Transnational Organised Crime, Immigration and Security: a Study of Norwegian Immigration Policy

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Abstract

This research study discusses the extent to which transnational organised crime (TOC) has had an impact on Norwegian immigration policy. There has been a public debate in Norway about the involvement of asylum seekers in various forms of organised crime, leading immigration authorities to lament their insufficient resources and means to tackle the problem. Simultaneously, restrictive amendments have been made to the Norwegian Immigration Act, suggesting that immigration law is applied against TOC. The aim of the study is to understand why there has been a change in Norwegian immigration policy, and to discuss the effects and implications of the change.

The study is a single-case study using qualitative methods, as the study seeks to provide a detailed description of Norwegian immigration policy and the context in which the changes in the immigration policy have been made. The case of Norway has been chosen because of the increasing focus that TOC has been receiving from Norwegian immigration authorities, accompanied by broad media coverage and restrictive amendments to the Immigration Act. The theories that are applied – criminologies of the self and the other, crimmigration, and securitisation theory – are all chosen because they address different aspects of "us" and "them" thinking.

The study argues that the increased focus on transnational organised crime in Norwegian crime statistics reflects the narrative of the criminal other, found in criminologies of the self and the other. Within this narrative the criminal others are distinctly different from ordinary citizens of society and must be excluded for our own security and protection. This contributes to reinforcement of a discourse in which asylum seekers and illegal immigrants become difficult to distinguish from suspicious others and criminals. Accordingly, there is support for the claim that Norwegian immigration policy has been subject to a process of crimmigration. Further, it is found that Norwegian immigration policy has been securitised. It is concluded that although there might be a connection between transnational organised crime and a shift in immigration policy, the change in immigration policy is rather a result of the larger issue of immigration in general. The theoretical framework shows how immigration becomes framed within a security and criminal context, leading to a narrative where the other becomes a potential threat to members of society. This is problematic in a world where inequality is on the rise, and international conventions on human rights are at odds with punitive populism.

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Opsomming

Hierdie navorsingstudie bespreek tot watter mate transnasionale georganiseerde misdaad ŉ impak gehad het op Noorweë se immigrasiebeleid. ŉ Openbare debat is in Noorweë gevoer oor die betrokkenheid van asielsoekers by verskeie vorme van georganiseerde misdaad, wat daartoe gelei het dat immigrasie-owerhede beswaar gemaak het teen die onvoldoende hulpbronne en middele wat tot hul beskikking is om die probleem aan te spreek. Terselfdertyd is beperkende wysigings in Noorweë se immigrasiewet aangebring wat aandui dat immigrasiereg teen transnasionale georganiseerde misdaad aangewend moet word. Die doel van hierdie studie was om te verstaan waarom ŉ verandering in Noorweë se immigrasiebeleid aangebring is en om die gevolge en implikasies van hierdie verandering te ondersoek.

ŉ Enkele gevallestudie is in hierdie studie onderneem en daar is gebruik gemaak van kwalitatiewe metodes om die navorser in staat te stel om ŉ gedetailleerde beskrywing te gee van Noorweë se immigrasiebeleid en die konteks waarbinne die veranderinge in hierdie beleid aangebring is. Noorweë is as gevallestudie gekies as gevolg van die toenemende fokus wat deur Noorweegse immigrasieowerhede op transnasionale georganiseerde misdaad geplaas word, vergesel van omvattende mediadekking, en die beperkende wysigings wat in die immigrasiewet aangebring is. Die teorieë wat in hierdie studie aangewend is – kriminologie oor die "self" en die "ander", "krimigrasie" (*crimmigration*) en sekerheidsteorie – is gekies op grond daarvan dat hulle verskillende aspekte van denke oor "ons" (die "self") en "hulle" (die "ander") aanspreek.

In hierdie studie word daar geargumenteer dat die toenemende fokus op transnasionale georganiseerde misdaad in Noorweegse misdaadstatistiek die narratief van die kriminele "ander" reflekteer, waarna daar in die kriminologie oor die "self" en die "ander" verwys word. In hierdie narratief word ŉ duidelike onderskeid tussen die kriminele "ander" en die "gewone" burgers getref en die kriminele moet ter wille van hierdie burgers se veiligheid en beskerming uitgesluit word van die samelewing. Dit dra by tot die versterking van ŉ diskoers waarin dit moeilik word om asielsoekers en onwettige immigrante van verdagtes en kriminele te onderskei. Dienooreenkomstig daarmee is daar steun vir die bewering dat Noorweë se immigrasiebeleid onderworpe is aan ŉ krimigrasieproses. Verder is daar bevind dat Noorweë se immigrasiebeleid aangepas is deur dit binne ŉ sekerheidsraamwerk te plaas. Daar is tot die gevolgtrekking gekom dat alhoewel daar ŉ verband tussen transnasionale

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georganiseerde misdaad en ʼn verskuiwing in immigrasiebeleid mag wees, die verandering in immigrasiebeleid eerder ʼn gevolg is van die groter kwessie rondom immigrasie in die algemeen. Die teoretiese raamwerk dui aan hoe immigrasie geskets word in ʼn sekuriteits- en kriminele konteks, wat lei tot ʼn narratief waar die "ander" ʼn potensiële bedreiging vir lede van die samelewing word. Dit is problematies in ʼn wêreld waar ongelykheid toeneem en internasionale konvensies oor menseregte strydig is met strafbare populisme.

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List of Acronyms and Abbreviations

ABC	Automatic Border Crossings
ECHR	European Convention on Human Rights
EEA	European Economic Area
EHRC	European Human Rights Council
EU	European Union
EURODAC	European Dactyloscopy
EUROPOL	European Police Office
EUROSUR	European Border Surveillance System
FRONTEX	Frontières Extérieures - European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
G7	The Group of Seven Nations
IGPE	Illicit Global Political Economy
INTERPOL	International Criminal Police Organisation
KOM	Koordineringsenheten for Ofre for Menneskehandel/The Coordination Unit for Victims of Human Trafficking
LSD	Lysergic Acid Diethylamide
NGO	Non-Governmental Organization
NOAS	Norwegian Organisation for Asylum Seekers
NOU	Norges Offentlige Utredninger/Norwegian Official Report
PU	Politiets Utlendingsenhet/National Police Immigration Service
SIS 1/SIS 2	The Schengen Information System
SOCTA	Serious and Organised Crime Threat Assessment
TCO	Transnational Criminal Organisations
TOC	Transnational Organised Crime Group
UDI	Utlendingsdirektoratet/The Directorate of Immigration
UN	United Nations
UNE	Utlendingsnemnda/Norwegian Immigration Appeals Board
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime
US	The United States of America

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VIS	Visa Information System
Økokrim	The National Authority for Investigation and Prosecution of Economic and Environmental Crime.

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A Note to the Text

A number of sources used in this study were in Norwegian, as Norway was the selected case for the research. Where Norwegian text is used, English translations are provided in footnotes, indicating that the translation is the author's own. In the bibliography the original Norwegian text was referenced, with English translations provided in footnotes.

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Chapter 1: Introduction

1.1 Background to the Research

Like most other Western European countries, Norway has experienced a growth in immigration since the 1960s. The immigration pattern shifted from consisting mainly of migrants from countries nearby to a pattern where immigration to Norway was predominantly from non-European countries. The migrants' motivations for leaving their home countries have also changed from being predominantly work-seeking migration, to today's asylum seekers and family reunifications (Kjelstadli, 2003:399). Between 1977 and 2003, 155 000 persons were granted Norwegian citizenship; 130 000 of these were persons formerly with non-Western citizenship (Djuve & Friberg, 2004:6). In 1975 Norway implemented a halt on immigration to curb the increasing numbers of unskilled labourers from Turkey, Morocco and Pakistan. This only prevented unskilled labourers from traveling to Norway, while the borders were still open for family reunions, refugees and asylum seekers (Djuve & Friberg, 2004:8). The growing numbers and changes in composition of the immigrants fuelled the debate on immigration at the end of the century. Many argued that the immigration policy had been too humanistic and naive. As a consequence, the immigration debate has more recently been characterised by scepticism towards immigration and immigrants since the 1990s (Hagelund, 2002:67). In the wake of the immigration debate in the 1990s, the negative focus on immigration has generally been maintained. However, today's debate can be distinguished from that of the 1990s, by a general perception among the population that the immigration policy has become more restrictive (Brouwers, 2007:110).

The economic differences between the developed European countries and the developing countries outside Schengen continue to attract immigration to the relatively more prosperous and opportunity-rich North. Norway has been spared many of the negative consequences that followed the 2008 financial crisis, and as a consequence Norway has become an increasingly popular destination for both European and non-European immigrants.

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Migrants can be divided into roughly four categories: persons who migrate because of i) work, ii) to stay with their family, iii) a need for protection (humanitarian migration), and iv) education (Norwegian Police, 2013a). In addition to these, there are also persons who reside in a country illegally. These are referred to as irregular immigrants, regardless of whether they entered the country legally or not. Irregular immigrants are, according to the Norwegian police (2013a), connected to crime in several ways, because firstly, staying in a country illegally is a crime in itself, but also because staying in a country illegally necessitates finding illegal sources of income. This makes irregular immigrants extremely vulnerable to abuse. Examples of crime related to irregular immigrants as victims or perpetrators are human trafficking, human smuggling, trafficking and trading of illegal drugs, and clandestine labour. The link that some irregular immigrants have to different forms of organised crime can sometimes lead to negative stereotyping of irregular immigrants – a group that is already vulnerable and in need of protection (Aas & Johansen, 2013). The broader aim of the study is to look at transnational organised crime (TOC) and immigration. The following sections will deal with aspects related to crime, organised crime and immigration in the Norwegian context in order to set the background for the study.

1.1.1 Transnational Organised Crime Groups

With globalisation, the world has become increasingly interconnected. A consequence of this interconnectedness is that one of the most important traits of the world in the 21st century is the enormous number of global actors. What used to be the domain of nation-states is now shared with a wide variety of non-state actors. Communication within and across borders is getting easier every day and borders have been opened up to allow a freer flow of services, goods and people. This has led big multinational companies to open up businesses anywhere in the world where there is a market for the products and services they have on offer. That is the bright side of globalisation, but the free flow of goods and services has simultaneously facilitated what Heine and Thakur (2011) have termed the dark side of globalisation – the rise of transnational organised crime groups (TOCs). Similar to multinational companies, they have an international scope and they open facilities worldwide for production, distribution and marketing (Shelley, 1995:466). They operate in several illicit businesses ranging from illegal arms trade to human and drug trafficking. For the TOCs the borders no longer represent an obstacle, and this is an environment difficult to control for the law-enforcers, who can

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operate only within their own state (Bocănială & Bocănială, 2012:509). The TOCs have been described as Clausewitzian: "to them crime is a continuation of business by other means" (Williams, 2008:15).

As the Norwegian borders have become easier to cross because of the Schengen Agreement,[1] new strategies are needed to tackle the challenge of TOCs. The policing of TOCs in Europe has mainly been directed at the criminal *Others* – a group that includes immigrants, drug traffickers and organised criminals – on *behalf of Us* – the citizens of Europe (Loader 2002:143). To tackle the challenges of TOCs and immigration, Norway is contributing to and participating in several organisations, among others Europol, whose aim is to fight terrorism, the illicit drug trade and other forms of international crime (Ministry of Justice, 2009b). Frontex is the EU border control bureau, in which Norway also participates. Frontex strives to improve European border management through coordination of joint operations, training, research and development in order to prevent and detect illegal border crossing (Aas, 2011; Norwegian Police, 2013b).

In June 2012 33 per cent of all prisoners in Norway were foreigners, mainly EU citizens. In 2011 53 per cent of all prisoners in custody were non-Norwegian citizens (Norwegian Police, 2013a). These numbers are an indication of the growing presence of foreign criminals in Norwegian society – both from Schengen and non-Schengen countries – and of the challenges accompanying free circulation of goods and people.

1.1.2 The Drug Trade, Human Trafficking and Other Illegal Commodities

In the early days of the Norwegian drug trade the illicit drug-market was controlled by Norwegians, but after the increase in the immigration flow to Norway in the 1970s this gradually changed. Since the 1990s the drug trade in Norway has been rising and 2012 was a record year in terms of the number of drug-related cases (Norwegian Police, 2012). The number of drug-related cases increased an additional 10,7 per cent from 2012 to 2013 and landed at another record year with 31 057 cases reported (Norwegian Police, 2013b). At the time of writing the Norwegian drug-market is dominated

[1] The Schengen Agreement is an agreement between all EU countries – except Great Britain, Ireland, Cyprus,

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by criminals from Poland and the Baltic countries, the rest of Europe and West Africa (Norwegian Police, 2013b). Criminals involved in drug trade are often also involved in other illegal businesses, such as human trafficking.

The main form of human trafficking prevalent in Norway is prostitution. In the capital, Oslo, 90 per cent of the prostitutes are non-Norwegian citizens residing in the country for the sole purpose of selling sexual services. The majority of these are Nigerian, while the other major countries represented are Romania, Bulgaria and Russia. Between 2006 and 2011 there were 187 cases reported, starting at 34 in 2006, rising to 41 in 2008, before dropping back to 32 in 2011 (Norwegian Police 2011, 2013a). Especially the Nigerian networks are known to use Nigerian prostitutes as couriers of drug money, which makes it difficult to determine how much of the money is drug-related and how much stems from prostitution.

Between 2006 and 2012 there were 56 reported cases of forced labour, starting with just one case reported in 2006, reaching 18 reported cases in 2012. According to the Norwegian Police, the number of reported cases gives an imprecise indication of the actual numbers, as victims of forced labour often refuse to report the crime, fearing for their own or their family's safety (Norwegian Police, 2013a). According to the Coordination Unit for Victims of Human Trafficking (KOM), there were 319 potential victims of human trafficking reported in 2010 and 274 potential victims reported in 2011.[2] These numbers are based on reports of potential victims of human trafficking, being followed up by agencies and organisations reporting to KOM. Approximately one fourth of all potential victims reported to KOM are minors (Coordination Unit for Victims of Human Trafficking, 2012). In addition to the already mentioned forms of human trafficking, human smuggling is a problem that involves criminal networks.

It is difficult to determine how many people are being smuggled into Norway each year, but the number of reported cases of human smuggling and the number of asylum seekers reporting to the Norwegian authorities without travel documents gives a clear indication. In cases where the journey has not been paid for in advance, the person runs a risk of being exploited and forced into dealing drugs, forced labour or other forms of serious crime (Norwegian Police, 2011). The number of

[2] KOM is subject to the Ministry of Justice.

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reported cases of human smuggling between 2006-2011 has been stable, between around 40 to just over 50 cases reported per year. The number of asylum seekers arriving in Norway, on the other hand, ranged from 5 320 in 2006,to 14 431 in 2008, increasing again to the record year of 2009 with 17 226, before declining to 6 024 in 2011 (Norwegian Police, 2011).

1.1.3 Recent Developments in Norwegian Immigration Policy

During September 2013 there was a focus in Norwegian media on criminal asylum seekers committing drug-related crimes while waiting for the processing of their asylum applications. According to *Aftenposten,* a major Norwegian newspaper, almost all foreigners arrested for dealing drugs in Oslo were doing so after having their application for asylum rejected (*Aftenposten*, 2013c). The focus was especially on West African criminals posing as ordinary asylum seekers, but actually in the country to deal drugs (Johansen, 2013). In the period that followed, just before and immediately after the September 8th and 9th 2013 Norwegian election, several politicians argued for harsher punishments; stricter control of the borders within Schengen; an increase in the number of closed reception centres, where the asylum seekers are prevented from leaving the institution, while waiting for their application to be processed or after it has been rejected; faster processing of the applications; more public spending on the police; and reducing the standards of the prisons where asylum seekers are serving their sentence, as they are not going to be returned to Norwegian society (Bårdvik, 2013). The most outspoken of these commentators were representatives from *Høyre* (the Conservative Party) and *Fremskrittspartiet* (the Progress Party), subsequent winners of the 2013 elections, currently allies in a minority coalition government (Norwegian Government, 2014).

International TOCs are considered a well-represented group in the Norwegian crime statistics (Norwegian Police, 2013).[3] For this reason they form a natural point of departure in the study and discussion of where crime and immigration policies meet. Is the increasingly international nature of the TOC problem in Norway creating a stronger sense of *us* and *them* in the government's handling of the subject? As a consequence of this, can a spill-over effect be observed in either a more inclusive or an exclusive direction of the immigration policy in Norway? With the Conservative government in

[3] Statistics on crimes committed by TOCs will be presented in Chapter 3.

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place, who have also argued for a tough stance on crime, it is important to observe if or how these conditions will impact on immigration policy in Norway.

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1.2 Preliminary Literature Review

The literature and data used in this study is divided into three categories: data and theories regarding sovereignty, criminology, immigration and policy making; theories regarding TOCs and the illicit global political economy; and lastly, data related to crimes committed by TOCs, immigration, and crime and immigration policies in Norway.

The first category includes a range of theories that serve as a theoretical framework that will be applied to the case of Norway. What the three theories presented in the following sections (1.2.1, 1.2.2 and 1.2.3) all have in common is the characterisation of the criminal as an external threat - an *other* - that poses a threat to *us* - the members of society. This makes all three applicable in relation to immigration policies.

1.2.1 Criminologies of the Self and the Other

Garland (1996; 2001) formulated a theory describing two basic narratives on the problem of crime, representing contradicting views central to contemporary crime-control policy – criminologies of the self and the other. In cases where the role of the criminal is narrated as *other*, the politician's main concern is to show decisiveness and an immediate response to a public outcry against crime. By doing so, the politician demonstrates both the means and the will to protect all law-abiding citizens and to uphold "law and order", often employing increasingly punitive measures (Garland, 2001:133). The theory was further developed by Edwards and Gill (2002), who applied the same theory to TOC specifically. For the purpose of this study, this theory will serve as the primary theory, which is applied to the case of Norway in order to determine what guides the Norwegian policy on the area of TOC and immigration. The theoretical foundation of the study, including securitisation theory and crimmigration introduced in the following sections 1.2.2 and 1.2.3, will be explored in detail in Chapter 2.

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1.2.2 Securitisation Theory

The Copenhagen School, which includes Barry Buzan, Ole Wæver and Jaap de Wilde (1998), has created a theoretical framework in which Wæver's (1996) concept of *securitisation* can be measured. Securitisation is based on a circular logic, where threats and hostile factors are defined and modulated in order to counter them politically and administratively (Huysmans, 2006:61). Securitisation occurs "[i]f by means of an argument about the priority and urgency of an existential threat the securitizing actor has managed to break free of procedures or rules he or she would otherwise be bound by" (Buzan, Wæver & De Wilde, 1998:25). The framework consists of a step-by-step analysis, where (1) a *securitizing actor* identifies a threat from a *functional actor*; (2) it is analysed and determined whether the securitizing actor's claim has been accepted by a relevant audience – a vital precondition for a successful securitisation to take place; and (3) lastly it is determined whether extraordinary measures have been initiated. Jef Huysmans (2006) speak of domains of insecurity, where a phenomenon is not necessarily labelled as a threat per se, but is framed within a security discourse. According to Huysmans (2006), professional agencies such as customs, police and immigration officials compete with political parties and social movements over legitimacy on immigration in relation to society (Huysmans, 2006:53). Expert knowledge from professional agencies and security experts tends to be presented as simply objective, but is in fact part of the political debate over the organisation of society (Huysmans, 2006:13). According to the framework of Buzan et al. (1998), one can study political speeches and statements by politicians to determine whether a policy area – such as drug or immigration policy – has been made into an issue of national security, by posing an existential threat to a state's sovereignty or even identity. This framework will be combined with Huysmans's (2006) domains of insecurity and focus on the role of expert knowledge to provide the structure in which changes in Norwegian immigration policy will be analysed.

1.2.3 Crimmigration

Stumpf (2006) has studied the conjunction between criminal law and immigration law in the United States, which she has labelled "crimmigration law". This hybrid theory will be applied to the case in

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an attempt to understand the immigration policy of Norway. Nicolay B. Johansen, Thomas Uglevik and Katja Franko Aas (2013) are working on the research project *Crime control at the borders of Europe*. Their research is focused on Norway as part of Schengen and how two formerly separate fields, immigration control and crime control, influence each other, set premises for each other and are gradually merging. Research by Johansen et al. (2013) will be an important source of insight on this interdisciplinary field of study, which may require knowledge within both social sciences and law.

1.2.4 Transnational Organised Crime and the Dark side of Globalisation

The second category encompasses the literature conceptualising the phenomenon of TOCs, their modus operandi and prevalence in Europe in general. Writings by Williams (1998b, 2002, 2008) have been chosen as source of information, because of his extensive bibliography on the subject of TOCs. Additional articles on Illicit Global Political Economy (IGPE) by Bocănială and Bocănială (2012), Van Dijk (2007), Mittelman and Johnston (1999), Mazzitelli (2007), Heine and Thakur (2011) and Friman and Andreas (1999) will also be presented in order to provide a sufficient conceptualisation of the field. In addition, Costa Storti & De Grauwe's (2009) work on the effects of globalisation on the global drug market will be presented.

1.2.5 Norwegian Crime Statistics and Immigration Policies

The third and last category contains data and statistics on drug trafficking and the anti-drug policy in Norway; human trafficking; human smuggling; and the development of the Norwegian immigration policy between 2000 and 2013. Data from the Norwegian police (2009, 2011, 2012, 2013a, 2013b, 2013c), the United Nations Office on Drugs and Crime (UNODC) (2013; 2014) and Europol (2013a, 2013b) will be presented in order to provide an overview of drug-related crimes and immigration to Norway. In addition, the Norwegian anti-drug policy will be presented through public documents from the Norwegian government and the Norwegian police, as well as public statements by politicians in newspaper articles. Conceptualisation of the Schengen Agreement, the European Economic Area (EEA), the Dublin II Regulation and other intergovernmental agreements relating to immigration and juridical co-operation will then follow in order to provide an overview of the current situation and

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highlight potentially problematic issues.

1.3. Relevance of Research

The relevance of this research lies in the fact that there has been an increasing presence of both non-European and European TOCs in Norway during the last few years as a result of (amongst other things) the open borders within the Schengen Area and the financial downturn that has been evident in Europe since 2008. The presence of TOCs can be described as an intractable law and order problem, as there has been a steady rise in the number and amount of drug seizures and drug-related crimes committed.[4] Although this might be a result of police priorities, statements from the police suggest that TOCs in general are considered not only a growing, but in fact one of the main, criminal challenges in the years to come (Lier, 2013:120; Norwegian Police, 2013a). According to Costa Storti and De Grauwe (2009), the more money spent on fighting drug cartels through police work, the more money there is to be made. Effects of globalisation and the enormous pool of people willing to take great risks – motivated by the hope of greater personal wealth and a brighter future for themselves and their family – contribute to this development. This will continue to attract/force desperate and poor individuals to become couriers, drug dealers and sometimes both. By studying the narrative applied by the Norwegian government in their efforts to stop TOC, one can study the fundamental basis of policy formulations and their implications.

When two traditionally separate policy areas – immigration and criminal law – converge, the consequences for both fields are worth studying. This convergence is not only a direct result of globalisation, but also a result of the values and narratives politicians and governmental officials prescribe in dealing with complex challenges to state sovereignty in a modern liberal democracy. Although the number of persons involved in TOCs is limited, especially when considering the number of immigrants who legitimately apply for asylum every year, they are a group that receives much attention from police and the media – swiftly picked up by politicians looking to score a political point or two. Several public announcements were made, before and after the parliamentary election in

[4] The current anti-drug strategy of the Norwegian government and related drug statistics will be described in Chapter 3.

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Norway, about the need to formulate a stricter immigration policy to stop criminals.[5] The statements came from politicians belonging to parties in the current and the previous government, but also from the police, which makes this a highly relevant topic of study. The politicians who are formulating both immigration and anti-drug policies are relying on receiving votes from the electorate. This means that problems receiving media attention will force politicians to respond and demonstrate that they are addressing the problem in a way that the electorate finds satisfactory. It can also work the other way around, when a political actor attempt to *securitise* a problem and raise the importance of a specific subject from low to high politics. When a subject is *securitised*, it is made into an issue of security, which in turn justifies the use of extraordinary means – such as steering away from already established procedures or perhaps ignoring international obligations. When the tabloid media meet populist politics, this can be somewhat problematic, as the outcome might be policies that do not reflect the statistics and the actual threat they are meant to address.

To the researcher's knowledge, little is known about TOC's impact on immigration policies. Although this is a single-case study, which makes it difficult to generalize, this research study aims to contribute to an increased understanding of the impact that transnational organised crime has on issues related to immigration, which can perhaps stimulate more research on this topic.

1.4 Research Question

As a result of the immigration flows following the growing socioeconomic gap between the Schengen Area and the external world, there has been an increase in the number of TOCs in Europe. As a consequence of the difficult economic situation in many southern European countries and the open internal borders in the Schengen Area, TOCs that engage in drug and human trafficking have moved north to do their illicit business in Norway. There has been an increased focus in Norwegian media on members of TOCs getting arrested for drug-related crimes while claiming to be legitimate asylum seekers. Politicians of different political parties and the immigration authorities have repeatedly expressed their concern and argued for different solutions to curb what has been labelled an *abuse of the asylum institution*. With this context as a point of departure, this study seeks to answer the

[5] See *Aftenposten (*2013b, 2013c).

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following main research question:

To what degree has the increase of TOC in Norway affected Norwegian immigration policy?

The research question hypothesises that transnational organised crime committed by TOCs affects Norwegian immigration policies; this will be explained and investigated in the remainder of this study. To supplement and support the main question, the study will seek to answer three sub-questions. To get a clear picture of the nature and size of TOCs in Norway, and of how this challenge is met by the Norwegian government, the following sub-questions are asked:

To what extent has there been an increase in TOCs in Norway?
What have been the significant changes in Norwegian immigration regulation between 2008 - 2013?
Has immigration been securitised in Norway?

1.5 Aims and Objectives of the Research

The aim of this study is to understand whether TOCs have affected the current immigration policy, and to discuss the effects and implications of the government's strategy. The rise of TOCs has created new challenges to the traditional slowly developing institutions of sovereign states. Globalisation and technology have increased the mobility of people, businesses and goods – both licit and illicit. If institutions and systems are abused, they will gradually change in order to adapt to the current situation. That is the case when speaking of the asylum institution too, which is part of Norwegian immigration policy. Many countries – including Norway – are dependent on immigration in order to sustain growth. However, a focus on negative aspects related to immigration and abuse of the current system – be that balanced or unbalanced – may potentially lead to more restrictions on immigration.

The objective of this study is to determine whether or not the growing presence of TOCs in Norway has affected the Norwegian immigration policies. And if that is found to be the case, it will be necessary to examine the nature and extent of TOCs' influence on the immigration policies of Norway. As Norway is a signatory to the Schengen Agreement, parts of its immigration policy are

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dictated by the requirements laid down in the Schengen Agreement and the various supplementary agreements. Despite this increased international co-operation on immigration, the national democracies retain certain sovereign powers (Gudbrandsen, 2012). For this reason, the study will firstly seek to determine whether Norwegian politicians perceive TOCs as a criminal *other*. If this is the case, it may have a significant impact on the extent to which punitive means are employed in dealing with TOCs. Furthermore, the study will seek to determine if crime and immigration law has been subject to a process of crimmigration, leading law-makers to use immigration law to curb TOCs. This would mean that TOCs have an impact on immigration policies. Lastly, the question of whether immigration has been securitised in Norway will be considered. If the subject of TOC has been *securitised,* the government might turn to extraordinary measures to deal with the problem – indirectly leading to TOC having an impact on Norwegian immigration policy. Analysis of government representatives' statements will be undertaken, as their statements will usually reflect the priorities of the government. Both the common immigration policies of the Schengen countries and the Norway-specific policies will inform this study, in order to construct a complete picture of the case. However, the main focus is given to Norway-specific policies.

1.6 Research Design and Methodology

This study will apply qualitative methods as "qualitative research provides high-quality data and findings, and deep, meaningful insights into underlying values, fears and motivations of agents and actors in the political world" (Pierce, 2008:47) Qualitative methods are suitable because this is a single-case study, which seeks to provide a detailed description of the impact of TOCs on Norwegian immigration policy. An attempt will also be made to clarify the rationale that guides the Norwegian government in its response to the presence of TOCs. This is a single-case study because the focus is on the impact transnational organised crime has on the immigration policy in Norway only (Burnham et al., 2008:63-64). This single-case design has been chosen as the case of Norway is unique because of its special status, with open borders to the Eurozone but without being a fully-fledged member of the EU. Consequently, Norway has no real influence on Schengen-related policies. Norway can choose not to follow Schengen policies, but this would lead to the cessation of Norwegian membership to the Schengen Agreement. Iceland, Lichtenstein and Switzerland are also Schengen

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members without EU membership. However Norway's situation can hardly be compared to that of Iceland – which can only be reached by air or sea – or that of Lichtenstein, whose population of 35 000 is that of a small Norwegian city. Lichtenstein and Switzerland are also positioned geographically in the middle of the Schengen Area without any external borders to manage. For this reason a comparative design is considered unsuitable.

This is a single-case desktop study following a nonlinear path, as this provides the opportunity to make changes as knowledge on the topic increases along the way (Burnham et al., 2008:45, 53-55). Furthermore, in this study the case of Norway has been chosen because of the increasing coverage TOCs have received in the Norwegian media, and they have become an important focus area for the Norwegian police and some politicians. The research will follow a deductive direction, as theoretical concepts are outlined before those theories are tested against empirical evidence (Neuman, 2006:59). In this study the theories of criminologies of the self and the other (Garland, 1996), securitisation (Buzan et al., 1998) and crimmigration (Stumpf, 2006) will be tested against empirical evidence from the case of Norway. The reason for choosing a deductive direction in this study is to test the relationship between an increasing presence of TOC and stricter immigration laws. The research is case-specific as no attempt will be made to generalise and present a universal theory from the findings of the study. However, as there is found little research on the topic, this study aims to contribute to more knowledge about TOC and immigration policy. It is hoped that this may inspire to more research on related topics.

In this study, secondary sources such as research and statistics on immigration, TOCs, drug trafficking and other related criminal activities are analysed and compared with the statistics provided by the Norwegian police. Secondary sources are sources such as newspaper articles, reports, statistics and research already done on the subject of study (Burnham et al., 2008:44; Neuman, 2006:432). This is to determine to what extent TOCs are an increasing problem in Norway. The development of immigration laws the past six years will be studied in order to determine if Norway has developed a more or less restrictive immigration policy during the period of study. Primary sources such as statements made by the police and politicians will be analysed to get an understanding of how the situation is portrayed publicly within Norwegian society. Tertiary sources such as academic journal articles and books on the subjects of TOCs, securitisation, immigration and criminology are also

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widely used. In addition to written sources, consultations with key informants on the field will be conducted in order to support or disconfirm possible findings.

1.6.1 Variables, Units of Analysis and Level of Analysis

The independent variable in this study will be transnational organised crime (TOC). The impact of this independent variable on the dependent variable of the study – Norwegian immigration policy – will be investigated. The abbreviation TOC will be applied to both transnational organised crime and transnational criminal organisations (TCO) throughout this study, as it is believed to be a precise description of the nature of the border-crossing criminal networks involved in transnational organised crime in Norway.[6]

TOCs gradual entrenchment in a society and influence on government institutions and their policies has evolved over an extended period of time. As a consequence, the level of analysis of this study is *the macro level,* as this level of analysis is common for theories concerned with "events, processes, patterns, and structures that operate among large-scale social units, usually over decades or longer and often covering large expanses of geographic space" (Neuman, 2011:70).

The Copenhagen school has, for analytical purposes and based on a widened definition of security, constructed several sectors other than the traditional state level that can be subject to securitisation, threats and defence. In this study the relevant security sector is the societal sector. The societal sector is regarded in this study as an overlapping sector between state, interstate and individual level of analysis, as transnational organised crime and migration do not occur in isolation. The regionalisation project of Schengen is more complex and has gone much further today than it had when the securitisation theory with its security sectors was formulated. For this reason this study argues that it is necessary to consider the societal sector as subject to influence and dynamics on several levels. The international agenda has direct consequences for what appears on the Norwegian agenda. This is evident as Knutsen, Granviken, Holte, Kjølberg and Aagaard (2000) state that Norwegian foreign and security policy is created in the intersection between exterior pressure and interior manoeuvrability

[6] More on transnational organised crime in Chapter 2 section 2.5.

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(Knutsen et al., 2000:26).

1.6.2 Limitations and Delimitations of the Research

This study will not attempt to provide an exact description of transnational organised crime in Norway, as this would be an impossible task because of the nature of the subject of the study. As a consequence, it may prove challenging to obtain information about the exact impact of transnational organised crime on the Norwegian government and its immigration policies. This study will not be able to consider all the relevant variables explaining the basis of the Norwegian government's immigration policy, but focuses on the impact of one variable, namely TOC. The study can however, contribute to a better understanding of the line of thought that Norwegian immigration policy is based upon and provide valuable knowledge about the possible development of *crimmigration* policies in Norway for future research.

The criminal statistics provided by the Norwegian police and international organisations do not necessarily show the actual size of an area of crime, but rather reflects the priorities and successful operations of the police. Neither is it always possible to determine whether or not a criminal activity is organised or transnational. However, the actual threat that TOCs pose is not as decisive for the purposes of this study as how their presence is interpreted. The perceived size of the challenge that TOC pose to a society will necessarily compel policymakers and police to act upon that threat, and in that sense a perceived threat becomes a very real influence on government policies and police strategy. This helps the study overcome the challenge of inaccurate crime statistics, as government policies to tackle TOC will be expressions of how the threat they pose is perceived by law makers. If the subject of TOC is *securitised,* it can potentially have as a consequence that extraordinary means are applied in Norwegian immigration policies.

It is in the nature of real-world politics not to provide the public with the realities of the power-struggles and priorities that keep a government in power, with the support of the electorate. This means that it is not possible to provide a fully reliable and detailed description of the interests that determine the Norwegian immigration policy. However, certain aspects of the Norwegian

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immigration policy are a direct consequence of the Schengen agreement. This makes it possible to look at anti-drug and immigration policies that are common for the whole Schengen Area. As these policies are dictated from Schengen centrally, they reflect the perceived challenge posed by TOCs in Schengen as a whole. Studying the nature of the Norway-specific policies concerning immigration and TOCs will be important. Determining whether these domestic policies have developed in a more restrictive or less restrictive direction over a number of years, while simultaneously looking at crime and immigration statistics for the same period, will provide valuable knowledge. For this reason the development of Norwegian immigration policies between 2008 and 2013 will be examined. This might give a brighter image of what impact TOCs have had on Norwegian immigration policy. The use of aspects of the immigration policy that can be effective tools against TOCs – such as forced returns and closed reception centres – will be considered, accompanied by the officially stated reason for the use of such measures. Research about how domestic immigration policy has developed under both conservative and social-democratic governments during the same period will help control for variations that might be the result of ideological differences. By also looking at the public statements of politicians and immigration authorities, one can determine to what extent the perceived threat from TOC has an impact on Norwegian immigration policy.

The researcher acknowledges that the presence of TOC in a country is not the only viable explanation for changes in Norwegian immigration policy, and that is just as true in Norway as anywhere else. Several studies have been done on the attitudes toward immigration focusing on macro-economic conditions (Wilkes & Corrigall-Brown, 2011), xenophobia and the general growth of the right-wing in Europe (Williams, 2010), attitudes towards immigration following terrorist attacks by extremists (Andersson, 2012), xenophobia directed towards Muslims (Eriksen, 2012), the role of the media (King & Wood, 2013) and focusing on the Schengen area as a whole (Albrecht, 2002; Vachudová, 2000). It is beyond the scope of this study to take all these variables into consideration, as the focus is on TOC and whether or not it has affected Norwegian immigration policy.

1.7 Outline of the Study

The following chapters will provide the reader with a theoretical foundation in which this study will

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be conducted (Chapter 2) and a contextualisation of key elements and concepts (Chapter 3). The contextualisation is done in order to provide the reader with an understanding of the context in which Norwegian immigration policy is formulated. In Chapter 4 the concepts presented in Chapter 3 will be operationalised in order to answer the research question and determine whether or not transnational organised crime has an impact on Norwegian immigration policy, and if so, what that impact is. Chapter 5 will sum up the main findings, provide an overview of the research process and present the reader with a final conclusion.

1.8 Conclusion

This chapter introduced the Norwegian government's attempt to curb increasing transnational organised crime through domestic and international efforts. The focus of this study is to determine if TOC has affected Norwegian immigration policy. It has been argued that, if TOCs are considered a criminal *other*, this will lead politicians to justify adopting increasingly punitive means driven by a (putative) need to protect the public and uphold "law and order". If crime and immigration law has been subject to *crimmigration*, the immigration policy will increasingly be used to tackle TOC. If the phenomenon has been effectively *securitised*, this might have the consequence of raising TOC and immigration policy from the level of low politics to high politics, and even a matter of national security. The preliminary literature review (1.2.0) presented the three main categories of data and literature that will be used as a foundation for this study. The research design and methodology section (1.6.1) presented the methodological framework within which this study will be conducted. In the next chapter, the theoretical foundation of the study will be established. This will be done by conceptualising criminologies of the self and the other (Garland, 1996; 2001); crimmigration (Stumpf, 2006); securitisation (Wæver, 1996; Huysmans, 2006) and the Copenhagen School's theoretical framework for determining securitisation (Buzan et al., 1998); and TOC (Williams 1998b; 2002; 2008).

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Chapter 2: Theoretical Foundation and Conceptualisations

2.1 Introduction

This chapter provides the reader with the theoretical foundation and the conceptualisations the study is based on. First the concepts of criminologies of the self and the other (2.2) are introduced. Then follows a description of the concept of crimmigration (2.3), before securitisation theory (2.4) is introduced. These theories have been selected because they all address different aspects of distinguishing between the included and the excluded – thinking relevant for this study. Lastly, the concept of TOC and theories regarding the existence of the concept will be presented (2.5). It is concluded that all the theories and concepts presented, regardless of whether they stem from criminology, security studies or political science, share a commonality with regards to how they all distinguish between *us* and *them* – whether this finds expression through the way a society regards criminals, applying separate laws for citizens and non-citizens, or labelling the *other* as a threat because it might change *our* identity by its very existence. This is a subject that will be revisited all through this chapter, as the study seeks to analyse *to what degree the increase of TOCs in Norway has affected Norwegian immigration policy.*

2.2 Criminologies of The Self and The Other

David Garland (2001) describes how specific policies and practices regarding crime control have developed and adapted to the increasingly liberalised and globalised world we live in. Some of the aspects Garland (2001) mentions are:

- an increasingly insecure economy which excludes and marginalises large sections of the population;
- a sovereign state, whose ability to regulate individualistic populations and increasingly differentiated social groups is deteriorating; and
- high crime rates in coexistence with low levels of community solidarity and family cohesion (Garland, 2001:194).

These are some of the aspects that, according to Garland (2001), form the backdrop of what he calls

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"our obsessive attempts to impose situational controls on otherwise open and fluid settings" (Garland, 2001:194). He argues further that this backdrop causes "deep-seated anxieties that find expression in today's crime-conscious culture, in the commodification of security, and in a built environment designed to manage space and separate people" (Garland, 2001:194). While societies have become increasingly liberal, there has simultaneously been a growth in regulatory instruments, including managerial controls, spatial controls, social controls and situational controls.[7] These controls have mainly been directed at the urban poor, welfare claimants and minority communities – those considered dangerous offenders and undeserving claimants – leading Garland (2001) to claim that we have become less capable of trust, less tolerant and less inclusive (Garland, 2001:194-195). Increased freedom for most Norwegians, ultimately expressed by the open borders to the rest of Europe, has moved immigration control away from the borders and it is now being performed all over Norwegian territory. Naturally, the people who are regularly stopped for ID and document controls are foreign looking, both Norwegian and third-country citizens.

2.2.1 Criminologies of the Self

There are two basic narratives of the criminal, representing contradictory views central to contemporary crime control policy. The first narrative, criminologies of "the self", acknowledges that crime can never be completely eliminated and that development of new techniques is vital to contain it. This is especially the case in societies with high crime levels (Garland, 1996:450). These techniques include measures such as initiating crime prevention partnerships between state agencies, NGOs, churches and private organisations; encouraging the citizenry to take greater care of themselves and their property; and increasingly applying techniques of risk assessment and actuarial language rather than techniques of welfare and/or deterrence. In this narrative the criminal is seen as an opportunist, not very different from the victims of his crimes (Garland, 1996:451). As modern societies are built on the imperatives of rational choice and personal freedom, the notion that "crime is a decision not a disease" fits in well and has become conventional wisdom (Garland, 2001:198). Criminals are considered rational, except if they suffer from some sort of mental illness. If they are to be deemed irrational, a condition for their exculpation, this is due to a biological, psychological or cultural reason that differentiates them from the rest of us (Garland, 2001:198). The crimes are seen as

[7] This will be further explained in Chapter 3.

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routine, hence the aim for society is to change the everyday routines of social and economic life, in order to minimise the number of opportunities, redistributing costs, shifting risks and creating disincentives. This includes increasing the use of credit cards instead of cash, CCTV monitoring, encouraging cooperation between government agencies dealing with crime, and coordinating closing times for nightclubs within close proximity to each other (Edwards & Gill, 2002b:252; Garland, 1996:451). Within this narrative, the criminal is guided by rational choice and a will to pleasure rather than a moral compass (Garland, 1996:452).

Simultaneously to the development of the criminology of the self, there has been another development that leaves a rather ambiguous impression of modern crime policy. Even though crime rates do not readily respond to greater use of imprisonment or longer sentences, governments are more likely to prioritise punitive measures than costly crime preventive measures, as punitive strategies are easier to deliver (Garland, 1996:464). This leads us to the second narrative.

2.2.2 Criminologies of the Other

The second narrative is known as criminologies of "the other" and is common in ministerial rhetoric. In this narrative the sovereignty of the state remains intact and the government feels obliged to respond to a general demand from a public, popularly expressing insecurities, to provide security. The public may also be manipulated into feeling insecure for political purposes. This discourse is most evident in the rhetoric of "wars" on drugs, criminal networks or crime in general, and is not a new phenomenon. Accordingly, it is applicable to this study. The criminal is considered a dangerous member of a distinct racial or social "outsider" group, distinctively different from "us", the insider group of law-abiding citizens. For "our" security and protection, criminals must be excluded, incarcerated or deported (Garland, 1996:461-463; Edwards & Gill, 2002b:251-252). It follows from this logic that when the criminal is an *other* and a victim of his own rational choices, the "dominant classes" can impose strict controls without restricting their own freedom (Garland, 2001:198). In this narrative crime is considered an objective phenomenon and not resulting from the interaction between harmful behaviours and the way in which some become criminalised, while others do not. This view is found in the official narratives of the UN, the Council of Europe and the G7 when dealing with

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TOC (Williams, 1997).

TOC in this narrative is seen as quantitative increases in the occurrence of certain major and serious offences perceived to be a threat, not just to individuals, but to the interests of state security from clearly identifiable external criminal groups (Edwards & Gill, 2002b:253-254). Symbolism in politics serves the purpose of showing the public that the ruling elite "is doing something about the problems", while the rhetoric of any legal measures are ambiguous to allow room for negotiating the policy outcomes with relevant bureaucratic and corporate interests (Edelman, 1964 in Edwards & Gill 2002b:252). By inflicting harsh punishments, governments can demonstrate what authority is all about. This demonstration of authority is a sovereign act Hall (1988) labels *authoritarian populism*, and is generally well received among the public. According to Garland (2001), there is no public policy area more driven by emotion and habit than punitive-populist crime-control policies.

Similar to this line of thought is Walter's (2004) concept of *domopolitics*, where every country is compared to a home and international relations are perceived as relations between several homes. A home is a place where *we* belong, while *others* certainly do not. Guests may enter our home on invitation, but they are not welcome to stay as long as they please. Then again, there are others who always arrive uninvited, including illegal immigrants and bogus refugees who should be returned to their own homes. Our home should be secured, because it contains valuables envied by others (Walters, 2004:241). According to Bigo (2002), both internal and transnational security politics, in place to secure these homes, mobilise and play on fear in order to legitimise themselves.[8] Like the laws formulated to curb crimes committed by the other, the rhetoric justifying migration control has become harsher and more punitive (Bowling, 2013:295). Notions of threat are combined with an objectification where, according to Bauman (2004), migrants are labelled the "waste products" of globalisation, which dehumanises large swathes of the poor, migrating world population. This subject will be presented in the next section, which introduces the growing tendency of combining the roles of "gate-keeper" and punisher of crimes.

[8] See Section 2.4 on securitization.

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2.3 The Criminalisation of Immigration

According to Melossi (2003), contemporary European politics have become increasingly influenced by a wave of right-wing politicians yearning for an imagined European "golden age", whose existence ceased with the arrival of immigrants. Wacquant (1999) points out that there has been a tendency among the European media and politicians to "surf the xenophobic wave that has swept across Europe" since the late 1980s and early 1990s, which has led to targeting of non-European immigrants (Wacquant, 1999:219). Others, like Walczac, Van der Brug and De Vries (2012), observe that the traditional class divisions in societies are gradually being obliterated and replaced by divisions between "natives" and "immigrants". Meanwhile, it has been noted that the nature of "native"-"immigrant" relations is transforming the punitive system in European states (Melossi, 2003; Calavita, 2005). Punishment is increasingly used as a means to merge the formerly separate aspects of "gate-keeping" and punishment of crimes. According to Aas (2007), banishment and expulsion are now being used, in addition to traditional punishment, as a means to draw moral boundaries – the traditional domain of criminal law. The practice of expelling individuals who have broken the law can, according to Garland (2001), be seen as a way for politicians to reassure the public that they are committed to controlling crime, when high crime rates and unauthorised immigration have led to a distrust of the government's ability to control immigration. The result, claims Garland (2001), is that state sovereignty is used in ways that are not effective in controlling crime or immigration, and deportation or harsh criminal punishments become means of expressing moral condemnation (Garland 2001:110). In a contemporary Europe with open borders, expulsion of a third country citizen to another Schengen member state is about as effective as attempting to empty the deck of a boat by scooping water from one side of a boat to another. For those around you, it may appear that you are doing something, but the water remains on deck and will quickly come back to where it was in the first place.

2.3.1 Crimmigration

Stumpf (2006) has been studying the conjunction between criminal law and immigration law in the United States (US), a phenomenon which she has labelled crimmigration law. Stumpf applies membership theory to immigration and criminal law in order to explain how laws are a means of

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deciding whom is a member and who is a non-member of a society. Membership theory is based on the notion that a social contract between the government and the members of society provides the population with positive rights. Individuals who are not parties to the social contract, but who are subject to government action, have no claim to positive rights, at least not the same positive rights as members of the contract. Only beneficiaries or members of the social contract can make claims against, and are entitled to protection from, the government. Individuals who are non-members may be acted against by means outside of the contract's constraints (Stumpf, 2006:27). The government has the role of a crimmigration bouncer, using persuasion or force to remove individuals from the premises if they are found not to have membership or to have broken the membership's rules (Stumpf, 2006:30). The role of bouncer in immigration law is legitimised by a state's sovereign power to exclude and decide who members of society are. Although criminal and immigration law are based on two different assumptions about the individuals they regulate, the outcomes are similar in that the offenders are excluded from society.

In criminal law the state's sovereignty lies in its authority as the main player in controlling crime. Stumpf (2013a) notes that there has been an increasing trend of criminalising unauthorised movement across borders that targets illegal immigrants and their associates (Stumpf, 2013a:15-16). Changing illegal entry and re-entry from a civil violation to a crime has not only led to increased likeliness of non-citizens acquiring criminal records. Often it has also led immigration regulation to become subject to government institutions responsible for security and crime (Stumpf, 2013b:62). In the US this shift has resulted in immigration enforcement officials being the federal government's largest body of armed law-enforcement officers, and has led to more criminal prosecutions of immigration-related crimes than for weapons or drug crimes (US Customs and Border Protection, 2005; TRAC, 2013 in Stumpf, 2013b). Garland (2001) argues that when unlawful presence and unlawful re-entry into a country is shifted from a civil to a criminal offence, it does not only heighten the sanction for unlawful border crossing, resulting in jail sentences in addition to deportation, but it also holds expressive power by labelling the act a crime and the perpetrator a criminal (Garland, 2001).

Jakobs (1985 in Zedner, 2013) infamously put forward the concepts of *Feindstrafrecht*, criminal law for enemies distinct from *Burgerstrafrecht* – criminal law reserved for ordinary citizens. Zedner (2013) argues that following this logic, criminal law is not meant for non-citizens, which is

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problematic when people excluded from a society are to be bound by the liberal social contract between the government and the citizens of that very same society. Catherine Dauvergne (2013) illustrates this broader theoretical point when she states that, although crime law and immigration law are merging, the standards of proof in criminal law and refugee law are completely different. While a crime must be proven "beyond reasonable doubt" in criminal law, there is no proof other than personal statements by the asylum seekers themselves and information provided by NGOs and governmental institutions needed to determine asylum cases. This low standard was originally put in place to protect the individuals concerned (Dauvergne & Millbank, 2003) However, Dauvergne (2013) states, when exclusion and criminality are the issue, this low standard of evidence is turned against the asylum seeker. Evidence that could never lead to a criminal conviction is enough to lead to the exclusion of individuals suspected of criminal activity. This ultimately means that "criminal law can presently be observed as dangerously bifurcated between a variety applied to citizens and one applied to *others* of various sorts" (Dauvergne, 2013:80). In other words, if you are one of *us* you are innocent until proven otherwise. If you are one of *them* – *the other*– you are, to a certain degree, guilty until proven otherwise.

2.3.2 Crimmigration in Europe

The growing literature on crimmigration in Europe, sometimes referred to as the criminalisation of immigration, is closely linked to the expansion of border-control co-operation among Schengen member-states.[9] Walters (2004:247) argues there has been a tendency to "govern central aspects of global migration through criminalization and illegalization", building on Simon's (2006) concept of "governing through crime". By "governing through crime", Simon (2006) refers to how governments attempt to tackle social problems through aggressive law enforcement and criminalisation. He argues that government institutions in reality may be motivated by other factors than those they seem to be motivated by, when acting to prevent crime or related behaviour. According to Johansen et al. (2013:14), "the dangerous criminal immigrant" is a central cultural role-figure in both political life and everyday conversations in Norway. However, the Norwegian media are also credited with substantial influential power by both Skilbrei (2013) and Uglevik (2013). The way that newspapers

[9] This will be further described in section 3.2.

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and news broadcasters portray migrants can potentially influence people's attitudes towards migrants in both positive and negative directions. Consequently, there has been an increasing cultural and discursive confluence between immigrant status and crime (Eide & Simonsen, 2007).

Johansen et al. (2013) point out that politically there is a war of words on the subject of migrants and crime, in which both sides seek approval for their terminology that projects their desired associations. Parties critical of immigration speak of "fortune hunters" and "economic refugees", using language that connects immigration and crime. On the other side of the spectrum are those advocating the rights of migrants, often referring to migrants as "paperless" and sometimes stating that "no human-beings are illegal"[10] (Johansen et al., 2013:15). Fangen and Kjærre (2013) employ the term "illegalized", arguing that the illegal element in the lives of the people concerned is a consequence of a process of public definition, and not a static state. The governments of several countries have been subject to criticism for adding a threat of prosecution to their immigration laws. As a result the subject of immigration becomes what Aliverti (2012) labels *over-criminalised*, which means that what was not considered a crime before is now considered a crime. In other words, actions that are not *really* a crime are treated as, and for that reason they become a crime.

Hence, the term *crimmigration* refers to new hybrid forms of governmental control that are concerned with the regulation of migration and crime control, border control and punishment. Traditionally, crime control has commonly been considered an internal affair, whilst migration control has been directed outwards (Aas, 2013). Border control and crime control had their own separate institutions, handling separate domains. The army, the immigration authorities and the customs authorities have traditionally been dealing with "the strangers" and "the foreigners", whereas the police have dealt with "the criminals"; thieves, villains and scoundrels (Johansen et al., 2013:20). When these two formerly separate domains converge into one, the lines are blurred and it becomes more difficult to separate "the suspicious foreigner" from the morally suspicious elements of the population.

Over the last 200 years there has been a gradual development in the way criminals have been punished for their offences, from corporal punishment to incarceration and rehabilitation. The

[10] This phrase was much publicised when a young, well-integrated woman of Russian origin was expelled from Norway in 2011. The woman was sent back to Moscow, but was subsequently permitted to return after her case received much attention in Norwegian media.

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population as a whole has become subject to government control and it has become an important aim for the government to give the population the right tools to develop in a direction that is as constructive as possible. This development is facilitated by extensive use of science and statistical knowledge, and has been labelled *biopolitics* by Michel Foucault (2008). In Norway this has been manifested in the modern welfare state. Public healthcare and a welfare system that secures a minimum income for all citizens are at the very core of the Nordic model. Biopolitics in Norway is not reserved for law-abiding citizens only, but for all citizens, including those who have been convicted of criminal offences and the "morally suspicious" (Ugelvik, 2013). Although the number of prisoners in Norwegian prisons is unprecedented, *Norwegian* prisoners are offered education, a psychologist, anger management courses, drug rehabilitation programmes, social services and/or a priest. Prisoners are even offered a reintegration guarantee, to ensure that they can be successfully reintegrated back into society after their prison term comes to an end (Johansen et al., 2013:23). However, this is not the case for foreign citizens in Norwegian prisons. Gundhus and Egge (2013) demonstrate this by referring to teenagers with temporary residence permits – a group lacking the formal and informal social networks the inclusive measures are grounded on (Gundhus & Egge, 2013:224). The previously mentioned *Domopolitics* (Walters, 2004) – policies formulated in order to defend the nation state from "foreign dangers" – is according to Gundhus and Egge (2013:224) another factor that contributes to teenagers with uncertain residence status being treated as a security risk, despite falling under the UN Convention on the rights of the child.

2.4 Securitisation

Traditionally the security debate in international relations has been dominated by the narrow state-centric focus on national security as absence of military threats, characteristic of Cold War realist thinking. Typically for the traditionalist side of the debate, Lebow (1988) argued for delineating the field of security studies as "anything that concerns the prevention of superpower nuclear war" (Lebow, 1988:508). The growing dissatisfaction with the narrow focus of security in international relations was a result of economic and environmental issues in the 1970s and 1980s, as well as concerns of identity and an increase in transnational organised crime in the 1990s (Buzan et al., 1998:2). Among those who have argued for a widening of the concept of security are Ullman (1983), Jahn et al. (1987), Brown (1989), Nye (1989) and Wæver, Buzan, Kelstrup and Lemaitre (1993), who

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all wanted to incorporate other threats of growing importance in addition to the traditional military focus. This has been met with criticism from the traditionalists, who express concerns that by widening the concept of security to include non-military issues, eventually "everything" will become a security issue. This, the traditionalists argue, will undermine the essential meaning of the concept (Walt 1991:212-213). After the end of the Cold War the two poles in the debate seem to have moved slightly closer to each other. Traditionalists such as Chipman (1992) and Gray (1992) admit the growing importance of non-state actors, although maintaining that the main focus of security studies is on the threat or actual use of military force between political actors. Some who advocate widening the concept, on the other hand (Jahn et al. 1987; Ayoob, 1995), focus on the political sector or the state, while reducing the focus on military threat. The traditionalist concern about the watering down of the security concept is a valid and strong argument against including too many factors. On the other hand, the world is no longer mainly concerned about the security issues related to a bipolar nuclear standoff. The international agenda today has become increasingly concerned with issues such as environmental and human security, not just focusing on the security of the state, but rather the people living within the state (Barnett, 2003; Barnett & Adger, 2007; Brown, 1989; Edwards, 1999; Swart, 1996; Floyd, 2007). This necessitates analytical tools that are adapted to the current situation. Arguably a narrow traditionalist concept of security does not serve this purpose, and this makes a widening of the concept a potentially valuable contribution.

2.4.1 The Copenhagen School and Securitisation

Ole Wæver (1996) has been instrumental in developing the concept of *securitisation*, which refers to an actor's ability to raise the importance of a subject to a level where it is perceived to pose a security threat, which in turn will legitimise breaking free from rules or procedures the actor would otherwise be bound by. This entails a shift from normal to exceptional politics (Buzan et al., 1998:23; Wæver, 1997:48–49, 2000:251). The main argument of securitisation theory is that by simply uttering the term "security", something is being done. Security is a speech act; hence, "[i]t is by labelling something a security issue that it becomes one" (Wæver, 2004:13). Others, like Jef Huysmans (2006), speak of *domains of insecurity*, by which he means a process in which a phenomenon is not referred to as a security threat *per se*. Rather it is a form of political modelling where a phenomenon, through a

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discursive practice, is presented within a framework where it is perceived and embedded in a security context. In line with this notion he states that: "Asylum does not have to be explicitly defined as a major threat to a society to become a security question" (Huysmans, 2006:3-4). The construction of a domain of insecurity does not simply depend on a political reaction to a threat, but can be rooted in the language of security (Fierke, 1998), discourses of danger (Campbell, 1998; Weldes, 1996) in addition to security as a speech act (Buzan et al., 1998).

Security is in this context defined broadly, as opposed to the narrow traditional definition. When some functional actor has been labelled a threat to the survival of a referent actor, the issue will be shifted to the political sector, where the threat can be dealt with. Because the issue has been labelled a security threat to the existence of the referent actor, this will justify the use of extraordinary means and allow the securitising actor to ignore rules and agreements it would normally be bound by (Taureck, 2006:3). In other words, a securitising actor may move a matter from low politics to high politics simply by labelling it a matter of security. Essentially this removes security from having any pre-existing objective meaning and makes its meaning a constructed inter-subjective concept (Taureck, 2006:3). The central argument in this line of thinking is that a subject does not become a security issue until it has been placed in a context and framed as one.

Buzan et al. (1998) describe how securitisation may occur in five different sectors, namely the military sector; the environmental sector; the economic sector; the societal sector; and the political sector. Relevant for this study is securitisation in the societal and political sector. In addition, Huysmans (2006:8-13) is preoccupied with how the expert knowledge and technocracy of modern societies may contribute to securitisation, which will be explained below.

2.4.2 Conditions for Securitisation in the Societal Sector

Successful securitisation of a subject depends on a referent object, a securitising actor and a functional actor. Firstly, a referent object must be identified. The referent object is the object claimed to be under threat, regardless of how legitimate this claim is. For instance, in the societal sector the referent object is a large and self-sustaining identity group. These groups vary in time and place, sometimes defined

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by race or religion, but in Europe these groups are mainly national (Buzan et al 1998:119-120). The issues most commonly regarded as threats to societal security are:

1. Migration – where group X is being overrun or diluted by influxes of group Y. Group X will no longer be what it used to be, because the population consists of a more diverse group than before. The consequence is a shift in the identity of group X;
2. Horizontal competition – group X are still living here, but the group will change their ways because of overriding lingual and/or cultural influence from neighbouring culture Y;
3. Vertical competition – where group X will stop seeing itself as group X, because of an integrating or a secessionist-"regionalist" project that draws them to wider or narrower identities. Such issues are struggles over how widely circles should be drawn or which circles should be given the main emphasis (Buzan et al. 1998:121).

These issues can be combined, although they are analytically distinct. The securitising actor is the actor that performs a securitising move, for instance, a politician presenting an issue as an existential threat. However, Huysmans (2006) argue that the focus on parliamentary debates and governmental speeches is biased towards focusing on opinion makers and politicians. This, he argues in line with Bigo (2002), undervalues the important role played by security experts in framing domains of security (Huysmans, 2006:8). Huysmans (2006) has introduced the concept "dual politics of insecurity" by which he refers to how diagrams, expert knowledge, technology and professional agencies tend to be presented as simply a security rationale, but in fact incorporate a political rationale and are part of the debate about the nature of the political organisation of society (Huysmans, 2006:13). In addition to political parties, social movements and professional agencies such as the military, customs, police and immigration officials coordinate and compete over legitimacy on the subject of migration and its relation to society (Huysmans, 2006: 53). Because the author of this study acknowledges the importance of expert knowledge in shaping society and policies, this will be taken into account when discussing whether securitisation of immigration has taken place in Norway.

The functional actor is the actor that is identified as causing the threat, for instance, a group of immigrants threatening the identity of a country's original population (Buzan et al., 1998:25). When nation and state closely correspond, persons occupying positions of state power often make references

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to nation and identity, but in some instances also to sovereignty (Buzan et al., 1998:123). Buzan et al. (1998) suggest that references to sovereignty and state power are more common among actors that are actually in power, while it is easy for actors in opposition to make references to identity. Arguably this is because defence of state sovereignty and power would strengthen those actually in power, whilst actors in opposition can point out how the government fails to pay sufficient attention to threats to the nation (Buzan et al., 1998:123).

According to Buzan et al. (1998), for an issue to be securitised, it is absolutely vital that the audience of the speech-act accepts it as just that. If the audience does not accept the securitising actor's claim of something being a security threat, the claim simply remains a speech act. However, emergency measures do not necessarily have to be adopted, as long as the argument receives enough support for a platform to be made from which it is possible to legitimize emergency measures or other steps that would not have been possible had the discourse not taken the form of existential threats, point of no return and necessity (Buzan et al. 1998:25).

In theory, any actor can become a securitising actor, but because this ability is based on power and influence, this prevents just anyone from becoming a securitising actor (Taureck 2006:3). Huysmans (2006:6) is more preoccupied with how insecurity is socially and politically constructed by security agencies through routines, technology and everyday practice. He argues that in modern and technocratic societies expert knowledge is inherently political, as it tends to reflect the politics of insecurity that prevails in a society (Huysmans, 2006:10). There is a constant battle where competing security knowledge is a central part of the politics of insecurity, alongside conflicts over which policy areas should be allowed to encroach upon the others. For instance, this becomes apparent in the "political struggle over the legitimacy of existing migration policy" (Huysmans, 2006:12). The latter view on securitisation does not necessarily require emergency measures, but rather that the policy area in question is institutionalised and placed within a domain of insecurity. This way securitisation becomes the routinisation of an exceptional situation, rather than a dramatic response to an ultimate threat to survival.

Society can either react to such threats through actions by the community itself or by pushing the issue up to the state agenda, by moving it over to one of the other sectors, potentially the military or

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political sector. For instance, at state level immigration can be addressed through legislation and border control (Buzan et al. 1998:122). Because this pattern of handling societal security threats is quite common, it may be difficult to analyse without taking into account the political sector.

2.4.3 The Political Sector

All threats to security can be said to be political, but the political sector will here take up non-military threats to sovereignty (Buzan et al., 1998:141). Political security embodies threats to the internal legitimacy and/or external legitimacy of political units, or threats to the organisational stability of the state. Political threats are typically about denying recognition, support or legitimacy to the political units of a state (Buzan et al., 1998:142-144). The main referent object of the political sector is the territorial state, but also quasi-superstates such as the EU can serve as referent object in this category (Buzan et al., 1998:145). In the political sector the government itself will be the most likely securitising actor, a role it is especially likely to play if the government itself is threatened either by internal or external threats (internal threats are more typical for weak states) (Buzan et al., 1998:146).

It is generally assumed that in strong states, such as Western liberal democracies, national security is primarily about protecting the state from outside threats and interference, but also internal threats such as terrorism (Buzan, 1991:100). Buzan (1991) argues that a state consists of three components: idea, physical base and institutions. Following this argument and focusing on the issues that do not fall into any other category, what is left are the ideas that political institutions are built on and the political institution itself (Buzan et al., 1998:150). Buzan et al. (1998) argue that ideas that keep a state together are postulates such as nationalism and political ideologies. Someone questioning the ideology that legitimates the government, the territorial integrity or the existence of the state may threaten these ideas. All these ideas can be categorised under sovereignty, which make threats to a state ultimately about sovereignty (Buzan et al., 1998:151). Threats to a state's sovereignty do not have to come from an invasion by another country, but may, as Buzan et al. (1998) argue, be self-imposed. To exemplify this, they refer to the way that some of the EU member states, for security or economic reasons, enter the EU integration process that have the potential of undermining their sovereignty. Buzan et al. (1998) and Wæver (2000) have on several occasions argued that the issue of EU integration has been securitised, because it has been argued that if integration does not happen,

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Europe will again be fragmented and in danger of becoming the site of another war. Huysmans (2006) agrees with the claimed securitisation within the EU and has pointed to the increasing deployment of various border control strategies,[11] justified by immigration being framed as a security issue.

It is important to remember, argues Wæver (1995), that security is not necessarily a universally good thing. Security essentially entails a kind of stabilisation of a conflictual or threatening situation, which involves some kind of emergency mobilisation of the state's resources. Wæver (1998) states that "security should be seen as a negative, as a failure to deal with issues of normal politics" (Buzan et al., 1998:29). Preferable to the securitization of a situation is its desecuritisation, where issues are shifted into a normal political bargaining process rather than an emergency mode (Wæver, 1995 cited in Buzan et al., 1998:4).

2.4.2 Criticism of Securitisation Theory

Securitisation theory has been criticised by several theorists, among them Claudia Aradau (2001, 2004) and Jef Huysmans (1995, 1999). The criticism has been directed at the absence of moral/ethical goals of the theory, while some scholars argue that the moral/ethical goals of securitization theory are false and unethical (Taureck, 2006:4). Aradau (2001, 2004) and Huysmans (1995; 1999) criticise securitisation theory based on the assumption that the analyst is never neutral when writing about social reality. Rather, writing about a particular social reality is instrumental in co-constituting that very reality, which means that the writings of a theorist reproduce this reality. According to Huysmans (1995), the theorist "reproduces the security agenda when [he] describes how the process of securitization works" (Huysmans, 1995:69). This is what Huysmans (1999) calls "the normative dilemma of speaking and writing security". In line with this argument one can then claim that one is causing the securitisation of an issue, for instance immigration, by writing about how that issue is securitised. For Aradau (2004) this means that the analyst has a political responsibility and that the very nature of securitisation theory is political. However, Taureck (2006) points out that securitising theory does not provide a tool to answer what security should or should not be. Instead it provides a tool to answer the question: "What does security do?" (Taureck 2006:4). Wæver (2000) has himself

[11] The various border control measures implemented in the Schengen Area will be described in Chapter 3 Section 3.3.

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stated that for the analyst in securitisation theory, being political is not of primary importance, as it "can never replace the political act [that is securitisation/desecuritisation] as such" (Wæver, 2000:252). It becomes clear that this criticism from theorists of normative security theory ignores the fundamental goals of securitising theory. Taureck (2006) points out that the normative security theorists seek to find an answer to the question: "What should security do?", whereas securitising theory seeks to answer the question: "What does security do?".

Spirited criticism has also been articulated by Bill McSweeney (1996, 1998), who argues against reducing security to an entirely subjective concept. If security is an entirely subjective concept, McSweeney argues, then it would be impossible to make objections to racist or xenophobic reasoning behind the securitisation of a subject. For the protection of migrants who might become subject to such a securitising process, McSweeney (1998) argues, societal security should be kept out of the security agenda altogether. Again, this criticism seems to share the position of normative security theory that focuses on what security should do. To counter the problem of reducing security to a subjective concept McSweeney (1996) argues for a traditionalist view of security because:

> From the traditional security point of view, the state would intervene and speak objective security for the society. This means that the racist perception of security would be countered by a decision of the state and a policy strategy to implement it (McSweeney, 1996:88).

What is meant by the state speaking "objective security for the society" is unclear and as Williams (1998a) points out, Nazi Germany is an obvious example of the fallacy of claiming that the state is in possession of an objective definition of security for the society. Buzan and Wæver (1997) respond to McSweeney's criticism of reducing security into a subjective concept by noting the contradiction in McSweeney's (1996) argument the following way: "For McSweeney there are constructed things – identity – and real things – the state security!" (Buzan & Wæver 1997:246).

In the previous sections the Copenhagen School's securitisation theory was described and securitisation was conceptualized. Criticism directed towards securitisation theory was briefly visited, presenting and discussing arguments from both sides of the debate. For the purpose of this study, securitisation theory will be applied as a tool to determine if immigration has been securitised in

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Norway. The researcher takes note of the arguments presented by normative security theory analysts (Aradau, 2004; Huysmans, 1999) that by describing a securitisation of an issue might contribute towards reproducing the security agenda. However, the purpose of this study is to create an understanding of the relationship between TOC and Norwegian immigration policy – not to determine whether or not Norwegian immigration policy is moral and ethical. The study will consider if securitisation of immigration has occurred in Norway by discussing whether immigration has been situated within the domain of (in)security. The purpose of the next section is to conceptualise transnational organised crime and situate the concept within a historical context.

2.5 Transnational Organised Crime – Border-Crossing Crime

After the Cold War ended there was a need for secret services to explore new areas of crime, as much of the rationale for internal security planning was removed (Bunyan, 1993:33). The external threat was transformed from communist regimes to transnational organised crime and immigration, reinforcing the notion that the threat came from outside the community (Den Boer, 1999:17). According to Den Boer (1999), organised crime has become a suitable substitute for the old external threat and especially organised crime associated with mobility and transnationality. References to the "external" aspect of organised crime have become familiar in law enforcement discourse, especially when it concerns illegal immigration, trade in human beings, and Russian organised crime. This has led internal and external security to become merged to a certain extent (Den Boer, 1997, 1999). The new modernity that has come into being since the Cold War is characterised by a decline in the sovereignty of the traditional nation-state, compared to the era before the fall of the Iron Curtain. Governments do not have the resources or the capability to control everything that goes on within their territories, or everyone or everything that crosses their borders. Pockets of lawlessness are present in many countries, and these pockets are well connected to global criminal networks (Allum & Kastakos, 2010:2). How they are connected and what defines them will be described in the sections that follow.

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2.5.1 Literature on Transnational Organised Crime

To define what transnational organised crime is, one should start with the definition of organised crime. This task has proved to be a difficult one, as different meanings are given to the concept by politicians, criminologists, international relations theorists and the police. In 1996 a *High Level Group on Organized Crime* was set up in all EU countries to elaborate on the definition of organised crime. As expected, there were as many definitions as there were EU states (Van Duyne, 2009:125) and there are surely many more. For the purpose of this study, it is necessary to select one. According to one definition, organised crime is:

> criminal activities for material benefit by groups that engage in extreme violence, corruption of public officials, including law enforcement and judicial officers, penetration of the legitimate economy (e.g. through racketeering and money-laundering) and interference in the political process (Van Dijk, 2007:40).

The official definition of organised crime, taken from the "Council of Europe's Classification of Organised Crime", was formulated in 1993. To be defined as an organised crime, an activity must match at least six of the following characteristics of which (1), (5) and (11) must be included:

1. Collaboration with more than two people;
2. Each with appointed tasks;
3. For prolonged or indefinite periods of time;
4. Using some form of discipline and control;
5. Suspected of the commission of serious criminal offences;
6. Operating on an international level;
7. Using violence or other means suitable for intimidation;
8. Using commercial or businesslike structures;
9. Engaged in money laundering;
10. Exerting influence on politics, the media, public administration, judicial authorities or the economy;
11. Determined by the pursuit of profit and/or power (cited in Clay 1998:94).

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Adding a transnational dimension to the equation, Phil Williams (2002:169) describes transnational criminal organisations (TCO) by referring to "criminal businesses that, in one way or another, cross national borders. The border crossing can involve the perpetrators, their illicit products, people,…. their profits, or digital signals".[12] TOCs can challenge states in many aspects and a state's sovereignty is one. TOCs typically challenge a state's territorial sovereignty, as states struggle to control what and who crosses their borders, and what activities are permissible within their territories (Williams, 2002:165). Williams (1998b) presents four different categories from which the role of the state in relation to the activities of the TOCs can be identified. These categories are: home states, host states, transshipment states and service states.

Home states are states that provide the base from which TOCs operate. They represent a low-risk environment for the TOC, usually because of the weakness of the state. In home states the criminal organisations have made sure that state authorities are willing to participate, accept, connive at or collude in their illegal activities. Such states serve a crucial function in the criminal networks of the TOCs, providing them with a safe haven from which they can carry out operations beyond the reach of law enforcement in the host states. States such as Afghanistan, Colombia, Nigeria and Myanmar are all examples of typical home states, where corruption is widespread and the authorities pose little or no threat to the criminal operations of TOCs (Williams, 1998b:25).

Host states are states with a lucrative market or other targets for their criminal activities. TOCs can operate effectively in such states, as they are able to embed themselves in ethnic networks that can provide cover and recruitment. These networks are difficult for law enforcers to penetrate, as they have to overcome language and cultural barriers. TOC might not be a formidable threat to host states' security, as these ethnicity-based criminal organisations do not have influence over local or national power structures. TOCs do, however, pose an intractable law and order problem. The US, Canada, Europe, Australia and South Africa are all examples of host states. To TOCs such states are lucrative markets for narcotics, human trafficking and other illicit business. Large diasporas from the TOC's home states provide cover and can be used for recruitment (Williams, 1998b:25).

[12] As stated in Chapter 1, the term TOC will be applied to both transnational organised crime (TOC) and transnational criminal organisations (TCO).

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Transshipment states are states that constitute a major transit location for illicit goods such as narcotics, arms and human trafficking. Transshipment states are very vulnerable to operational corruption, keeping the local law enforcement away and facilitating the movement of the illicit goods. This corruption can become so widespread that it reaches a systemic level (Williams, 1998b:26). The list of examples is extensive. Cape Verde is a transshipment state for narcotics from Latin America destined for Western Europe; Egypt is a transit stop for Nigerian drug couriers; and Iran is a transshipment route for heroin to Europe (Central Intelligence Agency, 2014). Many other states could be mentioned, but space in this study is limited.

Service states are states with a financial sector that provides little transparency, which allows TOCs to hide the money they make illegally from law enforcement agencies (Williams, 1998b:26). Traditionally countries such as Switzerland, the Caribbean Islands, Cyprus, Luxembourg and Monaco have provided such financial services, but as these countries have become more inclined to respond to external pressures, this role is likely to be passed to states in transition fearing capital flight.

TOCs use their network structures to incorporate links with other criminal organisations. This makes it even more challenging for law enforcers to fight them. There are examples of indigenous groups operating as "service" organizations for criminal groups from elsewhere (Williams, 1998b:30). Just as common, however, is "keeping it all in the family", basing the criminal network on nationality, ethnicity, clan or family relations, making the networks extremely difficult to infiltrate for intelligence gathering (Europol, 2013b:13). The criminal networks are often very familiar with methods of counter-surveillance, using state-of-the-art penetration methods against authorities (Martin, 1999:25). Europol (2013b) reports that criminal organisations often use diaspora networks to establish themselves in a country, as the diasporas can provide an established presence in market states, including legal business structures, facilities and transportation. The presence of diaspora networks also gives irregular immigrants the opportunity to conceal themselves and offer established support networks (Europol, 2013b:13).

Organised crime groups "exploit legislative loopholes and are able to quickly identify, react to and even anticipate changes in legislation" (Europol, 2013b:16). The policies in Europe that enable free trade and the free movement of goods and people do not only facilitate legal business, but also illicit

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businesses. Law enforcement agencies in Europe are struggling to keep up with the criminal organisations and effective co-operation between the law enforcement agencies of the different countries is obstructed by "a lack of information about legal provisions across [member states], differences in court proceedings and the requirements associated with coercive measures" (Europol, 2013b:16).

The social contract between a state and its population is generally about giving the state a monopoly on violence and sovereignty within its territory in exchange for security. Security in either subjective or objective terms can rarely be said to be attained; therefore, Zedner (2009) argues, pursuit of national, military, public, community or personal safety, provides a better description of the ongoing venture that is security. She further argues that security has a symbolic quality that varies within jurisdictions and over time; and that security is a product of local conditions and local understandings of what threatens it and how best to protect it against those threats (Zedner, 2009:13). Allum and Kostakos (2010) claim that as soon as a social problem emerges in the public discourse as a security threat, the phenomenon is likely to be picked up and politicised. As the executive branches of the state are depending on satisfied voters and press headlines, they care mostly about perceptions and maintaining social order. As a result some aspects of the "security threat" become more popular than others, not necessarily guided by objectivity or reason, but by politicians' ideology, political agenda and pragmatism. Hence, the policy-oriented empiricism which predominates to some degree constructs the "reality" of organised crime (Allum & Kostakos, 2010:5).

Measuring how widespread organised crime is in a society is extremely difficult. Looking at numbers of arrests and convictions in order to determine the level of organised crime is likely to reflect the performance of the police rather than how widespread organized crime is. According to Van Dijk (2007), "police-based information on levels of organized crime will often be misleading. In the field of complex crimes, statistics of police-recorded or court recorded-crimes are a source of disinformation" (Van Dijk, 2007:40). It is in the very nature of the phenomena that the more money is spent on tackling organised crime, the more crime will be uncovered, which means that law enforcement agencies can point to a rise in organised crime which necessitates more funding. Whether this should be called a vicious or a virtuous circle is up for discussion, but it is a self-reinforcing pattern.

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Judging by the number of arrests and convictions, the most prevalent form of organised crime in Norway is smuggling and dealing in narcotics. That is the reason drug-related crimes are used as an example of organised crime in Norway. [13] The purpose of the next section is to provide the reader with an understanding of the logic behind the globalised drug market.

2.5.2 Effects of Globalisation on the Drug Market

In Costa Storti and De Grauwe's (2009) work, they distinguish three broad effects of globalisation on the global drug market.

- *The market structure effect* refers to the effect globalisation and increased competition have on reducing retail prices. The opening of markets moves the market structure away from monopolies and towards a more competitive structure that forces the mark-up down.
- *The risk premium effect* refers to how the influx of poor and low-skilled workers willing to take the risk and smuggle drugs has led to declining wages. The augmented pool of people willing to take great risks to capture large profits in the drug business, has dramatically increased the number of high- and low-level traffickers. The risk premium component of the return of both high and low level traffickers will be pushed down, which in turn will reduce the intermediation margins in the drug smuggling market.
- *The efficiency effect* refers to how transport, communication and information costs have been reduced with globalisation. This has led to increased efficiency in the drug business. The reduced cost of transportation has increased international trade in general, concealing the drug trade.

By opening up borders, globalisation has also contributed to transferring scientific and technological knowledge. The combined effect of these three effects is a reduced markup. The government spending on supply reduction policies has increased significantly, increasing the risk of trafficking and therefore also the margin of the drug smuggler. However the combined effect of these three consequences of globalisation has more than compensated for this and led governments to wage a losing battle against the dark side of globalisation (Costa Storti & De Grauwe, 2009:494).

[13] See Chapter 3 Section 3.6.

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2.5.3 How to Combat Transnational Organised Crime

According to Martin (1999), what is needed to handle TOC is a transnational approach; better intelligence gathering; we have to "drop our armour of civility and fight them on equal terms"; intelligence has to be shared between the intelligence agencies around the globe and at a fast pace; police jurisdiction has to be made more flexible as criminals do not honour borders; strategies to prevent money laundering have to be reinforced; and last but not least, political will is absolutely necessary. It does not matter how many laws, enforcement units, intelligence agencies and hi-tech hardware you have if the government is not willing to crush transnational organised crime (Martin, 1999:29). At the same time, Stelfox (1999) argues, it is absolutely necessary to tailor policy efforts to tackle transnational organised crime to local specific contexts. If this does not happen, crime control strategies will fail to address the local dynamics of organised crime and may even be counterproductive, as it takes away resources from local welfare and crime control agencies (Stelfox, 1999 in Edwards & Gill, 2002a).

The war on drugs can make the populations of democracies susceptible to accepting abuses of their civil liberties. Berney (1999) cites observers stating that 52 per cent of the American population agrees that "police should be able to search homes of suspected drug dealers without a warrant" and former New York City Mayor Koch proposed "to strip-search everyone entering the United States from Latin America or Asia" (Berney, 1999:174). According to Berney, the war on drugs is "a war on minority populations" and the drug problem has a xenophobic quality in almost all countries, as foreign ethnic gangs and outsiders are blamed for drug trafficking all around the world. Government anti-drug policies, both in the US and "abroad", abridge civil liberties, human rights and democratic processes, exemplified by numerous instances of unequal application of the law, disparate sentencing under inflexible penalty guidelines, growing police brutality and corruption, overcrowding in and appalling conditions of jails, and the overwhelming of the judicial criminal system. He argues that the reason drugs such as cocaine and opiates are prohibited, whilst tobacco and alcohol are legal, is primarily a matter of economics. Cocaine is only produced in South-America and opiate production is based mainly in Asia, while alcohol, prescription drugs and tobacco play major roles in Western economies. The three major groups that benefit directly from the existing drug regime are: 1) organized crime elements which derive their income from the production, distribution and sale of

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illicit drugs; 2) the licit drug business including tobacco, alcohol and pharmaceutical companies. These industries are protected from open competition and are the legal suppliers of psychotropic substances in the open "white" market; 3) the law-enforcement agencies and their employees that are in a symbiotic relationship with drug traffickers, as large parts of their budgets and income stem from the losing war against illicit drugs (Berney, 1999:173-177). This leads Berney to argue that if the prohibition of the illicit drugs is lifted, this will remove the main income of TOCs and lead to a high tax income from the drug business, as it did after the prohibition on alcohol was lifted in the USA. Further, argues Berney, it will reduce the violence directly connected to the illegal drug trade; it will cut the costs of criminal enforcement in the justice system; and it will make it possible to promote a policy to shift the cost of drug use and abuse to those who profit from it (Berney, 1999:178).

2.5.4 Criticism of the Literature on Transnational Organised Crime

Not all scholars agree that transnational criminal networks pose a threat to the state. In fact, some academics are critical of the very idea and existence of TOC (Hobbs & Dunningham, 1998; Hobbs, 1998a, 1998b), while others acknowledge the existence of TOC but point to a need to renew the concept (Beare, 1996; Rawlinson, 1998). Den Boer argues that the perceived threat of TOC and its destabilizing effects, as well as the revelations about the strong intertwining between terrorist-related and organised crime, has been constructed. This construction of a common threat, she argues, has become an instrument in the formation of a common European identity, which is currently absent in a united Europe (Den Boer, 1999:18). Other scholars have supported this view and argue that pointing out external threats to European economies legitimates the process of European integration. In order to defend themselves against these threats, the external borders have to be fortified against attack and there is consequently a need for further co-operation between the EU states (Bigo, 1994).[14] Bigo (1994) warns that the discussion of TOC as a threat to security borrows its terms from police and military terminology, contributing to reinforcement of the very agencies that invented them. This is an argument that we recognise from the criticism against the Copenhagen School in Chapter 2.4.2. These opposing views on the very existence of TOC can be seen as competing intellectual traditions, resembling the "criminologies of the self" and "criminologies of the other" discussed in chapter 2. This study acknowledges the existence of TOC, but finds it problematic that the framing of TOC as a

[14] The EU integration projects will be presented in Chapter 3.

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security threat, along with terrorism and illegal immigration, reinforces the security agencies that have, if not invented them, at least created a security discourse focusing on them.

2.6 Conclusion

This chapter presented the literature on criminologies of the self and the other, crimmigration, which is the convergence of criminal and immigration law, and securitisation theory, before the definition of TOC and the challenges it poses to states were introduced. The theories presented in this chapter all share a common argument about how a distinction is made between the self/us/in-group and the suspicious other/foreigner/out-group. We live in a world increasingly characterised by mobility across borders, where TOC and migration are often mentioned in the same breath. For different reasons both these products of globalisation are sometimes framed as security threats. As a consequence, the questions of how states meet these challenges and whether there is a confluence of the traditionally separate policy areas of crime control policies and immigration policy become highly relevant. The next chapter will give a short history of immigration to Norway; how Norway is involved in regionalism and Schengen; and the history of organised crime in Norway, including the nature of TOC in Norway and an analysis of its crime statistics.

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Chapter 3: Contextualisation: Organised Crime and Immigration Policy in Norway

3.1 Introduction

This chapter will contextualise the phenomenon of organised crime and immigration policy in Norway. It consists of five sections: history of immigration to Norway (3.2); regionalism and the Schengen agreement (3.3); the Norwegian Immigration Act (3.4); history of organised crime and TOC in Norway (3.5); statistics of deportation and organised crime in Norway (3.6).

In academia it is common to distinguish between immigration regulation policy and immigrant policy. According to Hammar (1985), immigration regulation policy studies are concerned with immigration flows, residence granted to, and regulation of, foreigners. Studies of immigrant policy, on the other hand, are more focused on migrants and how they are included into society after being issued a residence permit. As Gudbrandsen (2012) points out, immigration regulation policy studies are concerned with "access and permission to reside in the territory", whilst immigrant regulation policy becomes relevant only "after the immigration has taken place" (Gudbrandsen, 2012:24). As previously stated, this study is concerned with Norwegian immigration regulation policy and TOC.

3.2 History of immigration to Norway

There has always been migration from and to Norway, but the so-called *new migration* from non-Western countries started at the end of the 1960s and can be divided into three waves (Djuve & Friberg, 2004:7). The first wave consisted mainly of Turks and Moroccans, until Pakistanis became the most prominent group arriving in the kingdom to seek employment opportunities. The migrants were mainly unskilled labourers employed in the industrial and service sectors. A temporary halt to immigration was put in place in 1975, but it only barred unskilled labourers from entering the country (Brochmann, 2006; Djuve & Friberg, 2004:7). The reason for the immigration bar introduced in Western Europe in the 1970s, according to Brochmann (2003), was that successful integration was said to be dependent on strict immigration control. Free immigration, on the other hand, was considered a threat to peaceful co-existence between different nationalities (Brochmann, 2006:349).

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In other words, the strict immigration policy introduced was justified with the need to integrate the newcomers into Norwegian society.

Despite the temporary immigration bar in 1975, the number of migrants arriving in Norway continued to increase. However, the nature of immigration changed into two other types of immigration: the family- and asylum-related forms, commonly referred to as the second and the third wave of immigration (Messina, 2007:33-46).

The second wave of immigration consisted of the families of the migrant labourers, who sought family reunions. This changed the nature of migration to Norway from consisting of single men to whole families. With the changing nature of the migrant population, so too the needs of the newcomers in terms of schooling, housing, social community and general welfare needs changed (Djuve & Friberg, 2004:7). As a consequence, the field of immigration went from being a relatively limited and narrow subject falling under immigration regulation policy, to one that was ubiquitous, thus leading to the broad field of immigrant policy. The immigration bar became permanent in 1980, and since then the government employed the term "immigration regulation" rather than "immigration" (Eriksen & Niemi, 1981:355).

The third wave of immigration started at the end of the 1970s and consisted of refugees and asylum seekers. These two types of immigration will both be labelled "asylum-related" immigration in this study. The term is chosen as it encompasses UNHCR refugees, refugees granted asylum under the Refugee Convention, and those granted residence permits despite not meeting the refugee criteria of the Refugee Convention.[15]

The government had previously been in position to pick and choose both the number of refugees and which individuals would be granted asylum prior to arrival (Brochmann, 2006:71-73). The third wave of immigration represented new challenges to the government, as refugees often arrived as single individuals and without prior notice (Brochmann, 2003:168-172). Asylum-related immigration increased from a few hundred cases per year in the 1970s to approximately 2 000 per year in the late 1980s. According to Brochmann (2006), the increase in the number of refugees can be explained as a

[15] For more on the term "refugee" and related concepts see Haddad (2008).

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consequence of political asylum being one of very few possibilities of achieving a legal residence permit in Norway (Brochmann, 2006:71-73).

According to Gudbrandsen (2012), many of the granted asylum applications are approved on the grounds of a need for protection, for health reasons or other humanitarian reasons (Gudbrandsen, 2012:13-14). The predominant nationalities seeking asylum in Norway have varied since the beginning, depending on where there has been armed conflict or political oppression. Refugees since the late 1970s have arrived from Asia, Africa and Latin America. In the 1980s refugees were mainly Vietnamese and Chilean, and although the countries of origin have varied since then, then main pattern of migration has remained from the global South to the North.

Visa requirements that had previously been applied against Jews in the interwar period were re-introduced at the end of the 1980s for persons from several countries. This was a reaction to the increasing numbers of asylum seekers and illegal immigrants, as well as the open internal EU borders (Brochmann, 2003:290). The system of increasing employment of control measures has resulted in an increase of illegal migration and organised human trafficking. It has also resulted in a trend where nine out of ten asylum seekers arrive in Norway without valid identification papers. The number of asylum seekers increased at the end of the 1990s, and continued to rise. Asylum seekers represented 19 per cent of non-Nordic migration to Norway between 1990 and 2013 (Central Burau of Statistics, 2014).

Because of the increasing numbers of asylum seekers, family reunifications, and the cultural differences that have become increasingly visible with wide media coverage, immigration has been a much-debated topic in Norway over the last 20 years. According to Einarsen (2008), the Immigration Act, which will be discussed in section 3.4, has since its introduction in 1991 regulated one of the most debated and controversial policy areas in Norway (Einarsen, 2008:5). Immigration to Norway since 1990 has consisted roughly of one third family reunifications, one third refugees, and one third labour and education migration (Brochmann, 2006:76). However, in 2013 the numbers had changed to 43 per cent labour migration, 30 per cent family reunifications, and 13 and 11 per cent for asylum and education respectively[16] (Statistics Norway, 2014). The work immigration is mainly immigration

[16] The last three per cent did not fit into any of the other categories.

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from other Western countries, which for the most part is not part of the Norwegian immigration debate and therefore outside the scope of this study.

After nearly 40 years of a government-imposed immigration bar, it has become clear that the current South–North migration pattern is not about to change in the foreseeable future. The huge economic differences between the North and the South have been identified as an important driver of migration. This has led several Norwegian governments to look for other alternatives than just controlling the borders, and since the 1990s development aid was considered an important tool to dampen rising immigration to Norway (Norwegian Government, 2003:17). However, researchers subsequently found that the strategy of boosting development in sending countries was ineffective in curbing South-North immigration (Castles & Miller, 2003 in Gudbrandsen, 2010:250-251).

Table 1 below presents the statistics of the ten most represented nationalities in asylum-related immigration.

Table 1. The ten most represented nationalities among asylum seekers to Norway 2008 – 2013 (Immigration Directorate, 2014c).

Citizenship	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**Total**
Eritrea	1799	2667	2667	1711	1256	1183	**11874**
Somalia	1293	1901	1397	2216	2181	1694	**10682**
Afghanistan	1363	3871	979	979	986	726	**8904**
Iraq	3137	1214	460	357	221	191	**5580**
Stateless	940	1280	448	262	263	550	**3743**
Russia	1078	867	628	365	370	376	**3684**
Iran	720	574	429	355	441	266	**2785**
Nigeria	436	582	354	240	355	522	**2489**
Ethiopia	354	706	505	293	185	291	**2334**
Syria	115	278	119	198	237	856	**1893**
Total	**11235**	**13940**	**7030**	**6521**	**6512**	**8730**	**53968**

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The total stated in the table is not the grand total, but the ten biggest groups put together. In 2008 the grand total of asylum seekers to Norway was 14 430 persons. This number represented a 120 per cent increase from 2007, and came at a time when Sweden introduced a stricter asylum policy with Iraq and implemented an agreement with that country of returning former asylum seekers from Iraq (Immigration Directorate, 2008). In 2013 this number went down to 11 983 asylum seekers in total, with the ten most represented nationalities making up 8730 of these (Immigration Directorate, 2014c). This shows that the immigration flow to Schengen countries is very influenced not only by the common policies of the area as a whole, but also significantly by changing factors and circumstances in individual member states. Furthermore, although the asylum seekers are a very diverse group, some countries such as Eritrea, Somalia and Afghanistan have, along with other countries, been heavily represented for the whole time period of the study.

The increase in migration to Europe, combined with the open internal borders within the Schengen area, has led to new challenges for all Schengen member states. This is the subject of the following section.

3.3 Regionalism and Schengen

The following section will provide a brief presentation of transnational co-operation within Schengen; Europe in the wake of the financial crisis; and the common asylum policy of the Schengen countries. Then follows a description of the surveillance of mobility in Europe, before some ideas about the increasing surveillance and exclusion are presented. This section should provide the reader with an understanding of the Schengen region and European regionalism with which Norway has a close, but complex relationship.

3.3.1 Transnational Co-operation

> With any border the question can be asked: is it designed to keep people out or in? Every border creates benefits for some and disadvantages for others. Each border is held to be essential to the wellbeing of some people, while having no effect on the lives of others. This is as true of nation-state borders as for the ‘new’ borders of post-Western Europe (Rumford, 2007:337).

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The co-operation between the members of the European Union (EU) has gradually developed both in depth and scope. The Amsterdam Treaty of 1999 states that the aim of the co-operation is to develop the EU as an area characterised by peace, security and justice. With the implementation of the Amsterdam Treaty the Schengen Agreement became integrated in the EU, and juridical co-operation was upgraded from intergovernmental co-operation to include the whole European community (Obokata, 2011:801).

Free movement across the internal borders is guaranteed, while concurrently taking necessary measures to control the external borders, develop a common asylum and immigration policy, and last but not least taking steps to prevent and combat crime. Reforms were undertaken to increase the efficiency of those aspects of the co-operation that were going to continue being intergovernmental, especially as far as police co-operation and civil law were concerned. This resulted in the establishment of Europol, whose aim is to fight terrorism, the illicit drug trade and other forms of international crime (Norwegian Government, 2001). From their offices in The Hague, the Netherlands, Europol tracks criminals, co-ordinates operations and gathers intelligence that it shares with the EU member states and non-member partner states such as Norway. Europol officers cannot carry out arrests, but support European law enforcement by gathering, analysing and coordinating operations (Europol, 2013a).

The Schengen Agreement is a framework agreement, with the main principles further developed through legislative acts passed by the EU and later added to the agreement. The main contents of the agreement are:

- Common rules regarding internal border crossing;
- Common rules regarding control of the outer borders;
- Common rules regarding police co-operation and extradition of law violators;
- A shared information system for police and prosecuting authority;
- Common visa regulations and a joint information system regarding visa matters;
- Common rules regarding the return of illegal immigrants;
- Common rules regarding personal information protection followed by police and prosecuting authority;

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- Common rules regarding arms and ammunition (Norwegian Government, 2012).

Not all EU members are parties to the Schengen Agreement and the agreement is also open to non-EU countries. The Schengen area today consists of all EU countries except Great Britain, Ireland, Cyprus, Bulgaria and Romania, but includes Iceland, Lichtenstein, Norway and Switzerland. When the EU passes new Schengen-relevant resolutions, they are to be adopted by Norway and the other associated states. There is no right to make reservations or room for negotiations, and if there is a legislative act Norway does not accept, the whole agreement ceases. There is no system of superior supervision or constitutional review, but the *Schengen Evaluation Working Party* consisting of the remainder of the member states carry out inspections in the member and associated states. They evaluate how the Schengen obligations are carried out, both formally and in practice, and report to the European Council (Norwegian Government, 2012). Norway is not formally a EU member, but part of the EU-community through the Schengen Agreement and the Agreement on the European Economic Area (EEA). As a consequence Norway is usually not allowed to take part in the formulation of new EU juridical initiatives, despite its central role in one of the main aspects of the juridical co-operation in the EU – control of one of the outer borders of the common passport-free territory. It is Norway's expressed goal to achieve as much influence on the formulation of measures concerning common interests as possible (Norwegian Government, 2001).

Norway's co-operation with the EU is not always obstacle free, evident in the case of "the European arrest warrant". In 2002 the EU implemented "the European arrest warrant" that replaced the extradition system. The purpose was to simplify and speed up the procedures when surrendering a person to another member state. If the request meets the conditions of the agreement, a person can be surrendered to another member state without verification of the double criminality act.[17] The arrest warrant makes it easier to fight border-crossing crime and is designed to combat transnational organised crime, terrorism and other types of crime (Commission of the European Communities, 2002). As Norway and Iceland are non-member states, they are not part of "the European arrest warrant", but in 2006 Norway signed a parallel agreement based on the framework of the original agreement (Norwegian Government, 2006). This parallel agreement has not yet been implemented, as

[17] For a state to surrender a person in the old extradition system, the act committed by the person had to be considered a crime in both the sending and the requesting country. This is known as the double criminality act (Commission of the European Communities, 2002).

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Norway is still waiting for 27 EU member states to adopt the agreement with Norway (Jonassen & Haakaas, 2013).

3.3.2 Europe in the Wake of the Financial Crisis

According to Europol's 2013 report EU Serious and Organised Crime Threat Assessment (SOCTA), the financial crisis in Europe has not led to more organised crime in Europe, but there have been shifts in the crime markets and where TOCs operate (Europol, 2013b:11). Despite the financial crisis and its negative effect on employment opportunities in Europe, global inequality continues to pull people from other regions to Europe. The disparities in employment possibilities and social benefits in European countries affect the migrants' choices and lead them to the countries with good economic conditions, such as Norway.[18] Economic cuts in public services such as law enforcement can facilitate the activities of organised crime groups and may allow them to continue their operations undetected for longer (Europol, 2013b:12, 24). Most migrants cross the outer border of the Schengen zone into Spain (6 400 persons), Italy (10 400) and Greece (37 200).[19] Some of them stay in the first country they enter, while others travel further north in the Schengen zone facilitated by TOC. The financial crisis has created a higher demand of illegal labour, which leads even more illegal immigrants to try their luck, often ending up in the sex market and the illegal labour market. This development is driven by the socio-economic differences between the developed and the un-developed world (Europol, 2013b:24). According to the Norwegian police, the number of irregular immigrants staying in Norway without a clarified identity is alarming. Irregular immigrants can be tied to several crime areas, both as victims and perpetrators, and it is a growing trend that seemingly legal entry into and stay within the country is arranged by misuse of legal migration channels (Norwegian Police, 2013c:4).

The problematisation of TOC found in criminology of *the other* leaves law enforcement as the sole appropriate response. In Norway the perceived threat from TOC is recognised by the authorities and there has been an increased focus on controlling TOC (Norwegian Government, 2010b). The

[18] Norway was spared from the most serious economic consequences of the financial crisis. Some reasons for this were the high price of oil, Norway's main export; a large public sector with a well developed social security network; and a relatively small financial sector with most of its business in Norway aimed at Norwegian customers (Norwegian Government, 2011).

[19] For illegal external and internal immigration flows from Africa and the Middle East to Europe see Map 1 on page 125 in Appendix A.

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widespread development of transnational law enforcement such as co-operation through the Schengen Agreement, Europol, the International Drug Abuse Commission and Interpol is cited as a consequence of the threat posed by TOC. In the UN there has been a shift from the focus on street crime to crime across borders, exemplified by the UN Convention against Transnational Organised Crime and the work of the United Nations Office on Drugs and Crime (Hebenton & Thomas, 1998; Edwards & Gill, 2002b:256-257; United Nations Office on Drugs and Crime, 2013). Another expression of how European regionalism is dealing with the challenges of increased immigration is introduced below, which discusses the Dublin Regulation.

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3.3.3 A Common Asylum Policy

The purpose of the Dublin Regulation (Directive 2013/32/EU) is to prevent the same person applying for asylum in several states simultaneously or in several states after being rejected in the first one; to ensure that families get their application processed in the same country; and to avoid asylum seekers getting sent from one country to another without getting their application processed in any of them (Immigration Directorate, 2013b).

In practice this means that an asylum application will not be processed in Norway if:

- The person concerned has applied for asylum in another European country before arriving Norway;
- The person concerned has a visa or a residence permit issued by a Dublin signatory-country;
- The person concerned has close family in another Dublin country and wishes to join the family;
- The person concerned has entered the first Dublin country illegally before entering Norway. However, the responsibility ceases 12 months after the illegal entry and is transferred to the state the asylum seeker has been living in for at least 5 months (Immigration Directorate, 2013b).

Article 3(1) of the Dublin Regulation states that visa or asylum applications shall be examined by the member state responsible, according to the aforementioned criteria. Article 3(3) of the Dublin Regulation states that: “Any Member State shall retain the right to send an applicant to a safe third country, subject to the rules and safeguards laid down in Directive 2013/32/EU” (The Immigration Directorate, 2013b).

However, article 17 states that:

> By way of derogation from Article 3(1), each Member State may decide to examine an application for international protection lodged with it by a third-country national or a stateless person, even if such examination is not its responsibility under the criteria laid down in this Regulation (Immigration Directorate, 2013b).

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This means that, although all signatory states are committing themselves to returning third-country nationals to the country where their asylum application was first submitted, they are free to process the application themselves.

The Dublin Regulation has in its entirety been incorporated into the Norwegian Immigration Act,[20] which makes it part of Norwegian law. To be able to manage this system, the signatories take fingerprints of the applicants that are saved in EURODAC, a database that is part of the EU surveillance of mobility in Europe.

3.3.4 Surveillance of Mobility in Europe

The EU border governance consists of a wide range of systems in which the following databases form the main components: The Schengen Information System (SIS 1/SIS 2), the European Dactyloscopy (EURODAC) and Visa Information System (VIS). In addition to these, several new systems are at the planning stage such as Automatic Border Crossings (ABC), Registered Travellers System, the Entry/Exit System and the European Border Surveillance System (EUROSUR).

The Schengen Information System (SIS 1/SIS 2) is the main tool and the largest database related to police and judicial co-operation and external border control in Europe. The participating states share information about entries, alerts on wanted and missing persons, lost and stolen information and entry bans. If a third-country national enters any of the signatory states to the Schengen agreement, they will be checked in the SIS, regardless of whether or not they are under visa obligations. This agreement applies to all EU countries, excluding the United Kingdom and Ireland, but including Norway, Iceland and Switzerland. SIS 2, the new version of the agreement provides the ability to store and share biometric identifiers, integrate with new member states of the Union, and will be useable by a greater number of institutions than is the case with SIS 1. This includes institutions such as Europol, legal authorities and the security services (Aas, 2011:334).

[20] For more on the Immigration Act see section 3.4.

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EURODAC is a database in which fingerprints of asylum seekers above the age of 14 and third-country nationals who cross the border into a member state irregularly are stored and compared. Member states can also check the fingerprints of illegal aliens found in their country to check if they have applied for asylum. A central unit called the Commission of the European Communities, which compares the data for hits, manages the information. If an individual has applied for asylum in one of the other signatory states, or if it is found that the individual crossed the border into another member state irregularly, the government of the state in which the third-country national is found can return the individual to the state in question (Aas, 2011:334).

The *VIS* is a system that allows Schengen states to exchange visa data and effectively connects consulates of non-EU states and all external border-crossing points in the Schengen area. It collects biometric data of fingerprints and digital images of the applicant's face to avoid abuse such as "visa shopping", where applicants apply for a visa in several countries after the visa was rejected by the first state (Commission of the European Communities, 2013). Combined, these technological systems are helpful tools to European authorities in their quest for enforcing their sovereign right – control over desired and undesired visitors to the territories of the Schengen member states. However, this apparent show of strength does not impress everyone.

3.3.5 Erosion and Exclusion?

Bosworth (2008) argues that the border surveillance systems such as the planned EUROSUR[21] is not only an expression of sovereignty, but also a proof of its erosion. The walls along the borders in Europe function theatrically, staging sovereign power, while simultaneously revealing the sovereign state's inability to stop the flow of people from reaching its territory. Instead of protecting national sovereignty, the practices of transnational surveillance revolves around "states like us" and protecting pan-European citizenship rather than the traditional public of the nation state (Aas 2011:343).

In 1994 Anthony H. Richmond stated that the regulatory systems and laws in place to prevent migration to Australia, North America and Western Europe bear a remarkable resemblance to those

[21] EUROSUR aims to integrate all the national surveillance systems along the southern Mediterranean and eastern borders of the EU by using satellites and unmanned aerial vehicles (UAVs).

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controlling the movement of people within and outside the borders of apartheid-era South Africa (Richmond, 1994:210). Although the laws and regulatory systems are not as explicit as they were in apartheid-era South Africa, the segregated US or the "White Australia" policy, Weber and Bowling (2012) argue that racial exclusion can still be found in the contemporary systems. They refer specifically to the practice of using nationality or race as a ground for targeting people for identity checks, stop and search, and interrogation domestically and at borders (Weber & Bowling, 2012). This sort of targeting finds expression in the Norwegian Immigration Act as discussed in the following section.

3.4 The Norwegian Immigration Act

In 2008 the Immigration Act was formulated, in order to replace the 1988 Immigration Act. Two years later, in 2010, the 2008 Immigration Act was implemented into Norwegian law. The purpose of the Immigration Act[22] is tripartite:

- The Act shall provide the basis for regulating and controlling the entry and exit of foreign nationals and their stay in the realm, in accordance with Norwegian immigration policy and international obligations.
- The Act shall facilitate lawful movement across national borders, and ensure legal protection for foreign nationals who are entering or leaving the realm, who are staying in the realm, or who are applying for a permit pursuant to the Act.
- The Act shall provide the basis for protecting foreign nationals who are entitled to protection under general international law or international agreements by which Norway is bound (Norwegian Government, 2009).

The Norwegian Immigration Act and the Norwegian Police Immigration Unit are, according to the Norwegian Police (2013c), directed at immigration cases and not criminal cases against immigrants. It is emphasised that when immigrants are imprisoned as a consequence of being in breach of the Immigration Act, it is imprisonment of an administrative nature and not a criminal procedure (Norwegian Police, 2013c). This means that imprisonment of foreigners under the Immigration Act is

[22] Here referred to as the Act.

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not used as punishment for a crime, but applied only if there is a significant risk of absconding and other means are not considered sufficient. However, it also means that immigrants may be imprisoned without trial and without a lawyer to defend their case (Bø, 2013:137). It was stated in the 2008 Immigration Act that foreigners may be arrested and remanded in custody if:

> (a) The foreign national is not cooperating on clarifying his or her identity, or there are specific grounds for suspecting that the foreign national has given a false identity;
>
> (b) There are specific grounds for suspecting that the foreign national will evade the implementation of an administrative decision entailing that the foreign national is obliged to leave the realm;
>
> (c) The foreign national does not do what is necessary to fulfil his or her obligation to procure a valid travel document, and the purpose is to bring the foreign national to the foreign service mission of the country concerned so that he or she can be issued a travel document (Immigration Directorate, 2013a).

Certain amendments to the original 2008 Immigration Act have been made and will be discussed in Chapter 4 section 4.3.1. According to § 106a, the risk of evasion shall be assessed on a case-by-case basis. To determine whether there is a risk of evasion, an overall assessment must be carried out in which weight may be given to whether, among other things:

> (a) The foreign national has evaded implementation of an administrative decision requiring the foreign national to leave the realm; this includes not complying with a time limit for exit;
>
> (b) The foreign national has been expelled from the realm;
>
> (c) The foreign national has been sentenced to a penalty or a special sanction in the realm;
>
> (d) The foreign national has given false information to Norwegian authorities in connection with his or her application for a permit (Immigration Directorate, 2013a).

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However, in assessing the risk of evasion under the first paragraph, weight may also be given to general experience relating to evasion by foreign nationals (Immigration Directorate, 2013a). In plain words this means that a person may be locked up, because a police officer has had previous negative experiences with persons who share no other commonalities with the suspect than nationality and an asylum application.

The Schengen area has in many ways become a "borderless region", as the Schengen agreement revokes immigration control along the internal borders. However, immigration control may be exerted, as long as it happens at a sufficient distance from the borders. As a consequence the immigration control formerly limited to the national borders only is now exerted everywhere, as police may stop anyone looking "foreign" to control ID and residence permit (Ugelvik, 2013:205). To call such practice racial exclusion (Weber & Bowling, 2012) is to focus solely on the group targeted and to ignore the context within which it happens. It would be unfair, but also unrealistic, to assume that police officers will not act on the basis of previous experience. At the same time this is a good example of how immigration law provides the migrant with fewer protections than criminal law, as they are often not given the benefit of the doubt.

3.4.1 Rejection of Entry and Expulsion

Guidelines have been adopted, in order to make the Immigration Directorate (UDI) able to interpret and apply the Immigration Act. In 2009 the following were part of the guidelines.[23]

Illegal entry and stay

- A short illegal stay may qualify for a "rejection".
- Illegal entry and illegal stay of up to one week or more should be considered for an "expulsion" coupled with a re-entry ban of a minimum period of two years.

Illegal stay

- An illegal stay of up to one month may qualify for a rejection.

[23] Certain amendments were made in 2013 that will be discussed in Chapter 4.

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- An illegal stay of more than a month should be considered for an "expulsion" coupled with a re-entry ban of 2 years minimum, up to permanent ban (Econ Pöyry, 2009:23).

A migrant who has applied for asylum in another signatory country to the Dublin Agreement before entering Norway is not allowed to stay in Norway if the application is declined in that country. If the Norwegian authorities come across a migrant with a pending visa application in another Dublin signatory, the migrant will be sent back to that country and has to stay there during the processing of the application. In line with the Immigration Act, Norwegian authorities have two possibilities when a migrant is unwanted in the kingdom – *rejection of entry* and *expulsion*.

Rejection of entry is a temporary prohibition, which means that a foreign citizen is either refused entry into Norway or, if already present in the kingdom, the person will be notified by Norwegian authorities that they have to leave the country. Rejection of entry is only temporary and the person is not subject to a re-entry ban (Immigration Directorate, 2014b). This reaction is usually applied when an immigrant without the necessary travel documents attempts to enter Norway, or is encountered without valid travel documents within a week after entry (Vevstad, 2010:100).

Expulsion is one of the most invasive resolutions the immigration authorities may resort to (Vevstad, 2010:422). In Norway the term "expulsion" refers to return of a person, and it subjects that person to a re-entry ban until the prohibition has expired (Immigration Directorate, 2014b). Immigrants may be expelled as result of violations of the Immigration Act, the Penal Code or criminal provisions in the special legislation (Immigration Directorate, 2010). The European Human Rights Council (EHRC) defines expulsion as an administrative reaction and not penal sanction. It is argued that an expulsion is the verdict and not the consummation. When an expulsion decision has been issued, the migrant is given a time limit for leaving the country. If the migrant does not comply, the police will arrange a forced return to the country concerned (Mohn, 2013:59).

The purpose of an expulsion is both general preventive and individual preventive. According to the written guidelines (Immigration Directorate, 2010), UDI are permitted to issue an expulsion order to maintain public order and security, and to prevent unwanted individuals from remaining in the country. UDI also decides whether or not a person's identity should be stored in the SIS. The person

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subject to an expulsion decision may be banned for a period of two years, five years or on a permanent basis. The decision depends on the seriousness of the breach of law (Econ Pöyry, 2009:21).

The Immigration Act provides that a third-country national can be expelled from Norway if he or she has (section 29, first paragraph, letter a):

- Grossly or repeatedly contravened the Immigration Act; or
- Evaded the execution of any decision implying that he/she should leave Norway.

The following breaches of the Immigration Act are envisaged:

- Illegal entry, i.e. entry without required travel documents or visas;
- Illegal residence, i.e. residence without required permits;
- Illegal work, i.e. work without required permits;
- Not providing correct information (identity, nationality, family ties, etc.);
- Providing false documents or a false ID card (Immigration Directorate, 2013a).

Nine out of 10 asylum seekers arrive in Norway without valid travel documents (National ID Centre, 2014:13). Considering the breaches of the Immigration Act that may lead to expulsion above, it becomes clear that the threat of expulsion or rejection is very real to all illegal immigrants, but no valid travel documents are required to apply for asylum. The UDI guidelines also indicate that expulsion may be used as a means to remove unwanted elements, maintain public order or to remove security threats (Immigration Directorate, 2010). TOCs or even suspected terrorists come to mind, as they are obvious candidates to meet this description. The next section will give a history of organised crime in Norway, to show how the crime scene has evolved to the current situation.

3.5 History of Organised crime and how Transnational Organised Crime came about

Organised crime has a long history in Norway, dating back to the Vikings, who went on raids pillaging each other back home, while simultaneously co-operating when they went on longer journeys to pillage all over Western Europe (Felsen & Kalaitzidis, 2005:4). Historically, the criminal activities of groups such as the Vikings are interesting examples, as they often occurred in a

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governmental vacuum, in co-operation with governments, or to regulate a market out of touch with the demand (Fahsing & Gottschalk, 2008:11).

Organised trafficking and smuggling of illegal goods to Norway can be traced back to the prohibition era in the 1920s, when alcohol and occasionally cigarettes were brought into the country illegally (Johansen, 1996:35). It is the alcohol smuggling and fencing of stolen goods that Johansen (1996) refers to as the organised crime with its roots in Norway. The alcohol smuggling was rather widespread in the 1980s, when there was a series of strikes among workers at the Norwegian wine monopoly, but the long tradition has been maintained up to this day (Johansen, 1996:89).

According to Larsson (2008), the term *organised crime* was reserved for drug traffickers in Norway, considered the great enemy in the 1970s and 1980s. The police rhetoric and strategies later put to work against organised crime were developed during the subsequent "War on drugs" (Larsson, 2008:15). For the last 30 years large shares of police resources have been focused on smuggling, and the handling and trade in illegal drugs, which has resulted in lack of focus on other forms of organised crime (National Police Directorate, 2005). The history of drug trafficking in Norway stretches back to the 1960s, when cannabis and LSD were the most common drugs. Heroin followed in the 1970s, before ecstasy and other drugs followed in the 1990s (Larsson, 2008:19). In the beginning the drug trade was controlled by Norwegians, but in the 1990s chemical drugs were introduced and the police focused on North Africans, Kurds, Kosovo-Albanians and "one percenter"[24] motorcycle gangs.

Except for when describing drug trafficking in the 1970s and the 1980s, the term organised crime was not commonly used in the public discourse until "one percenter" motorcycle gangs were established in Norway (Larsson, 2008:15). In the early 1990s "one percenter" motorcycle gangs such as Hells Angels, Bandidos and Outlaws established themselves in Norway. What followed was a long string of violent conflicts between the motorcycle gangs for control over territories, the drug market and other criminal activities (Kristiansen, 2008:66-74). Although the violent conflicts have for the most part been settled, the criminal motorcycle gangs are still big players in parts of the drug trafficking market and other illicit businesses (Norwegian Police, 2013a:32-35).

[24] "One percenter" is a term used for outlaw motorcycle gangs. The term dates back to the 1960s when the American Motorcycle Association asserted that 99 per cent of motorcyclists are law-abiding citizens. The remaining 1 per cent were outlaws.

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According to Kristiansen (2008), the criminal network involved in dealing drugs in Oslo is connected to international drug networks, which he labels mafia organisations operating in Norway (Kristiansen, 2008:61). The whole system is set up to make the powerful architects behind the networks rich, often at the expense of the drug dealers in the streets taking all the risk. In addition to "one percenter" motorcycle gangs, ethnicity-based criminal groups such as the Pakistani gangs in Oslo are central actors dealing in hashish and amphetamines. Kosovo Albanians and Nigerians have been dominating the heroin and cocaine market for a long time (Larsson, 2008:19), an expression of how refugee and migration flows are accompanied by crime trends (Lien, 2011:103).

Today organised crime has assumed a central position in Norwegian crime policy. This development started with the Norwegian Official Report (NOU) from 2000 (NOU 2000:18, 2000) addressing security and emergency challenges to Norwegian society and democracy, and the Norwegian Penal Code from 2003 addressing organised crime for the first time. In 2011 the Ministry of Justice released a White Paper (Norwegian Government, 2010b) on organised crime where international organised crime was referred to as a growing threat and an important policy area. According to the Norwegian Penal Code §162c and § 60a (2006), a person found guilty of organised crime may be sent to prison for three years, or have their sentence doubled, with up to five years for their participation (Penal Code, 2006). Sørli and Ingvaldsen (2009) conducted a study where they reviewed all 996 litigation adjudicated in 2007 by a court consisting of one expert judge and two lay judges. They found organised crime to be linked to 0.7 per cent of the drug cases adjudicated by Oslo District Court in 2007. Out of the twelve cases of organised crime in 2007, eight of them were linked to narcotics. The other cases were connected to economic skimming. In only two out of the twelve cases were the criminals involved Norwegians. In the remaining ten cases the court established the criminal organisation to be completely or primarily located abroad (Sørli & Ingvaldsen, 2009:96). Sørli and Ingvaldsen (2009) found that Norwegian legislation looked upon organised crime as an international phenomenon, and that Norwegian organised crime is internationally rooted only to a limited degree and in that sense does not fit with the rigid organisational model that Penal Code § 60 is based upon (Sørli & Ingvaldsen, 2009:115). There seems to be consensus on the difficulty of using the definition of organised crime that is found in Norwegian legislation. This is evident as the police, who enforce the legislation, apply the terms organised crime and serious crime interchangeably with reference to

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drug-related crimes, prostitution, human smuggling and network-based crimes. The terms organised crime and serious crime are also commonly found together in public reports (Larsson, 2008:34-39). As a consequence, there were made several amendments to §162c and § 60a in June 2013 lowering the threshold for, and widening, what can be defined as organised crime (The Penal Code, 2013). This shows the difficulty of studying the subject and makes it necessary to choose between focusing on the definition given in the legislation or the definition common in public reports and employed by the police. This study applies the definition of organised crime which includes drug trafficking, human trafficking and human smuggling – a definition common in public reports and among the police. This is done because organised crime in Norway does not necessarily fit the rigid definition in the Norwegian legislation, before the 2013 amendments.

The Norwegian Department of Justice expressed concerns about illegal immigrants committing crime as early as 1994, when they stated that: "a particularly problematic group are those who stay here illegally, committing various kinds of criminal acts" (Ministry of Justice, 1994:1).[25] This development has continued up until today, and will be discussed in the subsequent section about current crime statistics. The focus will be on crimes regarded as organised, such as drug-related crimes, human smuggling, prostitution and human trafficking rather than those defined as organised crime in the Norwegian legislation. This focus has been opted for, as it has been deemed more suited to describe the trends within organised crime referred to in public reports and by the police.

3.6 Current Crime Statistics

Despite an overall decline in crime the last decade, Norway has seen an increase in several forms of organised crime with international actors (NOU 2013:9, 2013). The following section will present current statistics for the following categories: Crime among asylum seekers and illegal immigrants (3.6.1); deportations and forced returns (3.6.2); drug-related crimes (3.6.3); human smuggling (3.6.4); and prostitution and human trafficking (3.6.5). These statistics are provided in order to provide the reader with a clear picture of the context in which Norwegian immigration policy has developed during the years of the study.

[25] Author's translation.

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3.6.1 Crime Among Asylum-Related Immigrants

Since the 1980s foreign citizens have gradually constituted a larger share of all persons prosecuted/convicted in Norway – rising from 3 per cent in 1983 to 17 per cent in 2010 (Mohn, 2013:48-49). In 2012 the number went up to 22 per cent foreign citizens in Norwegian prisons serving longer sentences, and among those in custody 53 per cent were foreign citizens (Statistics Norway, 2014). Focusing on prisoners with drug-related crimes as their main crime, the share of foreigners rose to 45 per cent. Among those in custody for drug-related crimes, foreign citizens made up 71 per cent in 2012 (Statistics Norway, 2014). A large percentage of the registered crimes are committed by Schengen citizens, especially from Eastern European countries that were included in 2004 and 2007 (Immigration Directorate, 2014a:10).

According to a recent study ordered by the Norwegian Immigration Directorate (2014a) on asylum seekers, illegal immigrants and crime, asylum-related immigrants made up 2 per cent of all criminal charges in 2010. It has proven difficult to separate the two groups in statistical terms and there is uncertainty about how the criminal charges are distributed between the two groups. However, more than 3 per cent of all drug-related crime is attributed to asylum seekers and illegal immigrants. Considering that there were estimated to be approximately 18 100 persons without residence permits at that time, asylum seekers and illegal immigrants were charged more than three times as often (247 per cent more often) than the rest of the population in Norway (Immigration Directorate, 2014a:11). Taking into consideration that asylum seekers and illegal immigrants are often young men, the group is charged about twice as often (94 per cent as often) as the rest of the Norwegian population (Immigration Directorate, 2014a:12).

Except for the aforementioned study of the situation between 2001–2010, neither the police, the court of justice nor any other government agency keep statistics of the extent of crimes committed by asylum seekers in Norway, or what types of crimes they commit. According to statistics developed by the Norwegian newspaper *Aftenposten* (2013d), 352 asylum seekers have been sentenced to jail time or given fines in the Oslo area between January 2011 and September 2013, over half of them for drug-related crimes. Out of the 1630 asylum seekers who were deported in 2013, 266 had previously been convicted. This group consist of persons who are staying at asylum centres with permission; who are

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waiting for their case to be considered; who had their application rejected and who have been ordered to leave the country; or persons who claim to be asylum seekers but stay in Norway illegally. However, criminal asylum seekers were still a relatively small group as 15 798 persons lived in Norwegian asylum centres in 2013 (*Aftenposten*, 2013d).

In 2013 522 Nigerian asylum seekers arrived Norway. 92,8 per cent got their applications rejected within the first six months that year. Most of them were men between 20 and 30 years old and many of them could be seen daily dealing drugs in Oslo. Most of them had spent a year or two in Italy, Spain or Greece, and came to Norway after Italy closed asylum centres in February 2013. Others had lived in Norwegian-financed closed asylum centres in Greece, with barbed wire and closed doors (*Aftenposten*, 2013d). There has been an increase in persons who seek asylum when the police arrest them.[26] This trend gives reason to doubt that gaining asylum was the real motivation for the visit. Their cases are usually determined within 48 hours, and if the police can prove their identity they are deported.[27] Many of the West African criminals are transported to their first asylum country in Schengen, often Italy, Greece or Spain, and many of them are back in Norway within a few days. Over the last 5 years there has been a 110 per cent increase in the number of deported asylum seekers, and at the same time there have never been as many that are returning as at present. If the police cannot prove the identity of the arrested, they cannot be sent out of the country and are out on the streets again the day after they have been arrested.[28] According to the police, it is much more difficult to deport criminals than other asylum seekers, because they conceal they identity (*Aftenposten*, 2013d; *Aftenposten*, 2013a; Lier, 2013:24). This allows them to stay in the country and continue their criminal enterprise, but if their intention was in fact to apply for asylum, they are left with no other choice than committing crimes to get an income. Without valid documents or a residence permit, they will have to rely on income from illicit activities to provide for themselves. This way migrants who get involved with organised crime, no matter if they do so to pay the smugglers that got them into the country or if they are part of TOC, are caught in a vicious circle of crime. The next section will present statistics on persons pending deportation in order to show how this has increasingly become a

[26] Over the last four years 1940 foreigners were arrested carrying drugs; half of them had applied for asylum (*Aftenposten*, 2013c).
[27] 36 per cent of the arrested are deported; nobody knows what happens to the rest of them (*Aftenposten*, 2013b).
[28] Three out of four are released immediately, because they are caught with quantities too small to imprison them (Johansen, 2013).

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popular tool with the immigration authorities.

3.6.2 Deportation and Forced Return

The number of deportations had been relatively stable for a long time, but in 2008 there was a significant increase in the number of persons pending deportation from Norway. As shown in below in Table 2, in 2008 a total of 1634 third-country citizens were pending deportation; 483 of these were pending deportation due to criminal offences, 805 due to breaches of the immigration act, while 18 of them were deported for other reasons. Since then the numbers have generally gone up every year, except in 2011. 2013 became a record year with 5198 pending deportation, and judging by the numbers 2014 can be expected to be another record year (Immigration Directorate, 2014c; National Police Immigration Service, 2014).

Table 2. Number of third country citizens pending deportation in Norway (Immigration Directorate, 2014c).

Type of Resolution	2008	2009	2010	2011	2012	2013	2014, Jan-Jul
Violation of the Immigration Act	805	1559	2198	1713	2092	2582	1534
Violation of the criminal law	483	635	731	794	1019	1346	624
Expulsion based on Shengen- regulations	328	457	497	635	847	1270	806
Other reasons	18	0	0	0	0	0	4
Total	**1634**	**2651**	**3426**	**3142**	**3958**	**5198**	**2968**

When people are pending deportation, it may take years until they are actually transported out of the country. The actual numbers of deportations are presented below in Table 3.

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Table 3. Number of third-country citizens transported out of the country by the Norwegian police 2008 – 2013 (National Police Immigration Service, 2014).

Type of Resolution	2008	2009	2010	2011	2012	2013
Asylum	440	655	1226	1483	1398	1275
Dublin	802	1461	1978	1503	1114	1408
Other reasons	1084	1227	1408	1760	2391	3279
Total	**2326**	**3343**	**4612**	**4746**	**4903**	**5962**

Table 3 shows how many third-country citizens who were transported out of the country between 2008 and 2013. Although some of the categories increase one year before declining the next year, there is a clear upward trend in the numbers of deportations 2008–2013.

Table 4. Foreigners deported from Norway – most represented third-country citizens (National Police Immigration Service, 2014).

Year	2008	2009	2010	2011	2012	2013	Total
Afghanistan	80	192	328	206	391	604	**1801**
Eritrea	157	191	289	143	85	95	**960**
Iraq	179	253	293	361	188	175	**1449**
Nigeria	141	275	334	398	530	665	**2343**
Romania	128	197	146	157	254	494	**1376**
Russia	158	195	272	487	329	281	**1722**
Stateless	63	108	161	157	180	127	**796**
Somalia	95	290	406	291	213	215	**1510**

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Forced return of foreigners is the most important responsibility of the National Police Immigration Service of the Norwegian police (PU). In 2013 they returned 2224 third-country citizens with one or several criminal sanctions. This was the highest number ever recorded, and a 64 per cent increase from 1360 in 2012. Since 2008 the number of forced returns of criminal foreigners by NPIS has increased four-fold (National Police Immigration Service, 2014). Among the deported third-country citizens the biggest group are the Nigerian citizens (2343), followed by Afghan citizens (1801), Russian citizens (1722) and Somali citizens (1510). Although Eritreans are the biggest group of asylum seekers (as seen in Table 1[29]), they are only the seventh most deported nationality. Nigerian nationals, on the other hand, are only the eighth largest group of asylum seekers, but currently the most deported nationality. In the next section statistics on drug-related crimes will be presented and considered.

[29] See section 3.2.

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3.6.3 Drug-Related Crimes

Generally Norwegians represent the majority of less serious drug crimes, while other foreign citizens are behind most of the serious drug crimes. There has been an increase in the number of heroin and cocaine seizures in Norway, with West Africans, mainly Nigerians, often receiving the shipments and serving the role of string-pullers affiliated to trafficking and dealing drugs on the streets (Norwegian Police, 2013a: 8-10). In addition to Nigerians, there are also Lithuanians, Poles, Dutch and Iraqis. West Africans are also to a larger degree smuggling ecstasy and hashish and their activities exploded between 2008–2009, when the number of cases doubled. Between 2000-2009 the number of cases where West Africans were suspected, accused or convicted increased tenfold (Norwegian Police, 2013a: 8-10). According to the regional director of UNODC in West Africa, Nigerians make up 53 per cent of all drug smugglers who have been imprisoned in Europe (Collyer, 2013). According to the police, West Africans and especially Nigerians pose the biggest criminal threat to Norway today (Lier, 2013:120). West African criminal networks use persons with Western looks, especially Poles, Lithuanians and other Eastern Europeans, as couriers for smuggling drugs as these countries are part of Schengen and citizens from Schengen countries do not face as rigorous controls as others do. West Africans are on the other hand, responsible for the drug sales (Lier, 2013:122-123). According to Norwegian police, approximately 100 million NOK are transferred from Norway to Nigeria annually through Forex and Western Union.[30] Persons without a residence permit transferred 90 per cent of the money and 10 persons made the majority of the transactions. The money stemmed from prostitution and the illegal drug trade (Lier, 2013:127).

West African and Lithuanian criminals have left a heavy footprint on Norwegian crime statistics. In October 2012 foreign criminals were accused of 452 drug-related felonies that year, 51 related to § 162 b of the Norwegian penal legislation regarding the import, manufacturing and sales of illicit drugs. § 162 c deal with organised drug-related crimes (Norwegian Police, 2013a). Nigerians and West Africans in general currently represent the biggest non-European third-country groups suspected, accused of or convicted for drug-related crimes and felonies in Norway.[31]

[30] Approximately 167.5 million ZAR.
[31] Fee Figure 1 and Figure 2 on pages 126 in Appendix A.

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On 1 January 2012 Norwegian Police started *Project Touch-Down*, an operation meant to go on for two years against West African criminals with the aim of producing a lasting reduction in crime levels. By 6 September 2013 450 suspects had been arrested and very few had ID papers. (Norwegian Police, 2013 in *Aftenposten*, 2013b). 2013 saw the total number of drug-related cases rise for the fifth consecutive year, from 19 600 in 2008 to 31 057 cases in 2013 (Norwegian Police, 2013b).[32] The numbers clearly indicate that there has been a great increase in organised drug-related crimes, and that among the organised criminal groups, West Africans and especially Nigerians have been a focus for Norwegian authorities. The next section presents the statistics on human smuggling.

3.6.4 Human Smuggling

The difficulty of determining the size of illegal immigration to Norway is part of the very nature of the phenomenon. In 2006 there were an estimated 18 200 illegal immigrants in Norway, with an uncertainty margin between 10 500 and 31 900 (Immigration Directorate, 2014a). However it is unlikely that these estimates are reliable today, as a great expansion in human smuggling and illegal immigration has been expected by the Norwegian police (Oslo Police District, 2011a:25). A significant number of illegal immigrants are involved in criminal activities, especially in Oslo, which has led to an increase in the number of deportations and criminal cases (Oslo Police District, 2011b). There is little knowledge of the phenomenon of human smuggling in Norway, reflected in a very low number of cases each year. There are no indications of large organised criminal networks involved in human smuggling in Norway, but human smugglers are connected to TOC. There are three modi operandi that have been discovered in Norway:

- Physical transport of people across the national borders where the smuggled persons are concealed during the transport;
- Counterfeit travel documents;
- A combination of the above (Norwegian Police, 2014:26).

Not all illegal immigrants utilise the services of human smugglers, and receive help from friends or family instead. However, the organised criminal networks involved in human smuggling are effective,

[32] See Appendix A, Figure 3 for number of drug-related cases 2004–2013.

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adapt quickly to the immigration policy of the countries they operate in, and often facilitate the abuse of legal channels of entry. Many illegal immigrants are recommended to apply for asylum by the human smugglers, only to escape from the asylum institution at a later stage (Frontex, 2012). This has been the focus of a debate around increasing the use of closed asylum reception centres in Norway.

The boundaries between human smuggling and human trafficking are often unclear, as asylum-related immigrants are often in debt to the smugglers, forcing them to deal drugs or do forced labour (Norwegian Police, 2013a:25). In 2012 approximately 50 per cent of all asylum seekers claimed they had received help at some point during their journey, but as 70 per cent cross into another Schengen country before entering Norway, there is little need for help to cross the Norwegian border (Norwegian Police, 2013a:25). It is difficult to determine the extent of this type of organised crime, as the numbers are vague and there are no reliable statistics. One can only assume that asylum seekers have to make use of human smugglers or family at some point in order to get into Europe, but as the numbers are so unclear, this form of organised crime will not be considered in detail here.

3.6.5 Prostitution and Human Trafficking

The numbers in Table 5 do not show the complete number of new cases registered each year, but rather how many cases are pending processing. The reason is that many victims of human trafficking are followed up over a period of several years. The total number of cases varies between 256 in 2008, reached an all time high in 2012 with 349 cases, before the slight decline in 2013 with 300 cases pending processing (Coordination Unit for Victims of Human Trafficking, 2014). Prostitution makes up approximately two thirds of all cases, followed by forced labour and begging. Most of the victims are women above the age of eighteen, in contrast to men above the age of eighteen – the least common group.

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Table 5. Prostitution and human trafficking in Norway (Coordination Unit for Victims of Human Trafficking, 2014).

Year	2008	2009	2010	2011	2012	2013
Girl under 18	49	50	19	32	33	16
Boy under 18	45	19	60	33	37	18
Women over 18	146	191	198	191	255	231
Men over 18	16	32	42	18	24	35
Total	**256**	**292**	**319**	**274**	**349**	**300**
Prostitution and other sexual purpose	180	198	194	187	239	201
Forced labour and services/begging	71	80	112	72	84	88
War service	0	1	0	2	10	0
Other/ Uncertain	5	13	13	13	16	11

Table 6 below displays the overall most common nationalities in Norwegian prostitution and human trafficking statistics. As in Table 4, the numbers represent the number of cases pending processing by Norwegian authorities.

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Table 6. Prostitution and human trafficking in Norway, selected nationalities (Coordination Unit for Victims of Human Trafficking, 2009, 2010, 2011, 2012, 2013, 2014).

Year	2008	2009	2010	2011	2012	2013
Nigeria	NA	121	104	108	163	138
Romania	NA	25	26	28	46	25
Philippines	NA	3	16	4	13	16
Lithuania	NA	14	25	10	6	-
Total	**256**	**292**	**319**	**274**	**349**	**300**

Nigerians are well represented in the prostitution and human trafficking statistics for all years of this study. They are not just the biggest third-country group – no other nation comes close to the numbers of Nigerian victims of human trafficking discovered in Norway. According to Nicola (2005), Nigerian prostitutes are often connected to Nigerian criminal networks. Such criminal networks are also commonly associated with businesses such as human smuggling. When looking at the number of deportation and the different types of organised crime presented above, a pattern becomes apparent. Although several nations have quite a marked presence in the statistics (such as Iraq, Russia, Somalia, the Philippines and, less interesting to this study, Lithuania, Poland and Romania), no states are as consistently represented within all the statistics as Nigeria.

3.7 Conclusion

The purpose of this chapter was to contextualise organised crime and immigration policy in Norway. This was done to provide the reader with an understanding of the context within which Norwegian immigration policy is formulated, and by doing so, to provide a basis for discussing the research questions, which will be done in chapter 4. The first section described the history of immigration to Norway, which has developed from predominantly labour migration in the 1960s to contemporary asylum-related immigration. The second section described how regionalism and the Schengen agreement has affected Norway, and how Norway is standing with one foot inside the EU community

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and one foot on the outside. This affects both the number of migrants to Norway, as well as how the Norwegian authorities deal with them. Furthermore, the Norwegian Immigration act was described, whose purpose is to regulate immigration, protect the legal rights of foreign nationals, and provide the basis for protecting foreign nationals who are entitled to protection under general international law or international agreements by which Norway is bound. The history of organised crime and TOC in Norway was presented, showing that imports of illicit products such as drugs have become the business of TOC as well as of local actors. Before concluding the chapter, crime statistics of drug-related cases, human smuggling, prostitution and human trafficking were presented in order to give an impression of the development between 2008–2013. The next chapter will introduce recent changes in Norwegian immigration regulation policy, before the theories introduced in Chapter 2 will be applied to the case of Norway.

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Chapter 4: Transnational Organised Crime and a Restrictive Immigration Policy

4.1 Introduction

The purpose of this chapter is to operationalise the concepts presented in the previous chapters in order to answer the research question and the three sub-questions. In the first chapter the primary research question was stated as: ***To what degree has the increase of TOC in Norway affected Norwegian immigration policy?*** The first sub-question focuses on the extent to which there has been an increase in TOCs in Norway. The second sub-question deals with significant changes in Norwegian immigration regulation policy between the years 2008–2013. Sub-question three asks whether immigration has been securitised in Norway. In order to provide a foundation for answering the primary research question, the sub-questions will first be addressed.

4.2 Transnational Organised Crime in Norway

Although "one percenter" motorcycle gangs and Eastern European TOCs are considered major players in the Norwegian organised crime market, they fall outside the scope of this study, as they are Schengen citizens. These groups are not represented among persons applying for asylum and will therefore not be of interest to this study. TOCs of interest to this study are those consisting of third-country nationals. Sub-question one is: *To what extent has there been an increase in TOCs in Norway?*

4.2.1 A Conceptualisation of Organised Crime in a Norwegian Context

It has proven difficult to give an exact number when studying TOCs involved in dealing drugs, or any of the other criminal activities discussed in this study for that matter, as one has to rely on statistics from the police, who themselves state that "the number of reports for drugs primarily reflects police efforts in the area and as such says little about societal trends regarding the use of drugs" (Norwegian Police, 2011). This is problematic, as the numbers will not necessarily reflect the extent of an area of

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crime, but police priorities. At the same time it is relevant for this study, as police priorities stem from political priorities. If more organised crime is uncovered and this is not a result of an actual increase in crimes committed, but rather police priorities, it means that organised crime is increasingly considered an important focus politically.

Although very few people are convicted of organised crime in Norway, drug-related crimes, prostitution and human trafficking are considered organised crime by Norwegian authorities, a term often used interchangeably with serious crime (Norwegian Police, 2009:6). Equating organised crime with other forms of serious crime is problematic, as a clear definition of the concept is necessary to study the phenomenon. However, as alluded to in Chapter 2, there is not one commonly accepted single definition of the concept. Several definitions exist in different countries. The drug business, unless you grow/produce the drugs yourself, is necessarily organised to be able to smuggle drugs into the country and distribute them. The same principle applies to human smuggling and human trafficking, which are considered to be organised criminal offences. The number of people convicted for crimes that require extensive organisation because of the nature of the crime itself is much higher than the number of convictions for organised crime, according to the Norwegian Penal Code (2006, 2013). For this reason, only studying the number of convictions according to the Norwegian Penal Code §162c and § 60a (2006, 2013) on organised crime defeats the purpose of this study. Therefore, for the purposes of this research study, the number of convictions for crimes of an organised nature will be considered, instead of only considering actual convictions according to §162c and § 60a. The reason for this is that the definition of organised crime in Norwegian legislation is very narrow and rigid and the organisational model in Penal Code § 60 is not necessarily representative for TOCs in Norway. For this reason, statistics of crimes that are considered organised crime such as drug trafficking, human trafficking and human smuggling were presented in Chapter 3.

4.2.2 New Trends in the Organised Crime Scene

In 2009 there was reportedly a new trend in the drug scene. After years of stable prices and decline in certain drug types, criminal networks started taking over the whole logistical chain, from production to street sales. A growth in the use of "tax havens" was also reported as organised crime became more

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internationalised (Økokrim,[33] 2008). These trends resemble Phil Williams's (1998b) description of TOC, following their illicit business from their safe haven in their *home state*, transporting their product to the *host state*, through *transhipment states*. The growth in use of "tax havens" is similar to Williams's (1998b) *service states*, which have financial sectors with little transparency, allowing for illegal income to be hidden. As shown in Chapter 3, criminals from several regions are well represented in the crime statistics for drug trafficking, human trafficking and human smuggling in all years of the study. Some of the nationalities are highly present in several categories. This too is in line with what has been presented about TOC and the global illicit economy in Chapter 2. Evidently, there is a prevalence of organised crime in general as shown in Chapter 3.

The numbers from Norwegian authorities present a picture of a society where organised crime is on the rise. The joint effort against foreign criminals in the drug scene and the White Paper on organised crime from 2010 shows that this is a focus area for the Norwegian authorities. The new tendency from 2009, when international criminal organisations started to handle the whole drug-production chain themselves and also make use of "tax havens", shows a clear resemblance to Williams's (1998b) description of TOCs. TOCs are known to embed themselves in ethnic networks for cover and recruitment, and are also often involved in several illicit markets at the same time. When looking at the nationalities represented as victims of human trafficking (especially prostitution) and arrested for drug-related crimes – and we also know that Nigerian prostitutes are often connected to criminal networks (Nicola, 2005) – it becomes possible to suggest that Nigerian TOCs have become a strong presence in the illicit markets in Norway. In addition to the Nigerian TOCs, Iraqi, Somali, Romanian and Moroccan groups have all left a footprint in organised crime statistics during the period of the study. The crime statistics presented in Chapter 3 shows an increase in cases of organised crime. However, it is not possible to say that there has been an increase in TOC in Norway. What the crime statistics and government reports tell us is that there has been a shift of focus by Norwegian police to TOCs and organised crime committed by persons of *other* ethnic origins. This finds expression through targeted operations against foreigners, such as the collaboration between UDI and the Oslo police in 2009, and *Project Touch-Down* between 2011-2013, directed explicitly and exclusively against West African criminals in Oslo. It is possible indeed that there has also been an increase of TOC, but it is not possible to determine this by looking at crime statistics, as they are likely to reflect

[33] The National Authority for Investigation and Prosecution of Economic and Environmental Crime.

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the priorities of the police more than anything else. What we witness is a prevalence of TOC, and an increased focus on it by Norwegian immigration authorities. The increasing focus on TOC has been accompanied by a number of changes in the Norwegian immigration policy, which will be presented in the following section.

4.3 Recent Change in Immigration Regulation Policy

It is a stated goal of the Norwegian authorities to harmonise Norwegian immigration legislation with EU immigration legislation (Nafstad, 2011:129). However, asylum recognition rates have been found to vary substantially in EU states (Neumayer, 2005:56; Hatton, 2009:200) and Gudbrandsen (2010:266) found that, although external factors influence immigration in Norway, so do the national political actors. In that regard, it becomes interesting to study some recent alterations in Norwegian immigration regulation policy in order to determine if they are a consequence of the harmonising process or if local conditions are referred to as grounds for any policy changes. Sub-question two addresses this subject in the following manner: *What have been the significant changes in Norwegian immigration regulation policy between 2008–2013?* In order to answer this question it is necessary to revisit the definition of immigration regulation policy.

Referring back to Chapter 3, it is common to make a distinction between *immigrant policy* and *immigration regulation policy* (Hammar, 1985). The focus of this study is immigration regulation policy, which encompasses immigration flows, regulation of and residence granted to foreigners. As the independent variable in the study is TOC, it will be most relevant to search for effects on the dependent variable, Norwegian immigration regulation policy, which is situated in the conjunction of combating crime and immigration control.

4.3.1 The 2008 Norwegian Immigration Act

In 2008 the centre-left coalition in power at the time suggested the introduction of 13 amendments to the 1988 Immigration Act. The amendments that were suggested would mean a tightening of the

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asylum policy – a response to the growing numbers of asylum seekers arriving in Norway and the need to have an immigration policy in line with comparable states, such as neighbouring Sweden (Norwegian Government, 2008). This can be seen in relation to an agreement Sweden made with Iraq, simplifying the process of returning Iraqi asylum seekers whose applications had been rejected. Norway clearly did not want to come across as less restrictive, as this would lead to a big increase in the number of Iraqis who apply for asylum in Norway. Some of the suggestions were realized immediately, while others were processed through hearings, before suggested as amendments between 2008–2011 (Ministry of Justice, 2009b). At the end of 2010 the EU Return Directive was implemented in the Norwegian Immigration Act. The Return Directive standardised the return of third-country citizens and led to several changes in Norwegian legislation with regards to asylum seekers who were rejected and who did not leave voluntarily (Norwegian Government, 2010b). Among the standardised procedures following the Return Directive was a maximum prison term of 18 months for foreigners awaiting deportation (Norwegian Government, 2010a). However, Norwegian authorities were already working on amendments to the Immigration Law that in some regards would be more restrictive than the European standard. This was especially the case regarding the use of coercive means.

In July 2010 the Ministry of Justice suggested amendments to the Immigration Act that would give the immigration authorities extended access to imprison asylum seekers (Ministry of Justice, 2010a). Despite criticism from several consultative bodies,[34] the amendments were adopted by the Norwegian Parliament in December 2011 and entered into force 1 March 2012 (Norwegian Parliament, 2011). The 2008 Immigration Act pre-amendments already permitted the use of administrative detention if a person was *most likely* going to evade the obligation to leave the country or if the identity was *most likely* false (Ministry of Justice, 2010a:8). However, it became easier to apply this type of coercive means after 2012. Some of the amendments were the following:

- Extended access to use of coercive measures;
- Lowered evidence requirements for imprisonment when there is doubt about identity;
- Lowered evidence requirements for imprisonment when there is a risk of evasion from obligation to leave the country;

[34] See Bø (2013).

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- Extended access to impose reporting obligations in predetermined location on criminal foreigners;
- Lower the threshold for seizure of travel documents;
- Lower the threshold for deportation (Ministry of Justice, 2010a).

The lowered evidence requirements for imprisonment when there is a risk of evasion of the duty to leave the country was changed from *most likely* to *when there is reason to assume*. This formulation means that it is enough that there is a 50 per cent chance of evasion of the duty to leave the country. As no objective criteria are given for how this probability will be measured, a decision to make an arrest becomes a highly subjective judgement left to police officers. The use of coercive means such as incarceration is normally applied as punishment against people found guilty of a serious crime, after a trial where the accused have a lawyer to defend their rights. Although incarceration in this setting is regarded as an administrative detention rather than punishment of a crime, this does not make the detention any less of a deprivation of liberty. The administrative resolution label only contributes towards decreasing the rights of the accused.

In line with the other suggestions to lower evidence requirements, it was suggested that the government could rely on *previous experience with similar cases*, in order to determine whether or not coercive measures would be applied. The Ministry of Justice stated that "in this context previous experiences the police have with foreigners of the same nationality or foreigners in the same situation, will be relevant" (Ministry of Justice, 2011b). This means that according to the amendments that came into effect in 2012, a foreigner may be imprisoned because of the actions of other persons of the same nationality rather than being judged on his actions as an individual. This is problematic, as it breaches fundamental principles of the rule of law, but this issue will not be discussed at length in this section. However, what is relevant to this section is that it is first and foremost a clear example of how the Norwegian Immigration Law has become more restrictive.

The amendments that facilitated the use of coercive means were meant to address:

- The growing problem of asylum seekers and foreigners who abuse the asylum institution and commit crime, especially profit-driven crime, possession and sale of drugs;

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- Foreigners with uncertain identity;
- Foreigners where there is reason to believe they will evade their duty to leave the country;
- The serious challenges associated with foreigners who pose a threat to the fundamental interests of the country (Ministry of Justice, 2010a:5).

It became clear that after the amendments a foreigner may be subject to administrative detention because of his legal status in the country, which means that the Norwegian government operates with double legal standards for citizens and foreigners. According to the Norwegian Organisation for Asylum Seekers (NOAS) (2014), this is in breach of the recommendations of the European Union Agency for Fundamental Rights, which states that "domestic immigration laws should not regulate detention based on crime prevention" (Norwegian Organisation for Asylum Seekers, 2014:9). Such practice is part of an international tendency of introducing crimmigration laws, which will be discussed in section 4.5.

Another change to immigration policy came in 2010, when the responsibility for immigration was moved from the Ministry of Labour and Inclusion to the Ministry of Justice. This can be seen as a watershed moment in Norwegian immigration regulation policy, as it signals a new approach. It indicates a symbolic shift from focusing on the integration of immigrants into the labour market to co-operation between the National Police Immigration Service (PU), the Directorate of Immigration (UDI) and the Norwegian Immigration Appeals Board (UNE), referred to as the immigration authorities. It was only after this handover that the authorities argued in favour of the forced return of illegal immigrants as a strategy for combating crime (Ministry of Justice, 2011a). The numbers of third-country citizens transported out of the country during the years of the study have shown a quite drastic increase.[35] This is especially evident when looking at the numbers of people transported out of the country as a result of rejected asylum applications. The numbers doubled from 2009 to 2010, while simultaneously the number of asylum seekers returned to other EU countries through the Dublin agreement decreased ten per cent each year since 2009, eventually ending up at 23 per cent in 2013 (National Police Immigration Service, 2014). Part of this tendency can be explained with the new regulations that came into effect in 2012, when the Ministry of Justice instructed UDI to exempt criminal asylum seekers from the Dublin procedure, in cases where the application is unlikely to be

[35] As shown in Table 2 and Table 3, Chapter 3.

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granted (Immigration Directorate, 2012). The background for the new regulation was the increasing trend that foreign criminals, arrested for drug-related crimes and deported to the Dublin country they were first registered in, quickly returned to Norway. It was argued that deportation to the foreigners' home countries would make Norway a less attractive country for criminal asylum seekers (Immigration Directorate, 2012). This regulation means that the Norwegian immigration authorities disregard the standard procedure they normally follow after signing the Dublin regulation in order to tackle international organised crime. This is permitted by the Dublin regulation,[36] but if this became standard procedure in all cases, it would of course mean an end to the whole agreement. This does not seem to be the case, however, as the exemption is exclusively made for criminal asylum seekers.

The latest change in Norwegian immigration policy came in December 2013, when new amendments to the 2008 Immigration Act were suggested. The growing number of criminal asylum seekers who were returning to Norway after they had been deported led one of the parties in government at the time, *Arbeiderpartiet* (The Workers Party), to call for harsher punishments for persons who violate the entry ban (*Aftenposten,* 2013b). This resulted in amendments made in December 2013 that would come into effect in January 2014, which raised the minimum penalty for breach of an entry ban from 60 days to one year in prison, with a maximum penalty of two years. The minimum penalty for recurrence was raised to two years, with a maximum penalty of four years (Ministry of Justice, 2013). The amendments were, in line with the new 2012 Dublin regulation, intended to halt the growing trend of criminal asylum seekers returning to Norway after being deported. The Ministry of Justice remarked on the changing face of crime and the growing focus on criminals without previous connection to Norway. Furthermore, it was argued that the amendments were necessary to protect society against organised crime and people who may pose a threat to society (Ministry of Justice, 2013). The effect of this last amendment is unfortunately not recorded, as it is outside the timeframe of this study. However, it is reasonable to assume that the amendment will lead to higher numbers of criminal foreigners in Norwegian prisons serving longer prison time.

This section has demonstrated how Norwegian immigration policy has been subject to significant changes in a restrictive direction between 2008 and 2013. It has shown how the threshold for use of coercive means has been lowered, while forced return of illegal immigrants has been applied as a

[36] See Article 17, Chapter 3.

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means of combating organised crime. These are policy moves we recognise from crimmigration, described in Chapter 2. The number of deportations has increased and so has the number of foreign prisoners in Norwegian prisons. The prison terms have become longer and exceptions to standard return procedures have been made in order to tackle the increasing internationalisation of organised crime. As we remember from Chapter 2 on criminologies of the *other*, when the authorities are losing control, punitive-populist policies such as introducing harsher punishments, become an effective way of demonstrating authority. Although the suggested amendments from 2008 were clearly motivated by growing numbers of Iraqi asylum seekers, these amendments were mainly concerned with other areas of the immigration policy than those in the conjunction between combating crime and immigration control. The harmonising of Norwegian immigration policy with EU immigration policy has led to restrictive policies, but as demonstrated above the process of making further restrictive amendments in the Immigration Act was started even before the EU Return Directive was implemented. This demonstrates that although external factors such as regionalisation influence the immigration policy, national political actors still have influential power on the policy area. In the next section securitisation theory as described in Chapter 2 will be applied and discussed.

4.4 Norwegian Immigration Policy in the Framework of Securitisation

In Chapter 2, it was explained that: "even when not directly spoken of as a threat, asylum can be rendered as a security question by being institutionally and discursively integrated in policy frameworks that emphasises policing and defence" (Huysmans, 2006:4). This section will discuss whether immigration has been framed within a domain of insecurity – a setting in which insecurity is known to exist, which makes policies intelligible as security practice (Huysmans, 2006:4). It will simultaneously discuss the extent to which immigration has been securitised according to the criteria of Wæver et al. (1998), leading the authorities to apply extraordinary means to tackle an existential threat. Adopting their framework, we need to follow the following steps:

- Locate a referent object (the object claimed to be under threat);
- Locate a securitising actor;
- Locate a functional actor (the actor that poses a threat);
- Determine if securitisation has occurred.

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As described in Chapter 2, a subject has been securitised if the audience accepts the securitising actor's claim that the functional actor poses an existential threat to the referent object, and by that permits the use of extraordinary means to tackle the security threat. The bullet points above will be followed in order to answer the sub-question: *Has immigration been securitised in Norway?*

4.4.1. Whose Reality of Transnational Organised Crime?

Firstly, we need to locate the *referent object.* The point has repeatedly been made that illegitimate asylum seekers undermine the asylum institute, and by that they pose a threat to the legitimacy of the welfare state. In addition to this, complaints were issued by the police, expressing concern at a lack of capacity and the amount of resources that had to be used on "foreign for-profit criminals and asylum seekers involved in the drug-trade", forcing the police to dismiss other cases (*Dagsavisen*, 2010b). Implicitly, the problem of criminal foreigners is so prevalent that there are not enough resources for the police to keep society safe from other criminal challenges. In other words, the traditionally safe society of Norway offering extended welfare goods to its citizens is threatened by criminal and fraudulent *others*. If the threat is not tackled, Norwegian society will cease to exist in its current form as a welfare state. Accordingly, the referent object of the case is the Norwegian society. After the referent object has been identified, we need to find the securitising actor and the functional actor of the study.

The role of the press in influencing policies has been widely discussed (Wacquant, 1999; Skilbrei, 2013; Uglevik, 2013). What is agreed on, however, is that the police and politicians ensure that the media, in exchange for interesting news stories, distribute their definition of reality (Mathiesen, 2002). Between 2000 and 2008 there were very few articles in the Norwegian media about the presence of foreign citizens in the drug scene. In fact, the politicians commenting on the subject refused to label the connection between immigration and the drug scene a big problem (Nafstad, 2011:140). A police report on organised crime from 2009 emphasises the great challenge posed by ever new groups of foreign organised criminals (Norwegian Police, 2009). Since April that same year Oslo Police District, in collaboration with the Immigration Directorate (UDI) and the National Police Immigration Service, have run a targeted operation aimed at "effective follow-up of foreigners

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arrested in connection with the efforts against the open drug scenes in Oslo"[37] (Oslo Police District, 2009). The project was announced by then Minister of Justice Knut Storberget and the labour and social inclusion minister Dag Terje Andersen (Ministry of Justice, 2009a). The Immigration Directorate were subject to the Ministry of Labour and Social Inclusion at the time, whilst the police was subject to the Ministry of Justice. Together, these two ministries constituted the immigration authorities until UDI and UNE were moved and the whole immigration field fell under the Ministry of Justice in 2010. Since the 2010 White Paper on organised crime there has been an increasing tendency among immigration authorities such as the police, UDI, and the Ministry of Justice to refer to unidentified immigrants as a security problem (Ministry of Justice, 2010a; National Police Directorate, 2014) and integrate asylum seekers in a framework that emphasises policing of both organised crime and illegal immigration (see The Ministry of Justice, 2010a). This clearly places immigration in a context where asylum seekers, in the capacity of being foreign strangers to Norwegian society, become a security problem. From 2010 there is a marked change in the way foreigners in the drug scene are described. From then on migrants in the drug scene are referred to as criminal asylum seekers, fraudulent asylum seekers; it is stated that drug money helps to finance terrorism, that they are criminal foreigners, they are affiliated with organised crime, they undermine the asylum institute, they ruin it for legitimate asylum seekers, they have dishonest intentions, they apply for asylum to commit crime, and that they are a threat to Norwegians – tying up the resources of the police (see e.g. *Dagbladet*, 2010a, 2010b, 2010c; *Aftenposten*, 2010a, 2010b; *VG,* 2010; *Dagsavisen*, 2010a).[38] This created a growing focus on asylum seekers and crime that continued all through the period of the study. The co-operation between PU and UDI is an expression of the increased focus on TOC and asylum seekers by the authorities in Norway. Accordingly, the securitising actor(s) in this study are the immigration authorities including the police, UDI and the Ministry of Justice. By labelling unidentified immigrants a *security problem* and including asylum seekers in a domain of insecurity together with organised crime, the immigration authorities turned immigration into a security issue. Hence, the *functional actor* in this case, labelled a threat to the referent object (the Norwegian society), is the unidentified asylum seeker. The unidentified asylum seekers pose a threat because among them there are criminal and fraudulent *others*, undermining the welfare state by abusing the asylum institute. This way the issue has become a matter of internal

[37] Author's translation.

[38] *Dagbladet*, *VG*, *Aftenposten* and *Dagsavisen* are prominent newspapers in Norway.

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legitimacy and moved into the political sector.

We have now established that the referent object in the study is Norwegian society, which the securitising actor, the immigration authorities, claim is under threat from the functional actor, unidentified asylum seekers, undermining the welfare state by abusing the asylum institution. There have been speech acts labelling the matter a security issue and asylum seekers have been framed within a context of insecurity. The next section will dicuss the changes in the Immigration Act in order to determine if the subject of immigration has been securitised. In Chapter 2 it was explained that in order to securitise an issue, the securitising move must be accepted from the public, accepting the application of extraordinary means to tackle the threat from the functional actor. Extraordinary means allow the securitising actor to ignore rules, agreements and procedures they would normally be bound by.

4.4.2 Extraordinary Means to Tackle the Other

In 2010 the police chief at Grønland police station in Oslo called for access to keep asylum seekers in custody until they could be deported, problematising the practice of releasing them immediately after arrest (*Dagbladet*, 2010a). There was wide political agreement between then Minister of Justice, Knut Storberget, and parties in opposition that asylum seekers caught for crimes should be kept in custody for longer and deported for committing crimes (*Aftenposten*, 2010c; *Dagsavisen*, 2010a). This led to the amendments to the 2008 Immigration Act described in section 4.3.1 lowering the threshold permitted for use of coercive means.

According to § 3 of the Immigration Act, the law shall be interpreted in line with the human rights conventions Norway is bound by, when these are in favour of the foreigner (Immigration Directorate, 2013a). According to the European Human Rights Convention (EHRC), which Norway is bound by, EHRC encompasses all forms of deprivation of liberty including imprisonment and detention, regardless of whether it is considered criminal punishment or an administrative resolution (Harris, O'Boyle & Warbrick, 1995:97; Lorentzen, Rehof, Trier, Holst-Christensen & Vevstedt-Hansen, 2003:139). This means that the rules embodied in the EHRC are applicable in cases where foreigners are placed in the police detention centres awaiting deportation, or because the police question their

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identity. The Ministry of Justice justified so-called plain identity detention as necessary for "security reasons" (Ministry of Justice, 2010a). In a paper discussing the amendments of the Immigration Act, Bø (2013) refers to the EHRC when stating that deprivation of liberty that is based only on questions of identity is not part of the deportation procedure and thus not a legal basis of imprisonment (Bø, 2013:148). Wilsher (2007) states that, according to the EHRC, deprivation of liberty is only legal when deportation is in progress, while Møse (2002) points out that EHRC § 5(1) f permits imprisonment of foreigners only during immigration control on arrival, deportation and extradition (Møse, 2002:259). According to Bertelsen (2011), imprisonment or detention can only happen in a transition period when a person attempts to enter the country or is awaiting deportation. Deprivation of liberty is in that situation only meant as a means to facilitate the implementation of a resolution that has already been made (Bertelsen, 2011:121). Accordingly, imprisonment or detention based on uncertain identity (that has to be clarified for "security reasons"), one of the reasons for imprisonment the police were given extended access to in 2012, seems to be an example of how extraordinary means are applied in the immigration policy.

In section 4.3.1 we saw how the police can rely on *previous experience with the same nationality or people in a similar situation*, in order to determine whether or not coercive measures would be applied. According to § 14 of the EHRC, the EHRC shall be carried out without any kind discrimination whatsoever on any basis such as gender, race, colour, language, religion, political conviction, national or social origin, association with a national minority, property, place of birth or other status. This means that none of the other articles of the EHRC, such as § 5(1)f mentioned above, can be implemented in a manner that is in breach of § 14. Differential treatment is considered discrimination if it is not based on *objective* and *reasonable considerations*, but rather differential treatment of persons in similar situations (Bø, 2013:153). According to Cornelisse (2010): "International human rights law requires that there must be some substantive basis for detention in each individual case" (Cornelisse, 2010:273). According to Bø (2002; 2004; 2013), no documentation of any kind has been presented proving that specific nationalities are more likely to escape a deportation resolution (Bø, 2013:154; Bø, 2002:160-167; Bø, 2004:121-125). Differential treatment cannot be objective if it is based on a general experience with persons of a certain nationality. If a decision to arrest someone is based on previous experience with persons of the same nationality and not some crime the person has committed, it means that nationality is used as prediction of a future

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crime. This is the kind of discrimination that human rights conventions are created to provide protection from. The vague criteria, subjective assumptions and low threshold of proof that the Norwegian police can base their decision to make an arrest on makes it difficult to bring such cases to court. The authorities state that the measures are only preventive and not punitive, and by doing that they avoid the protections offered by the conventions. However, as Aall and Husabø (2005) argue, "it is of course the realities that count" (2005: 527).[39] To sum up, it is at the very least questionable whether the Norwegian Immigration Act after the 2010 amendments is in line with the EHRC with regards to:

- Imprisonment/detention based on a general experience with persons of the same nationality;
- Imprisonment/detention in plain identity cases, where the imprisonment is not part of a deportation procedure;
- Imprisonment while awaiting a decision in the case.

As already mentioned, the justification for the amendments was the need to tackle illegal immigrants, organised crime and "foreigners who pose a threat to the fundamental interests of the country". The amendments represent an example of extraordinary means, because they are in breach of the rules embodied in the EHRC the immigration authorities would normally be bound by.

In the autumn of 2013 immigration was again a hot topic, when politicians and immigration authorities commented on asylum seekers and crime. The opposition argued for a stricter immigration policy and an increase in the number of closed reception centres. The immigration policy was labelled naïve and foolish, and the criminal asylum seekers a societal problem (*Aftenposten*, 2013c). The deputy minister referred to how they had instructed the UDI to ignore the Dublin regulation in cases with criminal asylum seekers, that asylum seekers committing crime would automatically get their asylum application rejected, and that the processing of their application and deportation was to be fast-tracked (*Aftenposten*, 2013c). The exception from the Dublin regulation made for criminal asylum seekers since 2012 arguably carries connotations of a security discourse rather than only being an immigration issue. The instruction did indeed come from the Deputy Minister, but the exception from the Dublin procedure was actually suggested by the police themselves (Gundhus, 2014). This is another example of how the immigration authorities, which the police are part of, play the role of

[39] Author's translation.

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securitising actor and calling for the use of extraordinary means to tackle the threat against Norwegian society. Although it is not a breach of the Dublin regulation, as exemptions are permitted, the exemption in this case breaks from standard procedure that the immigration authorities normally follow. The exception in the Dublin procedure is in the context of an immigration policy where the burden of proof has increasingly been tilted towards the asylum seeker to prove its innocence rather than on the immigration authorities to prove a crime. When this group of people is spoken of along the same lines as people who pose a threat to the country, the exemption to the Dublin regulation becomes an intelligible policy as security practice. This makes it possible to argue that the exemption to the Dublin regulation made for asylum seekers who commit crime, has been framed within a domain of insecurity. It can be seen as an example of extraordinary means in line with Buzan et al. (1998), as the policy change breaks with the rules and procedures that are normally followed, although not in breach of the Dublin regulation.

This framing of immigration within a security discourse is also visible in the previously mentioned restrictive amendments in the Immigration Act, designed to deal with illegal immigrants, organised crime and "foreigners who pose a threat to the fundamental interests of the country" (The Ministry of Justice, 2010a). When the same laws address "foreigners who pose a threat to the fundamental interests of the country" and asylum seekers who get their application rejected, it becomes possible to argue that immigration has been framed within a domain of insecurity. When a picture of "the dangerous foreigner" has been created within the security discourse, it becomes easy to argue for an increase in the number of deportations and a stricter immigration policy in general.
In this section it has been found that the subject of immigration has indeed been securitised in Norway. This has been argued by referring to several amendments to the Immigration Act that are in breach of the EHRC, a convention that has been incorporated into the Norwegian legislation. Furthermore, it has been argued that immigration has been framed within a domain of insecurity, which makes policing, deportations and a stricter immigration policy an intelligible response.

The next section will use the findings from the three sub-question in order to answer the primary research question.

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4.5 Transnational Organised Crime and Norwegian Immigration Policy

This section will answer the primary research question: *To what degree has the increase of TOC in Norway affected Norwegian immigration policy?* It has been established that there has been a prevalence of TOC in Norway during the period of the study and an increase in the number of cases involving TOC. However, it is difficult to demonstrate that the crime statistics indicate an actual growth in TOC, as they are likely to reflect the focus of the police, which has prioritised drug crimes committed by foreign citizens. It is possible that there has been an increase of TOC, but that cannot be established by this study. Rather the rising numbers are found to be the result of a change in the focus of the police. Where this shift in focus comes from will be explained by applying the theoretical framework of the study:

- Criminologies of the self and the other;
- Crimmigration; and
- Theories of securitisation

Chapter 2 referred to Johansen et al. (2013), who argue that politically there is a war of words on the subject of migration and crime. This becomes clear when looking at the public debate in Norway, where some speak of unidentified asylum seekers in general as a security challenge, while others point out that those who might potentially pose a threat are a very small group[40] and question the inflated negative focus on asylum seekers in the media.[41] When considering the recent study published by UDI (2014a) showing that asylum-related immigrants were responsible for more than three per cent of all drug-related crime in 2010, it shows that, yes, this group is indeed present in the crime statistics. However, when considering that the group is "only" charged twice as often as the rest of the Norwegian population (Immigration Directorate, 2014a:12), then talk of a security challenge makes the "threat" seem a bit inflated. Here it becomes relevant to consider Garland (1996) and the narratives of criminologies of the *self* and the *other*. The government carried out increased inter-departmental co-operation and argued that co-operation between the police and the prosecutors, municipalities, NGOs and private businesses is important to tackle organised crime (Norwegian

[40] See comment by Seilskjær (2014): http://www.aftenposten.no/meninger/debatt/Tendensiost-om-asylsokere-7661631.html#.U-S9qj9ps00.
[41] See Aas & Johansen (2013): http://www.aftenposten.no/meninger/kronikker/Hvor-kriminelle-er-asylsokerne-7321483.html#.U0O2wdxH2NU.

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Government, 2010). These are all associated with criminologies of the *self*. However, the picture is more ambiguous than that. We remember how, within the narrative of the *other*, the public may be manipulated into feeling insecure for political purposes – or the other way around, the government feels obliged to respond to a popular demand for security from the public. The criminal is a member of a distinct outsider group, which may be either racially or socially based, and must be excluded, incarcerated or deported for "our" security and protection (Edwards & Gill, 2002b:251-252).

When looking at the rhetoric concerning TOC in Norway, it is emphasised that this is a group different from *us* perceived to be a threat to the interest of state security. In fact, they are portrayed as so different from us that it is possible to base a decision to make an arrest merely on previous experiences with people of the same nationality. When the immigration authorities lament that there are insufficient funds and publicly call for access to more coercive measure, it becomes tempting for a ruling elite to resort to *authoritarian populism* (Hall, 1998). Simultaneous with the increasing focus of immigration authorities and governmental institutions on TOC, criminal asylum seekers and foreigners in the drug scene, there is a line of reasoning that has become a chorus for all governmental officials commenting on the topic. That line of reasoning is based on the notion of general deterrence.[42] In addition to the already discussed amendments to the Immigration Act, the recently raised minimum penalty for returning after expulsion and a re-entry ban, serves as a good example of how the government can show what authority is all about through imposing harsh punishment. In this case the meaning of generality becomes less general than what is usually associated with the term, as the deterrence is directed only at unwelcome foreigners. As discussed in section 4.3.1, the minimum penalty was raised from 60 days to one year while the minimum penalty for recurrence was raised to two years, with a maximum penalty of four years (Ministry of Justice, 2013). The intention was to halt the growing trend of criminal asylum seekers returning to Norway after being deported, and further, it was argued that the amendments were necessary to protect society against organised crime and people who may pose a threat to society (Ministry of Justice, 2013). It does send quite a strong symbolic message, indeed. Those asylum seekers who are not involved in crime, but still return to Norway despite an entry ban, have suddenly become criminals. When taking into account that the minimum penalty for armed robbery is 18 months in Norway, it should be clear to most that the Norwegian government is relatively eager to keep criminal asylum seekers, TOC affiliated or not, and

[42] See, for instance, Ministry of Justice, 2012; Norwegian Government, 2013.

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other perpetrators of organised crime out of the country, or locked up in prisons or detention centres. It also signals that the liberal integration project in Europe, opening up the borders to allow goods and people like *us* to travel freely, pose a sovereignty challenge to the authorities – their inability to control the *others* that enter their territory. This has led to crimmigration law (Stumpf, 2006) – the conjunction of crime law and immigration law.

In 2010 the immigration authorities were moved from the Ministry of Labour and Inclusion to the Ministry of Justice. When the formerly separate domains of crime control and immigration control converge, it becomes more difficult to separate and distinguish between "the suspicious foreigner" and the morally suspicious elements of the population (Johansen et al., 2013:20). In line with Dauvergne (2013), we have seen that the low standard of evidence in place to protect individuals in asylum cases is turned against the asylum seeker, when exclusion and criminality are the issue. In Norway a foreigner may be arrested if a police officer considers there to be *reason to assume* (or 50 per cent chance) that a person is lying about his or her identity, will evade an expulsion decision, or disappear while awaiting a verdict in their case that might lead to an expulsion decision. It seems, in some cases, as if the foreigner is guilty until proven otherwise. If the government of the person's home country is taking its time with providing valid travel documents (which, of course, is not the suspect's fault), the person may be deprived of freedom for up to 18 months. When a person can be kept for that long on a 50 per cent chance of having committed a crime, this can be argued to be a case of *over-criminalisation* (Aliverti, 2012). An action that is not traditionally considered a crime gets treated as one, and for that reason becomes a crime. This also fits right in with Stumpf's (2006) concept of crimmigration, where non-members of society may be acted against with means outside the constraints of the social contract. We have been made aware of how banishment and expulsion are being used, in addition to traditional punishment, as a means to draw moral boundaries, which is the traditional domain of criminal law.[43] This crimmigration trend became visible in 2012, when active use of deportation became a strategy for combating crime (Department of Justice, 2012:194-200).[44] It seems as if the growing focus on TOCs and border-crossing crime in general expressed in police reports (Norwegian Police 2009, 2013) and the White Paper on organised crime is reflected in the development of crimmigration law in Norway. The perceived threat from TOCs and border-crossing

[43] See section 2.3.
[44] See section 3.6.2 for statistics on deportation and forced return.

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crime, often by persons abusing the asylum institute, has framed asylum seekers in general within a security discourse rather than as victims in need for protection.

Wæver's (1996) definition of securitisation, as explained in Chapter 2, refers to an actor's ability to raise the importance of a subject to a level where it is perceived to pose a security threat, which legitimises ignoring the rules or procedures the actor would otherwise be bound by. This is a move from normal to exceptional politics (Buzan et al., 1998:23; Wæver, 1997:48–49, 2000:251). It has been established that several restrictive amendments have been made to the Norwegian Immigration Act. Some amendments came as a result of the Norwegian authorities' aim of harmonising Norwegian asylum policy with the Schengen standard, while other restrictive amendments came as a result of an increased focus on asylum seekers committing drug-related crime, foreigners with uncertain identity, foreigners who evade their duty to leave the country, and foreigners who pose a threat to the fundamental interests of the country (Ministry of Justice, 2010a). The amendments gave the police extended access to employ coercive means against persons who have applied for asylum and committed crimes, persons with uncertain identity and persons who are awaiting a decision in their expulsion case.

It has been argued that the immigration authorities have become a securitising actor, labelling unidentified illegal immigrants a security problem and framing asylum seekers within a security discourse, with foreigners who pose a threat to the fundamental interests of the country. This way the vast majority of asylum seekers have become a security threat and the functional actors in the framework devised by Buzan et al. (1998). The immigration authorities won acceptance of this framework as the amendments to the Immigration Act, called for by the police and suggested by the Ministry of Justice, gained enough political support to be adopted in 2011 and implemented in 2012. It has been argued that these amendments may be considered extraordinary means, as they seem to be in breach of the EHRC that was included in Norwegian law in 1990 (Bø, 2013:135). Furthermore, it has been argued that the exceptions from the Dublin regulation that has been institutionalised, break away from standard procedure and are another example of extraordinary means. As shown earlier, unidentified asylum seekers have been framed within a domain of insecurity, spoken of in a context of security threats and organised crime that legitimises securitisation steps, and for this reason immigration has been found to be securitised in Norway.

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The groups of third-country citizens involved in the types of organised crime discussed in this study are believed to pose as asylum seekers, only to be able to go about their illicit business. Some of them even waited with applying for asylum until they were arrested for dealing in drugs. This makes it clear that the restrictive amendments to the Immigration Act were actually intended to tackle international organised crime and TOCs. In that sense, one can argue that the prevalence of TOC has affected Norwegian immigration policy by triggering a more restrictive immigration policy than what would have been the case if TOCs had not been present in Norway. This is supported by the fact that many of the restrictive policy changes were made in addition to the changes made to harmonise Norwegian and Schengen asylum policy. On the other hand, perhaps the increasingly strict immigration policy is rather a result of the circular logic of securitisation, where threats and hostile factors are defined and modulated in order to counter them politically and administratively (Huysmans, 2006:61); the logic behind punitive authoritarian populism found in criminologies of the self and the other; or the increasing global trend of merging criminal law with immigration law.

The security discourse that has become prevalent after the Cold War, and even more so after 9/11, frame asylum seekers within the same context as TOC and terrorism. It seems that this tendency is clear, also in Norway. This makes it difficult to claim that the phenomenon of TOC on its own is affecting Norwegian immigration policy. Rather, the influence of TOC on Norwegian immigration policy occurs indirectly. In a globalised world where international institutions enjoy growing influence, it is likely that a combination of the contemporary security discourse and narrative of crime within organisations such as the UN, the Council of Europe and G7, combined with the actual activities of TOC, is what has actually affected Norwegian immigration policy. It is part of a globalised world, where growing inequality causes migration from poor countries to wealthy countries. It seems that, although there might be a connection between organised crime and immigration policy, the change in policy stems from a much larger issue – the general issue of immigration. To protect the welfare reserved for members of the society, the necessity of controlling the increasing migration becomes an important yet uncomfortable truth. Perhaps this is where the role of TOC comes in. By framing asylum seekers within the same domain of insecurity as TOC and terrorism, it becomes much more palatable, yes, perhaps it even becomes a duty to impose more restrictive immigration policies. This allows even the most conscientious member of society to think:

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After all, the government is there to protect *us* from possible threats. Those threats might occasionally come from *them*.

4.6 Conclusion

This chapter consisted of four sections dedicated to answering the three sub-questions and the primary research question. The first section shows that there is a prevalence of organised crime in general and that some of the most represented groups in the crime statistics fall under Williams's (1998b) definition of TOC. However, an increase in organised crime statistics may result from police priorities and not an actual growth in crime levels. The focus of the police has been shifted towards TOC and organised crime as a result of the logic found in the criminology of the *other*, where TOCs are considered dangerous members of a distinct racial or "outsider" group. The government can demonstrate its authority by focusing on clearly identifiable external criminal groups.

The second section describes a number of restrictive amendments in the Immigration Act, which came into effect between 2010 and 2013. It is pointed out that some of the amendments came as a result of the government's effort to harmonise the asylum policy with EU standards. However, several amendments came as a result of local conditions. Some of the more significant changes were extended access to the use of coercive means, raised penalty for people ignoring a re-entry ban, and exceptions from the Dublin procedure for criminal asylum seekers. The restrictive amendments in Norwegian immigration policy were introduced as a response to the increased focus on TOC and fraudulent asylum seekers, leading the immigration authorities to lament their insufficient funds and means in their work with tackling the threat from the criminal *other*. It has been argued that the increase in the use of coercive means and deportation is a result of the increasing global trend of crimmigration – convergence of criminal law and immigration law. It has also been argued that the harsh punishments that have been introduced, are a consequence of the authoritarian logic found in criminologies of the other.

The third section placed Norwegian immigration policy within a securitisation framework in order to determine whether Norwegian immigration policy has been securitised. It was argued that Norwegian immigration policy might indeed be considered securitised. The Norwegian immigration authorities

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have assumed the role of securitising actor, labelling unidentified illegal immigrants a security challenge. The functional actor (unidentified illegal immigrants) poses a threat to Norwegian society, characterised by extensive welfare goods for the members of society, by abusing the asylum institution and undermining the welfare state. This makes the subject a matter of internal legitimacy, and hence extraordinary means are applied in order to deal with the threat. Norwegian authorities have ignored rules, procedures and laws that they are normally bound by, referring to the need to deal with the threat as justification. This policy has been accompanied by the framing of asylum seekers within a security discourse, together with organised crime and foreigners who pose a threat to the fundamental interests of the country.

The fourth and final section covered the primary research question – if TOCs have affected Norwegian immigration policy. The material presented indicates that although the presence of TOC has affected Norwegian immigration policy, causing restrictive amendments, this has most likely been indirect. However, it is argued that it is unlikely that the sole presence of TOC in Norway has caused the changes in immigration policy. Rather, it is argued that the contemporary security discourse and narrative of crime currently found in international organisations, combined with the actual activities of TOC, is what has actually affected Norwegian immigration policy. An increased focus on TOC by governments and immigration authorities will necessarily lead to more organised crime being uncovered. This has led to a more restrictive immigration policy in Norway, which does not only affect TOCs, but also the lives of ordinary asylum seekers in need of protection.

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Chapter 5: Conclusion

5.1 Introduction

This study has provided new insight into the relationship between TOC and immigration in Norway. More specifically it provided insight into what the impact of TOC is, on changes in Norwegian immigration policy. In this final chapter, the key aspects of this study are reviewed and the main findings summarised. This chapter will also present an overview of the study and suggestions for further research..

5.2 Overview of the study

This study aimed to reveal the extent to which the increase of TOC in Norway has affected Norwegian immigration policy, and discusses the effect and implications of the government's strategy. The focus on TOC has grown exponentially over recent decades as the Norwegian borders have become increasingly open as a result of the Schengen agreement, allowing free flows of goods and people, both licit and illicit, to cross the borders with ease. The financial downturn that hit the stock markets in 2008 left Europe in a state of financial crisis, whilst Norway was affected to a lesser degree. This was because of Norway's oil wealth and economic policy allowing for an increase in expenditures in down periods, and a decrease in expenditures when the economy is strong. This made Norway a more attractive destination for immigrants with both licit and illicit intentions. While there was little political disagreement about immigration policy, with the Progress Party, sceptical about immigration, as the exception, there have been markedly restrictive changes in Norwegian immigration policy since 2010. That same year asylum seekers were commonly associated with organised crime by immigration authorities and politicians in the Norwegian media. The statistics for several forms of organised crime, such as drug trafficking and human trafficking, show an increase for the years of the study between 2008 and 2013. This might reflect an actual growth in TOC, but is likely to reflect the priorities of the immigration authorities, targeting international organised crime by means of more restrictive immigration laws.

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Chapter 1 introduced the study as a qualitative, single-case desktop study following a deductive direction as theoretical concepts are outlined before those theories are tested against empirical evidence. The objective was to determine whether or not the prevalence of TOCs in Norway has affected Norwegian immigration policy. The research question was formulated as follows:

To which degree has the increase of TOC in Norway affected Norwegian immigration policy? Furthermore, three additional sub-questions were formulated in order to establish a sounder basis to answer the research question:

1) *To what extent has there been an increase in TOCs in Norway?*
2) *What have been the significant changes in Norwegian immigration regulation between 2008–2013?*
3) *Has immigration been securitised in Norway?*

Limitations of the research were the limited and imprecise information about TOC and illegal immigration in Norway, because of the clandestine nature of the phenomena. Furthermore, it was stated that the crime statistics might actually reflect police priorities rather than actual crime levels, and that it is not always possible to determine whether a crime is organised or transnational. However, it was argued that this problem was overcome, because the perceived size of the problem of TOC will actually force the authorities to respond to the perceived threat.

Chapter 2 established the theoretical foundation for concepts such as *transnational organised crime and transnational organised crime groups (TOC), crimmigration law, criminologies of the self and the other,* and *securitisation.* These concepts were chosen because they are deemed suitable to explain the nature of international organised crime in Norway, and how international organised crime is dealt with by Norwegian authorities. This makes the concepts cornerstones of the research questions and the thesis itself. The three theoretical concepts *crimmigration law, criminologies of the self and the other* and *securitisation* all distinguish between the self/us/in-group and the suspicious other/foreigner/out-group. Accordingly, they are applicable to immigration policy. In the globalised world we live in, to some of *us* borders have been reduced to signposts that *we* are not only free to, but in fact encouraged to, cross freely. However, to *others* again, the borders are not only very real;

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they are powerful symbols of exclusion, accompanied with harsh punishments in place to deter *others* from crossing into *our* society – a society in which the *others* are an unwelcome out-group that does not have membership. Societies such as Norway depend on internal legitimacy in order to ensure continued support for the welfare system, to which all members of society contribute. It is an absolutely fundamental principle that all persons benefitting from the membership goods should be able to trust that their contributions are not being abused or wasted by persons abusing the system. When there are reports of abuse of the asylum institution, this quickly links the fear of "not getting my share" with the suspicious foreigner, who is posing a threat to the fundamental interests of society. This is where TOC comes in, as criminal foreigners have not only been linked by international institutions such as the UN, G7 and the EU to abuse of welfare goods, but even terrorism and organised crime. This way not only foreign criminals, but immigration in general becomes framed within a domain of insecurity, and asylum seekers with legitimate claims become suspicious *others*. This section sought to establish how both TOC and immigration are sometimes referred to as security threats, which made the theories relevant tools to understand the mechanisms behind restrictive immigration policy and harsher criminal laws.

Chapter 3 contextualised organised crime and immigration policy in Norway by first describing the history of immigration to Norway. It was established that Norway has been through three waves of immigration, starting with labour immigration in the 1960s; then families of the migrant labourers who sought family reunions; and lastly refugees and asylum seekers. This was followed by a description of European regionalism and the Schengen agreement, which involves a common asylum policy and several immigration regulation systems. The Norwegian Immigration Act was described, along with the guidelines for rejection of entry and expulsion. The history of organised crime in Norway was outlined and it was described how it has developed to the TOC that we see today. It was established that organised crime has assumed a central position in Norwegian crime policy, especially since 2010. It was shown that the rigid definition of organised crime in Norwegian legislation does not necessarily match the organisational nature of TOC in Norway. Therefore this study applies a definition of organised crime that includes drug trafficking, human trafficking and human smuggling – a definition common in public reports and among the police. Lastly, current crime statistics were presented. It was shown that there has been a growth in the number of deportations and forced returns, while there has simultaneously been a growth in the number of crimes involving organised crime such

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as drug trafficking and human trafficking. The purpose of the chapter was to provide the reader with an understanding of the context in which Norwegian immigration policy is formulated.

Chapter 4 operationalised the concepts and applied them to the Norwegian case. The chapter consisted of findings and indications of how TOCs have affected Norwegian immigration policy, addressing the three sub-questions before addressing the primary research question. The first three sections covered the sub-questions related to an increase in TOC in Norway, changes in Norwegian immigration policy, and whether Norwegian immigration policy has been securitised. The final section covered the main research question to assess whether TOC has affected Norwegian immigration policy.

5.3 Summary of Main Findings

The main findings will be summarised and evaluated in four sections, reflecting both the primary and the secondary research questions.

The first sub-question concerned the increase of TOCs in Norwegian crime statistics. Van Dijk (2007) argued that police-based information on levels of organised crime can often be a source of disinformation. The number of arrests and convictions are more likely to reflect the performance of the police, and not how widespread organised crime is. This was confirmed by the Norwegian police (2011), who agreed that the more money spent on tackling organised crime, the more crime will be uncovered. It was established that the crime statistics indicate an increase in several forms of organised crime such as human trafficking and drug trafficking. However, it was found that although there might actually have been an increase of TOC in Norway, the numbers are likely to reflect an increased focus from the police on TOC and organised crime in general. It was then demonstrated how the police have pointed to the criminal threat from persons of *other ethnic* origins, and have run several targeted operations specifically directed against organised criminals of *other* origin. This confirms the narrative found in criminologies of the other, where the criminal is often considered a dangerous member of a distinct racial or “outsider” group. This group is distinctively different from *us* and must be excluded by means of deportation or incarceration for *our* security and protection.

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The second sub-question asked whether there have been any significant changes in Norwegian immigration policy between 2008 and 2013. In Norway the responsibility for immigration was changed from the Ministry of Labour and Inclusion to the Ministry of Justice, indicating a new approach to immigration regulation. After 2010 there were numerous restrictive changes made to the Norwegian Immigration Act such as a lowered threshold for the use of coercive means and use of deportation as a means of combating organised crime. In line with Stumpf (2013a), the criminalisation of illegal entry and re-entry not only led to growing numbers of foreigners acquiring criminal records, but also to a change of government institutions dealing with immigration regulation. These restrictive changes confirm how Norwegian immigration policy has been subject to a process of crimmigration, merging criminal law and immigration law and applying expulsion as a means of drawing moral boundaries, the traditional domain of criminal law. While the immigration authorities justify these measures with the necessity of curbing organised crime and foreign criminals, it simultaneously reinforces a discourse in which illegal immigrants and asylum seekers become difficult to distinguish from suspicious *others* and potential criminals. The low threshold of proof introduced, allowing police to make arrests based on vaguely defined subjective criteria, turns a low standard of proof against the asylum seekers, originally in place to protect them. In line with Dauvergne (2013), criminal law becomes bifurcated into one variety applied to *us* citizens and one applied to *others.* Once again David Garland's (1996; 2001) criminologies of the self and the other becomes relevant in explaining the narrative of the *other,* which governments base such policies on. When the criminal *other* has made a rational choice to break the laws, strict controls can be imposed by the "dominant classes" without restricting their own freedom. Crime is considered an objective phenomenon, without putting much thought into how some become criminalised for their behaviours while others do not. This kind of thinking is common in the official narratives of international organisations, such as the UN and the Council of Europe. This makes the criminalisation of the migrant, which can be found in the official narrative of Norwegian immigration authorities, more part of an international tendency than resulting only from local conditions.

The third sub-question concerned whether Norwegian immigration policy has been securitised. It was found that Norwegian immigration policy has indeed been securitised, in a process where the Norwegian welfare society was the referent object that needed to be protected from the functional actor – unidentified asylum seekers. Unidentified asylum seekers could, according to the securitising

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actor, the Norwegian immigration authorities, pose a threat to Norwegian society both as fraudulent asylum seekers undermining the welfare system or as organised criminals posing an additional criminal threat. This made the issue a matter of internal legitimacy, which a welfare state is absolutely dependent on. The issue of immigration was found to be securitised, because a number of extraordinary means that are in breach of the rules, laws and procedures that Norwegian immigration authorities are normally bound by were implemented and justified with the need to tackle illegal immigrants, organised crime and foreigners who pose a fundamental threat to society. The immigration authorities gained acceptance for their arguments from their audience, national politicians, who voted in favour of the restrictive immigration laws. In other words, a full securitisation occurred, confirming the theoretical framework of Buzan et al. (1998). In addition, immigration was found to be framed within a domain of insecurity, where an increase in the number of deportations and a stricter immigration policy has become intelligible in the light of the perceived need to protect society from a security threat.

The primary research question sought to establish whether the increase of TOC has affected Norwegian immigration policy and hypothesised that transnational organised crime committed by TOCs affects Norwegian immigration policy. The material presented in this study indicates that several restrictive amendments have been made to the Norwegian immigration policy aimed at curbing TOC, confirming the theoretical framework. This a significant finding, because the study sought to establish whether the increase of organised crime has had an impact on Norwegian immigration policy, in order to find out in which respects the Norwegian government has changed its immigration policy. Although there might actually have been an increase in TOC in Norway, this study has not made that claim. Because the crime statistics are a product of the focus of the police, it becomes impossible to ignore the role of the police in prioritising different forms of crime. Rather it has been established that there is a prevalence of TOC in Norway, and that the immigration authorities have increasingly focused resources on third-country citizens involved in organised crime. Although there may be a connection between TOC and a shift in immigration policy, this study has not found direct support for the hypothesis, but the change in policy comes as a result of the much larger issue of immigration in general. This study has found support from the theoretical framework, showing how immigration has been framed within a security context, where the outsiders become a threat not only to us, the members of society, but also the existence of the welfare society as

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Norwegian citizens know it today. Because the immigrants are not members of society, but a threat from outside, it becomes intelligible to the public that the authorities apply policing, harsh laws and are allowed access to coercive means that would not be acceptable if applied to citizens. The aim justifies the action. A direct link between TOC and restrictive immigration policy has not been found. However it can be argued that if TOC had not been prevalent, it would have been more difficult to make such insecurity claims, so TOC can be considered to have an indirect effect on immigration policy. Stuck within this security discourse, we find large numbers of asylum seekers with legitimate claims for a need of protection. The immigration authorities' and governments' punitive-populist eagerness to show decisiveness in handling foreign criminal threats, is a much more effective show of authority to the public than prioritising the rights of marginalised groups of asylum seekers. Unfortunately, as shown in this study, this narrative can be found in such bastions of globalisation as the European Commission and the UN. In a world characterised by increasing mobility for some of us, immigration policy and border control regimes such as those of the Schengen zone, have become a symbol of immobility for many.

5.4 Review of the Study and Suggestions for Further Research

As mentioned in Chapter 1, this study did not attempt to provide an exact description of TOC in Norway, as this would be impossible due to the clandestine nature of the phenomenon. This study attempted to contribute to a better understanding of the line of thought Norwegian immigration policy is based on, providing a basis for future research and discussion on the subject. It is hoped that this study has had some success in that regard, and offered a contribution to the debate about Norwegian immigration policy. It may be regarded as problematic that the study had to rely on data and statistics from Norwegian immigration authorities, the police and international organisations, as these necessarily will reflect the priorities and successes of such organisations and institutions. However, the world is not a laboratory, and the theoretical framework was applied in order to focus on how TOC is perceived and framed in society, rather than describe an absolute reality of TOC. The researcher acknowledges that there are many viable explanations for restrictive changes in immigration policy, such as influence by the media, xenophobia and macro-economic conditions, just to name a few. However, these explanations were out of the scope of this study. Rather than communicating with key informants in Norway through e-mail correspondence, interviews could have

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been performed to gain deeper knowledge. Unfortunately, this proved difficult due to lack of resources and time limitations on both continents.

It became clear during the research process that there is very little literature on immigration policy and TOC in Norway. The timeframe of this study was 2008 to 2013, during which time Norway was governed by a centre-left coalition for most of the period. Another study could look at changes in immigration policy before and after the attacks on the World Trade Centre on 9/11, 2001. There was an increasing trend of framing immigration within a security discourse after the 9/11 attacks, and therefore this would make a relevant timeframe to study. Alternatively, another study could look at Norwegian immigration policy from the change of government in 2013 to the next election in 2017. As the current government is a conservative minority government, it would be interesting to see whether this would lead to major changes in the immigration policy. Lastly, instead of doing a single-case study, it would be interesting to perform a comparative study with one of Norway's neighbouring countries such as Sweden or Denmark. These are countries with similar welfare systems as Norway, but with very different immigration policies. Although these two countries are in a slightly different situation than Norway, as they are fully-fledged members of the EU, a comparison would be of interest. Comparing the Norwegian case study may uncover findings or trends that are relevant to the relationship between TOC and immigration policy. Alternatively, more research could be done on populist policies, tabloid media and immigration policy.

5.5 Conclusion

This final chapter consisted of overviews of all previous chapters, a summary of the main findings of the study and suggestions for further research. The study has showed how immigration is framed by international institutions and local authorities, and that this framing influences political support for applying restrictive measures in the immigration policy. An increased focus on TOC has revealed new organised criminal activities. This has lead to a more restrictive immigration policy and a security discourse, in which not only TOCs are framed, but also ordinary asylum seekers in need of protection. Studying how a welfare society, such as Norway, deals with immigration is of great importance at the time of writing and will continue to be important in all foreseeable future. It is unlikely that we are going to witness anything but an increase in global immigration flows in coming years. This fact

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makes it absolutely necessary to discuss the societal implications of constructing discourses in which foreigners in general become threats, and asylum seekers become security challenges. A society that prides itself of equality and speak warmly about human rights internationally, should not lose sight of the consequences of its own increasingly populist policies nationally.

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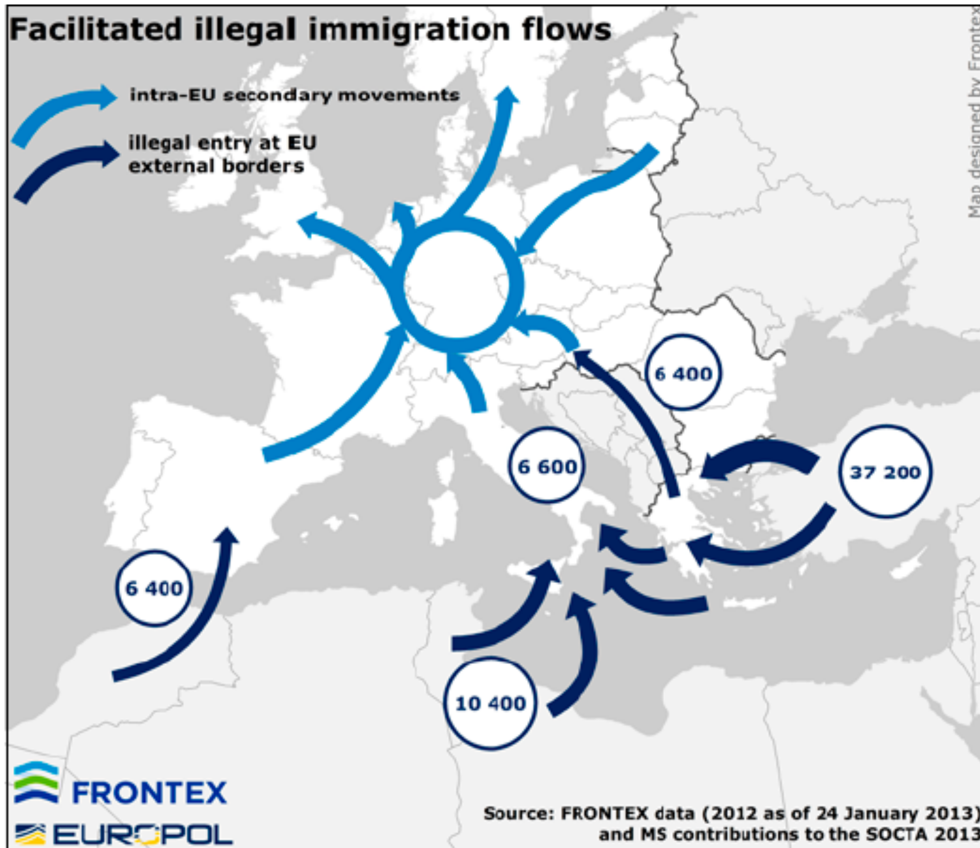
Appendix A



Map 1. Facilitated illegal immigration flows to Europe (Europol, 2013b:24).

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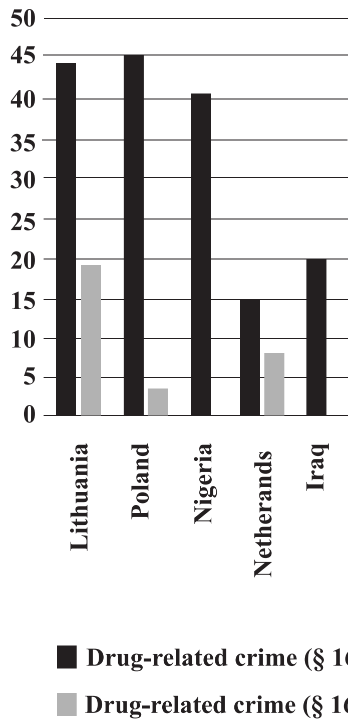

Figure 1. Drug-related crime in Norway: Cases, suspected, accused or convicted (Norwegian Police, 2013a).

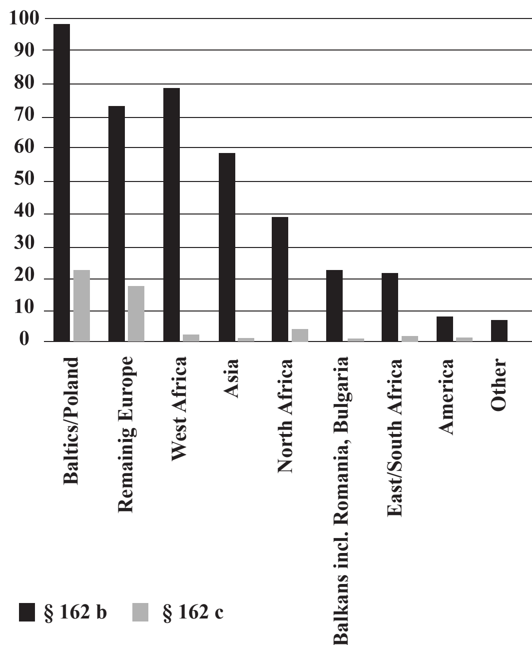

Figure 2. Drug-related crime in Norway: Cases organised by origin of the involved (Norwegian Police, 2013a).

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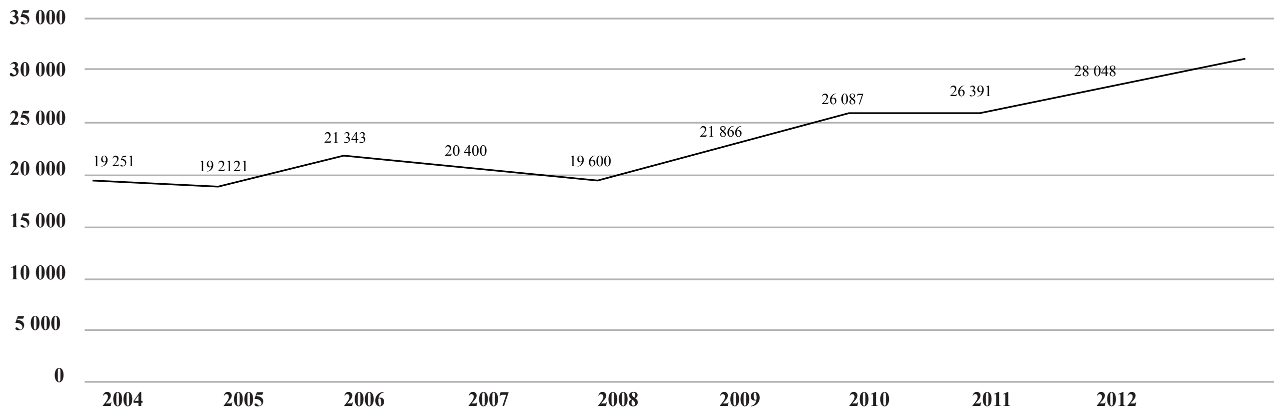

Figure 3. Total number of drug-related cases in Norway 2004 – 2013 (Norwegian Police, 2013b).