The Governance of International Migration in Turkey and Morocco: Irregular Migrants' Access to Right to Stay

by

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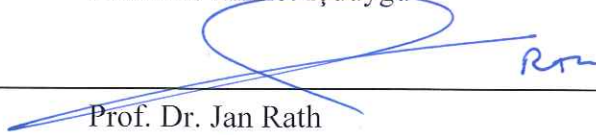
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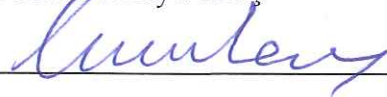
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THE GOVERNANCE OF INTERNATIONAL MIGRATION IN TURKEY AND MOROCCO: IRREGULAR MIGRANTS' ACCESS TO RIGHT TO STAY

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This thesis analyses migrant experiences of illegality in Turkey and Morocco by taking into account how both countries responded to increasing pressure by the European Union (EU) to govern irregular migration within their territories. In dialogue with literatures on the legal production of migrant illegality, irregular migrants' subordinate incorporation and political mobilisation by irregular migrants, the thesis provides a multi-layered analysis of migrant illegality. The research aims at revealing the implications of the rising concern with stopping irregular crossings at the EU borders for the wider region and particularly for the people who face such policies and practices. The research is based on the analysis of policy documents and interviews with key stakeholders and migrants of different legal status. It broadly looks at how migrant illegality has been *produced* by law, *practiced* and *negotiated* by the state, by civil society actors and by migrants, themselves. The research focuses on different aspects of migrant illegality, such as experiences of deportability, participation in economic life, access to health care and education and access to legal status to reveal irregular migrants' various incorporation styles and various ways irregular migrants seek access to right to stay. The analysis shows that Morocco has been a case of exclusion at the levels of policy, discourse and practice. Regarding the question of incorporation, Morocco is a crucial case for studying the mobilisation for the rights of irregular migrants. Despite abuses and discrimination, irregular migrants have been subject to day-to-day legitimacy, particularly through their labour market participation in the case of Turkey. However, de facto recognition of the presence of irregular migrants was not coupled with an inclusive pro-migrant rights movement.

Keywords: irregular migration, migrant illegality, access to rights, socio-economic incorporation, migrant mobilization, external borders of the EU, Turkey, Morocco

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TÜRKİYE VE FAS'TA ULUSLARARASI GÖÇÜN YÖNETİŞİMİ: DÜZENSİZ GÖÇMENLERİN ÜLKEDE KALMA HAKKINA ERİŞİMİ

AYŞEN EZGİ ÜSTÜBİCİ ÖNAY

Bu çalışma, Türkiye ve Fas'taki göçmenlerin yasadışılık deneyimini, her iki ülkenin Avrupa Birliği (AB) tarafından uluslararası göçün yönetilmesine yönelik baskıya, Türkiye, Fas gibi çevre ülkelerin verdiği yanıtı dikkate alarak inceler. Göçmen yasadışılığının yasal üretimi, düzensiz göçmenlerin toplumsal hayata dahil olma süreçleri ve siyasi örgütlenmeleri üzerine olan yazınla diyalog halinde olan bu çalışma, göçmen yasadışılığının çok katmanlı analizini sunar. Araştırma AB sınırlarını aşan düzensiz göç hareketliliğini durdurmaya yönelik artan kaygıların, Avrupa çevresi ve özellikle bu kaygılarla üretilen politika ve pratiklerle karşı karşıya kalan insanlar üzerindeki etkilerini ortaya çıkarmayı hedefler. Araştırma, konuyla ilgili yasal ve idari belgelerin analizi, devlet kurumları ve sivil toplum örgütlerindeki karar alıcı ve uygulayıcılarla yapılan uzman görüşmelerine ve göçmenlerle yapılan derinlemesine görüşmelere dayanmaktadır. Genel olarak, göçmen yasadışılığının nasıl *hukuk üzerinden üretildiğine*, devlet, toplum ve göçmenlerin kendileri tarafından nasıl pratiğe döküldüğü ve müzakere edildiğine bakılmaktadır. Düzensiz göçmenlerin toplumsal yaşama katılım ve ülkede kalma hakkına erişim tarzlarını ortaya çıkarmak amacıyla, sınırdışı edilebilirlik, ekonomik hayata katılım, sağlık ve eğitim gibi haklara ve yasal statüye erişim gibi göçmen yasadışılığının farklı boyutlarına odaklanılmıştır. Fas'taki politikalar, söylemler ve pratiklere bakıldığında göçmenlerin sosyal hayattaki dışlanışı öne çıkmaktadır. Bununla beraber, düzensiz göçmenlerin toplumsal hayata katılımı kapsamında, Fas, dışlayıcı pratiklere rağmen, düzensiz göçmenlerin siyasi olarak örgütlenebildikleri bir vaka analizi oluşturmaktadır. Suistimal ve ayrımcılığa rağmen , Türkiye örneğinde düzensiz göçmenlerin özellikle emek piyasasına katılımları vasıtasıyla gündelik hayatta meşruiyet kazandıkları öne sürülebilir. Yine de, düzensiz göçmenlerin varlığının fiilen kabul ediliyor olması, farklı statüdeki göçmenleri içeren göçmen hakları temelli siyasal hareketlere evrilmemiştir.

Anahtar Sözcükler: düzensiz göç, göçmen yasa dışılığı, haklara erişim, sosyo-ekonomik dahil olma, göçmen örgütlenmesi, AB'nin dış sınırları, Türkiye, Fas.

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Acknowledgments

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Abbreviations

ABCDS	Association Beni Znassen for Culture Development and Solidarity
AFVIC	Association for Victims of Clandestine Migration and their Families
ALECMA	Association Lumiere sur L'Emigration Clandestine au Maghreb
AMDH	The Moroccan Association for Human Rights
ANAPEC	The Moroccan National Recruitment and Employment Agency
ARMID	Association Mediterranean Encounter for Immigration and Development
ASAM	Association for Solidarity with Asylum Seekers and Migrants
ASEM	Association for Solidarity and Mutual Aid with Migrations (ASEM)
ATMF	Association of Workers from Maghreb
CCME	The Council of the Moroccan Community Living Abroad
CMSM	Council of Sub-Saharan Migrants in Morocco
CNDH	National Council of Human Rights
CSO	Civil society organization
DGMM	Directorate General of Migration Management
DİSK	Confederation of Progressive Trade Unions of Turkey
DRC	Democratic Republic of Congo
EC	European Commission
ECHR	European Convention for Human Rights
ECtHR	European Court of Human Rights
EU	European Union
FOO	Foundation Orient-Occident
GDA	Migrant Solidarity Network
GADEM	The Anti-racist Group for the Support and Defence of Foreigners and Migrants
GDP	Gross domestic product
GÖÇ-DER	Migrants' Association for Social Cooperation and Culture
HCA	Helsinki Citizens Assembly
HRDF	Human Resource Development Foundation
iNGO	international non-governmental organisations

IOM	International Organization for Migration
LFIP	Law on Foreigners and International Protection
MAD	Moroccan Dirham
Mazlumder	Association of Human Rights and Solidarity for Oppressed People
MSF	Doctors Without Borders
Mülteci-der	Association for Solidarity with Refugees
NGO	Non-governmental organisation
ODT	Democratic Organizations of Workers
ODT-IT	ODT-immigrant workers
OMDH	Moroccan Organization for Human Rights
POS	Political opportunity structures
RA	Readmission Agreement
RAMED	Medical Assistance Plan
SAFS	Social Assistance and Solidarity Foundations
TL	Turkish Lira
TNP	Turkish National Police
TOHAV	Foundation for Society and Legal Studies
UJRT	Union of the Young Refugees in Turkey
UK	United Kingdom
UN	United Nations
UNHCR	UN High Commission for Refugees

Chapter 1: Introduction

André[1] (42, from Cameroon) came to Morocco in May 2011, with the intention of going to Europe. After entering through Oujda, André spent several months in Tangier and in the forest near Ceuta and made several attempts to cross: "When you make several attempts and when it does not work, you need to reflect on it... I have attempted several times in Tangier, several times in Ceuta. It did not work… We could organise among ourselves, buy a zodiac and attempt."... "I told myself, I need to change, I would not say change tactic, but my idea to go to Europe. I have decided that I can make my life here and in 2013, the King has given his discourse for the integration". Since the summer of 2012, he has been involved with a migrants' solidarity association. The association was founded to raise awareness against racist attacks in poor neighbourhoods of Rabat. André has been doing voluntary jobs in collaboration with Moroccan associations and has actively worked to raise migrants' demands for rights and for regularisation. While still dreaming of going to Europe, he is waiting to be regularised.

Harun left Afghanistan at the age of 17, in October 2009, with the son of his uncle and another two friends from his village, intending to join his brother who was living and working in Istanbul. After a three-week stay in Iran, they found a smuggler to take them to Istanbul where his elder brother was living and working with other young men from his town. After crossing the border by foot, the smuggler first took them to the UNHCR (UN High Commission for Refugees) office in Van, one of the cities at Iranian border. Harun went to the office to register without any knowledge of the asylum process in Turkey. "I wanted to come to Istanbul, did not want to stay there. I never told them this." During the application process, he explained that he came to Turkey to work and never mentioned his relatives in Istanbul or the smuggler. After leaving Van, Harun never followed his asylum file. He arrived Istanbul and settled in a flat with his brother and other Afghan single men. In the last three years, he has been living and working in Istanbul, moving from one workplace to another. "Then, in 2009, the work was scarce in Turkey. I had no jobs for the first two months. Then, I went to work in leather.[…]When the leather season was over, I left the job and went into the bag atelier". He was later joined by his family members who also crossed the border without documents. As of August 2013, the family had a pending residence permit application through their relatives who were among the Afghan Uzbeks settled and naturalised in Turkey, back in early 1980s.

Juxtaposing the story of André and Harun, one immediately thinks about fragmented and dangerous journeys migrants have to go through because of the mere existence of borders. Conditions of André's and Harun's journeys to the *West* are similar in the sense that they risk their lives to cross borders, get help from smugglers,

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[1] All names are pseudonyms, unless indicated otherwise.

face the threat of detention and deportation, to generate better opportunities in life. While there is a growing literature on borders and border crossings, this study is about experiences of settlement beyond the borders of the European Union (EU). Next to discussing the changing politico-legal environment, I incorporate migrant perspectives to help us grasp processes through which André has become a political activist for migrant rights in Rabat, and Harun a textile worker in the informal sector in Istanbul. Interestingly, both had prospects on legalizing their *illegal* status but through different means. In a broader discussion, I will also shed light how their common feature --their "uncertain legal status" (Menjivar, 2006) within national territories they reside -- has been *produced* by law, *practiced* and *negotiated* by the state, by civil society actors, and by migrants themselves. Against the backdrop of ever-changing European migration policies, my research questions what *migrant illegality* "generates or enables and for whom" as well as how and whom it excludes (Menjivar and Coutin, 2014: 329).

1.1 Researching *migrant illegality* beyond EU borders

Concerns over stopping irregular migration within the context of declining economic growth and the securitisation of immigration led to a more restrictive approach towards immigration and asylum in the developed world (Sassen, 1999). Particularly in the European migration system, emerging norms of EU migration controls has led to the expansion of security measures towards the external borders of the EU. This research has been motivated in the first place by the conviction that it is critical to explore that we acknowledge what is happening *beyond* the EU borders in terms of the *production of migrant illegality* and *migrants' access to rights*. This study does not only conceptualise irregular migration in the Mediterranean as an externalised EU border *problem*, but it also looks at different ways in which irregular migration becomes an issue of *governance* at the periphery of the EU. It is necessary for research to explore the implications of the rising concern with stopping irregular crossings at the EU borders for the wider region and particularly for the people who suffer from policies and practices aiming at curtailing human mobility into the EU.

This study analyses the production of illegality through emerging immigration policies and practices from a comparative perspective. In fact, comparative studies on migrant illegality are rare and rather new (Garcés-Mascareñas, 2012; Lentin and Moreo, 2015). Furthermore, few studies frame migrant illegality within an international context in which illegality has resulted from interacting control and border regimes (Menjivar, 2014). Also, I look at how migrant illegality influences migrants' participation in economic, social and political life and how migrants challenge their *illegal* legal status at individual and communal levels. Given the recent and radical changes on migration policies within the EU and restricting controls along the EU borders, the thesis promises to explore how migrant illegality has been translated into these rather marginal spaces of immigration, beyond these borders, into what I refer to as *new countries of immigration*. Morocco and Turkey, where

immigration has become a subject of governance only recently and have been subjected to geopolitical pressures to stop irregular border crossings into the EU, provide underexplored ground for re-thinking the processes through which migrant illegality has been produced, experienced, negotiated and contested.

Turkey and Morocco, as two countries at the periphery of the EU, have been subjected to the externalisation of EU migration policies. In this context, a growing body of literature on EU migration controls (on critical border studies) has focused on the external borders of the EU (Wunderlich, 2010; Carling, 2007; Collyer, 2007; Mountz and Loyd, 2014; Tsianos and Karakayali, 2010; Pallister-Wilkins, 2015). Turkey and Morocco are increasingly hosting immigrants who are either on their way to Europe or who have crossed borders to look for opportunities to work, study and/or settle in relatively more developed countries in the region (İçduygu and Yükseker, 2012; De Haas, 2014). Despite this general observation on changing mobility patterns, less research has looked at the incorporation experiences that migrants and asylum seekers[2] have before they pass to Europe (Collyer, 2007; Suter, 2012; Danış, Taraghi and Pérouse, 2009). Even less research has explored emerging forms of the governance of irregular migration at the periphery of Europe and migrants' experiences of informal incorporation from a comparative perspective. By focusing on Turkey and Morocco as new immigration countries, the research brings these two levels of analysis together. These are institutional, policy-oriented analyses on the impact of external dimensions of EU migration control policies and socio-legal analyses on the legal production of migrant illegality.

1.2 Research questions

The research questions address the link between migration governance and migrants' incorporation at the periphery of the EU to understand how irregular migrants seek legitimacy, as border closures extending into the external borders of the EU make them illegal.

- *How has irregular migration become a new subject of governance and impacting irregular migrants' access to rights and legal status?*

The main research question is divided into interlinked three sub-questions, reflecting the multiple level of analysis I embraced in addressing the question of migrant illegality:

- • *How have changing policies and practices regarding the rights of irregular migrants produced migrant illegality in Turkey and Morocco as de facto immigration contexts*?

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[2] While the research does not directly deal with asylum and refugee issues as it is a specific area of international law, references are given to asylum issues especially when the issues pertaining to asylum and irregular migration are intermingled.

- *How do migrants experience their illegality and negotiate their presence in society in general, and their access to rights and to legal status in particular?*
- *Under what circumstances do irregular migrants mobilise to claim their rights and legal status?*

1.3 Terminology and situating questions in the literature

I use the concept of *governance* to refer to a multiplicity of actors and to policies as processes rather than end products. The use of the term indicates that the focus is "on processes of rule and not only on institutions" or on formal rules, but also on informal practices (Lemke, 2007: 53). The term as I use it also refers to the fact that, in the realm of international migration, decisions and practices are contested by a variety of state and non-state actors, and as a result, governments are not the only authorities of rule-making (Betts, 2011: 4). Meanwhile, the distribution of power and resources amongst these actors is unequal (Grugel and Piper, 2011). The research suggests that changing migration policies and their enforcement in Turkey and Morocco have given rise to distinct forms of governance. While existing research has explored changes in the legal framework and the emergence of rudimentary immigration regimes in both Turkey and Morocco (Elmadmad, 2011; Kirişci, 2009), little has been written on how non-state actors such as civil society negotiate state policies and practices and how migrants themselves have been influenced by this governance and have become part of it. While I use the term governance, it is beyond the scope of this research to offer a critical approach to the thriving literature on governance. My focus is on empirical and multi-level manifestations of policies and practices.

Given the permeability among different categories, I use *irregular migrant* as a generic term to refer to foreigners who cross the border without authorisation and stay and work in a nation-state territory. Given the permeability between the categories of irregular migration and asylum and the malfunctioning of the asylum system in both contexts, migrants fluctuate between different legal and policy categories such as transit migrant, irregular migrant or asylum seeker (Collyer and de Haas, 2012). Therefore, migrants' and asylum seekers' experiences in the urban labour market, their relations with the police and the strategies they use to obtain access to rights and legal status are comparable in both contexts.

Migrant illegality as the central concept of my inquiry relies on Willen's (2007) conceptualisation of the term. For Willen, migrant illegality is conceptualised: "first, as a form of juridical status; second, as a sociopolitical condition; and third, as a mode of being-in-the-world" (Willen, 2007: 8). In particular, I explore the implications of the first two components of migrant illegality on the third. Following this tripartite definition, the research deals with three bodies of literatures informing irregular migration research in general and migrant illegality research in particular to solve the

puzzle of irregular migrants' access to rights and legal status. These include socio-legal studies on the legal production of migrant illegality, sociological research on irregular migrants' subordinate forms of participation in society and social movements literature that particularly focuses on cases of migrant mobilisation despite their lack of political recognition.

Relying on socio-legal studies on the legal production of migrant illegality, I transpose the question of the production of migrant illegality as a "juridical status" onto new immigration countries where migrant illegality has resulted from external border relations. The EU has largely impacted both Morocco's and Turkey's immigration policies, hence the governance of irregular migration. I suggest that irregular migration has become an issue of governance in Turkey and Morocco in the last decade. In these contexts, state policies are shaped through the interaction of external pressures, i.e the EU immigration regime and domestic dynamics. In other words, the interaction between EU and domestic factors have produced these transit spaces, which are unique spaces giving rise to particular forms of the production of migrant illegality.

What Willen labelled the "socio-political condition" widely refers to the labour market conditions that incorporate migrants (Calavita, 2005; Garcés-Mascareñas, 2012). Studies have shown that the reproduction of the category of irregular migrant may serve the purpose of producing cheap labour for the economy (Calavita, 2005). Therefore, several cases discussed in the literature focus more on labour demands. As implied above, the production of illegality in this research has been an outcome of external pressure that has occurred in the absence of or regardless of the state's explicit demands for labour. Using sociological research on irregular migrants' subordinate forms of participation in society, the research empirically questions how this external border closure interacts with labour market conditions in so-called transit spaces.

Regarding migrant illegality as a "mode of being-in-the-world", I blend sociological literature on migrant incorporation into society and on contentious politics. The study questions the interactions between social and institutional mechanisms that give rise to very different styles of incorporation. As implied in the ethnographic vignettes juxtaposing the stories of Haran and of André, the thesis explores how migrants of irregular legal status in Morocco have managed to raise political demands for their entitlements for rights and legal status despite stigmatising and hostile contexts. Conversely, it questions how irregular migrants in Turkey have become de facto members of the society without political voices. By explicating the mechanisms of migrant incorporation styles, my empirical findings question if it is necessary for migrants to be political subjects in order to legitimise their presence. Furthermore, I question if the extent to which migrants' political claims for legal status depends on their presence in the labour market.

An analysis of these three components of migrant illegality, that is juridical status, socio-economic conditions, way of being-in-the-world, requires a multi-level analysis of the legal framework and implementation on migration and settlement of foreigners, of migrants' experiences of participation in both social and political spheres. Through qualitative research, I reveal *policies* and *practices* relating to irregular migrants' access to legal status and rights that are enacted by diverse actors within the state and civil society and also amongst migrants. My focus, here, is on the following factors of governance that impact irregular migrants' experiences of incorporation: i) laws (difficulties of legal incorporation) and their implementation (how migrant illegality is produced, and deportability is experienced in practice), ii) the labour market conditions (migrants' experiences of economic incorporation), iii) the resources available for migrants' access to rights and to institutions enabling these rights (the institutionalisation of bureaucracy and civil society), and iv) the political resources enabling migrants to seek rights and recognition. This study uses a comparative research design to shed light on the processes that give rise to different incorporation styles in different contexts, intending to contribute to the emerging literature and theorisation on forms of migrant illegality. The case selection is based on these countries' similar emigration histories, directed towards Europe since the second half of the 20th Century, and on their similar geographical locations at the periphery of Europe, which is a factor that make them *de facto* lands of immigration. I use the terms *de facto lands of immigration* together with *new immigration countries* to underscore that these countries have become transit and destination points without their explicit political will or economic need for immigration. At the time of the field work, both contexts were at the eve of substantive legal changes concerning the governance of irregular migration. The volume of regular and irregular inflows of migrants to Turkey and Morocco is still relatively low (compared to established immigration countries). The research does not include the impact of the Syrian conflict, as it is a mass flow. Syrian refugees in Turkey are under temporary protection of the state.[3] The numbers are even lower in Morocco than in Turkey. Yet, the mobilisation for the rights of irregular migrants is surprisingly more intense in Morocco in spite of the low numbers as also indicated in the story of André. Through the empirical discussion in the two contexts, I focus on the interrelatedness of the production of migrant illegality, the production of a quiescent labour force and mechanisms of migrant activism. The thesis aims to inform more general discussions and theories of how and through which mechanisms marginalised and legally excluded groups gain legitimacy.

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[3]   However, there will be occasional references to the case of Syrian refugees to indicate the drastically changing scene of immigration in Turkey.

1.4 Structure of the thesis

Given the main theoretical, methodological and empirical motivations of my research, the thesis is structured in five chapters. In Chapter 2, I frame the conceptual and methodological tools that I used in my study. I sketch out the theoretical implications of the production of migrant illegality and migrants' incorporation for new immigration countries. I raise theoretical and empirical questions to be resolved in later chapters: How do new laws and institutions, practices of state and non-state actors, as well as socio-economic structures shape migrants' strategies to access rights and legal status? The second part of the chapter elaborates on the methodological approach. Here, I elaborate on the logic of a comparative research design, the multi-layered data collection process and the challenges of conducting similar fieldwork in two different contexts. I also discuss the ethical issues emerging from my fieldwork experience.

Chapter 3 explores how the international context contributes to the production of migrant illegality in new immigration countries and also reflects on domestic factors. This is a comparative chapter that describes the external and internal dynamics through which irregular migration has become a policy concern. The impact of the international context, mainly the EU policies leading to the emergence of transit spaces, is taken as a distinctive aspect of the production of migrant illegality in the contexts in question. In order to help the reader to follow the line of the argument in terms of practices of irregular migration in the following chapters, I provide background information on the context within which migrant illegality is produced. The emergence of Morocco and Turkey as transit spaces, the EU's impact on the emergence of immigration and border policies and the political and institutional context within which policies and practices towards irregular migration have taken place are explained from a comparative perspective. Thus, this chapter contributes through its focus on the international and national dynamics that impact the production of migrant illegality, offering insight on the implications of this interaction from a comparative perspective.

Chapters 4 and 5 focus on practices that relate to the production of migrant illegality and migrants' incorporation experiences in Morocco and Turkey, respectively, in the post-2000 period, introducing perspectives from migrants and civil society actors. Detailed analyses are provided on the practices of producing (reinforcing, tolerating) migrant illegality and on migrants' access to the right to stay and to services. I discuss how migrants' experiences of incorporation are shaped by state practices and policies as well as the structure of the labour market and the interventions of non-state actors. I suggest that individual and communal strategies are available for migrants to get access to rights and legal status. The chapters answer one major sub-question: "How do migrants seek legitimacy and access rights and legal status, as nation-state policies and practices make them illegal?" Chapters 4 and 5 are structured as mirror chapters to enable interested readers to cross-read sub-sections. I

chose to explain each country case separately to enable the reader to follow the interaction amongst the production of migrant illegality, migrants' experiences of incorporation and their strategies for accessing rights and legal status in each country case.

Building on the insights of Chapters 4 and 5, Chapter 6 is a systematic comparison of the production of migrant illegality and irregular migrants' experiences of incorporation at the periphery of European borders. The chapter argues that the production of migrant illegality arguably gave rise to different styles of incorporation despite the similar international context that led to the production of migrant illegality at the edge of European borders. Thus, Chapter 6 refines the findings of my research by explaining the prevailing forms of economic, social, political and legal incorporation in both contexts. After sketching major differences in migrants' experiences of incorporation (without overlooking similarities), the concluding chapter refers back to theoretical and empirical puzzles that were introduced in Chapter 2 on different aspects of migrant illegality. As discussed in the concluding chapter, findings of the research are prone to generate hypotheses for further studies of the incorporation of irregular migrants in new as well as old immigration countries.

Chapter 2: The production of migrant illegality and migrant incorporation in comparison

How migrant illegality is produced?

How does it impact migrant incorporation and their quest for rights in the new immigration context?

How do I use comparative methodology and qualitative methods to answer these questions?

Conceptual Framework

> Those who enter the administrative apparatus accept a certain degree of control over their actions as a method of obtaining the benefit of a certified identity [....] The sociological interest in irregular migration is motivated by the chance to explore the other side of this exchange, as in a natural experiment, where the avoidance of controls is pursued through the renunciation of political recognition and legal protection (Bommes and Sciortini, 2011: 221).

The first part of the chapter reviews analytical tools to understand the processes through which irregular migrants are made illegal and subject to harsh *state controls*; it looks at different forms in which irregular migrants *participate* in the socio-economic life and *negotiate* their presence within economic, political and legal structures despite their illegality. I want to contribute to the broader conceptual puzzle of how people in highly precarious positions in their relations to state authority seek legitimacy. More specifically, my comparative inquiry aims at revealing the conditions under which irregular migrants in new immigration contexts may or may not seek *political recognition,* that is formal recognition of their existence and rights by authorities (Menjivar and Coutin, 2014). I extend questions about the link between control and recognition as formulated by Bommes and Sciortini in the above quote; I explore how this quest for recognition is interlinked with control mechanisms or, more generally, forms of governance of irregular migration that shape migrant illegality.

The majority of research on irregular migration in new immigration countries at the periphery of the EU either provides macro level policy oriented studies that review changing the legal and political framework or micro analyses of migrant livelihoods, focusing on how irregular migrants cope as a stigmatised and vulnerable group. A third category of research on the subject includes increasing numbers of semi-academic but more policy-oriented reports on human rights violations and migrants' (denial of)

access to rights. There is an accumulation of knowledge on changing policies, migrants' participation in socio-economic life and rights violations by different disciplines, even in diverse academic and non-academic fields. Meanwhile, few studies explain the linkage between immigration policies, migrants' presence in socio-economic life or their strategies to gain access to rights.

While in dialogue with the literature on both policy and humanitarian aspects of the phenomenon of irregular migration, my research particularly focuses on the link between ways of governing the phenomenon of irregular migration and migrants' experience of incorporation in the host society. To negotiate this challenge, I have embraced a "studying through" approach, tracing connections between policies and everyday worlds (Shore and Wright, 2003: 14) that are reflected in the following conceptual discussion as well as in the methodological discussion in the second part of the Chapter. First, I define irregular migration and the way that it has been conceptualised by macro level policy-oriented studies. I then suggest that studies focusing on "the legal production of migrant illegality" provide useful lenses for linking macro level policy oriented studies with micro level studies on migrant livelihoods from a comparative perspective. Willen's proposes a three-dimensional approach to define and study migrant illegality cross-contextually. Accordingly, migrant illegality is first "a form of juridical and political status, second, it is a sociopolitical condition, and third, it generates particular modes of being-in-the world" (Willen, 2007: 11). Following this proposal, I engage with three sets of literature and borrow their conceptual tools to apply, extend and criticise through my empirical analysis. These are i) the legal production of migrant illegality, ii) migrant informal incorporation and iii) irregular migrants' mobilisation for rights. This research takes the mobilisation of migrants seeking political recognition as a form of incorporation into society. In this light, the last section treats irregularity as a potentially reversible status. From this perspective, I discuss individual tactics and mobilisation strategies at the communal level, looking at how migrants negotiate their irregular status within these formal, semi-formal and informal institutions. However, I question the conditions under which migrants actively seek the "right to have rights", in other words, become political subjects, and those which lead them to opt out of formal membership (i.e legal status or citizenship), highlighting this as a puzzle for further exploration in the empirical chapters.

2.1 Legal Production of Migrant (Il)legality

Irregular migration is often a complex phenomenon, juridically defined as the existence of non-citizens breaching the border, residence and employment regulations of nation-states. The term irregular migration generally refers to the presence of migrants in a given territory without authorization of sovereign states. Irregular migration is more complex than crossing borders without the necessary documents. An immigrant who is staying in a country legally with a residence permit may be considered an irregular worker if he/she is working without the necessary permits or

beyond the hours he/she was authorised. An immigrant with genuine entry documents such as a tourist visa could be living and/or working within the country with no legal status. An irregular migrant can also be a former asylum seeker whose application for refugee status was rejected. Given this legal complexity, terms such as "irregular" (with no regular/legal status), "undocumented" (without the appropriate papers) and "unauthorised" (without legal permission for entry, to stay or to work) migration are used interchangeably to denote various facets of the wider phenomenon. Despite categories of *legal* and *illegal* fixed by law, people with no status may acquire a legal status just as legal entrants or legal workers may fall into irregularity (Cvajner and Sciortino, 2010: 214; Villegas, 2014).

Today, irregular migration in particular and immigration in general is something that is governed at global, national and local levels. The concept of "governance" is widely used to refer to more participatory but also more efficient approaches for regulating population flows. While most scholars agree that eliminating irregular migration is not a feasible goal, the socio-legal approach goes further to suggest that "the law, thus creates the very subjects, on the surface, it seeks to bar" (Garcés-Mascareñas 2012: 31; see also, De Genova, 2005; Coutin, 2003; Calavita, 2005). In other words, the emergence of irregular migration, hence transit migration as one form of mobility unauthorized by states, cannot only be explained by the failure of migration governance or by a simple mismatch between socio-economic conditions in the sending areas that push people to emigrate and the receiving capacity of more developed regions (Cvajner and Sciortino, 2010: 394). Irregular migration is a by-product of immigration policies rather than a gap between policies and their outcomes. The phenomenon of irregular migration is a crucial one to study because it is an area where policies fail, but more importantly, the very existence of migration policies produces the migrant illegality: "There can be no illegal immigration without immigration policy, and thus the definition of those who are deemed to be 'illegal', 'irregular', 'sans papiers' or 'undocumented' shifts with the nature of immigration policy" (Samers, 2004: 28).

The production of migrant illegality has been sustained through certain tactics of governmentality (De Genova, 2004: 165; Willen, 2007: 13). These tactics, representing irregular migrants as villain, range from deploying statistics/ estimations of the presence of unauthorised non-citizens within the national territory to framing the phenomenon in particular ways. Politically, reducing irregular migration to a technicality of numbers (of arrests, deportations) and to security budgets may serve to represent the issue within the sphere of national security and criminality. The convergence of immigration law with anti-terrorism laws and with criminal law reinforces the image of irregular migrants as a security threat to the nation and to social order. The criminalisation of migration may go as far as classifying "migration as a crime, penalization of humanitarian aid, criminalization undocumented work" (Estevez, 2012: 176). At times, irregular migration is equated with particular spaces or types of law breaking such as illegal border crossings or with particular ethnic groups

of migrants. For instance, De Genova gives the example of racialisation in the use of the word "Mexican" as a synonym for illegality in the American context (De Genova, 2002: 439).

Giving the impossibility of the absolute elimination of undocumented migration through deportation or detention, "migrant deportability" does not necessarily mean actual exclusion but implies its possibility. Practices of deportation differ in space and time. There are indeed "geographies of deportation" (Garcés-Mascareñas, 2012; De Genova and Peutz, 2009). From a theoretical perspective, the threat of deportation functions as a disciplinary mechanism over migrants (De Genova, 2004; Chauvin and Garcés-Mascareñas, 2014: 423). Deportability makes migrants *docile subjects* who refrain from confrontation in the labour market as well as in social life. This process typically results in the economic marginalisation of irregular migrants and reinforces their political exclusion, as will be elaborated in the next section.

In new immigration countries, those who would otherwise be called tourists and passengers are turned into illegal subjects as a result of the recent introduction of immigration laws and relatively stricter external and internal control measures that have been introduced under external pressure. Furthermore, legal and administrative infrastructures and non-state actors were not prepared for this change and did not know how to deal with the new role of the country as a context of transit and immigration. Transposing the concept of the "production of migrant illegality" onto the contexts under examination would thus require accounting for the national legal framework as well as the international context, imposing "the gradual implementation of a system of migration management" (Samers, 2004: 43) both within the EU and at its periphery. Hence, focusing on the periphery of Europe, I do not only explore the production of illegality within the nation-state context but also situate it within the broader context of the "international production of migrant illegality". This thesis aims to address how migrant illegality is produced by laws in new immigration contexts, where international politics applies pressure to govern undocumented human mobility.

2.2 Migrant illegality in practice and informal incorporation

As articulated in socio-legal studies, it is the law itself that produces "illegality", which undermines the human rights of migrants and reinforces their vulnerable position in society (De Genova, 2004; Calavita, 2005). Here, one needs to take into account social as well as legal meanings of migrant illegality. In this sense, migrant illegality is shaped by discourses, institutional practices and day-to-day interactions between migrants and state as well as non-state actors (Willen, 2007; Bommes and Sciotino, 2011; Villegas, 2014: 278). Research has underscored tensions between legal, institutional mechanisms and their exclusionary practices that exclude migrants without legal status from the political community and migrants' de facto presence in the labour market, within welfare arrangements and at times in political movements.

Hence, it is necessary to consider migrants' own experiences of inclusion and exclusion in depth to reveal "local configurations of migrant 'illegality' and 'irregularity'" (Willen, 2007b: 3).

Deportability in practice

One important mechanism of what might be called "informal incorporation" is the gap between written laws and their implementation, or in other words, the distinction between legal and social meanings of irregular migration (Bommes and Sciortino, 2011: 217). The production of migrant illegality can take different meanings from one context to another, from one immigrant group to another. In the eyes of implementers, and in the eyes of migrants alike, there is a hierarchy of *illegalities* whereby some forms of irregular migration are more illegal, and the presence of some migrants is perceived as "legitimate" regardless of their legal status (Kubal, 2012). Coutin articulates, "…both the people being defined and the people doing the defining can influence the definitions produced, thus cumulatively 'creating' law, in an informal sense of the term" (1998: 903). Thus, the process of *cumulative creation of law* underscores that the law is re-formulated at the level of implementation, and this enables migrants to re-shape the categories they are put into. Therefore, looking at the everyday implementation of immigration law in various legal and socio-economic spheres, where legality is re-defined and re-produced, is equally important for revealing patterns in the governance of irregular migration as well as migrants' experiences of it (Coutin, 1998; Coutin, 2011; Kubal, 2012).

Discourses of control do not always coincide with actual practices that are selective and arbitrary (De Genova, 2002: 436). In spite of legal restrictions on entry and stay of migrants, states may largely tolerate the existence of irregular migrants within their territory. According to Amaya-Castro), weak illegality regimes appear even in states with strong administrative capacities when the number of those without legal status is perceived to be insignificant or other issues are deemed more important (2011: 142). It may also be the case that irregular migrants are tolerated because states benefit from their presence or prefer not to invest in the high administrative or financial cost of deportations. In this sense, no policy is also a form of governance whereby states refrain from taking responsibility for migrants' rights and protection simply by turning a blind eye to their existence either by not regulating migration at all or by not implementing formal regulations. Conversely, migrants' sense of illegality and deportability can further be reinforced through state practices such as push-backs before migrants and potential asylum seekers can enter the country, frequent and unpredictable document checks, police raids into migrant neighbourhoods and workplaces, unlawful detention and deportations (Galvin, 2014). What Amaya-Castro (2011) would call "strong illegality regimes" may also result in measures that breach irregular migrants' human rights recognized in national and international law. In such contexts where unlawful deportation practices are widespread and where officials on the ground are resistant to grant status and rights to migrants, the possession of legal

status may fall short to protect migrants. What is even more striking than the suspension of the law (in contexts where laws are easily suspended) is the arbitrary implementation of law and the unpredictability of its outcome. This research also contributes by revealing patterns in the arbitrary implementation of the law, looking at the governance and migrants' incorporation experience in contexts that are less constrained by liberal, democratic norms.

Migrants in the economy: informal but legitimate?

The literature on incorporation emphasises that it is a process of inclusion into social life even in the absence of recognition from state (Cvajner and Sciortino, 2010: 398; De Genova, 2004: 171). The divergence between law as written and law as practiced reinforces "semi-autonomous social spheres" (Moore, 1973), formal and informal structures and ample interactions between the two, enabling a more or less visible presence of irregular migrants in society. Different terminology has been proposed to explain this process such as "legitimate presence" (Coutin, 2000), "liminality" (Menjivar, 2006: 1003), inclusion into "foggy social structures" (Bommes and Sciortino, 2011), "inclusion at a higher price" (Cvajner and Sciortino, 2010: 400), "subordinate incorporation" (Chauvin and Garcés-Mascareñas, 2014) and "integration in limbo" especially referring to the case of transit spaces (Danış, Taraghi and Pérouse, 2009).

This process of subordinate inclusion is most visible in, but not limited to, migrants' participation in the labour market, where migrants gain a level of legitimacy through their economic participation in society even when they lack a legal status. The general observation is that once irregular migrants are in the territory, they are incorporated into society through the informal labour market but may also benefit from welfare institutions such as schools and hospitals through forged or genuine documents and may become clients of humanitarian support and participate in advocacy networks through (ethnic or religious) community-based mobilisation (Cavajner and Sciortino, 2010: 400; Chauvin and Garcés-Mascareñas, 2012: 242). Comparative research may contribute to this body of literature by exploring processes leading to different styles of migrant incorporation. In other words, more empirical evidence is needed to theorise how contextual factors at international, national and local levels impact "migrants' individual and collective experiences of being-in-the-world" (Willen, 2007: 13).

A widely considered economic consequence of irregular migration is the fact that migrants' deportability renders them more vulnerable to exploitation in the labour market, especially in countries and specific sectors that are characterised by widespread informality (De Genova, 2002, 439; Calavita, 2005; Ahmad, 2008; Villages, 2014). The precarious work and exploitation it entails can be a form of migrant incorporation into social and economic life and amongst other unprivileged segments of society such as unskilled legal migrants, ethnic minorities and other underclass

groups within urban economies. The informal economy constitutes one important mechanism of inclusion for irregular migrants as well as a potential way out of their illegality. Several studies have shown the implications of the absence of legal status with respect to precarious forms of labour market participation and irregular migrants' right to stay.

Labour market participation provides legitimacy to migrants' presence as subjects who contribute to the economy and thus deserve a legal status (Chauvin and Garcés-Mascareñas, 2014). Regularisation and legalisation campaigns that offer the possibility for "ex post legal inclusion" (Finotelli, 2011: 205) aim at reducing the presence of irregular migrants by giving them legal status. Such campaigns ironically require migrants' illegal presence to gain legal recognition (Coutin, 1998: 916-7).[4] Garcés-Mascareñas' critique further emphasises that as a result of the legal changes in 2001 in Spain, "work and not residence became the *sine qua non* condition for staying legal" (Garcés-Mascareñas, 2012: 190). Incorporation into the labour market has been perceived as a ground for legal incorporation. In other words, it is not necessarily the fear of deportability but the prospect of being regularised, through work but also through other means, that becomes a disciplining factor for migrants and impacts their incorporation styles (Chauvin and Garcés-Mascareñas, 2013). The expansion of trade unions' membership bases to include the (undocumented) migrant labour force provides another form of semi-formal incorporation of irregular migrants and may even provide migrants with a way out of irregularity.[5] Meanwhile, less research has looked at under what conditions labour market participation underpin migrants' quest for rights (Barron et al., 2011). Similarly, we also know less about the alternative ways that migrants without legal status may still claim legitimacy in the absence of labour market opportunities.

Recognition through access to fundamental rights?

In addition to the economic sphere, migrant illegality has also been negotiated through formal institutions. Research has already shown how undocumented migrants' rights have been extended through bureaucracy before they have gained political recognition, referred to as ''bureaucratic incorporation'' (Marrow, 2009) or ''bureaucratic sabotage'' (Chauvin and Garcés-Mascareñas, 2014: 424). This occurs in the daily acts, mostly of street-level bureaucrats, who recognise migrants' legitimate right to access certain fundamental services. Without generalising bureaucracy, Marrow suggests that most inclusionary practices towards newly arriving immigrants in the US context occurs at the level of emergency rooms of hospitals and public elementary schools. Wilmes (2011: 130) uses the term "useful illegality" to designate

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[4] There is a similar logic in the regularisation campaign in Morocco implemented throughout 2014 as discussed in Chapter 3.

[5] The involvement of a trade union in Morocco in immigration issues strengthened migrants' cause in seeking legalisation. I will come to this issue in Chapter 4, Section 4.4.

the provision of services to undocumented migrants under the rubric of a larger target group (people with no health insurance) in Germany. In Wilmes' analysis, providing healthcare to migrants without checking documents is illegal but useful, as it serves the general interest of the public health and matches the ethical duty of treating a person in need of healthcare. Similarly, providing services to *asylum seekers* in need of protection regardless of the fact that they possess asylum papers has become the basis for most humanitarian organisations' legitimisation of their services to irregular migrants (Coutin, 1998: 908). The practices of bureaucratic incorporation show that migrants' access to institutions enabling fundamental rights may even constitute a mechanism of incorporation in contexts that are defined by economic and social exclusion.

There is documentation that suggests that bureaucratic incorporation in several contexts becomes possible when civil society intervenes. Humanitarian agencies are particularly interested in integrating those who cannot be easily absorbed by the labour market such as pregnant women, women with small children and old aged migrants. It is shown that when civil society provides services to irregular migrants, directly or indirectly, this substitutes public welfare institutions and plays a role in reinforcing informal membership practices (Ambrosini, 2013: 44: Taran and Geronimi, 2003: 20). It is suggested that migrants, by becoming beneficiaries of services, are subjected to a regularisation from below (Nyers and Rygiel, 2012: 15). Therefore, the processes that enable access to fundamental rights show how illegality is negotiated on the ground, not only by migrants but also by their pro-migrant rights allies. Further theoretical reflection is needed regarding the provision of public services to those who fall outside of formal membership, to contribute to the emerging literature on "street-level bureaucracy" (van der Leun, 2003: 28-29) and what I later call *street-level advocacy* but also to reflect on policy implications of migrants' access to rights. Under what configurations of illegality are irregular migrants conceptualised as legitimate clients/objects of humanitarian aid or rights bearing political subjects? Conditions giving rise to the latter are further discussed in the next section.

In line with the literature on migrant illegality and migrant incorporation, I have so far suggested that migrant illegality is a product of immigration policies and is reversible on the ground through migrants becoming de-facto members of society. The next section discusses how irregular migrants may contest the production of illegality imposed upon them and claim legal status through collective action and/ or individual tactics. Migrant illegality in relation to social movements literature provides an opening for understanding the concerted actions of irregular migrants, even in less liberal contexts.

2.3 Irregularity as reversible?

Migrants as political actors?

"Arendt does not show us the *sans papiers* only as victims, or as a disturbing signifier on the level of philosophical representation. By questioning state-centred thinking, the migrants appear also as political actors whose public appearance can be potentially explosive and liberating". (Krause 2008: 339, *emphasis original*).

Exclusion from the political community, the risk of deportation, hostile discourses and low prospects of being regularised may deter migrants from making rights claims and lead them towards further invisibility to decrease risks but also potentially increased vulnerability. Meanwhile, restrictions on mobility across borders and access to status and rights of non-citizens have been challenged from the grassroots (Nyers and Rygiel, 2012: 7; Nicholls, 2014). Paralleling the politicisation of irregular migration and immigration in general, mobilisation for the rights of irregular migrants has gained pace in the developed world in the last decades (Nicholls, 2013; Tyler and Marciniak, 2013). Plus, migrants themselves have become part of these movements, despite the high risks involved. (Raissiguer, 2014; Nicholls, 2014).

The literature on immigrants' rights movement discusses reasons for mobilisation as well as its mechanisms in terms of repertoires of mobilisation, internal organisation of the movement and coalitions made with other movements (Chimienti, 2011). The plurality of resistances, in other words, diverse forms of protests against techniques of reproduction of illegality are acknowledged (Taylor and Marciniak, 2013; Mc Nevin, 2012). Repertoires of resistance range from migrants' active use of social media, raising awareness of the fight against racist violence, outing themselves in public and declaring the legitimacy of their presence (McNevin, 2012: 177). Through these contestations, non-state actors including migrants themselves put the legitimate authority of the state under criticism by arguing that the deeds of the state vis a vis migrants may be within the law but conflicts with other general principles, or by revealing the cases in which states have resorted to illegal activities to get rid of irregular migrants (Kalir, 2012: 48). Protests mainly problematise the distinction between citizen and non-citizen (Taylor and Marciniak, 2013: 147; McNevin, 2006). Their presence within the territory and the simple claim that ''We are here'' becomes the legitimate ground for migrants to ask for protection from violence and for their recognition and rights (Krause, 2008: 342). Migrants' mobilisation may occur in ethnicity based solidarity groups, sectoral groups or issue-based groups centred around the issue of a lack of legal status or xenophobic violence/ discrimination (Nicholls, 2013, McNevin, 2006; 2012; Raissiguier, 2014)

Studies have long employed a political opportunity structures (POS) approach, prioritising the institutional environment for explaining collective actions by migrants (Laubenthal, 2007; Chimienti, 2011; Nicholls, 2013). Acknowledging the importance of pro-migrant actors and the importance of institutional factors, Pero and Solomos'

(2010) review makes two substantive critiques that underscore my findings on irregular migrant mobilisation in the case of Morocco. First, they argue that research using POS as the main explanatory factor has put less emphasis on lived experiences as a key reason that migrants associate amongst themselves. They rightly point out other factors such as the political socialisation, background, networks and social capital of migrants. Second, they explain that it is the necessity to include transnational opportunity structures in analyses of institutional contexts and pro-migrant rights alliances (Pero and Solomos, 2010: 9-10).

Migrants with no legal status need more resources than citizens and immigrants with legal status to participate in social life and to mobilise and advocate for their rights (Cvarjner and Sciortino, 2010). Undocumented migrants need the support of citizens to further their interests (Breyer and Dumitru, 2007: 138) and to recognise political opportunities available to them and to provoke reactions from other actors in the field (Bröer and Duyvendak, 2009). Indeed, political mobilisation by migrants themselves and by pro-migrant activists go hand in hand, and one important component of mobilisation is the forging of "unexpected alliances that migration creates" (Coutin, 2011: 302). One emerging hypothesis from migrant mobilisation literature to be tested through comparative case analyses is whether it is less likely for irregular migrants to mobilise amongst themselves without the support of a pro-migrant rights movement.

As articulated by Taylor and Marciniak (2013: 152), "it is of critical importance that we examine the ways in which irregular migrants and their allies negotiate the contradictions, losses and gains of in/visibility in their interactions with sovereign power". While existing research mostly analyses where immigrant subjects are politicised and actively seek recognition, cases of non-mobilisation are equally important. Visibility and representation bear risks of exposure to state control (Tyler and Marciniak, 2013: 152), and therefore mobilisation may not always be desirable for irregular migrants. Chimienti's (2011) comparative study analyses political opportunity structures for immigrants' rights movements in three European cities. Chimienti argues that not only restrictions but also a shift in state practices from tolerance to restriction is a factor in migrants' mobilisation and also influences pro-migrant rights actors. The case of Paris, where regularisation campaigns and labour market opportunities have become more and more exclusionary, is an example of mobilisation that extends beyond ethnic ties around the issue of irregularity (Chimienti, 2011: 1343). From a comparative perspective, migrants' mobilisation is more scattered and more ethnically divided in the case of London, where illegality regimes generate interstices for tolerance and legitimacy. In the case of Copenhagen, invisibility, the lack of interest from NGOs that are more focused on asylum related issues than irregular migrants are factors contributing to irregular migrants' lack of mobilisation (Chimienti, 2011: 1348). While Chimienti's (2011) comparative lens is useful, my research goes one step further by exploring the link between mobilisation, as a mode of being-in-the-world and other incorporation styles, in relation to other

aspects of migrant illegality as juridical or socio-political condition. Irregular migrants may activate alternative "social resources that compensate for the lack of inclusion in the political system" (Bommes and Sciortini, 2011: 224-5). At this point, there is a need to explore the manifestations of migrant illegality that lead irregular migrants to opt for or against the risks involved in mobilisation.

Individual tactics

The tactics that migrants use to stay in the territory in the absence of political inclusion may or may not be directed at gaining formal recognition. Staying invisible but tolerated, in other words "illegal but licit", may also be a useful survival strategy for migrants. As Coutin emphasises, "for some groups, the primary need is to avoid deportation not to seek for legal status" (1998: 905). Rights or the possession of legal status may not be a priority as long as the threat of deportation is not experienced daily. Furthermore, migrants aspiring to continue to other destinations or perceiving their stay as temporary may not feel an immediate need for recognition from the state. In other words, it might be in the interest of some irregular migrants to stay invisible and avoid state control.

An invisible presence defines most of the (initial) experiences of irregular migrants. To avoid the attention of authorities and the possibility of deportation, migrants avoid petty crimes and neighbourhood or workplace conflicts (Chauvin and Garcés-Mascareñas, 2014: 426). Migrants also consciously choose not to send their children to school, avoid going to public hospitals unless absolutely necessary and abstain from written communications because these are ways that they can be identified and targeted by the authorities (Breyer and Dimitru, 2007: 139-140).

At the same time, it is rare for irregular migrants to have no contact with public institutions and civil society organisations (CSOs) that provide welfare services and do advocacy on their behalf; they are rarely fully undocumented. As discussed in the definition of irregularity at the beginning of the section, a considerable portion of irregular migrants (certainly legal entrants) have their passports, entry documents and identity cards of their countries of origin. The possession of (the right) papers is crucial, especially in contexts of strong illegality regimes where deportation is a daily threat, and irregular migrants are perceived as a security threat. Research reveals that migrants constantly collect legitimate identification papers from their countries of residence such as a municipality registration, a driving licence, a birth certificate for their children, asylum application documents, etc. Forged documents may also ensure legal presence, especially in contexts where administrative procedures do not work properly (Sadiq, 2008).

Staying docile in the shadow economy and possessing genuine or forged identification papers (not necessarily the proper ones) allow migrants to stay under the radar until they have the opportunity to reverse their illegal status (Chauvin and Garcés-Mascareñas, 2014: 411). Migrants may get opportunities to acquire a legal

status through their own efforts for example through convincing employers to apply for necessary work permits, applying for student residence permits through enrolment in schools or through marriage. When there is a prospect for regularisation, migrants are especially active in negotiating their presence by being "visible enough" without becoming "too visible" (Chauvin and Garcés-Mascareñas, 2012: 252). In order to use this conceptual toolbox it is necessary to further unpack the interconnection between immigration policies, migrant incorporation styles and irregular migrants' tactics to access rights and legal status.

2.4 Researching migrant illegality in new immigration countries

Contributing to existing literature on migrant illegality and their mode of being as political subjects (Willen, 2007), the research transfers these discussions to new immigration countries, where migrant illegality is a relatively recent phenomenon, resulting from the international situation, while not necessarily tied to labour market demands. The section, and this study, engages in three interlinked research agendas and conceptual frameworks. These are the legal production of migrant illegality, migrant incorporation and migrant mobilisation.

First, I have looked at the migration regimes characterised by strict external controls and more or less rigid internal controls for curtailing irregular migration, considering their implications for the production of migrant illegality. De facto immigration contexts such as Turkey, Morocco at the periphery of Europe and Mexico in the North American context are good examples for observing foreigners who lack the necessary papers to stay, work in the country or pass through the country once considered licit. Furthermore, these contexts have become subject to governance since the 1990s. They not only cover a wide range of irregular migration from overstaying one's visa to fraudulent entry, but there are also contexts where foreigners in irregular situations are additionally categorised as ''transit'' based on their alleged intention to leave for their final destinations. Hence, the category of "transit" further complicates the phenomenon of migrant illegality and further excludes migrants without legal status from the political sphere of membership in the contexts under scrutiny.[6] Therefore, researching irregular migration in contexts characterised with "transit mobility" would require the analysis of the production of migrant illegality at an international level.

I have conceptualised migrant incorporation styles as an outcome of interactions occurring through the legal production of migrant illegality, practices of deportability, social and economic structures in the receiving society and the availability of an institutional context that is conducive to shaping and channelling rights claims. One implicit hypothesis in migrant illegality and incorporation literature

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[6] As articulated in Chapter 2, the use of the category of "transit country" serves to justify migrants' protection needs.

is that the production of migrant illegality gives rise to a cheap labour force, readily exploitable in the labour market. In her comparative inquiry on the connection between market demands for cheap labour and rights constraints in Malaysia and Spain, Garcés-Mascareñas (2012: 31) suggests that whether the production of migrant illegality turns into the production of cheap, flexible labour is more of "an empirical question than a starting point of inquiry". This empirical question is even more open-ended in the comparison of Turkey and Morocco as new immigration countries where the production of migrant illegality has resulted from the international contexts surrounding them, rather than an explicit demand and political will to receive immigration. Another related open-ended question is if the informal incorporation into the market provides a source of legitimacy for irregular migrants' presence in the society and the extent to which labour force participation provides a basis for migrants' quest for legal status, insofar as it is *deserved* through one's contribution to the economy.

As underscored by the literature on the experience of illegality, irregular migrants actively participate in society in different ways; they negotiate their visibility in the public sphere (Willen, 2007), seek to legalise their status, at times get mobilised and forge alliances to claim their rights to legitimately reside in the territory (Laubenthal, 2007; Nicholls, 2013). Research has indicated the link between configurations of migrant illegality, irregular migrants' incorporation experiences as well as their experiences of political mobilisation (Willen, 2007; Laubehtal, 2007). However, more research and analytical reflection are needed on the conditions under which experiences of marginalisation may or may not lead to mobilisation. Such an approach would put migrant experiences at the centre of analyses without necessarily neglecting the political opportunities that are available to migrants or the roles played by pro-migrant rights allies.

At a theoretical level, the analysis contributes to the theorisation of the link between the governance of irregular migration and migrants' incorporation, reflecting on the relationship between control and recognition. As implied in the opening quotation at the beginning of the chapter, I am asking: Does the quest for recognition by the authority necessarily imply the acceptance of control by the same authority? Or, is it possible that irregular migrants would seek recognition in response to the strict controls imposed upon them in particular socio-economic and institutional settings that push and pull them towards mobilisation? The conceptualisation of settings within which migrants are incorporated, as *transit* rather than destination, impacts the relationship between control and recognition. As implied in the introduction, I have employed a comparative research design and qualitative methods in this research to provide hypotheses and eventually causal explanations stemming from empirical research to answer why particular forms of incorporation happen over others in particular contexts.

Comparative Research Design and Data Collection

Comparative research design is the primary instrument used in this study to reveal mechanisms of irregular migrant incorporation in contexts that are subject to similar external pressures to control and manage irregular migration. As Theda Skocpol puts, in her contribution to the Symposium on comparative politics **"**the purpose of comparison should be partly to explore and test hypotheses from a variety of theoretical perspectives and partly to notice and hypothesize about new causal regularities" (Kohli et. al., 1995: 38). At the same time, comparative research designs entail epistemological challenges. When compared to single-case analyses, comparative research lacks equal depth and thickness of understanding in the collection of data as well as in the presentation. In Sartori's words (1991: 253): "[in case studies] one knows more about less (in less extension). Conversely, comparative studies sacrifice understanding –and of context- to inclusiveness: one knows less about more". Acknowledging the promises and limitations of comparative research design, this section looks at how cases under scrutiny are comparative, how the data is collected, the challenges involved in conducting research in two field sites as well as ethical challenges involved in research with vulnerable populations.

2.5 Case selection

The methodological framework acknowledges the "vital importance to study the crucial macro-level of the nation-state to understand the nature of irregular migration" (Balch and Scott, 2011: 171). The nation-state, as sovereign power –despite international and liberal constraints- deciding who should be in and who is out of territorial borders and who is entitled to stay is an appropriate unit for the study. While providing a comparison of two nation-state contexts, the data collection process intends to deconstruct categories such as "illegal migrants" that have been naturalised by the international system and nation-states. The main independent variable of the study, i.e. the legal production of migrant illegality, primarily manifests itself at the level of national policy. The study acknowledges that interactions between migrant illegality and migrant incorporation occur at various levels and locations within bureaucracy, the labour market and civil society, which are conceptualised as semi-autonomous spaces (Moore, 1973).

I acknowledge that the selection of cases in comparative research is rarely completely neutral but rather is constructed (Green, 1994: 6). Earlier research on irregular migration in the Mediterranean pointed to Turkey and Morocco as comparable sites for looking at the impact of external dimensions of EU policies (Fargues, 2009; Scheel and Ratfisch, 2013; Papadopoulos, Stephenson and Tsianos, 2008: 165). In terms of the generalisability of my findings, the analysis does not claim that Turkey and Morocco are representative of peripheral countries that are subject to external dimensions of the EU migration control regimes. However, the case selection is likely to reveal the differential impact of EU border measures on the two nation-

state contexts most affected by these measures. Despite their differences in terms of the existence of colonial ties, the scale of their economies, state capacities and colonial regimes, there are certain key factors that have enabled the comparison of the two nation-state contexts. Most notably, these include their similar migration histories, as migrant-sending regions to Europe, their similar geopolitical positions and their relations to the EU. More specifically, they have common historical transition patterns from countries sending labour migrants to Europe into lands of destinations (Içduygu and Kirişci, 2009; De Hass, 2014). Plus, both countries receive similar types of flows in terms of transit migration, asylum, labour, student and retirement migration, albeit from different source geographies, which is further explained in Chapter 3. Another basis for the comparison between Turkey and Morocco is their geographical similarity. Both countries are located at the tightly controlled gates of Fortress Europe, at both ends of the Mediterranean, which has been identified with irregular migratory flows since the early 1990s. Their geographical similarity also makes them similar in their position towards external aspects of EU migration policies. Turkey and Morocco have become subject to similar pressure to control their EU borders. In their comparative work on the role of UNHCR in Turkey and Morocco, Scheel and Ratfisch (2014: 927) highlighted the fact that in both contexts, "migration has not been framed and treated as a 'problem' that needs to be regulated until a short-time ago".

For a relevant analysis across cases, Landman (2003: 35) underscores that important concepts should be specific enough to measure what the research intends to measure in each case and general enough to cover all cases in question. The newness and the external character of the debate render the processes of the production of migrant illegality in the two contexts studied comparable. Terms such as irregular/ illegal/ transit migration are borrowed from the EU policy agenda and evoke similar social phenomena and legal categories. Both cases commonly represent a particular interaction between the international and domestic contexts, leading to the emergence of irregular migration as an issue to govern and rendering migrants illegal subjects before the law. In other words, "state simplifications", in Scott's terminology (Kohli et. al., 1995: 29), on the question of irregular migration have emerged in comparable terms.

One direct implication of the new and external character of the issue has been the underdeveloped legal framework regarding international migration in general, irregular migration in particular. The legal frameworks on immigration in the two counties have gone through changes in the post-2000 period. Migration policies simultaneously represent a reaction to incoming flows of migrants and the external pressure to control these flows, with few concerns for migrant rights. In the cases under scrutiny, irregular migration has emerged as a subject of governance in similar terms at around the same period. Given their changing roles from migrant sending countries to countries that act as gates that control irregular migration, to sites of immigration management, both countries are constrained in the process of stopping irregular mobility flows to the EU and respecting fundamental rights.

Along with the geographical, political and historical aspects explained above, personal and practical reasons influenced the case selection. Being from Turkey and interested in irregular migration within Turkey has contributed to my focus. The selection of Morocco as a comparative case has arisen from my personal interests in the Mediterranean region. My fluency in French and already established relations with scholars working on Moroccan migration made Morocco a viable option for my comparative inquiry.

The study contributes to emerging scholarship on immigration both in Turkey and in Morocco. While the field of immigration is fast emerging in both contexts, there is only limited research on irregular migrants' access to rights and very few comparative insights on the subject. The employed methodology resonates with academic debates as well as policy discussions emerging in both contexts. Both in Turkey and in Morocco, there is a need to bridge policy oriented literature (Elmadmad, 2011; İçduygu, 2007) on irregular migration and sociological literature on migrant livelihoods (Danış, Taraghi and Pérouse, 2009; AMERM, 2008, Alioua, 2008). We need good descriptive inferences to establish valid causal mechanisms so that case analyses can contribute to theory building. Therefore, empirical descriptions, in the sense of systematic process analyses of the cases aim at reaching mid-range, context-bound causalities. A process tracing approach embedded in thick empirical descriptions enables me to build causal mechanisms to explain the interlinked relationship between the production of migrant illegality, migrant incorporation and access to rights in each country case. At that point, the comparative analysis of two country cases will provide preliminary explanations for why certain incorporation patterns have prevailed in one context and not the other.

2.6 Data collection in two contexts

In terms of conducting fieldwork, comparative research designs require dividing the fieldwork time rather than focusing on a single case. I collected the data on the case of Morocco over several visits. I divided my fieldwork time into three intense visits between April and October 2012, each lasting around three weeks. I paid two shorter follow-up visits in March and May 2014 in the aftermath of the reform initiative. The timeframe of the fieldwork in Turkey has been more flexible, as I reside in the country. I conducted the interviews between January 2012 and December 2013.

Dividing the fieldwork time had advantages as well as disadvantages. Morocco was a new terrain of research for me, and it took time to become familiar with the migrant scene as well as to introduce myself to different actors. During some of the interactions, I felt sorry for not staying in Rabat for longer periods to strengthen trust relations within migrant communities and activist networks and to better grasp the daily power relations in encounters with the state, as well as within the community. Aside from the practical reasons, dividing fieldwork time enabled me to travel back and forth, not only physically but also mentally between data collection, analysis and

literature review. Data gathered and pre-analysed at initial visits affected my data collection strategies at later visits. Dividing the fieldwork time provided me with the necessary mind-set to constantly compare and contrast the two cases. While conducting fieldwork and learning specific aspects of migrant illegality in Morocco, I always kept in mind the specificities of Turkey. One particular challenge was to keep the data collection process balanced in the two contexts. Differences in the contexts and in my subjective position as a researcher influenced my access to resources.

By means of qualitative methods, I have explored emerging forms of governance and modes of incorporation of irregular migrants in Turkey and Morocco in the post-2000 period, when irregular migration has become an issue of governance and academic research. The research methodology mainly borrows from political science, the sociology of migration and socio-legal studies. Going beyond the dichotomy of studying up or studying down, parallel to other research on the subject of irregular migration (van der Leun, 2003; Tsianos and Karakayali, 2010), I embraced the approach of studying through "tracing policy connections between different organizational and everyday worlds" (Shore and Wright, 2003: 11) by collecting data at various sub-national levels by triangulating perspectives of various state and non-state actors involved. I employed a three-layered comparative research design to trace differences in the mechanisms through which illegality is produced and irregular migrants participate in social, economic and political life for each case in question. To this end, data is primarily generated through the analysis of legislative documents and interviews with stakeholders including state officials, civil society actors and migrants.

Legal documents

Analyses of legal documents provided necessary background on the legal conceptualisation of irregular migration and the availability of certain procedural and fundamental rights to irregular migrants. As Shore and Wright (2003: 26) described, policy analyses are necessary to understand "how policies work as instruments of governance, as ideological vehicles, as agents for constructing subjectivities and organizing people within systems of power and authority". In both countries, I looked at the legislation on foreigners' entry, residence and works permits, acquisition of citizenship and asylum and deportation procedures. The documents for analysis are selected in a way to reflect the diversity of legal and illegal categories constructed by law to reveal the connection between control over irregular migration and recognition of migrant rights on paper. The focus of document analysis is on how illegality is legally defined and the rights that irregular migrants have on paper, as these countries are becoming countries of immigration with a gradual official acknowledgement of the changing mobility situation.

The access to official statistics was limited in both contexts, but such limitations were prevalent in Morocco. In Turkey, in theory, any person is entitled to make inquiries and ask for official data. In practice, I did not always get positive responses to

my inquiries, and the information received was not as detailed as requested. In the end, I was able to obtain statistics from institutions and from secondary literature, providing an indication on irregular migration in both contexts, although the data gathered may not always be comparable.

Expert interviews with state officials and civil society actors

Given the focus of enquiry, the need to go beyond official state perspectives was necessary. In order to understand the functioning of laws, I conducted expert interviews with state officials and representatives of international organisations and non-governmental organisations (NGOs), with *22 institutions* in Morocco and *17 institutions* in Turkey. The informants include: (i) law makers and high/mid- level bureaucrats dealing with issues of immigration, (ii) representatives of international and national NGOs and inter-governmental organisations.[7]

Semi-structured interviews generally explored the activities of key institutions on immigration and asylum related issues in the post-2000 period. Expert interviews intended to reveal the general framing of issues pertaining to immigration and to discern external and domestic dynamics leading to legal changes. Questions probed on migrant profile and the changing legal framework regarding migrants' access to rights and legal status. Informants were invited to reflect on the different categories emerging in law such as legal, "illegal" migrants, asylum seekers and refugees. In Turkey, most of the interviews took place on the eve of the introduction and coming into force as a result of the new Law on Foreigners and International Protection (LFIP). Therefore, I asked explicit questions on informants' views on the new legislation and on their participation in the process of law making. In the case of Morocco, legal changes were initiated after the completion of the fieldwork. Yet, follow-up interviews in March and May 2014 not only complemented earlier interviews but also enabled me to grasp the changing policy discourse. While some state officials would simply repeat what is written on paper as a validation of the official discourse, others provided insightful information on the functioning of laws, enabling me to have a better understanding of the discrepancy between written laws and practice. The insight gained from these interviews has been crucial for revealing and comparing the local and institutional dynamics in the implementation of laws in both countries.[8] Interview findings are triangulated with observations in public meetings organised by state institutions and/or civil society. To complement interview data especially in cases of a lack of access to certain institutions, I analysed institutional documents (press

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[7] See Annex 1, Tables 1-2-4-5 for more information on stakeholders interviewed.

[8] Looking at my data retrospectively, I could have put more emphasis on the functioning of street level bureaucracy and focused more on the perspectives of "street level bureaucrats" (van der Leun, 2003: 28-29) (such as the police, doctors and school presidents) along with high and mid-levels. This is a task I will save for my future research, which I hope to conduct in the context of the implementation of new policies in both contexts.

releases, reports, etc.) and media outlets including public statements of government officials.

Regarding the selection of institutions interviewed, the primary criterion was explicit interest and expertise in the area of immigration and asylum. For instance, I did not approach trade unions because irregular migration has not been on the agenda of trade unions in Turkey. Therefore, I did not approach trade unions in Turkey for interviews like I did in Morocco.[9] Similarly, migrant organisations have been either formal ethnic associations established by migrants who acquired citizenship and/or ethnicity-based informal solidarity networks. Including their members as informants in Turkey would require doing the same in Morocco, which is to say interviewing members from every single formal and informal ethnicity/ nationality-based migrant association. Instead, I limited my inquiry to associations making political demands on behalf of irregular migrants in general, rather than for particular ethnic groups. The visibility and accessibility of migrant organisations in Morocco and the invisibility of those in Turkey shaped the list of informants in both contexts.

My outsider position in Morocco and my insider position in Turkey impacted the data collection process. Differences were marked regarding the institutions I could access for interviews. I was able to conduct interviews in general police departments and in the Ministry of the Interior in Turkey. In Turkey, I tried to use the advantage of being an insider. Certain interviews were possible because of my professional connections, whereas for others, I conducted these institutions without any intermediaries. Approaching the Ministry of the Interior was out of the question in Morocco. None of the people I met could or were willing to connect me with a person in the Ministry of the Interior or Foreign Affairs, and my formal attempts were inconclusive. However, the bureaucrats responsible for the Migration Directorate in Morocco were more visible in the national media than their counterparts in Turkey. Through scanning news outlets in Francophone Moroccan media -as I did not have the language skills to scan the Arabophone media-, I was able to document official statements since the establishment of the department in 2003. Additionally, my participation in policy meetings organised by state institutions and civil society press releases proved very fruitful for my data collection in Morocco. These were productive for grasping different arguments, meeting potential informants and catching up with others already interviewed and even for asking follow up questions outside of the formal interview setting.

Migrant interviews

In order to reveal migrants' experiences of legal status and the ways in which they negotiate their access to rights, interviews with migrants of different legal status such as undocumented, (rejected) asylum seekers and overstays -mostly persons

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[9]   In a similar fashion with Şenses' comparative research on irregular migration in Turkey, Spain, Greece (Şenses, 2012: 110).

moving between legality and illegality- were conducted in each country. In a parallel vein to expert interviews, migrant interviews probed four major issues around migrant experiences of illegality. These are 1. Policies controlling stay (deportability) 2. Labour market situation 3. Access to fundamental rights 4. Political mobilisation to reverse migrant illegality. Interviews revealed migrants' own accounts of their illegality, their experiences of deportation and settlement as well as available social and legal mechanisms for them to gain access to rights and legal status.

I had to be careful and strategic in building trust relations with (potential) informants and remunerating both gatekeepers and informants. With the help of other researchers or migrants that I met through these researchers, I started by paying regular visits to neighbourhoods where migrants reside, work, do business, perform religious activities, call their families, hang out, etc. These visits enabled me to make ample observations and engage in small talks with migrants and locals. Both in Rabat and in Istanbul, I had the chance to hire foreign students as research assistants. These students live in migrant neighbourhoods and/or are familiar with different migrant communities. Gatekeepers were especially helpful in neighbourhoods that can be unsafe for a young woman, especially after dark. However, the intermediary had the potential to result in informants self-censoring themselves rather than opening up to someone from the community. Once I familiarised myself with neighbourhoods and initiated personal relations with people living in those neighbourhoods, I preferred to conduct interviews one-to-one, if there was no translation needed and if respondents were comfortable to talk to me.

The interviewees were reached with the help of several gatekeepers and through the personal connections I developed during my visits to neighbourhoods, intending to get a purposeful sample that reflected the diversity of immigration experiences in both settings. Brief encounters were not always fruitful for arranging formal interviews, especially in Istanbul where migrants were busier with work (when compared to Morocco) and were reluctant to talk to strangers. Conversely, migrants encountered, especially in Rabat, were willing to talk even after initial encounters. While the problems encountered in each context were different, the issue of access was at stake in both.

In Rabat, I immediately realised that it was common to pay migrants per interview. During my initial visits in Rabat, some "more experienced" migrants directly and indirectly proposed migrants who I call to interview in exchange for small remunerations. They sometimes gave me names of other researchers they had helped as a reference.[10] I kindly refused these proposals, do my best to ensure that participation in my research would be on an informed and voluntary basis both in Turkey and in Morocco. Rather than paying informants on a regular basis, I provided

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[10] Other researchers/ journalists confirmed that some informants are being used by researchers and were already interviewed several times.

some them with necessities for example, I invited them to eat together, and I brought small gifts (food, fruits, deserts, milk or toys for children, chocolates on special days etc.), especially when they invited me to their houses.

Along with the purposes of the research design, migrant interviews have also focused on common aspects of illegality that transcend ethnic differences (Veccoli cited in Green 1994: 4). The snowball technique, which is known as an appropriate way to access to hard to reach groups, was used in a limited fashion. In certain cases, one key informant enabled me to interview several others from his/her own community; however, it was not the case that each informant referred me to new ones. I had to initiate several *seeds* to achieve diversity amongst informants in terms of country of origin, legal status, demographic factors and tightness of their connection to institutions. Needless to stay, my main target was to interview migrants without authorisation to reside or work in the country, i.e. illegal entrants, overstayers, informally working residence permit holders and rejected asylum seekers. Indeed, it has proved to be difficult to distinguish whether one is a potential asylum seeker, an asylum applicant or an economic migrant with no papers or a resident permit holder without doing in-depth interviews.

Overall, I interviewed *36 migrants* (15 women and 21 men) in Morocco and *31 migrants* in Turkey (16 women, 15 men).[11] I acknowledge that the purposeful sample was heterogeneous in terms of education, reasons for migration, migration aspirations, family status and so on. In this sense, the research refrains from reproducing categories of needy irregular migrants who are low in terms of social and economic capital (Cvarjner and Sciortino, 2010: 394). I also tried to go beyond the stereotype of single young men, associated with transit migration. Migrant narratives have been triangulated with other sources of information. Each interview lasted between 40 minutes and two hours, respecting the time of the informants. I conducted interviews in French, English and Turkish. In Morocco, all migrants encountered spoke either English or French. In Turkey, I asked my gatekeepers to be the translator in seven interviews because informants were either not able to speak Turkish or felt more comfortable in expressing themselves in their native language despite their understanding of Turkish.

Although the research does not claim to be a fully-fledged ethnography, because of the limited time spent in each research site, I incorporated observation as an ethnographic method into my research design. To complement interviews, I made observations in social milieus frequented by migrants such as neighbourhoods, call centres/ internet cafes, churches and gatherings during religious holidays and home visits. Plus, whenever possible, I engaged in small talks with "locals" in

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[11] See Annex 1 Tables 3 and 6 for information on basic information on migrants interviewed in the two contexts.

neighbourhoods where migrants reside to grasp local perceptions on the presence of foreigners.

2.7 Ethical issues and negotiating resources

Ethical measures have been taken to protect human subjects directly or indirectly participating in the research. As required by Koç University Ethical Board, the informed oral consent of all the informants was taken beforehand, and interviews were tape-recorded only upon their consent. I had to take strategic decisions on the issue of recording. Rather than recording the interviews with state officials, I preferred to take extensive notes in most interviews both in Turkey and Morocco. The issue of recording was much less problematic with civil society representative. Interviews took place in a friendly atmosphere even when I asked critical questions on Turkish NGOs neglect of the question of irregular migration or on tense relations with the Moroccan and Turkish states. I always made sure that it was possible for me to stop recording if they wanted to provide some information off the record. I made sure that our conversations ended in a friendly manner by thanking the interviewee and turning off the recorder when I invited the individuals to reflect upon my research and my questions. I prefer not to use the name of stakeholders interviewed because some of the statements can be sensitive (for other actors in the field). When necessary, I indicate the institutional affiliation of the person, especially when it is important to note the type of institution that has generated the particular information rather than the particular person that I interviewed in that institution.

Regarding interviews with migrants, the informant would decide whether or not to record the conversation. Every time I felt a little hesitance from the side of the informant, I put the recorder away and preferred to take extensive notes instead of a recording. In contexts where there are power hierarchies between the researcher and the researched, I made it clear that informants were free to refuse to answer my questions or stop the interview. I kept the structure of the interviews as loose as possible, especially at the beginning of interviews when I collected migration stories. I kept more specific questions at the end in case they were not covered by the informant. I did my best to show my appreciation of the information they provided even though I sometimes had the feeling that some parts of the stories were not necessarily true. I tried to probe on points that I found inconsistent. I made notes of these points to return to in the following meeting if possible or as question marks for my analysis.

The recordings, their transcriptions and/or my interview notes were kept locked. The material was made anonymous, coded and managed using N-Vivo software. While transcribing interviews, I made clear notes on what had not been brought up by the informants as well as what they preferred to bring up without me asking. During coding, I generated explicit memos on my perceptions of what was willingly or reluctantly told to me. I did not use direct quotes from unrecorded

interviews unless my notes were clear enough that the statement was a direct quotation. The anonymity of the informants was secured by keeping all possible information, which may identify the informants, out of the analysis. Keeping informants anonymous is a crucial component of ethics in this research considering that the informants are either state officials, i.e. people in power positions or migrants i.e. people in vulnerable situations.

My subjectivity in the field had a direct impact on my access to different sources of information in two field sites. During my fieldwork in Morocco, I deeply experienced that my gender and ethnicity has shaped my experience in the field. Everyone was interested in the fact that I was from Turkey, and this was definitely more interesting than if I was American or European.[12] I always felt that I was expected to look more modest than *Western* female researchers, as I was from a Muslim country. It was comfortable for me to wear loose clothes and no make-up in order to diminish looks from Moroccan men and migrants. As an outsider, as a young woman from a Muslim country, interested in Morocco, I was welcomed in different venues. I could meet some officials because of the fact that I was a foreigner who has travelled to their country for a limited period. Being a *white* woman from Turkey, researching Africans in Morocco, migrants in Morocco were much more willing to talk to me than those in Turkey. Immigrants that I interviewed and met also asked me a lot of questions about Turkey. Some were willing to stay in touch. I could sense that they were considering Turkey as a future destination.[13]

My discussions with Moroccan researchers in the field gave me the impression that sub-Saharan migrants are more inclined to complain about the situation in Morocco to a foreigner than to a Moroccan. Parallel with this observation, I had the fear that migrants in Istanbul may not be opening up to me, whom they consider an insider, as they would to a foreign researcher. To overcome this bias, I crosschecked my findings with other Turkish and non-Turkish researchers who have conducted research in the same neighbourhoods.

Conducting interviews with migrants in Istanbul would be challenging without intermediaries. Because of the long work hours of the majority of informants, most interviews took place over the weekend. I had to show respect and even more appreciation, as I conducted several interviews during migrants' very limited leisure time. Despite the challenges of access, being physically present in Istanbul enabled me to have frequent face-to-face and phone contact with the informants and build trust

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[12] At the level of institutions, people were asking questions in Turkey, as Turkish TV serials are shown on Moroccan channels, and Turkey had become a popular destination for the Moroccan middle class.

[13] I also faced ethical dilemmas. One of them even asked me to write an invitation for him to be present at the Turkish embassy in Rabat for a visa application. Faced with an ethical dilemma, I had to tell him that I could not help him. The next time we met, he told me that Turkey is full of opportunities, and he wants to go there even with a few day visa to try his chances.

relations. Frequent contact has been crucial to understanding how migrants change legal status and gradually develop strategies to participate in socio-economic life, get legal status or arrange their future journeys and how these strategies might fail.

Conversely, I was not physically present in Morocco after October 2012. Indeed, I left the country when migrant activism and demands for the regularisation of undocumented migrants were at its peak and when there was no real prospect for improvement. Between this time and the launch of the regularisation campaign in November 2013, the Internet provided me with the opportunity to continue collecting data on how irregular migrants in Morocco represent their situation and demands using different media outlets including Facebook and local, national and international media. Additionally, I became Facebook "friends" with several community leaders who are actively using Facebook for their political activities. In both contexts, being Facebook friends with (potential) informants initially helped me to build trust relations because informants became familiar with me (my physical appearance, my work, my civil status etc). At times, Facebook enabled me to follow the mobility of individuals across borders.

Conclusion

This chapter has drawn attention to the need to build mid-range theories and testable hypotheses on the production of migrant illegality and emerging forms of migrant incorporation on the periphery of the EU. This section has re-visited conceptual tools that I operationalised in the field and use in following chapters. These are the *legal production of illegality by law*, *the gap between law and implementation*, *illegality regimes*, *the criminalisation of migration*; *labour market incorporation*, *bureaucratic incorporation*, *migrants' negotiation of visibility* and *migrants' mobilisation for recognition* (regarding migrants' experiences of participation in society). In light of the critical use of this conceptual toolbox, the research aims at filling analytical and empirical gaps in the literature by comparing the politicisation of irregular migration and irregular migrants' access to rights and legal status in Turkey and in Morocco.

The literature on irregular migrants' access to rights and legal status rarely focuses on contexts outside of North America and Western Europe (Sadiq, 2008; Garcés-Mascareñas, 2012). Going beyond traditional geographies of comparison in migration research, the research questions explore external and domestic dynamics in the production of migrant illegality. Going beyond state centric approaches to irregular migration, I explore the impact of this illegality on migrant experiences of subordinate incorporation and access to rights and legal status. Going beyond the focus on EU borders, the research provides a more comprehensive perspective than earlier research on the impact of EU migration control regimes on migrant rights at the periphery. Using the explanatory power of comparative studies, I aim to transpose the emerging discussions on migrant illegality, incorporation and legitimate access to right

to stay onto new immigration contexts. Like other researchers studying lived experiences of illegality, the researcher bears in mind a transformative social justice agenda without taking "nation-state and its interests at face value and as a point of departure" (Pero and Solomos, 2010: 11).

Chapter 3: International and Domestic Dynamics of the Production of Migrant Illegality in a Comparative Perspective

"The EU's external policy is producing a new geography of remote control, which extends beyond carrier sanctions and placing customs officials in third country airports". (Samers, 2004: 40).

"[Migrant illegality] is a product of converging global, regional, and national factors" (Willen, 2007: 27)

Under what external and domestic conditions is migration politicised and migrant illegality produced in new immigration countries at the periphery of Europe?

Introduction

The evolution of international mobility patterns in the contexts of Turkey and Morocco has been analysed, as country cases, from historical, sociological and political perspectives (İçduygu, 2006; 2007; Kirişci, 2008; de Haas, 2007; 2014; Castles, 2007; Iskander, 2010). Both Turkey and Morocco have a considerable number of citizens living abroad, predominantly in European countries. In both contexts, migration policy mainly has mainly referred to emigration policy. In the context of the EU's interest in remote controls to prevent irregular migration (Samers, 2004), Morocco and Turkey assumed the role of transit spaces and have only recently become new immigration countries under the pressure of EU border policies (Düvell and Vollmer, 2009; Scheel and Ratfish, 2014).

The novelty and external character of the emergence of irregular migration as a subject of governance makes the country cases comparable with regards to the production of migrant illegality. They are suitable cases to explore the production of illegality in relation to the international context. Both contexts have been studied as conventional emigration countries in the literature, yet irregular migration has only emerged in the last decade as a category of governance and a subject of academic studies in both contexts. These are the contexts where the production of migrant illegality is a recent phenomenon. In other words, migrant illegality is a new process developed throughout the late 1990s and 2000s through the diffusion of norms, laws and institutions, mainly as a result of tightening EU border policies. Using the insight of existing research, this chapter puts this transformation from emigration to new immigration countries in a comparative perspective along the main problematic of my research on how irregular migration has been formulated as a policy issue and irregular migrants are framed as illegal deportable subjects.

This chapter looks at the interaction between the EU migration regime and emerging immigration policy in peripheral contexts. Irregular migration policies in Morocco and Turkey have been the subject of analyses in the context of external dimensions of EU migration control policies (Alami Mchichi, 2006; Wunderlich, 2010; İçduygu, 2007; Ozcurumez and Şenses, 2011). One line of research has analysed the expansion/export of EU migration control and migration management techniques without necessarily delving into the implications of this expansion for the production of migrant illegality (Boswell, 2003; Samers, 2004). Another approach has called for a focus on the migrant body as a vulnerable subject of this externalisation policy (Mountz and Loyd, 2014; Tsianos and Karakayali, 2010). Papadopoulos, Stephenson and Tsianos have drawn attention to the "productivity of the European migration and border regime" at the periphery of Europe (2008: 165) and give the examples of Morocco-Spain and Turkey-Greek borders as sites of this production. However, such studies mostly look at the implications of these policies at EU border areas. Few studies concentrate on the interaction between external dimensions of EU migration policies and migrant illegality beyond EU borders. As put by Menjivar, "the construction of immigrant 'illegality' (De Genova, 2002, Menjivar and Kanstroom, 2014) is no longer confined to the territorial borders of the receiving country; it is a process that starts before immigrants arrive at the physical border, in transit areas and, in some cases, even at the point of departure" (2014: 363). Given the observation that migrants are subject to the interacting migration regimes way before they reach the EU shores (Karakayali and Rigo, 2009: 125), this chapter aims to show how the restrictions imposed by the EU migration regime influence national policies and the kind of migrant illegality this interaction has produced.

The chapter first briefly summarises the evolution of mobility patterns in Morocco and Turkey to provide a comparative lens on immigration patterns. Second, I explore the international context in terms of the external dimensions of EU migration control policies that triggered legal and institutional change. With reference to migrant illegality literature, I call this process the *international production of migrant illegality*. As explained in Section 3.2, the externalisation of EU migration policies in the post-2000s period manifests itself through certain policy tools of governance that are common in both contexts. Among these, I focus on increasing investment in border infrastructures, cooperation agreements (such as readmission agreements (RAs)) with the EU and the intensification of activities by international and inter-governmental organisations, especially UNHCR and the International Organization for Migration (IOM). The third and fourth parts of the chapter discuss how this external production of migrant illegality has been translated in the domestic sphere in each country case, giving rise to the politicisation of irregular migration in the two countries studied. Note that the EU policies and responses to these policies are interlinked. The distinction between external and internal/domestic aspects of the governance of irregular migration is rather analytical. Descriptions of processes of the legal and institutional changes provided in this chapter will be used in the following chapters to provide

hypotheses on causal connections amongst the production of migrant illegality, migrants' experiences of incorporation and migrants' access to rights and legal status.

3.1 Becoming lands of destination

A closer look on mobility patterns reveals that immigration is part of the national history in Morocco and Turkey. Immigration was initially a subject of policy in the colonial context in Morocco and in the context of nation-state in the case of Turkey. A general look reveals that colonial relations have been influential in shaping the mobility patterns in Morocco in the pre-1960 period (Berriane et al., 2010: 18). Until the 1960s, Morocco was more of a land of immigration (for the French but also for those coming from its Southern neighbours).[14] Throughout the 20th Century, Turkey has been a land of immigration for Muslim and Turkic groups from its wider region, but these arriving groups are perceived as natural citizens rather than foreigners. According to the 1934 Settlement Law, immigrants are defined as those from Turkish descent and culture who come to settle in Turkey. The policies shaped around this logic reveal continuity in the sense that even today, some groups or individuals can more easily access legal residence and citizenship on the basis that they are from Turkic descent (see Danış and Parla, 2009). They also widely challenged by the arrival of "real foreigners" coming to Turkey to work and/or continue on to Europe in the post-1990 period (Erder, 2009).

Initiated by bilateral labour agreements signed in the 1960s, Turkey and Morocco's emigration histories have emerged as directed to Europe. The numbers of workers originating from Turkey or Morocco who live in different European countries have significantly increased. Despite the changing migration regime in Europe, which put an end to the mass recruitment of migrant labour, emigration to European countries continued through family reunification and later through family formation (de Haas, 2009; İçduygu and Sert, 2009). After the 1980s, irregular migration (for both Turkey and Morocco) and asylum (for Turkey) have become major types of flows to Europe. The introduction of a visa for Moroccan nationals to enter Spain (1991) and Italy (1990) and for Turkish nationals to enter France (1980), Germany (1981), the UK (1989) and the Netherlands (1996) reinforced irregular migration from Turkey and Morocco (de Haas, 2014; Doğan and Genç, 2014: 230).

Despite this change, there were still less barriers to travel to Europe (de Haas and Collyer, 2012: 471). Irregular migration was not yet a hot topic connected to security and social cohesion issues. Migrants without necessary papers and asylum seekers were mostly seen as spontaneous guest workers in the epistemological and political terrain of migration (Karakayali and Rigo, 2010: 130). It was possible for

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[14] In fact, the discourse that Morocco has been a land of immigration, referring to the pre-colonial and colonial period is revived during the pro-migration discussions on current situation of irregular migration and policy changes in Morocco. Section 3.3 details the particularities of this policy change.

migrants and asylum seekers from Morocco and Turkey to legalise their status after their arrival (Collyer, 2007: 670-671). Consequently, asylum seekers from Turkey – mostly from Kurdish origin- joined the labour force in Western Europe and eventually could become legal residents.   Moroccans in irregular situation in France and in Southern Europe highly benefited from regularization campaigns (Garcés-Mascareñas, 2012: 158). The change in out-migration patterns reveal irregular border crossings were initially an issue pertaining to emigration.[15]

Being a conventional source country, both Turkey and Morocco had to assume new roles in the European migration system as transit and eventually as immigration countries from 1990s onwards (Fargues, 2009; de Haas, 2007; Kimball, 2007). Within the context of globalization and within their continuing relations with the European migration regimes, Turkey and Morocco had already started to receive immigration from their wider region. As a result of EU's interest to prevent irregular migration, the presence of migrants seeking clandestine entry into Europe –given the decreasing opportunities for legal entry-, has become more visible and more subject to state regulations. Such regulations also affected those who are in Turkey and Morocco for other purposes than moving into Europe, such as working, studying, and seeking refuge.

Morocco receives migrants and asylum seekers from African countries such as Nigeria, Mali, Senegal, the Congo and Sierra Leone (Fargues, 2009; Mghari, 2009; Berriane et al, 2010; AMERM, 2008). Given the increasing obstacles to cross into Europe, migrants from sub-Saharan countries (commonly called sub-Saharans) have increasingly become visible in urban centres such as Casablanca, Rabat and Tangier and more recently Fez (de Haas, 2007; Berriane and Agerdal, 2008). While statistics and official data on immigration into Morocco are far from complete, previous estimates of the number of sub-Saharan irregular migrants ranged from 10,000 to 20,000 (see Khachani, 2011: 4). In the context of the regularisation campaign programme, the estimates on the volume of irregular migration in Morocco were as high as 40,000.[16] By the end of the regularization programme in December 2014, over 27,300 migrants with an irregular status applied for the regularisation scheme, providing another source for estimating the volume of irregular migration in the

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[15] Turkish and Moroccan nationals are still represented among nationals crossing borders without valid documents in recent Frontex reports (see Frontex, 2014). As this point is beyond the focus of my research, I will suffice to say that irregular border crossing as a form of mobility for Turkish and Moroccan nationals has not disappeared but declined. The decline is more significant in the Turkish case. However, in both contexts, the attention of the EU and national policymakers has shifted to third country nationals.

[16] Entretien avec Anis Birou, Ministre chargé des Marocains résidant à l'étranger et des affaires de la migration. *Le   Matin,*   04.01.2014*.*   Retrieved   15.05.2015,   from http://www.lematin.ma/journal/2014/entretien-avec-anis-birou-ministre-charge-des-marocains-residant--a-l-etranger-et-des-affaires-de-la-migration_-nous-avons-prevu-un-plan-d-action-pour-favoriser-l-integration-socioeconomique-et-culturelle--des-immigres-regularises-/194440.html

country.[17] In 2013, over 4,300 people entered the enclaves of Ceuta and Melilla through clandestine means (APDHA, 2014: 47). Although higher than previous years, the number is still much lower than the number of clandestine migrants within Morocco as estimated based on apprehended cases.[18] The discrepancy between those entering the Spanish enclaves and those remaining in Morocco without status indirectly indicates that Morocco has become a land of (forced) settlement for thousands on their way to Europe, along with those arriving in Morocco to work or study. The numbers of asylum seekers and recognised refugees have remained relatively modest, as Morocco does not have borders with conflict generating regions in the African continent.[19] The total population of concern by UNHCR (asylum seekers and refugees) amounted to nearly 5,000 by the end of 2013, and nearly 3000 of those were new applicants.

Besides irregular migrants, Morocco receives international students from sub-Saharan Africa, some of whom are sponsored by the Moroccan government (Berriane, 2009). Another trend in Morocco is the settlement of Europeans who are buying properties in big cities.[20] The number of legal residents (a total of 74,316 as of 2011) and irregular migrants in Morocco constitutes less than 1% of the population and is by no means comparable to the number of emigrants originating from Morocco. Despite the relatively low number of incoming migrants with or without legal status, immigration into Morocco has been the subject of increasing academic and policy-oriented research. Most of the existing research concentrates on the most salient figure of the *illegal migrant* in Morocco, i.e undocumented Sub-Saharans allegedly on their way to Europe.

Since the 1980s, the geographical situation of Turkey coupled with relatively liberal visa policies has enabled different forms of undocumented entry and stay by foreign nationals (İçduygu and Yükseker, 2012). The data for comprehending the

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[17]   Maroc: 'plus d'une centaine' de réseaux d'immigration clandestine démantelés en 2014. [Morocco more than clandestine immigration networks destroyed in 2014] *Jeune Afrique,*. Retrieved 15.05.2015, from http://www.jeuneafrique.com/actu/20150210T070108Z20150210T070046Z/

[18]   Illegal entries into the enclaves did not exceed 2,000 per year until 2012 (APDHA, 2010: 10). The Spanish government confirmed that in the first half of 2014, the number of entries into Melilla has more than doubled. According to UNHCR Spain, the increase was due to the increasing arrivals from countries torn by conflict such as Syria, the Central Africa Republic and Mali. (See UNHCR, 2014). To counter attacks by migrants, more control measures are initiated including the installment of barbed wires and the construction of another wall on the Moroccan side. See, Le ministre espagnol de l'Intérieur défend les barbelés des présides, [The Spanish Interior Minister defends the barbed wire], *libe.ma*, 22.07.2014. Retrieved 15.05.2015, from http://www.libe.ma/Le-ministre-espagnol-de-l-Interieur-defend-les-barbeles-des-presides_a52448.html.

[19]   Interview with UNHCR Morocco , Rabat, April, 2012.

[20]   This population movement is considered insignificant from the policy perspective, as settlers are not conceptualised as a threat to national security, and people do not see themselves as migrants but as expatriates.

volume of irregular migration in Turkey is also limited. Looking at apprehended cases is inadequate yet is the most available tool for estimating the volume of irregular migration in Turkey. The number of migrants apprehended by security forces has rocketed from around 11,000 to nearly 100,000 in 2000. Since 2000, there has been a declining trend in this number to nearly 40,000 in 2013. In the same period, asylum applications have significantly increased from a few thousand in 2005 to over 30,000 applicants in 2013.[21] The country experienced sizable asylum flows from Iran, Iraq and Afghanistan and recently from African countries. These numbers do not include the 1.5 million Syrians[22] under temporary protection since the breakout of Syrian conflict in 2011.

Ahmet İçduygu has analysed irregular migration in Turkey under three broad categories. 1. Transit migrants who intend to cross to the EU through Turkey and usually enter the country without proper documents with the paid help of smugglers (see İçduygu 2006; 2007). Transit migrants, allegedly on their way to Europe, are from Middle Eastern countries such as Afghanistan, Pakistan, Iran, Iraq and lately Syria (İçduygu and Yükseker, 2012). 2. Irregular labour migrants who typically enter Turkey with a valid visa and work in the informal economy without valid documents. When compared to Morocco, the economic aspect of irregular migration is much more salient in Turkey. The country hosts economic migrants from countries of the former Soviet Republics including Turkic Republics, Ukraine, Moldova and Armenia. 3. Asylum seekers who originate from the same counties as migrants put into the category of transit, and enter the country without proper documents. They are admitted into the asylum system in Turkey and wait to be recognised by UNHCR and eventually to be re-settled to third countries. As İçduygu also acknowledges, this typology rarely fits individual migrants' trajectories, as most migrants move between legality and illegality and also between transit and settlement in Turkey. Meanwhile, it is a useful typology of how different groups of migrants fall into illegality, hence become deportable, as further explained in Section 5.1. Regardless of their aspirations to go to Europe or acquire legal status, migrants find employment opportunities in sectors such as

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[21] See Statistics by the Directorate General of Migration Management (DGMM) Retrieved 06.02.2015, from http://www.goc.gov.tr/icerik/goc-istatistikleri_363_378. According to UNHCR, the increase in asylum applications is due to the increasing arrival of Iraqi and Afghan refugees. Retrieved 06.02.2015 from http://www.unhcr.org/pages/49e48e0fa7f.html

[22] As estimated in the planning figure by UNHCR, Retrieved 06.02.2015 from http://www.unhcr.org/pages/49e48e0fa7f.html. The Syrian case is another case showing the external and asylum related character of migration management and also indirectly migrant illegality issues in Turkey. Turkey adopted an open border policy with Syria, enabling the settlement of Syrians fleeing the conflict in refugee camps close to the Turkish-Syrian border (Ihlamur-Öner, 2013). Syrian refugees, initially settled as "guests", were later granted "temporary protection" status. In other words, they are not included in the UNHCR status determination process. Syrian conflict led to major asylum flows that Turkey faced after the Gulf Crisis (Ihlamur-Öner, 2013).

domestic work, sex work, entertainment, textiles, construction and tourism. Migrants are mostly concentrated in big cities, and Istanbul hosts most of them.

Turkey's immigration and asylum toll is much larger when compared to Morocco's, and migrant profiles in terms of country of origin are more diverse. One should also note that Turkey's overall population (81 million) is 2.5 times larger than Morocco's (31 million). As depicted in Annex 2, numbers and profiles are not easily comparable. However, what is comparable is the emergence of political debate. Immigration and more specifically irregular migration have emerged as a policy subject in Morocco and Turkey, while migrants have remained at the edge of its demographic transition. In other words, Turkey and Morocco are not yet ageing countries in need of migrant labour. There has not been a political will to receive immigration. As explained in Section 3.2, the emergence of the governance of irregular migration has entered into the political agenda as an outcome of the "migration diplomacy" with the EU (Natter, 2014; İçduygu and Üstübici, 2014).

3.2 The International Context in the Production of Illegality

Restrictions have characterised the European asylum and migration regimes since at least the mid-1985s. In this context, concepts such as "first country of asylum", "irregular secondary movement" (Oelgemoller, 2011: 415), "transit migrants" or "stranded migrants" (Dowd, 2008) have appeared to refer to what I call the *international production of migrant illegality* and its transposition to peripheral countries. As border policy and visa policy are highly developed policy domains in the EU (Samers, 2004: 34), cooperation with transit countries on the issue of irregular border crossings has been one of the primary policy tools of the EU (Boswell, 2003). The changes in the EU policy priorities have deeply affected policies and practices relating to irregular migration in Turkey and Morocco because of their geographical positions and geopolitical relations to the EU. Morocco and Turkey have similar geographical positions and close relations to the EU, which was an important factor among others leading to a particular production of illegality. These changes have turned them from spaces of *transit* into *anti-transit* where alleged *transit migrants* are stopped and controlled.[23]

In the African context, Morocco is a major example of the securitisation of migration (Belguendouz, 2009; Elmadmad, 2007). Morocco is only 14 km away from mainland Spain, separated by the Strait of Gibraltar. Plus, in the north, Morocco neighbours two Spanish enclaves on the African continent: Ceuta and Melilla. The enclaves are around 100 km away from the Algerian and Moroccan border where most migrants enter Morocco without legal papers. The Canary Islands, one of the outermost regions of the EU are reachable from the Moroccan South-West coast. Plus, the Southern borders of Morocco are not clearly defined because of the political

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[23] See Annex 3 for an overview of legal changes concerning immigration in Morocco and Turkey between 2000 and 2014.

dispute over Western Sahara. They are relatively more permeable to intra-African mobility due to lax border and visa regimes. With the growing economy of Spain throughout 1980s, the income differences on both sides of the border have become drastic, and along with irregular migration from Morocco and other parts of the world have triggered irregular migration from Morocco to Spain. The proximity to the EU borders and the political conviction to stop transit migration make Moroccan-Spanish borders a primary subject of migration diplomacy amongst Morocco, Spain and the EU.

Turkey is at the crossroads of Asia, Europe and Africa. Geo-politically, it is located between asylum seeker and migrant generating regions and European destinations. Most of the Greek islands in the Aegean Sea are a few miles away from Turkey's Western coast. The border between Turkey and Greece has been identified by the Frontex as "one of the areas with the highest number of detections of illegal border-crossing along the external border" (Frontex, 2012: 4-5). As in the case of Morocco, the geographical proximity to the EU made Turkey's western border subject to securitisation. In the East and in the South, however, Turkey has land borders with Georgia, Armenia, Iran, Iraq and Syria. These borders are permeable to the mobility of goods and humans due to lax visa regimes, geographical difficulties to control irregular border crossings, regional conflicts and historically established economic and social relations between both sides of the nation-state borderlands. This proximity coupled with ongoing migration diplomacy with the EU has made these countries subject to techniques through which EU migration controls have proliferated.

From the perspectives of Turkey and Morocco, the 1980s was a period of neglect towards the phenomenon of their own nationals and increasingly third country nationals crossing through their territory into the EU. The official negligence continued until they were identified as transit zones by the EU. De Genova (2005), among other researchers, has already identified techniques of making migrant bodies deportable. Similarly, assuming the role of a transit country implies subscribing to certain techniques of governance that render migrant populations deportable. This section focuses on some of these techniques such as increasing border controls (through financial and technical assistance by the EU (Samers, 2004: 38-9) and readmission agreements (RAs), which are seen as a main instrument for preventing irregular border crossings into the EU and materialise through cooperation agreements with EU agencies, member states as well as through increasing activities by international organisations. I first look at the role played by irregular migration issues in EU-Morocco and Turkey-Morocco relations.

Morocco's migration diplomacy

Morocco has been identified as a transit space since the late 1990s, although it is known that Spain has been receiving irregular migration flows since the 1980s. Immigration first became a subject in international relations, then in internal politics in

Morocco in this context of political isolation. During the 1980s and 1990s, Morocco had been politically isolated with limited cooperation with the EU and tense relations with North African and sub-Saharan countries (Natter, 2014). As Morocco also had tense relations with its Eastern neighbour Algeria over sovereignty in Western Sahara, the country left the African Union in 1984, and the Eastern border with Algeria located near the city of Oujda has been closed since 1994 (Perrin 2011: 9). Morocco's application in 1987 to become an EU member state was rejected. Throughout the 1990s, Moroccan-Spanish relations were tense because of the alleged tolerance of Morocco to illegal migration within its territory.

The Association Agreement between the EU and Morocco was concluded at the end of 1995 and went into force in 2000. This was the document whereby both parties agreed to initiate cooperation on illegal immigration and the conditions governing the return of irregular immigrants (DEMIG database, 2014). More concretely, the 1999 Action Plan proposed by the High Level Working Group on Asylum and Migration was one of the early documents identifying the necessity to stop irregular border crossings through Morocco. The Plan asked the government to conclude readmission agreements that would also cover third-country nationals and to adopt visa requirements for West African nationals (JAI 75 AG 30, 1999: 15 cited in Natter, 2014: 18). While Morocco rejected this plan imposed by the EU, as discussed in Natter's (2014) analysis, the country strategically used the EU's interest on irregular migration to improve its relations with the Union and engaged in migration-related diplomacy.

Throughout the 1990s, tensions related to irregular migration were common in Morocco's relations to Spain and the EU. Spain, as a new destination country for Moroccans as well as for third country nationals travelling through Morocco, has been a key factor in Morocco-EU relations (Wunderlich, 2010: 263). The visa requirement increased entry through Ceuta and Melilla, which have special status outside of EU Schengen borders.[24] To prevent illegal entries, the Spanish government started to build fences and walls around the enclaves in 1993. According to Zapata-Barrero and Witte (2007: 86), this was the first step towards the whole securitisation of the Spanish Southern borders as a whole. According to Lutterbeck (2006), there has been a shift in the locality of transit migration in Morocco. As measures were taken around Gibraltar, Ceuta and Melilla, the irregular routes shifted towards coasts near the Canary Islands. As a result, SIVE (Sistema Integrado de Vigilancia Exterior) was established in 2002 and "had reached full coverage of more than 500 km of Spain's south coast and was due to extend to the Canary Islands by the end of 2007" (Collyer, 2007: 672). By 2001, relations in this context, where migration routes shift in a dynamic and rather fast fashion, resulted in the Spanish and Moroccan governments facing the challenge of cooperation.

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[24] Moroccans could enter the enclaves with a valid passport for a maximum of 24 hours (Zapata-Barrero and Witte, 2007: 86).

The introduction of Law 02/03 and the establishment of a department responsible for irregular migration were signs of cooperation on the part of Morocco in this context of tense relations with Spain (Valluy, 2007). As part of the cooperation, since the early 2000s, Morocco received technical and financial assistance to enhance its border control system (Wunderlich, 2010). EU funding amounting up to 70 million Euros (Nielselt, 2014: 13) was available within the context of cooperation measures designed to help Mediterranean non-member countries. In 2006, Morocco, in collaboration with France and Spain, hosted the first Euro-African Ministerial Conference on Migration and Development. The aim of the conference was to establish a global dialogue on migration. This initiative was one example of Morocco's ambition to be a regional leader. Morocco was seeking a credible regional leadership role "as a migration manager at an international level by playing the role of a lobbyist of Mediterranean and African concerns" (Wolf, 2008: 263).

Another instrument of external governance by the EU member states and a means of cooperation with third countries are the readmission agreements (Cassarino, 2007). These agreements aim at setting the procedures for identification and return of persons "who have been found illegally entering, being present in or residing in the Requesting State".[25] Since the 1990s, Morocco has signed readmission agreements with individual European countries such as France (1993, 2001), Germany (1998), Italy (1998, 1999), and Portugal (1999). These agreements entailed the readmission of nationals but excluded third country nationals (MPC, 2013: 178). Despite prevailing undocumented border crossings from Morocco to Spain, the readmission agreement between Morocco and Spain signed in 1992 was ratified by Morocco only in 2012 (Cherti and Grant, 2013: 14), and it was never fully implemented because of the reluctance of Morocco to admit nationals and third country nationals in particular (Cassarino, 2007:183; Garcés-Mascareñas, 2012: 170).

Another phase in these negotiations was the Mobility Partnership agreement signed with the EU and six EU member states in June 2013. Along with initiatives to ensure the legal migration of Moroccan nationals, the agreement aims at enhanced cooperation "to prevent and combat illegal migration", as part of "the exemplary partnership which has linked Morocco and the EU for several decades".[26] In this regard, one of the key aims was finalising a readmission agreement between Morocco and the EU, with provisions relating to third-country nationals, which had long been at the negotiation phase.[27] The partnership document envisages EU's assistance for the

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[25] See for instance the Readmission Agreement between Turkey and the EU signed on 16.12.2013, Article 1, Retrieved 06.02.2015 from http://www.resmigazete.gov.tr/eskiler/2014/08/20140802-1-1.pdf

[26] See, Joint declaration establishing a Mobility Partnership between the Kingdom of Morocco and the European Union and its Member States, Retrieved 23.02.2015 from http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130607_declaration_conjointe-maroc_eu_version_3_6_13_en.pdf,

[27] Ibid. Art. 13.

introduction of a new asylum and international protection system in Morocco and for the improvement of a legal framework concerning various categories of migrants.[28]

In the context of closer cooperation with the EU and Spain, international organisations working on migration, mainly the IOM and the UNHCR, signed formal agreements with the Moroccan state. The agreement with the IOM was signed in 2006 and entailed "efficient management" of the migratory question in Morocco and a budget to finance voluntary return (Valluy, 2007 : 6). The EU and member states such as France, Belgium, the Netherlands and Spain are major donors for IOM projects in Morocco.[29] While Morocco ratified the 1951 Geneva Convention in 1956, the representation of UNHCR in Morocco was symbolic until 2004. After a period of de facto functioning of UNCHR's office in Rabat between 2004 and 2007, the Headquarter Agreement with UNHCR was signed in July, 2007. The agreements recognised the UNHCR refugee status determination by granting a residence permit to those with refugee status (DEMIG database, 2014 Version).[30] Valluy (2007) identified the two main factors behind the country agreement between UNHCR and Morocco. One was the changing priorities in the EU external policies in terms of impeding secondary movements of refugees from transit spaces. The second was the increasing number of applications to the UNHCR office from those unofficially settled in Rabat since 2004.

In the international context, demands by the EU have been influential in shaping the policies and practices of Morocco towards irregular border crossings of its own nationals as well as third country nationals. The relations between Morocco and the EU and Morocco and Spain are characterised by tensions as well as "à la carte cooperation", as discussed by Wunderlich (2010: 266). Immigration has become a permanent topic in foreign relations not only with Europe but also with its Southern neighbours, as EU policy demands have increased inner-African deportations and removals (Trauner and Deimel, 2013). After the 2000s, EU-led international actors, mainly UNHCR and IOM, started to operate in Morocco, and immigration has become a subject of governance par excellence. As will be explained in Section 3.3, the post-2003 period witnessed the institutionalisation of immigration governance within the state, but the emergence of myriad domestic actors shaped and re-shaped the practices around migrant illegality in Morocco.

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[28] Ibid. Art. 28 and 35. In this sense, the document signalled changes in the Moroccan immigration policies that were initiated later in 2013, as discussed in Section 3.3.

[29] See Morocco Country Profile, retrieved 06.02.2015 from http://www.iom.int/cms/en/sites/iom/home/where-we-work/africa-and-the-middle-east/middle-east-and-north-africa/morocco-1/country-profile.html

[30] However, a previous regular entry is required for the provision of a residence permit (DEMIG database 2014). The card provided by UNHCR, in principle, protects refugees from deportation but does not give access to residence permits and work permits in the country (Elmadmad, 2011:.4).

***Irregular migration in Turkey's long standing EU* accession**

Drawing on the communication between the Intergovernmental Consultations on Migration, Asylum and Refugees, UNHCR and Turkey, Oelgemoller (2011: 414-5) suggests that Turkey was the first country to be identified as a transit space, as early as 1987 for its role as a first asylum country for refugees fleeing conflicts in the region, such as the Iranian Revolution, the Iran-Iraq War and the Gulf crisis. Meanwhile, Turkey's long-standing member status and its commitment to adopt the EU acquis have been major anchors for Turkey's cooperation with the EU on the issue of irregular migration. In this context, legal changes in the field of asylum and immigration in the post-2001 period are commonly called EU-isation and the Europeanisation of migration and asylum policies in Turkey (Özgür and Özer, 2010; İçduygu, 2007; Ozcurumez and Şenses, 2011). As in the case of Morocco, issues related to border controls, the resolution of a readmission agreement and the increasing role played by international organisations in the context of the adoption of the EU acquis on migration and asylum have been major milestones of the international production of migrant illegality in Turkey.

Administrative, financial and technical support by the EU and member states played an important role in making irregular migration a subject of governance (Özgür and Özer, 2010: 138-9). The National Action Plan for Asylum and Migration, adopted in March 2005, was a product of a twinning project with Denmark and the UK, conducted between March 2004 and March 2005. The Action Plan envisaged legislative and institutional changes to harmonise Turkey's asylum and migration legislation with that of the EU acquis. Officially starting with the 2003 Strategy Paper for the Protection of External Borders, border management issues have been on the agenda concurrently with membership talks, along with migration management and asylum issues. The framework of the Action Plan on Integrated Border Management, adopted in 2007, was initiated alongside another twinning project in collaboration with the UK and France.[31] The EU funded a considerable portion of the budget to conduct these projects.[32] The EU's conditionality and financial and administrative support in border management issues highlight the novel and external character of the emergence of irregular migration policies in Turkey.

In the context of integrated border management, the EU expects Turkey and Greece to cooperate on matters related to border security. The readmission

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[31] See also "Entegre Sınır Yönetimi Eylem Planı Aşama 1 Projesi" (Action Plan for Integrated Migration Management Project Phase 1, policy brief); Entegre Sınır Yönetimi Eylem Planı Aşama 2 Projesi (Action Plan for Integrated Migration Management Project Phase 2, policy brief).

[32] For instance, the EU contribution is envisaged as nearly 22 million Euro (slightly more than 75% of the total budget) for the execution of the Action Plan on Integrated Border Management-Phase 2. See Standard Project Fiche, the Action Plan on Integrated Border Management-Phase 2, Retrieved 06.02.2015, from http://ec.europa.eu/enlargement/pdf/turkey/ipa/2008/tr080210_action_plan_on_ibm_phase_ii-revised_final_en.pdf

agreement between Greece and Turkey came into force in 2002. Similarly to the readmission agreement between Spain and Morocco, there have been severe problems of implementation, which were due to reluctance from Turkey to agree to readmit irregular migrants who allegedly crossed into Greece through Turkey (İçduygu ,2011: 7).[33] Increasing cooperation with Frontex along maritime borders led to a decrease in interceptions at sea borders between Turkey and Greece (Frontex, 2012: 18) but also to a shift in clandestine routes towards the Evros region and at the Turkey-Bulgaria land border (Özgür and Özer, 2010: 107-8). The Greek government, despite the economic crisis, along with the EU, co-funded the building of a doubled fenced 12.5 km long wall along the border, in a similar way as Spain erected a border around its enclaves in Northern Africa.[34] These measures, however, did not stop irregular border crossings but diverted smuggling routes and enhanced migrants' reliance on smuggling networks, raising the cost of border crossings. The situation along the EU-Turkey border closely affects migrants' experiences of incorporation within Turkey. Given the increasing costs and risks of crossing into the EU, transit migrants allegedly spend more time in urban centres in Turkey and seek ways to survive within given economic, legal and social structures like other migrants who are categorised as asylum seekers and irregular economic migrants.

As another aspect of EU migration controls, after many years of negotiations, Turkey signed an RA with the EU in December 2013. The readmission concerns the nationals of the EU Member States and Turkey, plus the third country nationals and the stateless persons who "entered into, or stayed on, the territory of either sides directly arriving from the territory of the other side" (EC, 2013a). The provision concerning third country nationals and stateless people will come into force in three years. Turkey signed the RA in exchange for the initiation of EU-Turkey visa liberalisation dialogue. In other words, Turkish nationals' potential visa-free travel to European countries depends on Turkey's efforts to stop irregular migration into the EU.[35] Interestingly, the RA was represented in the media as a technical commitment from the side of Turkey to open the borders of Europe for its own nationals.[36] There was less discussion and almost no official statement on what the RA entails in terms of

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[33] According to data compiled by İçduygu (2011: 7), between 2002 and 2010, Greece made 65,300 readmission claims to Turkey, out of which Turkey accepted to re-admit 10,124 persons, and only 2,425 readmission actually occurred.

[34] Plans for a wall on Greece's border with Turkey embarrass Brussels. *Guardian,* 11.01.2011. Retrieved 22.02.2015, from http://www.theguardian.com/world/2011/jan/11/greece-turkey-wall-immigration-stroobants

[35] The Roadmap Towards a Visa Free Regime with Turkey. Retrieved 22.02.2015, from http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20131216-roadmap_towards_the_visa-free_regime_with_turkey_en.pdf?utm_source=Weekly+Legal+Update&utm_campaign=fdb688b29c-WLU_20_12_2013&utm_medium=email&utm_term=0_7176f0fc3d-fdb688b29c-419648261

[36] Turkey, European Union to start visa liberalization, *Today's Zaman*, 04.12.2013. Retrieved 22.02.2015, from http://www.todayszaman.com/news-333111-turkey-european-union-to-start-visa-liberalization.html

burden sharing between the EU and Turkey on matters related to irregular migration, let alone the protection of migrants' rights (Kılıç, 2014: 429). In a parallel vein, another major priority for the EU has been to increase the detention capacity of Turkey by funding the construction of "reception centers for asylum seekers and refugees and also removal centers for illegal migrants".[37] These are attempts to increase control over the physical mobility of migrant populations, not only from Turkey into the EU but also within Turkey.

While the EU has been a major anchor in triggering substantive reform on migration and asylum policies, Turkey's EU-isation in this realm has been selective (İçduygu, 2007). Turkey is lagging behind on its commitment towards integrated border management (EC, 2013: 64). While Turkey's efforts to develop national legislation on asylum and migration were applauded by the EU (EC, 2013: 65), in Turkey, certain points are subject to critiques. Albeit a signatory of the 1951 Geneva Convention, Turkey currently retains the geographical limitation that only asylum seekers from European countries can obtain refugee status. Progress reports and reports by other agencies such as Fundamental Rights Agency have underscored that most irregular migrants apprehended in Europe arrive in Turkey legally and continue their journey into Europe in a clandestine way (EC, 2013: 65). On the one hand, Turkey complied with Schengen negative visa and other requirements of the EU acquis on the length of stay on tourist visas by adopting more restrictive entry policies. However, Turkey's willingness to have close trade and cultural relations with non-EU countries in the region continued and at times further extended its liberal visa policies.[38] These points, namely geographical limitations and lax visa policies imply that the entry of migrants and potential refugees is to some extent tolerated, but their access to legal status and international protection is jeopardised. This framework, which can be formulated as *tolerated but denied rights* constitutes the contours of migrant illegality in Turkey, despite the EU critique and requirements.

Like in Morocco, international organisations have played an important role in bringing Turkey's immigration and asylum policies in the line with the requirements of EU migration policies. In this context, emerging activities by UNHCR and IOM and decisions by the European Court of Human Rights (ECtHR) enhanced the external character of the politicisation of irregular migration in Turkey. In response to the asylum influx during the Gulf Crisis, the activities of UNHCR in Turkey expanded (Ozmenek, 2001). Similarly, the activities of IOM in Turkey were initiated in 1991 in the

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[37] In the context of IPA 2007 Programme TR07 0216 Support Turkey's Capacity in Combating Illegal Migration and Establishment of Removal Centers for Illegal Migrants and TR07 02 Establishment of a Reception System (Centers) for Asylum Seekers and Refugees.

[38] Currently, Turkey applies visa exemptions or visas which are issued at the border to over 120 countries, known as "sticker visas". See Visa Information for Foreigners at the website of Ministry of Foreign Affairs. Retrieved 22.02.2015 from http://www.mfa.gov.tr/visa-information-for-foreigners.en.mfa

aftermath of the regional crisis in the Middle East. A bilateral agreement was signed in 1995 and Turkey became a full member of IOM in 2004 in the context of a national action plan on asylum and migration. These two organisations have given administrative support for the activities of the two bureaus, namely that of the Migration and Asylum and the Integrated Border Management, as mentioned above. The UNHCR, as in the case of Morocco, has been working with implementing partners and covers their administrative costs (Özmenek, 2001). In this sense, the UNHCR is an important actor, triggering and shaping the activities of the civil society in Turkey. While the UNHCR used the existing human rights activism to draw attention to asylum related issues, the IOM set the agenda that irregular transit migration is a problem to be managed (Hess, 2012: 432). The IOM's focus on human trafficking was an important factor behind Turkey's signing of international protocols such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the Protocol against the Smuggling of Migrants by Land*, Sea and Air* and was also influential in making related changes in its criminal law.

Turkey is a member of the Council of Europe. In this context, ECtHR has been another external actor in the governance of migration. Starting with the case of Jabari v. Turkey in 2000, ECtHR sentenced Turkey for not respecting the principle of non-refoulement of migrants and asylum seekers.[39] The articles pertaining to detention and to non-refoulement in the Law on Foreigners and International Protection enacted in 2014 primarily aimed to be in line with the standards set in the Convention for the Protection of Human Rights and Fundamental Freedoms, commonly referred as European Convention on Human Rights (ECHR) to prevent cases against Turkey in ECtHR. As detailed in Section 5.4, NGOs taking cases to ECtHR played an important role in pushing for legal reform in Turkey in an indirect way (Yılmaz, 2012). At the same time, their using of ECtHR as a transnational advocacy mechanism reveals the strong external anchor in the governance of international migration in Turkey. Although not directly connected to irregular migrants' rights, ECtHR decisions have enacted the principle of non-refoulement through the access to asylum to potential refugees who otherwise would be treated as *illegal*.

From international production of illegality to public policy

One can grasp the production of migrant illegality in Turkey or Morocco, hence migrant experiences of illegality only by linking it to emerging forms of *migration management* at EU external borders. To repeat, migrant illegality was initially a product of international dynamics. After the 1990s, there was more attention on irregular border crossings through Turkey and Morocco into Europe. This is the major concern of the EU, which pressures these countries to strengthen their border management, establish national asylum systems to be qualified as "first countries of

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[39] See Mamatkulov and Askarov v. Turkey in 2005, the case of Abdolkhani and Karimnia v. Turkey in 2009 and the case of Charahili v. Turkey in 2010, (see Tolay: 2012: 47, Yılmaz, 2012) for examplary decisions by ECtHR criticising asylum and detention practices in Turkey.

asylum" and to readmit third country nationals passing through their territories into Europe. Both countries have arguably had incentives to partly subscribe to the role of *a transit country*, ironically by policing EU borders against secondary irregular movements into the EU. They also had reasons to refrain from taking such a role.

Given their similar international contexts, the main similarity between Turkey and Morocco is the challenge to balance the demands of the EU to stop irregular border crossings with their national interests – that is not to become a buffer zone for immigrants - and not worsening their relations to the countries in the region. Their relations to the EU, as a sending country and a major political ally in the case of Morocco, and a former sending country and a candidate member in the case of Turkey, influenced their cooperation with the EU in the matter of irregular migration. The main differences have been Turkey's, albeit fading, prospect of EU membership, and also the asylum recipient role Turkey has had to play since the 1980s and also in the ongoing Syrian conflict.

External dynamics in the production of illegality are coupled with internal dynamics of the peripheral context. The next section discusses the legal and political contexts that Morocco and Turkey had to police regarding *illegalised* migration flows, although the framework of legal changes is rudimentary and at times contested. Immigration policies in both contexts were introduced without the political will to receive immigration. Referring to Foucault, Walter Nicholls suggests: "the enforcement of interdictions contributes to the explosion of talk, ideas, controls, and practices of illegality rather than their repression" (2013: 202). In this light, the next two sections inquire into how migrant illegality is produced through national laws and policies in the context of high external pressure to curtail irregular border crossings and how the issue has been subject to different forms of politicisation.

3.3 Moroccan immigration politics from criminalisation to integration

Since the early 2000s, trans-Saharan migration through Morocco has been represented in Morocco not only as an external dimension of EU migration policies but also as a Moroccan public policy issue (Natter, 2014). This politicisation of irregular migration as a domestic issue has happened through the introduction of new legislation on the subject, the establishment of new institutions and public statements of the official framing of immigration as problem of security and criminality. Until 2013, the official discourse that Morocco is a transit country and that migrants in Morocco do not want to stay there underpinned their exclusion from the sphere of rights and membership. The extent to which a radically new immigration policy approach will replace the racialisation and criminalisation of irregular migration with a human rights based integration policy is questionable. What is clear is that Morocco has displayed a case of rupture in its irregular migration policy, at least at the discursive level if not in practice.

Emergence of immigration policy and criminalization

Law 02-03, the Law regarding Entry and Residence of Foreigners in the Kingdom of Morocco and Irregular Emigration and Immigration was enacted in 2003 to improve tense relations with the EU.[40] The new law abolished earlier regulations concerning foreigners reminiscent of the protectorate period and with respect to emigrants dating back to the Royal Decree in 1949 (DEMIG database, 2014). As the name suggests, the law concerns irregular border crossings by Moroccans as well as irregular entry, stay and exit by third country nationals but with little provisions regarding the human rights of migrants (Belguendouz, 2009: 19-20). The law regulates administrative procedures to follow regarding the deportation of migrants and their removal to the frontal zones and prohibits the deportation of asylum seekers, refugees, pregnant women and minors.[41] As envisaged by the law, the Directorship for Migration and Surveillance of Borders, the unit responsible for irregular migration within Morocco was established under the Ministry of the Interior. Law 02-03 coupled with EU funding for border infrastructure strengthened the mandate of the Ministry of the Interior and its securitised approach over issues concerning immigration (Wunderlich, 2013a: 415-6).

In a context where Moroccan nationals are highly represented among those crossing borders irregularly, it is surprising that there were very few discussions in the parliament regarding the substance of the Law and the debate amongst civil society actors (Feliu Martinez, 2009: 351). The parliament adopted the Law in the aftermath of terrorist attacks in Casablanca in May 2003, together with the law on terrorism.[42] According to Belguendouz (2009: 20), civil society was more focused on the law on terrorism. One explanation why the law on irregular migration did not receive much criticism from opposition parties or civil society lies in the fact that irregular migration in Morocco has been publicly framed as an issue that is mainly related to trans-Saharan transit through Morocco into Europe (Natter, 2014). Even before the law, irregular migration in Morocco was presented as a sub-Saharan issue in the media (Belguendouz, 2009: 19).

The *sub-Saharanisation*, hence the racialisation of irregular migration has been instrumentalised to make the law more acceptable in the public domain. Officials have justified the use of coercive measures against sub-Saharan migrants by depicting it as a fight against mafia networks controlling human trafficking through Morocco. In November 2003, the King convened a meeting on the question of migration and the surveillance of borders with the aim of combatting human trafficking.[43] As Khalid

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[40] Dahir no: *1-03-196* (11.11.2003).

[41] Article 26 of the Law no:02-03.

[42] The Law 03-03 Regarding the Fight Against Terrorism, Dahir no : 26 (28/05/2003).

[43] See Eriger en priorite la lutte contre les reseaux des etres humaines [To erect the fight against humain trafficking networks in priority], *L'opinion,* 12.11.2003.

Zerouali, the Head of the Directorship for Migration and Surveillance of Borders has explained: "Since 2004, we have disrupted 1,000 networks, it shows that we are not facing isolated cases or isolated attempts of clandestine migration but a market controlled by mafia gangs..[..] Morocco is equally a leading example of a cooperation model with the North as in the examples of close cooperation we have with Spain and other countries."[44] By mid-2005, successful results of these measures were widespread in the Moroccan media, presented in terms of the decreasing the volume of clandestine migration into Spain (Valluy, 2007; Feliu Martinez, 2009: 350).[45]

In response to the securitisation of borders, especially along the Canary Islands, and thus the shifting clandestine routes, as mentioned earlier in this chapter, migrants started to engage in more coordinated attempts to cross into Melilla and Ceuta. In September and October 2005, migrants were shot by Moroccan and Spanish border guards during their attempts at the borders between Morocco and the Spanish enclaves of Ceuta and Melilla, proving the human cost of these coercive measures (Belguendouz, 2009: 21; Migreurop, 2006). Moroccan security forces unlawfully removed large groups of undocumented migrants to the no man's land between Algeria and Morocco before and after the clashes (GADEM, 2007: 16). The Ceuta and Melilla scandal led to increasing international attention to the treatment of international migrants on Moroccan soil. The coercive practices violating national and international laws have become much more visible and have been criticised by domestic and international actors. The event did not only show the human cost of border controls in the absence of fundamental rights but it also paved the way for contesting this production. In other words, criminalisation from above gave rise to an emerging *politicisation from below*.

2005 was a turning point for the expansion of civil society activities concerning irregular migration (Semeraro, 2011: 55; Jacobs, 2012). The increase in civil society activism, In general, has been part of the political liberalisation of Morocco since the 1990s (Cavatorta, 2010). Note that it was a period when more funding opportunities especially by the EU were available for NGOs working on irregular migration issues in Morocco (Dimitrovova, 2010). Sensibilities towards the vulnerable situation of irregular migrants passing through Morocco into Europe started before 2005. International organisations such as the IOM, the UNHCR but also humanitarian organisations such as *Doctors Without Borders* (MSF) and Caritas had initiated their activities on irregular migrants in Morocco.[46] Civil society working on immigration

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[44] Interview with Khalid Zerouali, the Head of Directorship for Migration and Surveillance of Borders, Khalid Zerouali: "Le Maroc est a moins de 65% candidats a l'emigration clandestine." (Khalid Zerouali: "Morocco is 65% less candidate for clandestine emigration"), *Liberation,* 15-16 July 2006.

[45] See for example "37% decline in clandestine embarcations in the first 8 months of 2005", *Liberation,* 08.09.2005.

[46] MSF Spain started to operate in 2003 in Tangier, in 2005 in Nador and a couple of years ago in Casablanca and Rabat. (Interview with MSF). Caritas has been operating with vulnerable populations in Morocco since 1950s, and their activities included irregular migrants as this group became more visible in urban centres

related issues was rather nascent (Feliu Martinez, 2009: 352) but proliferated in a dynamic fashion. [47] In a context of widespread rights violations, civil society actors have become much more vocal concerning the question of migrant rights.

Even after the Ceuta and Melilla events, authorities have been unwilling to hear civil society and migrants' demands for the recognition of the rights of undocumented migrants stemming from national and international law. The use of the label "transit country" justified the security oriented legal framework but also the practices on the ground that are particularly restricting for irregular migrants' access to fundamental rights such as non-refoulement, access to asylum, access to healthcare and minors' access to education. A related justification for the lack of inclusionary and integration policies for migrants is the low capacity of the Moroccan state to receive migrants. Most officials interviewed during my fieldwork in the Summer 2012 underscored that Morocco is not a country of immigration in terms of economic development: "there is nothing for migrants in here but it is seen as better than Gabon… what Morocco can offer to migrants? Best scenario is exploitation".[48] The widespread conviction is that Morocco is a victim of its geographical position and has no policy option other than to follow European policies "We feel like we are in the right direction. Because of its geographical position, Morocco must implement European laws. Morocco does not have *the means*…"[49]. While the need for regional cooperation rightly prevails in the discourses of state and non-state actors, putting the responsibility on European actors as the source of the problem also becomes a strategy to deny migrants' rights. As articulated by an official: "There is violence, extreme poverty, but it is not to Morocco to find a solution. We need a global, regional, international strategy".[50] The use of a "transit card" (Hess, 2012: 436) does not only work to increase its leverage towards the EU but also emphasises Morocco's role as a country of transit rather than immigration, with its lack of the necessary capacity to deal with migratory flows.

The humanitarian and advocacy activities by civil society, intensified in the post-2005 period, have been at odds with the official state perspective. Civil society organisations (CSOs) have become part of the governance of irregular migration in Morocco by undertaking the integration task that the state is explicitly unwilling to perform (Natter, 2014). Hence, they have shaped the production of migrant illegality and have worked towards reversing the criminalisation of irregular migration. Civil society has not only created channels, albeit limited, for migrants' de facto access to

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such as Tangier, Rabat and Casablanca since 2002. Their reception centre in Rabat was opened in 2005, as more migrants were coming to Rabat because of the intense deportation practices (interview with Caritas).

[47] The structure and main activities of these CSOs and their relations to the state are further discussed in Section 3.4.

[48] Interview with Fondation Hassan II, 29 June 2012.

[49] Personal communication with a member of the Moroccan parliament from the ruling Justice and Development Party, Rabat, September 2012 (emphasis added).

[50] Author interview, Oujda, September 2012.

rights and services but it has also provided a political sphere for irregular migrants to claim rights as members of society. Plus, migrants removed from the Spanish frontier have become much more visible in urban settings, and they have also started to organise amongst themselves. As explained in Chapter 4, Section 4.4, civil society activities and migrant activism have contributed significantly towards what I call a rupture in Moroccan immigration policy.

The emergence of civil society working on irregular migration issues has to be contextualised in the wider political and institutional liberalisation process. This liberalisation process of the associative life has extended under the reign of Mohammed VI since 1999 (Sater, 2007: 160-161). Introduced in the aftermath of Arab revolts, the 2011 Constitution included articles on the human rights of foreigners.[51] Article 161 of the Constitution reformed and enabled a more independent ground of action for the National Council of Human Rights (CNDH) (Cherti and Grant, 2013: 5-6). Despite its still very fragile and highly criticised position, the CNDH played a key role in shaping what is called a "radically new immigration policy".

Towards integration?

In the context of growing national and international critiques on the treatment of irregular migrants in Morocco, the report presented by the CNDH on the human rights of foreigners in Morocco presented to the King in September 2013 initiated a clear turn in the migratory policies of Morocco. Acknowledging that Morocco has become a land of immigration, the CNDH recommended a set of policies to facilitate legal and socio-economic integration of both asylum seekers and migrants (see CNDH, 2013). As mentioned, the mobility partnership agreement signed with the EU in June 2013 recommended the introduction of a new asylum and international protection system in Morocco. These critiques and recommendations led to a paradigmatic change in Moroccan immigration policies, initiated by King Mohammed VI who underscored, in his royal discourse, that Morocco is becoming a land of immigration for sub-Saharans and Europeans alike and that there is need for a new policy perspective.[52]

Following the initiative of the King, in November 2013, the government announced a regularisation campaign targeting immigrants in irregular legal status in Morocco. The regularisation programme lasted throughout 2014. Different categories of migrants became subject to different criteria in terms of years of residence required to be eligible for the regularisation:

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[51] See Article 12 and 30 of the 2011 Constitution.

[52] See Royal discourse in the occasion of 38th Anniversary of the Green March, (2013, November 6) Retrieved 15.05.2015, from http://www.map.co.ma/fr/discours-messages-sm-le-roi/sm-le-roi-adresse-un-discours-la-nation-l%E2%80%99occasion-du-38eme-anniversaire.

> The exceptional operation of regularization concerns foreigners with spouses from Moroccan nationality living together for at least two years, foreigners with foreign spouses in legal status in Morocco and living together for at least four years, children from the two previous cases, foreigners with employment contracts effective for at least two years, foreigners justifying five years of continuous residence in Morocco, and foreigners with serious illnesses who had arrived the country before December 31 2013.[53]

As advertised by policy makers, this practice has made Morocco the first country amongst developing countries engaged in regularisation campaigns. Officials emphasise that the new policy envisages a humanitarian approach to asylum and immigration that respects international norms and the human rights of migrants. Clearly, this indicates a shift from previous official discourse that Morocco lacks resources to deal with immigrants, who are allegedly stuck on Moroccan soil on their way to Europe. For instance, Mustapha Kassou, a member of the CNDH publicly stated: "This is a sinuous but irreversible path. Our country has means to achieve socio-economic integration of migrants present in its territory" (cited in Lemaizi, 2013).

The launch of the new policy was followed by institutional and legal changes and a possible rapprochement between authorities, international organisations and civil society in Morocco. The Ministry Responsible of Moroccans abroad was renamed the Ministry Responsible of Moroccans abroad and Migration Affairs.[54] This decision was welcomed by NGOs, as it is a Ministry in charge of social affairs rather than security issues (Alioua, 2013). The department has intended more collaboration with civil society organisations active in the field of human rights. The increasing coordination with the new Ministry was emphasised in follow up interviews conducted with the UNHCR and the IOM in May 2014. Foreigners' Offices have been created to operate the regularisation programme. An ad-hoc commission was formed to work on the national asylum law. An asylum bureau opened in Rabat to coordinate with the UNHCR in processing asylum cases.

The introduction of the new approach to migration and the regularisation campaign have developed in a fast fashion, reflecting the decisive role of the King in Moroccan politics (Cavatorta, 2010: 17).[55] It should be noted that this reformist turn in Morocco's immigration policy was unexpected. As I started my fieldwork in Morocco

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[53] From January 1st to December 31st 2014, Morocco launched an exceptional operation of regularisation of foreigners in irregular situation. Retrieved 15.05.2015, from http://www.marocainsdumonde.gov.ma/actions-du-minist%C3%A8re/le-maroc-lance-du-1er-janvier-au-31-d%C3%A9cembre-2014-une-op%C3%A9ration-exceptionnelle-de-r%C3%A9gularisation-des-%C3%A9trangers-en-situation-irr%C3%A9guli%C3%A8re.aspx

[54] Referred to as the Ministry of Migration Affairs, hereafter.

[55] Since the independence, the royal power in Morocco retained a degree of pluralism, unless it does not threaten its unquestionable rule.

in April 2012, the demand for regularisation was rather implicit, and stakeholders interviewed were pessimistic about a positive change in Morocco's immigration policy. Regarding the question on demands for regularisation, the response was very clear that migrants in Morocco are in transit and that Morocco cannot be "a solution for exchange" for those migrants who wanted to reach Europe in the first place and who want to stay in Morocco only because they cannot reach Europe. The policy and the striking turn in the tone of officials after September 2013, however, was clear. The public speeches of the Minister of Migration Affairs, Anis Birou, have underscored the radical change in the official discourse. For example, during an international meeting on the new policy, he stated that:

> Morocco, because of this new policy will save thousands of lives. We, all want that we will all prevent that there are going to be new Lampedusas. We all want that this new immigration policy announced in Morocco will go beyond the borders of Morocco. This new migration policy of Morocco does not only concern Morocco…we believe that this is a shared responsibility, we are all assuming this responsibility in giving migrant a second chance to realize their dreams, instead of the hell of crossing the Mediterranean, to realize the Moroccan dream.[56]

While the impact of the new migratory approach in remedying migrants' experiences of exclusion is yet to be seen, most analyses locate this recent turn in Morocco's migration policy within geo-political strategies of the country seeking to forge firmer relations with the EU and with African countries to compensate for its absence from the African Union. It is also acknowledged that this process is linked with improvements in fundamental rights as envisaged in the 2011 Constitution, in a period when Morocco is acknowledged as a country of immigration rather than merely a transit zone. Despite the top down character of the new migratory policy initiative, we need to see this policy initiative as a response to the ongoing international and domestic criticism towards the Moroccan state for denying the rights of irregular migrants.

High criteria for eligibility and the uncertainty waiting those who are not regularised are the most criticised aspects of the regularisation campaign.[57] Questions

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[56] Author's notes from the meeting "The new migration policy in Morocco, which strategy of integration" organised by Ministry in Charge of Moroccans Abroad and Migration Affairs, IOM, Confederation of Switzerland, March 11th and 12th, 2014, Rabat, Morocco (see Figure 4.2 in Chapter 4).

[57] As a partial response, authorities loosened criteria for regularisation to include women, minors and Syrian refugees as vulnerable groups, as well as activists and leaders of informal migrant associations. Around 17,000 people were regularised by the end of 2014. "Close to 17,918 one-year residence permits were granted from 27,330 applications registered (almost half of them to Senegalese and Syrians, followed by Nigerians and Ivoirians)" (Martin, 2015). See also, Bonne nouvelle: 5 060 femmes migrantes obtiendront la carte de séjour. [Good news: 5,060 migrant women will obtain the residence permit] *Tel Quel*, 28.07.2014, Retrieved 15.05.2015, from http://telquel.ma/2014/07/28/5060-femmes-migrantes-obtiendront-carte-sejour_1411572; Maroc : 16 000 régularisations de sans-papiers en 2014 [Morocco: 16 000 regularization of undocumented migrants in 2014], *Le Monde*, 23.01.2015. Retrieved 15.05.2015, from

on the implementation of the regularisation campaign cast doubt about if the new policy will ensure human rights and the integration of migrants or if it will lead to another form of control over migrants, for example by collecting personal information from migrants, including those who are not eligible for regularisation. NGOs are equally concerned about how the personal information they provide will be used and if it will be shared with authorities such as the EU for other purposes such as readmission. Furthermore, the collaboration with NGOs might create bias against groups who were never involved in NGO activities (Chaudier, 2013). There has been scepticism about if the new policy approach will end the coercive measures (Chaudier, 2013). Along with a rupture from the previous approach that criminalised the presence of migrants on Moroccan territory, there was a continuity in securitised measures that was crystallised through removal practices, leading to severe injuries and deaths especially along the border throughout 2014 and after the end of the regularisation programme (Belghazi, 2015).

Since the early 2000s, irregular migration in the Moroccan context has been conceptualised as criminal activity. The stance that Morocco is a transit country rather than a migrant receiving country, victim of its geopolitical position was officially held until late 2013. Since September 2013, there has been a discursive turn in Moroccan immigration policies. Highlighting Morocco as a case of rupture, the section has clarified the policy background as characterised by the criminalisation of irregular migration as well as the gradual acknowledgment of irregular migrants' right to stay. Chapter 4 will go further to explain how this particular criminalisation and politicisation is interlinked with experiences of illegality in terms of exclusion but also gives rise to particular forms of informal incorporation through migrant mobilisation. It also makes the case that bottom up politicisation directly or indirectly unfolded through the rupture in immigration politics.

3.4 Migrant illegality as Europeanisation in Turkey

Turkey's transition from having no immigration policy to the adoption of an immigration policy through the EU accession process has been gradual. The institutionalisation of migration governance initially emerged as a response to incoming asylum flows and evolved as a matter of Europeanisation. Parallel with the adoption of techniques to govern external borders of the EU in the post-2000 period has witnessed a transition in scattered immigration policies in Turkey. Concurrently, immigration legislation and institutionalisation in Turkey have been mainly discussed in public and policy circles, within the technicalities of the EU accession process. The section re-evaluates what is documented in the literature as the Europeanisation of

http://www.lemonde.fr/afrique/article/2015/01/23/maroc-16-000-regularisations-de-sans-papiers-en-2014_4562191_3212.html.

migration and asylum policy (İçduygu, 2007; Özgür and Özer, 2010, Ozcurumez and Şenses, 2011.) as a case of the institutionalisation of migrant illegality.

Emerged as refugee, developed as an EU issue

Until the mid-1990s, the Turkish state was not actively involved in regulating immigration flows. In contrast with Morocco, the issue of asylum was the initial object of governance in Turkey, rather than the problems of irregular or clandestine migration. [58] Fears of mass inflows during the Gulf Crisis and at the peak of Kurdish armed conflict in the Eastern part of the country, authorities introduced a regulation on refugee status determination. According to the regulation—entitled "the Regulation on the Procedures and the Principles Related to Mass Influx and the Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permits with the Intention of Seeking Asylum from a Third Country"[59], the Ministry of the Interior became the final decision-making body for refugee status determination in collaboration with the UNHCR.[60] While the 1994 Regulation marks transition into international norms (İçduygu and Bayraktar, 2012: 40), the post-1994 period is also characterised by rights violations by Turkey, especially the right to non-refoulement and by increasing cases against Turkey at the level of ECtHR (Kirişci, 2012: 67-68). The 1994 Regulation introduced administrative procedures requiring applicants to register with the police within five days[61] of arrival and to reside in cities designated by the police. Officials strictly implemented these measures and increasingly deported potential refugees failing to meet strict administrative requirements (Kirişci, 2012: 67). In other words, there were arguably few differences in the treatment of potential asylum seekers and those who are seen as "illegal" before the law.

After the initial phase leading towards the adoption of international norms on asylum, the signing of the Accession Partnership Agreement with the EU in 2001 pushed for legislative and institutional changes in the field of asylum and migration in Turkey. The National Security Council issued a resolution on irregular migration in 2002, and the Strategy Paper for the Protection of External Borders in Turkey was adopted in 2003 (DEMIG database, 2014). More restrictive visa policies have been adopted in line with the Schengen negative visa list (DEMIG database, 2014). Legal activism in the context of EU-led reforms targeted what might be called Turkish immigration policy, which was regulated through various legislation such as Passport

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[58] In Hess' study conducted in early 2000s, potential informants could only relate to research theme "transit migration" when researchers mention the name "refugees'' (2012: 431).

[59] Referred to as the 1994 Regulation, hereafter.

[60] As a result of the 1994 Regulation and its Implementation Directive enacted in 2006, both the Ministry of the Interior and UNHCR process the applications of asylum seekers. However, Kirisci notes that in time, MOI relied more on UNHCR decisions (2012: 69).

[61] Later extended to 10 days. The 2006 Implementation Directive removed this clause and replaced it with "reasonable time period".

Law, the Law on Residence and Travel of Foreigners in Turkey and the Citizenship Law. The adoption of the Law on Work Permits of Foreigners, changes in the law regulating the acquisition of citizenship through marriage and harsher sentences introduced for human trafficking and smuggling in 2003 were among the important and unprecedented legal changes in the field of international migration in Turkey in the post-2000 period. Some of these legal measures were envisaged within the adoption of the EU acquis, and others were reactive measures to the changing mobility dynamics in Turkey. For instance, the introduction of a three years waiting period for the acquisition of citizenship through marriage was a response to the perception that female migrant workers with post-Soviet origins were legalising their stays through marriages of convenience (Bloch, 2011: 508).

The period between 2003 and 2008 is characterised by legal activism in the context of Europeanisation as well as increasing civil society awareness. At the level of implementation, enforcers had a wide space for discretionary power. The wide interpretation of notions such as Turkish traditions, political requirements and violating peace and security as grounds for detention and deportations, which led to various forms of human rights violations (Dardağan Kibar, 2013; Yılmaz, 2014). The case of Festus Okey, a Nigerian asylum seeker killed by a police gun while being detained in the Beyoğlu Police Station in Istanbul in 2007 has been a very visible example of such rights violations. The continuation of rights violations during the trial of this case triggered further civil society activism and led to rising awareness amongst academics, lawyers and other civil society actors about the question of asylum and immigration in Turkey.

As is further detailed in Section 5.4, existing, as well as newly established human rights organisations and other civil society actors, developed an interest in immigration and asylum issues in the post-2005 period.[62] The EU accession process has provided the basis for the emergence of civil society organisations working on immigration issues in Turkey in terms of opening a political space for- and making available- funding opportunities. Humanitarian and advocacy organisations have become more involved by becoming service providers of the UNHCR.[63] In this sense, the move from no policy to the adoption of a policy in post-2003 period has made irregular migration a subject of governance with the involvement of multiple external, state and non-state actors. Features of this emerging governance included a scattered legislative framework, a security dominated approach to irregular migration, a lack of public awareness or debate on the subject, rights violations in implementation and increasing civil society critiques. The extent to which Turkey's new asylum and

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[62] Common point made by informant in several NGOs such as Amnesty International, Turkey branch of Helsinki Citizen Assembly, TOHAV, Caritas.

[63] As a result, asylum seekers have become primary clients of civil society activities on immigration issues in Turkey due to UNHCR's leading role in the field, with the protection needs of irregular migrants are arguably sidelined (Scheel and Ratfisch, 2014), as further discussed in Section 5.4.

migration legislation and the institutionalisation around it, can remedy rights violations and change forms of politicization around immigration is yet to be seen.

New legislation and the institutionalisation of migrant illegality

The main motivations for the institutionalisation of immigration and asylum governance in the post-2008 period were the commitment to the adoption of the EU acquis, preventing the ECtHR's decisions against Turkey and growing international and domestic civil society activism leading to critical reports on rights violations (Kirişci, 2012: 77; see for instance HCA, 2007). In close cooperation with particular EU states, the UNHCR and the IOM, the Migration and Asylum Bureau and the Bureau for Border Management were established in October 2008 under the Ministry of the Interior. The establishment of these two bureaus after 2008 is indicative of the institutionalisation of migration bureaucracy in Turkey as well as the first steps of the politicisation of immigration issues. The main mission of the Migration and Asylum Bureau was to draft the Law on Foreigners and International Protection (LFIP). Prepared in regular consultation with stakeholders such as CSOs and academics, the draft law was made public in 2011, and the LFIP came into force in April 2014 after a year of its enactment. Legal and institutional changes envisaged by the law arguably brought about a new phase in the governance of immigration and asylum in Turkey. The process has led to the institutionalisation and emergence of a bureaucratic cadre focused on immigration in the post-2008 period.

As the name suggests, the LFIP includes foreigners' law and asylum law. It brings together formerly scattered pieces of legislation on entry, stay and the deportation of foreigners. For the first time, Turkey's asylum policy is codified as law, as opposed to secondary legislation, which mainly referred to regulations in earlier periods. As a major institutional novelty, the law centralises the policy making and implementation in the field of international migration and asylum under the Directorate General of Migration Management (DGMM). Before the LFIP, various state bodies were simultaneously responsible for policies concerning immigration.[64] As envisaged by the law, DGMM and its organisations that are institutionalised at the provincial level will gradually take over responsibilities from the Turkish National Police (TNP). As in the case of Morocco, the EU support institutionally strengthened the Ministry of the Interior, but the organisation has institutionalised under a civil bureaucracy rather than the police department and the military. The strengthening of the civil bureaucracy arguably led to the strengthening of human rights-based approaches in immigration policy making, along with the security agenda that dominated irregular migration discussions since the early 2000s.

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[64] The most prominent of them are the Department of Foreigners, Border and Asylum under Directorate of General Security of Ministry of Interior and the Deputy Directorate General for Migration, Asylum and Visa under the Ministry of Foreign Affairs.

The law making process has revealed a gradual change in relations between rights-based NGOs in field and state institutions. In the process of law making, the state recognised the presence and importance of non-state actors and their experience in the governance of migration in Turkey. Despite tense relations between civil society and the state due to reports criticising deportation and detention practices, the opening of dialogue with civil society has been at the core of the law making process.[65] The Migration and Asylum Bureau was open to exchanging ideas in terms of the content of the law. During the process of legislation in the parliament, the presence of NGOs in commission meetings was an important aspect of law making. The informant from Amnesty International articulated the following:

> They are the ones organizing meetings. We received invitations from them. We do not receive many invitations from state institutions as CSOs. As state tradition, we do not have a participatory state tradition in any subject. Same goes for migration. This happened because of the vision and individual sensibilities of bureaucrats in the Bureau. Also, the Minister of Interior at the time was more open to dialogue with civil society. This also encouraged the bureaucrats. As a result, we were invited in several workshops and consulted.

The same informant also added that civil society's presence in Parliamentary Commission meetings was not by invitation but was due to their insistence to participate: "I called the Commission to ask if we could participate at the meeting. They first said no, they said you need approval of the head of the commission. We had to act quickly; at the end, we forced them to invite us. We could receive the written permission". However, limitations on NGOs' participation in certain meetings and short consultation periods indicate a top down inclusion process. In this sense, it was different from Morocco, where civil society and migrant organisations had to carve out their political space.

Along with procedural changes, there has been a change in terms of the framing of the issue of irregular migration in particular and of immigration in general in post-2008 period. The arguments pertaining to inability to deal with migration also hold in Turkey, in a similar way as they were applied in the case of Morocco. Officials have maintained their concern over burden sharing with the EU (largely discussed elsewhere, Kirişci, 2012; Tolay, 2012: 54; İçduygu and Üstübici, 2014: 54-55) and security aspects of migration. As articulated by one official from the police department: "If we agree on readmisions, our streets will be full of foreigners, we cannot walk around comfortably". At the same time, the perspective has shifted from a securitised to a human rights approach. Atilla Toros, a well-known bureaucrat in the field of migration and asylum, and currently the head of the DGMM, publically stated that he had visited detention centres himself and had spoken with asylum seekers in satellite cities. By stating, "we looked in the eyes of asylum seekers while writing these

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[65] Interview with HCA, İstanbul, November 2013. Amnesty International Turkey, Ankara, November 2012.

laws", he is referring to the degree of the shift from a purely state centric perspective to a more human rights perspective. The increasing numbers of reports by the Human Rights Commission in the Turkish Parliament also exemplifies the growing interests to protect the rights of immigrants (see reports by Turkish Parliament Human Rights Inquiry Committee, 2010; 2012; 2014).

Another motivation for the law was the economic aspect of immigration. The overall rationale of the law published by the Ministry of the Interior underlines "Turkey's climbing economic power" as an attraction for migratory movements.[66] In a parallel vein, officials interviewed widely referred to Turkey's "own dynamics", referring to the conviction that Turkey's needs for these reforms regardless of EU accession have become widespread. The term "own dynamics" refers to the growth in the Turkish economy since the economic crisis in 2001. As the macro-economic variables indicate, Turkey is much more integrated into the global economy than Morocco. Thus, Turkey's immigration experience is related to the country opening up to the global economy and its wide informal sector (Toksöz, Erdoğdu and Kaşka, 2012; İçduygu and Yükseker, 2012). The informal sector has grown over many decades and has absorbed low skilled workers from different parts of the country who are excluded from the formal sector.

According to the Ministry of Labour and Social Security, the informal economy constitutes nearly half of the total economy.[67] The Turkish Statistical Institute estimates that unregistered informal employment comprises 40% of the total employment (Arca, 2013). Within this picture, the unregistered foreign labour force has predominantly been informally employed in small and medium sized workplaces in construction and related industries, as well as in the industries of leather, textiles, agriculture, care and tourism. (Toksöz, Erdoğdu and Kaşka, 2012: 72-76). Meanwhile, it is not possible to talk about either an official demand or a conviction for the need for a foreign labour force.[68]

On the one hand, the relaxation in visa policies since 2010 shows that Turkey reflects the continuation of a laissez-faire approach to irregular labour migration and indirectly to transit migration into the EU. On the other hand, recent changes in visa policies have aimed at curtailing circular mobility and at registering those overstaying in Turkey. In line with the EU acquis, the law requires that "the duration of stay

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[66] See "Overall Rationale", *DGMM*, Retrieved 15.05.2015 from http://goc.gov.tr/icerik3/overall-rationale_913_975_977

[67] See Kayıtdışı İstihdamla Mücadele (KADİM) Projesi, [Project on Fight with Informal Employment], Circular by the *Ministry of Labour and Social Security*, 10.04.2006. Retrieved 15.05.2015 from http://www.kayitdisiekonomi.com/files/20061004-13-1.pdf

[68] There has been an ongoing on facilitating work permits of foreigners in certain sectors as well as in the case of Syrians. As of May 2015, these discussions did not turn into a concrete policy. The only sector where the need for migrant labour has been acknowledged by officials interviewed at various levels has been child and elderly care.

provided by the visa or visa exemption shall not exceed ninety days within one-hundred eighty successive days". The EU accession process and the increasing visibility of irregular labour migrants in certain sectors have been main motivations for changing the visa policies. This legal change was followed by a one-time exceptional regularisation scheme implemented in the summer of 2012 to give a chance to those who entered the country before the illegalisation of multiple entries.[69] It was a one-time amnesty whereby migrants with a legal entry could pay fines for the time they overstayed and apply for a six months exceptional non-renewable residence permit.[70]

On the other hand, the rationale behind the law acknowledges irregular migrants' economic presence in the country. The Turkish state indirectly admits that there have been violations, particularly in the context of the deportation of irregular migrants. On the other hand, the content of the law does not radically extend the rights of irregular migrants. The law's main impact on the lived experiences of illegality can only be seen in practice. However, as a written document, the law aims at providing a clear filter amongst asylum seeker, legal migrants and the illegal (Tolay, 2012). An official from the police department explained these distinctions and the aim of the law as follows: "The food comes into the body, if it is good (legal) it is digested, if it is bad (illegal), it is thrown away". As this metaphor suggests, the content of the law arguably aims to reinforce the distinction between asylum seekers' legitimate right to stay and the illegitimate presence of irregular migrants. The LFIP does not lift the geographical limitation on who can be admitted as a refugee in Turkey. However, provisions in the law ensure the principle of non-refoulement, access to asylum and enjoyment of fundamental rights by asylum seekers and refugees. The LFIP envisages no similar provisions regarding irregular migrants' access to health care and education.

The issues of detention and deportation are the most criticised, hence politicised aspects of irregular migration management in Turkey. Reports have focused on the widespread use of detention, long detention periods, conditions of detention centres and unlawful deportations and detentions because of the problems inherent in the functionality of the international protection system (HRW, 2008; HCA, 2007; SRHRM, 2013, for an extensive list of report on the subject see Grange and Flynn, 2014: 19). As emphasised by the UN Special Rapporteur on Human Rights of Migrants, detention appears as a migration control technology rather than a measure of last resort (SRHRM, 2013: 10-11).

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[69] Vize İhlali Yaban Yabancılara İkamet Düzenlemesi [Residence Permit Regulation for foreigners who overstayed their visa]. *haberler.com*, 09.06.2012, Retrieved 15.05.2015 from, http://www.haberler.com/vize-ihlali-yaban-yabancilara-ikamet-duzenlemesi-3695158-haberi/

[70] Note that it only applies to those overstaying their visa in exchange of quite high fees. The initiative was to remedy the change in the entry laws (see Article 11 of the LFIP) rather than to forge a regularization campaign as we have seen in the case of Morocco. How migrants perceive this policy as one way to legalise their status is explained in Section 5.4.

In response to critiques from different actors, the law clearly aims to standardise the treatment of foreigners by leaving less room for discretion in the hands of authorities, especially with respect to deportation and detention decisions (Dardağan Kibar, 2013). When compared to previous legislation, the law provides more grounds for justifying deportations in cases of irregular entry, stay and work. At the same time, it provides protective measures to certain groups in vulnerable situations.[71] The legal basis for detention is provided for the first time, and terms of detentions are clarified. As direct response to ECtHR decisions against Turkey, the law ensures procedural guarantes, the right to appeal to decisions entry bans, detentions and deportations. In other words, migrants and/or their legal representatives are given time to leave the country and the possibility to go to administrative courts to contest authorities' detention and deportation decisions.[72] However, there are exceptions in the law, which state conditions under which the legal period to leave Turkey may not be granted. These exceptions include obscure concepts such as posing "a public order, public security, public health threat" and give authorities a degree of discretionary power and the capacity to legitimise immediate deportations; thus, they can potentially preclude irregular migrants' access to procedural guarantees and jeopardise their right to stay in the country. The law brings important novelties, especially procedural guarantees, regarding irregular migrants' right to stay. At the same time, certain clauses on discretionary power may lead to the continuation of arbitrary practices that violate human rights.

The LFIP also brought unprecedented novelties such as permanent residence permits or articles mentioning the integration of foreigners and asylum seekers. What was interesting is that there were few political debates and hardly any negative views on this emerging immigration policy realm during the preparation and legislation processes. This resonates with the general lack of public discussion and parliamentary discussions on the subject of irregular migration and asylum (Tolay, 2012).[73] Interviews with HCA[74] confirm that despite the increasing awareness that Turkey is becoming a country of immigration, immigration has not yet become a political or electoral issue that should be introduced as a topic that concerns the general public or their opinions.

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[71] Articles 54 and 55.

[72] According to Dardağan Kibar (2013: 125), the clause foreclosing the possibility to appeal a court decision "is susceptible to paralyzing the development of case law and increasing overly elaborate decisions".

[73] Genç's analysis of parliamentary proceedings between 1990 and 2010 reveals that Ministers of the Interior and of Foreign Affairs never raised the issue of irregular border crossings in and out of Turkey except one time in the context of Iraqi asylum seekers during the Gulf War (Genç, 2014: 58-59). This is striking given the sharp increase in the number of apprehended migrants in the same period (from nearly 11,000 in 1995 to nearly 100,000 in 2000 see Annex 2).

[74] Interview with HCA, Istanbul, November 2013.

The issue has not become part of high politics in the sense that political parties would differ on their stance on the question of immigration.[75]

In this context of lower levels of politicisation, media coverage tended to reproduce stigmas around certain migrant communities rather than inform public opinion on socio-political and human rights aspects of the issue. Informants underscored that media attention to the subject has been limited to accidents and casualties along the land and sea borders. The sparse media attention on immigration is likely to change with the Syrian crisis. Even in the case of Syrian refugees, media attention has been limited compared with what one would expect when looking at the outstanding number of Syrian refugees (Düvell, 2013). Meanwhile, the Syrian conflict has gradually altered low political profile and external character in relation to asylum and migration issues in Turkey. In the South-Eastern provinces where Syrian refugees are most visible, there is evidence of discontent against Syrian refugees (Şimşek, 2015: 59-60).

The LFIP has arguably re-defined migrant illegality in legal terms and introduced procedures and rights that are more lenient with asylum seekers and are tougher on irregular migrants (Tolay, 2012: 52). The outcome of the legal changes in terms of remedying heavily criticised human rights violations can only be seen in their implementation. The rationale of the law recognises the presence of irregular migrants in the economy and shifts away from a security approach to one that is concerned with international mobility in general. However, the content of the law provides no rights for irregular migrants, aside from procedural guarantees in cases of detention and deportation. The law making process has clearly opened up a dialogue between state actors and civil society. However, the new legislation and institutions, in other words, the shift from no policy to policy on immigration and asylum did not necessarily alter the low levels of politicisation around the issue. This trend of de-politicisation is likely to change with the arrival and increasing visibility of Syrian refugees in Turkey.

To conclude the section, the discussions and practices around irregular migration in Turkey are incorporated into asylum and Europeanisation discussions. Scholarly research has framed the policy transformation as a case of Europeanisation. This section has argued that what is disguised as Europeanisation is the institutionalisation of migrant illegality. The section has explained the rather informal character of immigration policy and the de-politicised character of migrant illegality in Turkey. I have suggested that relatively lower degrees of politicisation have characterised the governance of irregular migration. Chapter 5 will further explore the impact of relatively low levels of the politicisation of irregular migration for migrant incorporation.

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[75] Note that this situation is drastically changing with Syrian refugees. Major political parties before the 2015 General Elections included their policies towards Syrian refugees in their party programme and provided diverging views on the issue.

Conclusion: from the international production of migrant illegality to migrant incorporation

Focusing on the policy and institutional levels, this chapter has sketched the diversity of actors and contextual factors contributing to the production of migrant illegality in two contexts. Both Turkey and Morocco have intrinsically taken part in the EU migration regime. In both contexts, irregular migration was initially an aspect of their changing out migration flows to the EU and later became a policy concern regarding incoming flows. The volume, source countries and profile of incoming migrants differ from one context to another. What is comparable, as I have suggested, is the emergence of irregular migration as subject of governance in Turkey and Morocco, through similar techniques of producing migrant illegality and the countries' similar positions within the international context.

It is undeniable that EU has played a major role in this process of making irregular migration a subject of governance in its periphery. The notion of *transit country* is important for understanding the impact of the international context on the production of migrant illegality in peripheral contexts. The countries identified as transit have taken measures to control mobility along their borders with the EU. Ironically, these countries are labelled as *transit* due to measures they have introduced in collaboration with the EU to *stop transit.* In peripheral contexts such as Turkey and Morocco, migrant illegality was initially produced as a by-product of the political will to stop irregular entries into the EU. This has led to the increasing involvement of the EU in the border infrastructure of the transit countries as well as the increasing activities of international/ intergovernmental organisations such as the UNHCR and the IOM; it has also led to changes in the legal infrastructure of transit countries.

This preoccupation with securing EU borders has had diverse outcomes. As is widely shown in the literature, rather than eradicating irregular border crossings, these measures resulted in costlier and riskier transit movement and led to migrants spending more time in the transit countries. One result of this process has been authorities' instrumentalisation of the label transit country to suspend the human rights of migrants that are allegedly on their way to Europe. The construction of certain countries as transit contributed to state discourses that sidelined their responsibilities towards irregular migrants (Oelgemoller, 2011: 415). This led to the growth of the foreign population with no legal status, hence with no rights to have rights, in transit zones.

This process also resulted in the introduction of restrictive policies that were not only at border zones but were also apparent in internal migration controls. Sections 3.3 and 3.4 have revealed that both Turkey and Morocco introduced restrictive legal measures to control irregular migration. Irregular migration as a policy issue was arguably more problematised and criminalised in Morocco. Conversely, in

Turkey, labour aspects of irregular migration went hand in hand with security aspects. Restrictive policies and harsh enforcements have led to human rights violations and consequently to international and domestic critiques in both contexts. After years of denying responsibility for the rights of irregular migrants on its soil, Morocco recently, in 2013, shifted its policies to recognise irregular migrants' right to stay and integrate. In parallel, Turkey introduced its first comprehensive law on asylum and foreigners only in 2013. Immigration policies in Turkey have gone through a process of gradual transition. EU-led reforms and state efforts have aimed at striking a balance between the ongoing, albeit slow, EU process and the increasing numbers of incoming refugees and migrants.

Given the similar emergence of the issue of irregular migration in the political agenda despite different levels of politicisation of the issue, Morocco and Turkey provide suitable comparative cases for exploring the impact of the interrelation between external and domestic factors on migrant illegality. Building on the conclusions of Chapter 4, Chapters 5 and 6 explore how the particular production of migrant illegality in the contexts in question has impacted migrant incorporation experiences. Chapter 4 on Morocco and Chapter 5 on Turkey question how the exclusionary practices vis a vis migrants have impacted migrants' experiences of incorporation at the levels of policy, discourse and practice: What roles do *enforcement by the bureaucracy, market* and *civil society* play to define as available strategies for migrant incorporation and their access to rights and legal status? To answer these questions, Chapters 4, 5 and 6 are focused on the outcomes of the production of illegality in terms of migrant incorporation.

Chapter 4: "Halt Raids, we are in Morocco, we live in Morocco → we love Morocco": Morocco as a case of political incorporation

Figure 4.1 A protest by migrants in the streets of Rabat, "Halt Raids, we are in Morocco, we live in Morocco → we love Morocco"

Source: unknown. The picture has been used on several occasions since 2012. See for instance, Le Gadem devoile la liste des lieux de detention des migrants au Maroc. Retrieved 15.03.2015, from http://www.medias24.com/SOCIETE/152908-Le-Gadem-devoile-la-liste-des-lieux-de-detention-des-migrants-au-Maroc.html#sthash.cM7mFIU5.gbpl

Introduction

This chapter discusses the mechanism of exclusion and inclusion that pushed and enabled irregular migrants in Morocco to gain a political voice. The chapter highlights a particular production of migrant illegality and a mechanism of migrant incorporation in the Moroccan context, which have given rise to social exclusion and marginalisation in the social and economic life. Interestingly, it also illuminates the emergence of migrants as political actors, seeking rights and recognition through associations. Chapter 3 already characterised the governance of irregular migration in the Moroccan context in terms of the external pressure for securing the European borders, the absence of a political will and a clear market demand for immigration since Morocco is still a country of emigration, an exclusionary discourse towards irregular migrants, and, only very recently, a *radically* new immigration policy

initiative. The regularisation of migrants without legal status in Morocco has been a major aspect of the new immigration policy. While the outcomes of the new immigration policy initiative are yet to be seen, testimonies of migrants reveal the gradual but drastic change in the visibility of migrants in the social and political spheres. For sub-Saharan migrants, "it was impossible to walk in the street back in 2005"[76], in the aftermath of the Ceuta and Melilla events. In a 2014 public meeting organised by the Ministry in Charge of Moroccans Abroad and Migration Affairs, critics to the Minister himself stated that he applauds that the children of irregular migrants are currently being admitted to primary schools, but the curriculum is not suitable for pupils of Christian origin.[77] How can migrants in irregular situations raise their voices as political actors, given the official discourse and legal framework that have been criminalising their presence on Moroccan soil?

Figure 4.2 On the left, a migrant activist approaching the Minister Anis Birou and talking to him about the legal status of the association she is working with during a policy meeting. Rabat, 11.03.2014.

Source: taken by the author, during the meeting "The new migration policy in Morocco, which strategy of integration," organised by Ministry in Charge of Moroccans Abroad and Migration Affairs, IOM, Confederation of Switzerland, March 11th and 12th, 2014, Rabat, Morocco (see the picture on the right).

The chapter discusses policies and practices that have pushed migrants to exclusion and further marginalisation and others that have enabled their social and political incorporation. Earlier research and reports have mostly focused on migrants' living conditions during their journeys to the EU and their access to fundamental rights (AMERM, 2008; Cherti and Grant, 2013; Alioua, 2008; Pian 2009). The empirical discussion in this chapter extends and updates prior findings by focusing on the link between mechanisms of the production of migrant illegality and migrant incorporation

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[76] Interview with a member of CMSM

[77] Observation during the meeting "The new migration policy in Morocco, which strategy of integration" organised by the Ministry in Charge of Moroccans Abroad and Migration Affairs, IOM, Confederation of Switzerland, March 11th and 12th, 2014, Rabat, Morocco.

experiences in Morocco. The chapter explains how migrants of irregular status experience legal, economic and social exclusion, and negotiate their rights (to stay in the territory) through mobilisation practices aimed at acquiring rights and access to legal status.

The first section explains migrants' experiences of exclusionary practices of deportation, which have given rise to growing criticism, especially since 2005. The second section shows mechanisms through which migrant illegality is re-produced, resulting in exclusionary practices at different stages of the migration experience such as settlement and labour force participation. Here, I question the connection between migrant illegality, formal exclusion from the body of membership, and informal inclusion in the labour market, widely referred to in the literature (Calavita, 2005; Garcés-Mascareñas, 2012). The findings also highlight that exclusion is never absolute and is always negotiated on the ground. Regarding the possibilities for bureaucratic incorporation, the cases of access to health care and education are scrutinised to reveal mechanisms of bureaucratic incorporation and to highlight the role of civil society mobilisation in enabling the access to certain fundamental rights as well as migrants' visibility in the social and political spheres. The role played by civil society, including international, Moroccan and migrants' associations is extensively discussed in Section 4.4, with respect to the question of mobilisation for the rights of irregular migrants. The last section looks closely at how access to rights and legal status is negotiated through mobilisation for the rights of irregular migrants and how irregular migrants themselves have become a vital to this civil societal network. The emergence of a vibrant civil society in Morocco and the alliances built between Moroccan and migrants' associations increased migrants' visibility as rights bearing subjects seeking membership on Moroccan soil. I argue that immigrants of irregular status in Morocco are incorporated as rights-seeking political actors despite the physical, economic and social exclusion they have experienced.

4.1 Deportability as part of daily experience

The literature extensively documents the strict border controls, increased costs of crossing borders as well as migrants' reliance on smuggling networks and their experiences of violence along the journey (Collyer, 2010; HRW, 2014; MSF, 2013)[78]. The use of coercion in the form of push back, removal to the border and physical abuse define migrants' experiences of the post-entry period and work as mechanisms to push migrants away from the EU borders into urban areas of Morocco. What is at stake in the Moroccan context is that these strict control practices are not limited to

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[78] Note that the experience of violence is a common character of the journey for migrants arriving Morocco through the land road. Reports and research have revealed that beating, robbery and rape by smugglers, bandits start before migrants arrive Morocco (Cherti and Grant, 2013; HRW, 2014). Most migrants entering from the land borders arrive physically and psychologically exhausted after long journeys which may take from several months to several years depending on one's resources (interview with MSF and Terre des Hommes, Rabat, April 2012).

the areas bordering the EU. Migrants' experiences of deportability, in terms of their removal to non-EU frontal zones are not only seen as a possibility but are a part of their daily reality. Deportability defines the experiences of those in rural areas who are waiting for opportunities to cross the border as well as those who are semi-settled in urban areas. Until the September 2013 reform initiative,[79] commonly reported aspects of migration controls in Morocco included difficulties with mobility after entering Morocco, deportation practices between the EU and Algerian borders and police raids in urban settings (GADEM et al, 2013; HRW, 2014). These practices reveal the coercion inherent in what is called "external dimensions of EU migration policies" and show that the borders of Fortress Europe start way before migrants reach the actual EU borders. Migrants' experiences of deportability at different stages of their journey in Morocco, such as illegal entry, the post-entry journey near the EU border or entry and settlement into the urban centres constitute major exclusionary mechanisms that make migrants' incorporation into the society increasingly challenging.

Entry and removal to the Algerian border

Despite a relatively liberal visa regime that allows passport holders from several countries to enter Morocco legally with a renewable stamp,[80] a considerable number of migrants with no passports, who had to flee dire economic and political conditions in their countries of origin, enter Morocco through human smuggling at the Algerian-Moroccan border.[81] Oujda, the city situated at the Algerian border, is the main entry point, especially for those who enter without passports.[82] From Oujda, those with resources (i.e money and connections) immediately look for ways to leave for Europe. Others look for opportunities to move to urban centres such as Rabat, Casablanca, and Tangier[83] where, according to previous research, they are stranded in Morocco for around two to three years to collect money to move forward to Europe (AMERM, 2008). Migrants typically hide in the forests on the outskirts of Tangier and Nador, living in ad hoc camps, while they attempt to cross European borders without documents. There is evidence that controls along the EU border are stricter and more

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[79] The changing deportation practices since the reform are explained below.

[80] Morocco does not require a visa from the following African countries: Algeria, Congo-Brazzaville, Guinea, Ivory Coast, Libya, Mali, Niger, Senegal and Tunisia.

[81] The land border between Algeria and Morocco is officially closed since 1994 because of the conflict over Western Sahara.

[82] GADEM notes that it is much more difficult from the Southern Morocco –Mauritania border without legal documents. Those entering from the Southern borders have valid passports and visas (if required). Given the difficulty of acquiring a residence permit, they exit the country every three months, in order not to fall into irregularity (GADEM et al., 2014: 8-9).

[83] Reportedly, Tangier was deserted in 2005 after Ceuta events. However, in the last couple of years, urban migrants started to settle there again.

violent (Migreurope, 2006: 11; MFS, 2013). The rural areas around the city of Nador are identified as the most difficult areas to operate by humanitarian agencies.[84]

Figure 4.3 Control and settlement in Morocco
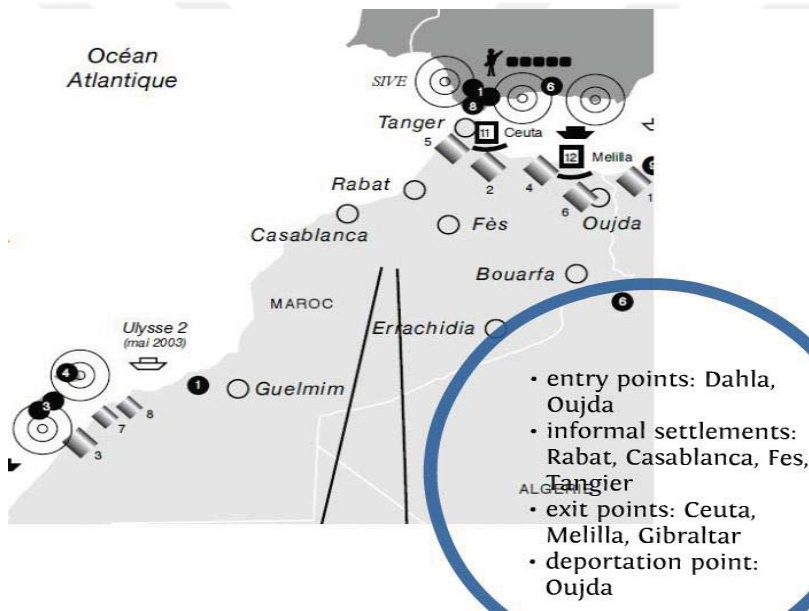
As discussed in Chapter 3, the non-EU borders of Morocco are not equally equipped with security measures, thus they are more permeable. Interviews in Morocco have revealed the necessity of getting help from smuggling networks, although it is relatively easier and less costly to cross the border between Algeria and Morocco. Edith, a 52 year old woman from the Democratic Republic of Congo (DRC) explained that crossing the border into Morocco is not challenging, but the real challenge starts after: "At the borders, they know that we are poor. You pay but not so much- 50, 100 or 200. This is already too much." The permeability of the non-EU borders has given rise to different forms of exclusion in the post-entry phase of migration, especially for those entering without documents through the Algerian border. Once in Oujda, it is difficult to exit the city either to go to big cities such as Rabat or Casablanca or to go to the North near Tangier or Nador to try to cross into Europe. Most migrants and NGOs operating in the field have underscored that migrants have limited mobility after arriving to Oujda. The city centre and surroundings have been closely controlled by the authorities. Unlike Rabat or Casablanca, for a foreigner without legal documents, it is almost impossible to rent a

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[84]   Interview with MSF, Rabat, April 2012.

house and/or work in the informal market. The police closely monitor the informal settlements in Oujda's forest, near the border and around the university, and there have been arrests and raids that have destroyed informal camps in the rural areas, pushing migrants back to the Algerian border. An NGO operating in Oujda confirmed that removal from the forest has become an increasingly regular practice since 2006: "the police intervene at 4 AM in the morning and puts on fire the tents in plastic which were given by MSF."[85]

Along with the coercive practices and practices of removal to the border, the major reason migrants are stranded in the forest in Oujda is that foreigners without legal papers are not allowed to leave the city of Oujda by regular train or bus.[86] As migrants cross the border illegally, they lack the necessary papers. Therefore, they are also denied access to travel to other parts of the country. This situation of *de facto entry denied* renders individual migrants stranded in Oujda and more dependent on smuggling networks not only to reach European borders but also to reach bigger cities such as Casablanca or Rabat.

> Moroccan authorities have established a system of blockage to prevent exit from Oujda, in all means of transport. For instance, in the station, they have established the police control. They ask for papers when they see a black person. The same is true for bus stations, for stations of big taxis. That means they have put in place a system of blockage for migrants entering and exiting Oujda.[87]

The Morocco-Algerian border near Oujda is also the exit and re-entry area for migrants apprehended by the police, either near the border or in urban neighbourhoods, who are pushed to the Algerian border and re-enter Morocco. Removing these migrants, who are apprehended in irregular situations, to the Algerian border creates a cycle of immobility. Every time migrants are caught without documents, they are deported to the Algerian border near Oujda and walk back to the informal settlements around the city, where they are blocked again. An NGO worker based in Tangier explained the process of removal to the border and the re-entry as follows: "In Oujda, they spend 2-3 days in the police station. [after removal to the border] they have to walk around 80km to arrive to the city. After Oujda, you need to find a connection to buy a ticket for the bus. If an African student buys the ticket, migrants can escape control. There is no major control after the bus leaves."[88] To overcome this blockage and de-facto refusal of entry, most migrants pay to acquire forged papers after entry, having the knowledge that an identity may protect them

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[85]   Author interview, Oujda, September 2012.

[86]   The Oujda train station was the only place where my identity was checked before buying a train ticket to Rabat.

[87]   Author interview, Oujda, September 2012

[88]   Author interview, Tangier, April 2012.

from deportation and enable their access to other cities. They can help to buy tickets with a fake or borrowed student identity or with a forged asylum application. The cost of fake papers and the journey to big cities varies from case to case. Naima, after entering Morocco needed fake papers to move to the border:

> As there are controls, you need to have papers. There are people doing fake identities to allow you to get out. These people will also buy you tickets for the bus, train etc. Like this, they put us in a train and we came here. There are always people you pay, they give you papers and fake identities. It depends on the individual, some people pay 500 MAD, others 1000 MAD.[89]

Here, the interesting point is that papers are not only essential for crossing borders, as is widely studied in the literature on human smuggling, but are critical for one's movement within the country after crossing the border without documents. There are several implications of these practices of denial of entry in terms of the production of migrant illegality, migrant incorporation and access to rights. Because of this system of blockage, migrants are immobilised and illegalised upon their entry into Morocco. Their right to enter and stay within a safe territory, as asylum seekers or as persons who cannot be deported because of their need for protection as stated in the law 02-03, is denied. As UNHCR does not have an office in Oujda, the access to asylum right after entering the territory is not possible. Potential asylum seekers are expected to reach the UNHCR office in Rabat. As emphasised by the informant from the Moroccan Organisation for Human Rights (OMDH): "In Morocco, there are many refugees who are not recognised because they were not able to come to Rabat and apply for asylum."[90] OMDH as the implementing partner of UNHCR at times accompanies migrants willing to apply asylum from Oujda to Rabat but this only applies to exceptional cases. In this sense, migrant illegality at the border is reinforced through the denial of access to asylum. Most asylum seekers indeed face the risk of deportation before they even become an applicant. Fake identities may protect migrants from deportation, while they also increase their dependence on criminal networks. From the legal perspective, by forging papers, irregular migrants, including potential refugees amongst them, become foreigners engaged in criminal activities.

As was apparent in the narrative of André, an asylum seeker whose story is briefly presented in Chapter 1, the strict border controls and coercive practices make entry to Europe riskier and costlier, and push migrants who intend to cross to Europe from border areas to urban neighbourhoods. Having experienced the hardship of life in the forest area, several migrants interviewed, moved to urban centres such as Rabat, Casablanca and Tangier, where they looked for opportunities to collect money and ways to move forward. In other words, strict controls, harsh living conditions and removal practices along the EU border in the transit context, create a situation where

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[89] 1 Euro was around 10 MAD at the time.
[90] Interview with OMDH, Rabat, April 2012.

even the most determined migrants may change their minds or at least settle in urban areas until they find the next opportunity to go to EU borders. Naima (29), from the Central African Republic left her husband and two children many years ago and has been travelling alone. She arrived in Oujda after a long journey, passing through Cameroon, Nigeria, Niger and Algeria with the intention to cross to Spain. She was advised to go to Rabat and apply for asylum after her unwanted pregnancy:

"Upon my arrival, I left to the forest to attempt the journey. We were settled in the forest. After, we attempted, attempted, we were drowned in the water with small zodiacs. We were stopped. We were sent back. You sleep in the camps. Men go to search for water, the food… there were other women and men. We were in group. Men and women were sleeping in different areas. Some people were going to the city to search for food. It was a long walk, sometimes in the dark. Sometimes you find tomatoes, not in good condition. Then, we go to "attack". We call this attack. How many people? It depends on the zodiac, if it is small, 15 people." When I met her, she was expecting a baby as a result of an unwanted pregnancy. "I was in Nador." She explained, "We tried, it did not work. Then, I was raped. There was pregnancy. There was a brother there, with his wife. Together, we came here."

This practice of pushing migrants from the EU border to cities reveals that migrants who have the primary motivation to move to Europe spend enough time in Morocco to become de facto members of society and at times political actors claiming recognition. Indeed, most association and community leaders have experienced the practices and living conditions along the border. André's story, introduced at the very beginning, illustrates how migrants' experiences of exclusion at the EU border may translate into political activism in the post-entry period. Having worked in Libya for three years and having attempted to cross the Morocco-Spanish border several times, André is now an association leader in Rabat and has been actively working to end violence and discrimination against migrants from sub-Saharan Africa and towards regularisation of undocumented migrants in Morocco. After leaving the forest in early 2012, André moved to Rabat and worked in temporary petty jobs in construction as a carrier, while waiting for the result of his asylum application, which was still pending as of May 2014. Most migrants, seen as in transit by policy makers and practitioners, are semi-settled in urban contexts with other migrants in irregular situations who never attempted to cross the border.

Deportability in urban life

Given the hardship at border areas, most migrants decide or are forced to move to urban settings. However, moving to big cities only partially provides protection from deportation practices. Raids by the police in urban neighbourhoods have been part of the daily experience that pushes migrants towards further marginalisation in their social and economic life, revealing the thin line between deportability as a possibility and deportation as reality of life. Until recently, deportability has been seen as a part of daily life rather than an exception. As discussed in Chapter 2, the production of

migrant illegality renders migrants an irregular legal status, as deportable subjects by the state. It has been emphasised that it is the possibility of deportation rather than its actual realisation that made migrants docile subjects and exploitable workers (see Calavita, 2005; Peutz and De Genova, 2009: 14; Garcés-Mascareñas, 2012). Conversely, in the Moroccan case, deportation has been practiced, until very recently, at the heart of the national territory. Such practices have made deportability a part of the daily experience.

It has not been possible to collect data on the frequency of police raids in urban settings, but the NGOs interviewed, emphasised the changes that have been made in the practices of removal to the border over time. Consequently, migrants' experiences of deportability are subject to change in time and from one group to another. Informants from civil society organisations drew attention to the unpredictability of the timing and frequency of raids but also to changes and improvements in the practices over the years. One common point that was made was that the situation has not been as bad, at least in urban settings, as it was in 2005 and 2006. Moussa, a migrant from Guinea who has been settled in Morocco since 2002 after trying to cross for several months when he first arrived, explains the changing conditions of deportability over the years: "Before we could not go out. They [migrants] were hiding in the forest, in [safe] houses. There were a lot of raids. Great change, it is for the better […] With police it has changed, it is totally better. You see Africans working in construction with Moroccans." While deportation continues to be a part of the reality, one particular way deportation practices have changed concerns the treatment of groups such as women, minors and asylum seekers that are protected by the law:

> I think there are always deportations. It does not change. …The deportation of pregnant women has decreased, especially in Rabat and in Casa. In Oujda or Nador, it might happen if you are arrested. In Rabat, Casa, women with babies are not stopped. For men, it is possible, always there are deportations. Before, they are arresting pregnant women. It is even against the law 02/03.[91]

Not only in law but also in practice, some groups are defined as less illegal, more legitimate, hence less prone to deportation than others. Due to the widespread belief that "the police do not touch women", being pregnant or travelling with kids have become a way through which young women avoid the danger of deportation. Thus, like genuine or forged papers, pregnancies and small babies may serve the function of countering the danger of deportation (Kastner, 2010: 22). There is also widespread belief that babies enable easier access to legal status once the migrants cross into Spain. This is why they are commonly called as ''visa babies'' or ''protection

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[91]   Author interview with an NGO operating in Rabat, April 2012.

babies".[92] Because she was pregnant, Naima was not sent to Oujda after she was apprehended at the border; instead, she was sent to Rabat. On the other hand, once the project to cross to Europe fails, pregnant women or single women with small children, albeit free from the daily experience of deportability, constitute the most vulnerable group in terms of their participation in economic life.[93] Naima, when I met her in May 2014, was eight months pregnant, unemployed and hopeless about the future.

Among several English or French speaking communities, Senegalese, who can enter the country with a valid passport, are known to be less subject to deportation. More generally, migrants who have a passport with a valid entry even though they overstayed their visa are less prone to deportation than those without a passport. Jules, a male migrant from the DRC, among others, also drew attention to changing practices of deportation. In his accounts, he noted that previously, everyone was deported. "Since approximately 2009, if you have a passport, even if it is expired, they will let you go". Hence, the possession of papers, even though they are not fully in line with immigration laws, provides a degree of protection from deportation. Overstayers in the urban setting are seen as less problematic, as they are seen as economic migrants, in Morocco as well as elsewhere.[94] The possession of certain papers protects migrants from deportation, especially those from nationalities who can travel to Morocco without a visa. Meanwhile, migrants with legal entry are aware of deportation practices, and they are cautious in their relations with the police. Oumar, a 22 years old Guinean man, came to Morocco by airplane to pursue a career as a football player. Oumar himself was not interested in clandestine migration but had witnessed "brothers" being taken to Oujda. Although Oumar had overstayed his three months visa stamped on his passport upon entry, he did not feel subject to deportation:

> There are raids. They put you to border. When you take a room, they will take you out, call the police. I have seen myself…[..] To Spain, clandestine, no! If I were not a football player... […] My objective is to play football, I cannot become a star in clandestine. ... When I am in a club, the club will ask residence permit for me. Even if your stamp is finished, the police will leave you because you have come legally. I was never stopped and asked for papers. I have never spoken to a policeman either.

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[92] One should not forget that pregnancy may be an unintended result consensual sexual relations or sexual relations along the journey (See Kastner, 2010 for an analysis of kinship and motherhood during Nigerian women's journey to Spain).

[93] As discussed in the next sections, they are more prone to begging but also more likely to get access to services through NGOs.

[94] Migrants from European nationalities, as well as migrants from African countries living in Southern Morocco prefer to stay on tourist visas and travel back and forth to renew their visa rather than applying for residence permits (GADEM et al., 2014). As counter evidence, I also encountered narratives on passports that are taken away by the police in Tangier and are only returned when migrants show a bus ticket to the border, usually to Dakhla, the city at the Mauritania-Morocco border as proof that they will leave the country.

Despite the diversity in migrant experiences and perceptions of deportability, practices of removal to the border had been the most heavily criticised aspect of immigration controls in Morocco. Most NGOs have called for the proper implementation of the national law, with respect to international conventions signed by the Moroccan state. Violations of national and international laws by security forces triggered widespread critiques by international, Moroccan civil society and migrants' associations. (See for instance, AMDH Oujda, 2012; AMDH, 2012; MSF, 2013). As explained in more detail in Section 4.4, such violations have also provided ground for migrant mobilisation.

After the King's speech

These critiques and recommendations led to a paradigmatic change in Moroccan immigration policies, initiated by King Mohammed VI, as explained in Chapter 3. Removal from urban areas to the border had stopped in the aftermath of the royal discourse given by the King in September 2013. Regarding the continuation of the removals from the EU borders to Oujda, there have been demands by NGOs to stop deportations (Chaudier, 2013). The response of the Moroccan state was not to stop removals completely but to force migrants located near the EU borders to go to Rabat, rather than to Oujda. NGO representatives and officials confirmed that there were no more removals to the Algerian border but was displacement to Rabat instead.[95] An official from the Ministry in Charge of Moroccans Abroad and Migration Affairs, dealing with immigration issues only since October 2013, responded to the question that I reluctantly asked on deportation practices at the border by first saying "no more taboos" and confirmed the displacements: "We have been first to say that there is violation. People are being taken to Rabat for integration. It is symbolic".

How can this new practice of displacement to the cities be interpreted in terms of migrant illegality produced within an international context? As discussed in Chapter 3, there has been a rupture in the Moroccan immigration policy framework. Meanwhile, the border securitisation efforts both by Morocco and Spain reveal a continuation in the way the EU borders are protected. Morocco remains *the gendarmerie of the EU*, and migrants and smuggling networks continue to alter their tactics of entry. In fact since 2013, "attacks" by migrants have become much more organised in the sense that migrants now gather in considerable numbers and organise a common attempt for entry.[96] André, like other migrant activists, very closely follows what is happening at the EU borders in terms of casualties and success stories:

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[95] Removal towards Rabat was reportedly stopped in the later months of 2014, as high numbers of arrivals from the border in vulnerable conditions has placed an unprecedented pressure on NGOSs providing humanitarian service in Rabat. Oujda was reported to be calm as of May 2014 (interview with IOM).

[96] See Section 3.1, for more detailed discussion on recent development along the Ceuta and Melilla borders.

Attacks have started in 2013. Every year, things change in the forest. As Europeans reflect on raising the barriers, we sub-Saharans also reflect on the tactics on how to get to Europe. If, for examples, we are 800, we attack the barrier, 150-200 can enter. Even if the others cannot enter, it is the price to pay.

This situation reveals that the new Moroccan policy for regularisation did not change human insecurities stemming from the EU border policies. In terms of migrant incorporation, the practice of pushing migrants towards cities shows that the introduction of a new policy approach resulted in migrants being more welcome to remain within the country, as long as they stay away from the EU borders.

Given the difficulty of crossing into Europe and the conditions of life near border areas, most migrants with the intention to cross into the EU reach big cities such as Rabat when their project to cross is jeopardised. In the urban setting, so-called *transit migrants* mingle with other migrant groups including migrants with legal status, asylum seekers, recognised refugees, overstayers and undocumented migrants with no intention to cross.[97] It is still questionable if the new policy approach can respond to migrants' marginalisation in economic and social life in urban areas. In the next section, the focus shifts from state practices that reinforce illegality to how migrant illegality interacts with existing economic and social conditions. I address how migrant illegality is experienced in economic and social life, as migrants settle and participate in the housing and labour markets in urban areas.

4.2. Illegality in (semi-)settlement

Settling into violent neighbourhoods

Mama, a 52 years old asylum seeker, separated from her husband, and along with her brother Jean-Baptiste[98] fled the civil unrest after the presidential elections in 2010 in Ivory Coast. After staying in refugee camps in Ghana, and Togo, they took the road to come to Morocco. Crossing through the Southern border with Mauritania, they arrived Rabat by train.

> After the first night in a hotel in the city centre, the reception man told us to go to the neighbourhood xx [she says the name of a poor neighbourhood of Rabat] to meet other Ivoirians. We took a white taxi[99], paid 15 MAD. There were a lot of black in the neighbourhood. The first black person we talked to knew a girl from Ivory Coast. We were looking for a place to stay. She said she had a cousin, she lived with her boyfriend and they have a big room. As they work during the day, the room is

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[97] In this sense, it is difficult to distinguish migrants on their (alleged) aspirations to go to Europe based on legal status, to the extent that the category of *transit migrant* is no longer useful for my analysis.

[98] They are biological sister and brother (I could see how alike they look) unlike ethnic based or solidarity based fictive kinship as will be explained below.

[99] A white taxi, also called a "grand taxi" is commonly used as public transportation. Similar to public bus, they have a fixed itinerary, and the prices are fixed from one point to another.

available. We stayed there 1 month. Then, we went to Caritas. They helped us to find a house. Caritas gives the money with the condition that we find a house ourselves, first.[100] So, we looked for a house. We looked from day to night. […] Then, by coincidence, we met a Senegalese man, a man that I had made acquaintance in Togo, in the refugee camp. This is how they have found the current house.

Upon their arrival to urban settings, most migrants have knowledge of which neighbourhoods to go to meet their co-ethics or co-nationals. They need relatively more experienced migrants to get housing. Edith (DRC, 50s) came to Rabat alone after passing through Oujda and was later joined by her sister[101] Maria with her five kids, and had a similar experience in finding a place to stay. She had left her country, the DRC, due to economic hardship and also because of the conflict that was taking place. She came to Rabat after years of travelling in African countries. She was happy to finally be in a safe country: "Here, we suffer but there is security, this is what is important in life". Edith admits that only in Morocco she feels the solidarity among Africans:

-We are Africans, I am not racist but it is true. When we arrive to a place, we look for black people, excuse me I have just arrived I do not have a place to stay then they let you in. Even me, when I arrived I was accommodated. It is for couple of months until you find something.

- Is it with Congolese or even other nationalities?

-Congolese but also other nationalities. In Africa no, but as we are here, if you are black it does not matter Ivorian, Congolese, they might help you. It is for a couple of months then you organise yourself and you look for your family, for example how I left the country, there was a woman who gave me her number. I asked around until I find her and she gave me a place to stay.

In the absence of access to formal right to stay, most migrants arriving urban areas rent a house, or rather a room in an apartment without a contract in poorer neighbourhoods of big cities [fr. quartiers populaires]. Finding an accommodation without legal papers is possible as long as migrants are ready to pay the price. As a common practice, migrants are asked higher prices than locals. In other words, they are integrated into the housing market by paying a higher price for their integration, as suggested by Cvajner and Sciortino (2010). Being subject to violence and opportunistic types of abuses constitutes an additional price that migrants pay for their informal integration. In my interviews and informal conversations with newly

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[100] Caritas, the charity organisation of the Catholic Church, has worked with irregular migrants since the early 2000s, as explained below. They consider accommodation as the first step for incorporation into urban life. Therefore, it is known that Caritas financially helps migrants in vulnerable positions such as minors, asylum seekers, single women with babies and new arrivals to secure an accommodation.

[101] Edith and Maria knew each other from their country. However, it is likely that they were not biological sisters.

arriving migrants, they mentioned the money, "integration price" [fr. "prix de l'integration"], they paid for settling in the first place.

The housing available for irregular migrants is usually in poorer areas where neighbourhood violence is widespread. There, migrants have become targets of aggression and petty crime. "Even in Rabat, there are neighbourhoods we do not go in the dark. xxx [she cites names of several neighbourhoods]. You cannot walk in the street. If you do, Moroccans will assault you, hurt you and even kill you if you do not have change. People are stabbed" (Amadou, 26, from Cameroon). Sunny (38, from Nigeria) shows the knife scar he has on his arm: "Big knife. He did not ask anything. He had a problem. It is because I am black. If you go to office [he refers to their meeting place with other Igbo men], many people have injuries like that". Lack of papers, forced to be settled in poor neighbourhoods and the lack of protection are interlinked in migrants' experiences of illegality. [102] Migrants in irregular situations do not have access to proper housing because of their lack of papers and lack of financial means. In other words, they are only admitted in poor neighbourhoods with high crime rates. African migrants, regardless of their legal status, are more subject to these kinds of violence because of their colour.[103] "These are young Moroccans, 18-25 years old. When they smoke weed and they see you in a corner, they say 'mobile phone and money', take out the knife. This is like this" explains André.[104] Those without legal status face further exclusion, as they also suffer from lack of access to legal protection and services. Because of fear of deportation, as explained in the previous section, most migrants who are subject to aggression are reluctant to go to the police. Some are even reluctant to go to hospitals, knowing that they may not be admitted or will have to pay high fees. Maya, a young activist explains that the neighbourhood violence and the lack of protection she, herself, closely experienced led her to join associations:

> There are things happening, it makes me cry. This is why I do not go out that often, and when I do, I go back before 8 pm. I am scared of walking on the road, I meet them [young Moroccans in the neighbourhood] by the road, they do everything and they are not scared of their parents. They do bad things. Do you understand? Somebody was attacked, almost killed, he was robed. When I heard of this, I was deceived. He went to hospital but he was not admitted, not touched because he did not have papers. When I learnt about this, I was very very, I think it is out of limits. What if he had died that day, what we would do because he does not have papers (Maya, 23, from Guinea).

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[102] Note that African students with legal papers also live in the same neighbourhoods known to be dangerous because these are the only areas they can afford a house.

[103] Violent clashes against sub-Saharan migrants are often reported by the media, see for instance, Un Sénégalais tué à Tanger après des heurts entre migrants et Marocains [A Senegalese killed in Tangier after clashes between migrants and Moroccans]. *telquel.ma*, 01.09.2014. Retrieved 29.03.2015 from http://telquel.ma/2014/09/01/senegalais-tue-tanger-apres-heurts-migrants-marocains_1414696

[104] A lot of women carry their mobile phones in their bras to protect them from thieves. Losing a phone is not desirable, as migrants also lose their connections within the city, to smuggling networks and to their countries of origin.

It is common for migrants in Morocco and other contexts, who lack legal status and financial and cultural capital, to live in disadvantaged neighbourhoods and be subject to the clandestine activities and violence that characterise these areas. However, as implied here and further explained in the discussion of mobilisation, what is interesting in the Moroccan case is that neighbourhood violence has been one of the exclusionary mechanisms motivating sub-Saharan migrants to get together under associations. Regarding their association based in one of the most violent neighbourhoods of Rabat, André articulates: "We mobilise at the moment. In Takadoum[105], you cannot stay calm. You need to be a lion to live there." Street violence along with police violence has been an important push factors for mobilisation. However, it is also a factor impeding migrants' presence in the public sphere. For many, going to meetings organised among their community is impossible because of widespread violence. Mama explained to me that she could not attend meetings of the Ivorians' association in Takadoum, although she wanted to, because the meetings were late in the evening, and the neighbourhood was dangerous at night. Despite the high rates migrant pay for a place to stay, and despite widespread neighbourhood violence, several informants made the point that the real challenge for migrant incorporation into the society is finding a job.

"Work is the problem"

> Moussa (56, from Guinea), arrived Morocco in 2002, after losing his business and getting "fooled by his commerce partners". He travelled with his passport to Morocco and kept looking for ways to cross Europe, clandestinely. "Before, it was easier to get into Melilla and into Ceuta. I tried to cross the barriers several times. 4-5 times, many more times. I spent two years in the forest. There are intermediaries. They make money for helping you to pass. [...]We used to leave our passports in the hotel in Tangier". He says, with the idea of keeping his passport in a secure place in case he does not successfully cross. After several attempts, Moussa came to Rabat where he found daily jobs through his Guinean connections and met his future Moroccan wife. Settled in Morocco nearly for 10 years, Moussa has been actively volunteering in a sub-Saharan migrants' association since 2010. At the time of the interview, he had a pending application for Moroccan citizenship. Despite his legal status, Moussa thinks that the economic exclusion is the most challenging aspect of life in Morocco. "When you come, you stay with your friends. Brothers help you until you stand on your feet. The accommodation is not the problem, the problem is work".

A clear relationship has been built, in the literature, between migrant deportability as "bare life" and illegal migrants supplying cheap labour to the economy (Peutz and De Genova, 2009: 14). In this section, the discussion specifically focuses on

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[105] I kept the name of the neighbourhood Takadoum, as it is widely referred to in national and international news as an unsafe neighbourhood inhabited by migrants from sub-Saharan countries. See for instance, African Migrants in Morocco Tell of Abuse. *New York Times,* 28.11.2012. Retrieved 29.03.2015 from http://www.nytimes.com/2012/11/29/world/middleeast/african-migrants-in-morocco-tell-of-abuse.html?pagewanted=all&_r=0.

how migrant illegality does not necessarily translate into economic incorporation into the informal labour market in the Moroccan context, in particular looking at the context of Rabat, where most migrants interviewed are based. The structure of the economy and of the labour market only enables marginal participation by migrants. The lack of labour market opportunities has been the major source of frustration referred to in migrants' experiences of incorporation. "There is no work for us in Morocco" is a common expression of this frustration. As explored in Chapter 3, the production of migrant illegality in Morocco is linked more to external pressure applied by the EU to stop irregular border crossings than to Morocco becoming an attraction for migrants from the wider region who are seeking employment opportunities. As a consequence, the marginalisation in the labour market is an indirect consequence of the international context producing migrant illegality.

Migrant illegality in the Moroccan context has produced an exploitable work force (Alioua, 2008; Pian, 2009). However, unlike other cases in the literature, the migrant illegality in Morocco does not necessarily translate into actual exploitation in the labour market. Yet, it would be unfair to conclude that the economic incorporation of migrants is characterised by total exclusion. The labour market in Morocco, and more specifically in the context of Rabat, provides certain opportunities that enable migrants to survive. However, the difficulty of finding a regular job persists. Earlier research has revealed that most men work in the construction sector and to a lesser extent in restaurants, and sometimes they trade in petty commodities (Pickerill, 2011; AMERM, 2008). Employment opportunities for women are even more limited. The widespread informal employment sector in Morocco increases the vulnerabilities, as migrants always face the risk of being underpaid or not being paid at all (Alioua, 2008). Migrants' economic incorporation is characterised by being employed in certain niches of the economy as well as very marginal economic activities such as begging in the street and sex work. In other words, labour market incorporation is possible only for certain groups with higher education and/or specific skills.

Niches in the labour market such as domestic work and call centres provide regular employment for irregular migrants that fit the profiles required by the employers. The access to legal status through work is possible. However, as the procedure is costly and bureaucratic, the majority of migrants work without the necessary documents, either because they find it unnecessarily costly, or their employers are reluctant to provide them. Middle class Moroccan families employ migrant women as live-in-domestics. Senegalese and Filipina women are known to provide domestic work for upper middle class families and expats. A Senegalese domestic worker, Elou (28, from Senegal), explains that she was afraid of being deported, and she secured a work permit for herself even though her employer was not willing to do the paperwork for her.[106] In this case, she made a fake contract in

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[106] Because of the convention between Senegal and Morocco in 1965 - granting citizens of both countries free circulation and access to their labour market (DEMIG database, 2014), Senegalese do not need a visa to

return of money: "You do as you work for somebody else, it cost me 2000MAD [200 Euro]. I did it as a precaution so I can go to police if something happens to me. I will not renew my card [residence permit with the purpose of work], there is no problem concerning mobility". Amy (33, from the Philippines), having worked in different countries in the Middle East and South-East Asia as a domestic worker, thinks that regulations in Morocco for domestic workers are quite flexible:

> This place is not that that strict, and they require having residence. You have your passports, and it is ok with them. But when you have to go back to the Philippines you have to go to police station and ask for the clearance, and after that, you can leave this place. [...]You can always come back, this country is open. It is not like other country, where you cannot come back if you stay illegal.

Angela, another Filipina domestic worker, could not renew her residence permit after running away from her first employers, where she was sexually abused. After changing a couple of employers in Casablanca, Rabat and Tangier, she started working for a "consulate person'' from an African country. "The employers did not want to do the paperwork because they do not want to be seen as employing illegal migrants".

Call centres are known as reliable income sources, especially for students from African countries. Working part-time or full time is a possible income generating opportunity, particularly for migrants with advanced language skills. However, informal employment is also common among them. Yassine (24), a Senegalese female university student from Dakar, whom I met whilst she was braiding hair in the ''souk'' of Casablanca, had come to spend the summer in Morocco and look for employment. Yassine had a bad experience in the call centre while she was doing an internship. The three months stamp in her visa had expired, and she was not offered a job by the call centre where she had been interning for a month. Similarly, Maya from Guinea, whose sister is employed in a relatively known call centre, has been deceived by her experience in call centres and is no longer interested in finding a job in one:

> My sister had Moroccan friends who were in call centres. She found the job thanks to them. I myself did internships, two times in Agdal [a residential, chic neighbourhood in the centre of Rabat]. I stopped. I do not have the willing of working here [...] Call centres who are known give you contract. Those who are not known, small ones do not give the contract, and they employ you if you are ok. Others even if you are ok, they leave you without contract, in most cases, they thank you very much.

These examples reveal how illegality is produced in the labour market even for those with legal papers and skills. Rather than giving a contract and doing the paper

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enter Morocco, but they also can get renewable residence permits and a residence permit with the purpose of work when they display a valid work contract.

work, call centres tend to employ young people with or without a valid status as interns. In this sense, the informal character of the labour market serves as a mechanism for reproducing migrant illegality, even for those who are in more privileged situations in terms of the possession of papers and of skills. In fact, most migrants with legal entry indicated that they can only legalise their status through enrolling in private schools due to the difficulty of getting access to legal papers through work. Patrique (33, from Cameroon) has been discouraged by his endless efforts to get a residence permit for the purpose of work, and in a sense, he was forced to stay on student visa:

> We need to know how to put the file. You make an inscription to a private institution. With this inscription in a private institution, you can submit your file to the ministry dealing with residence permits. Or you make a contract. To have a residence permit through work is almost impossible. I have already tried to apply. I put my file to ANAPEC[107] for a visa of work. ANAPEC procedure it is very complicated. Once they pass your file to Ministry of Employment, you get your permit it is easier. It is ANAPEC which is complicated. I am waiting for one and half year. I am discouraged; I do not want it anymore.

Maya (22, Guinea) similarly underscores that her primary motivation to enrol in a private school is to legalise her status:

> -To get my residence permit, I want to enrol in an information technologies school. I will go to police with the registration document. I need to legalise my status. The registration is approximately 1000 MAD, then it is 800-900 MAD per month. Depending on the school, you are usually asked to pay for the first two months. Then, you follow courses for the first two months.
>
> -Then, you quit.
>
> -If you'd like, if you find it interesting, you may go on. It depends on your means, I would like to continue but it depends on the situation of my family, do you understand?

Similarly, Moussa's son from his first wife joined his second family in Rabat in 2012. Moussa explained that the registration in private education is not only important for the education of his son, but the registration is also important for securing his resident permit: "He is enrolled in a private school. 700MAD per month to pay for the school. This is a four years degree. He will have a residence permit as

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[107] Work permits are delivered by the Ministry of Labour, based on the decision of ANAPEC, the Moroccan National Recruitment and Employment Agency. According to the law, foreigners in Morocco can legally work in positions where there is no Moroccan citizen available for this post. However, the procedure is not transparent at all (GADEM et al., 2013: 125).

student". Then, he adds with a softer voice, "his father was clandestine, he will not be the same".

Migrants with no access to a regular employment work in daily jobs, for example as construction workers or street peddlers. Jules, a migrant with no documents originally from Congo, does petty jobs for the tailor in the neighbourhood and says that ''this is the only thing I can find''. Street peddling has been common especially among Senegalese or other migrants with a legal entry, who are allegedly less touched by the police. André articulates the fragile character of unsteady jobs:

> Most young men work in the construction, for 80-100 MAD (8-10 Euro) per day. It is not bad if you could work on regular basis. It is not that they do not want to work. They wait there until late afternoon. The problem is that there is no work. [...] We kept contact with some bosses we already worked. They call us when there is work. We cannot do anything outside this.

Street peddlers have become more visible after the reform initiative, especially after the raids in urban settings have stopped. As a symbolic change, as of May 2014, street peddlers selling electronics, mobile phones, cosmetics and African accessories have now been allowed to have stalls along the walls of Medina of Rabat on the condition that they do not enter into the traditional bazaar, the *souk*. Previously, fewer stalls were allowed later in the evening by the central station, where they were occasionally pushed away by municipal police. Paul, a street peddler originally from Cameroon, explains that he is now happy that at least he can open his stall every day and make some money without fearing deportation. He notes: ''We are not allowed in the Medina, maybe in six months time, it will also be possible".[108]

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[108] As a side note, Paul actually stopped doing voluntary jobs for CSOs, which in his experience bring no income at all. He now prefers to do street peddling rather than waiting for construction work or voluntary missions for CSOs.

Figure 4.4 Street peddlers along the main road, right next to walls of Medina, Rabat.

Source: taken by the author, May 2014.

Given the scarcity of possibilities in the labour market, regardless of legal status, most migrants but especially women with children can only be marginally involved. Being considered a sex worker is a common stigma that many women suffer, and they are often approached by Moroccans. Meanwhile, it is also known that many women are forced into sex work in the absence of other possibilities in the labour market. Edith's sister Maria, a young woman with five kids under the age of eight, told me that she braids hair, before telling me what she really does to make a living:

> What else you can do? I do this job to buy food, if there is no food, they [her children] start to cry… You sleep with Moroccans, they give you 20 MAD, 50 MAD, you are obliged to take it. What else to do? I do this to earn money because it is not every day that people have their hair braided. Children cry, they go to school. What shall I do?

Several migrants and asylum seekers, both male and female enrol in courses in languages, handcrafts, information technologies and media offered by associations in collaboration with UNHCR. Some explained that they participate in these courses to spend time together and benefit from transportation remuneration (around one-two euro per day depending on the formation). Mama, an asylum seeker from the Ivory Coast, as mentioned before, goes there to forget what she has been through and for the transportation support she gets from UNHCR, which is her only income besides the money she receives from her relatives in Europe:

> -An Ivorian woman told us that we can do formation. At first, I was scared of going there. Would they ask us for refugee card, I did not know if it is for everyone. I was

told that you at least need to be an asylum seeker, undocumented migrants cannot.[109] I was inscribed with HCR. They asked me photos and UN paper. There are several courses. I selected aesthetics, tricot, enterprise, culinary. They paid the transport. I walk there, I put the money aside. Now, it is vacation and courses have stopped. It has been difficult for us. They pay for instance 72MAD per month. Entrepreneur course paid 144 MAD per month, only two days per week. We should not miss classes. You cannot get this money without UN card.[…]My brother does not go because he is tired of walking every day.

-How do you feel about it?

-Some courses pay well. At least I learn something. If my brother goes there as well, we could at least pay the rent. [110]

Mama thinks Morocco is taking better care of these women than other countries in black Africa [fr. Afrique noir] that she has been to. My general observation is that the day care for the children and babies of the participants provided during the courses offer women a break from their caring duties. Many of the participants of such courses I encountered complained that it is not really possible to turn the skills they gained during the formation into income generating activities in the labour market. Despite their limitation in facilitating migrants' incorporation into the labour market, these courses provide important social and political spaces for political socialisation. Migrants participate in associative life; associations provide a public space where migrants come together and exchange information, as further explained in Section 4.4.

Figure 4.5 Migrant and refugee women in a knitting course

Source: Author's photos from the field, September 2012

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[109] Undocumented migrants can participate in the formations, but they are not remunerated the cost of transport.

[110] Mama's only motivation to do these formations was to generate, albeit a very small amount, income. It is worth noting that Mama stopped going to formations when she was no longer paid for transportation. Nobody knew her whereabouts when I was back to Rabat in March 2014 for follow up interviews. It is very likely that her file was also closed by UNHCR, as she did not show up for a period. (Based on personal communication with UNHCR, Ivorians are amongst top nationalities whose files have been closed by UNHCR.)

Beggary is another marginal economic activity that is widespread among immigrants, especially women with children, in urban areas (AMERM, 2008). The fact that the police do not touch these women with children gives them the license to be in the streets. It is believed that English-speaking migrants who do not speak French or Arabic are more likely to beg because of the language barrier that further marginalises them (Pickerill, 2011: 411). Fatima's and Sunny's stories are illustrative of the motivations behind begging, given the absence of labour market incorporation.

I met Fatima and her baby Moustapha almost every day during my fieldwork in September 2012. Fatima, from Nigeria, had been begging on one of the main streets of Rabat, leading to the Central Station. Like other women along the street, she was sitting by the pavement, saying "merci" when I would bring her baby some food or milk but did not talk much. Fatima appreciated that I would speak to her in English, rather than French or the Moroccan dialect *Darija* and let me hold her baby.[111] Fatima thought that there was nothing for her to do in Morocco, and she wanted to save enough money, 1000 Euro, to cross to Spain. She would leave her shared room in a poor neighbourhood of Rabat, which cost her 800 MAD (80 Euro) a month, and bring her baby to the centre to beg. She also went to beg near mosques in chic neighbourhoods of Rabat, especially after Friday prayer. She had the baby when she was in Oujda. The father named the baby and also gave her a Muslim name before he left to Libya. Once I talked to her about an association giving free courses for migrant women and compensating for the transportation cost. "You can leave the baby and have fresh hair for a while" I said. Although she was tempted by the idea and seemed like she was joining me, she stopped for one second and asked: ''how much money would this be?" and she gave up the idea, deciding that she could make much more by begging.

Sunny, a 37 years old migrant from Nigeria had been in Rabat for six months. After spending years in different African countries, he entered Morocco through Oujda with the initial aim of looking for a job. He lives in the basement of a building in a poor neighbourhood of Rabat. While the sanitary conditions within the house were poor, he had a tidy and clean room, with TV and nice clothes. It was extremely difficult for Sunny to find a job in numerous cities in Morocco. "Work is my problem". He says. "Here, I go packing, in the second sector. They give me 55 MAD to do cement. It is not even enough to eat". He describes begging as his current job:

> -I survive by beg. Yes, it is true. Sometimes I go with them. Sometimes I go to Casa. I go there and stay 4-5 days and I come back this is how I manage. I ask people to give me money. In Casa, they pay more.
>
> - How much money you make a day?

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[111] We never conducted a proper interview but our small talks consequents morning and afternoons allowed me capturing parts of her story.

> -Sometimes you are lucky you make 50 MAD, sometimes a man gives you 100 MAD it is lucky, a man sees you and gives you 200. It happened to me this year, during fasting, Ramadan. A woman gave me an envelope; I did not know what is inside. As I come out, as I opened it later and found 100 MAD inside. Some people give me 1MAD some brown coins. It depends, some 100 MAD.

Later in the interview, while discussing his experience with the police, Sunny took out a piece of paper that kept in the pocket of his leather jacket, showing his pending asylum application. While he had been interviewed by UNHCR, he did not seem curious about the outcome, knowing that very few of the Nigerians are granted refugee status.[112] He uses the asylum paper to avoid deportation: "I go to Casa. I go with blanket and spend the night out. If the police stop, I show them this paper. They give me number here. They say in case the police stops you, you call this number. This is the number". Given the high rejection rates by UNHCR, an asylum application only offers temporary protection from deportation.[113]

This section has revealed that in spite of the availability of young migrant labour force, Morocco's labour market does not provide many opportunities for migrants with irregular status. Especially when compared to Turkey, as will be discussed in Chapter 5, migrants' lack of access to the labour market, hence to a regular income, has been the major factor impeding their incorporation into the host society. Even overstayers with passports and legal entry have, at times, found it hard to legalise their status through formal contracts with their employers, although this is legally possible. Irregular migrants have become more dependent on humanitarian aid, and this dependence has become more urgent due to numerous factors, which include: criminalising discourse; securitisation along the borders and pushing those on their way to Europe to urban centres; the fear of deportation along the border and from urban settlements; neighbourhood violence; marginalisation in the labour market; and lack of access to rights and legal status. These are also factors that push migrants to mobilise amongst themselves and form communal strategies.

4.3 Bureaucratic incorporation through access to public health care and education

Before moving onto the mechanism of mobilisation, the next two sub-sections elaborate on a different aspect of incorporation, bureaucratic incorporation, generally defined as access to fundamental rights and legal status despite restrictive laws (see Marrow, 2009; Chauvin and Garcés-Mascareñas, 2014). Here, I discuss whether the access to fundamental rights indicates a degree of migrant incorporation despite their

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[112] Nigerian nationals have been one of the groups most represented among asylum applicants during 2013. This is also the group least likely to be recognised by UNHCR. Out of 215 Nigerian applicants assessed during 2013, only two people had been granted refugee status. (Personal communication with UNHCR Morocco).

[113]   Interview with UNHCR, April 2012, Rabat.

marginalisation in social and economic life. Given the context that migrants face, both in terms of deportation practices and neighbourhood violence, as discussed in the previous section, access to health care becomes an issue of urgency in migrants' lives.[114]

Access to health care constitutes a case where the formal recognition of a universal right can only be exercised with the intermediary of non-state actors. In this sense, the case of health exemplifies bureaucratic exclusion as well as informal forms of inclusion. Minors' access to public education is not only important because it is a fundamental right secured by international conventions but it has also a symbolic importance where migrants and their children are seen as de facto members of the society, despite their illegal status. The access to public education constitutes a case of bureaucratic incorporation, which has later been translated into a formal recognition of undocumented migrants' right to free public education.

In the Moroccan case, civil society organisations play a key role in ensuring migrants' access to rights, especially to health care and education.[115] The sub-section also indicates the importance of alliances between CSOs and state institutions as well as between CSOs and migrants' own associations, as will be explicated in the following section. This section exemplifies close cooperation between international and Moroccan CSOs, and migrant associations required for migrants' access to fundamental rights, which provided another basis for the mobilisation for the rights of irregular migrants in Morocco.

Health care between formal recognition and bureaucratic negotiation

Migrants regardless of legal status have legal access to free public health care based on the Circular of the Ministry of Health, introduced in 2003. While the main motivation behind this circular has been preventing epidemics and securing public health (MSF, 2013: 24), it is still foundational to irregular migrants' legal access to health care. Based on this circular, and the 2011 Law 34-09 relating to the "Health System and Offer of Care" and hospitals' internal regulations, the Moroccan legislation recognises irregular migrants' right to health care (MSF, 2013: 24; GADEM et al, 2013: 73). However, as documented in several reports, most migrants cannot fully benefit from this right in practice. MSF reports (2010; 2013) have highlighted that migrants in rural settlements refrain from seeking health care, as their needs for health care often result from coercive border controls. The fear of arrests and deportations discourage them from going to public hospitals (MSF, 2013).[116] The access to health care

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[114] The survey conducted by the Ministry of Health confirms that around 42% of migrants surveyed have been subject to violence, and around 10% have been denied the access to hospitals (Ministry of Health, 2014a).

[115] The structure and main activities of CSOs working on irregular migration in Morocco are explained in Section 4.4, as part of the mobilisation discussion.

[116] Also emphasised in the research by the Ministry of Health (Ministry of Health, 2014a).

represents a case where even legally recognised rights can only be exercised through the mediation of several stakeholders such as community leaders or CSOs. The Moroccan Ministry of Health acknowledges that the access to care is primarily covered through CSOs, informal contracts between CSOs and public health institutions and through social assistance schemes in ''certain hospitals'' (Moroccan Ministry of Health, 2014a). In other words, the legal recognition of migrants' rights to health care is only possible through informal incorporation and de facto membership practices.

Despite the improvements noted by several informants and reports,[117] very few people interviewed could directly access hospitals. Access to health is managed either through informal community networks or humanitarian organisations. Most migrants interviewed rely on their ethnicity based fictive kinship networks before seeking institutionalised medical help. They can only access public hospitals through their community contacts and through the agency of CSOs. Edith (42, from DRC) explains her reliance on "brothers" and on civil society, before going to the hospital.

-Even here, if you are poor and you get sick you call the chairman, this person takes you to hospital. Women like us, if they do not have the means, they call the chief and the chief calls for help those with means. You give 5 MAD and it is like this.

-Where you go to see doctors?

-Caritas, always Caritas. You can go to hospital and make a receipt; then you get it from Caritas.

André acknowledges the positive change in Rabat's hospitals, which have been more likely to receive patients without asking for passports. Caritas, the charity organisation of the Catholic Church, provides undocumented migrants with a document that enables them to seek medical care more confidently, and Caritas also offers migrants certain basic medicines for free.

Caritas is not a hospital. Caritas gives you a paper [fr. carnet] to go to hospital or to a health clinic. You do the consultation and you come back to Caritas. They have pharmacy. They see if they have the medicine you need. There, they give you the

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[117] MSF (2010:21) has reported that **"**between 2003 and 2009, MSF carried out 27,431 consultations, of which 4,482 were related to lesions and trauma (16.3%). Moreover, more than 7,500 people were accompanied and referred to Moroccan health facilities in close collaboration with the country's Ministry of Health". Parallel with this, informants underscored improvements in terms of access to health in Rabat and Casablanca. There is a lot of improvement in Oujda. "In Rabat, migrants are able to go to hospitals by themselves (interview with MSF, Rabat, April 2012). ''In Oujda, MFS used to treat migrants directly, now they take them to hospitals. Now, it is doing mostly accompanying, mediation'' (interview with MSF, Oujda, September 2012)**.**

products that do not exceed 100 MAD. These are generics. When you have something more serious, we need to add up and pay for it.[118]

The health care service directly provided by CSOs plays an important role in compensating for the lack of public health care, especially in border areas. Given the inadequacy of the Moroccan health care system in addressing sexual violence (MSF, 2010), the rehabilitation of survivors of sexual violence and women's access to birth clinics have been specific aspects of migrants' access to health care (GADEM et al., 2013: 80). A church official who regularly visited hospitals explained that even though African women are admitted into hospitals to give birth, they face discrimination and maltreatment, "they are called 'the single' [fr. la celibataire]". Here, again, international and Moroccan NGOs collaborate in providing services but also to create buffer zones that facilitate women's access to sexual health and birth clinics. These efforts are generally project based. While they constitute very important mechanisms that enable irregular migrants' access to public care, they are usually limited in their capacity.[119] For instance, Angela, a Filipina domestic worker, was pregnant from her Nigerian partner and had stopped working. When she sought help from a charity organisation for the birth, Angela was refused on the grounds that she does not fit the profile.[120] Ultimately, through word of mouth, Angela and her husband learned of a female doctor who admits migrants in a public birth clinic. They managed to have the delivery without paying fees. After several attempts, Angela was able to obtain a birth certificate for the baby. Along with accessing to birth clinics, acquiring birth certificates for their newly born babies is another major bureaucratic difficulty that women confront.[121] Birth certificates are crucial for children's juridical existence and their bureaucratic incorporation in later years. As discussed in the section on access to education, the birth certificate is a required document for children's enrolment in public schools. The lack of a birth certificate leads to the *reproduction* of illegality.

Despite improvements that increased irregular migrants' access to public hospitals, the medical system in Morocco falls short to ensure migrants' access to

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[118]   A similar system has also been in play in Tangier in 2012.

[119]   The Project, based in a poor neighbourhood of Rabat, run by the international humanitarian organisation Terre des Hommes in collaboration with GADEM and Oum El Banine, ran between 2011-2014. In this context, the clinic received pregnant women and women with new born babies, and provided support to survivors of sexual violence. Women are examined in the clinic throughout pregnancy and referred to hospitals for birth (interview with Terre des Hommes) See project details, retrieved 15.05.2015 from http://www.tdh.ch/fr/countries/maroc#!project,.

[120]   She was told that "this organisation is helping people who need help. You are white".

[121]   The facilitation of the registration of new births is amongst the recommendations underscored in CNDH's report, which gave rise to Morocco's new immigration policy (CNDH, 2013: 5). It is underscored that the denial of registration and a birth certificate for the newborn is against Article 29 of the UN 1990 Convention, and the national law in line with this principle (GADEM et al. 2013: 106-7).

health care beyond primary consultations.[122] On the one hand, the reform initiative in immigration policies envisages a national strategy to improve medical care for irregular migrants who ''should benefit from all the possibilities of medical care in Morocco, with the same entitlement as nationals'', as publically stated by the Minister of Health in January, 2014 (Moroccan Ministry of Health, 2014b). On the other hand, the exclusion of foreigners from the new health insurance scheme of social assistance known as RAMED, introduced in 2012, has created concerns for the future (MSF, 2013; GADEM et al, 2013: 76). The introduction of a centralised electronic system makes room for more bureaucratic exclusion even though the right to medical care is recognised in laws and regulations, as explained above. The follow up interviews in May 2014 have revealed complaints about the new system: ''We are received in the hospitals. It is ok. [Now], You need a number, it is also concerning Moroccans. You cannot receive a serious treatment without number. They changed the system'', explained André. Rosa, as a recognised refugee from the DRC, was actually refused in the health clinic because she was missing the necessary documents for electronic registration: "I understood it was not because I was refugee, there was another Moroccan woman next to me. She did not have the number. She was also refused." To summarize, irregular migrants' access to health care in Morocco is formally recognised. However, migrant illegality has led to different forms of bureaucratic exclusion, rather than bureaucratic incorporation. The situation was partly ameliorated by the efforts of international and Moroccan civil society. It remains to be seen whether the new policy approach will lead to more inclusion concerning access to health care.

Public education between bureaucratic sabotage and self-exclusion

Access to primary education differs from access to health care, which is characterised by the lack of direct access to public health institutions in spite of formal recognition; the children of irregular migrants constituted a case of transition from informal inclusion to bureaucratic sabotage and later to formal incorporation. Along with international conventions[123], Article 21 of the Moroccan Constitution acknowledges that the universal right to education is not limited to Moroccan nationals. Since 2005, the Ministry of the Education has enabled provincial delegations of the Ministry to make decisions concerning the school enrolment of children from other nationalities.[124] However, their access to public schools is restricted due to their parents' illegal status in Morocco because children's registration in the schools requires a copy of their passport or birth certificate of the child. As mentioned above,

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[122] According to MSF, Moroccan nationals are also suffering from the same problem inherent in the limitation of the health system (MSF, 2013: 28).

[123] Morocco is a signatory of the Convention on the Rights of the Child.

[124] La note n°93, du 19 août 2005, portant sur l'inscription au sein des établissements de scolarisation publics des enfants étrangers [Note no : 93, 19 August 2005, on the enrolment of foreign children in public education institutions] see Qassemy, (2014: 46) for the translation of the circular from Arabic to French.

the lack of access to birth a certificate has led to the transmission of illegality from one generation to the next and has later deprived children of public education. What is really interesting in the Moroccan case is that despite the exclusionary mechanisms in play due to migration controls, neighbourhood violence and the situation in the labour market, children of irregular migrants, although modest in numbers, could get access to free public education as a result of "bureaucratic sabotage" (Chauvin and Garcés-Mascareñas, 2014).

The bureaucratic incorporation of children of migrants of irregular status has been carved out thanks to the growing presence of the international and Moroccan civil societal networks providing services to irregular migrants. Most CSOs working in the context of Morocco do not distinguish between migrants, asylum seekers and recognised refugees in the provision of services. In the absence of access to free public education, international and Moroccan humanitarian organisations, at times in cooperation with UNHCR, have provided informal education for children of asylum seekers, refugees and migrants with no legal status. A very limited number was accepted into private schools.[125] The enrolment of migrant children in public schools is a result of negotiations between UNHCR and the provincial delegation of the Ministry in Rabat. The provincial delegation, based on the 2005 decision of the Ministry mentioned above, agreed to admit children of refugees and asylum seekers into public schools, even though they lack the birth certificates required for registration.

As of the 2009-2010 academic year, UNHCR started providing a list of students to be enrolled in public schools to the provincial delegation in the Rabat-Sale region (See also Qassemy, 2014: 13-14). The list is prepared by CSOs that provide informal education to children of recognised refugees, asylum seekers and also irregular migrants.[126] In the preparation and the approval process, no distinction was made between children of asylum seekers, recognised refugees and irregular migrants.[127] In other words, children of migrants without legal status were also included in the list, and UNHCR has approved them without distinguishing between people under its mandate and others. Based on the list sent by UNHCR, those responsible from the provincial delegations of the Ministry in Rabat wrote to school principles advising them to accept these students without birth certificate.[128]

The number of students benefiting from this mechanism of bureaucratic sabotage has remained limited due to several reasons that will be explained below.[129]

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[125] Interview with Caritas, Rabat, July 2012.

[126] CSOs providing services to UNHCR may, at times, restrict their activities to people under the UNHCR mandate.

[127] Interview with Foundation Orient Occident, Rabat, September, 2012.

[128] Interview with an official from the provincial delegation of the Ministry of Education of the Rabat-Salé-Zemmour-Zaër region, Rabat, July 2012.

[129] According to Qassemy (2014:14), between 2009 and 2013, 101 migrant children (100 sub-Saharan and one Iraqi) were enrolled in 31 public and five private schools in the Rabat-Salé region.

Meanwhile, this rather unofficial practice has provided an opening for more inclusive policies in favour of migrants' children's access to formal schooling in the context of new immigration policies in the post-September 2013 period. A new circular published by the Ministry of Education in October 2013[130] specifically targets schooling access of children originating from countries of sub-Saharan Africa and the Sahel Region. Accordingly, identity documents including birth certificates but also, in contrast with before, legal documents of parents are required for registration. However, the circular also gives flexibility and discretionary power to regional decision makers by explicating that all equivalent documents showing parents' and children's identity can replace required identity documents. The Ministry also published a note in early 2014, encouraging the integration of children from countries of sub-Saharan Africa and the Sahel Region who are not in formal education, into informal education and into "second chance" facilities provided by the partnering associations.[131] The implementation of these two directives would arguably no longer require the process of bureaucratic sabotage with the intermediary of CSOs and UNHCR.[132]

Despite the availability of bureaucratic incorporation and the recent formal recognition of the universal right to free public education, the access to education for children of irregular migrants has also been a process of self-exclusion. The limitations of bureaucratic incorporation are inextricable from parents' unwillingness to enrol their children in *Moroccan* schools. CSOs have reported the disappearance of families after the enrolment of their children, as they prefer to stay in the camps near the EU borders.[133] In other words, children are denied the right to education not only due to exclusionary policies, but also because of their parents' semi-settled situations and their ongoing aspirations to cross into Europe. Women such as Fatima, begging in the streets of Rabat, or Allasane, whom I met with her three kids in Tangier while she was looking for a suitable opportunity to cross to Ceuta, are not only economically, socially and legally excluded but are also less interested in being incorporated into Morocco because of their experiences of exclusion:

> "Our situation is far worse than single people. My children do not have birth certificates. How my children would go to school. I want to go to Europe with my kids. There, they can go to school. They are used to French schools. What would they do in Arab schools?"

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[130] Circular n°13-487, 9 October 2013, concerning the access to education of migrant children from the sub-Saharan and Sahel regions (see Qassemy, (2014: 47) for the French version of the circular)

[131] Ministrial note n°487-13, 9.10.2013.

[132] Interestingly, both documents explicitly refer to the constitutional principle of the right to education, to principles of international conventions as well as to the new national immigration policy within the context of greater cooperation and solidarity with people of the sub-Saharan and Sahel regions. In this sense, this transition from bureaucratic incorporation into a formal recognition of children of irregular migrants as legitimate members of the society is perceived as part of a wider regional policy.

[133] Interview with FOO, Rabat, September 2012.

The aspirations to cross to Europe have largely influenced migrants' reticence about sending their children to school. Rosa, a 42 years old refugee woman from the DRC prefers to send her kids to private French colleges rather than public schools with a similar motivation that French education can help children after the resettlement she has been waiting almost 20 years for: "Yes, in a private college, because all schools here are in Arabic. It is always in Arabic, what is she going to do with Arabic. She was so far in Arabic schools and then she said mom it is not working, this is why we had to change so that she could learn some French, there is also Arab". As mentioned in the beginning of the chapter, the content of the Moroccan public education has been one of the most criticised aspects of the Ministerial circular. There is widespread conviction that the content of the public education, which also includes Islamic religious education, is not suitable for Christian children, and those who are not fluent in French and Arabic face further difficulties (Qassemy, 2014: 20; 28). For André, the circular was a failure because it was initiated without consultation with the civil society or migrants' organisations that have a deeper knowledge of the field. Meanwhile, access to public schools constitutes a relevant example of migrant bureaucratic incorporation: The agreement between the Moroccan state and UNHCR for the inclusion of a specific group, i.e. children of asylum seekers and refugees under the UNHCR mandate, was extended to migrants in irregular situations through a series of bureaucratic moves. The discussion of access to health care and public education is also important to show how civil society efforts lead to, albeit de facto, recognition of irregular migrants' rights.

The chapter has been built around the puzzling situation concerning the link between migrant illegality produced through exclusionary practices and migrant mobilisation for accessing rights and legal status. In contrast with existing research and reports on the subject, the focus has been on the mechanisms of production and re-production of illegality. The first three sections have so far illustrated how migrants' experiences of deportability, settlement, labour market participation and access to health care and education also reveal their widespread experiences of exclusion as well as marginal forms of inclusion. Thus far, I have argued that the experiences of strandedness and exclusion have been factors that push migrants towards mobilisation to claim their rights. Along with exclusionary mechanisms, there have been other factors enabling the transformation of migrants' common grievances into coordinated forms of action and into articulated demands for legal status and access to rights. This section has already hinted at growing interconnections and collaboration between migrant communities and civil society enabling migrants', albeit marginal, access to certain rights. The next and last section analyse communal strategies that migrants embrace in claiming recognition and rights, which are distinctive aspects of the incorporation experience in the Moroccan case.

4.4 Reversing illegality through mobilisation

Figure 4.6 ''had enough! For equality, against exploitation. Regularize all undocumented migrants". Members of the Democratic Organisation of Migrants Workers taking part in a march organised by a workers' unions to protest economic policies of the government, Rabat city centre, 11.11.2012.

Source: Marche à Rabat contre la politique économique du gouvernement (March in Rabat against economic policies of the government). Retrieved 15.05.2015, from http://ibergag.com/marche-a-rabat-contre-la-politique-economique-du-gouvernement/.

The last section of Chapter 4 highlights institutional factors, in particular the institutionalisation and mobilisation of civil society, around the question of irregular migration that enable irregular migrants' political incorporation in the Moroccan context. Among the political opportunity structures that are available to migrants, as discussed in Chapter 2, the most important, I suggest, is the simultaneous emergence of Moroccan civil society actors, critical of state policies and practices towards irregular migrants, with migrant organizations. In the Moroccan context, migrants' mobilisation for rights has become a form of incorporation. In order to explain how the institutionalisation of civil society provided opportunity structures for migrants' own mobilisation, the following sub-sections discuss the emergence of civil societal actors and their main activities. Then, I move to the incorporation of migrants, as vocal political actors, into these recently emerging institutionalized civil society structures. Institutional and discursive factors underpinned what I call the *political incorporation of migrants* in Morocco.

Emergence of civil society networks

As an unintended consequence of the Ceuta and Melilla events, migrants who were forced to move out from rural camps and the city of Tangier in the North have become more visible in big cities. Parallel with this, international and Moroccan NGOs as advocates of rights and/or providers of humanitarian support to immigrants have proliferated. NGOs have become important actors, enabling migrants' incorporation and mobilisation despite their low capacity and the challenges they face in terms of tense relations with authorities (Collyer et al., 2012: 12). Not surprisingly, their visibility in the Moroccan context coincides with the increasing visibility of irregular migration issues. Interestingly, the emergence or expansion of activities by formal international, national or local CSOs coincided with the emerging politicisation of informal sub-Saharan migrants' associations.

Civil society actors working on immigration related issues in Morocco can be categorised based on their affiliation, activity areas and relations to the state authorities.[134] Concerning affiliation and scope, there are international non-governmental organisations (iNGOs) MSF (operating until March 2013 in Rabat, Oujda, to a lesser extent in Nador), the Catholic Church's charity organisation Caritas (with reception centres in Rabat, Casablanca, Tangier), Terre des Hommes, International Mutual Aid Committee based in Protestant Church, in Rabat and Oujda, the French organisation CIMADE; older and nationally organised institutions which developed an interest in immigration as part of their general mandate such as the Moroccan Association for Human Rights (AMDH), the OMDH; labour unions such as the Democratic Organization of Labor (ODT)[135], organisations operating locally such as the Foundation Orient-Occident (FOO), (in Rabat, with branches in Casablanca and Oujda), ARMID (Association Mediterranean Encounter for Immigration and Development), Pateras de la Vida, and CHABAKA in Tangier, ABCDS (Association Beni Znassen Culture Development Solidarité) in Oujda, AFVIC (Association for Victims of Clandestine Migration and their Families), GADEM (The Anti-racist Group for the Support and Defence of Foreigners and Migrants) in Rabat. It is also possible to categorise these institutions based on their activities with migrants, asylum seekers and refugees in Morocco. While humanitarian aid is a priority for some institutions (e.g Caritas and MSF), others are more preoccupied with legal consultation (e.g OMDH) and rights advocacy or raising awareness in favour of immigrants (e.g GADEM, AMDH and CIMADE). However, in a context where the protection needs of irregular migrants stems from the inadequacy of policies and violent practices (Collyer, 2010), most civil society actors approach the situation through the combination of humanitarian aid

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[134] See Annex 1, Table 5, for an overview of NGOs interviewed.

[135] So far, ODT is the only union accepting migrants (with or without legal status) as members, since July 2012

and advocacy. It is also possible to categorise these civil society actors by their relation to Moroccan state and funding bodies.[136] [137]

Migrants' self-organisations

As already mentioned in the conceptual discussion, migrants themselves are incorporated into this emerging civil society network for the rights of irregular migrants, not only as beneficiaries of certain services but also as active political agents seeking rights. Migrants' associations were formed as one of the initial communal strategies for negotiating grievances that stemmed from deportation practices and limited economic opportunities and rights, as explained in the previous sections. The Council of Sub-Saharan Migrants in Morocco (CMSM) and the Collective of Refugees in Maroc were established right after the 2005 Ceuta and Melilla events. Many amongst the founders of migrant associations received the formation "Asile Maroc", jointly organised by Cimade, a French organisation, and AFVIC, a Moroccan one, in collaboration with UNHCR in 2006 (Alioua, 2009). The formation aimed at raising awareness on the question of asylum and irregular migration. In this sense, interactions between migrant activists and Moroccan or international associations were strong since the beginning of the mobilisation process. As they became more established, increased in number and collaborated more frequently with Moroccan and transnational civil society actors, sub-Saharan migrant associations amplified their visibility and their demands for the fundamental rights of migrants, the regularisation of undocumented migrants and the formal recognition of their associations. The wide use of the French language amongst middleclass Moroccans and sub-Saharan migrants, as a legacy of French colonialism, facilitated communication between associations and amongst migrant communities themselves.[138]

This was accompanied by the foundation of several ethnicity based solidarity associations, African students' associations, some of which are recognised by law. Smaller, issue-based migrants' associations such as the Collective of Sub-Saharan Migrants in Morocco (founded in 2010) and ALECMA (Association Lumiere sur l'emigration clandestine au Maghreb) (founded in August 2012) joined later. Denouncing violence against sub-Saharan migrants has been the main motivation for the establishment of these two institutions, as explained by an ALECMA representative:

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[136] While both are human rights organisations, AMDH has been more openly critical of state policies than OMDH (Jacobs, 2012: 58). GADEM, as the only institution particularly working in the defense of migrants' rights, was recognised by the state only after the launch of the new policy. For a comprehensive review of NGO activities towards irregular migrants in Morocco, see Jacobs (2012).

[137] The emergence of civil society working on irregular migration issues has to be contextualised in the wider political and institutional liberalisation process, explained in Chapter 3.

[138] However, it is also acknowledged that English speaking communities amongst migrants have had difficulties in getting access to these networks. The point was revealed by informants from Nigerian origin, and the low numbers of Anglophone migrants is also acknowledged during interviews with migrants' self-organisations.

There are many sub-Saharans living in Takadoum, it is the hottest neighbourhood in Rabat. There this is what motivated us sub-Saharans to come together to create an association, ALECMA. This is to denounce different problems we encounter in the country, then to defend our rights because as migrants, our rights need to be respected, that's it. This is why we regrouped under an association. We started this fight to be recognised. […] This is related to different aggressions. In August 2012, there was a series of aggressions. In one week, there were 6 cases of aggressions. This is why we called all sub-Saharans living in Takadoum and we made a pacific march. We wanted to be heard. We made a march to the police station because a sub-Saharan was seriously injured because of aggression. We made the march with the injured to the police station. We passed by consulates, Mali, Ivory Coast, Central Africa. After this march, we had the idea of getting together under an association.[139]

The use of the word sub-Saharan in the name of associations connotes a common identity and solidarity beyond ethnic, national and religious differences within the community. In a sense, it is a counter discursive strategy that opposes the stigmatisation of sub-Saharans as "illegal migrants". In response to my question about how he feels about the use of the term sub-Saharan, André replied: "when I say sub-Saharan, we need to clarify. Moroccans call us Africans. Maybe they are Europeans, I do not know. I am proud of being sub-Saharan… I am not bothered of being called black or sub-Saharan."

To note, only a small minority of immigrants in Morocco are attached to sub-Saharan organisations. Most of the time, migrants refer to their personal background of activism as the main motivation to join or initiate migrants' organisations. There are others who have gained awareness through their experiences since they arrived in Morocco. An activist from CMSM narrates his mobilisation story, resulting partly from his activist background and also from his experiences in Morocco. "I was in an association in my country. After coming here, I went through a new formation. There was need to revolt [fr. s'indigner]. In 2005 events, I was in the hearth of the events. This gave a breath to my engagement. It was part of the motor of my engagement". Moussa (56, from Guinea) explains his own and other sub-Saharan migrants' involvement with associations as the result of a gradual awareness and reaction to racist discrimination they face in daily life.

-Since 2005, we created the Council of Migrants. It was the first time in Morocco to have an association for the defense of migrants' rights in Morocco. At the beginning I was here but I was not interested. I am a member since 2-3 years.

-What happened that you decided to become a member?

-You know, I have decided, with brothers, we were organising things for boys recently arrived. God created the earth for humans to live. Frontiers are not acceptable. The earth does not belong to anyone it belongs to people. We are

[139] Interview with ALECMA, Rabat, May 2014.

combating for an earth without frontiers. You can live anywhere, regardless of nationality and for equality of all. The earth is for everyone. This is the aim of our associations".

-Why do you think some migrants are more activist than others?

-This is the communication. We are mobilising people to rise for their rights. You should not stay in your house hidden, you need to go out and ask for your rights. You have the right of workers, right to papers, right to access to health, right to liberty. You should not stay in your corner. You need to claim your rights. This is what Council is trying to do. It is not only for sub-Saharans it is for all foreigners, Tunisians, Asians. It is true that there is a discrimination. The other North Africans [Magrebins], Asians, Americans, the police does not stop them. There is discrimination.

Although migrants' self-organisations differ from one another in terms of their internal organisations and their priorities, they gradually became more vocal in their demands for fundamental rights, the regularisation for migrants, and also the regularisation of their associations. The simultaneous emergence of an international and a Moroccan civil society working on irregular migration has constituted an opportunity for migrants' organisations to set their agenda and raise their claims. Gaining visibility and seeking recognition was possible through collaboration with Moroccan and other international actors in the field. The main axis of collaboration between migrants' organisations and Moroccan and international organisations has been in two areas. These include helping with humanitarian work in the field and collaborating on advocacy activities. Each side admitted its dependency on the other to further its activities and agenda.

The communal strategies of migrants' organisations included direct collaboration with other civil society actors in the field concerning humanitarian aid and legal support, public manifestations and forging formal and informal alliances with Moroccan and transnational actors. It was noted that migrants' organisations are much more efficient in the field, and other associations need them to reach the target population.[140] One voluntary, and at times paid, job that is available for migrants (both irregulars and students) is the role of a "proximity agent" [fr. agent de proximité] for organisations that conduct research and do humanitarian work in the field. While this may provide an opportunity for the economic incorporation of a small minority of migrants, these relations are not free from tensions.[141]

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[140] Interview with CMSM, informant 1.

[141] As the structure of these types of funds do not always cover remunerations for activists volunteering on the ground, there are misunderstandings and frustrations concerning the voluntary work by activists (interview with GADEM). A feeling of frustrations has been noted in the accounts of several activists: "They need to know to manage people, we are head of families. Instead of going to Nador, you can do three days of work. You do not do this because you have chosen the road of activism. They exploit us, sub-Saharans. They exploit sub-Saharan activists" (André, 42, from Cameroon).

Despite tensions related to the voluntary services provided by migrants' associations to international and Moroccan CSOs and the widespread conviction that migrants should be able to speak for themselves, most members of migrants' organisations agree that they rely on Moroccan NGOs for making public appearances. Moroccan NGOs can secure legal permissions for public protests on particular days (Jacobs, 2012: 72) such as international migrants' day, the anniversary of Ceuta and Melilla and International Labour Day. When the Social Forum on Immigration was in Oujda, in October 2012, aiming at widespread participation from civil society actors from Morocco and from the region, it was AMDH that helped the transfer of migrant participants from Rabat to Oujda.[142] In other words, Moroccan associations negotiate with the authorities to ensure the political participation of migrants without legal status: "Security question was raised in the meetings. We need to ensure the protection of undocumented migrants. We are negotiating with the authorities to receive them here. There is a commission to do this, to facilitate the participation of undocumented people."[143] I consider this to already present example of regularization from below (Nyers and Rygiel, 2012: 15).

The initiative for the unionisation of migrant workers under a Moroccan labour union was a concrete example of alliances between migrants' and Moroccan associations for the regularisation of migrants. The first step was taken on Labour Day in 2012, with the announcement of the regularisation campaign and a public demonstration. The motto was "we, also have rights". The admission of migrant workers into ODT under its new branch ODT-immigrant workers (ODT-IT) was officially launched with the first congress in July, 2012, with the participation of hundreds of migrants.[144] CMSM played an active role in coordination, together with Marcel Amiyeto,[145] a recognised refugee and the secretary general of ODT-IT. Amiyeto's narrative on the process of unionisation underscores the importance of forging alliances:

> Sub-Saharans are working in the factories, construction, call centres, everywhere but they are not recognised. When there is an accident, they do not have social security coverage. This is why we intervene to create the union. It took us many negotiations, First all, not all associations agreed with this idea, they did not want the creation of the union. Members of Association of Workers from Maghreb in France (ATMF) encouraged us. We made contacts with ODT and started to reflect on the question and how to make foreign workers members of the union. Before the internal rules of the union were nor allowing the membership of foreigners.

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[142] Interview with the Collective of sub-Saharan Migrants in Morocco. Note this is a highly controlled trajectory, as most migrants entering Oujda seek to go to Rabat using the same trajectory.

[143] Interview with ABCDS, Oujda, September 2012.

[144] 'L'ODT ouvre ses portes aux travailleurs immigrés (ODT opens its doors to migrant workers), *L'economiste*, 03.07.2012. Retrieved 20.03.2015, from http://www.leconomiste.com/article/896170-l-odt-ouvre-ses-portes-aux-travailleurs-immigr-s

[145] I used his real name, as he is a well-known figure.

In this case, migrants' organisations in Morocco forged a transnational alliance with ATMF, a labour union representing migrant workers in France. The interest of the unions in general and the foundation of a migrant union in particular have been a surprising form of alliance, considering the earlier discussion about how migrant incorporation has largely been defined by economic marginalisation. The main contribution of unionisation has been the strengthening of alliances for the regularisation campaign. CNDH and The Council of the Moroccan Community Living Abroad (CCME)[146] supported ODT-immigrant workers to make a formal regularisation claim. These alliances increased the visibility of irregular migrants in Morocco.[147] Migrants used their rather limited institutional capacity to reach the key institutions such as CNDH that are capable of pushing for change in immigration policy. In this sense, even before the publication of their recommendations of the new policy in September 2013, CNDH has been a crucial institution for channelling irregular migrants' demands for regularisation.

Brothers in arms: what made alliances possible?

The common agenda of meeting the protection needs of migrants has enabled alliances, along with several additional factors. One major component of the alliances was the common repertoire that Moroccan NGOs and migrants share for legitimising their alliances and their demands. Below, I discuss the importance of common references to the ongoing democratisation process of Morocco, the changing conditions of transit migration and to the country's emigration experience as a developing African country.

The relative liberalisation of the associative life in Morocco, discussed in Chapter 3, has arguably allowed Moroccan civil society actors to raise their critics against the state, by relying on discourses of universal human rights, international law and the rule of law. These principles provided a suitable ground to raise human rights violations against irregular migrants and to ask for regularisation. While the security-oriented approach of the Law 02/03 is criticised, most NGOs simultaneously call for at least respecting the protective measures in the law. The responsibilities of Morocco as a signatory of the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and members of Their Families, are underscored in public declarations and meetings.[148] For instance, GADEM (2013) prepared a report on the implementation of the 1990 Convention and implications for the rights of immigrants in Morocco in

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[146] CCME was established in 2007, and its role was recognised in the 2011 Constitution. The Council is constituted of representatives of the Moroccan community abroad, most of them are appointed by the King himself.

[147] Both CNDH and CCME are led by Driss El Yazami, a well-known human rights activist in Morocco, appointed by the King as the head of these institutions.

[148] Morocco, as an emigration country, is one of the first countries signing the 1990 Convention. During the 2000s, the document has become a major legal reference for criticising the treatment of immigrants in Morocco.

collaboration with migrant associations as well as other Moroccan associations (see GADEM et al., 2013).

In my interviews with migrants' organisations, it was interesting to see the direct references to the democratisation process and the ways that migrants situate themselves as progressive actors in this process. The informant from CMSM underscored that Morocco is the first country to have migrants' organisations that do advocacy work, and that this presents an opportunity rather than a threat for the future the country:

> We are doing sit ins, we are on the TV. They think that we are here to sabotage Morocco, not really, when we criticise state. We are not a threat to Morocco, we are a chance for the country. In terms of associations like us, in terms of migrants' communities being together to defend rights, Morocco is the first among all countries in the Maghreb. Honestly, it is a chance for Morocco to respect democratic rights.[149]

These claims are coupled by the observation that the conditions of transit migration have changed over time. While accepting the general observation that migrants are in transit, almost all NGOs and experts that I contacted drew attention to the changing conditions and temporality of transit and underscored that being in transit is no longer a matter of a few weeks as it was ten years ago. An emphasis was placed on how the length of this period of transit makes Morocco responsible for the situation of immigrants in Morocco, regardless of whether or not they are en route to Europe: "With AMDH and other associations, we insist for regularisation. Some say it is an EU problem, not Moroccan, the EU wants us to regularise people but they do not want to open their borders. We say it is also a Moroccan problem."[150] Migrants' associations argue against the argument relying on the transit status of migrants, stating that the exclusionary policies of the state that deny their access to rights and legal status do nothing but perpetuate migrants' vulnerabilities in society. This approach also leaves them no option but to explore the viability of clandestine migration. On the one hand, migrants themselves are explicit that they are stranded in Morocco because they could not reach Europe. On the other hand, they emphasise that migrants are also stranded because policy circles turn a blind eye to their situation, and they are denied the option of staying in Morocco or going back to their countries: [151]

> We are undocumented because we are denied documents… […] You stay for ten years, you are as if you arrived yesterday, you do not take a step. It is heavy for human life, which has a limited time. This is the force that makes people to take the sea

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[149] Interview with CMSM, Rabat, September 2012, informant 2.

[150] Interview with ATMF.

[151] The Assisted Voluntary Return and Reintegration project for irregular migrants in Morocco by IOM has not been functioning due to lack of funding.

route. This situation leads people to sad ends, especially if they are running from execution and misery in their own countries.[152]

Common references to a shared African identity and a shared emigration experience between sub-Saharans and Moroccans have underpinned alliances. "We are all Africans" is commonly stated by Moroccan NGOs and activist migrants, alike. In public statements, pro-migrant rights actors display solidarity with "African brothers" with references to Morocco's African identity.[153] Similarly, King Mohammed VI underscored Morocco's African identity in his royal speech announcing the new approach to immigration policy.[154]

One important repertoire legitimising civil society interest in immigration issues and the alliances they forged with migrants' associations concerns the references they make to the emigration experience of Morocco.[155] The references to emigration also reflect the experiences of Moroccan NGOs. AMDH, founded in 1979 after several years of work on human rights violations of Moroccans in Europe, reshaped their activities with the changing migration scene in the country. They have started to place equal emphasis on human rights violations of immigrants in Morocco: "We suffered from racism and we are racist against migrants".[156] In this sense, mobilisation for the rights of emigrants has influenced attitudes towards immigrants with or without legal status in the country.

References to the emigration of Moroccan families are also used to raise awareness of the vulnerable situation of immigrants in Africa. The statement by the ABDCS reveals how reflecting on the emigration of Moroccans to Europe facilitates communication about the situation of sub-Saharans among Moroccans with families in comparable positions in Europe:

> Sending countries, African countries have a better understanding of the phenomenon of migration. We use this argument when we make awareness-raising in poorer neighbourhoods. When they ask who these people are, what are they doing here.

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[152]   Interview with CMSM, Rabat, September 2012, informant 1.

[153]   See for instance, Non aux violations flagrantes des droits et dignités des frères sub-sahariens au Maroc. ["No to brutal violations of the rights and dignities of sub-Saharan brothers in Morocco.], *atmf.org*, 26.04.2012, Retrieved 29.03.2015, from http://atmf.org/Non-aux-violations-flagrantes-des

[154]   See for instance, Royal discourse in the occasion of 38th Anniversary of the Green March, 06.11.2013. Retrieved 29.03.2015 from http://www.map.co.ma/fr/discours-messages-sm-le-roi/sm-le-roi-adresse-un-discours-la-nationl%E2%80%99occasion-du-38eme-anniversaire.

[155]   For a detailed analysis of the emigration policies and institutions on immigration, see Üstübici, 2015.

[156]   Interview with AMDH, Rabat, September 2012.

Morocco is not a European country. We say 'think of your brothers in Europe, they are also sans-papier'. There is solidarity despite racist attitudes, we should not forget.[157]

Taking emigration as a reference point has allowed the emergence of transnational and at times "unusual alliances"(Coutin, 2011: 302). The use of references to emigration history to make a case for migrant rights in Morocco reveals the need to re-think available opportunity structures in transnational terms, as proposed by Pero and Solomos (2010: 9). As mentioned, ATMF, the union of workers from Maghreb operating in France, supported the unionisation activities of immigrants in Morocco. Again, the empathy with the immigrants in Morocco stems from Moroccans' own experience of their irregular status in Europe: "It reminds us of our situation in the 1970s. It is natural that we react to this. It is normal. This is why we play the role of advocators."[158] [159] Recently, the CCME, as a quasi-independent state institution, has developed an interest in the situation of irregular migrants. CCME conducted research in collaboration with the Institute for Public Policy Research in the UK and the Platform for International Cooperation on Undocumented Migrants based in Brussels, on the precarious situation of sub-Saharan irregular migrants in Morocco.[160] CCME in collaboration with CNDH has played a critical role in initiating a new immigration policy in Morocco. Such collaborations and CNDH's ongoing interest in irregular migration in Morocco as an issue of human rights, as well as their close relations with migrants' organisations, increased the visibility of immigrants as political actors. Alongside other geo-political and foreign policy concerns, migrants' visibility as political actors contesting their illegal status has played a role in shaping recommendations by CNDH for a radically new Moroccan immigration policy. Their relative empowerment and increasing concerns over ongoing practices has resulted in the increased momentum of migrant mobilisation in the aftermath of the reform initiative. Moroccan and migrant organisations have continued to organise public protests against rights violations, racist crimes, and attitudes towards migrants.[161] Migrants' associations have found new ways to communicate with the Moroccan government on the ongoing regularisation campaign and the regularisation of their own informal associations for instance, as was narrated at the very beginning of the chapter.

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[157] Interview with ABCDS, September 2012.

[158] Interview with ATMF. Rabat, September 2012.

[159] Further research could explore whether the experiences of Moroccan associations with the *sans-papier* movement in France have served as a model in the framing of demands for regularisation.

[160] See Cherti and Grant, 2013 for the results and policy recommendations of this research.

[161] See for instance, Manifestation contre le racisme à Rabat.[Manifestation against Racism in Rabat]. *yabiladi.com*, 21.09.2014, Retrieved 29.03.2015 from http://www.yabiladi.com/articles/details/29402/manifestation-contre-racisme-rabat

Mobilisation for individual mobility

I have shown that migrants of irregular status in Morocco have been able to carve out a political space thanks to alliances they built with Moroccan and international organisations. The Moroccan case displays a rich and underexplored empirical ground to re-investigate the theoretical connection between migrant illegality, incorporation and mobilisation in a context characterised simultaneously by emigration, immigration and transit. Interestingly, this is also the context where migrants themselves simultaneously negotiate transit and settlement. In other words, the demands for regularisation that targeted Moroccan government were coupled with more general demands on the freedom of circulation. Expectedly, critiques also targeted EU policies restricting right to asylum and mobility. My observation is that for many migrant activists, the initial motivation for mobilisation has been their experience of exclusion and their mobilisation for rights and legal status in Morocco. Meanwhile, their experiences of mobilisation have been reconciled with their individual projects to go to EU. In other words, while getting organised, migrants simultaneously seek opportunities to cross Europe. In this sense, in Morocco, mobilisation for the rights of migrants can be a way to acquire social capital that enables migrant activists to travel to Europe legally. Mobilisation becomes a means for *transiting to Europe* but not clandestinely, as the term connotes. For some, transit migration may not have been a motivating factor for coming to Morocco. At this point, the changing meaning of transit needs further analysis from the perspective of migrants. Amadou (26), from Senegal, for instance, came to Morocco to study, with no interest in migration issues and no prior experience of activism. Living in a poor neighbourhood also inhabited by migrants in irregular status and volunteering for some charity organisations, he has become a militant during his stay in Morocco. Amadou later married a French woman he met through these activist networks. He subsequently moved to France to join his wife and continue his education.

While looking for my informants on follow up visits to Rabat, André told me the story of a community leader I had interviewed but lost contact with: "He left to France. He left legally. He first went for a forum in Italy. He had the visa. Then, he was invited to France. He left and preferred to stay there. He had finished his post. He left his place to somebody else". Mentioning another informant/friend who was invited to a European country and also stayed there, André's tone revealed his appreciation of the success of his peer: "We are all happy for him, he was a real militant". Later in our conversation, André said that he was not able to take advantage of similar invitations because he entered Morocco without passport: ''We always receive invitations but it is not easy as we do not have passports. We say if they regularise us, we can also make passports and when there are forums around the world. It would allow us to travel in a good way. This is a little bit like that".

Even those who have not (yet) left Morocco for other destinations reported they have been empowered through this mobilisation process. Maya (22, from

Guinea), a young member of ODT, aspiring to pursue her studies in Europe refers to her experience of mobilisation for the rights of irregular migrants in Morocco as training. "Here, it is a form of training. I train myself here, and I see many things happening in different associations. It is knowledge. I tell myself that it is also a school. It is a school". In other words, for several migrant activists, the mobilisation process is a process of incorporation into Moroccan society but also an opportunity to further their journey.

Conclusion: Morocco as a case of political incorporation

The purpose of Chapter 4 has been to reveal the linkages between i. the production of migrant illegality even before migrants arrive at their allegedly final destination, ii. Socio-economic structures that enable and disable migrants' incorporation in new immigration countries, and iii. factors that make political activism a viable option for migrants in irregular situations in Morocco. Regarding the mechanisms of control (laws and implementation) and structural factors (the labour market) that produce migrant illegality, Morocco has been a case of exclusion at the levels of policy, discourse and practice. Regarding the question of incorporation, Morocco is a crucial case for studying the mobilisation for the rights of irregular migrants. The chapter has argued that the interaction between exclusionary practices and other structural and institutional factors resulted in a particular incorporation style, which I characterised as legal, economic and social marginalisation but political incorporation through mobilisation.

The chapter showed the conditions under which the trans-Saharan journey through Morocco to Europe has become a political journey for migrants *stranded* in Morocco in the post-2005 period. The first three sections have focused on migrants' experiences of deportation and labour market participation and their formal and informal access to rights through civil society. The first section confirms the perspectives of literature that suggests that migrant illegality is re-produced through practices of controls and deportation along the borders and in the urban setting, and that the situation reinforces migrants' continuous sense of deportability. This sense of exclusion is worsened through marginalisation in the labour market and widespread violence in the neighbourhood, as explained in Section 4.2. Civil society practices only partially alleviate social exclusion by enabling formal and informal access to fundamental rights and services. In Section 4.3, access to health care and education are described as two key areas that illustrate how mechanisms of formal and informal bureaucratic inclusion work on the ground. As discussed in this section, I have conceptualised health care as an area where the access to a right that is recognised by the state is negotiated through informal practices. It was only after non-state actors applied pressure that public hospitals started to receive immigrants without asking for their legal documents. The area of access to education is another crucial field where formal access is achieved after a process of informal inclusion and bureaucratic incorporation. Up until the Circular on universal access to public education initiated in

November 2013, the children of irregular migrants could be enrolled in schools through NGOs and HCR even though the parents are not asylum seekers or refugees. In contrast with health care, the right to education depended on bureaucratic tolerance rather than formal recognition. Only after the Circular was bureaucratic tolerance formalised and in a sense encouraged within the context of integration policy.

The fourth Section has analysed the institutional and discursive contexts that made the political mobilisation of irregular migrants a viable option. I have shown that migrants with an irregular status in Morocco, animated by their experiences of marginalisation, have been able to carve out a political space to claim rights and legal status thanks to alliances with Moroccan and international organisations. The use of a referential framework based on a language of rights, a common African identity and experiences of emigration reinforced the shared ideational ground of such alliances. Because of this mobilisation, migrants with an irregular status gained public visibility before they were recognised by state authorities.

This aspect of migrants' incorporation as political subjects makes Morocco a crucial case for exploring the link between migrant illegality and new social movements literatures, which has received little attention in new immigration contexts at the periphery of Europe. Political incorporation is also a process through which migrants benefit as individual actors. It is noticeable that several association leaders found ways to travel to Europe legally through transnational connections they built within these activist networks.

Despite the limitations of the mobilisation for the rights of irregular migrants, the Moroccan case generates interesting empirical and theoretical questions. It remains questionable if this ongoing political activism in the context to reform initiative will alleviate migrants' experiences of exclusion and marginalisation in social and economic life, which had initially pushed them to mobilise. It is also questionable if mobilisation provides a critical opening to question border and membership practices of powerful actors such as the EU or nation-states of the North or if it reinforces the international regime of migration controls that was envisaged by these powerful actors in the first place.

It is worth noting that the mobilisation by irregular migrants at the periphery of Europe is more of an exception than a rule. One way to theorise the specificities of the Moroccan case is to compare it with the situation in other countries. The mechanisms of exclusion and inclusion that make migrants' political incorporation possible make the Moroccan case distinct from the cases in other countries in the region. As will be explained extensively in the next chapter, the case of Turkey exhibits a different mechanism linking the production of migrant illegality and migrants' experiences of incorporation.

Chapter 5 Turkey: De-politicising illegality and its impact on migrants' quest for legal status

Alima (34) was born in Eritrea and came to Turkey in 2008, after working for 3 years in Saudi Arabia and 2 years in Syria. "I could send money to my mother but in those places, there is no freedom for migrant workers. I decided to go to other places. … The entry to Turkey was difficult, we walked from Syria to Antakya, it was a long, tough walk". Alima paid her smugglers around 500 dollars to cross the border and another 500 for the bus ride from Antakya to Istanbul. She was held by the smugglers in a safe house, a "shock house" as they call it. As she was unsure about going to Europe, Alima refused to pay to cross to the EU and managed to get rid of the smugglers, fighting with them until they eventually let her go. She first found a job in Kumkapı in an African restaurant (a neighbourhood in the touristic area of Istanbul, known for its presence of migrants). "This is where I met the father of my baby. He is from Nigeria, we moved in together and lived in Kumkapı, Avcılar, Fatih in different places". The father of her baby whom she refers to as husband had been arrested for selling drugs while she was pregnant. "He says that he was just next to his friends and was not doing anything wrong but nobody listened to him". Alima had her baby in 2010 and expected that she and the baby would be Turkish citizens. She later realised this was not the case for her or her child. Before the birth, she was advised to apply for UNHCR. "I applied for birth, I gave birth in a hospital and the church paid for it". Alima was able to rent a house with the help of a church related charity organisation in the Tarlabaşı neighbourhood, a neighbourhood right next to Taksim Square, where groups of internal and international migrants reside. "Then, they sent me to my satellite city, to Antakya. I stayed there 3 months and came back to Istanbul. I was called a couple of times by the police in Antakya". Alima was able to leave the city by convincing the police that she had to visit her *husband* in the prison or saying that her baby was sick. She felt guilty for lying and prayed to God that her baby did not really get sick. She shared the house in the Tarlabaşı area with other Nigerians, the *brothers* of her husband. Alima could not work after the birth of her child and mostly relied on humanitarian aid from the church and other humanitarian NGOs. She later found a job as a translator for an NGO. She was able to leave her child in a church-run day care while she worked. She travelled many times between Istanbul and Antakya while applying for asylum and finally got a refugee status. Currently, Alima is in her satellite city, waiting to be re-settled in a third country. She still keeps her room in Istanbul and rents it out while she is away.

This chapter traces the interlinked processes of the production of migrant illegality and migrants' experiences of incorporation in the case of Turkey. By exploring migrants' experiences of deportability, participation in economic life and access to fundamental rights, I underpin processes of low levels of politicisation of immigration related issues in Turkey. As hinted in Chapter 3, I suggest that low level of politicisation, in the general sense that immigration is not considered high in public

policy agenda, has not only characterised irregular migration governance, but also migrant incorporation in Turkey. My findings aim to build causal relations between three separate empirical observations that emerge from research on irregular migration in Turkey. These are: i) migrants' subordinate presence in the labour market, ii) converging categories of asylum seekers and irregular migrants in lived experience despite legal boundaries further separating them, and iii) the relative weakness of pro-migrant rights movements and migrants' political mobilisation.

Research has already revealed that Istanbul has become an economic hub for migrants of diverse nationalities and legal status, who are looking for economic opportunities. As an outcome of the production of migrant illegality, irregular migrant labour force has become part of the labour market. The contrast between Harun's relatively smooth infiltration into existing textile work in Zeytinburnu, narrated at the Introduction chapter and Alima's partial access to income generating activities exemplifies my proposition that the labour market is selective and cannot account for the incorporation experience of all migrants of irregular status.

Despite the rigidity of legal and policy categories discussed in Chapter 3, Alima's and Harun's stories do not fit in typical trajectories of a refugee running from conflict, or an economic migrant coming to Turkey to work or of an irregular migrant with the intention to cross to Europe. At the same time, their stories contain elements from different migrant categories similar to those in irregular status. Indeed, most research and reports on Turkey and elsewhere acknowledge the convergence between categories such as irregular labour migrants, transit migrants and asylum seekers (İçduygu and Bayraktar, 2012; Danış, Taraghi and Pérouse, 2009: 465-6; Biner, 2014). However, only few studies empirically show how drifting from one status to another impacts migrants' access to rights (Coutin, 2003), how the legally institutionalised strict separation between asylum seekers and irregular migrants manifests itself on the ground, or the effects of the politicisation of issues pertaining to the rights of irregular migrants.

Observations indicate the low levels of migrant political activism and pro-migrant rights movement in Turkey (Parla, 2011; Şenses, 2012; Ozçurumez and Yetkin, 2014; SRHRM, 2013: 17). However, no research has explored the link between particular manifestations of migrant illegality, migrant incorporation and (lack of) communal strategies to access rights and legal status. Migrants in irregular situations in Turkey do not display a similar level of mobilisation for rights and legal status as their counterparts in Morocco. This is surprising given the similar experiences of being stranded due to difficulties of crossing to Europe (Yükseker and Brewer, 2011) and experiences of marginalisation in social and economic life (Danış, Taraghi and Pérouse, 2009; Dedeoğlu and Gökmen, 2010).

I argue that the de-politicisation of issues pertaining to the rights of irregular migrants is underpinned through practices of control and toleration by enforcers (the

policy context), through migrants' participation in the labour market (the receiving economic context). In the absence of a civil society interest to channel their demands (the character of allies), migrants of irregular status have found less incentive to associate among themselves despite their marginal situation in society and their lack of access to fundamental rights. They seek access to legal status through individual strategies.

In a parallel structure to Chapter 4, the chapter has four sections. The first section explains how migrants experience deportability, as they attempt to enter and exit the country and/or settle in urban areas. The section elaborates on the experiences of deportability as a possibility rather than part of daily experience, and on the disciplining effect of arbitrary practices of security forces. The second section explains how the mere possibility of deportation profoundly affects migrants' social and economic incorporation, as discussed in Section 5.2. The section shows how the precarious structure of the labour market impacts individual experiences and discusses the layers and limits of labour market incorporation. Here, I reflect on the connection between labour market conditions and possible migrant activism. The third section focuses on the difficulty of access to basic public services such as health care and education for migrants of irregular legal status. I place a particular emphasis on interconnecting asylum and irregular migration regimes. The role played by civil society is discussed in Section 5.3 but will be further analysed in Section 5.4. Section 5.4 will also elaborate on how civil society has limited itself to potential asylum seekers rather than embracing a more radical discourse on the rights of migrants regardless of legal status. The situation potentially reinforced the de-politicisation of issues pertaining to the rights of irregular migrants. After explaining and reflecting on the mechanisms of the absence of mobilisation for the rights of irregular migrants, the last section puts a particular focus on individual strategies through which migrants gain access to legal status and rights.

5.1 Migrant deportability beyond the EU borders

> Harun's account of his clandestine entry to Turkey from the Turkey-Iran border and his arrival to Istanbul were precise, as he wrote about his "adventures" throughout the journey. As they arrived the city of Van, after crossing the Turkey-Iran border without documents, the smuggler showed them the UNHCR office without really explaining much: "There, it is a foreign thing, they send you to other places and also to Europe". As advised by the smuggler, he did not mention his relatives in Istanbul, where he was staying in Van or how he crossed the border. "Then, she [the officer] asked me if I ran away from my family. I said I asked my family before I left, I did not run away. As she insisted on why I came here, I did not say another lie, and I made it clear that I came to Turkey to work". She was suspicious but she sent them to the police department for registration and settlement in a satellite city.[162] Harun went

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[162] As explained in Chapter 3, Section 3.4, the Turkish asylum system requires a double registration procedure with UNHCR[162] and the Turkish authorities. The Foreigners Department in the Provincial Police Department

to the police department to register but was never re-settled in a satellite city because his smuggler insisted that they continued the journey without delay. They were travelling to Istanbul by car with a guide sent by the smuggler, when the police stopped them. "We had no authorisation to leave the city. We lied again, saying that we are going to a wedding and would come back to Van after the wedding". Luckily, they were not detained but were taken to the police station and sent back to Van. The police gave them food and allowed them to spend the night in the station. "In the morning, he [the police officer] woke us up, we went out. He stopped a bus on the way and told the driver to take us to Van bus station. When we arrived, the station was empty, it was early in the morning. I told the smuggler to buy us our ticket to Ankara. He was reluctant first, we were caught once, he said, next time they might send you to Afghanistan. The second time was no problem. ... we took the bus, nobody asked anything. I was in Ankara next morning, it was the first day of Eid and I joined the morning prayer with other people in the bus station. The second day of Eid, I was in Istanbul and I celebrated it there. This was adventurous".

Rabia and Halim's encounters with the police have not been as smooth. Rabia (35), a widow from Afghanistan, came to Turkey with his younger brother Halim and her 13-year-old daughter. They arrived by airplane with a valid passport and visa. "Indeed, we came to Turkey to stay. Here, the situation is better. You can go to school. I was told by my sister who lives in the UK that if we go to Turkey, we could live there. Once we arrived, we went to the police department in Vatan Caddesi to get a temporary residence permit. We were asked to come back with a Turkish national as a reference. We did not know where to find this person. Then, our troubles have started". The interview took place three months after their arrival. Within this period, the family's passports were stolen, and they were caught undocumented and detained by the police. They were maltreated by the police, first in a police station, then in Kumkapı Removal Center in Istanbul. In Kumkapı, they applied for asylum: "We did not ask for asylum application", explains Halim, "they did it themselves, so that they could let us go". They were happy to be out of the removal centre. However, the police department in charge of asylum assigned the brother and the sister residence in two different satellite cities. "We were told that it would take at least five months to change our residence to another city. Five months is too long, and I did not want to be alone during this time" said Rabia, explaining why they decided to return. Thanks to one of the translators, they were informed about the voluntary return programme by IOM. The programme would fund their return, and they were eligible for a non-refundable one-time payment to make a fresh start in Afghanistan.

The section first gives an overview of how migrants who depend on particular ways of entering and staying in Turkey are rendered deportable. Illegal entry as seen in the above examples, and overstaying one's visa have become prevalent ways that migrants acquire an irregular legal status. Second, it shows how the possibility of

registers asylum seekers and sends them to satellite cities where they are required to reside. Leaving the satellite cities without authorisation from the police is not possible. Asylum seekers are required to sign in at the police department on regular basis to prove that they are abiding by the rules.

migrant deportability has become a mechanism for taming migrants during their settlement and work experience in urban areas, which is elaborated in Section 5.2.

As implied in the narratives of Harun and Alima, the Eastern and Southeastern borders of Turkey have been subject to fewer controls. They have been more permeable for potential asylum seekers and economic migrants. Hence, the majority of migrants without necessary documents enter through these borders with the help of smugglers, while a smaller group of illegal entrants are known to enter from the sea border.[163] As in the case of Morocco, those with financial means, connections and intentions to cross to Europe directly move to the Western borders and try to cross to Greece.[164] Others with no such intention and/or resources to cross, or whose attempts have been unsuccessful stay in bigger cities. They join groups of semi-settled migrants working in the informal market and/or apply for asylum.

Those with valid documents to enter the country mostly come to Turkey on tourist visas and overstay. Others, especially from neighbouring countries, have kept their status legal by moving back and forth between Turkey and their countries. Most migrants, however, overstay their visas and cannot return to their countries because they know that they cannot avoid the stamp on their passport, banning them from legally re-entering Turkey in the near future. Therefore, they prefer to remain in Turkey illegally rather than being deported to their country without the possibility of returning to Turkey. For legal entrants, the difficulty to legalise their status and the impossibility of returning after being deported becomes a mechanism for them to endure irregular legal status in Turkey. Consequently, irregularity becomes a permanent condition for many migrants who overstay their visa.

Regulations preceding the LFIP have illegalised multiple exits and entries, enabling circular mobility between Turkey and neighbouring sending countries. This change was coupled with one time regularization for overstayers in Summer 2012. Thus, a small minority of irregular migrant workers could legalise their status by applying for residence and work permits. Others have been pushed into illegality, as they would no longer be able to move back and forth between Turkey and their countries of origin. For instance, Victor (30, from Georgia) could make use of the exceptional non-renewable residence permit scheme introduced in the summer of 2012 after the change of laws on multiple entry. "The first time, I came with a 3 month visa, I re-new it by re-entering. Then, I took a resident permit for six months. Then, I was clandestine [tr. kaçak]".

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[163] These are mostly migrants and potential asylum seekers from African countries. Deceived by smugglers, they are left on the western coast of Turkey rather than on the shores of the EU as promised. Among the migrants interviewed, one Ethiopian young woman had been deceived and left in Adana, a city on the Mediterranean coast.

[164] The major crossing points used by smugglers are along the maritime and land borders between Turkey and Greece (Frontex, 2012; 2014). An increasing mobility along the Bulgaria Turkey border is also noted.

The functioning of the asylum system is another factor pushing potential and actual asylum seekers into illegality. The connection between asylum and irregular migration regimes is crucial for understanding the practices of detention and deportation in Turkey. The regulation requiring asylum seekers and recognised refugees to reside in a remote city (the satellite city) intends to create a system of control over asylum seekers and one of the blockages over their mobility towards big cities and the EU border. In this sense, the asylum system intends to filter asylum seekers from irregular migrants (Biner, 2014). Meanwhile, as the number of applicants increase and re-settlement quotas shrink, the waiting period for re-settlement is getting longer. Moreover, asylum seekers that are required to reside in satellite cities face difficulties, especially in finding work to support themselves: "They do not find similar jobs there".[165] Another NGO representative makes it clear that asylum is not appealing for migrants who have not decided whether to settle, work in Turkey or go to Greece. For some groups, asylum becomes another way for migrants to collect documents that enable them to negotiate their deportability. "We receive applications from Pakistani and Bangladeshi. They apply and never show up again. They just get the paper in case the police stop them. People apply as a last resort, when they are caught, get sick etc.".[166] While asylum only provides a partial enjoyment of fundamental rights (as explained in Section 5.3), most satellite cities do not provide employment opportunities. As opposed to what is intended by the legislation, employment opportunities that pull asylum seekers to big cities result in blurring distinction between irregular labour migrants in bigger cities and asylum seekers who are legally required to reside in their designated provinces. In other words, the geographical limitation and malfunctioning of the asylum and re-settlement mechanism forces asylum seekers to either attempt the journey or breach asylum regulations.

Apprehensions, detentions and deportations have been the main tools of migration controls in Turkey (Grange and Flynn, 2014). According to the data compiled from irregular border crossings published by the Turkish Armed Forces, the General Staff, the number of apprehensions indicates that over 52,000 were apprehended while exiting the Turkish borders between January 2008 and June 2012. In the same period, only around 9,000 people were apprehended while entering Turkey.[167,] There is a similar discrepancy between the total number of people (entry and exit) apprehended along the EU borders and the Eastern borders (İçduygu and Aksel, 2012: 24-25). An overwhelming majority of migrants are apprehended by Turkish security forces at the EU borders, along the Aegean cost and in the Thrace region – the land border between Turkey –, Bulgaria and Greece. Statistics of on migrants deported by security forces reveal that the majority of deportees had been apprehended while entering or exiting the country without proper documentation (Toksöz, Erdoğdu and

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[165] Interview with ASEM, Istanbul, November 2013
[166] Interview with HRDF, Istanbul, August 2013.

[167] Data compiled by Turkish Armed Forces, the General Staff.

Kaşka, 2012: 47). The analysis should acknowledge that the data on irregular migration is far from complete or reliable (SRHRM, 2013: 17), and the geographical and porous character of the nation-state borders along the Eastern borders of Turkey challenge state border controls. Nevertheless, one can deduce that the Turkish state has been preoccupied with controlling irregular exits which is also the EU priority, rather than irregular entries, in the context of the international production of migrant illegality, as explained in Chapter 3.

Looking at the "geographies of deportability" (Garcés-Mascareñas, 2012: 210) and *geographies of detention*, one can suggest that there are differences in the experiences of deportability of migrants attempting to cross EU borders and those who are semi-settled in urban areas. Istanbul, where migrant interviews for this research took place, has been identified as a major hub for migrants who stay and work in Turkey without proper documents (Danış, Taraghi and Pérouse, 2009; Suter, 2012). Meanwhile, deportees who were apprehended and detained in Istanbul have constituted a small portion of all deportees throughout Turkey (Toksöz, Erdoğdu and Kaşka, 2012: 81).[168] Note that the number of deportations based on working without proper documents has grown over the years but has not exceeded 10% of the total deportees. For Toksöz, Erdoğdu and Kaşka, (2012: 48), the relatively low percentage of undocumented workers deported is due to lax inspections. The tolerance towards irregular migrants, especially those who are working informally, is a widely acknowledged aspect of detention practices in Istanbul. The available statistics give a general impression, but these do not offer conclusive information. Firstly, statistics are mostly inadequate, and secondly, numbers lack insight into migrants' perceptions of illegality.

Experiences of deportability between tolerance and arbitrariness

> Police asks for passport and identity all the time. Everybody knows that I am working *kaçak* [eng. unregistered, clandestine], nobody touched me. I used to work in car wash. There I was also washing policemen's car, the police came and naturally we talk, have tea. They all know that I am here to work, I do not do anything bad, I do not mess around. (Victor, 30, from Georgia).

A survey conducted with over 1,000 foreigners with different legal status and residing in different cities in Turkey indicated that 64% of respondents agreed that the police in Turkey are tolerant towards immigrants. Surprisingly, migrants who did not enter the country through legal means were the group who agreed most (74%) with the statement (İçduygu et al., 2014: 80). This sub-section elaborates on migrants' perceptions of being tolerated and how this situation of "tolerance" impacts migrants'

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[168] According to data collected by Toksöz, Erdoğdu and Kaşka (2012: 43; 81) for the IOM report on irregular labour migration to Turkey, out of 44,433 deportees in 2001, 10,795 were deported from Istanbul, and out of 26,889 deportees in 2011, 8,592 were deported from Istanbul.

experiences of illegality and of incorporation. The narratives of being tolerated are enmeshed with those on being subject to arbitrary practices. What I call "arbitrary toleration" by security forces refers to myriad practices, ranging from turning a blind eye to the presence of irregular migrants to opportunistic crimes such as occasional controls that lead to harassment or to bribery if not detention (also documented by Suter, 2012, Yükseker and Brewer, 2011). After arriving in the city, the post-entry period is characterised by the possibility of detention but also by widespread toleration, especially for groups that are relatively less associated with transit migration. Even Afghan nationals who are overrepresented in deportation statistics and considered as a group that is likely to be subject to long detention (Toksöz, Erdoğdu and Kaşka, 2012: 48; SRHRM, 2013: 12), have expressed that they feel being tolerated, as long as they stay away from the borders and from crime related incidents. A police officer once stopped Malik (22, from Afghanistan) to ask for his papers: "He did not ask anything more when I said I am from Afghanistan" he explained to me with a sense of security. In a similar vein, although Harun (22, from Afghanistan) defines himself and their way of life as "kaçak", he also expresses that being "kaçak" may not necessarily affect one's relations with the security forces:

> It has been three years, I am in Turkey. We are living here, we are living "kaçak", we are in comfort here, we are working. Thank God, it is like our country. If the police sees me, he would let me go. ... For instance, they caught me but let me go. They are investigating for drug use, and there are men doing illegal business. They let me go.

Despite the harsh situation at the borders, the experience of deportability in the urban setting in Istanbul is characterised less by raids then by arbitrary enforcements of law. According to CSOs operating in Istanbul, raids are only used occasionally in criminal situations or when the police were notified (see also Toksöz, Erdoğdu and Kaşka, 2012: 82). The implementation of detention practices in Istanbul continues to be unpredictable. As explained at the beginning of the section, the police detained Rabia, her brother and her daughter because they were not able to present any legal papers: "We were arrested as we were walking by the seaside. We said we were Afghans, he asked for papers. We tried to explain that our papers were stolen. They never listened, we were put in the police car".

Interviews with the security forces on the practices of control confirm the possibility of being subject to random controls rather than systematic inspection. The security forces themselves also confirm the situation of relative tolerance towards certain groups but especially to certain types of mobility. An officer from the Turkish National Office has explained that police raids target "shock houses" [tr. şok evleri] in Basmane in İzmir at the Aegean cost, in the suburbs of Istanbul where smugglers keep migrants before they organise their crossings out of the country. He also underscored the limits of their efforts, confessing that "the thief is always one-step ahead". Raids of this type directly target those who might be subject to transit migration. Alleged

economic migrants are also subject to police controls but to a lesser extent. The officer interviewed highlighted the impossibility of entering houses: "Inspections are done in public spaces, in entertainment places. The controls are done through sampling [tr. sondajlama], there are no controls for every one we meet in the street". Referring to African migrants in Istanbul and Ankara in particular, he added that migrants of irregular status are depicted as a problematic group in terms of security, "prone to criminal activities" especially when "they cannot earn money".[169]

The randomness of controls by the security forces is justified by the incapacity but also a lack of interest in detaining migrants, especially in urban areas. "The police does not make raids in Istanbul, what would they do with those apprehended?" An NGO representative stated, expressing a general reaction by NGOs when asked about police behaviour. To underpin this conviction, the official capacity of removal centres has been much lower than the number of cases apprehended, although it is known that the actual detention capacity including police stations, used as de facto spaces of detention, is higher than what is reported (Grange and Flynn, 2014: 19).[170] As immigration related issues are kept low profile in the public agenda, as discussed in Chapter 3, and detention conditions have been a major focus of international and domestic critiques, one can fairly argue that the police would have less interest in detaining migrants in mass numbers. Officials also referred to migrants' contributions to the economy and the fact that Turkey has entered the phase of becoming a country of immigration.[171]

Being tolerated does not necessarily mean being free from all kinds of controls. Overstayers as well as migrants without legal status may equally be subject to interventions by the police. Along with "kaçak", another word widely known among migrants from different migration trajectories is "deport", regardless of one's knowledge of English.[172] Police intervention may or may not result in detention, depending on the decision of the enforcer on the ground. The police have been given wide discretionary powers to interpret public order. Being a foreigner provides enough

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[169] Interview with an Officer from the National Security, December 2012, Ankara. *Emphasis added*.

[170] The capacity of Kumkapı Removal Centre was 560 (360 for males and 200 for females) when it was established as a "Foreigners' Guesthouse" in 2007. In 2009, the capacity of all six removal centres was estimated as 7,030. While academics have calculated the latter number to be much higher than what is reported by the European Commission, it still indicates a low capacity when compared to the annual number of detentions (see Grange and Flynn, 2014: 19-20 for detailed information on the capacity of detention in Turkey).

[171] This attitude on the economic contribution of migrants has also been similar in the aftermath of the Syrian crisis (Özden, 2013; Mazlumder, 2014).

[172] The word "deport" is widely uttered rather than the Turkish word "sınırdışı''.

grounds for detention. There are cases where the police can detain a legal migrant just for being in the vicinity of an incident:[173]

> Let's say two people one citizen, one non-citizen are taken under custody. They are released afterwards by the decision of the prosecutor. Only because he is a foreigner, the non-citizen is not released but sent to foreigners' police simply because he was involved in an incident with the police... I also encountered the cases where the victim complaining to the police facing detention followed by deportation. In this sense, the prerogative of the police is limitless. The fact that it is a foreigner [regardless of legal status] provides enough ground to deport the person.[174]

Being tolerated and being subject to arbitrary practices and abuse go hand in hand. In the context of the wide discretionary powers of the police and the absence of judiciary mechanisms available to everyone regardless of legal status[175], it is challenging for irregular migrants to contest violations of their rights. Dilbar (33) is an Uzbek woman, working in childcare in an affluent residential neighbourhood in Istanbul. Like other women from the region who come to work in Turkey, she came on a tourist visa and found her first job through an informal employment agency. Even after her passport was stolen after lending it to a friend to whom she was indebted, she was able to change jobs. Another Uzbek woman from her village recommended that her new employer accepted her without a passport because she had good reference: "It is so hard to find a job without a passport. They trusted me thanks to sister Shara". She explains that because she is a woman, she refrains from being outside after dark and mentioned that she was actually stopped by the police. She used to go to Kumkapı on her days off during the weekend and also spent nights there with other Uzbek women who worked for the same agency. On the day of her first payroll, she went to Kumkapı to pay the informal agency the instalment for finding her a job. On her return, she was stopped by the police and was put in a police car:

> I told him I was working, I was from Uzbekistan. He asked everything, and I did not answer much, only short answers. 'Why you do not talk?' He insists, 'you do not have a tongue`. I was so scared, I can only answer, 'I do'. He asked me if I had money. I said I did not at first and I refused to give him my purse. Then, I said I had

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[173] One striking example of arbitrary detentions happened during the Gezi Park protests in June 2013. An Erasmus student was arrested when she took refuge in a nearby Socialist Democracy Party branch during a police intervention in Taksim. Although she was found not guilty of allegations against her, the student was deported within few days. The court recently decided that the detention was illegal, and there is a parallel court case continuing on the decision on her deportation.

See Student Detained during Gezi Protests Appeals Deportation Decision. Retrieved 29.03.2015 from http://www.hurriyetdailynews.com/french-student-detained-during-gezi-protests-appeals-deportation-decision.aspx?pageID=238&nID=49639&NewsCatID=341

[174] Interview with Mazlumder, Istanbul, November 2013.

[175] As a novelty, Article 53 of LFIP introduced the possibility to appeal the decision of deportation within 15 days, as discussed in Chapter 3, Section 3.4.

little money. I told him how much money I had. He asked for half of it. So, I gave him 200 dollars and kept the other 200 and returned home.

The threat of detention and deportation was enough for Dilbar to give the officer her whole wage. Interestingly, the police *only* asked for half of her wage and assured her that she would not have to pay the next time. This instance exemplifies how tolerance implies inherent arbitrariness by enforcers and the possibility of abuse. Oral statements such as the claim that she will no longer be asked for money indicate how practices of *arbitrary toleration* towards irregular migrants render them docile. The instance also indicates a tacit agreement of *abuse in exchange of toleration*, in which the migrant in an irregular situation has little say and nowhere to go to complain. However, migrants themselves are not without counter-strategies.

The awareness of arbitrary detentions and abuse by security forces has led migrants to make conscious decisions on how to behave in public and what kind of papers to collect and to show so that they are not involved in any sort of criminal activities, including irregular crossings to Greece. As a result, migrants feel their deportability on daily basis, and they make conscious efforts to negotiate the discretionary power of the police. These efforts may include the collection of certain paper –passport with valid entry, asylum applications, other identity documents – indirectly proving their length of stay in Turkey and that they are not prone to criminal activities or transit migration. Most Afghan nationals interviewed and encountered who enter the country without legal documents explained that after arrival, they felt the need to go to the Afghanistan consulate in Ankara and apply for an identity showing that they are from Afghanistan, commonly called a "white passport". This passport, mainly in Farsi, has no use for travelling or obtaining a residence permit in Turkey, but it is a document one can show to the police. The date of issue of the document indirectly proves the time spent in Turkey, hence the person is not a candidate for irregular border crossing into the EU. As explained by Malik (28, Afganistan), those with the possession of certain papers, albeit not the *right papers,* may be tolerated by the security forces: "Yes, the police stopped me once and asked for my identity, 'Unfortunately, I do not have one' I said. He asked for my residence permit. 'Unfortunately not'. Then, he asked me what I had and I showed my passport. He looked at it and let me go". One of Malik's flatmates, Ahmed, a 19 years old young man, the eldest son in his family, came to Istanbul to work in 2012 after many years of being a refugee in Pakistan and Iran and after working nearly two years. He explains that the police have become more tolerant compared to Iran, especially within the limits of the neighbourhood that is known for its presence of irregular migrants:

> The police may stop you and ask for your identity. We, Afghans can show our passports to the police, and it is not much of a problem… When I came here, I saw my friends having got their passport. I also went to Ankara to get one for myself… The police never stopped me so far, but my friends were stopped. It is because I work in Zeytinburnu and only leave the area once in a while, during Eid or something like that.

By collecting certain papers and selectively using the urban space, migrants consciously re-draw lines between legality and illegality, and situate themselves in this illegal but licit sphere (Kalir, 2012: 27). On one of my early visits to the house where single Afghan men lived and worked in a district of Istanbul that was known for textile and leather workshops, I noticed the atmosphere was tense, and people were more reluctant to speak with me than they had been in the past. Then, someone explained that the police had arrested their friends who were living with a smuggler. There had been a police riot in their friends' neighbourhood, and the police apprehended them. Three of them were released immediately (reportedly saying that they are 15 years old): "The police will release them, it will not do much". As Mahmut (29, Afghanistan) explained, the eldest in the house who usually responds to my questions on behalf of everyone, the police were searching for one particular person, allegedly a smuggler, related to a recent boat sinking that killed 12 people. His explanation was followed by a cautious remark: "Obviously, we know those kind of people, but we do not let them to hang out with us. They, being around us, constitute a problem for us. As we are *working* here, we do not let those people among us".

Even among African men who are stigmatised as prone to criminal activities, I have noticed a similar sense of confidence emerging in a relatively short time after arriving in Istanbul.[176] The general conviction is that "the police would not touch you if you are not doing anything illegal" or ''migrants are not harassed in Turkey" (Alex, 33, from Nigeria). These convictions reveal that even the groups that are most stigmatised in the media and by police practices, feel at ease (Suter, 2012). Being seemingly tolerated is coupled with experiencing occasional abuses, checks and the possibility of detention. Being "kaçak", hence deportable, refers to migrants' subordinated position in their participation in social and economic life. In the absence of channels through which they can claim their rights as human beings and/or workers, they are left at the mercy of the police and their employers. Market participation is one way to show the police and implicitly the locals one's docility, hence one's legitimate presence despite being "kaçak". Docility describes more than an image created for the security forces and locals; it also characterises migrant's experiences of settlement and labour market participation and their quest for rights and legal status.

5.2 Illegality in (semi-)settlement: incorporation into informality

This section focuses on migrants' processes of settlement and labour market participation. The existence of a widespread informal economy and their community networks facilitates processes of settlement and economic participation. The structure of the labour market, which is informal and requires cheap labour, has enabled the economic participation of irregular migrants. In dialogue with the findings of research on irregular migrants' economic participation in Istanbul (Toksöz, Erdoğdu and Kaşka,

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[176] See also Suter (2012: 122-126) for an ethnographic account of encounters between African migrants and the police.

2012), I suggest that migrants' labour market participation contributes to the construction of docile subjects; additionally, I show that this is a selective process. Thus, the labour market is more likely to accommodate a young, flexible labour force that can survive tough and precarious working conditions. Findings also indicate that neither migrants' experiences of *market violence*, commonly expressed in interviews, nor their exclusion from economic activities translates into political contestation.

Settling into informality

Figure 5.1 Room for rent for a foreigner [tr. yabancı], shop window of a female hairdresser in Kumkapı, Istanbul.

Source: "Somali Sokak" "Suriye Sokak" oldu. [Somali Street has become Syrian Street], *Hürriyet*, 10.09.2014,. Retrieved 22.03.2015 from
http://www.hurriyet.com.tr/ekonomi/26939576.asp.

The availability of housing and labour market opportunities and the presence of community networks have enabled the concentration of migrants in certain areas. These neighbourhoods such as Kumkapı, Kurtuluş, Dolapdere, Tarlabaşı and Zeytinburnu are mostly situated at "the periphery of the center" (Danış, Taraghi and Pérouse, 2009: 469) of central neighbourhoods. They have historically shown ethnic and/or religious diversity. Housing is available through mechanisms of the informal economy and ethnic kinship ties with those already settled. Most of these areas are close to where migrants find work opportunities. Neighbourhoods such as Kurtuluş and Kumkapı are close to small-scale manufacture ateliers and cargo businesses widely used for textile trade. Zeytinburnu is largely inhabited by communities of migrants of Afghan origin who acquired citizenship after arriving in the early 1980s as well as migrants and asylum seekers arriving from Afghanistan, comprising a heterogeneous group in terms of legal status, ethnic and linguistic background. Citizens of Afghan origin and the new comers in the post-2000 period have worked in small-scale leather

and textile manufacturing, which was already common in the area (see Danış, Taraghi and Pérouse, 2009).[177]

Pure market forces and lax regulations define migrants' infiltration into the housing market. Announcements – as in the above picture – advertise housing that is available for foreigners on shop windows, revealing conveying familiarity with new comers. Housing is a form of economic revenue for property owners and real estate agents who may ask immigrants to pay higher rents. The increasing rents with the arrival of more immigrants without legal status in certain areas reveal one way that migrants contribute to the local economy (Biehl, 2015). Eric (34, from Cameroon) came to Turkey with a valid visa and open return ticket to look for possibilities including crossing to the EU, securing legal papers to travel to the USA and/or trading between his country and Turkey. His "brother" from the country welcomed him at the airport and took him to Kumkapı: "I am staying at a friends' house. There, we are four. We pay 100 Dollars per person to cover rent and bills. The landlord is fine with us staying there. The landlord only cares about the money". For Harun (22, from Afghanistan), it was easier to rent a house with his parents and siblings. However, he was cautious that the arrival of Syrians and ongoing gentrification in the Zeytinburnu area would raise rents even further. "We took an apartment eight months ago. It is easier to find an apartment if you are family. However, there has been a lot new arrivals, Syrians recently and the rent prices went up. I am not saying anything against, they should be able to come as we had been. Plus, a part of Zeytinburnu will be evacuated so the rent will go higher and higher". [178][179]

Most migrants who arrive in Istanbul find housing through relatives or ethnic kin who speak their language, who they may or may not know before arriving, except for those who find domestic live-in work after staying with friends or agents.[180] In these cases of semi-informality, older and more established migrants can help their

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[177] In 1982, a Turcoman community from Afghanistan was invited by the authorities to settle in Turkey. In later years, they were joined by newcomers through marriages and family reunification (Danış, Taraghi and Pérouse, 2009: 543-4). Some of these new citizens moved to Istanbul and settled in Zeytinburnu where there were leather workshops where they could perform their traditional craft (Danış, Taraghi and Pérouse, 2009: 547-9).

[178] See also '"Somali Sokak" "Suriye Sokak" oldu. [Somali Street has become Syrian Street], for a media account on the impact of arrival of first Africans, recently of Syrian migrants on rent prices in Kumkapı area. 10.08.2014, *Hürriyet.* Retrieved 22.03.2015 from http://www.hurriyet.com.tr/ekonomi/26939576.asp.

[179] The ongoing urban transformation of Istanbul has limited housing possibilities for the lower classes, including immigrant groups. Tarlabaşı, traditionally inhabited by newcomers to the city, has been in a process of gentrification. As a result, immigrants residing there had to move from streets closer to Taksim to arguably more dangerous areas of the neighbourhood and towards neighboring areas such as Dolapdere and Kurtuluş.

[180] Dilbar (33) was not able to find employment as a domestic when she arrived. She stayed in the agency in Kumkapı and paid a daily rate for the bed she was provided with while looking for a job. It is noted that some new arrivals without connections and those with the intention to cross may live with their smuggler. They are usually overcharged for accommodation and pulled deep into bondage.

newly arrived kin through their legal status. Landlords may ask for legal papers for rental contracts. In this case, former migrants having acquired legal papers may help newcomers get contracts, at times in exchange for money. Ahmed (21, Afghanistan) got help from kin from his village who left for Turkey back in the 1980s and became citizens: "I had relatives living here. I had called them and let them know about my arrival. We were three people on arrival. They rent a flat for us, we found the house, we found work, now we are all working". Zerrin (34), and her kids moved from Afghanistan first to Iran and then to Turkey with the help of smugglers. She hopes to go to Europe legally to re-unite with her husband who received refugee status in the Netherlands after spending years in different EU countries. Upon arrival, Zerrin did not know anyone in Istanbul, but their smugglers made connections with her husband's "friends" and found them a flat to rent in Zeytinburnu. Zerrin, unlike other migrants with initial connections, had to pay for this service. Over a year later, Zerrin and the kids are working in textile ateliers in the neighbourhood and are still paying their debts to people who initially found them a house.

It is also common to sublet rooms in a house once an initial contract is set. Newcomers can settle into overcrowded flats/rooms that are inhabited by previous migrants. After signing the initial contract, the house that Ahmed's relatives rented was inhabited by a group of single men from Afghanistan. Another Afghan family that was smuggled from Afghanistan settled in Zerrin's second room. Accepting the newcomers is a way to reduce the cost of rent and raise revenues for more established migrants. Alima, a recognised refugee and mother of a 3-year-old, from Eritrea, whose story is briefly introduced at the beginning of the chapter, resided in Istanbul for years, rather than in her designated satellite city. As mentioned, she initially rented her two-room flat, with the help of a church related charity. Therefore, she dealt with the property owner and newcomers in the house, who were mostly Nigerian men. When I first met Alima in 2011, she was paying 200 TL per month,[181] half of the total rent. During one visit to Alima's house, in 2013, on a rental payment day, Alima, a bit confused, was intensely calculating the correct amounts to collect from each resident. When I helped her count the money, I realised that she was paying less than before and that every tenant was contributing different amounts. When we were alone in the room, I asked her about the discrepancies in rental payments. "It depends on the work" she said, "some people have better jobs". We later discussed that it also depended on when the tenants had arrived, and in her case, the newcomers expected to contribute a bit more compared to others.

My methodology and conceptual framework have been limited to reveal relations with locals and other migrant groups in what we can call *migrant neighbourhoods*, commonly characterised by *illegal* activities such as human smuggling, drug dealing, prostitution, etc. According to a survey conducted with African migrants in Istanbul in the early 2000s, 29.5% of respondents indicated ill-

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[181]   Around 90 Euros in June 2012.

treatment by strangers as their most common problem in Istanbul (Brewer and Yükseker, 2009: 702). As revealed by ethnographic research, migrants have been subject to stigmatisation and opportunistic crimes and are uneasy about being outside, especially after dark (Suter, 2012: 131-132). Black migrants, especially Nigerians, have been identified as drug dealers (Suter, 2012: 117). Women from post-Soviet countries have long been stigmatised as "Natasha", the name commonly attributed to those coming to Turkey as sex workers. Recently, African women have also been seen as sex workers. They are subject to sexual harassment on a daily basis, in the streets and in the workplace. Blessing, a Nigerian woman in her late 30s, explained that she was reluctant to commute to work in Avcılar (a neighbourhood towards the Western end of the city) and return to Tarlabaşı at night. "There are a lot of 'alibabas'", she said, referring to neighbourhood gangs stopping her and asking for money.   Men, from African countries in particular, articulated discomfort with approaching "white women" and interacting with locals outside of their work relations. The threat of neighbourhood violence exists, but migrants of irregular status have few channels for articulating their suffering. Non-state actors confirm that, women in particular are unprotected and cannot go to the police when they are sexually abused, and this is especially true for Africans. Reportedly, cases of racist attacks have not been widespread, but they occur and are marginally covered in the media.[182] The media notably started to cover discussions of xenophobia against immigrants and refugees in Turkey due to increasing tensions between the Syrians and locals.[183] Section 5.4 discusses few instances of the recent politicisation of racist violence. No comprehensive research focuses on racist attacks that target violence in the Turkish context, so it is hard to determine if migrants are unwilling to express their experience of violence or the cases of violence are indeed sporadic. It was surprising that neighbourhood violence towards migrants was not at the centre of migrants' narratives of the neighbourhood life, while migrants have more openly expressed their suffering due to labour market conditions, as discussed in the next sub-section.

"We came in, slept, and the next day we started working"

Earlier research on irregular migrants' labour market participation in Turkey has extensively focused on domestic work and gendered aspects of irregular labour migration (Akalın, 2007; Kaşka, 2009, Keough, 2006). Less research has explored migrants' roles in the precarious workforce in the urban informal economy (Arı, 2007). Thus, the focus has been placed on the migrant labour niche in sectors such as care

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[182] Four migrants from Liberia were shot and injured as a result of a racist attack in Istanbul. The media covering the issue drew attention to the sporadic nature of these events. See for instance, Liberians injured in a racist attack. 11.04.2014, Retrieved 22.03.2015, from http://www.dailysabah.com/nation/2014/04/11/liberians-injured-in-racist-attack.

[183] For one of the few instances where attacks towards Syrians are covered in the media, see Syrian refugee residence set on fire after quarrel with locals. *todayszaman.com,* 08.05.2014. Retrieved 22.03.2015, from http://www.todayszaman.com/diplomacy_syrian-refugee-residence-set-on-fire-after-quarrel-with-locals_347290.html

and tourism (Gökmen, 2011; Toksöz and Ulutaş, 2012), rather than migrants of irregular legal status working amongst the urban poor. For groups such as domestic workers, economic participation results from a concrete demand of employers, as is well documented in the literature. It is surprising that other groups of migrants who are categorised as transit are equally present in the labour market regardless if they initially intend to work in Turkey or cross to Europe (Toksöz, Erdoğdu and Kaşka, 2012: 20). I suggest that for some migrant groups who came to Turkey for other purposes than work such as for asylum or to cross to Europe their participation in the labour market unintentionally results from the interaction between the production of migrant illegality within the international context and the domestic structure of the labour market. In his study of the Pakistani and Afghani male labour force in London, Ahmad (2008: 872) makes the point that "the structure of the labour market that absorbs new migrants does not always make clear distinctions between the so-called 'legal' and 'illegal' migrants". This observation also applies to the case of Istanbul. Migrants with temporary residence permits (but without work permits), overstayers, asylum applicants and undocumented migrants smuggled into Turkey have similar experiences in the labour market.

As an unintended consequence of external dimensions of EU migration polices, even migrants who are most likely to go to Europe participate in the labour market during their unknown waiting period in urban centres in Turkey. In general, migrant's labour market behaviour makes it difficult to determine if they intend to cross to the EU or to stay.[184] Said (16), for instance, is a young man from Afghanistan who came to Turkey with a valid visa about a year before I met him in one of the houses inhabited by single Afghan men. He was always shy and reluctant to answer questions. One Sunday afternoon, I visited their house. We were discussing the difficulties of life in Istanbul, and I asked if they knew anybody who planned to go to Europe, and everybody looked at Said. "His father decided that Said would go to Europe. It is good for him", explained Mahmut (29, Afghanistan), the eldest among the men in the house. Said had been working while waiting for opportunities and financial aid from his father to further his clandestine journey to Europe.[185] As mentioned above, Zerrin (34, Afghanistan) and her two children had started working in textiles, while trying to understand how the asylum system in Turkey functioned, with the intention of re-uniting with the father of her children in Europe. Among the families I encountered in Zeytinburnu, there were those whose children or younger members of the family worked in textiles while they were trying to re-negotiate a deal with smugglers to take them to Europe.

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[184] Note that some houses are not furnished at all, with no sofa. This might generally indicate that the people or the family either just arrived, trying to decide where to settle, or they are more interested in investing for their journey than their settling.

[185] As of early 2015, Said is still in Zeytinburnu, working on small production sites in the neighbourhood, while waiting for the right time to cross.

Migrants, including those on their way to Europe, have become a part of this labour market as an outcome of EU's migration controls, as also implied in other research (Yükseker and Brewer, 2011; Danış, Taraghi and Pérouse, 2009; Suter, 2012). When employers know that migrants intend to cross to the EU, they may use the situation to their advantage. They may justify low wages and hard working conditions, saying that they are actually helping those stranded in Istanbul, while they are in transit. In one of my visits to Kumkapı in Spring 2012, I encountered an African man from the Ivory Coast in front of a cargo company in the area. It was easy to initiate a dialogue, as was happy that he could speak French with me. He immediately expressed his intention to go to Greece and then France. He had already been in Istanbul for eight months and worked in the cargo firm for a couple of months. He did not know when he would be able to leave. In the middle of the conversation, the shop owners, who had been in the cargo business for two years, approached us. One of them explained that they did not have anyone working with them and said, "then came this 'black boy' [tr. kara çocuk]". He continued, "he needed a job and we gave him a job. He is not doing much anyway. We are helping him because he needs money". It is striking how the owner presented the situation as if the ''black boy'' was working there due to the benevolence of the employers, seemingly for very low wages. Precarious employment is a general characteristic of the labour market, and migrant illegality is embedded in the labour market, as is further explained in Chapter 3, Section 3.4.

In the context of selective infiltration into the labour market, migrants may find jobs through informal mechanisms. Similar to the situation in the housing, ethnic kin or informal employment agencies that newcomers knew before arrival or encountered during the settlement process may help them find jobs in the informal sector; this is especially the case for female domestic workers. People with few connections go from door to door asking for work, a practice usually described by African migrants in the Kurtuluş, Kumkapı area. Chris (36, from Nigeria) came to Istanbul with a tourist visa and the intention of working and studying. Like other African men, he wandered around in the streets of Merter (another area known for textile shop floors), asking for available work in his limited Turkish: "Do you have work?" [tr."iş var mı?"]. This is actually how Chris found his first job in a textile atelier producing bags. Malik (22, Afghanistan) was lucky that he did not have to look for housing or a job upon arrival in Istanbul, after crossing the Eastern border with the help of smugglers.

> The brother of my fiancée was here, I had relatives. We came in, slept and we started working the next day… yes, the very next day, he told me that this is how it works in Istanbul. I had planned to rest and take care of myself for one month or two. 'Not here' he said, and we kept on working, without any interruption for six months. Then we quit the job because the money was not enough. We went to another job in the Grand Bazar, I worked there for another five months. I quit again. Then, I went into printing [tr. baskı].

As Ahmad (2008: 864-5) explained, for some who fit the profile needed in the labour market, short term work is more available than regular jobs. Like in Malik's story, it is widely observed that migrants working in leather, textiles or construction often have to move from one workplace to another and shift between sectors. Harun noted that there were fewer opportunities when he arrived in 2009, aftermath of the 2008 financial crisis. He found work in leather and textiles but often had to change jobs because of the seasonal changes in the market and the general flexibility of production in these sectors.

> Then, in 2009, the work was scarce in Turkey. I had no jobs for the first two months. Then, I went to work in leather. It was a weekly work. Some weeks, he [the employer] was giving 130TL, some 140 TL if you do extra hours. When the leather season was over, I left the job and went into the bag atelier. I worked there, then the person from the leather place called me back and I went back there to work. I quit again after some time and went into textile. The guy called me back several times but I did not return. … Leather is difficult, it takes time to learn how to do leather jackets. In textile, you can be a headperson [tr. usta] in six months. Other headman will help you, the boss and other friends working there will help you to learn.

During our first interview, Malik was unemployed and looking for a job. He was searching through ads in the textile industry. His age was an obstacle for his employment, and some employers were looking to employ women: "For the moment, I am the only one with no work in the house",[186] he explained, retaining the prospect that he would find work soon. Indeed, it did not take Malik long to find a job in textiles. After around six months, we met again during Eid. Malik was back in Istanbul to visit his fiancée's family and celebrate Eid with friends. He and his friend Ahmed (22, from Afghanistan) both moved from textiles to construction and to Ankara. Malik later explained that he does not need to pay rent, as he stays on the construction site.[187] He also found that the work itself depends on physical power but was not as tedious as working with textile machines, which require you to sit for hours without a break. In private, he told me that he was no longer worried about being "kaçak" because he had begun to use social security number of his employer's son. Malik considered this to be a form of legalisation of his status. I doubted if this arrangement could protect him from the risks involved in his work. This case illustrates how employers use fraud to conceal the fact that they employ immigrants without legal status.

Given the availability of work at the lower echelons of the labour market, one can ask if the labour market in Istanbul provides mobility prospects for migrants. The

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[186] As Malik was not working at the time of the interview, it was possible for me to interview him, one to one in a week day.

[187] The daily wage was reportedly, 65TL as of Summer 2013, comparable to textile.

narratives of migrants, usually from Afghanistan, working in textiles, indicate that they experienced an increase in their wages as they gained skills and experience. Ahmed explained that in time he could generate enough income to enable him to send money to his parents in Iran: "Before, what I gained was not enough for myself, I was earning 600-700 TL per month. There was the rent and my expenses. Then, I moved to the machine and my wage now is around 1,300 TL. It is very good. I also send money back home". Ahmed *moved up* relatively fast as he was experienced in textiles; he had worked in a textile atelier after school, when his family took refuge in Pakistan. Selma, also from Afghanistan, entered Turkey without legal papers, with her husband and two children, after several years of being a refugee in Iran. She had no prior work experience before coming to Istanbul. She had to work because her husband faced difficulties in finding a regular job in Istanbul. Selma's narrative shows the volatile trajectory of workers in the textile industry, from being a middleperson [tr. ortacı] to a machine worker but also moving from ethnically homogenous to mixed workplaces, which seem to pay better:

> I changed work five times. Before I did not know the work, I was working with an Afghan, he was giving me 300 TL. The second workplace was also run by an Afghan, the wage was 600. There, I started to learn the machine. Then, another workplace where the boss was Turk, everybody Turkish, I earned 800 TL per month. Now, I know how to use the machine very well and my wage is 900 TL per month.

Note that Selma and her family secured residence permits around a year after arriving, through Selma's brother, who had arrived in Turkey as a medical student in the 1990s and gained citizenship. The fact that they were no longer "kaçak" [eng. clandestine] in terms of residence status, did not have an impact on her or her husband's labour market experience. Instead, the existence of a labour market in leather and textiles that was ready to employ newly arrived Afghans regardless of their method of entry, legal status or aspirations to cross to the EU has enabled her economic participation. Moreover, the access to legal status facilitates economic activities. Some Afghans in Zeytinburnu with residence permits even managed to open their own small shop floors.

Other groups without similar informal reception mechanisms such as informal agencies or more or less established ethnic economies may experience marginal forms of economic participation. Among the migrants interviewed, it is observed that those from African countries have a harder time finding employment in what they refer to as ''çabuk çabuk'' [eng. quickly / chop chop]. These are daily, poorly paying jobs that require the person to work as fast as possible. Chris, like other informants from Nigeria, had intentions to move up to trade after securing enough income through his smaller jobs: "We need money to do cargo business, first you do textile and you can start with cargo after saving some money". However, Eric (34, Cameroun) made it clear that the work is sporadic and does not provide a stable income; it is only to

survive, and you cannot make enough money to save to cross or send to your family. "There is little money, you can still manage but you cannot save", articulates Peter, another migrant from Nigeria who arrived in Turkey by plane with a one-month tourist visa.

Figure 5.2 Kumkapı, packing and carrying goods before shipping them overseas

Source: Photo taken by the author.

Limits of labour market participation

Given the labour market conditions, it is a realm both exclusion and inclusion. The aspirations to cross to Europe are stated as a reason why some migrants are less interested in temporary work, which would not provide enough income to finance their journeys (Wissink, Düvell and van Eerdewijk, 2013: 1099). In other words, some are more interested in arranging the journey as soon as possible rather than spending long hours in poorly paid, tedious jobs. For instance, Muzaffar (44) is originally from Pakistan but has worked and lived in Dubai for several years. After being expelled from Dubai for his political activism, he returned to Pakistan and travelled to Turkey through Iran, with the help of smugglers. Shortly after his arrival, he tried to cross the border to Greece through the maritime route. When the attempt failed, he continued to live with the smuggler who brought him to Istanbul. At the time of our interview, he was waiting for another opportunity to cross and simultaneously looking for alternative ways to leave Turkey such as resettlement through asylum. Muzaffar was uninterested in what the labour market in Istanbul could offer: "I came here with Afghan people, I paid 3,000 US dollars. I also paid for Europe. They promised me, one month, two months, now 6 months I am here…. They sucked all my money. They offered me job. I said, 'I do not want your job, I did not come here to work'." As in the

case of Muzaffar, migrants who rely on the money received/borrowed from abroad to continue their journeys may refuse to work in poorly paid, difficult jobs. However, the project of transit migration is not the only reason for exclusion from the labour market.

The labour market, although it is open to a young, flexible, healthy labour force, entails a highly racialised, gendered and sexualised selection process. Peter (34), a Nigerian migrant working in textiles but aspiring to trade goods between Turkey and Nigeria, wanted to bring his wife, and he complained that there was not much work for a black woman in Istanbul. "She can work in textiles, she can be the middleperson, do cleaning but Turkish people do not offer much jobs to African women. It is about the black skin. If I am a black man, it is more difficult to find a job. If you are a bit fairer, then it might be possible. Ethiopians for instance, they are fairer for them it is easy to find 'Madame work' [domestic work]". Anecdotally, there have been demands for Ethiopian women in childcare because they can speak English (interview with Caritas, also mentioned in Brewer and Yükseker, 2009: 699). The East African women I encountered found opportunities in the care and service sectors, but they had to be extremely cautious because many service jobs entail offering sexual services to employers, intermediaries or customers.

There is a thin line between engaging in sex work and migrant women using or being expected to use their sexuality as a currency in the labour market. Existing research has revealed sexual exchanges between migrant women from post-Soviet countries and their "business partners" in the context to suitcase trade (Yükseker, 2004; Bloch, 2011). However, less has been written on sexualised work by other migrant groups such as African migrant women or on sexual exchanges amongst migrants. Alima (34, Eritrea), as a relatively more experienced migrant, intermediates between employers and migrant women (usually from Eastern Africa) looking for jobs. One day, two young women from Ethiopia (one had an asylum application) visited Alima to discuss the opportunity to work in a restaurant run by Nigerian migrants on the outskirts of the city. Alima explained to them that the restaurant is safe in the sense that they will not be asked to offer sexual services. The young women looked sceptical but agreed to meet the Nigerian man running the place. Alima was supposed to receive 100 TL (around 35 Euro) from each for being the intermediary. I later heard from Alima that she could not receive the money because the women refused to work there when they learned that they would be asked to sit with customers. Blessing, a mother of two from Nigeria in her late 30s decided not to go back to the shop floor where she was employed to make jeans because she found the work too difficult: "You have to stand from 9 am to 11 pm", and her body ached afterwards. She later found work in a kitchen in Avcılar, at the west end of the city, but she was not happy there because it was far, and she had to work until midnight because of security reasons. I asked her what kind of job she wanted: "I want something that will not tire me much.'' She did not like "çabuk çabuk" because she had a problem with her knees. She wanted to be a salesperson for instance, but Blessing is not physically suitable for

this kind of work since most saleswomen are also asked to model for overseas customers, and S or XS size women are preferred. I later heard that Blessing had quit work and moved in with a Nigerian man who allowed her to stay in exchange for sexual favours. While these live-in arrangements are common among migrant women[188], their implications for labour market participation are dubious. Kuku, another young woman from Ethiopia was 5 months pregnant when I met her. She worked as a salesperson in Osmanbey but had difficulties keeping her job once her pregnancy became visible. She lived with her Nigerian boyfriend in Kumkapı and hoped that they would get married after the birth of the baby. It is commonly observed that young African women with children experience exclusion from the labour market after pregnancy (Suter, 2012: 110-111).[189]

The working conditions themselves function as a mechanism of exclusion. Migrants who lack connections and do not fit the profile of physically demanding jobs are excluded from the labour force. The labour market offers few opportunities for older men and women. Informants have stated that old age and physical fitness are primary reasons that they are incapable of finding a job or for their self-exclusion from the labour market. Domestic workers face the difficulty of keeping up with their job, as they age; for men who travelled with their families, it gets increasingly difficult to earn enough money to support the household as they get older. Among the Afghan families encountered, unmarried (and sometimes married) daughters and children at the age of schooling work rather than the fathers who are still the heads of the households. Harun (22, from Afghanistan) made it clear that he and his elder brother earn the living for the family. "My father does not work, he has gotten old anyway". The daughter-in-law of another family waiting to cross Europe explained to me that the children work in textiles, while her father-in-law is more engaged in taking care of the house, cooking and doing the dishes, noting, "in my impression, he feels that he does not have a function here". As in the case of Blessing, mentioned above, middle-aged women are not suited for the pace of production in textile ateliers. Some who are forced to generate income can work as middle persons in textiles, cleaning and coordinating amongst different workstations for very low wages. Some also admitted that they needed to send their children to work instead of school.[190]

As mentioned above, migrants refrain from explicitly commenting on their experience of neighbourhood violence. Conversely, the immigrants interviewed more

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[188] Also mentioned by an informal employment agency in Kumkapı working mostly with women from post-Soviet countries. While we were talking about these live in arrangements, a widow from Azerbaijan explained to me that she always says she is living with her husband to avoid harassment in the workplace and proposals of live-in arrangements. ''Men would always chase me if they knew I live alone'' she added.

[189] At the same time, their vulnerable position renders them more "eligible" for humanitarian aid and asylum applications (Suter, 2013: 112).

[190] Dedeoğlu ve Gökmen (2010: 111) confirm widespread unemployment among middle-age men and widespread child labour in their study on migrant workers from Azerbaijan.

overtly conveyed the suffering that stemmed from labour market conditions. Given the exclusionary aspects of the labour market, people employed at the time of the interview expressed their gratitude for receiving an income. However, most informants complained about working long and compulsory extra hours. "Textile is not as big in Nigeria as it is here. The working hours are not as long in Nigeria. There you work for 6 hours. Here, it is up to 15 hours. Most guys cannot do it here". (Peter, from Nigeria). Malik (28, Afghanistan) had worked several years in agriculture in Iran and explains how the hardship of work in Istanbul has impacted his body: "I have lost a lot of weight since I came to Turkey" (28, Afghanistan). Several people also discussed low wages and the possibility of not being paid or being underpaid. Most find themselves helpless when facing such situations because of their lack of legal status.

> There is one very bad thing about people here. You work for 6-7 months and they do not pay they say to go away. This is the worst thing [I ask if it ever happened to you, he hesitates to tell me]. It did not happen to me before as I am a man. If the boss does not pay me I ask by force. I told him, I can force to pay me, he was frightened and he paid me. It happens to women a lot. (Victor, 30, Georgia).

Being underpaid or not paid are particular ways that actors in the market abuse the deportability of migrants. Peter was puzzled by the simultaneous demand for and mistreatment of migrants in the labour market, which left migrants helpless in their employment situations. As explained in Section 5.1, experiences of being tolerated go hand in hand with experiences of being subject to arbitrary abuses and detention. Peter (34) has a positive perception of work opportunities in Istanbul. However, he also underlines the efforts required to generate income given the lack of legal and institutional mechanisms protecting migrant workers from arbitrary practices of employers and of security forces. He reported the experience of one of his friends who had to evacuate his workplace without being paid to avoid an alleged police riot:

> The police came and told the boss that they (Africans) should go away. They cannot work because they do not have documents. Sometimes, I ask this question to myself: if a man comes here, if he has nothing to do, why not governments do not help this guy. There are jobs that Turkish people cannot do. Sometimes, you need stronger people to carry things. Blacks are stronger in these jobs.

Unlike citizens, migrants of irregular status do not only fear losing their jobs but also deportation. The labour market reinforces this situation because migrants are tolerated as workers participating in the local economy, despite their lack of a formal right to stay in the country. Because their presence is tolerated but not recognised, migrants are left without rights, and very few channels exist to make their voices heard. Indirectly, the possibility of generating an income in the informal labour market contributes to migrants' lack of interest in associating amongst themselves. Arguably, the image of a docile worker, rather than the rights claiming activist migrant, fits

better in the receiving context of Istanbul, which is characterised by a widespread informal market, low levels of recognition of migrants' rights and limited institutional /civil societal support for pursuing the rights of irregular migrants. Harsh working conditions make this image of the docile, invisible migrant a reality. Most of them have little energy for engaging in activities outside of their long work hours let along political mobilization:[191]

> I would go [to the association] for language courses, if I did not have a lot of work. In the morning, I start at half past eight, and I barely make it home at half past seven in the evening. Besides, we often do extra hours, three four days in a week, most of the time we cannot go out at time. If there were no extra hours, if I knew that I will be finished by eight every day, I would love to do a course, but with extra hours, it is not possible (Ahmed, 22, Afghanistan).

Despite all the hardship inherent in the functioning of the labour market in Istanbul and the lack of access to rights, several migrants who fit the profile of asylum applicants refrain from applying for asylum because they prefer to stay in the labour market. This is often the case for younger migrants, who predominantly chose not to apply due to the availability of work. Those who have already applied frequently decide to live outside of their assigned satellite cities. Common responses from those who prefer to live outside of the asylum system include: ''There is nothing to do in the satellite city, in Istanbul at least you can feed yourself, people, your neighbours can give you food", and "I would apply for asylum if they allow me to reside in Istanbul". The situation implies a trade-off between income generation and the possibility of accessing fundamental rights, as explained in the next section. It also reveals the interconnectedness of recognition and control by the authorities.

Some asylum seekers and recognised refugees waiting to be re-settled have faced the dilemma of following their asylum process or generating income through participation in the labour market. Asylum seekers who have lost hope in the asylum process stay in Istanbul at the expense of losing their status. Others commute between their satellite city and a larger city where they can work. Only a small number of asylum seekers can legally reside in Istanbul for medical reasons or special protection needs.[192] Zerrin, a mother of two from Afghanistan, states that the availability of work is the only reason she wants to stay in Istanbul. Zerrin and her two sons applied for asylum months after their arrival in Istanbul. The family needed

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[191]   As explained in the methodology, most of the interviews in Istanbul took place during weekends (Saturday afternoon or Sunday). Migrants' preoccupation with work or looking for work has been a challenge for scheduling interviews.

[192]   In 2011, 1170, around 10% of total asylum applications were made in Istanbul (Toksöz, Erdoğdu and Kaşka, 2012: 83). Among those, the majority were assigned to satellite cities and only a minority of them in exceptional cases were allowed to reside in Istanbul. Some asylum seekers are settled in a smaller satellite cities near big cities. This arrangement enables them to informally reside and work in one city but also to commute to their satellite city when necessary to sign in with the police or follow their asylum procedure.

money to live and pay off debts while they waited to reunite with the children's father.[193] To convince the police to allow her to reside in Istanbul, Zerrin had to repeatedly visit the police station to explain her situation. Finally, Zerrin and her sons were allowed to reside in Istanbul, where she could work in the informal labour market:[194]

> They told me that I was too late to apply. I cried a lot. I want to stay in Istanbul because I can work here. I heard that in other cities, there is no work at all. I do not mind about other things. Also, I am used to here. I explained them that I was here alone with two kids and that my husband was in another country, that I want to live in Istanbul because there is work here, and that there is no work in other cities.

In this section, the different migration trajectories of the limited number of migrants interviewed revealed possible modes of migrants' economic participation in the widespread informal housing and labour markets in Istanbul; they also elucidated the limits of labour market participation. Migrants find housing in poorer areas of the city, which are usually close to where they work. These areas are already inhabited by different internal or international migrants and minority groups. It is interesting even though they live in poor conditions in marginalised areas of the city and are subject to arbitrary controls and abuse by security forces, only a few complained about being subject to neighbourhood crime. Instead, most complaints pertained to the harsh conditions in the labour market and mechanisms of selective incorporation into the labour market that leave groups out of the labour market, including older men – and to a lesser extent older women –, young women with children and people with chronic health conditions. Narratives confirm the availability of temporary jobs in the urban economy that need cheap and flexible migrant workers who are "in good shape", for example in sectors such as textiles, leather, construction, domestic work and care (see also Toksöz, Erdoğdu and Kaşka, 2012). However, market incorporation comes with a price; migrant workers are denied fundamental rights. Their presence in the labour market is due to the toleration of the security forces. Employers take advantage of their deportability. In the absence of strict internal controls, they refrain from following the expensive and cumbersome work permit process (Toksöz, Erdoğdu and Kaşka, 2012: 99-102). Asylum remains a plausible way for migrants to obtain a *legal status* and get access to fundamental rights. However, the option of asylum is not plausible for most migrants, as they face difficulties in finding comparable jobs in their assigned satellite and therefore prefer to stay in Istanbul without any legal status. The blurred distinction between asylum seekers and irregular economic migrants is also apparent in the discussion of fundamental rights in the next section.

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[193] As mentioned in the previous sub-section, she was in need of work as they were indebted to the *acquaintances* of her husband, who found housing for them.

[194] Refugees technically have access to work permits but the implementation is really rare (Interview with ASAM, Ankara, December 2012).

5.3 Access to fundamental rights between asylum and market

> I met Majid, a young man in his early 20s from Afghanistan, in Ahmed's flat. He had arrived Istanbul after an unlucky journey and needed to be hospitalised upon his arrival. He had walked in extremely cold temperatures for hours while crossing the border from Iran to Van. When he arrived in Istanbul and met his compatriots, he could hardly feel his toes. He was lucky that his compatriots knew an Afghan translator working for NGOs, so this man could fast track his asylum application. As an asylum applicant[195], he was admitted to a church related private hospital, and his immediate treatment saved his toes. When I met him, a few months later, he was still shocked and not fully recovered but relieved that his toes and feet would heel. He had not started working yet, as he was not confident that he was ready.

The section reveals a restricted legal framework and arbitrary practices in irregular migrants' access to fundamental rights by focusing on the cases of health care and education. Because of restrictive laws and further restrictions in their implementation, irregular migrants' access to health care is mainly left to migrants' own means and the extent to which they can afford these services. The universal access to primary education that is recognised by law enables children of asylum seekers to go to public schools in their satellite cities. However, children of irregular migrants may be denied formal and informal access. "Bureaucratic incorporation" in the sense that migrants have access to certain rights and social benefits regardless of legal status, as discussed in Chapter 2, has only been possible for a minority. As in the case of Majid, a closer look at irregular migrants' access to fundamental rights highlights the connection between asylum and irregularity regimes in Turkey. This connection is visible in practices on the ground, although there is a clear distinction between the rights granted to asylum seekers and irregular migrants in the legislation, as described in Chapter 3.

Opening in access to health care?

> *"It is essential that applicants, recognized asylum seekers cover all of their health expenses, themselves"[196]*

> "These circulars do not work automatically, somebody has to push".[197]

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[195] Note that the Turkish law differentiates between refugee, asylum seeker and asylum applicant in the following way. Because Turkey retains a geographical limitation in the application of the 1951 Geneva Convention as explained in Chapter 2, asylum applicant refers to the person from non-European countries, approaching UNHCR and Turkish authorities to seek asylum.

[196] From the Implementing Guide of 1994 Regulation, Implementing Guide no: 57, Ministry of Interior, Turkish National Police, 22.06.2006, p.21 [emphasis original]. Retrieved 25.03.2015, from http://www.egm.gov.tr/Documents/uygulama_talimati_2010_genelge.pdf

Access to free, public healthcare for recognised refugees, asylum seekers and irregular migrants has been an area of negotiation by civil society actors. Recent changes have finally enabled asylum applicants' access to social security, a means test-based system covering access to free/subsidised public health care. Firstly, law 5510 on Social Security and General Health insurance, enacted in 2008, indicated that asylum seekers and the stateless were included in the general health security schemes (IHAD, 2009). The main problem with this procedure has been that the Turkish state does not immediately grant asylum seeker status to recognised refugees. Before the law, applicants who received a positive response to their application were granted asylum seeker status only a few days before their re-settlement to a third country.[198] Despite this limitation, applicants and recognised refugees (albeit they do not obtain the status by the state) can apply for health care assistance from Social Assistance and Solidarity Foundations (SAFS) (Şenses, 2012: 202-203).[199] However, the availability of aid from SAFS has been unpredictable and entailed cumbersome bureaucratic procedures especially in addressing cases of chronic diseases.[200] Asylum seekers and migrants of irregular legal status with urgent health care needs and no access to SAFS funds have been indebted to hospitals. Particular articles of Law 5510 were changed in accordance with the LFIP in response to the exclusion of asylum applicants (IHAD, 2009). Accordingly, the new legislation included asylum applicants, along with asylum seekers, stateless and recognised refugees in the scope of general health insurance.[201]

The state's recognition of its responsibility towards persons seeking international protection has been a positive development. Whether these changes will ensure applicants' access to health services without NGOs intervening is yet to be seen. Based on their experiences with hospitals, most NGOs have been cautious to celebrate this legal change. Even in the case of Syrians who are under the temporary protection regime, the access to health care in Istanbul has been reported as

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[197] From an interview with an NGO, it was a common point emphasised operating in the field of the access to health care of migrants and also to rights in general.

[198] Interview with ASAM, Ankara, December 2012.

[199] Based on Article 1 of The Law on the Encouragement of Social Assistance and Solidarity, Law no: 3294, 29.05.1986 (14.06.1986 official gazette no:19134).

[200] Interview with ASAM, Ankara, December 2012. See also press release, by Multeci-der dated 12.11.2013, on the death of an asylum applicant from Afghanistan, suffering from chronic kidney problem. Reportedly, the patient did not receive sufficient financial aid from the state departments or from UNHCR and eventually refused dialysis treatment, as her family was heavily indebted to the hospital. The case reveals the limitations of access to health care even for applicants under the international protection regime. See Tajik'in ölümü, [the Death of Tajik] *MülteciDer Press Release* 12.10.2013. Retrieved 25.03.2015, from http://www.bianet.org/system/uploads/1/files/attachments/000/000/981/original/Multeci-Der_Tajikin_olumu.pdf?1381755437

[201] As envisaged in the Article 123 of the LFIP, the expressions of "asylum seeker and stateless" in the Article 3, 27 and 60 of the law 5510 on Social Security and General Health insurance, was replaced "person with international protection application, person with asylum seeker status and stateless person".

problematic. [202] Some hospitals in Istanbul have been reluctant to admit Syrians because they were not informed about the circular and did not know how to compensate for the health care expanses of Syrian patients. Most NGOs working on health care complained about the arbitrariness of street level bureaucrats in the functioning of the health care system (regardless of the patients' legal status): "The access to health care is arbitrary. It is not only about the hospital, it depends on who is on the shift".[203] In this sense, it is difficult for asylum seekers to directly access hospitals without an NGO acting as an intermediary, and negotiating almost each case from scratch.

Improvements regarding the asylum applicants' access to health care have arguably reinforced the distinction between asylum applicants (conceived as the needy refugee) vs. migrants with no legal status (conceived as the illegal). According to current legislation, irregular migrants may have access to health care or other social assistance services, only when they are detained, identified as victim of trafficking [204] (Şenses, 2012: 201-203) or if they become asylum applicants. However, the asylum applicant status does not bring automatic access to free public health care for reasons stated above because one needs to be registered and acquire a foreigner's ID number to get free access to hospitals (Balta, 2010: 38). In urgent cases such as Majid's, encouraging patients who fit the asylum seeker profile to make an asylum application is one way that civil society actors highlight to ensure migrants' access to health care. As in the case of Alima, church related organisations help pregnant women, first to get access to asylum procedures and then to hospitals. The LFIP, while recognising asylum applicants' right to welfare services, is cautious about the use of the asylum system for getting access to asylum. Article 89, Clause 3 envisages reimbursement of financial aids from those who applied for asylum to get access to free health care:

> For those applicants or international protection beneficiaries who at a later date would be found to already have had medical insurance coverage or the financial means or, to have applied [for asylum] for the sole purpose of receiving medical treatment shall be reported to the Social Security Authority within ten days at the

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[202] According to the circular on Health care and other services provide to Syrian Guests, published on 09.09.2013, published by Turkish Prime Ministry Disaster and Emergency Management Authority, all Syrians registered with the authorities have access to free public health care.

[203] Interview with MSF, Istanbul, November 2013.

[204] See the Circular on the Provision of aid by SAFS to non-citizens and foreigners in vulnerable conditions, General Directorate on Social Aid and Solidarity, Circular no: 8237, 20.05.2009. Retrieved 25.03.2015, from

http://sosyalyardimlar.gov.tr/mevzuat/genelgeler/yardimlar-dairesi/20052009-tarihli-ve-8237-sayili-genelge

latest for termination of their universal health insurance and the expenditures related to the treatment and medication shall be reimbursed from them.[205]

This measure to prevent *bogus asylum seekers* from accessing free public healthcare through asylum reveals the political will to distinguish economic migrants from *genuine* refugees. Again, the implementation of this precaution is yet to be seen, as it would be difficult to prove that a person does not have genuine asylum claims.

Given the laws and practices restricting irregular migrants' access to health care, NGOs (such as ASEM, MSF, TOHAV) focusing on the health care of asylum seekers and migrants generally provide free basic consultations. Common diseases among migrants mostly stem from living conditions, lack of hygiene, infections and psychological problems resulting from the long journeys that some had to take.[206] While consultations are accessible to all migrants regardless of legal status, the possession of certain papers such as an asylum application or passport with valid entry may be necessary to negotiate access to hospitals for secondary level treatment or analysis (interview with ASEM and TOHAV). ASEM, an NGO running a small clinic – funded by Medecins du Monde- in the Kumkapı area explained that patients in need of secondary treatment can be taken to hospitals, but even church-related hospitals, known to be more open to migrants, require documents (at least a passport). Another option for negotiating migrants' access to hospitals is through emergency rooms to lower the cost.[207] Again, the latter strategy is more likely to work for legal entrants. These efforts are very limited given the human and financial capacity of these civil societal institutions.

> There are two hospitals we have agreements with, one pharmacy, one private polyclinic. We work with those hospitals. Within our budget in our projects, we cover hospital fees. For instance, we cover medicine for everyone coming here. For some, further treatment x-ray scans. We cannot help chronicle cases and for operation. This is a challenge for us.[208]

In the absence of access to free public care, migrants of irregular status and NGOs providing humanitarian aid have had to cover the cost of health care. The introduction of tourist fees in 2011 has worsened the access to health care, as this

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[205] Taken the unofficial translation of the LFIP, Ministry of Interior, Directorate General of Migration Management, Publishing Number: 8. Retrieved 25.10.2014, from http://www.goc.gov.tr/files/files/YUKK_I%CC%87NGI%CC%87LI%CC%87ZCE_BASKI%281%29%281%29.pdf

[206] Interview with TOHAV, November 2013, Istanbul. Until December 2013 when they closed down their office in Istanbul, MSF was the only NGO offering psychological support. While most of the participants of the programme had been asylum seekers, there were also migrants without legal status among them (Interview with MSF, November 2013, Istanbul).

[207] Interview with ASEM, Istanbul, November 2013.

[208] Interview with TOHAV, Istanbul, November 2013, (emphasis added).

increased the cost for migrants without legal status. The circulars introduced by the Ministry of Health in 2011 and updated in 2013 on Health Tourism and the Provision of Services in the context of Tourists' Health requires higher fees from foreigners without residence permits, including tourists.[209] The circular exempts asylum seekers, applicants, victims of human trafficking and administrative detainees but applies to migrants of irregular legal status. A Syrian migrant of Turcoman origin was able to access to residence permit but was puzzled by the introduction of tourist fees, as he visited the hospital before and after the legal change: "It was 15TL a week ago and 100 TL a week after. This is very difficult. If the person does not have social security, the person would die out of hunger". Tourist fees, applied to immigrants who are not tourists, not only reveal that migrants have become victims of the general marketisation of the health care system in Turkey (see Ağartan, 2012) but also how migrants without legal status are forced to avoid medical help until it is dire and are left at the mercy of the market. As a result, migrants are left unprotected against health risks, and health care is only available for those who can afford it.

Given the limitations of institutional support to get access to free public healthcare, most migrants rely on their own resources or their community/friends' networks. In most cases, private health clinics are "chosen" over public ones. When Natalia (44, Moldova), a domestic worker living in and out of Turkey for over 10 years needed to see the doctor, her boss took her to a private consultation and covered the expenses. Especially for those without papers, going to private clinics and hospitals reduces the chances of rejection and the risk of revealing oneself as illegal. Ahmed (22, Afghanistan) had no papers to prove his identity when he had an appendicitis problem. After being rejected by a public hospital, he received treatment from a private one with the help of one of the Afghan associations in Zeytinburnu:

> [Referring to the White Passport received from the Afghanistan Consulate], I did not have a passport then. One day, I left work, went to internet [café]. I was on the internet for one hour or so, then I had pain in my belly. I went home, thought the pain was normal and did not go to hospital until the evening. Then, I told my friend Malik, who took me to hospital. It was appendicitis, I was given a serum and the pain was gone. Then, we went to the big hospital. I had nothing with me, no passport, nothing. The hospital rejected me. Then, we came back home. The head of the association in Zeytinburnu called the XX medical centre [a private hospital in the neighbourhood]. I was admitted, only then. ... I had two more serum. I would go through a surgery if the pain had came back. I was ok after the two serums… I had to pay all the cost myself. I spent almost 1000 TL. I had little with me, the rest I borrowed from friends. As I went to hospital, everybody had brought money for me.

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[209] See, the Circular no 2011/41 on Health Tourism and on the Provision of Services in the context of Tourists' Health, *saglikekonomisi.com*, 15.06.2011. Retrieved 25.03.2015 from http://www.saglik-ekonomisi.com/sed/index.php/haberler/446-saglik-turizmi-ve-turistin-sagligi-genelgesi.

Updated Circular dating 23.07.2013, approved by the decision no: 25541. Retrieved 25.03.2015, from http://www.saglik.gov.tr/DH/dosya/1-88061/h/saglik-turizmi-ve-turist-sagligi-kapsaminda-sunulacak-s-.pdf

Ahmed never went back to the hospital after his incident. He went to Ankara to apply for a white passport, and he knew that "the passport is only valid if the police stops you, then you show the passport, it is no good for hospital or anything else. ... If you have a residence, then it might be different".

As Ahmed's case shows, the reliance on the market for health care goes together with reliance on ethnic networks for informal consultations, and at times, on alternative forms of healing. Unsurprisingly, migrants first seek help within their communities. Harun's (22, from Afghanistan) mother had a cataract operation in one of these private hospitals known to have a formal agreement with one of the Afghani associations. After a couple of months, it was no longer possible for Afsana (37, from Afghanistan), a mother of three, to work in textile sector. She had back pain and paid for her scans at a private clinic. As the family could not afford a consultation with a specialised doctor, they waited for a visit with an Afghan doctor, who had acquired Turkish citizenship. The doctor could not say much by only looking at the scan except that she had a lot of pressure at her back and that a specialised doctor could prescribe her medicine and an exercise programme to follow. In the absence of such informal consultations, alternative-healing methods may be the only option. One Sunday, for instance, after a ceremony in an African church near Taksim, Alima received a bottle of olive oil from the Pasteur to apply to her legs. She had severe, possibly bone related, pain in hers legs but could not afford to go to the doctor despite her asylum applicant status.

In the last decade, the access to health care has moved from the exclusion of migrants, asylum seekers and applicants alike, to the recognition of the health care rights of those included in the international protection regime. In the absence of plausible legal ground, the inclusion of so-called economic migrants in the existing health care scheme is only possible through asylum applications. Conversely, the new law, by envisaging sanctions to the use of international protection to get access to health care, reinforces the legal distinction between asylum seekers and irregular migrants. Most NGO activities are channelled to providing basic services and enabling migrants to receive urgent access to health care through asylum, if possible. Given the limits of such efforts and the arbitrary practices in hospitals, migrants of irregular status rely on their own financial resources and communal networks, hence are largely in the hands of a highly privatised health care system. The access to primary education constitutes a similar case of negotiation, characterised by irregular migrants' exclusion from formal and informal access to schools, despite their legal recognition.

Education

Sima was eight years old when I met her. Her family was originally from Afghanistan and had come to Istanbul from Iran about a year ago. Sima and her younger brother Nader cannot go to school because the family crossed the border without the

necessary papers and settled in Istanbul. Sima's parents knew that the kids could go to school if they applied for asylum. The family was reluctant to apply for asylum. They knew from their relatives that the process was especially long and inconclusive for Afghans, and they would have to go live in a remote city. Sima's mother, Afsana (37), explained her main concern, "it is only for the kids, so that they can go to school". The family had gone through hard times when I first met them. The eldest daughter, also at a schooling age, and the mother, despite her health problems, was working in textiles, and the father was unemployed, while Sima looked after her brother and undertook household chores such as cleaning and cooking. The situation deteriorated when they were expelled from their flat in the aftermath of flooding and fire accidents. When I met them 6 months later, they were more settled in another flat in the neighbourhood. The father had found temporary work in construction during the summer. Although no solution was found for the children's schooling, asylum was no longer a viable option since it would mean sacrificing income-generating possibilities that had become necessary for the survival of the household.

The Constitution as well as the legislation on the access to primary education state that primary education is compulsory in Turkey for both citizens and foreigners with or without legal status.[210] Plus, access to free public education is a right, as stated in the Convention on the Rights of the Child. [211] Despite these legal measures, the schooling of the children of irregular migrants has been a case of exclusion, self-exclusion and informal inclusion. Access to primary education is less problematic for the children of asylum seekers in satellite cities.[212] However, because of bureaucratic exclusion, of the "whims of bureaucrats" in Kitty Calavita's terms (2005: 108), the children of irregular migrants and asylum seekers not residing in the assigned satellite city may not get formal access to public schools. The best scenario is to have informal access to schools through negotiations with the bureaucracy. Formal access to schools is tied to residence permits, and for many families, access to residence permits is only possible through asylum application procedure. The functioning of the asylum procedure does not offer prospects for re-settlement to a third country or to get a permanent status in Turkey. Given this procedure, many families, such as Sima's, are torn between informal labour market opportunities in Istanbul and enjoying fundamental rights such as children's schooling in satellite cities.

The lack of a residence permit is a primary obstacle for children's formal access to public schools (Danış, Taraghi and Pérouse, 2009: 627-8). In line with previous research, the interviewed Afghan families without residence permits underscored the continuing problem of schooling for Afghan children in the Zeytinburnu area (see also Toksöz, Erdoğdu and Kaşka, 2012: 123). For Harun's (22, from Afghanistan) family, one

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[210] See Article 42 of the Constitution and Article 2 of the Law on Primary Education, Law no: 222 05.01.1961.

[211] This Convention has been widely evoked to provide a legitimate ground for undocumented children's access to schools in Turkey as well as elsewhere (Laubenthal, 2011: 1359). Turkey has signed the Convention in 1989, and it came into force in Turkey in 1995.

[212] Interview with HCA, Istanbul, November 2013.

of the main motivations to apply for a residence permit through their relatives in Antakya has been the possibility of schooling of her younger sister: "The lack of residence is very difficult for children. My sister is crying all the time. She is supposed to start the third grade this Fall. It has been two years, she cannot be enrolled in the school, no residence". Given the reluctance of school principles to admit students without papers, even informal enrolment becomes a privilege. School principals can decide if the children can be admitted as guest students and follow courses without receiving formal degrees.[213] Minority schools such as the Armenian schools are known to accept undocumented children "as guest students" (EC, 2014: 61). Meanwhile, Sima's parents tried all the primary schools in the area and were rejected several times. In the absence of opportunities for formal or informal enrolment in public schools, children attend temporary courses provided by church related NGOs or migrant associations. "We tried two times, and we were told that we do not have a residence permit. Now, she is going to school but 2-3 times a week as a course. The teacher helps them to learn how to read and write", Harun explained.

Self-exclusion may be the case for families who give up the idea of sending their children to schools or who do not try in the first place. Some families with an intention to leave the country do not find it necessary to send their children to school in Turkey. Arriving in Turkey with the idea to cross, their stopover in Istanbul is aimed at collecting the money needed to pay the smugglers. For families hoping to cross to Europe or to reach a third country through re-settlement, children's contributions to the family's income may be more important than their schooling in Turkey. Paralleling the observations made by Danış, Taraghi and Pérouse (2009: 573) on the case of Afghan families in Zeytinburnu, Zerrin for instance, hoped to re-settle and join her husband in the Netherlands. Therefore, she was not concerned that her sons did not attend school and worked in textiles instead: "I only want a course for them, to study English, but there are no such things here. Private courses are expensive. There are state courses but only those with residence permit can go there". For Sima's family, on the other hand, who lacked legal and financial resources to go to another country, the requirement of asylum procedures to reside in a remote city was the main reason they were reluctant to apply for asylum. Sima's mother, who was a high school-educated, used to do clerical work in Afghanistan and was puzzled by the question of schooling of her children: "As long as we can make a living, it would not matter to me to go wherever. It is only for the children, so that they can go to school. For us, it is too late anyway, but kids they *must* go to school"[emphasis added].

Research has already revealed the difficulty of getting access to basic services such as health care and education without an official status (Danış, Taraghi and Pérouse, 2009: 627-8; Şenses, 2012: 204). Irregular migrants' health care needs are left in the hands of the market (as also observed by Danış, Taraghi and Pérouse., 2009: 627). What has been less discussed, however, are the implications of the legal

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[213] Interview with ASEM, Istanbul, November 2013.

distinction between irregular migrants and asylum seekers. The gradual recognition of certain rights in favour of asylum seekers, despite implementation problems, has had implications for the rights of irregular migrants as well as for civil society practices. For migrants who fit the asylum applicant profile, such as those from Iran, Iraq, Afghanistan, Pakistan and African countries, applying for asylum has been a short cut for getting a legal status. Asylum applicant status gives them and their advocates a degree of legitimacy in negotiating rights for forced migrants. This section has underpinned that bureaucratic incorporation, in the sense that irregular migrants can be *regularised from below* as example for citizenship practices from the grassroots (Nyers and Rygiel, 2012: 15) by getting legitimate access to certain rights, by sending their children to school regardless of their lack of legal status has been very limited in the case of Turkey. Civil society activities and claims based on the narrative of forced migration, i.e. refugees have arguably pushed the state to respond to these critiques by recognising certain fundamental rights of asylum seekers and refugees. Conversely, such legitimate ground has not been carved out for the rights of irregular economic migrants. Irregular migrants have found fewer channels to express their marginalisation. The absence of institutional support and protective measures reinforces their vulnerable role, comprising a cheap and available labour force in the informal market, as discussed in Section 5.2. The realm of advocacy has reinforced this legal separation and arguably precluded the emergence of a more comprehensive political movement for the rights of migrants in general, as discussed in the case of Morocco. Taking into account the low levels of politicisation of irregular migration, as discussed in Chapter 3, and limited or selective mobilisation, the next section discusses the factors that have led to the "de-politicisation'' of issues pertaining to the rights of irregular migrants.

5.4 Reversing illegality: mobilisation or "sideways"?

> "the objectified person 'is seen but he [sic] does not see, he's the object of information, never a subject in communication'". (Foucault, 1977: 200 quoted in Shore and Wright, 2003: 4).

On September 2nd 2014, a young Congolese was murdered in his house, in Tarlabaşı neighbourhood[214], very near Taksim Square.[215] On September 8th 2014, a group of African migrants living in Istanbul organised a press release on Istiklal Avenue, a prominent area for public protests, opposing ''racist murders'', with the support of pro-migrants' rights associations. Their banner said: "Africans and migrants are not alone. Stop racist murders" (see Figure 5.3). The press release also underscored that migrants could not go to the police when they were targeted by racist crimes because

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[214] Despite the ongoing gentrification, the area has been inhabited by internal migrants coming from Eastern parts of Turkey, largely populated by Kurds and international migrants. It is one of the neighbourhoods where migrants from the African continent are visible.

[215] Beyoğlu'nda korkunç cinayet (Terrifying murder in Beyoğlu), Gazete Vatan, 02.09.2014. Retrieved 10.09.2014 from http://www.gazetevatan.com/beyoglu-nda-korkunc-cinayet-675773-yasam/

of their fear of deportation. Unfortunately, both the crime and the protest have received little media attention. Plus, the media depicted the murder as a case of homicide, rather than a racist or xenophobic attack, as it was framed in the protest.

This protest was one of the few, exceptional instances where migrant communities residing in the city have made themselves visible in the public sphere and contested xenophobic violence. This section connects with the earlier discussion on the arbitrary practices of subordinate forms of inclusion and exclusion. Underscoring the rarity of such street protests by migrants and pro-migrant actors, this section first shows the specific institutionalisation of civil society around asylum issues in Turkey, which undermines issues pertaining to the rights of irregular migrants. Secondly, it explores the fact that migrants of irregular legal status have had fewer opportunities to raise a political voice in the absence of institutional support. Because of this lack of institutional support, most migrants interviewed in Istanbul linked their prospects for legal status to individual or ethnicity-based legalising efforts. The latter be possible for those who can prove that they are from Turkic ethnicity (Danış and Parla, 2009).

Figure 5.3 Protest against racist murders by Africans living in Istanbul

Civil society working on immigration issues

As discussed in Chapter 3, the emergence of civil society around migration and asylum issues in Turkey is rather recent. Its institutionalisation dates back to the heydays of the EU accession process in the pre and post-2005 period. Human rights organisations such as Helsinki Citizens Assembly (HCA), Mülteci-Der, the Association of

Human Rights and Solidarity for Oppressed People (Mazlum-der), Amnesty International and the Human Rights Research Foundation (IHAD) engage in advocacy and/or provide legal aid mainly to asylum seekers. Rights-based institutions working in the field of asylum and migration formed the Commission for Refugees in 2010. There are also organisations that provide humanitarian aid and services to migrants and refugees. For instance, the Association for Solidarity with Asylum Seekers and Migrants (ASAM), the Human Resource Development Foundation (HRDF), Doctors without Borders (MSF), TOHAV, ASEM, church-based organisations such as Caritas and the Istanbul Inter-Parish Migrants Program.[216] Among these, organisations such as ASAM, HCA, TOHAV, Mülteci-der and ASEM benefited from EU and other international funding. With the arrival of Syrians, new civil society actors emerged such as GOC-DER, and Support to Life; furthermore, Islam-oriented charity organisations such as the Humanitarian Relief Foundation expanded their activities into the field of asylum.

Social movement types of networks such as the Migrant Solidarity Network (GDA), an activist network emerging in 2009 around the idea of the unconditional right of movement, join in solidarity with migrants regardless of legal status. There are similar networks who are not directly organised around issues of migration but whose sectorial focus concerns irregular migrants in the labour market such as Ev İşçileri Dayanışma Sendikası (Union for Solidarity with Domestic Workers), Geri Dönüşüm İşçileri Derneği (Association for Recycling Workers) (Toksöz, Erdoğdu and Kaşka, 2012: 117) and İşçi Sağlığı ve İş Güvenliği Meclisi (Assembly for Workers' Rights and Work Security)[217]. Apart from civil society and social network type of organisations that work on immigration issues, formal trade unions have been remarkably inactive on the question of irregular migration (Şenses, 2012: 215-216; Toksöz, Erdoğdu and Kaşka,2012: 128). Although they already showed an interest in the fact that Turkey has increasingly been receiving labour migrants (see TES-İŞ, 2005), they have not embraced a pro-migrants' rights stance.[218] One explanation for this is because major trade unions in Turkey are organised in the formal economy, while most migrants work in the informal economy.

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[216] Among these, the following are implementing partners of UNHCR: ASAM, Amnesty International, HRDF, Mazlum-der, HCA, Turkey Human Rights Foundation, KAOS GL, Educational Volunteers Foundation of Turkey, TURÇEV, İHH, Mülteci-der, Kimse Yok Mu Dayanışma ve Yardımlaşma Derneği, www.multeci.net, İnsan Hakları Derneği, Uluslararası Mavi Hilal İnsani Yardım ve Kalkınma Vakfı. The information retrieved 10.09.2014 from UNHCR website for a full list of implementing partners. http://www.unhcr.org.tr/?page=17

[217] This organisation watches and publicises problems faced by migrant workers in the labour market. (very peculiar when compared to activities of other organisations). The information retrieved 10.09.2014 from http://www.guvenlicalisma.org/

[218] DİSK, the second largest trade union confederation in Turkey, revised its internal regulations in February, 2012 and included a clause requiring the union commit to conduct research on disadvataged groups in the labour market, including migrants, along with women, elderly, retired, young, children and disabled. (see Art. 4 of the Regulation, retrieved 10.09.2014 from http://www.disk.org.tr/tuzuk-ve-kararlar/tuzuk/)/. While this sense reveals a formal interest to immigrants, it does not reveal a clear stance towards the position of irregular migrants in the labour market.

Research has also observed that the focus of civil society activities in Turkey has been on asylum seekers rather than irregular migrants (Ozcurumez and Şenses, 2012: 90, 104; Şenses, 2012: 210; Parla, 2011: 82; Balta 2010: 105). Civil society has prioritised the protection needs of asylum seekers even though there were few asylum seekers until 2011 compared to the estimated number of irregular migrants in Turkey in the early 2000s.[219] Despite this general trend, a closer look at the humanitarian practices of civil societal actors reveals that they do not totally exclude irregular migrants, as discussed in the Section 5.3. Meanwhile, the advocacy activities of civil society underscore human rights violations in relation to asylum. The NGO reports have mainly revealed malfunctions in the asylum system in terms of access to asylum procedures and asylum applicants' access to fundamental rights (IHAD, 2009; AI, 2009; HRW, 2008). The analysis of such reports and civil society press releases show there are almost no references to irregular migrants, their labour market conditions or their access to fundamental rights. Documents generated by civil society usually refer to irregular migrants in detention as potential asylum seekers who cannot get access to international protection procedures. For instance, a newspaper article by Taner Kılıç from Mülteci-der, an NGO working on refugee rights, based in Izmir, underscored problems faced by asylum seekers in urban areas (namely satellite cities) without mentioning that migrants without legal status are subject to similar conditions. The article refers to irregular migration only in the context of irregular border crossings, emphasising that the asylum system in Turkey forces asylum seekers and refugees to travel to the EU in precarious conditions:

> We should know, never forget and even have qualms of conscious for the following: A significant proportion of people drown in jerry-built boats in the Aegean Sea, at the back of a truck on the way to reach Europe, easily stamped as *clandestine* migrants, are asylum seekers and even recognised refugees who cannot bear the *open air prison-like* conditions of urban areas and the asylum procedures in Turkey, in general. (Kılıç, 2013, *emphasis original*).

One exception in the language of advocacy has been in the work of civil society's provision of healthcare, with the initiation of claims for all migrants' access to health, regardless of their legal status. The press release organised by ASEM, an NGO based in Kumkapı, Istanbul, providing direct health care and consultation to migrants, on International Migrants Day, December 18, 2014, in collaboration with other civil society organisations working on health care contested the marketisation of health

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[219] Only after 2011 did the country start increasing the number of asylum applications, nearly 30,000 per year in 2012 and 2013 (excluding Syrian refugees). (see Chapter 2).

care and hierarchies stemming from legal status that inhibited irregular migrants' access to legal status.[220]

When asked about their focus on asylum issues, most NGOs acknowledged that they have to prioritise asylum issues, not because they are insensitive to irregular migrants' issues, but because they lack the capacity, resources and expertise to extend aid to all migrants. "Our expertise now is on asylum procedures, but we also follow policies in the field of migration in general", explained an informant from HCA. The argument on the lack of expertise is generally linked to lack of financial and administrative capacity to cover issues pertaining to irregular migration and the inability to reach this diverse population in terms of legal status and protection (also suggested by Balta, 2010: 107). The informant from Amnesty International, explained:

> Definitely, it is a matter of resources. Immigrants in Turkey is a huge area, the numbers may reach millions. Working on migrants cannot be limited to undocumented migrants. One needs to include domestic workers, even students, those who come to work, overstayers. There is no organisation big enough to undertake this. Even in the area of refugees, many organisations are limited by their lack of resources. Among all refugees in Turkey, how many of them are aware of NGO activities? Many did not even heard about them. With projects they undertake and resources they receive, NGO services are very limited. It is not sufficient to reach all 30,000 refugees in Turkey. The area of immigration is much bigger, NGOs would need huge amount of resources and much bigger capacity.[221]

The issue of access mentioned in the quote is also revealed as a general obstacle even though some NGOs provide services to all migrants regardless of legal status. Asylum seekers arguably have more knowledge of formal organisations that provide support than unregistered migrants. As articulated by an NGO, "As a charity organisation, we cannot reach people, several people pass without touching any institution".[222] Irregular migrants are segmented into different sections in the society and they are hard to reach. As a result, most of the clients of these humanitarian services are asylum applicants. Given their limited resources and capabilities, NGOs prefer to distinguish between urgent and less urgent cases. This attitude implies prioritising the needs of potential asylum seekers, hence it reinforces the distinction between political refugees and economic migrants. As articulated by Mazlum-der, in a response to how they evaluate NGO activities on irregular migrants:

> Let me tell you this way. The cases coming to us are more urgent cases, if it is appropriate to put it this way. It is like emergency room in hospitals. Refugees who do

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[220] See, Migrants cannot access health care services, 18.12.2014, *guvenlicalisma.org*. Retrieved 10.09.2014 from http://www.guvenlicalisma.org/index.php?option=com_content&view=article&id=12560:gocmenler-saglik-hizmetlerine-erisemiyor&catid=152:haberler&Itemid=141

[221] Interview with Amnesty International, Ankara, November 2012.

[222] Interview with CARITAS, Istanbul, January 2014.

not have legal problems do not reach us or do not have the need to reach us. Those under the pressure of deportation come to us. People who face the danger of deportation to countries where they will face persecution is the exact area we study. We actively cover cases like this. For regular, irregular migrants, as I know, humanitarian aid organisations may help.[223]

With a rapidly increasing caseload, it is likely that asylum related issues will continue to dominate civil society's scope. This dominance, however, is more linked to the emergence of the field of governance, where UNHCR and EU's concerns have led most of the NGO activities, than the actual number of asylum seekers in Turkey. The civil society actors interviewed acknowledged that most of the regulations concern asylum seekers and leave migrants from other categories to their own fate. Arguably, UNHCR's centrality within this governance regime and the bureaucratic routine institutionalised by UNHCR influence the activities of civil society (Scheel and Ratfisch, 2013: 928; Balta, 2010: 106). My findings resonate with this observation. On the one hand, irregular migrants are criminalised to a certain extent, especially in their relations to human and drug smuggling networks. On the other hand, irregular migrants' access to rights has been side-lined. Consequently, the issue of irregular migrants' access to rights is further de-politicised by civil society activities.

The generally low levels of the politicisation of irregular migration, discussed in Chapter 3, reinforces UNHCR's dominance in the fields of migration and asylum in Turkey. Given this particular shaping of the field, humanitarian NGOs' focus on asylum has provided a more legitimate ground for expressing their mandate, although most humanitarian NGOs do not distinguish between refugees and irregular migrations.[224] In contrast to previous research that implies a total ignorance towards issues pertaining to irregular migration (Şenses, 2012: 205), I suggest that the focus on asylum is not only a strategic use of limited resources. As explained above, doing advocacy in the name of asylum seekers has become a legitimate way for NGOs to express their concern with human rights violations in Turkey.

Despite this general refrain from delving into the sphere of irregular migration, NGOs have vividly contested arbitrary detention and deportation practices that concern irregular migrants and asylum seekers. Such contestations have given rise to a vivid battleground for NGOs to ensure the rights of migrants who are trapped in irregular situations. Civil society has also functioned to stop unlawful deportations through interim measures taken by the ECtHR (Grange and Flynn, 2014: 24; Yılmaz, 2012; Ulusoy and Kılınç, 2014). Ulusoy and Kılınç (2014: 255) emphasise that lawyers from Turkey exploited the option of resorting to ECtHR's interim measures to a lesser extent than their counterparts in other European countries. Meanwhile, civil society has used ECtHR's decisions to oppose arbitrary detention and deportation decisions

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[223] Interview with Mazlumder, Istanbul, November 2013.
[224] Ibid.

taken by security forces (Yılmaz, 2012: 51-52). The Court took exemplary decisions against Turkey, acknowledging that asylum seekers do not have access to procedural guarantees in Turkey (Ulusoy and Kılınç, 2014: 255). Plus, decisions stated that detention and deportation practices violate Articles 3, 5 and 13 of the ECHR (Grange and Flynn, 2014: 19).[225] Turkish NGOs critiques and their use of ECtHR as a transnational accountability mechanism have largely contributed to the preparation of the LFIP (Şenses, 2012: 218-9). The law has ensured that the practices of deportation and detention are in line with the requirements of ECHR (Yilmaz, 2012: 54-55).

In response to widespread international and domestic critiques, improvements were already observed before the law came into force. Increased access to the asylum process in detention has resulted from this cumulative creation of law. Both HCA and MAZLUMDER noted a relative improvement since 2010 in terms of access to asylum after detention and that officials have become more prone to take asylum applications of detainees, especially in Istanbul, rather than release them with deportation papers.[226] The decreasing number of deportations from Istanbul and increasing number of asylum applications from 2010 to 2011 reveal that police are more inclined to channel detainees to asylum procedures (personal communication with HCA).[227]

Legal sideways in the absence of mobilisation

What are the implications of these advocacy activities for the rights of irregular migrants? As discussed in Chapter 3, NGOs have become a legitimate party in the migration policy making process through their advocacy efforts. In terms of advocacy, major areas of struggles have been deportation and detention practices, asylum applicants' access to fundamental rights and access to asylum in general. This legal activism in the area of deportation also reflects the limitations in the sphere of intervention by civil society. Migrant illegality is, to a certain extent, reversed, but this occurs by turning migrants into asylum clients rather than through activism for irregular migrants' access to legal status. Such attitudes reinforce the idea that asylum is the only way to get recognition, hence legitimacy, not only in the eyes of state authorities, but also at the level of advocacy. In this sense, rather than engaging in protesting the deportations of migrants for humanitarian reasons, the contestations remain within the limits of the law. This self-limitation unintentionally led to the de-

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[225] See for instance Abdolkhani and Karimnia v. Turkey, Z.N.S v. Turkey, Charahili v. Turkey "that concluded the absence of clear provisions for ordering and extending detention, the lack of notification of the reasons for detention and the absence of judicial remedy to the decision on detention and torture''. Ranjbar and others vs Turkey, sentencing Turkey for unlawful detention (Yılmaz, 2012: 162,) Db vs Turkey, sentencing Turkey for unlawful deportation July 2010 (Yılmaz, 2012: 169).

[226] However, NGOs have limited means for intervening, and unlawful detentions at the airport continue to be a problem (SRHRM, 2013: 14, interview with HCA, Istanbul, November 2013).

[227] ''The police is now more willing to take asylum applications. Before there have been decisions at the level of ECtHR that the rights of asylum applicants kept under custody were violated. Now, they cannot avoid detainees applying for asylum anymore, they have to take the application and release the applicant. This is why deportation paper is less used lately'' (Interview with MAZLUMDER, Istanbul, November 2013).

politicisation of the detention and deportation of migrants who do not fit in the asylum seekers' profile in Turkey.

Legal activism rather than street protests emerged as a major form of contestation by civil society actors in Turkey. Street protests, as exemplified at the beginning of the section, were organised in a sporadic fashion. For instance, the suspicious death of Festus Okey, a Nigerian asylum seeker under police custody in 2007, and the process of his trial propagated a series of street protests as well as media and public attention.[228] Protests organised outside detention centres in Kumkapı, Istanbul and Edirne contested the unlawful detention and deportation practices of the state in particular, and immigration and asylum policies in Turkey, in general.[229] Such events triggered coalition buildings and attracted allies for civil society. However, their potential to include migrants as well as asylum seekers as active rights seeking agents has remained limited. For over a month in April and May 2014, the sit-in and hunger strike by Afghan refugees in Ankara was one of the exceptional protests where refugees themselves were at the frontline. However, the target of the protest was UNHCR, which suspended asylum applications from Afghan nationals, rather than the Turkish state.[230]

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[228] See for instance, hCa Condemns Refugee Death in Police Custody. *bianet.org,* 31.08.2007. Retrieved 15.03.2014, from http://www.bianet.org/english/human-rights/101489-hca-condemns-refugee-death-in-police-custody.

Nijeryalılar İstiklal'de protesto eylemi yaptı.[Nigerians protested on Istiklal Street], *zaman.com.tr,* 01.09.2007. Retrieved 15.03.2014, from http://www.zaman.com.tr/sehir_nijeryalilar-istiklalde-protesto-eylemi-yapti_582733.html

İHD: 'Festus Okey'in Öldürülmesini Protesto Etkinliğine Davet' [Human Rights Association's (IHD) call to protest the murder of Festus Okey], *savaskarsitlari.org*, 03.09.2007. Retrieved 15.03.2014, from http://www.savaskarsitlari.org/arsiv.asp?ArsivTipID=9&ArsivAnaID=40719.

Police Cover Up in Okey's Death, *bianet.org,* 13.09.2007. Retrieved 15.03.2014, from http://www.bianet.org/english/human-rights/101739-police-cover-up-in-okeys-death.

[229] See for instance, Call for Action in support of immigrants, 23.09.2009. Retrieved 15.03.2014, from https://resistanbul.wordpress.com/2009/09/23/call-for-action-in-support-of-immigrants. This was a street protest in solidarity with detainees' uprisings in Kumkapı Detention Center, as part of anti-capitalist protests during the International Monetary Fund and World Bank Summit in 2009, in Istanbul.

A protest at the gates Edirne Detention centre was attended by the participants of the international *Transborder Conference* that took place in March 2012 in Istanbul. Protest at the Detention Center in Edirne, Turkey: The border is the problem!, *w1eu.info*, 21.03.2012. Retrieved 15.03.2014, from http://infomobile.w2eu.net/2012/03/21/protest-at-the-detention-center-in-edirne-turkey-the-border-is-the-problem/.

Another protests by Islamic groups, "Kumkapı Guantanamo Olmasın!' Eylemi [Protest for "Kumkapı shall not be Guantanamo"], *haksozhaber.net*, 30.03.2012, Retrieved 15.03.2014, from http://www.haksozhaber.net/Kumkapi-guantanamo-olmasin-eylemi-foto-video-28642h.htm.

[230] With mouths sewn shut, Afghan refugees keep protesting Ankara, UNHCR, *hurriyetdailynew.com*, 26.05.2014. Retrieved 15.03.2014, from http://www.hurriyetdailynews.com/with-mouths-sewn-shut-afghan-refugees-keep-protesting-ankara-unhcr-.aspx?pageID=238&nid=67005&NewsCatID=339.

One reason for lower levels of street activism by migrants is that there are few channels available for the political mobilisation of irregular migrants and refugees. As reported by the IOM-funded report, existing migrant organisations are not powerful enough to raise their voice (Toksöz, Erdoğdu, Kaşka, 2012: 113-114). They are either ethnicity-based recognised associations, founded by migrants who arrived within the context of the Settlement Law who have acquired citizenship or small-scale community/ethnicity based solidarity groups. The capacity of older, more established ethnic associations to lobby for newly arrived irregular migrants has been limited and selective (Parla and Danış, 2009 155-6; Parla, 2011). Research has shown that ethnicity-based informal solidarity networks among African migrants have been short-lived because the members tended to be highly mobile, and ''the transit matter inhibits solidarity'' (Suter, 2012: 208). Resonating with these observations, my findings show that there are no migrant associations crosscutting ethnic differences in Turkey. This is mostly due to the diverse profiles of migrant communities in terms of ethnic, linguistic and even cultural backgrounds. Plus, migrants in irregular situations show low degrees of mobilisation, even within the same ethnic group. Internal differences within one ethnic group need to be taken into account rather than taking ethnicity as the "key mobilizing category" (Pero and Solomos, 2010: 9). In this sense, the Union of the Young Refugees in Turkey (UJRT as abbreviated from the name of the organisation in French), formed in 2010, has been an exceptional example of inter-ethnic solidarity amongst refugees. The association has worked as a solidarity network to improve the living conditions of minor refugees who had to leave state by running shelters for those who were left to fend for themselves when they turned 18. They forged close alliances with international and civil society organisations such as IOM, UNHCR, the Migrant Solidarity Network and Caritas. Although the re-settlement of their members into third countries has been a priority for UJRT, they also mention integration into Turkish society amongst their objectives. These initiatives can potentially evolve into other forms of activism that might include other groups of migrants and refugees. However, for the reasons stated, mobilisation has remained limited.

In the absence of bottom up demands for regularisation, in the summer of 2012, the one-time exceptional amnesty issued by the Ministry of Interior was one of the rare legal possibilities for illegal migrants to regularise their status. The amnesty was issued by the time I was conducting preliminary fieldwork in Istanbul. Note that this was a top down measure aiming to register and reduce the number of clandestine workers and those overstaying their visa, rather than a response to civil society's or employers' formal demand.[231] The amnesty enabled migrants whose visa or residence

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[231] See Ministral Approval no: 108807, Residence Regulation for Foreigners having violated visa/ residence in Turkey. Retrieved 15.03.2014, from http://eng.yabancicalismaizni.com/services/residence-permit-in-turkey/297-new-regulations-have-been-made-to-make-visa-work-and-residence-permits-of-illegal-foreigners-easier.html).

permit has expired to get access to a residence permit for six months. Accordingly, overstayers who possessed valid passports and agreed to pay the fines for the time they overstayed and who were able to show a valid rental contract or sponsor letter were granted a one time exceptional residence permit. Those who did not want to extend their residence were invited to leave the country by the end of 2012. Several migrants including Chris (36, from Nigeria), who agreed to pay fines to regularise their status, were later deceived. Chris' plan was first to regularise his status and then to continue his graduate education at a private university in Istanbul. Chris used his six months residence permit to travel back and forth to Nigeria in order to secure money from his family for his education. Ultimately, his enrolment at the university was not possible due to bureaucratic problems, and he was back to the overstayer legal status, where he was before the Amnesty: "*Ikamet* [eng. the residence permit] was just good to leave and come back. It never helped with anything else". Peter's frustration with the Amnesty underscores its economic aspects: "I do not call it an Amnesty, I call it a robbery. When you give a residence that you cannot renew it is robbery. I cannot say that now I have documents. They are invalid". For many, there was a similar discrepancy between the cost of legalisation papers and their benefits.

Having Turkic ethnicity could provide another basis for acquiring legal status in Turkey (Parla and Danış, 2009; Toksöz, Erdoğdu and Kaşka, 2012: 113-4). However, low levels of trust characterise irregular migrants' relations to ethnicity-based cultural organisations established by earlier immigrant groups who have acquired citizenship (Parla and Kaşlı, 2011; Kaşlı, forthcoming). Among the interviewees from Afghanistan, Selma (32 from Afghanistan), a Farsi speaking migrant, mentioned that Afghan associations are divided along ethnic lines and are less interested in helping other Afghans from other ethnicities: "We never went to the association. There are associations by Kazaks, Uzbeks here. Those who for there, only help Uzbeks, for instance, they do not provide help for other migrants, only Uzbek. This is why we do not go to the association". Malik, an Afghan migrant of Uzbek ethnicity explained that he was reluctant to go to the association in their neighbourhood because he never received proper answers to his questions on residence permits:

> I went there once. The person there did not properly talk to me. I asked 'isn't this association for foreigners, I am here to ask my questions, why you do not answer correctly. The person told me, there are too many people out there asking for help and they cannot answer thoroughly to all the questions.

Malik says he left the association frustrated and did not believe the person who later asked him for money to get him a residence permit:

> He asked for 100 Dollar and told me to have me a residence permit in six months. I told him that I would give him 200, only after he get my permit. He called few days later. I gave him my passport [white passport taken from the Afghan embassy not a

travel document], he made copies. He told me he cannot get a permit without me paying him, first. I did not pay him and he did not help me. I know he would not, even if I pay him.

Afghans who have recently arrived and pay ethnic associations to follow their legal papers reveal other ways that newcomers' illegality is exploited. These narratives are important for revealing the mistrust between irregular migrants and their ethnic counterparts[232] – and more research focusing on this relationship is needed –, as exemplified in the statement by Ahmed: "Associations wrote down names a couple months ago. Some of my friends signed up. It does not work anyway. I did not sign up". What was interesting for the purpose of my research was how migrants sought some level of legitimacy through these interactions. Mahmut explained that he and a group of Afghan migrants went to the foreigners' department in police station [tr. yabancı şube] to register, after signing their names with the associations and paying the 100-dollar "charity" required for this process.

-They sent the list to police station and we just had to show up. We did not do anything there. We went there as a group. We showed our passport. We were asked when we arrived. We said two years. [although they were here for one year or less].

-Why two years?

-It is to show that we are here, we are interested in staying here, we will not move to Europe. Some other people said four-five years. They made a copy of our passports and let us go.

In this example, migrants seek to gain legitimacy or a kind of immunity from the police through the *reference* provided by the association rather than through acquiring valid papers and through stating their intention to stay in the country. Evidence from interviews and literature reveals that neither pro-migrant rights civil society nor migrant associations provide a platform for the political mobilisation of irregular migrants. Demands for the regularisation of irregular migrants are not on the agenda of civil society. Existing ethnic associations work more as intermediaries to help their clients navigate within changing, slippery legal ground (Parla and Kaşlı, 2011). In the absence of political mobilisation, most migrants engage in individual legalising efforts, at times through mobilising their ethnic identity. Indeed, for some families, it has been possible to acquire permits through their relatives, already settled in Turkey, regardless of their method of entry. Selma and her family, for instance, acquired residence permits because Selma's brother had studied medicine in Turkey and later became a licenced doctor and eventually a citizen. Others have been eligible for ethnic privilege through the Settlement Law. Harun's family were also expecting their residence permit at the time of the interview, through their relatives residing in the

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[232] See also Suter, (2012) for an analysis of the mechanism of distrust amongst Nigerian migrants in Istanbul.

South-eastern part of the country. This example can be multiplied through other research on other groups of migrants, who were admitted earlier according to the Settlement Law and granted citizenship. All examples reveal that the right to stay as an immigrant in Turkey operates as an ethnic privilege rather than a right.

Along with being from Turkish descent, marrying a national has been the most evoke way through which migrants believe they can acquire a legal status. "Marriage is the only way to stay here'' has been a common conviction amongst migrants interviewed, regardless of their ethnic backgrounds or legal status. Research has already discussed how women from post-Soviet countries get legal status through marrying Turkish national men, (see for instance, Gökmen, 2011). Note that in most cases, both ethnic kinship and legal kinship through marriage are connoted as hypothetical possibilities for obtaining legal status rather than actual opportunities for legalisation. Ahmet's reflections, for instance, reveals that there is a lower possibility of getting legal status through ethnicity than through marrying a national.

> I want to go to Afghanistan. I have nothing here but a passport. Before, we could get citizenship. It is very difficult now, they say. Before, you could get a residence. There are friends who sign up for residence four-five years ago. Now, you can only become a citizen by marrying a Turkish citizen. You marry to a Turkish, you do military service, then you become a citizen. I have a relative like this. He came eight years ago, married two-three years ago, now he is a citizen.

Postponing his ideas to pursue studies for a while, Chris continued with trade, sending textile goods he bought from Merter for his brother to sell back in Nigeria. He says it is a good business and thinks of opening a shop in Nigeria. He might also consider opening a shop in Turkey if he finds a good business partner, speaking Turkish: "If I had a Turkish woman, she could help me. I will try sideways, becoming a student, getting married, it is difficult to start a business and get permit in Turkey".

This section has shown institutional factors behind low levels of mobilisation for the rights of irregular migrants in Turkey. Consequently, migrants find few channels to communicate their experiences of widely expressed market violence and the difficulty to get access to fundamental rights without official status. The day-to-day legitimacy partially enjoyed by migrants does not provide political legitimacy for their presence in the urban sphere.

Conclusion: Turkey as a case of labour market infiltration but limited political mobilization

Regarding irregular migrants' participation in social and economic life and their access to rights and legal status, the Turkish case is characterised by: i) a somewhat

tolerant regime of deportation, ii) the selective participation of a cheap labour force in the informal economy, iii) limited access to fundamental rights without official status, and iv) limited civil societal backlash to rights violations and to claim rights and legal status for migrant of irregular legal status.

This chapter has first suggested that more incentives have been available for irregular migrants in urban areas to stay quiescent, rather than to protest their lack of legal status. Practices of deportation and migrants' perceptions of their deportability have revealed that migrant illegality in the urban sphere has been conceptualised as *harmless* within the existing regimes of control. Given migrants' perception of being tolerated in the urban sphere, their invisibility becomes strategic. Yet, ''the palpable sense of deportability'' (De Genova, 2004: 161), in the absence of available legal structures to legalise one's status, contributes to the production of a cheap, docile labour force, as emphasised in the literature on irregular migrants' subordinated status in the labour market (De Genova, 2005; Calavita, 2005).

Migrants, even those who allegedly aspire to go to Europe, have found possibilities in the labour market in Turkey, as cheap, flexible and docile workers. The securitisation of the EU borders has arguably increased the time migrants spent on Turkish soil before *transiting* to the EU, blurring the distinction between transit migration and economic labour migration in the context of Turkey. As a rather unintended outcome of the international production of migrant illegality, those considered transit migrants have become part of the labour force. Work is available to irregular migrants but the access to steady jobs remains problematic. Moreover, the conditions of work in terms of long hours, low wages and risky conditions (in sectors such as textiles and construction), reflect the general tenets of the labour market and characteristics of labour intensive economic growth in Turkey. Hence, incorporation into the labour force is only possible for young and healthy individuals who are fit for the kinds of jobs available for migrants. My findings have also hinted at how gender and ethnicity play a role in migrant participation in the labour market.

Along with labour market incorporation, a distinct aspect of the Turkish case is the interconnectedness between irregular and asylum regimes, especially for migrants from nationalities that are overrepresented in asylum applications. There is a thin line between irregular migrants and asylum seekers (İçduygu and Aksel, 2012: 8). Both groups drift amongst fluid categories, take part in the informal labour market and may try to cross to the EU. Meanwhile, the enjoyment of certain rights and services (such as access to residence permits and healthcare) is only possible through applying for asylum. Throughout the chapter, I have discussed how illegality and labour market and asylum regimes at times substitute or reinforce each other. These interconnections enable migrants' incorporation into either labour market or bureaucracy -mostly through asylum.

Migrants' incorporation, both through the labour market and through asylum, and the interconnection between the two, reinforce migrants' invisibility and silence in the political sphere. The invisibility itself becomes a way for irregular migrants to present themselves as harmless workers, hence legitimate members of the society. In the absence of the recognition of basic rights, most NGO activities focus on asylum issues as a legitimate ground for activity. NGOs contribute to the de-politicisation of issues regarding migrants' human rights when they channel migrants into the asylum tract or provide them with humanitarian aid without making explicit political demands on their behalf. In the absence of allies from civil society or interest from trade unions, and given the lack of communication amongst different migrant communities and the lack of trust within ethnic groups themselves, migrant associations are not powerful and visible enough to make political demands to claim rights and legal status for migrants.

The absence of the mobilisation for the rights of irregular migrants does not necessarily mean that migrants of irregular status in Turkey do not seek ways to access rights and legal status. The last section explains how they use existing immigration and citizenship laws to acquire legal status in the absence of communal demands for rights and legal status. At this point, the use of ethnic kinship envisaged by the Settlement Law and other clauses in the legislation help certain ethnic groups from Turkish descent to acquire legal status. Others aspire to receive legal status and eventually citizenship through marrying a Turkish national or a legal resident.

One can conclude that the lack of strict internal controls and the availability of market opportunities have made it less urgent for migrants in irregular status who have (semi-)settled in big cities to seek recognition; this is particularly the case in Istanbul. In light of this conclusion, it is essential to reassess the connections amongst migrants' experiences of deportability, labour market participation and (dis)incentives for mobilisation for their rights. One can question if migrants of irregular status in Istanbul trade off their lack of recognition for a lack of state control over their economic activities? Conversely, does the market provide a form of *de facto exit* from the harsh experience of illegality but ironically become one of the factors preventing migrants' associative activities and their political visibility? Chapter 6 reassesses findings from a comparative perspective to reflect back on the emerging theoretical discussions.

Chapter 6: Migrant illegality beyond the EU borders: Turkey and Morocco in a comparative perspective

How irregular migrants become legitimate subjects as laws make them illegal?

Introduction

This chapter frames migrant illegality and patterns of incorporation in Turkey and Morocco within a comparative perspective. Focusing on the link between practices of migration controls (governance), irregular migrants' participation in society (migrant incorporation) and migrants' access to rights and legal status, the comparison highlights two interlinked questions: First, how does the presence of irregular migrants, despite their lack of legal status, become legitimate within social, economic and bureaucratic interactions? Second, what underpins differences in mechanisms through which migrants gain legitimacy? As promised at the introduction of the thesis, the comparison aims at explaining why certain aspects of migrant illegality and of incorporation gain legitimacy over others in particular contexts.[233] Before engaging with the findings of this comparison at a more theoretical level in Chapter 7, this chapter provides preliminary explanations of contrasting mechanisms between the production of day-to-day legitimacy in the absence of political voice in Turkey and the process of gaining political voice, hence legitimacy with very limited forms of daily inclusion in Morocco. In line with the structure followed in Chapters 4 and 5, the discussion in this chapter displays common and different features of migrant illegality in terms of perceptions of deportability, economic participation, access to rights, to institutions and of how mobilisation for legal status that have emerged in both field sites.

6.1 Deportations and perceptions of deportability

Interceptions and deportations have become major tools for controlling migration in the context of extended EU migration controls into neighbouring countries. Deportation related practices such as pushbacks by European border guards, removals to non-EU borders, detention conditions and denial of access to asylum procedure have undermined migrants' human rights at the edge of the EU. Human rights advocates in both nation-state contexts have criticised such practices. A particularly contested aspect of deportation practices in Morocco has been the removal of migrants apprehended along the Morocco-Spain borderland to the

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[233] Chapter 7 will engage in theoretical reflections and on contributions to literature, based on these preliminary explanations.

Morocco-Algeria border. Deportations and removal to the border have constituted, until very recently, the main migration control policy by the Moroccan government. Similarly, the critiques in the Turkish case have focused on the widespread use of detention as an irregular migration control strategy, the unfavourable conditions of detention centres and detainees' problematic access to a functioning asylum system.

In both cases, migrants have pushed back from EU borders; those waiting to plan their journeys to Europe have mingled with other groups of migrants that have settled in bigger cities. The blurring distinction amongst *transit* migrants with alleged aspirations to cross to Europe, asylum seekers and economic migrants is a common attribute of migrant incorporation, seen both in Rabat and in Istanbul where most of the interviews with migrants in urban space took place. Policies and practices aiming at stopping irregular border crossings into the EU have rendered migrant groups in both contexts, especially those without legal status, ''deportable'' regardless of their aspirations to go to Europe.

Despite similar critiques of Turkey and Morocco's border and deportation policies and practices, the findings indicated a striking difference in irregular migrants' perceptions of their deportability from the urban space. What was striking in the Moroccan context is that mass deportation practices are not limited to border areas. Migrants who are semi-settled in urban areas are also targets of removal by the border practices. In this sense, deportations are more than Morocco's response to the force of the EU's pressure to keep migrants away from the EU borders. Security forces have used removal to the border as a primary means of irregular migration control. Parallel with contestations of deportation practices along the EU border, stakeholders and undocumented migrants, alike, protested those practices of urban raids by the police, articulating that deportation has become part of the daily reality.

On the contrary, the feeling of being at ease with one's illegal status in the urban space, despite a perpetual sense of deportability, has been widely raised by migrants in Istanbul. Surprisingly, migrants from nationalities that are most represented in deportation figures such as Afghans, expressed their perceptions of toleration by the police. Similarly, those from African countries who are one of the most marginalised groups in the socio-economic sphere because of their physical visibility, recent migration history and lack of ethnic and linguistic ties have expressed being at ease with security forces. Police raids in urban areas occasionally occur but mainly target drugs, human smuggling and prostitution related cases. "The police would not touch you if you are not doing anything illegal" is a commonly recited narrative by migrants. Civil society representatives confirm the observation that the police do not systematically inspect urban neighbourhoods and workplaces. Meanwhile, migrants have been subject to random checks, arbitrary practices and opportunistic types of abuses. In response, most migrants are acquiescent neighbourhood dwellers and workers, knowing that being otherwise may endanger their tolerated illegal status, hence the legitimacy of their presence.

The cases have revealed differences between deportability as part of the daily reality in Morocco and as a possibility in Turkey. Meanwhile, the comparative analysis should not imply that informal arrangements with security forces do not happen in Morocco. Indeed, migrants in the Moroccan context have also occasionally revealed their experiences of being tolerated by security forces despite their illegal or semi-legal status.[234] In both cases, there are groups that are more tolerated than others. Migrants make conscious attempts to make their presence legitimate. The possession of certain identification papers, even though these are not required legal documents, may be used to avoid trouble when faced with the police and may lessen one's perceptions of deportability. Despite similarities in the way illegality is negotiated at street level in both contexts, civil society, migrant activists and non-activist migrants in Morocco have complained about urban raids, police and neighbourhood violence much more than their counterparts in Turkey. This is telling in terms of the connection between migrant deportability and pro-migrant rights mobilization.

The connection between practices of deportability and politicisation is worth exploring in both cases. Peutz and De Genova (2010: 19) have suggested that deportability does not necessarily make migrants passive, in contrary it may also mobilise them towards collective action. However, the connection between deportability and collective action cannot be taken for granted. The situation giving rise to widespread mobilisation in the Moroccan case should be contextualised within the broader policy context. First, as explained in Chapter 3, the ongoing state-led politicisation has depicted irregular migration as a security threat since the early 2000s. In relation to this criminalisation of irregular migration by law, mass deportations are directly used to curtail irregular migrant presence on Moroccan soil. Such explicit critiques of police and border violence by pro-migrants' rights group, including migrants' associations themselves, have emerged as a response to this particular top down politicisation process.

Activists in Turkey also contested deportation and detention practices, albeit with a lesser intensity. One can fairly ask why such a mobilisation movement has been limited in scope, in Turkey. On the one hand, Turkey seems to display lower degrees of state-level politicisation of the presence of irregular migrants in the country. Irregular migration policies are seen within the technical aspects of the EU accession process. The rather low level of politicisation of the issue is coupled with law-enforcement officers turning a blind-eye to the presence of irregular migrants, especially to the ones who seem to take part in the informal urban labour market.

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[234] According to the GADEM report, tolerance by security forces is more common in Southern Morocco where, most migrant overstay their visa and migrants have more opportunities in the labour market (GADEM et al., 2014).

6.2 Socio-economic participation and daily legitimacy

The connection between migrant deportability and migrant mobilisation can be better comprehended by looking at the functioning of migrant illegality in social and economic life (Coutin, 2000; De Genova, 2002; Calavita, 2005; Willen, 2007). As widely discussed in irregular migration literature, migrant illegality and deportability typically result in subordinated forms of inclusion of irregular migrants into the society rather than absolute exclusion (Chauvin and Garcés-Mascareñas, 2012). This inclusion may happen as an unintended effect of the unprecedented irregular human mobility, or leaving the back door for the arrival of undocumented labour may be part of the specific political economic agenda. Regardless of whether it is intended or not, their participation in social and economic spheres may legitimise irregular migrants' presence in a given territory, despite their perpetual perceptions and experiences of deportability.

Irregular migrants settling in disadvantaged areas of the city and working in the informal economy in a sporadic fashion is a general and common characteristic of subordinated inclusion in Rabat and Istanbul. Meanwhile, informal inclusion has given rise to different forms of violence and marginalisation in both contexts. Exploring different degrees of informal economic activities pursued by migrants in both contexts enables me to question how experiences of illegality in economic life have implications for the political presence and legalisation strategies of migrants.

Housing is an initial step of migrants' economic participation in the receiving society.   In Istanbul as well as in Rabat, migrants are concentrated in poorer areas of the city, and they are initially accommodated by informal reception mechanisms such as informal employment/ real estate agencies, relatives and co-ethnics who are already settled in the area. Proximity to work opportunities is another factor that impacts migrant settlement in the urban space in Istanbul. Poor living conditions in terms of overcrowded rooms/flats that are mostly but not exclusively shared with co-ethnics and flats converted from basements that lack proper sanitary facilities are the main issues related to housing. Informal contracts with property owners, overpriced rents, in comparison to what locals pay and the quality of housing offered reveal crucial aspects of the economisation of the presence of irregular migrants in both contexts.[235] Despite this common economisation through housing, there are differences in degrees to which the migrant labour force has become part of the informal economy in both contexts.

When compared to Rabat, the structure of the labour market and the scale of informal economic activities in Istanbul are more suitable for accommodating irregular migrants. Hence, there is widespread migrant participation in the already established informal economy, characterised by an unregistered workforce in sectors such as

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[235]   Reportedly, in Istanbul, the arrival of Syrians has increased rents even higher.

textiles, construction, domestic work, tourism and services, and this has been a distinctive aspect of their informal incorporation experience. Informal employment agencies and ethnic networks facilitate migrants' inclusion into the labour market. In line with previous research, findings have underscored that the informal labour market in Istanbul does not necessarily distinguish between migrants with and without legal statuses. Similarly, not only migrants who came to Turkey to look for employment opportunities but also those with aspirations to cross to the EU and/or fleeing from conflict, have found, albeit precarious, positions in the labour market. Despite the recent history of irregular migration into Turkey in such scale from diverse locations and temporariness of migrant settlements, sectors such as domestic care have been widely employing migrant women from former Soviet Republics such as Moldova, Georgia and Turkic Republics. Women from these countries are also known to engage in the textile trade. Afghans have been widespread in leather and textile industries, whereas Western Africans are more associated with street vending and commodities, particularly textiles and trade.

Migrant deportability has also given rise to a young, exploitable migrant labour force in Morocco. However, the analysis of migrant economic participation in the case of Rabat has revealed that economic gain from irregular migrants in the housing market does not necessarily translate into migrant incorporation in the informal labour market. Unemployment or working sporadically (a few days per month) seems more common among migrants in Rabat than their counterparts in Istanbul. In the context of widespread exploitation and under-payment, wages fall short of the basic expenses of migrants, let alone savings to finance a further journey or to send back home, which is another factor. In construction, for instance, seemingly the most suitable sector for the young male migrants, the daily wages are half of the local wages, as migrants complained, which has also been discussed in other research (Pickerill, 2011). [236] This situation pushes migrants away from intense working conditions in the waged labour market towards daily income generating activities (street vending, hair styling, etc.). Some also engage in precarious activities such as begging or prostitution. Only a minority has stable jobs such as West African (mostly Senegalese) or Filipina women working for upper middle-class Moroccan or expat homes as domestic workers or carers for young, and some educated migrants (some are former students from Western and sub-Saharan African countries) working in call centres. However, even migrants with a legal entry and educational degrees have found it difficult to find a steady job and to legalise themselves through employment contracts.

Differences in scales of economic activities between Rabat and Istanbul may explain the striking difference in terms of access to labour market opportunities. In terms of GDP, Turkey's economy is nearly eight times bigger than the Moroccan economy. Istanbul being the main economic hub with a widespread informal economy

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[236] As of 2012, wages for daily jobs in construction, for instance, were reportedly between 55 MAD and 80 MAD

attracts migrants seeking economic opportunities as well as those with explicit aspirations to go to Europe. It has been a particular time period for the urban economy of Istanbul, where certain sectors such as construction, textiles, etc. have been expanding. Since the 1980s, the economic growth has been dependent on lowering labour costs. This is also the period where labour unions are weaker when compared to the previous periods (Çelik, 2013) and are almost absent in certain sectors where sub-contracting and informal labour are widespread (Toksöz, Erdoğdu and Kaşka, 2012: 23). The IOM report on irregular labour migration in Turkey indicates that net wages of irregular migrants are not necessarily lower than wages of locals (Toksöz, Erdoğdu and Kaşka, 2012: 23). However, as employers avoid tax, social security expenses and ask for longer hours, employing irregular migrants significantly decreases labour costs.[237]

What was striking in the analysis was not the absolute exclusion from income generating activities but that migrants in Rabat are more inclined to express their marginalisation because of the lack of labour market opportunities. In comparison, despite their positive views on labour market opportunities in Istanbul, migrants largely complain about the exploitative character of the labour market. Temporary work arrangements, suitable for a young migrant profile, high turnover rates, moving from one workplace to another and from one sector to another, are common among migrant workers. In this sense, in similar terms to what is happening in Morocco, the labour market in Turkey offers few possibilities for social mobility or for legalisation through work contracts.

Despite differences in the intensity of available work opportunities and of labour market participation experiences in these two settings, the research has revealed that labour market incorporation is a selective process. Work is available for young, able bodies who can endure hard labour conditions. Pregnant women and women with younger children are the most marginalised groups in the labour market. In the absence of labour market possibilities, migrants considered as vulnerable rely on support by humanitarian organisations. In this sense, the legitimacy of their stay does not stem from their contribution to the economy but their vulnerability. Begging and marginal ways of generating income are widespread especially amongst these most marginalised communities. For instance, Nigerian women with babies in the case of Morocco are associated with begging and sex work. Recently, Syrian women and children suffer from the same stigma in the case of Turkey.

One implication of migrant labour concentration in Istanbul has been the blurring of the distinction amongst registered asylum seekers, people with asylum claims who are not registered with the authorities, and unregistered (so-called) economic migrants. The asylum system in Turkey does not provide prospects for

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[237]   Based on media and a few reports on the subject, one can suggest that the arrival of Syrians has actually lowered wages particularly in sectors such as seasonal agricultural work, textiles and construction in certain regions. For initial analysis see Özden, 2013; Mazlumder, 2014).

permanent legal status in Turkey or for re-settlement to a third country in the near future. Consequently, asylum seekers may breach the asylum regulations requiring them to reside in their assigned province and come to Istanbul to generate income in the informal economy. Some with asylum claims amongst them do not even apply in the first place, knowing they would need to leave Istanbul, hence all economic opportunities the city brings. The implications of the specific asylum regime are the distinctive part of the production of migrant illegality in the labour market in Turkey. As already discussed in Chapter 3, the new law, LFIP, aims to reinforce the distinction between asylum seekers entitled to legal status and irregular migrants. Conversely, the distinction amongst legal and policy categories such as asylum seeker vs. irregular migrant or transit vs. economic migrant have continued to be blurry in practice. The spatial discrepancy between legal requirements and labour market has created a situation where migrants are pushed to trade off between asylum, that is a less precarious but "liminal legal status" (asylum) (Menjivar, 2006) that limits one's mobility within the country and the precarious labour market opportunities concentrated in big cities without any legal status. In this sense, Turkey has been an example of how irregular migration regimes in interaction with asylum regimes produce deportable, flexible, cheap labour.

As discussed above, migrant illegality in the urban sphere is tolerated as long as the authorities are convinced of migrants' economic endeavours outside of crime related activities such as human smuggling, prostitution, drug dealing, etc. The character of the widespread but precarious (temporary and low paid) employment reinforces the image of a docile migrant worker. Labour market participation provides a degree of protection from deportation, if not from police interventions and occasional harassments. Meanwhile, irregular migrants find themselves in a very vulnerable situation in terms of access to fundamental rights and legal status. As explained in the section 5.4, the particular (de-)politicisation of immigration related issues and the weak pro-immigrants' rights movement in Turkey have been factors that have been contributing to the silencing of market violence in Turkey. As a consequence, another indirect implication of labour market incorporation in Turkey has been that migrants find no channels to raise a political voice to improve their labour market situation. However, this lack of mobilisation needs to be contextualised within the general silencing of labour related issues in Turkey.

In contrast, in Morocco, social and economic marginalisation, coupled with strict migration controls, have characterised the "origins of the suffering of irregular migrants", hence "the objective context" leading to mobilisation by civil society but also by irregular migrants themselves (Chimienti, 2011: 1340). Chapter 4 already explained that the street violence against migrants from sub-Saharan countries and the backlash against such xenophobia are widespread. Experiences of exclusion happen not only through marginalisation in the labour market but also through racist street violence. Street violence, along with deportation practices, is also widely expressed by migrant groups and pro-migrant rights actors. In Morocco, exclusion

from the labour market and widespread racial aggression are prevalent in migrants' daily perceptions of their illegality.

In comparison with the situation in Morocco, among migrants and stakeholders interviewed in Istanbul, street violence has not been a central theme in their narratives. Again, one should be careful not to imply that there is no street-level violence, racism or discrimination against migrants in Turkey. Even though cases of aggressions exist, they are not central to migrant experiences of illegality, unlike the case in Morocco.[238] The intensity of this incorporation differs from one context to another and varies from one immigrant group to another in each case in question. Meanwhile, it is worth acknowledging that migrants' participation in the labour market has given a degree of legitimacy to their presence. However, this form of daily legitimacy does not necessarily translate into political activism despite widespread forms of exploitation. As further elaborated in Section 6.4, factors underpinning the lack of mobilisation are the absence of high levels of politicisation that stigmatise migrants at the policy level, of active repression mechanisms, irregular migrants' lack of access to pro-migrant rights channels and the weakness and particular asylum focus thereof.

6.3 Access to rights through institutions and the role of *street-level advocacy*

Subordinate inclusion in the informal/ secondary labour market is not the only mechanism legitimising the presence of irregular migrants in society. The formal political authority may also indirectly recognise the presence of irregular migrants by enabling their access to fundamental rights despite their lack of legal status. Along with economic incorporation, mechanisms of bureaucratic and political incorporation influence migrants' access to rights and to legal status and may provide de facto recognition of their i*llegal but legitimate* presence in a nation-state territory.

Migrants and pro-migrant rights actors negotiate illegality within the sphere of fundamental rights, beyond market relations, as discussed in the previous section. The access to fundamental rights provides a lens through which migrant illegality can be reversed by enabling their access to state institutions providing services, despite their exclusion from the sphere of legality, hence formal membership. Migrants usually need support from pro-migrant actors to surmount bureaucratic mechanisms excluding them from their fundamental rights, even when the law recognises these rights. Mechanisms, through which migrants can get access to rights differ from one context to another.

In both contexts, migrants' needs for health care and education are at stake as an indirect result of enduring migrant illegality and because they are stranded. In

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[238] On the one hand, the media only very marginally cover cases of aggression towards immigrant groups. On the other hand, there is also little account of cases of aggresion against migrants in the existing body of literature.

urban areas, health problems stemming from poor living standards and lack of hygiene increase migrants' needs for health care. Reports on Morocco underscored that such needs are even more urgent in informal camps along the borders between Morocco-Algeria and Morocco-Spain where living conditions are even harsher, and physical injuries are common because of clashes with security forces. Minors have been a minority of immigrant groups in both contexts. However, their numbers and visibility are increasing, as more families have settled in urban areas. Some families come with children, while others have children along the journey or during their stays in Turkey or Morocco. Thus, minors' access to education has become a legitimate concern regardless of parents' aspirations to cross into the EU or to settle in Turkey or in Morocco. Minors' access to public education also has symbolic importance within discussions of the integration of immigrants and of membership, recently, albeit quietly, raised in both nation-state contexts.

Findings reveal that in Turkey and Morocco, irregular migrants' access to fundamental rights is problematic at the legislative level (i.e at the level of *recognition*) as well as at the level of enforcement. In terms of migrants' access to rights, both states initially denied responsibility towards immigrants on their soil. Improvements in respective legal frameworks in both nation-state contexts have recognised irregular migrants' access to fundamental rights, albeit in a very limited fashion. According to the Moroccan national legislation enacted in 2003, irregular migrants should have access to free primary consultations as a public health concern within the context of preventing epidemics. The asylum regulation in Turkey initially did not include provisions to cover the health care expenses of asylum seekers and refugees. Since 2008, free or subsidised public health care is possible with an official status (e.g. asylum applicants[239], asylum seekers, refugees, stateless people, foreigners with a residence permit) depending on one's declared income. In this sense, irregular migrants have not even been part of the discussion of access to health care. Based on international conventions ratified by governments and on constitutional principles in both contexts, children have the right to public education regardless of legal status.

At the level of enforcement, migrants can only partially enjoy these rights due to bureaucratic obstacles. The access to basic services, even with an official status or when the law recognises these rights, is not straightforward. In both cases, civil society interventions have been instrumental towards making laws written on paper work in practice. NGOs also play a crucial role in day-to-day advocacy by negotiating bureaucratic obstacles and to a certain extent in surmounting migrants' exclusion from the realm of rights.

The general observation is that in both contexts, migrants without legal papers (residence permit, asylum application or at least a passport with a legal entry) are not admitted to public hospitals, and at times, even to emergency rooms. In Turkey, when

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[239] Note that asylum applicants were included within this scheme only in 2013.

migrants are admitted to hospitals, it might happen that they are asked to pay higher fees, so-called tourist fees, if they are not registered within the general health insurance system. It is common for migrants to have to cover their own health expenses in Turkey, but also in Morocco, with respect to secondary level treatment such as diagnostic analysis or hospitalisation. In this sense, there is a concrete problem of access. The general (mal)functioning of national health care systems reinforces migrants' bureaucratic exclusion from public health care.

Given the problems regarding the functioning of laws, interventions by civil society are aimed at meeting urgent humanitarian needs of migrant communities. NGOs play a complementary role in the sense that they provide basic health care and informal education in cases where access to public service is not possible. International funding for such activities has been available because of the urgency of the situation. Project-based civil society activities prioritise vulnerable groups such as pregnant women and unaccompanied migrants as well as problematic areas such as borderlands. Such projects surely have made a difference in meeting migrants' urgent needs, in reaching vulnerable groups and in appeasing their sense of exclusion from public institutions. However, they are limited in their scope. Rather than formally recognising rights, these practices indicate the general trend whereby welfare state services are channelled towards civil society, generally with limited resources.

One should also consider the impact of these practices in terms of advocacy. Besides the direct provision of humanitarian aid and services, emerging civil society in both contexts has actively engaged in the cumulative creation of law (Coutin, 1998: 903). The cumulative creation of law may lead to informal or formal access to rights, hence to different levels of legitimacy. Civil society actors have worked towards enforcing rights that are recognised but are not properly implemented at the institutional level. To this end, they have engaged in daily negotiations with street-level bureaucrats such as school principals and head-doctors in particular hospital departments that admit migrants. What I call *street-level advocacy* may at times turn into informal agreements between civil society and state or private institutions. One common response to solve the problems of implementation regarding access to health care has been to make informal agreements with service providers. For instance, NGOs transfer those in need of medical care to hospitals they work together with, where there is more familiarity with receiving immigrants with no proper identity papers. This practice eventually aims at ensuring migrant access to these institutions without civil society intervention. However, what is called "autonomization of patients"[240], the idea that migrants, regardless of legal status, can reach these services by themselves, is not likely to happen in either Morocco or Turkey. Irregular migrants continue to rely on civil society connections to get access to public hospitals. NGOs have to re-negotiate their informal arrangements on a daily basis because of the non-standardised institutional behaviour and the changing legal framework.

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[240] Interview with MSF, Rabat, April 2012.

What we might call cumulative creation of law provides possible openings towards universal access. Yet, it may also unfold differences between migrants with no legal status and asylum seekers, legitimatising the access of asylum seekers to fundamental rights at the expense of legitimate access for all. Because of the restricted legal framework in Turkey, migrants' access to rights is only possible with an official status. The status of asylum applicant is the only official status that irregular migrants, especially those without legal entry and those who fit the profile of asylum seekers, can acquire in Turkey. In other words, the restricted legal framework in terms of access to fundamental rights and to legal status makes asylum the only option to get legal status, hence access to health care and education. In cases of urgency such as injuries or pregnancy, NGOs channel migrants into the fast asylum track using their connections to UNHCR and hospitals, as it is the only way to get access to public health care. Also, despite universal access embraced in the legal framework, only children of asylum seekers residing in their assigned satellite cities can get formal access to schooling. Others may be accepted as guest students depending on informal arrangements between school principals and civil society. The pre-requisite of an official status leaves migrants to choose between labour market opportunities in big cities and the right to health care and schooling in satellite cities where economic opportunities are scarce. In the absence of legal status, irregular migrants, left to their own faith, refrain from seeking health care unless necessary. In cases of urgent need, they resort to their community networks or the private market. In this sense, access to health care is no longer a form of bureaucratic incorporation but becomes another form of the economisation of irregular migration. Evidently, the market option is only possible if migrants can afford it.

Informal negotiations by civil society may lead to formal changes towards more inclusive practices that enable migrants to acquire legal access to rights. In such endeavours, claiming rights of asylum seekers may provide an opening for all migrants regardless of legal status. In contrast with the Turkish case, the case of schooling in Morocco is important to reveal how a semi-formal arrangement between UNHCR and the provincial public education directorate, concerning the children of recognised refugees and asylum seekers has been used to enrol all migrant children regardless of legal status. The access to public education has been possible through bureaucratic camouflage, mingling children of irregular migrants with those of asylum seekers. What is more interesting is that, following demands by civil society and by migrants themselves, the new regulation on the subject enabled children's access to public schools regardless of parents' legal status. The related regulation making requirements for school registration more flexible was one of the concrete steps of the new policy initiative in Morocco launched in November 2013. Meanwhile, a level of self-exclusion by migrants themselves has been visible. For instance, migrants from a Christian conviction refuse to send their children to public schools where Islamic education is an integral part of the curriculum. Parents' aspirations to further their journeys to Europe are another reason for excluding their children from access to rights. The impact of this change is yet to be seen. However, reformist steps towards

recognising the right to access to education has been a case of opening towards the recognition of migrants' fundamental rights regardless of legal status.

From the comparative perspective, the legislation coupled with civil society interventions at play in Turkey, reverse migrant illegality by turning irregular migrants into asylum seekers. This is an example of ''legalising moves''. At the same time, this practice reinforces the distinction between the legitimate ground of asylum and the illegitimate presence of irregular migrants subject to deportation and very limited access to rights, already clearly put in the new legislation LFIP. In other words, NGOs subscribe to the limitations of the existing legislation rather than pushing for more inclusive practices for formal recognitions of migrants' fundamental rights regardless of legal status. The mechanisms to get access to fundamental rights pull migrants into the system by turning them, first, into asylum seekers, and second, into clients with very marginal benefits within the welfare system. Conversely, in the case of Morocco, NGOs have mainly worked towards the enjoyment of fundamental rights by all migrants regardless of legal status. Such inclusive attitudes have arguably reinforced migrant mobilisation and their quest for legal status through collective action. In both contexts, there is an opening in terms of migrants' access to fundamental rights, but these openings have arguably carved out different trajectories for political action in the two contexts.

6.4 Reversing illegality

In light of previous comparison of the analysis of practices and experiences of deportability, of labour market participation and of access to fundamental rights, this section discusses the political legitimacy of mobilisation for the rights of irregular migrants. It questions the circumstances under which irregular migrants' rights have or have not constituted a legitimate sphere for civil society advocacy. How have irregular migrants, in return, become part of the mobilisation process and actively claimed rights and legal status in the context of Morocco but not in Turkey? Mapping civil society in a comparative perspective helps us to account for differences in mechanisms of access to fundamental rights discussed in the previous section, as well as for differences in advocacy. The activities and priorities of pro-migrant rights civil society in a comparative perspective explain differences in migrants' strategies to get access to legal status.

Mobilisation for the rights of irregular migrants

Both in Morocco and Turkey, civil society interest in immigration issues emerged in the post-2005 period, as an indirect outcome of the externalisation of EU migration policies but also as a response to human rights violations and the urgent humanitarian needs of migrants. Violence by security forces in urban areas and at the borderlands around the time of Ceuta and Melilla events in 2005 has resulted in a turning point leading to the emergence of civil society actors interested in the

question of incoming migration to Morocco. In Turkey, the EU accession process brought legal changes on border, asylum and irregular migration issues on the floor, which triggered civil society activities. IOM and UNHCR entered the field of immigration in both counties in the post-2000 period. These organisations have been leading the ground for local civil society. In both contexts, several organisations have become service providers of UNHCR. For other advocacy and humanitarian organisations, international funding by the EU, as well as by other international funders has been available. Despite the similar political contexts in terms of strict regulations over NGOs, civil society working on immigration and asylum issues gradually expanded its expertise and activities on the subject.

Both contexts display a similar mapping of civil society actors. On the one side, there are international, church-based, national and more local organisations primarily concerned with providing humanitarian aid to migrants. On the other side, there are human rights organisations engaging in advocacy and providing legal aid. One significant difference in the Moroccan context has been the institutionalisation of irregular migrant associations around the same time as that of the Moroccan civil society. In fact, migrant associations, which already existed as mutual aid societies in the rural and urban areas, have gained political visibility in the post-2005 period.

Both countries also display commonalities regarding the civil society activities for migrants and also in civil society's relations to state organisations. Civil society ensures migrants' access to fundamental rights despite different sources that they rely on to ensure irregular migrants' legitimate access to fundamental rights, as discussed in the previous section. In terms of advocacy activities, civil society has played an important watchdog role in revealing rights violations against migrants. The advocacy activities embraced by civil society have led to tense relations with the state, which have later evolved into limited forms of cooperation. Note that such cooperations, most of the time initiated by the state, have been welcomed but at the same time have been received with suspicion on the part of civil society.

The categorical separation between asylum seekers and irregular migrants, reinforced by most NGO practices in Turkey, as explained above, has direct implications for NGO advocacy. Advocacy activities by civil society in Turkey have emphasised problems related to asylum seekers. Human rights organisations have reported on asylum policies, malfunctioning in the asylum system and on conditions of detention. Through lawyers working on the subject, NGOs have asked the ECtHR to take interim measures to stop unlawful detentions and deportations. In this sense, the main references and sources of legitimacy for civil society's critique of the state have been the ECHR and EU conditionality as well as the 1951 Convention, although Turkey does not grant refugee status to applicants from non-European countries. ECtHR decisions against Turkey concerning the treatment of detainees have worked as transnational advocacy mechanisms initiated by national civil society and have arguably accelerated the drafting of the law on Foreigners and International

Protection (LFIP) in Turkey. The process of law making and the establishment of the Bureau of Migration and Asylum under the Ministry of Interior provided the basis for rapprochement between civil society and state institutions since 2008.

In the case of Morocco, irregular migration and the right of irregular migrants to stay in the country have been at the centre of NGO activities. Interception and deportations of groups such as minors, pregnant women and asylum seekers that are protected within the existing legislation have been subject to critiques by national and international civil society actors including migrant associations themselves. Similarly, mass deportations (most of the time without access to judicial review or appeal) have provided grounds for contestations by civil society including migrant associations. Civil society has actively worked to raise awareness on xenophobic violence. Furthermore, the social and economic rights of irregular migrants have been at the centre of civil society activities. In this context, the 1990 Convention on the rights of all migrant workers and their families regardless of legal status has been the main reference. The unionisation of migrant workers has also become part of the mobilisation process in Morocco. Already existing demands for regularisation of irregular migrants have gained a formal character through the formation of a union for migrants under a worker's union organised throughout Morocco, across different sectors. As a distinctive aspect of the Moroccan case, as I detail below, migrant associations in alliance with Moroccan associations have gained political recognition through the mobilisation process. Despite the continuation of tense relations, after the reform initiative in Morocco, the state institutions held regular meetings with civil society. The legal recognition of informal migrant associations has been on the agenda during these meetings.

Unlike in Morocco, civil society interest on issues pertaining to irregular migration did not go beyond humanitarian support and did not evolve into a radical discourse claiming rights and legal status for all regardless of legal status. In contrast with the case of Morocco, unions have not developed an interest in including irregular migrants into their membership base, despite the increase in labour migration into Turkey. The general lack of interest on the part of unions in Turkey is partially due to their absence in the informal sector. Unions consider informal market as a structural problem to fix through formalisation, rather as an integral character of the labour market that should be incorporated.

In the absence of civil society embracing irregular migration issues, such demands for regularisation are not in the agenda of NGOs in Turkey. An exceptional regulation, introduced in the summer of 2012 has enabled migrants overstaying their visa to regularise their legal situation. However, this legal intervention was a top down state initiative rather than a response to grassroots demands. Migrants had to pay high fees for the time they overstayed their visa in return for a short-term (six months) non-renewable residence permit. Beneficiaries of this regulation, who could not secure their longer-term residence permits, have fallen into irregularity at the end of

the period they were regularised. Therefore, they perceived this legal move not as recognition of their right to stay in Turkey but as another form of the economisation of irregular migration.

Regarding the divide between asylum and irregular migration amongst civil society actors, in Turkey and with the absence of such a divide in Morocco, there are exceptions in both contexts. Some civil society activities in Morocco have been exclusively limited to asylum seekers, whereas some organisations in Turkey have embraced more inclusive practices and demands. There are few network type organisations such as the Migrant Solidarity Network (GDA) that are explicitly refuting the divide between asylum seekers and refugees. Nonetheless, such initiatives have had a limited sphere of activity and influence compared to formally established NGOs. Recent protests on street violence and labour market violence towards immigrants, as detailed in Chapter 5, demonstrate the unprecedented involvement of actors such as groups working on labour issues or feminist groups. Although these groups do not necessarily work on immigration issues, they have gradually developed an interest in the vulnerable conditions that irregular migrants face in the labour market. Low levels of politicisation of irregular migration by the state, hence to the lack of public opinion formation processes on irregular migration and asylum issues may explain this belated interest by actors amongst civil society (Tolay, 2014).[241] It is worth explaining the general pattern that how and why rights of irregular migrants have been the centre of the advocacy in the context of Morocco and side-lined in the context of Turkey.

A lower degree of politicisation of irregular migration by the state shapes civil society activities in Turkey. Differences in asylum tolls and the emergence of the question of irregular migration in the two contexts underpin this difference of the impact of UNHCR. As explained in Chapter 3, Turkey receives a much higher number of asylum seekers compared to Morocco. Plus, it should be noted that in Turkey, international migration came into the political agenda as an asylum issue with the arrival of asylum seekers fleeing Iran in the aftermath of the Islamic Revolution, pretty much around the same time with the closing down of European borders. These flows were coupled with asylum seekers fleeing post-military coup Turkey. In this sense, the dominance of refugee discussion was naturalised since the 1990s, even before the discussions of transit migration (Hess, 2012: 431). As a consequence, The UNHCR's impact on civil society in Turkey has arguably reinforced the dichotomy between refugees ''who are constructed as being in need of protection and whose cross-border movements are recognized as legitimate, and 'illegal' migrants, whose movements' legitimacy is denied.'' (Scheel and Ratfisch, 2013: 928).

NGOs active on asylum issues recognised the existence of irregular migrants in need of civil society support.[242] However, the advocacy language embraced by NGOs in

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[241] This situation has started to change with the arrival of Syrian refugees.

[242] In this sense, my findings differ from that of Senses (2012: 208) who has argued that civil society actors do not have an informed opinion on the question of irregular migration and a clear pro-migrant attitude.

Turkey has prioritised the storyline of asylum seekers rather than referring to migrants in general. Partly because of arbitrary tolerance towards irregular migrants explained in Section 6.1, civil society critiques have focused on the conditions of detention and access to asylum after apprehension rather than daily forms of abuse faced by irregular migrants in social and economic life. Given their limited resources, they consider it more legitimate to negotiate for the rights of asylum seekers who are, on paper, under international protection.

UNHCR in Morocco has endeavoured to proliferate its own discourse, amongst civil society actors in Morocco, on ''mixed flows'' and on the necessity to distinguish between those in need of genuine international protection and economic migrants. However, most NGOs resisted clear-cut definitions between asylum seekers/refugees and economic migrants (Alioua, 2009). Asylum seekers correspond with a small portion of the migrant population in Morocco. At the level of state practices, the legal distinction between refugees and irregular migrants was not operative. In terms of objective conditions, refugees and irregular migrants were subject to similar deportation and violations. Therefore, it would not make sense for civil society actors to focus on asylum issues, as UNHCR has prioritised.

Another important factor making irregular migrants the focus of civil society attention in Morocco has been the political framing of the issue. Trans-Saharan transit migration coupled with clandestine movements into Spain was highly politicised as a security issue. It has mostly been conceptualised in Moroccan policy discussion as an economic migration issue rather than an issue of asylum. All these factors, namely the profile of migrants, the experience of harsh controls by refugees and migrants alike and the framing of irregular migration as a security problem, have contributed to the emergence of irregular migration as a legitimate sphere for policy interventions by civil society. In comparison to the case of Turkey, the level of mobilisation for the rights of irregular migrants and the role played by migrants' associations in these networks are much more visible in Morocco.

Migrant mobilisation for legal status

In response to different types of exclusionary practices and human rights violations, migrants in Morocco formed solidarity associations. The Ceuta and Melilla events, forming the "transition moments in migrants' engagements" in Pero and Solomos' words (2010: 11), pushed existing solidarity networks to become political organisations. Along with the politicising effects of experiences of illegality, subordinate incorporation and being stranded pushing migrants towards collective action and the support by Moroccan and international NGOs have been distinguishing aspects of migrant mobilisation in Morocco. As sub-Saharan migrant associations became more established and collaborated more frequently with Moroccan and transnational civil society actors, they amplified their visibility and their demands for the fundamental rights of migrants, the regularisation of undocumented migrants and

the formal recognition of their associations. While the mobilised groups also include asylum seekers and recognised refugees, coordinated demands for regularisation – i.e. the right to stay on Moroccan soil - proves that, in essence, mobilisation was mainly a movement of and for *sans-papiers*. Migrants have been actively taking part in street demonstrations, advocacy activities and eventually in policy-making. In this sense, migrant mobilisation in Morocco has been a process of gaining political legitimacy as opposed to continuing physical, social and economic exclusion towards sub-Saharan migrants in Morocco.

Migrants in irregular situations in Turkey do not display a similar level of mobilisation to claim rights and legal status as their counterparts in Morocco. The absence of collective action by irregular migrants is surprising given the similar experiences of being stranded because of the difficulty to cross to Europe and the experiences of marginalisation in social and economic life. Common experiences of illegality as well as the African identity and shared knowledge of French have enabled the mobilisation of migrants in Morocco. One can fairly suggest that such an identity-based mobilisation is less likely to happen in Turkey, where migrant profiles in terms of an ethnic, linguistic background have been more diverse, and a legal distinction between asylum and irregular migrants has been more clear cut. Meanwhile, even within same- language speaking and same national communities, political mobilisation has been limited. On the one hand, irregular migrants have formed solidarity communities, especially widespread among Africans. Self-organisations by irregular migrants in the form of informal solidarity networks are gathered based on national background, and they are short-lived and not visible in the public sphere (Suter, 2012: 205-7). On the other hand, ethnicity-based formal associations established by previous immigrants who later gained citizenship have partially included their newly arriving co-ethnics as informal members. However, the activities of such associations do not entail lobbying for the rights of irregular migrants. Social hierarchies between those with legal status and newly arrived undocumented migrants have inhibited irregular representation issues in these associations. In this sense, irregular migrants have not been able to use existing ethnic associations as a platform to raise a political voice.

As I already suggested, the lack of migrant mobilisation in Turkey has resulted from a process of de-politicisation produced at the intersection of socio-economic, institutional and legal fields. The factors that pushed for and enabled migrant mobilisation in Morocco have been absent in the case of Turkey. The controls and deportation practices leading to the politicisation of existing migrant solidarity communities in Morocco were not as harsh in the case of Turkey. Rather, irregular migrants in the urban context in Istanbul experience day-to-day legitimacy, mainly through their labour market participation. One can ask whether higher levels of economic incorporation may replace irregular migrants' quests for recognition and political legitimacy. In other words, it is important to look at the precise conditions under which we can talk about a trade-off between political activism leading to political legitimacy and day-to-day legitimacy coupled with forms of arbitrary

toleration. This is where institutional factors come into play. Unlike Morocco, there is no civil society support for irregular migrant mobilisation in Turkey. NGOs conceptualise asylum seekers, and to a lesser extent irregular migrants, mainly as beneficiaries of their services, rather than as political actors. Public demonstrations on the subject are generally rare, and migrants in Turkey have only been part of such contestations of state practices on exceptional occasions.[243]

Direct references to the situation of Moroccan migrants in Europe provided a legitimate ground to explain why Moroccan civil society is interested in migrants in irregular situations in Morocco. Such references also enabled the transnationalisation and expansion of the movement within and beyond the country. Emigrant associations such as ATMF have revealed interest as well as state institutions, including semi-public institutions dealing with issues related to Moroccans abroad, such as CCME. Arguably, *sans-papiers* movement in France have had an influence on pro-migrants rights mobilization in Morocco. The linkages are salient in terms of repertoires of rights claims and of transnational actors involved in the struggle. In other words, some activists supporting migrant mobilization in Morocco have been part of the movement in France. French language made communication possible in forging such alliances. In the absence of a process of the politicisation of migrant mobilisation, such references enabling the support of transnational actors have also been absent in the case of Turkey. One reason that Turkey's emigration history is almost never raised in the discussion of immigration related issues can be that labour outmigration from Turkey has been seen as passé, rather than an on-going reality of the country. Again, given the prevalence of asylum issues, stakeholders may find it hard to build connections between the vulnerable situation of incoming migrants and refugees and state coordinated economic out-migration to Europe in the 1960s and 1970s.

The empirical analysis has already acknowledged that only a minority of migrants are mobilised within associations in Morocco. I also refrain from implying that there is absolutely no mobilisation for the rights of irregular migrants in Turkey. However, the general trend of lower level mobilisation for the rights of irregular migrants in Turkey is striking. Rather than a political/activist migrant identity as was the case in Morocco, most migrants interviewed in Istanbul linked their prospects for legal status to individual legalising efforts. For those who fit the profile of asylum seekers, acquiring the asylum status is one way to get legal status, although the asylum status does not automatically lead to access to rights, as explained in Section 6.3. Most migrants, also aware of the functioning of the asylum system, do not consider asylum as a legalising move in Turkey. Marriage with a Turkish national and being from Turkish descent have been the most evoked ways through which migrants

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[243] The hunger strike by Afghan refugees in Ankara was one of the exceptional protests where refugees themselves were at the frontline. However, the target of the protest was UNHCR, which suspended asylum applications from Afghan nationals, rather than the Turkish state.

acquire legal status. Rather than the recognition of migrants as rights-bearing subjects through institutional means, the legislation enables legal incorporation for some of these migrants as ethnic kin or *legal kin* when they marry a national.

Conclusion

This chapter has discussed the empirical findings of chapter 4 and 5 and explored patterns for hypothesis generating. It questioned how irregular migrants, rendered illegal and rightless, legitimise their right to stay in the territory. Answering this question, the comparison in particular, reveals how daily experiences of illegality and mechanisms of irregular migrant incorporation have given rise to different ways through which irregular migrants have gained legitimacy. While day-to-day legitimacy has been the distinctive aspect of migrant incorporation in Turkey (particularly in Istanbul), experiences of migrant illegality in the Moroccan case have given rise to a search for political legitimacy.

Despite abuses and discrimination, irregular migrants have been subject to day-to-day legitimacy, particularly through their labour market participation in the case of Turkey. Migrant illegality has been absorbed in the informal urban economy. Rather lax control regimes in the urban context of Turkey have reinforced the informal incorporation process. However, this form of incorporation does not necessarily entail the recognition of irregular migrants' fundamental rights. The access to fundamental rights requires the possession of an official status. De facto recognition of the presence of irregular migrants was not coupled with an inclusive pro-migrant rights movement. As a consequence, rights of irregular migrants have not become a legitimate subject in political discussions.

In the case of Morocco, violence and discrimination characterise migrant illegality in daily interactions with security forces and within socio-economic life. Irregular migrants have had difficulties in finding employment opportunities and suffer from rights abuses by the police and street violence by the locals. Their fundamental rights have been denied despite efforts by civil society and recent improvements. In the absence of day-to-day legitimacy, for instance through migrant participation in the labour market, migrant solidarity organisations have aimed at mitigating exclusion in daily life. As civil society embraced the issue of rights violations of irregular migrants within Morocco, migrant organisations in collaboration with Moroccan and international civil society have gained a political voice. The result was increasing discussion of the vulnerable situation of irregular migrants in Morocco and increasing visibility of migrants and their associations claiming rights and legal status. For migrants, it has been a process of gaining visibility and legitimacy in the political sphere. Migrant associations, increasing the horizon of alliances with national, transnational civil society and semi-public institutions, publically demanded regularisation. Regardless of the outcomes of the regularisation campaign initiated by the government in 2013, irregular migrants raising their voices in the public sphere

and engaging in policy discussions with policy makers provide enough evidence to highlight migrant illegality in Morocco as a case of political legitimacy in the absence of economic incorporation.

The comparison highlights the contrast between the production of day-to-day legitimacy without political voice in Turkey and the process of gaining political legitimacy without daily forms of inclusion in Morocco. The case of Turkey shows that the mechanisms through which irregular migrants gain legitimacy do not necessarily entail migrants' endeavours for political recognition. In other words, irregular migrants may not necessarily need to be political subjects to legitimise their presence. Meanwhile, daily forms of inclusion without political recognition reinforce their rightless condition.

At this point, one can question the role played by market forces vs. pro-migrant actors in civil society in providing legitimacy to the presence of irregular migrants in society. However, it would be too simplistic to conclude that there is a trade-off between these different forms of legitimacy. Instead, Chapter 7 questions, at a theoretical level, what kind of membership is envisaged by different mechanisms, providing legitimacy to the presence of irregular migrants in society in general and in new immigration contexts in particular.

Chapter 7: Conclusions

7.1 Researching migrant illegality at the edges of the EU

Shipwrecks in the Mediterranean resulting in the mass killings of migrants on their way to the EU have been covered in the news.[244] Other migrants have been filmed various times "attacking" fences surrounding Ceuta and Melilla, Spanish enclaves surrounded by Morocco.[245]   Again others have been reported crossing to Bulgaria through the land border from Turkey, as Frontex operations are getting stricter at the Aegean Sea.[246] The endless endeavour to stop irregular entry into the EU resulted in the outsourcing of EU border security regimes into regions peripheral to the EU, especially in the Mediterranean basin. Research has increasingly focused on technical investments to stop irregular border crossings in the Mediterranean, on human fatalities and on the role played by smuggler networks (FRA, 2013). Experts declared that the high death toll of migrants trying to cross the Mediterranean into the EU in the last decades (Tara and Frank, 2014)[247] is a direct result of *fight against* irregular migration by the EU. As put by Hein de Haas: "Over two decades of costly, mounting investment into border controls and rapidly increased funding for Frontex (EU's border agency) have not stopped migration, but increased the vulnerability of migrants, their reliance on smuggling and caused the deaths of an estimated number of at least 17,000 people over the past two decades".[248]

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[244]   See for instance, Lampedusa boat disaster: Death toll rises to 232. *bbcnews,* 07.10.2013. Retrieved 14.05.2015,from http://www.bbc.com/news/world-europe-24436779.

Migrant boat was 'deliberately sunk' in Mediterranean sea, killing 500. *Guardian*, 15.09.2015. Retrieved 14.05.2015, from   http://www.theguardian.com/world/2014/sep/15/migrant-boat-capsizes-egypt-malta-traffickers.

UN says 800 migrants dead in boat disaster as Italy launches rescue of two more vessels. *Guardian*, 20.04.2015. Retrieved 14.05.2015,from http://www.theguardian.com/world/2015/apr/20/italy-pm-matteo-renzi-migrant-shipwreck-crisis-srebrenica-massacre.

[245]   See for instance, Over 1,000 migrants lined up along border ready to jump into Melilla, *El Pais*, 12.10.2012. Retrieved 14.05.2015,from http://elpais.com/elpais/2012/10/17/inenglish/1350489064_368373.html.

[246]   See for instance, Greece Unnerved by Bulgaria's Schengen Prospect. Retrieved 14.05.2015 from http://www.novinite.com/articles/127902/Greece+Unnerved+by+Bulgaria%27s+Schengen+Prospect

[247]   See, "Missing Migrants Project" by IOM, http://missingmigrants.iom.int/. see also, "The Deaths at the Borders Database" for a collection of official death toll at the EU borders, http://www.borderdeaths.org/.

[248]   De Haas, H., "Smuggling is a reaction to border controls, not the cause of migration'', 05.10.2013, Retrieved 10.10.2014,from http://heindehaas.blogspot.nl/

Against the backdrop of these dramatic international events, my research focuses on   migrant illegality in Turkey and Morocco. The initial motivation of the study has been to explore how the closure along the EU borders impacts migrants' experiences of illegality at the periphery of these borders. The research questions have gone further to explore how migrant illegality is *produced, practiced* and *negotiated* by state and non-state actors, migrants included. What are the implications of similar forms of governance of irregular migration- characterised by tight EU border controls and few recognised rights of irregular migrants- for migrant illegality, migrant incorporation and access to legal status? What is the impact of the new and external character of the production of migrant illegality on migrants' experiences? Under what conditions have migrants staying without legal authorisation gained social/political legitimacy? At a more theoretical level, what does the comparison reveal about the interconnection between the governance of irregular migration (in terms of the production of migrant illegality) and access to rights and legal status?

Taking *illegality* as a constructed and thus reversible socio-legal condition, the main theoretical ambitions informing the research questions and methods that I employed concern unpacking the relationship between the production of migrant illegality, migrant incorporation and migrant mobilisation. To explore different aspects of migrant illegality as a *juridical status*, *socio-political condition* and *mode of being-in-the-world* (Willen, 2007), I engaged in three sets of research. These are: the *legal production of migrant illegality* research, taking a socio-legal perspective on the question of illegality; *migrant incorporation* research, drawing on the sociology of migration in general, with a specific focus on new comers, especially those without legal status; *migrant mobilisation* research, informed by the conceptual framework of social movements and contentious politics literature.

From the legal production of migrant illegality literature, I have borrowed the idea that the category of *illegal migrant* has been created by the law itself (De Genova, 2002; Calavita, 2005). The category of illegal has been sustained not only through immigration policy but also through certain techniques of governmentality whereby migrant illegality is associated with criminality, is racialized and represented as threat to national security. The production of migrant illegality making migrant bodies *deportable,* referring to the possibility of deportation rather than actual practice of it, has given rise to mechanisms disciplining the migrant body.   In a similar vein, research on migrant incorporation in the case of irregular migrants has revealed processes of *subordinate inclusion,* into the society (Menjivar, 2006; Bommes and Sciortino, 2011). Conceptually and methodologically, I have modelled my research on their attention to socio-political and institutional conditions that enable migrants' participation in society and their access to rights through the labour market, bureaucracy and/or civil society as well as the layers of exclusion that deny migrants' access to socio-economic opportunities and rights. Migrant incorporation research has also addressed how migrants themselves negotiate these conditions of exclusion and subordinate inclusion through tactics of *(in)visibility*. Both migration and social movements scholars also

theoretically and empirically address how irregular migrants become political subjects, actively seeking right and claiming legal status (Coutin, 2003; Nicholls, 2013). I have used social movement research and its emphasis on the internal organisation of movement, repertoires of resistance and alliances amongst diverse groups (Chiementi, 2011; Taylor and Marciniak, 2013). Acknowledging these factors that underscore the importance of institutional context, I place equal emphasis on migrants' lived experiences of illegality to explain processes that do or do not lead to migrant mobilisation.

Using these three interrelated research agendas, I have argued that what I have conceptualised as *irregular migrants' incorporation styles* should be studied at multiple levels at the interactions between legal framework, deportability practices, labour market and social conditions, institutional context of bureaucracy and civil society. At the theoretical level, research questions aim to explore the relationship between state control, (il)legality and legitimacy. In exploring how migrants negotiate between *state controls* imposed upon them and their need for *formal recognition*, the findings have revealed different ways that migrants gain *legitimacy* and *political subjectivity* despite their lack of legal status.

The findings are based on data collected during fieldwork conducted at two research sites in the Mediterranean basin, Turkey and Morocco. These are two nation-states with similar transitions in their migration patterns, from sending labour migration to Europe to de facto lands of destinations, with borders that are most subjected to external dimensions of EU migration policies. A comparative research design is confined to the analysis of the emergence of different policies and practices in the governance of irregular migration between 2000 and 2014 in the two nation-state contexts. The analysis focuses on the post-2000 period because the two countries started to introduce new laws to manage asylum and immigration flows.[249] This is the time period when both countries moved from no policy to rudimentary forms of governance in the realm of immigration, immigrants became more visible and civil society organisations developed an interest in improving the situation of migrants and asylum seekers.

Combining various methods such as collecting official documents and conducting expert interviews and in-depth interviews with migrants, the data has been collected at various levels. I have employed a qualitative methodology based on content analysis of major legal and official documents, interviews with state officials and civil society actors and interviews with migrants coupled with observations in their social milieu. I aimed to follow a similar data collection process across cases as required by a comparative research design. Differences in the data collected in the two contexts stemmed from differences in access to certain information and institutions. My subjectivity in the field as an insider in Turkey and an outsider in

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[249] The mass arrival of Syrians as a group granted temporary protection by the government has been intentionally deemed beyond the scope of this research.

Morocco at times facilitated and other times impeded my access to certain types of information. Beyond the issue of access, I had to make conscious methodological decisions to account for differences in contextual factors.

7.2 Linking migrant illegality, incorporation, mobilization

The main research of this study was: *How has irregular migration become a new subject of governance and impacting irregular migrants' access to rights and legal status?* Motivated with the ambition to link processes of production of migrant illegality, both in legal framework and in practice, to processes of migrant incorporation into society and to processes conducive to their political mobilization, this study has asked three interrelated sub-question.[250]

How have changing policies and practices regarding the rights of irregular migrants produced migrant illegality in Turkey and Morocco as de facto immigration contexts?

Since 1990s, both Turkey and Morocco have become a land of destination for migrants from their wider regions coming to these countries to work, seek asylum, study or with the initial intention to cross into Europe. Despite differences in volume of incoming flows and migrant profiles in terms of source countries and migrant motivations, the similar and rather external emergence of irregular migration has made migrant illegality contexts comparable. This process that I have identified as the *international production of migrant illegality* refers to techniques of governance in both contexts. These are mainly EU initiated efforts such as increasing joint investments in border infrastructure along the external borders of the EU shared with third countries to stop irregular entries in the Union, increase in the visibility and activities of international/intergovernmental organisations, changes in the legal framework governing irregular migration. The label transit country has been used by the EU and by these countries to identify themselves, at the time when the term transit does not have a factual validity it is becoming more and more difficult for people to *transit* neither through Turkey nor through Morocco to the shores of the EU without proper documents. At the same time, the term *transit* has been internalized and instrumentalized by policy makers in Turkey and Morocco to deny the fact that they are becoming immigration countries and their obligations vis-a-vis foreign national on their soil. The first two aspects of international production of migrant illegality that is developments concerning border infrastructure and the role played by international/intergovernmental organizations have been similar in the two contexts. However, interlinked with domestic structures and EU demands, changes in the legal framework, motivations behind these changes as well as political representations of the issue, have differed from one context to another.

In both countries, the institutionalization of migrant illegality was infused within international and domestic demands. Turkey has been pressured by the EU to

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[250] See Annex 4 for an overview of findings.

cooperate to stop irregular migration into the EU. At the same time, lax visa policies have been criticized for leaving the back door open for the legal entry, overstay and further mobility of irregular migrants.   Recent legal changes in Turkey indicate a shift in migrant illegality regime that is "nicer on asylum seekers and tougher on irregular migrants" (Tolay, 2012: 53). Morocco has not become a hub for irregular labour migration to the same extent that Turkey has become in the last two decades.   Hence, the external dimension of migration governance has initially been more instrumental in the production of migrant illegality in Morocco. Moroccan state has also been pressured to introduce a functioning asylum system by UNHCR and by the EU, while regularization campaign under the initiative of the King had been an internal incentive rather than an EU demand.

Different levels of politicization of irregular migration by the state also indicate different technicalities of governance in the two contexts. Morocco displayed higher levels of criminalization and politicization of irregular migration. In Turkey, state did less efforts to create a (negative) public opinion on the later acknowledged fact that Turkey has become a hub for labour migration, asylum as well for those on attempting the journey to Europe.   Keeping migration related matters low profile, legal and institutional changes are contextualized by policies and researchers alike within the technicalities of the EU accession process. Keeping in mind these findings, the following sub-questions address how these different levels of politicization of irregular migration, hence differences in the conceptualization of migrant illegality has had an impact on migrant incorporation styles.

How do migrants experience their illegality and negotiate their presence in society in general, and their access to rights and to legal status in particular?

This study has acknowledged the EU's role as a supra-national actor having an impact on the production of migrant illegality in its periphery. However, the emphasis is not on policies and practices produced by the EU but on the policies and practices by state and as negotiated by non-state actors including migrants themselves in the peripheral countries. These countries face similar pressures of immigration but I have further argued that differences in state and civil society responses to irregular migration, make a difference in migrants' experiences of incorporation.

Following the discussion on the external and domestic production of migrant illegality in Morocco and Turkey, Chapter 4 and 5 have showed processes leading to different styles of migrant incorporation. In Morocco, the criminalization of irregular migration at policy level and at the level of public opinion went hand in hand with migrants' daily experiences of deportability and other forms of exclusion, migrants face both in the informal settings along the border and in the urban space. Under what conditions migrants may still seek legitimacy in the absence of labour market incorporation has been addressed in the example of Morocco. Chapter 4 has already characterized migrant illegality in the sense of socio-political condition, in Morocco as

limited access to labour market opportunities, deprivation from sense of legitimate presence because of daily experiences of deportation, limited access to rights only through the intermediary of civil society. How these conditions influence migrants' mode of being-in-the-world as political subjects is another hypothesis emerging from my research.

Conversely, Turkey has displayed a case of daily inclusion without access to political voice, especially for groups in the urban centre of Istanbul. In other words, lower levels of politicization of the presence of irregular migrants at the policy level resonate with lower levels of enforcement of internal controls upon irregular migrants in urban space. Interestingly enough, this situation of *arbitrary tolerance* resulting from a gap between law and implementation underscore migrants' lack of recognition, neither as villain, nor as victims.   Giving the deportation practices and precarious but inclusive labour market situation in Istanbul, lower levels of advocacy for rights of irregular migrants, migrant illegality, in the sense of way of being-in-the-world correspond to migrants' invisibility in the political sphere despite their relatively widespread presence in the socio-economic sphere. As a result, irregular migrants are not considered as political subjects neither by policy makers, not by their potential allies amongst civil society.

Under what circumstances do irregular migrants mobilise to claim their rights and legal status?

Migrant political mobilization, both as a socio-economic condition but also as a mode of being-in-the-world, is an empirical question rather than an intrinsic aspect of migrant illegality. The research had started with the premise that migrants are not only victims of external conditions but active subjects even in contexts characterized by violent practices. They consciously endeavour to improve their living conditions within the political, social, institutional constraints and opportunities surrounding them. One central question of the thesis has been why there is no similar level of mobilization around the issue of irregular migration in the context of Turkey, despite the feeling of being stranded, the denial of rights and the violence also defining experiences of irregular migrants as their counterparts in Morocco.

Exclusion has created a situation where migrant rights have been denied, irregular migration has been criminalized and irregular migrants have been stigmatized in Morocco (arguably at higher levels than Turkey). As a response to stigmatization at different levels, irregular migrants' mobilization has become part of their way-of-being in the world. Their common African identity and linguistic background has facilitated migrants' communal quest for political recognition. Forging alliances with emerging pro-migrant rights civil society actors in the Moroccan context, irregular migrants have been partially successful in carving a political space where they contest their illegality. Chapter 5 has revealed that labour market coupled with somewhat tolerant deportation regimes does provide a source of legitimacy for the presence of irregular

migrants. Civil society underscored arbitrary and at times unlawful practices of detention and deportation by the Turkish police. Meanwhile, migrants interviewed, expressed lower concerns on being deported, especially when compared to their counterparts in Morocco,   as long as they do not engage in conflict at workplace or in their neighbourhood. However, as revealed in the case of Turkey, migrants' presence in the labour market does not necessarily provide a basis for their formal recognition. In other words, migrants gaining daily legitimacy through their economic participation and arbitrary tolerant practices of deportation, have not necessarily gained a political voice, hence formal recognition. Migrant illegality as a socio-political condition in Turkey has been characterized by subordinate forms of incorporation in the labour market, *day-to-day legitimacy* and very limited access to fundamental rights without official status.

Using political opportunity structures approach but not exclusively relying on them, I have connected migrants' mode of being-in-the-world as political subjects in Morocco to their socio-economic conditions but also to wider institutional structures. Socio-political conditions of migrant illegality characterized by marginalization in the absence of day-to-day legitimacy, have arguably put irregular migrants in Morocco into a much more vulnerable position than their counterparts in Turkey. The main factor enabling migrants' grievances transform into contentious politics in Morocco has been informal migrant associations' alliances with Moroccan and international civil society. The conscious decision by Moroccan civil society actors, not to distinguish between asylum seekers vs. irregular migrants, has arguably carved out a wider political space for contentious politics. In the case of Turkey, migrants and asylum seekers have mobilized amongst themselves in sporadic ways. Apparently, in the Turkish case, most NGOs prefer to focus on asylum as a more legitimate ground for their advocacy activities, at the expense of sidelining rights violations and protection needs of irregular migrants.

In both contexts, discussions of irregular migration had initially been shaped in relations to clandestine outmigration of their own nationals. Emigration and the situation of migrants' from Morocco has still high relevance in policy discussions in Morocco. As part of transnational opportunity structures (Pero and Solomos, 2010: 9-10), these discussions as well as institutions dealing with emigrants abroad have had an impact on ideas on how immigrants within Morocco should be treated (see Üstübici, 2015). Such a linkage between issues pertaining to emigration and immigration has so far been absent in Turkey, despite its quite similar emigration history. In this sense, the comparison reveals that the *success* of mobilization does not depend solely on the existence of allies supporting demands by marginalized, not formally recognized groups, but also on how these allies formulate their priorities, where they think they can find discursive opportunities (Bröer and Duyvendak, 2009).

7.3 Conceptual, empirical, methodological contributions and policy implications

In light of these findings, I reflect on the conceptual and theoretical contributions of this study. One area that this study contribute to is socio-legal studies on migrant illegality, by bringing the international into the analysis; but, it also indirectly contributes to studies on the external dimensions of EU migration policies, by introducing a fresh lens into their analysis, with the extended use of the concept of "production of migrant illegality". The starting argument of the thesis has been that the production of migrant illegality in the periphery of the EU, defined as transit migration has been a product of the interaction between the international context and domestic politics. The comparison indicates that migrant illegality as a juridical status has been a consequence of interaction between international and domestic contexts.

One major implication of the EU pressure to stop, control and manage irregular migration for the contexts in question is the unprecedented occupation with categorising incoming flows. One should note that Turkey and Morocco, as well as other countries in the region facing similar *transit* conditions, are asked to stop people from transiting into their next destinations, but they are also criticised for undermining fundamental rights of migrants in their territories. Therefore, making transit spaces *safe third countries* by pushing them to introduce functioning international protection systems has been a priority by the EU. The downside of the increasing will to categorise incoming flows would be the discrepancy between asylum seekers, as groups with legitimate access to rights and protection and irregular migrants, although in practice both groups are enmeshed in one another, and migrants can easily move from one category to the other.

Meanwhile, in both contexts, the EU is not the only dynamic in shaping immigration policies. Such an approach would reify the idea of transit country and characterize countries at the EU's periphery as *passive victims* of their geographies. Rather, examining the political, social and institutional conditions within the receiving contexts and migrant experiences of it better explains the production and implications of migrant illegality as an interaction between domestic socio-political factors and foreign policy. This is where empirical and methodological contributions of this study lie. This study has contributed to emerging literatures on irregular migration in the context of Turkey and Morocco by bringing migrant illegality approach into these studies. Empirical discussions aims to contribute academic research in Turkey and in Morocco as well as policy discussions, by bridging policy oriented macro level research on changing legal and institutional structures governing irregular migration with micro level sociological studies on migrant communities, their lived experiences.

The conceptual framework -- postulating that migrant incorporation styles manifest themselves at the interaction of different aspects of migrant illegality -- underpin my methodological choice of exploring migrant illegality at multiple levels. Therefore, one methodological contribution of the research is that it embraces a

"studying through" approach (Shore and Wright, 1997: 14; van der Leun, 2003; Tsianos and Karakayali, 2010) to link legal/institutional policy analysis on irregular migration and sociological/ ethnographic methods on migrant livelihoods. Another methodological and empirical novelty of the research is to explore the conceptual linkage between migrant illegality, migrant incorporation and mobilization in comparative perspective, in contexts under-explored by previous research with similar conceptual framework (Calavita, 2005; Willen, 2007; Chimienti, 2011; Lauthenbal, 2007).

Both the studying-through approach and the comparative research design have enabled me to address a set of empirical questions emerging from migrant illegality and migrant incorporation literatures in a contextualized manner. One potential contribution to the literature at the intersection of irregular migration and social movements lies in the conviction that cases of mobilization are equally useful as those identified with lack of mobilization for generating hypothesis. Given the similar international dynamics in the production of migrant illegality in both contexts, one can ask under what conditions migrant illegality translates into cheap, flexible labour. The case of Turkey has already revealed that the availability and penetrability of the urban informal economy, size of the economy as well as existence of an already emerging ethnic economies which would welcome new coming (irregular) migrants are factors enabling the creating of inexpensive, vulnerable migrant labour force in Turkey. Surprisingly, access to precarious work has been the case even for those migrants who are allegedly on their way to Europe. More important for this research, the other puzzling question is under what conditions, irregular migrants' subordinate incorporation into the labour market reinforces migrants' quest for formal recognition?

7.4 Further research

More research on the creation and transformation of so-called *transit spaces* into migrant receiving lands is needed to follow up the findings of my research which are limited in terms of its engagement with legal, institutional framework and of generalizations of empirical findings. In other words, follow up research is needed first, to assess whether changing legislation in Morocco and Turkey, would provide necessary protection and rights and indeed, an incentive for migrants to stay in relatively better off countries in the region rather than venturing into the EU. One related policy implication of this further inquiry would be to include perspectives from migrants and pro-migrant rights actors into policy making through consistent consultations. This would be especially useful given the ongoing gap between the written law and practice regarding irregular migrants' access to rights. Second, as immigration policies are becoming part of public policy agenda and given the rapidly changing legal, institutional, discursive contexts on irregular migration in both countries, I would be interested in exploring how these policies interact with other public policies on health, education, labour market. Plus, more emphasis on the

implementation of these policies is needed. Generating institutional ethnographic analysis revealing mechanisms of access to rights and the role played by street level bureaucrats would help us theorize on how vulnerable groups (including those without formal membership) access to institutions of nation-state. Third, the conceptual framework I proposed regarding the international and internal production of migrant illegality may be transposed to other cases emerging as de facto lands of immigration at the edge of conventional destinations to explore and further theorize what kind of incorporation styles, the transformation of migrant illegality regimes give rise to.

Regarding migrant mobilization in Morocco, my findings have only captured emergence of migrant mobilization and initial phases of its formal recognition by the authorities. At the end of first regularization campaign in Morocco, only limited number of irregular migrants has acquired an exceptional temporary residence permit and coercive practices along the EU border continued throughout 2014. Naturally, follow up research, as well as more comprehensive further research is needed on the evolution of migrant mobilization in Morocco. What inclusionary and exclusionary patterns will arise within the movement, as well as with similar movements in the country and in the wider region is yet to be seen and researched.

The research acknowledges that low levels of politicization of immigration issues, rather easy infiltration in to the labour market, daily forms tolerance have started to change in Turkey as in any society receiving nearly two million newcomers over a period of five years. On the one hand, migrant illegality framework would be inadequate to address Syrian refugees, who are under the temporary protection regime, hence not illegal. On the other hand, initial research has already revealed discrepancy between recognized legal status of Syrians and their lived experiences of incorporation displaying parallels with the findings of this study (see for instance Mazlumder, 2014; Özden, 2013). Thus, this study provides a basis for research on incorporation of Syrians, not only to help to show what has drastically changed from before, but also to reveal continuities in patterns of migrant incorporation in Turkey. The impact of mass arrival of Syrian refugees, as well as the increasing number of asylum seekers from other countries has put Turkey's asylum system under stress. Whether increasing number, coupled with increasing visibility in political discussion will translate into a form of political mobilization in Turkey is yet to be seen. One speculative question would be whether an asylum-based mobilization would expand to include other categories of migrants making more radical membership claims and demands for free circulation.

In the last decades, drastic changes have occurred in the governance of irregular migration in the Mediterranean basin at the borders of the EU and beyond these borders. Consequences of restrictions over legal migration and expansion of border controls beyond the EU, is not limited to the closing of front doors for (wannabe) migrants from the developing world, aspiring better opportunities in life.

This study has revealed repercussions of these policy changes for migrant livelihoods at the periphery of Europe. Both Morocco and Turkey reflects how migrant illegality has been produced amongst interactions of EU priorities to curtail irregular migration, changing national legal framework and practices at multiple levels. Despite their formal exclusion from the sphere of citizenship and rights associated with it, migrants, albeit through different processes of incorporation, have carved out social and political spaces. This study has provided a glimpse into how people excluded from the body of citizenship explicitly or implicitly state their legitimate right to stay in the nation-state territory, despite their liminal legal status. Both in Morocco and in Turkey, as well as elsewhere, more changes are needed to ensure, migrants regardless of legal status would have access to their fundamental human rights. As repeatedly uttered by migrant activists I interviewed: "la lutte continue" [eng. "the struggle goes on"].

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Annex 1: List of Interviews

Table 1: Interviews with state institutions- Turkey

Name of Institution	Place of Interview	Date of Interview	Interview Recorded?	Mandate
Ministry of Interior- Bureau of Migration and Asylum (later re-institutionalized as General Directorate of Migration Management)	Ankara	February 2012	No	Drafting of legislation concerning migration and asylum
Ministry of Labor and Social Security- Bureau of Work Permits for Foreigners	Ankara	February 2012 (3 interviews)	No	Evaluation of work permit applications by foreigners, drafting of legislation and preparation of statistics
Ministry of Foreign Affairs- Directorate General for Migration, Asylum and Visa	Ankara	November 2012	No	Relations with the EU concerning migration and asylum policies
Ankara General Directorate of Security	Ankara	December 2012 (3 interviews)	No	Enforcement of legislation on migration and asylum Fight against illegal migration

Table 2: Interviews with International Organizations, Non-Governmental Organizations- Turkey

Name of the Institution	Place of Interview	Date of Interview	Interview Recorded?	Mandate
Association for Solidarity with Asylum Seekers and Migrants (ASAM)	Ankara	December 2012	Yes	Attending to the physical and social needs of refugees at satellite cities UNCHR implementing partner
International Organization for Migration	Ankara	December 2012	Yes	Following legislative process Human trafficking
Amnesty International	Ankara	November 2012	Yes	Following legislative process on migration and asylum Violations of human rights
Human Resource Development Foundation (HRDF)	Ankara	December 2012	Yes	Human Trafficking UNHCR Implementing Partner
Human Resource Development Foundation (HRDF)	Istanbul	August 2013	No	Attending to the physical and social needs of refugees at satellite cities
Helsinki Citizens Assembly (HCA)	Istanbul	November 2013	No	Legislation on migration and asylumViolations of human rights

Caritas	Istanbul	December 2013	No	Social assistance for migrants and refugees
Doctors without Frontiers (MSF)	Istanbul	November 2013	No	Psychological support and health care for migrants and refugees
Association for Human Rights and Solidarity with the Oppressed (Mazlumder)	Istanbul	November 2013	Yes	Legislation on migration and asylum Violations of human rights
Migrants' Association for Social Cooperation and Culture (Göç-Der)	Istanbul	November 2013	No	Violations of human rights Displaced persons, Syrian refugees in Istanbul
Association for Solidarity and Mutual Aid with Migrations (ASEM)	İstanbul	November 2013	No	Psychological support and health care for migrants and refugees
Foundation for Society and Legal Studies (TOHAV)	Istanbul	November 2013	Yes	- Legal support and health care for migrants

Table 3: Interviews with migrants- Turkey

Nickname	Age	Marital Status	Sex	Nationality	Legal Status	Employment	Date of Interview
Rakel	50s	Widowed	F	Armenia	Legal entry – Violation of visa	Cleaning lady	January 2012
Alima	34	Partner (in prison) and 1 child	F	Eritrea	Undocumented entry- refugee	Interpreter	March 2012-November 2013 (multiple interviews)
Maria	20s	single- 1 child	F	Ethiopia	Undocumented entry	Cleaning lady	March 2012
Nicole	20s	Parner (in her country)- 1 child	F	Democratic Congo	Undocumented entry – asylum application	Unemployed	March 2012
Chris	36	Single	M	Nigeria	Legal entry - Violation of visa – amnesty	Unemployed, textile	June 2012- March 2013 (3 interviews)
Mahmut	29	Single	M	Afghanistan	Undocumented entry	textile- construction	January - August 2013 (2 interviews)
Ahmet	22	Single	M	Afghanistan	Undocumented entry	textile- construction	January - March 2013 (2 interviews)
Malik	22	Engaged	M	Afghanistan	Undocumented entry	textile- construction	January - August 2013 (3 interviews)
Harun	22	Single, lives with parents	M	Afghanistan	Undocumented entry –applied for residence permit	Textile	August 2013
Afsana	37	Married, lives with husband	F	Afghanistan	Undocumented entry –consider	textile, spouse	February - August 2013 (2 interviews)

		and children			applying asylum	unemployed, then construction	
Selma	32	Married, lives with husband and children	F	Afghanistan	Undocumented entry –acquired residence permit	Textile, Spouse unemployed then, construction	February - August 2013 (2 interviews)
Zerrin	Late 30s	Married, 2 children- Spouse in Holland	F	Afghanistan	Undocumented entry -Applied for asylum-lives Istanbul- later moved to satellite city	Textile, with children	March 2013
Shiba	30?	4 children- Spouse missing	F	Afghanistan	Applied for asylum-lives Istanbul	Textile with children	March 2013
Muzaffar	44	Married – spouse in Dubai	M	Pakistan	Undocumented - asylum applicant	Unemployed, wants to go to Europe	March 2013
Onur	28	Single	M	Iran	Legal entry (?), Applied for asylum- Istanbul	Owns a restaurant	February 2013
Blessing	Late 30s	Single- with children	F	Nigeria	Legal entry – residence permit- Overstay	Unemployed, sex worker, textile	June - August 2013 (2 interviews)
Dilbar	33	Married, spouse in İstanbul, children (in her country)	F	Uzbekistan	Legal entry, Violation of visa, passport has been stolen	Domestic and care work	March 2013
Katerin	43	Married, spouse in Moldova	F	Moldova	Legal entry, acquired residence permit, violation	Domestic and care work	April 2013

					of visa		
Fatma	45	Married, family in Uzbekistan	F	Uzbekistan	Legal entry, Violation of visa	Domestic work	April 2013
Rabia and her brother Halim	35	Widowed, with brother and daughter	F	Afghanistan	Legal entry, Violation of visa, papers stolen, apprehended, asylum application, voluntary return	Unemployed	March 2013
Feriye	22	Single, lives with her parents and siblings	F	Afghanistan	Undocumented entry, acquired residence permit	Textile	August 2013
Peter	34	Married- spouse in Nigeria	M	Nigeria	Legal entry, Violation of visa,amnesty, Violation of visa	Textile	September 2013
Victor	29	Married, lives with spouse – children in Georgia	M	Georgia	Legal entry-exit, acquired residence permit, Violation of visa	Various petty jobs, hotel, restaurant	September 2013
Uche	27	Single	M	Nigeria	Legal entry, Violation of visa	Unemployed, textile	September 2013
Alex	33	Single ?	M	Nigeria	Legal entry, Violation of visa	Unemployed, textile	September 2013
Halim	34	Married, lives with family	M	Syria	Legal entry – acquired residence permit	Tourist guide	November 2011
Sultan		Married, lives with family	F	Azerbaijan	Legal entry – acquired residence permit-	Unemployed, spouse in textile	November 2011

					citizenship		
Eric	34	Single	M	Cameroon	Legal entry, Violation of visa	Textile	November 2013
Jackie	28	Single, pregnant	F	Ethiopia	Legal entry, residence permit, Violation of visa, asylum	Masseuse	November 2013

Table 4: Interviews with State Institutions- Morocco

Institution	Place of Interview	Date of Interview	Interview Recorded?	Mandate
Hassan II Foundation	Rabat	April 2012- June 2012 (2 interviews)	Yes	Citizens abroad
Ministry of Education Directorate for Rabat-Sale Region	Rabat	July 2012	No	School registration for migrants' and refugees' children
Deputy in Moroccan Parliament	Rabat	September 2012	No	Legislation on migration- Citizens abroad
The Council of the Moroccan Community living abroad (CCME)	Rabat	July 2012- September 2012 (2 interviews)	No	Citizens abroad Irregular migrants in Morocco
National Council for Human Rights (CNDH)	Oujda	September 2012	No	Violations of human rights Irregular migrants in Morocco
Ministry in Charge of Moroccans Abroad and Migration Affairs	Rabat	July 2012- May 2014 (2 interviews before and after the reform initiative)	No	Violations of human rights (recently) migrants in Morocco

Table 5: Interviews with International Organizations and Non-governmental organizations- Morocco

Institution	Place of Interview	Date of Interview	Interview Recorded?	Mandate
Moroccan Organization of Human Rights (OMDH)	Rabat	April 2012	Yes	Violation of human rights Refugees
Moroccan Association of Human Rights (AMDH)	Oujda –Rabat	September 2012 (2 interviews)	Yes	Violation of human rights Incoming refugees and migrants
The Anti-racist Group for the Support and Defence of Foreigners and Migrants (GADEM)	Rabat	April 2012 May 2014	No	Violation of human rights of migrants
Association Rencontre Méditerrannènne pour l'Immigration et le Développement (ARMID)	Tangier	April 2012 July 2012	No	Humanitarian help for Sub-Saharan migrants in Tangiers, advocating migrants' rights
Beni Znassen Association of Culture, Development and Solidarity (ABCDS)	Oujda	September 2012	Yes	Humanitarian help for Sub-Saharan migrants in Oujda and Nador, advocating migrants' rights

East-West Foundation (FOO)	Rabat	April 2012- September 2012 (3 interviews)	1 interview recorded	Humanitarian help for Sub-Saharan migrants and refugees, social and cultural activities, UNHCR implementing partner
Doctors without Frontiers (MSF)	Rabat- Oujda	April 2012- September 2012 (2 interviews)	1 interview recorded	Health care for Sub-Saharan migrants and refugees, humanitarian help
Terre des Hommes (People of the Earth)	Rabat	April 2012 (2 interviews)	Yes	Health care for Sub-Saharan migrants and refugees, specifically pre- and post-birth support for pregnant women
CARITAS	Rabat- Tangier- Casablanca	July 2012- September 2012 (3 interviews)	1 interview recorded	Health care for Sub-Saharan migrants and refugees, humanitarian help
Center for Welcoming Migrants (SAM)	Casablanca	September 2012	No	Humanitarian help for Sub-Saharan migrants and refugees, social and cultural activities for

				migrants, especially for women and children
The UN Refugee Agency (UNCHR)	Rabat	April 2012 May 2014 (2 interviews)	Yes	Refugees and asylum seekers
International Organisation for Migration (IOM)	Rabat	May 2014	Yes	Following legislation in Morocco, co-development, voluntary return
Democratic Organization of Labour - immigrant workers (ODT-IT)	Rabat	September 2012 May 2014 (2 interviews)	Yes	Sub-Saharan migrant workers, regularisation of irregular migrants
Council of Sub-Saharan Migrants in Morocco (CSMM)	Rabat	September 2012	Yes	Human rights of Sub-Saharan migrants, regularisation of irregular migrants
Collective of Sub-Saharan Migrants in Morocco	Rabat	September 2012 (2 interviews)	Yes	Human rights of Sub-Saharan migrants
ALLECMA (Association Lumiere sur l'emigration clandestine au Maghreb)	Rabat	May 2014	Yes	Human rights of Sub-Saharan migrants, neighbourhood violence, regularisation

Table 6: Interviews with Migrants- Morocco

Nickname	Age	Marital status	Sex	Nationality	Legal status	Employment	Date of Interview
Oumar	22	Single	M	Guinea	Legal entry- Overstay	Unemployed- football player	July 2012 (Rabat)
Amadou	26	Married	M	Senegal	Legal entry- student visa- started working	Proximity agent	July 2012- September 2012 (Rabat)
Modou	33	Married- spouse in Morocco	M	Senegal	Legal entry- started working- work permit	Masseur	July 2012 (Rabat)
David	29	Single	M	Guinea	Undocumented entry	Unemployed- football player	July 2012 (Rabat)
Moussa	56	Two spouses, one in his country and one in Morocco	M	Guinea	Entry with passport- overstay – illegal border crossing- residence permit via marriage	Unemployed	July 2012 (Rabat)
Hafız	40?	Two spouses, one in his country and one in Morocco	M	Cameroon	Entry with passport- overstay	Unemployed	July 2012 (Rabat)
Khadim	24	Single	M	Senegal	Student- started working	Call center	July 2012 (Rabat)
Elou	28	Single- has a boyfriend from Guinea	F	Senegal	Legal entry- work permit expired	Stay-in domestic worker	July 2012 (Rabat)
Amy	27?	Single	F	Philippines	Legal entry- residence	Domestic worker	July 2012

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					permit-overstay		(Rabat)
Alassane	35	Widowed, 3 children	F	Cameroon	Undocumented entry- trying to go to Europe	Unemployed	July 2012 (Tangier)
Adama	18	Single	M	Senegal	Legal entry-exit, trying to go to Europe	Unemployed	July 2012 (Tangier)
Cherif	21	Single	M	Senegal	Legal entry-exit, trying to go to Europe	Unemployed	July 2012 (Tangier)
Demba	22	Single	M	Senegal	Legal entry-exit, residence permit in Spain, sentenced in Morocco for forgery	Unemployed	July 2012 (Tangiers)
Issa ve Yaya	32-24	Married, have a baby, spouses in Morocco	M	Guinea	Undocumented entry- trying to go to Europe	Unemployed	July 2012 (Tangiers)
Yassine	24?	Single	F	Senegal	Legal entry-exit- overstay	looking for a job, braiding hair	September 2012 (Casablanca)
Jules	37	Single	M	Republic of Congo	Undocumented entry	Unemployed	September 2012 (Rabat)
Angela	42	Nigerian spouse and a baby	F	Philippines	Legal entry-overstay	Cleaning lady, masseuse, hairdresser	September 2012 (Rabat)
Danny	30s	Angela's husband	M	Nigeria	Undocumented entry	Construction, unemployed	September 2012(Rabat)

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Anna	27	Single	F	Democratic Republic of Congo	Undocumented entry- on a wheelchair, application for asylum	Unemployed, disabled	September 2012 (Oujda)
Rosa	42	Married, 2 children	F	Democratic Republic of Congo	Undocumented entry- recognized refugee	Runs a woman cooperative, handcraft	September 2012 (Rabat)
Maria and her elder sister Edith	29-45	Single, 5 children- sister is married, her husband is in Congo	F	Democratic Republic of Congo	Undocumented entry	handcraft, hair braiding, sex worker	September 2012 (Rabat)
Amar	23	Single	M	Niger	Student visa, overstay	Unemployed, was looking for a job, going to his country	September 2012 (Rabat)
Maya	22	Single, lives with parents	F	Guinea	Short term student visa	Unemployed, ODT volunteer	September 2012 (Rabat)
Mama	52	Widowed, lives with brother	F	Ivory Coast	Asylum application	Unemployed, handcraft	September 2012 (Rabat)
Linda	42	Divorced, has a daughter	F	Chad	Student- residence permit	Works in associations, wants to start one of her own for women	September 2012 (Rabat)
Oumar	32	Single	F	Guinea	Legal entry, residence permit with short term student visa	Works in associations	September 2012 (Rabat)
Patrik	33	Single	M	Cameroon	Legal entry, residence	Petty jobs, works	September 2012

					permit with short term student visa, wants to go to Europe	in associations	(Rabat)
Fatima	20s	Spouse in Libya (?) has a baby	F	Nigeria	Undocumented entry, saves money for going to Europe	Begging	September 2012 (Rabat)
Papa	28	Single	M	Ivory Coast	Undocumented entry	Unemployed	September 2012
Jean Baptiste	25	Single	M	Democratic Republic of Congo	Undocumented entry	Unemployed	September 2012 (Rabat)
Sunny	38	Single	M	Nigeria	Undocumented entry, Asylum application	Unemployed, petty jobs, begging	September 2012 (Rabat)
Naima	29	Married (left behind her family) pregnant	F	Central African Republic	Undocumented entry, Asylum application	Unemployed	May 2014 (Rabat)
André	42	Married (left behind his family)	M	Cameroon	Undocumented entry, Asylum application, applied for regularisation	Petty jobs in construction, carrier, voluntary work in associations	May 2014 (Rabat)

Annex 2: Immigration flows into Morocco and Turkey

Legal category		Morocco	Turkey
Irregular migration	**Source countries**	Senegal Nigeria Ivory Coast Guinea Congo Mali The Philippines Cameroon DRC Syria (based on previous surveys (AMERM, 2008) and registrations for the **regularisation campaign in 2014.**	Afghanistan Burma Eritrea Pakistan Iraq Georgia Turkmenistan Azerbaijan (based on apprehended cases in **2014** as reported by GDMM)
	Estimated number	The number of apprehended cases fluctuates between 10,000 and 20,000 per year. It was as high as **23,851** in **2003** (Khachani, 2011: 4). During **2014**, **27,330** migrants without legal status in Morocco registered for the **regularisation** campaign.	The number of apprehended cases fluctuates between **29,926** in **1998** and **58,647** in **2014.** It was as high as **94,514** in **2000.** (as reported by GDMM)

Legal category		Morocco	Turkey
Asylum	*Source countries*	Democratic Republic of Congo Ivory Coast Nigeria Mali Syrians	Iraq Afghanistan Iran Somalia
	Estimated number as reported by UNHCR	**4,973** (total population of concern by the end of **2013**)	**2,935** (in **2005**) **55,546** (registered active caseload by the end of **2014**, excluding nearly 2 million Syrians.

Legal category		Morocco	Turkey
Legal Residents	Source countries	France Algeria Spain Senegal Tunisie Mauritania	Iraq Syria Afghanistan Iran Russian Federation Turkmenistan Germany UK Gerorgia (based on residence permits issued in 2014)
	Estimated number	**73.316** (2010) (Khachani, 2011: 1).	Increased between **182,301** in 2010 to **379,804** in 2014 (as reported by GDMM).

Annex 3: Migration Policies in Morocco and Turkey (2000-2014)[1]

Morocco

Date	Policy	Notes on the content / context / intended impact
1999	*The 1999 Action Plan proposed by the High Level Working Group on Asylum and Migration[2]*	The Action Plan identified Morocco as a "transit country" and envisaged legal, infrastructural changes. The Plan was rejected by the Moroccan government.
2000	*Association Agreement with the EU*	Signed in 1995, entered into force in 2000. Both parties have agreed to cooperate on illegal migration.
2002	*Establishment of SIVE (Sistema Integrado de Vigilancia Exterior) along the Morocco – Spain border*	
2003	Law n° 65-99 relative to the Labour Code	Regulations on the employment of foreign workers, requiring authorisation by responsible government agency (Art. 516) and sanctioning the employment of foreigners without authorisation.
2003	*Readmission agreement with Spain*	The readmission agreement with Spain was ratified only in 2012. The implementation has been problematic and excluded third country nationals. Throughout 1990s, Morocco signed readmission agreements with France (1993, 2001), Germany (1998), Italy (1998, 1999), Portugal (1999). Those agreements

Year		Details
2003	Law n°02–03 relative to the entry and stay of foreigners in Morocco and to irregular emigration and immigration	concern the return of Moroccan nationals. -The law envisaged the institutionalization of a Directorship for Migration and Surveillance of Borders within the Ministry of Interior. -More investment in border surveillance -Criminalization of irregular migration of nationals and foreigners and its assistance -Article 26 provides legal basis and procedures to follow for detention and removal to the border. The article contains protective measures prohibiting the deportation of asylum seekers, refugees, pregnant women, and minors. -Regulating residence permits
2005	Decree n°1391-05 on employment of foreigners	ANAPEC (National Employment Agency) checks whether there is an eligible candidate with Moroccan citizenship amongst applicants (refugees are, on paper, exempted from labour market test).
2005	*Stricter control along the Ceuta and Melilla borders*	In response to Ceuta and Melilla events in October 2005, where official numbers indicate the killing of 11 migrants by Moroccan and Spanish border guards.
2005	Repatriation of around 3,000 irregular migrants back to their countries of origin	As a result of strengthened internal controls in the aftermath of Ceuta and Melilla events.
2005	Note no : 93 on the enrolment of foreign children in public education institutions	Provincial delegations of the Ministry are defined as the authority to decide on the school enrolment of children from other nationalities.
2006	First Euro-African Ministerial Conference on Migration and Development organized in Rabat	The aim of the conference was to establish a global dialogue on migration. Morocco as the organizer assumed a role of mediator between Northern and Southern countries.
2006	*Country Agreement with IOM*	

Year	Description
2007	*The Headquarter Agreement with UN High Commission for Refugees (UNHCR)*	Refugee status determination is processed by UNHCR. However, until the end of 2013, recognized refugees did generally not have automatic access to residence permits and other benefits such as health care, education.
2007	Law n°62-06 modified Dahir n°1-58-250 on the Citizenship Code.	The change has enabled the transmission of Moroccan citizenship for children born to Moroccan mothers and their foreign spouse.
2007	The Council for Moroccans Abroad (CCME) was established.	The institution aim at strengthening the dialogue between Moroccan state and Moroccan community residing abroad. Article 163 of 2011 Constitution recognized the role of the Council. The Council is constituted of representatives of the Moroccan community abroad, most of them are appointed by the King himself. The Council recently revealed an interest to immigration issues.
2010	Decree n°2-09-607 on the implementation of Law no:02/03	The implementing directive specifies terms and procedures for the provision of resident permits.
2011	*Morocco accepted the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.*	Related changes in national legislation are still under preparation.
2011	New Constitution	-Article 30 guarantees rights to foreigners within the country including the right to vote in local elections. The Article articulates that procedures for asylum and refugee determination should be determined by law. -There were no references to the rights of foreigners in the previous Constitution enacted in 1995.
2011	Law 34-09 relating to the "Health System	Based on the Circular in 2003, the Moroccan legislation recognises irregular migrants'

	and Offer of Care"	right to health care.
2013	*The Mobility Partnership between Morocco, the EU and six EU Member states*	Further cooperation on co-development, combating irregular migration, administrative support for enacting asylum legislation in Morocco is envisaged.
2013	Report of the National Council of Human Rights (CNDH) "Foreigners and human rights : for a radically new policy"	CNDH invited government to take necessary legal measures to ensure human rights of migrants in Morocco.
2013	A new mandate given to the Moroccan Ministry for Moroccans living abroad	The name was changed into the Moroccan Ministry for Moroccans living abroad and Migration Affairs. A new department was founded to coordinate regularisation campaign and to work on new legislations on asylum, integration, human trafficking.
2013	Reopening of the bureau of refugees	The Moroccan state has started to process asylum files in collaboration with UNHCR.
2013	Circular n°13-487, 9 October 2013, concerning the access to education of migrant children from the sub-Saharan and Sahel regions	Accordingly, migrants can enrol their children to private and public schools in the country, regardless of legal status. Bureaucratic procedures for school enrolment have been simplified.
2013	The introduction of a health insurance scheme of social assistance (RAMED)	No provisions had been envisaged on the inclusion of foreigners in the system.
2014	An exceptional regularisation campaign for irregular migrants from Europe and Africa.	The campaign lasted throughout 2014. Eligibility: The exceptional operation of regularization concerns foreigners with spouses from Moroccan nationality living together for at least two years, foreigners with foreign spouses in legal status in Morocco and living together for at least four years, children from the two previous cases, foreigners with employment contracts effective for at least two years, foreigners justifying five years of continuous residence

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in Morocco, and foreigners with serious illnesses who had arrived the country before December 31 2013.

Outcome: "Close to 17,918 one-year residence permits were granted from 27,330 applications registered (almost half of them to Senegalese and Syrians, followed by Nigerians and Ivoirians)" (Martin, 2015)

Turkey

Date	Policy	Notes on the content / context / intended impact
1994	The Regulation on the Procedures and the Principles Related to Mass Influx and the Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permits with the Intention of Seeking Asylum from a Third Country, referred as 1994 Regulation.	-First national legislation on asylum and on how to implement 1951 UN Convention. - The Ministry of the Interior became the final decision-making body for refugee status determination in collaboration with the UNHCR. - The Regulation introduced administrative procedures requiring applicants to register with the police within five days of arrival and to reside in cities designated by the police.
2001	*Accession Partnership Agreement with the EU*	
2001	*Visa requirements for a number of states - including Kazakhstan, Bahrain, Qatar, the United Arab Emirates, Kuwait, Saudi Arabia*	In line with the EU visa policy

	and Oman in 2001 and 2002.	
2002	*UN Conventions Against Transnational Organised Crime and its additional protocols*	Related changes in national legislation are introduced. The Law on Protection of Victims of Human Trafficking is still under preparation.
2002	*The Turkish National Security Council adopted a resolution on combating irregular migration in 2002*	
2003	*Readmission Agreement with Greece*	The implementation has been problematic and numbers have remained low. Other RAs were signed with Syria (2003), Kirghizstan (2004), Romania (2004), Ukraine (2005), Russian Federation (2010), Pakistan (2011), Bosnia Herzegowina (2012), Moldova (2012)
2003	Law No. 4817 on Work Permits for Aliens	-Ministry of Labour was given the main responsibility for issuing work permits (Art. 3). -Temporary work permits are issued for a period of maximum one-year, by taking into account the conditions of the labour market and the availability of a better qualified Turkish nationals capable of performing the job (Article 5). -Article 21 introduced fines for both employers and migrant workers who are in an irregular employment situation.
2003	*Strategy Paper for the Protection of External Borders in Turkey*	Border management issues have been on the agenda concurrently with membership talks, along with migration management and asylum issues.
2003	Amendment in the Citizenship Law	-Article 5 was changed to introduce equal citizenship rights for foreign men and woman marrying Turkish citizens -Both men and women marrying Turkish nationals will have to wait three years to apply for Turkish citizenship.

Year	Event	Description
		-The legislative change aims to prevent *marriages of convenience* by foreign migrant women, resulting in the acquisition of Turkish citizenship.
2004	*Turkey has become full member of IOM.*	-The activities of IOM in Turkey were initiated in 1991 in the aftermath of the regional crisis in the Middle East. -A bilateral agreement was signed in 1995. -Turkey became a full member of IOM in 2004 in the context of a national action plan on asylum and migration.
2004	*Asylum-migration twinning project with Denmark and the UK*	The outcome was the preparation of National Action Plan for Asylum and Migration launched in 2005
2005	*National Action Plan*	EU membership formally opened. -Three main issues need to be addressed by the Turkish government during the accession process were developing asylum legislation; signing readmission agreements with third countries; lifting the geographical limitation to the 1951 Refugee Convention. -Turkey committed to prepare the Law on Asylum, the Law on Aliens and to initiate the legislative process for lifting the geographical limitation by 2012.
2005	Article 79 of the Turkish Penal Code (Law No:5237) was changed.	-Harsher penalties were introduced for human smuggling.
2006	Settlement Law No. 5190 is introduced replacing the 1934 settlement law which generally restricts immigration to persons of	Although Settlement Law was amended in 2006 parallel to the EU harmonization efforts of Turkey, the new Law on Settlement still sustains this conservative nature and provides for individuals of "Turkish descent and culture" to be accepted as

	"Turkish descent and culture".	immigrants and refugees in Turkey.
2006	The 2006 Regulation on asylum clarifying the 1994 Asylum Regulation	The requirement of registration with official bodies within five days of arrival was removed.
2007	*Action Plan on Integrated Border Management*	-An outcome of the twinning project in collaboration with the UK and France. -A civilian body to protect the borders was envisaged.
2007	Opening of Kumkapı Removal Centre as a "Foreigners' Guesthouse"	Turkey committed to increase the capacity and numbers of removal and reception centres. EU partly funds the construction of these centres.
2008	Opening of Migration and Asylum Bureau under the Ministry of Interior	The main mandate was to work on drafting the law on asylum and foreigners.
2008	Opening of the Bureau for Border Management under the Ministry of Interior.	In the context of the Action Plan on Integrated Border Management
2009	Turkey's already liberal visa regime was further relaxed	-Agreements signed for visa-free mobility between Turkey and Syria (as of October 2009), Georgia (as of February 2006), Lebanon (as of January 2010), Jordan (as of December 2009) and Russia (as of May 2010). These changes have reversed the trend to align Turkey's visa policy with the EU list, in 2001/2002.
2009	Turkish Citizenship Law, Law No 5901	The law did not change the underlying principles in earlier legislation, but clarified them.
2010	Amendment to the implementing regulation of the law on Work Permits for Foreigners -	- Stricter requirements for employers to employ foreigners - Exemptions were published in April 2011 to ease access for certain categories of foreigner (refugees, victims of trafficking).
2012	Legal change requiring tourists to stay out of	LFIP (Law no: 6458) re-states this principle (Article 11).

	Turkey for three months in each six-month period.	Before, tourists could exit and re-enter the country by renewing their tourist visas. With the legal change, those who want to stay longer than 90 days are required to apply for a short term residence permit.
2012	*Readmission Agreement with the EU*	-The readmission concerns the nationals of the EU Member States and Turkey, plus the third country nationals and the stateless persons who "entered into, or stayed on, the territory of either sides directly arriving from the territory of the other side" (EC, 2013a). - The provision concerning third country nationals and stateless people will come into force in three years. -Turkey signed the RA in exchange for the initiation of EU-Turkey visa liberalisation dialogue.
2013	Adoption of Law on Foreigners and International Protection (Law No. 6458)	-LFIP brings together formerly scattered pieces of legislation on entry, stay and the deportation of foreigners. -For the first time, Turkey's asylum policy is codified as law, as opposed to secondary legislation. -Legal basis for detention and deportation, including procedural guarantees, the right to appeal to decisions on entry bans, detentions and deportations are provided as direct response to ECtHR decisions against Turkey. (Articles 54-55) -Institutionalisation of General Directorate of Migration Administration under the Ministry of Interior (Part V) -Secondary legislation on implementation is under preparation
2013	Circular on the Cost of Health Care of Syrian	The circular clarifies that Turkish Prime Ministry Disaster and Emergency Management

	Asylum Seekers	Authority will undertake cost of health care of Syrians, who should be admitted freely in public hospitals.
2014	Directive on Temporary Protection, Decision no 2014/6883	-The Directive is the first secondary legislation based on LFIP -The Directive concerns nearly two million Syrian refugees fleeing the conflict in Syria since 2011, that are granted Temporary Protection in Turkey.

Annex 4: Summary of findings

	Morocco	Turkey
International Context	EU pressure and collaboration to control borders and introduce internal controls	
	Will to forge good relations with Southern neighbours No immediate borders with conflict zone but considered a safe country in the region	Reforms in border, asylum, migration fields in the context of EU accession Turkey becoming a destination for labour migration Prone to mass flows resulting from conflicts in the region
National Context	Criminalization of irregular migration Migrants and refugees denied fundamental rights Higher levels of politicization forming a negative public opinion Policy shift from criminalization to regularization and integration of migrants	Security oriented approach to irregular migration Fragmented policy framework Migrants and refugees denied fundamental rights geographical limitation on 1951 Convention Relatively lower levels of politicization No public discussion on the subject Irregular migration policies within technicalities of EU accession process

		Shift from security to human rights approaches since 2008 From fragmented to unified legislation since April 2013
Implementation – migrant deportability	Harsh controls and removal practices along the borders and in urban areas	Strict controls along the borders Arbitrary tolerance in urban areas
Socio-economic participation	Settlement in violent, marginalized neighborhoods, higher rents than locals Further marginalization in the labour market, sporadic employment	Settlement in periphery of central neighborhoods, poor living conditions, higher rents than locals Selective labour market infiltration, characterized long hours, relatively lower wages than locals. Informal labour market incorporates young, able bodies regardless of migration aspirations to cross to Europe. Widespread market violence
Access to fundamental rights	Free access to health care is in the law but not implemented Access to education depended on the possession of certain papers, to a	Access to health care and education depends on holding an official status Health care needs of migrants are left in the hands of the market

	certain extent surpassed through bureaucratic sabotage, later through opening of the legal framework	
Interest by civil society organizations	Emergence of international, national, local civil society in post-2005 period.	
	Humanitarian and advocacy activities for the rights of refugees and migrants. Beginning of a pro-migrants rights movement despite limited capacity, high state pressure.	More focus on asylum related issues than irregular migration Very limited interest in politically mobilizing migrant communities
Migrant mobilization	Irregular migrant organizations have gained political voice through their alliances with Moroccan, international, transnational organizations.	Very limited mobilization by irregular migrants Existing migrant organization are ethnicity based with little interest on irregular migration
Individual tactics to get legal status	Legal sideways: enrolment as student, marrying a national	Legal sideways: enrolment as student, marrying a national, claiming ethnic kinship

Summary

This thesis analyses migrant experiences of illegality in Turkey and Morocco by taking into account how both countries responded to increasing pressure by the European Union (EU) to govern irregular migration within their territories. These contexts have been identified for having similar out migration histories directed to Europe, similar geopolitical positions and, most importantly for this study, confronting increasing EU pressure to control their borders and curtail what is called irregular migration. This research has been motivated in the first place by the conviction that it is critical to explore what is happening *beyond* the EU borders in terms of the *production of migrant illegality* and *migrants' access to rights*. I wanted to reveal the implications of the rising concern with stopping irregular crossings at the EU borders for the wider region and particularly for the people who suffer from policies and practices that aim to curtail human mobility into the EU.

The main research question is:

How has irregular migration become a new subject of governance that impacts irregular migrants' access to rights and legal status?

I divided this question into three sub-questions:

How have changing policies and practices regarding the rights of irregular migrants produced migrant illegality in Turkey and Morocco as de facto immigration contexts?

How do migrants experience their illegality and negotiate their presence in society in general and their access to rights and legal status in particular?

Under what circumstances do irregular migrants mobilise to claim their rights and legal status?

The broader sociological question behind these empirical questions is:

How do people in highly precarious positions in their relations to state authority/state control seek legitimacy?

Chapter 2, The production of migrant illegality and migrant incorporation in comparison, describes the conceptual and methodological tools that I engage with in the process of responding to these questions. As I dismantled different aspects of migrant illegality, I relied on Willen's use of three components of migrant illegality: as *juridical status, socio-economic conditions* and *a way of being-in-the-world* (Willen, 2007). In dialogue with literatures on the legal production of migrant illegality (de Genova, 2005; Calavita, 2005), irregular migrants' subordinate incorporation (Menjivar, 2006; Coutin, 2003; Calavita, 2005; Bommes and Sciortino, 2011; Chauvin and Garcés-Mascareñas, 2014) and political mobilisation by irregular migrants (Nyers and Rygiel, 2012; Nicholls, 2013; McNevin, 2006; 2012), the book provides a multi-

layered analysis of migrant illegality. Based on the analysis of policy documents and interviews with key stakeholders and migrants of different legal status, four aspects of migrant illegality and migrant incorporation are scrutinised to answer the main research questions. These are experiences of deportability, participation in economic life, access to health care and education and access to legal status. I broadly look at how migrant illegality has been *produced* by law, *practiced* and *negotiated* by the state, by civil society actors and by migrants themselves.

Chapter 3, **International and Domestic Dynamics of the Production of Migrant Illegality in a Comparative Perspective,** explains that the international dynamics and national legal processes that produce migrant illegality in Turkey and Morocco are in similar geopolitical positions and have been subject to the externalisation of EU migration policies. However, the volume, source countries and profile of incoming migrants differ from one context to the other. What is comparable, as I have suggested, is the emergence of irregular migration as subject of governance in Turkey and Morocco, through similar techniques of producing migrant illegality and the countries' similar positions within the international context. In both contexts, irregular migration was initially an aspect of their changing out migration flows to the EU and later became a policy concern regarding incoming flows.

The notion of *transit country* is important for understanding the impact of the international context on the production of migrant illegality in peripheral contexts. The countries identified as transit have taken measures to control mobility along their borders with the EU. Ironically, these countries are labelled as *transit* by the EU due to measures they have introduced in collaboration with the EU to *stop transit.* In peripheral contexts such as Turkey and Morocco, migrant illegality was initially a by-product of the political will to stop irregular entries into the EU. This has led to the increasing involvement of the EU in the border infrastructure of the transit countries as well as the increasing activities of international/ intergovernmental organisations such as the UNHCR and the IOM; it has also led to changes in the legal infrastructure of transit countries. I primarily contribute to the literature on the production of migrant illegality by revealing the international aspect of the production of migrant illegality, but also indirectly to the literature on the externalization of EU migration policies.

One common aspect of how this international pressure was received is that irregular migration was considered as a security issue. As a consequence, migrants and refugees were denied fundamental rights. Both countries moved from a period of neglect to viewing irregular migration as a subject of governance. This included changes in the legal framework and the emergence of new institutions to deal with irregular migration. In Morocco, along with the increasing criminalisation, irregular migration became part of public opinion, contributing to higher politicisation but also to a stronger civil society backlash at grassroots. In Turkey, irregular migration

policies were discussed within the technicalities of the EU accession process, which, as I have argued, led to lower levels of politicisation at the level of public opinion.

Chapter 4, "Halt Raids, we are in Morocco, we live in Morocco → we love Morocco" Migrant illegality in practice: Morocco as a case of political incorporation, traces migrants' experiences of illegality and factors underpinning the political mobilisation of irregular migrants in the case of Morocco. What was striking in the case of Morocco was that the daily threat of deportation along with neighbourhood violence directly impacted migrants' perceptions of their judicial status and socio-economic conditions. Migrants underscored their further marginalisation in the labour market and very sporadic opportunities for employment. These conditions of harsh deportation practices, violence at the border and limited labour market infiltration in the urban space coupled with neighbourhood violence have led to exclusion. Civil society organisations, despite their limited capacity, have played a major role in supporting migrants' access to health care and education.

Arguably, dire living conditions formed the basis for a sense of solidarity amongst African migrants as well as between migrants and pro-migrants rights actors. Facing different aspects of social exclusion, irregular migrants in Morocco have been forming, albeit informal, associations since 2005. I have analysed institutional and discursive contexts that made the political mobilisation of irregular migrants a viable option. I have shown that migrants with an irregular status in Morocco, animated by their experiences of marginalisation, have been able to carve out a political space to claim rights and legal status thanks to alliances with Moroccan and international organisations. The use of a referential framework based on a language of rights, a common African identity and experiences of emigration reinforced the shared ideational ground of such alliances. Because of this mobilisation, migrants with an irregular status gained visibility as political actors before they were recognised by state authorities.

Mirroring Chapter 4, **Chapter 5, Turkey: De-politicising illegality and its impact on migrants' quest for legal status,** traces different aspects of migrant illegality in the urban space in Istanbul. As indicated by the concept of deportability (de Genova, 2002), migrants feel a constant threat of deportation. As reported by officials, civil society and migrants themselves, detention practices are rather sporadic and arbitrary. Hence, migrants' narratives of their experiences of deportability resonate with their sense that they are tolerated by the police but an awareness that they are also being abused. Migrants, even those who allegedly aspire to go to Europe, have found possibilities in to work as cheap, flexible workers in Istanbul's labour market. However, it is important to note that their infiltration in this labour market is still selective. The conditions in the labour market are harsh and demand long hours, and thus the informal labour market incorporates young, able bodies. Migrants lack support when facing abuse or when they are in dire need of services such as health care and education. The enjoyment of certain rights and

services (such as access to residence permits, education and healthcare) is only possible through applying for asylum. This chapter reveals how illegality and labour market and asylum regimes at times substitute or reinforce each other.

In this picture, political mobilisation has rarely entered into migrants' illegality experiences in Turkey. The civil society focuses on asylum issues rather than irregular migration or immigration in a broader way, with limited interest in mobilising refugees and migrants. Hence, migrants lack institutional channels to make rights claims. Regarding existing migrant associations, they are ethnicity based with little interest in irregular migration. Even when these institutions accept irregular migrants as members,their claims to legalise the status of their members have been based on a shared Turkic identity rather than a human rights framework.

Chapter 6, Migrant illegality beyond the EU borders: Turkey and Morocco in a comparative perspective, compares how irregular migrants make their presence legitimate vis a vis the state in the two contexts in question. The comparison reveals how daily experiences of illegality and mechanisms of irregular migrant incorporation have given rise to different ways through which irregular migrants have gained legitimacy. While day-to-day legitimacy has been the distinctive aspect of migrant incorporation in Turkey (particularly in Istanbul), experiences of migrant illegality in the Moroccan case have given rise to a search for political legitimacy.

Morocco has been a case of exclusion at the levels of policy, discourse and practice. Regarding the question of incorporation, Morocco is a crucial case for studying the mobilisation for the rights of irregular migrants beyond conventional immigration countries as we know from examples from North America and Western Europe. Despite abuses and discrimination, irregular migrants have been subject to day-to-day legitimacy, particularly through their labour market participation in the case of Turkey. Rather lax control regimes in the urban context of Turkey have reinforced the informal incorporation process. Migrant illegality has been absorbed in the informal urban economy. De facto recognition of the presence of irregular migrants was not coupled with an inclusive pro-migrant rights movement. As a consequence, the rights of irregular migrants have not become a legitimate subject in political discussions. The case of Turkey shows that the mechanisms through which irregular migrants gain legitimacy do not necessarily entail migrants' endeavours for political recognition. In other words, irregular migrants may not necessarily need to be political subjects to legitimise their presence.

As elaborated in **Chapter 7, Conclusions,** one major conceptual contribution of the study is the extended use of the terms of the legal production of migrant illegality. The analysis focusing on the construction of transit spaces necessitates looking at this production at the international level. This is indeed a contribution to students of migrant illegality who should account for the international configuration of migrant illegality, and it is a reminder to those studying external aspects of EU migration policies that this process results in a particular production of migrant

illegality. Another conceptual and methodological contribution is the call for the study of migrant illegality in a comparative perspective but also at multiple levels, especially in contexts where this phenomenon is under-explored. The aim here is to explore the production of illegality, migrant incorporation styles and political mobilisation and to reveal what these particular styles of incorporation and mobilisation do in terms of the inclusion and exclusion of subjects. To this end, another conceptual ambition of the book has been to link legal/institutional policy analysis on irregular migration and sociological/ethnographic methods on migrant livelihoods.

Nederlandse samenvatting

Deze thesis analyseert de ervaringen van illegaliteit van migranten in Turkije en Marokko, door te bestuderen hoe beide landen reageerden op toenemende druk vanuit de Europese Unie (EU) om ongereguleerde migratie binnen hun grondgebied te beheersen. Deze landen zijn gekozen omdat ze vergelijkbare geschiedenissen van uitgaande migratie richting Europa hebben, een overeenkomstige geopolitieke positie bezetten en, het belangrijkste voor deze studie, te maken hebben met dezelfde druk vanuit de EU om hun grenzen te controleren en wat ongereguleerde migratie wordt genoemd terug te dringen. Dit onderzoek is voornamelijk gemotiveerd vanuit de overtuiging dat het belangrijk is om te analyseren wat er gebeurt *buiten* de grenzen van de EU op het gebied van de *productie van illegale migratie* en *de toegang tot rechten voor migranten*. Ik wilde de implicaties van deze trends van het stoppen van het ongereguleerde oversteken van de grenzen van de EU voor de bredere regio achterhalen en voornamelijk die voor de mensen die lijden onder het beleid en de praktijken die als doel hebben om menselijke mobiliteit naar de EU te beperken.

De belangrijkste onderzoeksvraag is:

- *Hoe is ongereguleerde migratie een nieuw beleidsonderwerp geworden dat impact heeft op de toegang tot rechten en de wettige status van ongereguleerde migranten?*

Ik heb deze vraag opgedeeld in drie deelvragen:

- *Hoe hebben veranderd beleid en praktijken ten aanzien van de rechten van ongereguleerde migranten illegale migratie geproduceerd in de de facto immigratiesamenlevingen Turkije en Marokko?*

- *Hoe ervaren migranten hun illegaliteit en hoe gaan ze om met hun aanwezigheid in de samenleving in het algemeen, en hun toegang tot rechten en een wettelijke status in het bijzonder?*

- *Onder welke omstandigheden mobiliseren ongereguleerde migranten zich om hun rechten en een wettige status te claimen?*

De bredere sociologische vraag onder deze empirische vragen is:

- *Hoe zoeken mensen in zeer precaire posities in hun relatie tot de staatsmacht/het staatscontroleapparaat legitimiteit?*

Hoofdstuk 2, De productie van illegale migratie en de incorporatie van migranten vergeleken, geeft een uiteenzetting van het conceptuele en methodologische gereedschap dat ik heb ontwikkeld om deze vragen te beantwoorden. Om verschillende aspecten van illegale migratie bloot te leggen heb ik gebruik gemaakt van Willens drie componenten van illegale migratie: als *juridische*

status, de *sociaal-economische omstandigheden* ervan en als *een manier van in de wereld zijn* (Willen, 2007). Door middel van een discussie van literatuur over de wettelijke productie van illegale migratie (De Genova, 2005; Calavita, 2005), de achterblijvende incorporatie van ongereguleerde migranten (Menjivar, 2006; Coutin, 2003; Calavita, 2005; Bommes en Sciortino, 2011; Chauvin en Garcés-Mascareñas, 2014) en de politieke mobilisatie van ongereguleerde migranten (Nyers en Rygiel, 2012; Nicholls, 2013; McNevin, 2006; 2012) geeft het boek een gelaagde analyse van illegale migratie. Op basis van een analyse van beleidsdocumenten, interviews met de belangrijke spelers in het veld en migranten met een verschillende wettige status worden vier aspecten van illegale migratie en de incorporatie van migranten in kaart gebracht om de onderzoeksvragen te beantwoorden. Dit zijn: ervaringen van uitzetting, participatie in het economische leven, toegang tot zorg en onderwijs en toegang tot een wettige status. Ik bekijk hoe illegale migratie is *geproduceerd* door wetgeving, *in de praktijk gebracht* en *onderhandeld* door de staat, door actoren van maatschappelijke organisaties, en door migranten zelf.

Hoofdstuk 3, Internationale en nationale dynamieken van de productie van illegale migratie in een vergelijkend perspectief, verklaart de internationale dynamiek en nationale juridische processen van Turkije en Marokko, twee landen met een vergelijkbare geopolitieke positie en vergelijkbare invloed van het uitbesteden van migratiebeleid door de EU. Echter, de omvang, landen van afkomst en het profiel van de inkomende migranten verschillen tussen de twee landen. Wat vergelijkbaar is, is de opkomst van ongereguleerde migratie als een onderwerp van beleid in Turkije en Marokko, door middel van overeenkomstige technieken van de productie van illegale migratie en de vergelijkbare internationale positie van de landen. In beide casus was illegale migratie in eerste instantie een aspect van hun veranderende migratiebewegingen naar de EU en werd het later een beleidsonderwerp omtrent inkomende bewegingen in eigen land.

Het concept *transitieland* is belangrijk om de impact van de internationale context op de productie van illegale migratie in perifere contexten te begrijpen. De landen die als transitiegevallen worden geïdentificeerd hebben maatregelen genomen om mobiliteit langs hun grenzen met de EU te controleren. Ironisch genoeg zijn deze landen als *transitielanden* gelabeld door de EU vanwege maatregelen die ze juist samen met de EU hebben genomen om *transitie te stoppen*. In perifere contexten zoals die in Turkije en Marokko was illegale migratie in eerste instantie een bijproduct van de politieke wil om ongereguleerde migratie naar de EU te stoppen. Dit heeft geleid tot een toenemende betrokkenheid van de EU bij de grensinfrastructuur van de transitielanden en van toenemende activiteiten van internationale organisaties zoals UNHCR en het IOM; het heeft ook gezorgd voor veranderingen in de wettige infrastructuur van de transitielanden. Het achterhalen van het internationale aspect van de productie van illegale migratie is waar ik bijdraag aan de literatuur over de productie van illegale migratie, maar ik draag

hiermee ook direct bij aan de literatuur over de uitbesteding van migratiebeleid door de EU.

Eén gemeenschappelijk aspect van hoe deze internationale druk in beide landen werd ontvangen, is dat ongereguleerde migratie als een veiligheidsissue werd gezien. Als gevolg hiervan werden migranten en vluchtelingen fundamentele rechten ontzegd. Beide landen gingen van een periode van ontkenning van ongereguleerde migratie naar een waarin het een onderwerp van beleid werd. Dit hield veranderingen van het wettelijke kader in en de totstandkoming van nieuwe instituties om met ongereguleerde migratie om te gaan. In Marokko werd de politisering en criminalisering van ongereguleerde migratie onderdeel van het publiek debat, wat leidde tot sterkere betrokkenheid van maatschappelijke organisaties en sociale bewegingen. In Turkije werd ongereguleerd migratiebeleid bediscussieerd binnen een technische discussie over de toetreding van het land tot de EU en was er een lager niveau van politisering in het publiek debat.

Hoofdstuk 4, Stop de klopjachten, We zijn in Marokko, we leven in Marokko, we houden van Marokko, Illegale migratie in de praktijk: Marokko als een case van politieke incorporatie, achterhaalt de ervaringen van migranten in de illegaliteit en de factoren die de politieke mobilisatie van het issue in Marokko veroorzaakten. Wat opvallend is voor de casus Marokko, is dat de dagelijkse dreiging van uitzetting en buurtgeweld een directe impact hebben op de percepties van illegalen omtrent hun wettige status en sociaal-economische positie. Migranten hadden tevens een gemarginaliseerde positie op de arbeidsmarkt, met zeer sporadische mogelijkheden tot werkgelegenheid. Deze praktijken van harde uitzettingsaangelegenheden, geweld bij de grensbewaking en beperkte toegang tot de arbeidsmarkt in de stad gecombineerd met buurgeweld hebben geleid tot uitsluiting. Maatschappelijke organisaties hebben, ondanks hun beperkte capaciteit, een belangrijke rol gespeeld in het verkrijgen van toegang tot zorg en onderwijs voor migranten.

De slechte levensomstandigheden vormden een basis van solidariteit onder Afrikaanse migranten en tussen de migranten en pro-migranten actoren. Terwijl ze te maken hadden met uiteenlopende mechanismen van uitsluiting, vormden ongereguleerde migranten vanaf 2005 samen informele organisaties. Ik heb de institutionele en discursieve contexten onderzocht waaronder politieke mobilisatie van ongereguleerde migratie een haalbare optie werd. Ik heb laten zien dat ongereguleerde migranten in Marokko, gestimuleerd door hun ervaringen van marginalisatie, in staat zijn geweest om een politiek veld te creëren waarin ze, met dank aan Marokkaanse en internationale organisaties, rechten en een wettige status kunnen claimen. Het gebruik van een kader gebaseerd op een discours van rechten, een gemeenschappelijke Afrikaanse identiteit en ervaringen van emigratie versterkten de gedeelde ideële gronden van zulke verbonden. Vanwege deze mobilisatie werden ongereguleerde migranten zichtbaar als politieke actoren voordat ze werden erkend door staatsautoriteiten.

Gespiegeld aan hoofdstuk 4, achterhaalt **Hoofdstuk 5, Turkije: de depolitisering van illegaliteit en de impact op de roep van migranten om een wettige status** verschillende aspecten van illegale migratie in de stad Istanbul. Zoals wordt aangegeven door het concept van uitzetbaarheid (De Genova, 2002) voelen migranten een constante dreiging van uitzetting. Zoals is verteld door ambtenaren, maatschappelijke organisaties en migranten zelf zijn detentiepraktijken sporadisch en arbitrair. Daardoor resoneert in de verhalen van uitzetbaarheid van de migranten een gevoel van getolereerd worden door de politie enerzijds, maar van misbruik anderzijds. Migranten, zelfs zij die naar Europa toe willen, hebben een positie op de arbeidsmarkt in Istanbul opgenomen, als goedkope, flexibele krachten. Hierbij moet opgemerkt worden dat dit desondanks een selecte opname in de arbeidsmarkt is. Aangezien de condities op de arbeidsmarkt hard zijn en om lange uren vragen, is er behoefte aan jonge, sterke krachten. Migranten krijgen geen steun wanneer ze misbruikt worden of als ze op zoek zijn naar toegang tot zorg of onderwijs. Het privilege van bepaalde rechten en diensten (zoals toegang tot wonen, zorg en onderwijs) is alleen te verkrijgen via een asielverblijf. Het hoofdstuk laat zien hoe praktijken van illegaliteit en processen op de arbeidsmarkt en binnen asielregimes elkaar op bepaalde momenten aanvullen en versterken.

Politieke mobilisatie is nauwelijks doorgedrongen tot de ervaringen van illegalen in Turkije. Het maatschappelijk middenveld richt zich op asielissues in plaats van ongereguleerde migratie of immigratie in de bredere zin, en heeft beperkte interesse voor het mobiliseren van vluchtelingen of migranten. Daardoor missen migranten de institutionele kanalen om rechten te claimen. De bestaande migrantenorganisaties zijn georganiseerd op basis van etniciteit en nauwelijks geïnteresseerd in ongereguleerde migratie. Zelfs als deze organisaties ongereguleerde migranten als leden accepteren, dan nog zijn hun claims om hun leden te legaliseren gebaseerd op verwijzingen naar een gedeelde Turkse identiteit in plaats van naar een kader van mensenrechten.

In **Hoofdstuk 6, Illegale migratie voorbij de grenzen van de EU: Turkije en Marokko vergeleken**, wordt bekeken hoe ongereguleerde migranten hun aanwezigheid duidelijk maken aan de staat in twee verschillende contexten. Deze vergelijking laat zien hoe dagelijkse ervaringen van illegaliteit en mechanismen van incorporatie van ongereguleerde migranten tot uiteenlopende vormen van legitimiteit voor ongereguleerde migranten hebben geleid. Terwijl alledaagse legitimiteit het belangrijkste aspect van de incorporatie van migranten is in Turkije (specifiek Istanbul), hebben ervaringen van illegaliteit in Marokko geleid tot een zoektocht naar politieke legitimiteit.

In het geval van Marokko is er sprake van uitsluiting op de niveaus van beleid, discours en de praktijk. Wat betreft het vraagstuk van incorporatie is Marokko een cruciale casus voor de studie van mobilisatie voor rechten van illegale migranten, buiten die van gewoonlijke immigratielanden in Noord-Amerika en West-Europa. In Turkije zijn ongereguleerde migranten, ondanks ervaringen van misbruik en

discriminatie, alledaags legitiem, vooral door hun deelname op de arbeidsmarkt. Tolerante controleregimes in de stedelijke omgeving hebben het proces van informele incorporatie versterkt. Illegale migranten zijn er opgenomen in de informele stedelijke economie. De *de facto* aanwezigheid van ongereguleerde migranten is niet gekoppeld aan het bestaan van een inclusieve pro-migrantenrechten beweging. Als gevolg hiervan zijn de rechten van ongereguleerde migranten geen legitiem politieke discussieonderwerp geworden. De casus Turkije laat zien dat de mechanismen waarmee ongereguleerde migranten legitimiteit verwerven niet noodzakelijkerwijs te maken hebben met een zoektocht naar politieke erkenning. Met andere woorden: ongereguleerde migranten hoeven niet per se als politieke subjecten te worden gezien om hun aanwezigheid te legitimeren.

In **Hoofdstuk 7, Conclusies**, wordt uiteengezet dat één van de belangrijke conceptuele bijdragen van de studie de uitbreiding is van het denken over de wettelijke productie van illegale migranten. De analyse van de constructie van transitiegebieden maakt het nodig dat dit proces op een internationaal niveau wordt bestudeerd. Dit houdt in dat onderzoekers van illegale migratie zich moeten richten op deze internationale aspecten en het is een herinnering aan diegenen die de externe aspecten van het migratiebeleid van de EU bestuderen dat dit het resultaat is van een specifieke productie van illegale migratie. Een andere conceptuele en methodologische bijdrage is de aanzet tot een vergelijkende studie van illegale migratie, met een blik op verschillende niveaus, vooral in contexten waarin dit onderwerp nog niet goed is onderzocht. Het doel is om de productie van illegaliteit te bestuderen, als ook de stijlen van incorporatie van migranten en politieke mobilisatie, en hoe deze stijlen en vormen van mobilisatie zorgen voor verschillende vormen van in- en uitsluiting van subjecten. Een andere conceptuele ambitie van het boek is dan ook om de wettige/institutionele beleidsanalyse van ongereguleerde migratie en sociologische/etnografische methoden van het alledaagse te combineren.