

Words matter: ‘illegal’, ‘irregular’, ‘unauthorized’, ‘undocumented’

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Language shapes people’s perceptions. Discriminatory language in reference to undocumented migrants in the public discourse leads to perceptions and actions which negatively impact their daily realities.

States may determine that different paths to undocumented status can carry different legal consequences and they may adopt different technical terms in their policies, in order to distinguish between the categories. What is crucial is that, in the public discourse – which is the one that the public perceives – the choice of terms and expressions be not stigmatising.

This is certainly the reason why the terms “illegal alien” and “assimilation” were replaced by “undocumented noncitizen” and “integration” in some official public communications (Durkee, 2021). Indeed, the expression “undocumented migrant” represents, in the common language, a broad and fluid category which is more descriptive than value-laden, as will be explained below.

Over the years, international organizations have been encouraging the use of a more neutral and humanizing language in the public discourse. The United Nations General Assembly Resolution 3449 and the European Commission Resolution 1509 recognized that the term “illegal” should not be used to define migrants in an irregular situation. The UN Committee on Migrant Workers further supported this view by expressing its preference for the terms ‘in an irregular situation’ or ‘non-documented’ migrants (OHCHR, 2013). Reflecting on the latest changes in the usage of migration terminology, the *ILO Media-friendly glossary on migration* (2020), the *IOM Glossary* (2019), the *EMN Glossary* (2018) and the *UNAOC Media-Friendly Glossary on Migration* (2014) all proposed the term undocumented/irregular migrant as an alternative to the term “illegal migrant”.

The reason for these pronouncements is that calling a specific group of people ‘illegal’ denies them their humanity. There is no such thing as an ‘illegal’ person. Unfortunately, ‘illegality’ as a form of status has been deliberately assigned to undocumented migrants to justify describing a category of people deemed undeserving of rights.

The expression ‘illegal migrant’ should never be used because:

- A person can never be ‘illegal’: only acts can be.

- It is discriminatory. Illegality as a status is only applied to migrants and used to demean them in the public eye and deny them their rights. People convicted of the most egregious crimes are not portrayed as ‘illegal’, despite the utter illegality of what they have done.
- It too often implies criminality. In and of themselves, crossing a border undocumented or overstaying a visa are not dangerous behaviors in any way (even if the circumstances of the crossing can be dangerous for the migrant). They certainly constitute violations of specific administrative rules prescribing how one should enter the country. However, they should not be systematically deemed criminal acts, since they do not constitute a crime against persons, or against property, or (for the vast majority of migrants) against State security. Some states have unfortunately criminalized undocumented entry and stay in themselves, based on the fact that they are often accompanied by the criminal behaviour of others – such as migrant smugglers or forgers of documents – who exploit the precarity of undocumented migrants.
- It can have considerable impact on public perception and thereby shape policy. Labeling undocumented migrants as “illegal” preconditions the public to assume that they are all dangerous outsiders who have a detrimental impact on society: they are assumed to “steal jobs”, “increase insecurity”, “bring illnesses”, etc.

Words matter. Other categories of marginalised individuals in history can attest to that. Women, indigenous peoples, Roma, ethnic, religious, linguistic or sexual minorities, people with disabilities – to take only a few – have all experienced the impact demeaning language can have on the opinions of the majority, and therefore on political choices, economic policies and social practices. The word ‘irregular’ is less stigmatising. Many national and international instruments and civil society documents use it to describe ‘irregular migrants’, ‘irregular migration’ and ‘irregular’ entry or stay on the territory. However, while it is certainly preferable to ‘illegal’, it can still sometimes be associated with criminality and shady business. The *European Union Agency for Fundamental Rights* has chosen to use the expression ‘migrant in an irregular situation’, rather than ‘irregular migrant’, in order to avoid attaching the adjective ‘irregular’ to the person of the migrant, but rather to their immigration status.

The term ‘unauthorized’ is also sometimes used. It is less stigmatising than ‘illegal’, but still cannot be applied to the person, only to the acts.

A more neutral word is ‘undocumented’, since the person does not have the appropriate travel, work or residence documentation required by the state in which they are. Expressions such as ‘undocumented’ migrant, ‘undocumented’ migration and ‘undocumented’ entry or stay on the territory accurately describe the action or phenomenon while considerably reducing the stigmatising connotation of criminality.

For some (in particular demographers), ‘undocumented’ may also have the meaning of ‘unrecorded’. In that sense, a person overstaying the visa would not be ‘undocumented’, as the authorities have recorded her presence and may eventually contact her. This is not the meaning in which ‘undocumented’ is used by policymakers and civil society working on immigration policies and practices.

It is also important to keep in mind that broad terms like “illegal alien” and “illegal entry” can often be used to lump together different categories of people who cross a border. This may include both migrants — who have decided to move to find work, pursue education or reunite with family, or to flee intolerable economic conditions, poverty, famine or environmental catastrophes — and asylum-seekers, who flee persecution or generalized violence to ask for refugee status. Under international law, everyone has a right to seek asylum, whatever their documentation status or method of entry. However, using the expressions ‘illegal entry’ or ‘irregular entry’ to characterize asylum-seekers’ status undermines their rights by giving the impression that they have no rights in the country. Such characterizations are often used to lump together all undocumented migrants, asylum seekers, overstayers, and other groups, in order to justify harsh, undiscerning deterrence or containment policies and practices. For example, in some South Asian countries, the UNHCR refugee card holders can be considered technically “illegal” or “irregular”, since governments fail to recognize refugee cards as “official documents”.

Interestingly, some mainstream media outlets started moving away from dehumanizing terms, such as “illegal migrant”, towards more neutral and unbiased language (Guskin, 2013). The BBC uses the umbrella term “migrant” to refer to *all people on the move who have yet to complete the legal process of claiming asylum*, including people who governments are likely to perceive as economic migrants (BBC, 2021). The Guardian uses the word “migrant” as a *general expression to cover people who for whatever reason have moved, or are moving, from the country of which they are nationals to another* (Marsh, 2015), while The Washington Post uses it *as a general term that refers to both economic migrants and refugees* (Taylor, 2015). News media in some countries have established a “professional consensus” around the use of language when describing migrants (Berry et al, 2015).

A good example of how language shapes perceptions and how an appropriate choice of word can introduce nuances in the public discourse can be found with the DACA Program. The U.S. administration introduced the word “DREAMer” in 2012, thereby making a clear legal distinction between young people who were brought to the United States without proper documentation as children and other undocumented migrants. Under the DACA Program, DREAMers became eligible for a driver’s license, a social security number and a work permit in the United States. This language – used by all stakeholders – had, alongside other causes, a profound effect on public opinion: in 2018, a national survey by the Pew Research Center showed that 74% of Americans favored a law that would provide permanent legal status to DREAMers, which is not what the majority of Americans want for other undocumented migrants (Krogstad, 2020).

In sum, the stigmatizing language used by many politicians, policy makers, media outlets and other stakeholders in the public discourse is often inappropriate, as it conveys a connotation of criminality or other social ills about persons – migrants – who are essentially neither criminals nor responsible for unemployment, the pandemic or rising feelings of insecurity. Migrants should be distinguished from the real criminals in the undocumented migration business, who quite often prey on their precarity: exploitative employers, unethical recruiters, migrant smugglers, corrupt officials...

It is important to heed the words of Morten Kjaerum, the founding Director of the *European Union Agency for Fundamental Rights*: “It is vital we remain alert to inbuilt prejudice in the

language used to describe ethnic minorities. Labelling human beings crossing the EU's external borders 'illegal' is most definitely an example of such bias."

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