to examine the contested nature of the detention-deportation system. In particular, the findings of this thesis have illustrated that, in contrast to the image of a rational-mechanical and impervious ‘iron cage’ of punitiveness that has dominated much criminological scholarship on immigration detention, the detention-deportation field in the Netherlands indeed reflects a deeply contested borderscape; one that is often highly ambiguous, irrational, and, at times, overtly arbitrary and detached of its formal legal and institutional purpose.

Of course, at the centre of these dynamics are the irregular migrants themselves. The findings of this thesis should therefore be viewed primarily through the accounts and lived experiences of the migrant men who participated in this research. For them, repeated detention represented an arbitrary and systemic ‘nowhereland’ between the competing bureaucratic processes of states, and between (un)deportability and legal residence. Their experiences were fundamentally characterized by a struggle for recognition and the ability to assemble and maintain productive and socially meaningful lives in the Netherlands. Despite these challenges, however, the men who participated in this research were able to exercise agency and power in diverse ways, exposing the associative processes of power that take place within contemporary borderscapes, daring to cross, and challenging easy assumptions about identity and belonging in a global age.
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# Appendix A

*Overview of Interview Participants, Locations & Dates*

<table>
<thead>
<tr>
<th>No.</th>
<th>Participant</th>
<th>Location</th>
<th>Date</th>
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<tr>
<td>1</td>
<td>Didier</td>
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</tr>
<tr>
<td>2</td>
<td>Zaahir</td>
<td>Rotterdam</td>
<td>06/2017</td>
</tr>
<tr>
<td>3</td>
<td>Wassim</td>
<td>Zeist</td>
<td>03/2017</td>
</tr>
<tr>
<td>4</td>
<td>Hassam</td>
<td>Rotterdam</td>
<td>06/2017</td>
</tr>
<tr>
<td>5</td>
<td>Samuel</td>
<td>Zeist</td>
<td>05/2017</td>
</tr>
<tr>
<td>6</td>
<td>Solomon</td>
<td>Rotterdam</td>
<td>06/2017</td>
</tr>
<tr>
<td>7</td>
<td>Julian</td>
<td>Utrecht</td>
<td>06/2017</td>
</tr>
<tr>
<td>8</td>
<td>Karim</td>
<td>Zeist</td>
<td>03/2017</td>
</tr>
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<td>07/2017</td>
</tr>
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<td>DT&amp;V (Senior Advisor)</td>
<td>Rotterdam</td>
<td>12/10/2017</td>
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<td>31</td>
<td>DT&amp;V (Departure Supervisor)</td>
<td>Rotterdam</td>
<td>12/10/2017</td>
</tr>
</tbody>
</table>

* For interviews involving migrant participants, no precise dates are provided in order to retain the anonymity of the participants. Visits to the detention centre are officially recorded by the detention centres themselves, and participants could potentially be identified by date of visit.

** Further details regarding the basic socio-demographic characteristics of the migrant participants are provided in Table 2 presented in Chapter 5.
Appendix B

Interview Topic List Sample – Migrant Participants

Research Topic: Undeportability and Repeated Administrative Detention in the Netherlands

Interview Date: Time:
Interview Location: Interview number:

Participant Personal information
What is your date of birth?
Where are you from?
How long have you been living in the Netherlands?
When were you detained in this detention centre?

A. Coming to the Netherlands
1. Could you first tell me a little bit about where you are from (your country of origin), and the reasons that you left to come to the Netherlands?
   - Security situation in country of origin
   - Socio-economic situation
   - Relationships in country of origin (family, friends, spouse, etc.)
   - Occupation and employment status
   - Education
   - Reasons for coming to the Netherlands specifically

B. Arrest & Detention Background
2. Could you tell me a little bit more about how you were arrested, and the reason that you are being detained?
   - Circumstances of arrest
   - Previous legal residence in the Netherlands
   - Ongoing application / appeal
   - Contact with Dutch immigration officials
   - Travel ban / declared ‘undesirable’
   - Previous immigration detention in the Netherlands (how often, year, detention centre)
   - Previous residence in another EU country
   - Previous detention in EU country
   - Embassy(s) / laissez-passer
   - Previous criminal history
C. Experiences in Detention

3. *Could you describe to me what life is like for you in this detention centre?*
   - Treatment by detention staff
   - Relationship with other detainees
   - Comparison with other detention centres
   - Safety and security concerns
   - Isolation placement (punishment or observation)
   - Contact with the outside world (friends, family, visitors, etc.)
   - Medical / mental health concerns
   - Hunger strike / food refusal
   - Undetermined length of detention
   - Racism / discrimination
   - Criminalization

D. Impact of Repeated Detention:

4. *Could you describe to me what your life was like in the Netherlands outside of detention, and discuss how repeated detention has impacted your everyday life?*
   - Relationships in the Netherlands (partner, family, friends, etc.)
   - Employment or education
   - Housing and accommodation
   - Other networks
   - Medical or mental health concerns
   - Fear of repeat arrest and detention
   - Marginalization and social exclusion

5. *How has your repeated detention impacted your outlook on the future?*
   - Future relationships
   - Future employments or education prospects
   - Wasted time and opportunities
   - Willingness to leave the Netherlands
   - Attitude towards the Netherlands and the EU
   - Uncertainty and insecurity
   - Hopelessness
   - Worthlessness

E. Attitude towards Administrative Detention:

6. *Do you think that the Dutch government has the right to detain you, and can you explain why you feel this way?*
   - Attitude towards the Netherlands and the EU
   - Criminalization
   - Human rights
   - Resistance or protest
   - Alternatives
Appendix C

Freedom of Information request re: repeated detention figures in the Netherlands – Official Response Letter from the Dutch Ministry of Safety and Justice

Ministerie van Veiligheid en Justitie

Datum 12 oktober 2017
Onderwerp uw Wob-verzoek over herhaalde detentie en straf- en ordemaatregelen binnen vreemdelingenonderdelen

Geachte mevrouw Bharatasing en de heer Timmerman,

Bij brief van 12 mei 2017 heeft u een verzoek ingediend op grond van de Wet openbaarheid van bestuur (hierna: de Wob) met betrekking tot vreemdelingenonderdelen. Bij brief van 16 juni 2017 heb ik de ontvangst ervan bevestigd en heb ik de beslissing verregaard.

Uw verzoek naskt zowel de Dienst Justitiële Inrichtingen als de Dienst Terugrekoer en Vertrouw (DT&V). Bij brief van 4 juli 2017, met kenmerk 2097251, heeft DT&V uw vragen 7 en 9 reeds beantwoord. Met deze brief wordt gereageerd op uw overige vragen.

Uw Wob verzoek

Middels 12 vragen heeft u gevraagd om informatie c.q. documenten over vreemdelingenbeweging.

Toetsingskader

Uw verzoek heb ik beoordeeld aan de hand van de Wob. Uitgangspunt van de Wob is dat er in het belang van een goede en democratische bestuursvoering, voor degene die om informatie verzoekt een recht op openbaarmaking van de informatie bestaat. Informatieverstrekking blijkt echter achterwege wanneer zich één of meer van de in de artikelen 10 en 11 van de wet genoemde uitzonderingsgronden of beperkingen voordoen.

Het recht op openbaarmaking op grond van de Wob dient het publieke belang van een goede en democratische bestuursvoering, welk belang de Wob vooronderstelt. Daarom kan ten aanzien van de openbaarheid geen onderscheid gemaakt worden naar gelang de persoon of de oogmerken van de verzoeker.

Bij de te verrichten belangenafweging worden dan ook betrokken: het algemene of publieke belang bij openbaarmaking van de gevraagde informatie en de door de wegingingsgronden te beschermen belangen, maar niet het specifieke belang van de verzoeker. Wanneer deze belangenafweging leidt tot het oordeel dat de gevraagde informatie geheel of gedeeltelijk verstrekt moet worden, betekent dit...
da: niet alleen de verzoeker maar iedereen die dat wenst van deze informatie kennis kan nemen.

De Wob heeft betrekking op bestaande informatie, neergelegd in documenten. De Wob verplicht mij niet om informatie waar ik niet over beschik op verzoek te geven.

Beoordeling van uw verzoek

Hieronder zal ik uw vragen weergeven en, voor zover ik beschik over de gevraagde informatie, op uw vraag reageren.

Vraag 1.

Vraag 2.
Kunt u aangeven hoe vaak er sprake was van een straf- of ordemaatregel in de gesoemde jaren?

Vraag 3.
Kunt u per jaar voor de jaren 2014 tot en met 2017 de vijf meest voorkomende recen benoemen voor het opleggen van een straf- of ordemaatregel (in aantallen en percentages)?

Vraag 4.
Kunt u van de bovengenoemde jaren per detentiecentrum de gemiddelde duur van de straffen aangeven (en indien toegepast: het aantal dagen verkorting van de straf)?

Antwoord vraag 1 tot en met 4
Bij besluit van 26 september 2014, met kenmerk 5S1256, heb ik het document 'disciplinaire straffen & ordemaatregelen' van september 2010 openbaar gemaakt. Dit document is het product van een werkgroep die zich heeft geleggen over de vraag op welke manier zoveel mogelijk kan worden voorkomen dat moet worden overgegaan tot het opleggen van disciplinaire straffen en ordemaatregelen en, indien tot oplegging van een straf of maatregel wordt overgegaan, hoe er in het opleggen een zekere uniformiteit kan worden bereikt. In dit document staat een leidraad voor het opleggen van disciplinaire straffen en ordemaatregelen. Daarnaast wordt een format (matrix) geïntroduceerd die per 1 januari 2011 in gebruik is genomen en waarin detentiecentra alle opgelegde disciplinaire straffen en ordemaatregelen dienen te vermelden. Ook de reden van de oplegging, de oplegde duur van de straf of maatregel, het aantal dagen waarmee de straf of maatregel uiteindelijk is verkort en of er cameratoezicht heeft plaatsgevonden, dient in de matrix te worden geregistreerd. Daarbij merk ik op dat dit een handmatige handeling betreft die geen 100% nauwkeurigheid garandeert. Gelet hierop zijn in september 2017 cijfers aan de Tweede Kamer verstrekt over het gemiddelde percentage verblijf in afzondering (isolatie). Deze
cijfers zijn, in verband met de betrouwbaarheid ervan, beperkt tot de eerste helft van 2016.

In 2015 is het bovengeoordeelde document herzien. Het herziene document 'disciplinaire straffen & orde/beschermende maatregelen' van 24 september 2015 maakt ik hierbij openbaar (bijlage), met uitzondering van namen en e-mailadressen van medewerkers die in het document voorkomen. Die informatie maak ik niet openbaar op grond van artikel 10, tweede lid, aanhef en onder e, van de Wob, te weten het belang dat is gediend met de bescherming van de persoonlijke levenssfeer. Daarbij wijks ik op het volgende.

Waar het gaat om beroepshalve functioneren van ambtenaren, kan slechts in beperkte mate een beroep worden gedaan op het belang van eerbiediging van hun persoonlijke levenssfeer. Dit ligt anders indien het betreft het openbaarmaken van namen en andere herleidbare gegevens van de ambtenaren. Namen zijn immers persoonsgegevens en het belang van eerbiediging van de persoonlijke levenssfeer kan zich tegen het openbaarmaken daarvan verzetten. Dat is hier aan de orde.

Van belang daarbij is dat het hier niet gaat om het opgeven van een naam aan een individuele burger die met een ambtenaar in contact treedt, maar om openbaarmaking van de naam in de zin van de Wob en dus jegens ieder. Bovendien gaat het hier niet om ambtenaren die vanuit hun functie regelmatig in de openbaarheid treden.

Met het besluit van 26 september 2014 heb ik de matrixen van de detentiecentra Rotterdam, Zeist en Schiphol die betrekking hebben op de maanden januari tot en met juni 2014 openbaar gemaakt, behoudens de persoonlijke informatie van de vreemdelingen. Die informatie maak ik ook nu niet openbaar gelijk op artikel 10, tweede lid, aanhef en onder e, van de Wob. Het belang dat is gediend met de bescherming van de persoonlijke levenssfeer van de betreffende vreemdelingen acht ik namelijk zwaarder wegen dan het belang dat is gediend met het openbaar maken van deze gegevens.


De matrixen van de detentiecentra Rotterdam, Zeist en Schiphol die betrekking hebben op de periode juli 2014 tot en met juni 2017 maak ik hierbij openbaar, behoudens – en om bovengenoemde reden – de tot vreemdelingen herleidbare gegevens. In de matrix staan ook de initialen van de directeur die de straf of maatregel heeft opgelegd. Die informatie, die herleidbaar is tot een persoon, maak ik evenmin openbaar gelijk op het belang dat is gediend met de bescherming van de persoonlijke levenssfeer. Daarbij merk ik op dat directeuren van inrichtingen geen ambtenaren zijn die vanuit hun functie regelmatig in de openbaarheid treden.

Ik beschik niet (meer) over de matrixen van Detentiecentrum Zeist van juli 2014 tot en met december 2014. In Detentiecentrum Rotterdam zijn tussen oktober 2015 en juni 2016 geen vreemdelingen geplaatst. Van die periode en van Detentiecentrum Rotterdam is de gevraagde informatie dus niet beschikbaar.
Alhoewel de matrixen een beeld geven van de opgelegde straffen en maatregelen, wil ik tevens van de gelegenheid gebruik maken om er een kanttekening bij te plaatsen. De matrixen zijn opgemaakt voor intern gebruik, waardoor deze voor derden wellicht lastig te interpreteren zijn. Zij bevatten informatie over alle soorten disciplinaire straffen en ordemaatregelen en dus niet alleen over het plaatsen van vreemdelingen in een straf- of afzonderingscel. De reden voor de oplegging van de straf of maatregel wordt met een code geregistreerd, aan de hand van een codelijst. Deze codelijst maakt onderdeel uit van het document ‘disciplinaire straffen & ordemaatregelen’ dat bij besluit van 26 september 2014 openbaar is gemaakt en het document ‘disciplinaire straffen & ords/beschermende maatregelen’ van 24 september 2015 dat met dit besluit openbaar is gemaakt.

Vraag 5
Hoe vaak was er in de bovenstaande jaren, per detentiecentrum, sprake van het gebruik van handboeien of andere dwangmiddelen tijdens het vervoer van de gedetineerde vreemdelingen buiten het detentiecentrum (naar bijv. het ziekenhuis, de rechtbank of een ander detentiecentrum)?

Antwoord vraag 5
Door mij wordt niet bijgehouden hoe vaak (per detentiecentrum) handboeien en andere vrijheidsbeperkende middelen bij vervoer van de vreemdeling worden gebruikt. Ik beschik daarom niet over deze informatie.

Vraag 6
Kunt u aangeven hoeveel mensen er in 2016 zijn ingetroond in vreemdelingenbewaring? Kunt u ten aanzien van dit cijfer zeggen:
a. Welke tien nationaliteiten (aantallen en percentages) het meeste zijn ingetroond in vreemdelingenbewaring in 2016 op basis van artikel 6 van de Vreemdelingenwet (2000)?
b. Welke tien nationaliteiten (aantallen en percentages) het meeste zijn ingetroond in vreemdelingenbewaring in 2016 op basis van artikel 59 van de Vreemdelingenwet (2000)?

Antwoord vraag 6

Vraag 7
Bij brief van 4 juli 2017, met kenmerk 2097251, heeft DT&V deze vraag al beantwoord.
Vraag 8
Kunt u aangeven hoeveel mensen er zijn vrijgelaten vanuit vreemdelingenbewaring in 2015 en 2016? Kunt u ten aanzien van deze cijfers zeggen:
  a. Welke tien nationaliteiten (aantallen en percentages) het meest werden vrijgelaten?
  b. Vanuit welk detentiecentrum deze vreemdelingen werden vrijgelaten (Schiphol, Rotterdam of Zeist)?

Antwoord vraag 8
Ik beschik over een document met aantallen vreemdelingen die in 2015 en 2016 zijn uitgestroomd uit vreemdelingenbewaring, uitgesplitst per detentiecentrum. Terens is daarin aangegeven welke 10 nationaliteiten het vaakst zijn uitgestroomd. Dit document (bijlage) maak ik hierbij openbaar. De cijfers zijn afgerond op tientallen.

Vraag 9
Bij brief van 4 juli 2017, met kenmerk 2097251, heeft DT&V deze vraag al beantwoord.

In uw verzoek heeft u de vragen 10, 11 en 12 als volgt ingeluid:

In 2012, in het rapport 'een profielschets van vreemdelingen in bewaring 2010', heeft DJI cijfers gepubliceerd van vreemdelingen met een eerder bestuursrechtelijk verleden (hoofdstuk 6, p. 29). Naar aanleiding van dit rapport verzoeken wij om het ciijfermateriaal van 2015 en 2016 met betrekking tot herhaalde detentie met de volgende vragen:

Vraag 10
Kunt u aangeven hoeveel (aantallen en percentages) vreemdelingen herhaaldelijk bestuursrechtelijk in vreemdelingendetentie hebben gezeten? Kunt u ten aanzien van dit cijfer zeggen:
  a. Welke tien nationaliteiten (aantallen en percentages) zijn het meest herhaald gezeten?

Vraag 11
Hoeveel mensen zaten voor een tweede keer of vaker in vreemdelingendetentie? Kunt u dit uitsplitsen in:
  a. Percentage per aantal keren in detentie (bijvoorbeeld 30% tweemaal, 15% driemaal, etc.)

Vraag 12
Kunt u aangeven hoeveel vreemdelingen eerder zowel bestuursrechtelijk als strafrechtelijk hebben gezeten?
Antwoord vragen 10, 11 en 12.
Het door u genoemde rapport ‘een profielschets van vreemdelingen in bewaring 2010’ van 1 februari 2012 betreft het resultaat van een onderzoek dat ik heb gedaan naar vreemdelingenbewaring. Blijkens de samenvatting van dit rapport (zie blz. 7 en 8) betrof de onderzoeksopopulatie 8460 vreemdelingen. De resultaten van dit onderzoek zijn totstand gekomen na een analyse van data.

U vraagt om soortgelijke informatie waarover in voornoemd rapport is gepubliceerd, maar dan over 2015 en 2016. Ik beschik echter niet over de door u gevraagde informatie, omdat ik geen onderzoek heb gedaan naar data van de populatie vreemdelingen die in 2015 en 2016 in vreemdelingenbewaring heeft gezeten. Zoals ik hierboven onder het kopje ‘toetsingskader’ heb aangegeven, heeft de Wob betrekking op bestaande informatie, neergelegd in documenten en verplicht de Wob mij niet om informatie waar ik niet over beschik op verzoek te genereren.

Hoogachtend,

de Minister van Veiligheid en Justitie,
namens deze.

S. Riedersma
Secretaris-Generaal

Deze brief is een besluit in de zin van de Algemene wet bestuursrecht. Op grond van die wet kunt u tegen dit besluit binnen zes weken na de dag waarop het bekend is gemaakt bezwaar maken. Het bezwaarschrift moet zijn ondertekend en bevat tenminste uw naam en adres, de degtekening, een omschrijving van het besluit waar tegen het bezwaar is gericht en de gronden van het bezwaar. Het bezwaarschrift moet worden gericht aan de Dienst Justitiële Inrichtingen, afdeling Juridische Zaken, Postbus 30132, 2500 GC Den Haag.

Datum 12 oktober 2017
Ons kenmerk 2113132
Appendix D

Freedom of Information Request re: deportation figures in the Netherlands – Official response letter from the DT&V

Datum 4 juli 2017
Onderwerp Herhaalde detentie en straf- en ordemaaatregelen binnen vreemdelingendetentie

Geachte heer/mevrouw,


U heeft gevraagd om de volgende informatie:
1. Kun u aangeven hoeveel mensen er vanuit vreemdelingenbewaring uitgezet zijn naar het land van herkomst in 2015 en 2016? Kun u ten aanzien van deze cijfers zeggen:
   a. Welke tien nationaliteiten (aantal en percentages) het meest werden uitgezet vanuit vreemdelingenbewaring?
   b. Welke ambassades werken (tijdelijk) niet mee aan gedwongen terugkeer naar hun land in 2015 en 2016? Kun u ten aanzien van deze cijfers ook zeggen:
      a. Hoe vaak (aantal en percentages) laissez-passers werden toegekend en geweigerd?
      b. Welke tien ambassades (aantallen en percentages) hebben het vaakst laissez-passers geweigerd?

 beoordeling van het verzoek

Ad1

Uit het registratiesysteem van de DT&V blijkt dat er in 2015 en 2016 respectievelijk 743 en 914 vreemdelingen vanuit vreemdelingenbewaring aantoonbaar zijn teruggekeerd naar het land van herkomst.

Ad a.1. Uit het registratiesysteem van de DT&V blijkt dat in 2015 de volgende landen de tien landen zijn waarnaar de meest werd teruggekeerd vanuit vreemdelingenbewaring; Albanie (167; 22.5%), Armenië (51; 6.9%), Nigeria (45; 6.1%), Polen (33; 4.4%), Oekraïne (32; 4.3%), Turkije (32; 4.3%), Servië (28; 3.8%), Marokko (26; 3.5%), Afghanistan (23; 3.1%) en Pakistan (17; 2.3%).

Ad a.2. Uit het registratiesysteem van de DT&V blijkt dat in 2016 de volgende landen de tien landen zijn waarnaar het meest werd teruggekeerd vanuit vreemdelingenbewaring; Albanie (389; 41.8%), Afghanistan (36; 3.9%), Marokko (33; 3.6%), Nigeria (33; 3.6%), Georgië (30; 3.3%), Armenië (29; 3.2%), Turkije (25; 2.7%), Polen (20; 2.2%), Suriname (20; 2.2%) en Servië (16; 1.8%).

Ad 2

De gevraagde (cijfermatige) informatie kan niet uit het registratiesysteem van de Dienst Terugkeer en Vertrek worden gegenereerd. In het algemeen geldt dat een vreemdeling in principe altijd vrijwillig en zelfstandig kan terugkeren naar zijn land van herkomst. Er zijn geen landen bekend die structureel weigeren hun onderdanen terug te laten keren naar het land van herkomst. Ook geven landen veelal aan geen principiële bezwaren tegen gedwongen terugkeer te hebben. Wel is er een aantal landen dat veel voorwaarden en vragen opwerpt, of juist niet reageert op Nederlandse verzoeken, zodat er fataal kan worden gesproken over tegenwerking. De landen waarvoor dit geldt wisselen. Om die reden is er geen lijst te verstrekken van landen die structureel niet meewerken aan de afgifte van (vervangende) reisdocumenten in het kader van gedwongen terugkeer. De vraag of de autoriteiten van herkomslanden meewerken aan gedwongen terugkeer valt niet af te leiden uit het percentage aanvragen voor een (vervangend) reisdocument dat door de autoriteiten is afgewezen. Het onderscheid of de buitenlandse autoriteiten geen medewerking verlenen aan gedwongen terugkeer of dat een vreemdeling zelf onvoldoende of onbruikbare informatie heeft verstrekt voor de afgifte van een (vervangend) reisdocument, kan niet worden gemaakt. In beide gevallen zal geen (vervangend) reisdocument worden afgegeven.

Graag verwijst ik u voor meer achtergrondinformatie over de samenwerking met landen van herkomst naar het rapport van de Adviescommissie voor Vreemdelingenzaken: ‘de strategische landenbenadering migratie, tussen wens en werkelijkheid’.  


Hoogachtend,
De Staatssecretaris van Veiligheid en Justitie, namens deze,

[Ongelezen naam]

Martijn Tubbergen
Directeur Toezicht en Maatregelen