



Ayşen Üstübcü

# The Governance of International Migration

Irregular Migrants' Access to Right  
to Stay in Turkey and Morocco

Amsterdam  
University  
Press

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Cover illustration: Photo by Aysen Üstübcü

Cover design: Coördesign, Leiden

Lay-out: Crius Group, Hulshout

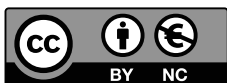
Amsterdam University Press English-language titles are distributed in the US and Canada by the University of Chicago Press.

ISBN 978 94 6298 276 5

e-ISBN 978 90 4853 280 3 (pdf)

DOI 10.5117/9789462982765

NUR 747



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*To my parents  
Nafiye and Ahmet*

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# Acknowledgements

The genesis of this book was my PhD dissertation, which I defended at Koç University and the University of Amsterdam in 2015, it further evolved during my post-doctoral fellowship at MiReKoc and assistant professorship at Koç University. I would like to thank all of the academic and administrative staff at both institutions for providing me with intellectual homes during the fieldwork and writing stages. I would like to thank Koç University, the Bucerius PhD Scholarship Program *Settling into Motion*, the Center for Gender Studies at Koç University (KOÇKAM) and the Scientific and Technological Research Council of Turkey (TÜBİTAK) for their financial support at different stages of my doctoral research.

This book is indeed a product of the long physical, intellectual and mental journey that I have taken alongside several wonderful people to whom thanks are due. Unfortunately, I can only mention a few of them in this short piece. I would first like to thank my supervisors, Prof Ahmet İçduygu and Prof Jan Rath for their invaluable guidance. Additionally, Dr Sebastien Chauvin, Dr Özlem Altan, Prof Deniz Yüksek and Prof Mine Eder were always ready to read earlier drafts of my chapters and discuss my ideas. Conducting fieldwork in two different countries would not have been possible without the valuable help of precious people. In Morocco: Apostolos, Babacar, Fatima, Moussa, Cewad and Najat, among others, helped me immensely in navigating my way in a land where I considered myself an outsider. Without the help of Deniz Sert, Deniz Karcı, Biriz, Uğur and Fattah, and many others, fieldwork in Turkey would have been much more challenging. I am indebted to my colleagues: those in the *Settling into Motion* programme, in Morocco, at the International Migration Institute Oxford, at Koç University and at UvA with whom I had the chance to discuss different bits of my research in various formal and informal settings. I would also like to thank Eda Kiriscioglu, Judy Woods, Lara Savenije and Emrah Celik for their able assistance with editing and referencing during the transition from dissertation to book.

Above all, it has been such a relief to have a home to return to with precious old friends and beloved family at the end of every venture. My parents, Nafiye and Ahmet, my brother, Alican, my aunts Kadriye and Güzin were always there for me with their unconditional love and support. Işık, my dearest, has been supportive, comforting and engaged throughout every bit of this physical and intellectual journey. Last but not least, my deepest gratitude is to the participants of my study who gave me their valuable time

and trusted me with their professional and personal experiences. Without their contribution, this book would be too dry or would not exist at all. Along with my parents, I dedicate this book to all migrants for whom the journey and the home are mostly intertwined as they seek better opportunities in life.

Finally, I would like to acknowledge that some parts of the book have appeared in different publications.

- Part of Chapter 3 was published in a shorter and substantially different form in *Geopolitics* (Üstübcici 2016)
- Part of Chapter 2 in a substantially different form was published in *Migration and Development* (Üstübcici 2015)
- Part of Chapter 2 was published in a different form and in Turkish in *Toplum Bilim* (Üstübcici 2017).

*Ayşen Üstübcici*

*February 2018*

# 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 Migrants
ATMF	Association of Workers from Maghreb in France
CCME	The Council of the Moroccan Community Living Abroad
CMSM	Council of Sub-Saharan Migrants in Morocco
CNDH	National Council of Human Rights
CSOs	Civil society organizations
DGMM	Directorate General of Migration Management
DRC	Democratic Republic of Congo
ECHR	European Convention on 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
HCA	Helsinki Citizens Assembly
HRDF	Human Resource Development Foundation
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
MÜLTECİ-DER	Association for Solidarity with Refugees
NGO	Non-governmental organization
ODT	Democratic Organizations of Labour
ODT-IT	ODT-immigrant workers
OMDH	Moroccan Organization for Human Rights
POS	Political opportunity structures
RA	Readmission Agreement
SAFS	Social Assistance and Solidarity Foundations
TNP	Turkish National Police
TRY	New Turkish Lira
TOHAV	Foundation for Society and Legal Studies
UJRT	Union of the Young Refugees in Turkey
UNHCR	United Nations High Commission for Refugees

# 1 Introduction

André,<sup>1</sup> a 42-year-old migrant, originally 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 organize among ourselves, buy a zodiac and [make an ]attempt. [...] I told myself, I need to change, I would not say change tactic [sic], 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, André has been involved with a migrants' solidarity association. The association was founded to raise awareness about racist attacks in poor neighbourhoods of Rabat. André has been doing voluntary jobs in collaboration with Moroccan associations and has actively worked to raise awareness about migrants' demands for rights and for regularization. While still dreaming of going to Europe, he is himself awaiting regularization.

Harun left Afghanistan in October 2009, at the age of 17, together with a cousin and two friends from his village. He planned to join his elder brother, who was living and working in Istanbul with other men from the village. After a three-week stay in Iran, they found a smuggler to take them to Istanbul. After crossing the border on foot, the smuggler took them to the United Nations High Commission for Refugees (UNHCR) office in the Iranian border city of Van. 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 wanted to go to Turkey to work and never mentioned his relatives in Istanbul or the smuggler. After leaving Van, Harun did not follow his asylum file. He arrived in Istanbul and settled in the flat shared by his brother and other single Afghan men. In the last three years, he has been living and working in Istanbul, moving from one workplace to another: 'Then, back in 2009, the work was scarce in Turkey.

1 All names are pseudonyms, unless indicated otherwise.

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 via their relatives, who were among Afghan nationals settled and naturalized in Turkey in the early 1980s.

Juxtaposing the stories of André and Harun illustrates the fragmented and dangerous journeys migrants must endure because of the existence of borders. The conditions of both men's journeys to the 'West' are similar, in the sense that they risked their lives crossing borders, getting help from smugglers, and facing the threat of detention and deportation, all in order to generate better opportunities in life. While there is a growing literature on borders and border crossings, this study is about the experiences of settlement beyond the borders of the European Union (EU). In addition to discussing the changing political environment, this book sheds light on how irregular migrants' 'uncertain legal status' (Menjívar 2006) within the national territories in which they reside is the result of law, practiced, and negotiated by the state, by civil society actors, and by migrants themselves. I incorporate migrant perspectives to help us grasp the processes that led André to become a political activist for migrant rights in Rabat, and Harun a textile worker in the informal sector in Istanbul. Interestingly, both have prospects for legalizing their 'illegal' status, but through different means.

The research questions reflect the multiple levels of analysis I embraced in addressing the question of migration governance at the periphery of the EU and irregular migrants' access to rights:

- 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 mobilize to claim their rights and legal status?

Through analysis of two country cases, this book contributes to the broader conceptual puzzle of how people in highly precarious positions, in terms of their relations to state authority, seek legitimacy. More specifically, my comparative inquiry aims to reveal the conditions under which irregular migrants in new immigration contexts may or may not seek 'political

recognition', i.e. formal recognition of their presence and rights by authorities (Menjívar and Coutin 2014). 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.

Amid growing concerns about irregular migration within the context of declining economic growth and the securitization of immigration, the developed world has adopted a more restrictive approach towards immigration and asylum. Particularly in the European migration system, emerging norms of EU migration controls have led to the expansion of security measures at the external borders of the EU. This research has primarily been motivated by the conviction that it is critical to explore what is happening beyond EU borders in terms of 'the production of migrant illegality' and 'migrants' access to rights'. This study not only conceptualizes irregular migration in the Mediterranean as an externalized EU border problem, but also looks at the 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 increasing calls to halt irregular crossings at EU borders for the wider region, particularly for the people who suffer from policies and practices aimed at curtailing mobility into the EU. Especially in the context of current fatalities at the borders of the EU, the book provides a perspective on the conditions that have precipitated and, arguably, intensified the widely used notion of 'crisis' since the summer 2015. It does so by exploring what preceded the current 'migration governance crisis' at the external and internal borders of the EU.

I use the concept of 'governance' to refer to a multiplicity of actors and to policies as processes rather than end products. 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; consequently, governments are not the only rule-making authorities (Betts 2011: 4). Meanwhile, the distribution of power and resources among 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. Existing research has explored changes in the legal framework and the emergence of rudimentary immigration regimes in both Turkey and Morocco (Elmadmad 2011; Kirişçi 2009). Little has been written, however, on how migrants themselves are influenced by changing policies and practices and how these practices are negotiated on the ground.



As two countries at the periphery of the EU, Turkey and Morocco have been subjected to the externalization of EU migration policies. In this context, a growing body of literature on EU migration controls, particularly 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). Since the early 2000s, Turkey and Morocco have increasingly been 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 Yüксеker 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<sup>2</sup> have before reaching Europe (Collyer 2007; Suter 2012; Danış, Taraghi and Pérouse 2009). Even less research has explored the link between emerging forms of governance of irregular migration at the periphery of Europe and migrants' experiences of informal incorporation from a comparative perspective.

This book aims to address how legal frameworks produce migrant illegality in new immigration contexts, in which international politics applies pressure in order to govern unauthorized human mobility. 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 (Menjívar 2014). Given the recent changes to migration policies within the EU and new restrictions on mobility along EU borders, the book 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 only recently become a subject of governance, have been subjected to geopolitical pressures to stop irregular border crossings into the EU; they provide underexplored ground for re-thinking the processes through which migrant illegality has been produced, experienced, negotiated, and contested. To fill this gap, this book looks at how migrant illegality

2 While the book 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.

influences migrants' participation in economic, social, and political life, as well as how migrants challenge their 'illegal' legal status at the individual and communal levels.

By focusing on Turkey and Morocco as new immigration countries, the research brings together two levels of analysis; institutional, policy-oriented analyses on the impact of the external dimensions of EU migration control policies, one the one hand, and sociological analysis on migrant experiences of uncertain legal status on the other. The book addresses the missing link between migration governance and migrants' incorporation at the periphery of the EU in order to understand how irregular migrants seek legitimacy, while policies make them illegal.

This introductory chapter provides the overall conceptual frame for the following chapters of the book and details the methodological approach. The first part of the chapter reviews analytical tools to understand the processes through which irregular migrants are rendered illegal and subject to state controls; it looks at different ways in which irregular migrants participate in socio-economic life and negotiate their presence within economic, political, and legal structures despite their illegality. The second part elaborates on the methodological approach, where I discuss the logic of a comparative research design, the multi-layered data collection process, and the challenges of conducting fieldwork in two different contexts, the ethical issues emerging from my fieldwork experience.

## **1.1 Researching irregular migration as 'migrant illegality'**

The term irregular migration generally refers to the presence of migrants in a given territory without authorization by the sovereign state. Irregular migration is more complex than crossing borders without the necessary documents. 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 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 authorized hours. An irregular migrant can also be a former asylum seeker whose application for refugee status was rejected. Despite the 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). Given the permeability between the categories of irregular migration and asylum and the malfunctioning of the asylum system, migrants

may fluctuate between different legal and policy categories such as transit migrant, irregular migrant, or asylum seeker (Collyer and De Haas, 2012).

Considering this legal complexity, terms such as ‘irregular’ (with no regular/legal status), ‘undocumented’ (without the appropriate papers), and ‘unauthorized’ (without legal permission for entry, stay, or work) migration are used interchangeably to denote various facets of the wider phenomenon. Scholars are widely critical of the use of the term ‘illegal migrant’ or ‘illegal migration’, based on the simple notion that a person cannot be illegal (Van Meeteren, 2014: 18). The term ‘illegal’ reproduces state categories, portraying migrants as scapegoats rather than highlighting policies constructing migrants as ‘illegal subjects’. This study uses the term ‘migrant illegality’ purposefully to centralize migrants’ experience of lack of status and to reveal the meanings attached to the lack of status by different actors.

‘Migrant illegality’ as the central concept of my inquiry relies on Willen’s conceptualization of the term: ‘first, as a form of juridical status; second, as a socio-political condition; and third, as a mode of being-in-the-world’ (Willen 2007a: 8). Following this tripartite definition, the research deals with three bodies of literature 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 participation in society, and migrant political agency and other ways-of-being. The latter includes social movements literature that particularly focuses on cases of migrant mobilization despite their lack of political recognition.

### **How migrant illegality as juridical status is produced**

The emergence of irregular migration, including transit migration as one form of mobility unauthorized by states, cannot be explained purely 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 very existence of migration policies produces 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). 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).

The production of migrant illegality has been sustained through certain tactics of governmentality (De Genova 2004: 165; Willen 2007a: 13). These tactics range from deploying statistics/estimations of the presence of unauthorized non-citizens within the national territory to framing the phenomenon in particular ways representing irregular migrants as villains. 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 and criminal laws reinforces the image of irregular migrants as a security threat to the nation and the social order. The criminalization of migration may go as far as classifying 'migration as a crime, penalization of humanitarian aid, criminalization of undocumented work' (Estévez 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.

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; Peutz and De Genova 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 marginalization of irregular migrants and reinforces their political exclusion.

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 due to 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 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'.

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 had a significant impact on 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.

### **Irregular migrants and subordinate incorporation**

The literature on incorporation emphasizes that it is a process of inclusion into social life even in the absence of recognition from the state (Cvajner and Sciortino 2010: 398; De Genova 2004: 171). The divergence between law as written and law as practiced enables the presence of irregular migrants in formal and informal structures in society, otherwise known as 'semi-autonomous social spheres' (Moore 1973). Different terminology, such as 'legitimate presence' (Coutin 2003), 'liminality' (Menjívar 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-Masareñas 2014), and 'integration in limbo', referring in particular to the case of transit spaces, (Danış, Taraghi and Pérouse 2009), has been proposed to explain this process. The book uses the term subordinate incorporation or informal incorporation to refer to the various processes that migrants such as André or Harun participate in, despite not being full members of society and in the absence of formal procedures.

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 as a socio-political condition is

shaped by discourses, institutional practices, and day-to-day interactions between migrants and state as well as non-state actors (Willen 2007a; Bommès and Sciortino 2011; Villegas 2014: 278). Research has underscored tensions between legal, institutional mechanisms excluding 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.

One important mechanism of what might be called informal incorporation stems from the gap between written laws and their implementation; in other words, the distinction between legal and social meanings of irregular migration (Bommès 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 considered more illegal, and the presence of some migrants is perceived as 'legitimate' regardless of their legal status (Kubal 2013). 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, 2011; Kubal 2013). Hence, it is necessary to consider migrants' own experiences of inclusion and exclusion in depth to reveal 'local configurations of "migrant illegality"' (Willen 2007b: 3).

Discourses of control do not always coincide with actual practices that are often 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 occur, 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. Chapter 4, for instance, talks about the urban labour market in Istanbul. 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 in 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 by national and international law. In such contexts, in which unlawful deportation practices are widespread and officials on the ground are resistant to granting status and rights to migrants, the possession of legal status may fall short of protecting migrants. What is even more striking than the suspension of law (in contexts in which laws are easily suspended) is the arbitrary implementation of law and the unpredictability of its outcome. This research 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.

What is called subordinate incorporation 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. In other words, using sociological research on irregular migrants' subordinate forms of participation in society, the research explores how this external border closure interacts with labour market conditions in so-called transit spaces.

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, become clients of humanitarian support, and participate in advocacy networks through (ethnic or religious) community-based mobilization (Cvajner 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 theorize how contextual factors at international, national, and local levels impact ‘migrants’ individual and collective experiences of being-in-the-world’ (Willen 2007a: 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 characterized by widespread informality (De Genova 2002: 439; Calavita 2005; Ahmad 2008; Villages 2014; Bloch and McKay 2016). The precarious work and exploitation it entails can be a form of migrant incorporation into social and economic life alongside other underprivileged 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). Regularization 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. Ironically, such campaigns require migrants’ illegal presence to gain legal recognition (Coutin, 1998: 916-7). Garcés-Mascareñas’ critique further emphasizes 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). With reference to neoliberal citizenship, where the latter is conceptualized as an earned status, incorporation into the labour market has been perceived as grounds for legal incorporation. In other words, it is not necessarily the fear of deportability, but the prospect of being regularized, through work but also through other means, that becomes a disciplining factor for migrants and impacts their incorporation styles (Chauvin and Garcés-Mascareñas 2012; 2014). 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. Meanwhile, there has been less research into the conditions under which labour market participation underpins migrants’ quest for rights (Barron et



al. 2011, 2016). 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.

In addition to the economic sphere, migrant illegality has also been negotiated through formal institutions. As a consequence of the lack of legal status, public services constitute one of the main sites of exclusion for irregular migrants (Bloch and McKay 2016: 155-157). In contrast to this general view, previous research has revealed how undocumented migrants' rights have been extended through bureaucracy, before they have gained political recognition, in a process referred to as 'bureaucratic incorporation' (Marrow 2009) or 'bureaucratic sabotage' (Chauvin and Garcés-Mascareñas 2014: 424). This occurs in the daily acts, mostly by street-level bureaucrats (Lipsky 1980), who recognize migrants' legitimate right to access certain fundamental services. Without generalizing bureaucracy, Marrow (2009) suggests that, in the US context, most inclusionary practices towards newly arriving immigrants occur at the level of hospital emergency rooms and public elementary schools. Wilmes (2011: 130) uses the term 'useful illegality' to designate 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 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 whether they possess the necessary (asylum) papers has become the basis for most humanitarian organizations' legitimization 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 elderly migrants. It is shown that when civil society provides services to irregular migrants, directly or indirectly, this substitutes for public welfare institutions and plays a role in reinforcing informal membership practices (Ambrosini 2013: 44; Taran and Geronimi 2003: 20). It is suggested that, by becoming beneficiaries of services, migrants are subjected to regularization from below (Nyers and Rygiel 2012). Therefore, the processes that enable access to fundamental rights demonstrate 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 literature on 'street-level bureaucracy' in the context of migration controls (Van der Leun 2003: 28-29). Yet, a number of questions remain unanswered: Who benefits from this inclusion, which I will call 'street-level advocacy'? Who is left out? Under what configurations of illegality are irregular migrants conceptualized as legitimate clients/objects of humanitarian aid or rights-bearing political subjects?

### **Migrants as political actors?**

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 and negotiate the stigma of illegality imposed upon them, and claim legal status through collective action and/or individual tactics. Social movements literature in relation to migrant illegality provides an opening for understanding the implications of concerted actions of irregular migrants for membership, even in less liberal contexts.

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*)

Following Krause's reading of Arendt, the book conceptualizes the mobilization of migrants seeking political recognition as a form of incorporation into society. In this light, this section treats irregularity as a potentially reversible status. From this perspective, I discuss individual tactics and strategies of mobilization at the communal level, looking at how migrants negotiate their irregular status within these formal, semi-formal, and informal institutions. Highlighting the contrast between André's and Harun's trajectories to legalize their status, I question the conditions under which migrants actively seek the 'right to have rights', to become political subjects, and those which lead them to opt out of formal membership (i.e. legal status or citizenship). This is a puzzle to be explored further in the empirical chapters.

Exclusion from the political community, the risk of deportation, hostile discourses, and low prospects of being regularized may deter migrants from making rights claims and lead them towards further invisibility to decrease risks, but this also potentially increases vulnerability. Meanwhile, restrictions on mobility across borders and non-citizen access to status and rights have been challenged from the grass roots (Nyers and Rygiel 2012: 7; Nicholls 2014). Paralleling the politicization of irregular migration, and immigration in general, mobilization for the rights of irregular migrants has gained momentum in the developed world in recent decades (Nicholls 2013; Tyler and Marciniak 2013). Notably, migrants themselves have become part of these movements, despite the high risks involved. (Raissiguier 2014; Nicholls 2014).

The literature on the immigrants' rights movement discusses reasons for mobilization, as well as its mechanisms in terms of repertoires of mobilization, internal organization, and coalitions with other movements (Chimienti 2011; Tyler and Marciniak 2013; Mc Nevin 2012). Repertoires of resistance range from migrants' active use of social media, raising awareness about 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, criticize the legitimate authority of the state by arguing that the deeds of the state vis-à-vis migrants may be within the law, but they conflict with other general principles, or by revealing the cases in which states have resorted to unlawful activities to get rid of irregular migrants (Kalir 2012: 48). Protests mainly problematize the taken-for-granted distinction between citizen and non-citizen (Tyler and Marciniak 2013: 147; McNevin 2006). Their presence within the territory and the simple claim that 'we are here' become legitimate grounds for migrants to ask for protection from violence and for their recognition and rights (Krause 2008: 342). Migrants' mobilization may occur in ethnicity-based solidarity groups, sectoral groups, or issue-based groups centred around the issue of lack of legal status or xenophobic violence/discrimination (Nicholls 2013; McNevin 2006, 2012; Raissiguier 2014). As explained in Chapter 3, issue-based mobilization centred on deportations and racist violence has prevailed in the case of Morocco.

Studies have long employed the political opportunity structures (POS) approach, prioritizing the institutional environment to explain collective actions by migrants (Laubenthal 2007; Chimienti 2011; Nicholls 2013). Acknowledging the importance of pro-migrant actors and the importance of institutional factors, Però's and Solomos' (2010) review makes two substantive critiques that underscore my findings on irregular migrant mobilization in the case of Morocco. First, they argue that research using POS as the main

explanatory factor has put insufficient emphasis on lived experiences as a key reason for migrants associating among themselves. They rightly point out other issues, such as political socialization, background, networks, and social capital of migrants, as key factors. Second, they explain that there is a need to include transnational opportunity structures in analyses of institutional contexts and pro-migrant rights alliances (Però 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 mobilize and advocate for their rights (Cvajner and Sciortino 2010). Undocumented migrants need the support of citizens to further their interests (Breyer and Dumitru 2007: 138), to recognize political opportunities available to them, and to provoke reactions from other actors in the field (Bröer and Duyvendak 2009). Indeed, political mobilization by migrants themselves and by pro-migrant activists go hand in hand; one important component of mobilization is the forging of 'unexpected alliances that migration creates' (Coutin 2011: 302). One emerging hypothesis from migrant mobilization literature, to be tested through comparative case analyses, is whether it is less likely for irregular migrants to mobilize among themselves without the support of a pro-migrant rights movement.

As articulated by Tyler 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 politicized and actively seek recognition, cases of non-mobilization are equally important. Visibility and representation carry risks of exposure to state control (Tyler and Marciniak, 2013.), and therefore mobilization may not always be desirable for irregular migrants. Chimienti's (2011) comparative study analyses POSs 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' mobilization and also influences pro-migrant rights actors. The case of Paris, where regularization campaigns and labour market opportunities have become increasingly exclusionary, is an example of mobilization that extends beyond ethnic ties around the issue of irregularity (2011: 1343). From a comparative perspective, migrants' mobilization 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 and a lack of interest from non-governmental organizations (NGOs), which are focused on asylum-related issues rather than irregular

migrants, are factors contributing to irregular migrants' lack of mobilization (Chimienti, 2011: 1348). While Chimienti's comparative lens is useful, my research goes one step further by exploring the link between mobilization, that is being politically active as a mode of being-in-the-world, and other incorporation styles, in relation to other aspects of migrant illegality as a 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 Sciortino 2011: 224-5). At this point, it is necessary to explore the manifestations of migrant illegality that lead irregular migrants to opt for or against the risks involved in mobilization.

### **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 emphasizes, '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.

To avoid the attention of authorities and the possibility of deportation, migrants avoid petty crimes and neighbourhood or workplace conflicts (Chauvin and Garcés-Masareñas 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 Dumitru 2007: 139-140). At the same time, as theorized by Chauvin and Garcés-Masareñas (2014), the term invisibility falls short in terms of depicting migrants' ways of being-in-the world. It is rare for irregular migrants to have absolutely no contact with public institutions and civil society organizations (CSOs) that provide welfare services and do advocacy work on their behalf; they are rarely fully undocumented. A considerable portion of irregular migrants (certainly legal entrants) holds passports, entry documents, and identity cards from 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, driving licence, birth certificates for their children, asylum application documents, etc. Forged documents may also ensure a 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 legal status through their own efforts, for example by convincing employers to apply for necessary work permits, applying for student residence permits by enrolling in schools, or through marriage. When there is a prospect for regularization, migrants are especially active in negotiating their presence by being 'visible enough' without becoming 'too visible' (Chauvin and Garcés-Mascareñas 2012: 252).

Using this conceptual toolbox, the book will unpack the interconnection between immigration policies, migrant incorporation styles, and irregular migrants' tactics to access rights and legal status. Regarding migrant illegality as a 'way 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 Harun and of André, the book explores how migrants of irregular legal status in Morocco have managed to raise political demands for their entitlements to rights and legal status despite stigmatizing and hostile contexts. Conversely, it questions how irregular migrants in Turkey have become *de facto* members of 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 legitimize their presence. Furthermore, I question the extent to which migrants' political claims for legal status depends on their presence in the labour market.

## **1.2 Researching migrant illegality in new immigration countries**

Contributing to existing literature on migrant illegality and on irregular migrant incorporation, 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. 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 book aims to inform more general discussions and theories of how and through which mechanisms marginalized and legally excluded groups gain legitimacy.

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 theorization on forms of migrant illegality. The case selection is based on the two countries' similar emigration histories, directed towards Europe since the second half of the twentieth century, and on their similar geographical locations at the periphery of Europe, a factor that makes them *de facto* lands of immigration. I use the phrase '*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.

First, I have looked at the migration regimes characterized 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 and Morocco, at the periphery of Europe, as well as Mexico in the North American context, are good examples for observing foreigners who were once considered licit despite lacking the necessary papers to stay, work in the country, or passing through the country. 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 in which foreigners in irregular situations are additionally categorized as 'transit', based on their alleged intention to leave for their final destinations. Hence, the category of 'transit' further complicates the production of migrant illegality and further excludes migrants without legal status from the political sphere of membership in the contexts under scrutiny. Therefore, researching irregular migration in contexts characterized with transit (im)mobility would require the analysis of the production of migrant illegality at an international level.

Second, I have conceptualized 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 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 migrants. Another related, open-ended question is whether 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 2007a), seek to legalize their status, and, at times, get mobilized and forge alliances to claim their rights to legitimately reside in the territory (Laubenthal 2007; Nicholls 2013). Research has indicated links between configurations of migrant illegality, irregular migrants' incorporation experiences, as well as their experiences of political mobilization (Willen 2007a, 2007b; Laubenthal 2007). However, more research and analytical reflection are needed on the conditions under which experiences of marginalization may or may not lead to mobilization. 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 theorization of the link between the governance of irregular migration and migrants' incorporation, reflecting on the relationship between control and recognition: 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 mobilization? The conceptualization of settings within which migrants are incorporated, as transit rather than destination, would impact the relationship between control and recognition.



### 1.3 Comparative research design and case selection

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 it, 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 the cases under scrutiny are comparative, how the data is collected, the challenges involved in conducting research in two field sites, as well as the ethical challenges involved in research with vulnerable populations.

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 Ratfish 2013; Papadopoulos, Stephenson, and Tsianos 2008: 165). In terms of the generalizability 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 relation to the EU. More specifically, they have common historical transition patterns that saw them change from countries sending labour migrants to Europe into lands of destinations (İçduygu and Kirişçi 2009; de Haas 2014). Moreover, both countries receive similar types of flows in terms of transit migration, asylum, labour, student, and retirement migration, albeit from different source geographies, as explained in Chapter 2. 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 novelty and 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, and 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 a governance issue and rendering migrants illegal subjects before the law. In other words, 'state simplifications', to use James 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 countries 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 emerged as a subject of governance in similar terms at around the same time. Given their changing roles from migrant-sending countries to countries that act as gateways 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.

#### 1.4 Data collection

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 brought 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 regretted 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 during initial visits affected my data collection strategies for later visits. Dividing the fieldwork time provided me with the necessary mindset 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 between 2000 and 2014, a period when irregular migration became 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 conceptualization 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 were selected in order 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 the legal construction of illegality 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 particularly prevalent in Morocco. In Turkey, in theory, anyone 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, which gave an indication of 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, there was an evident need to go beyond official state perspectives. In order to understand the functioning of laws,

I conducted expert interviews with state officials and representatives of international organizations and NGOs, with 22 institutions in Morocco and 17 institutions in Turkey. Informants included law makers and high-/mid-level bureaucrats dealing with issues of immigration, and representatives of international and national NGOs and inter-governmental organizations.<sup>3</sup>

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 migrant profiles 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, irregular migrants, asylum seekers, and refugees. In Turkey, most of the interviews took place on the eve of the new Law on Foreigners and International Protection (LFIP) was introduced and came into force. Consequently, I asked informants explicit questions about their 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. However, follow-up interviews in March and May 2014 not only complemented earlier interviews, but also enabled me to grasp the changing policy discourse. In both contexts, while some state officials would simply repeat what was 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 in revealing and comparing the local and institutional dynamics in the implementation of laws in both countries. Interview findings are triangulated with observations in public meetings organized by state institutions and/or civil society. To complement interview data, especially in the case of lack of access to certain institutions, I analysed institutional documents (press releases, reports, etc.) and media outlets, including public statements by 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 in Turkey, because irregular migration has not been on the agenda of trade unions in Turkey, unlike in Morocco where they were approached for interviews. Similarly, migrant organizations have been either formal ethnic associations established by

3 See Tables 1-2-4-5 for more information on stakeholders interviewed.

migrants who have acquired citizenship and/or ethnicity-based informal solidarity networks. Including their members as informants in Turkey would require doing the same in Morocco, which would mean 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 organizations 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 interviews without any intermediaries at the institution. 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. By scanning news outlets in Francophone Moroccan media – I do not have the language skills to scan the Arabophone media – I was able to document official statements since the department's establishment in 2003. Additionally, my participation in policy meetings organized 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, catching up with others already interviewed, and even 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, i.e. undocumented, (rejected) asylum seekers, and overstayers – mostly persons moving between legality and illegality – were conducted in each country. In parallel with the expert interviews, the migrant interviews probed four major issues around migrant experiences of illegality: (i) controls by authorities; (ii) labour market situation; (iii)

access to fundamental rights; and (iv) political mobilization and other tactics to reverse illegality or to negotiate visibility. Interviews revealed migrants' own accounts of their illegality, their experiences of deportation and settlement, as well as the social and legal mechanisms available to them to gain access to rights and legal status.

I had to be careful and strategic in building trust relations with (potential) informants and in remunerating both gatekeepers and informants. With the help of other researchers or migrants that I met through these researchers, I started 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 talk with migrants and locals. I had the chance to hire foreign students as research assistants in both Rabat and Istanbul. These students live in migrant neighbourhoods and/or are familiar with different migrant communities. Gatekeepers were particularly helpful in neighbourhoods that can be unsafe for a young woman, especially after dark. However, the presence of an intermediary also had the potential to cause informants to self-censor. Once I familiarized 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 talking 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 (in comparison to Morocco) and were reluctant to talk to strangers. Conversely, the migrants I met, especially in Rabat, were willing to talk even after initial encounters. While the problems that arose in each context were different, the issue of access was present in both.

The snowball technique, which is recognized as an appropriate way to access 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 starting points to achieve diversity among informants in terms of country of origin, legal status, demographic factors, and tightness of their connection to institutions. Needless to say, my main aim was to interview migrants without authorization 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

difficult to distinguish whether one is a potential asylum seeker, an asylum applicant, an economic migrant with no papers, or a residence permit holder without doing in-depth interviews. Interviewees were informed about the research and they participated on a voluntary basis. Rather than financial remuneration, I provided some of them with necessities. For example, I invited them to eat with me, and I gave them small gifts (food, fruits, desserts, milk or toys for their children, chocolates on special days, etc.), especially when they invited me to their homes.

In total, I interviewed 35 migrants (16 women and 22 men) in Morocco and 30 migrants in Turkey (16 women and 14 men).<sup>4</sup> 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 on social and economic capital (Cvajner 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, dependent on how much time the migrants had available. In some cases, I had the chance to conduct several interviews. I conducted interviews in French, English, and Turkish. In Morocco, all the migrants encountered spoke either English or French. In Turkey, I asked my gatekeepers to act as translator in seven interviews because informants were either unable to speak Turkish, or felt more comfortable expressing themselves in their native language despite their understanding of Turkish. To ensure continuity in the narrative, some of the interviews are quoted more often in the empirical chapters. This is not to prioritize experiences of some over others, but rather because they articulate a common pattern more concisely than others. Moreover, some experiences extracted from interviews and observations are summarized without direct quotations.

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. In addition, whenever possible, I engaged in small talk with locals in neighbourhoods where migrants reside to grasp local perceptions of the presence of foreigners.

4 See Tables 3 and 6 for information on basic information on migrants interviewed in the two contexts.



## Ethical issues and negotiating resources

Ethical measures have been taken to protect human subjects directly or indirectly participating in the research. As required by the Koç University Ethical Board, the informed oral consent of all informants was gained beforehand, and interviews were tape-recorded only when they consented. I had to make strategic decisions on the issue of recording. Rather than recording the interviews with state officials, I preferred to take extensive notes during most interviews both in Turkey and Morocco. The issue of recording was much less problematic with civil society representatives. Interviews took place in a friendly atmosphere, even when I asked critical questions regarding Turkish NGOs' neglect of the question of irregular migration or regarding 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 ensured 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 are sensitive. 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 from that institution.

Regarding interviews with migrants, the interviewee would decide whether or not to record the conversation. Every time I felt any hesitation from the side of the informant, I put the recorder away and preferred to take extensive notes instead of making a recording. In contexts in which 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 waited to ask more specific questions at the conclusion of the interview. I did my best to show my appreciation for the information they provided, even though I sometimes had the feeling that some aspects of the stories were not true. I tried to probe inconsistencies. 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 my interview notes were kept securely. The material was made anonymous, coded, and managed using N-Vivo software. While transcribing interviews, I made clear notes on what

issues had not been raised by the informants, as well as those subjects they preferred to bring up without prompting. 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 interviewees was ensured by keeping any possible information that may identify interviewees out of the analysis. Keeping informants anonymous is a crucial component of ethics in this research as the individuals involved 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 the two field sites. During my fieldwork in Morocco, the extent to which my gender and ethnicity shaped my experience in the field became clear. Everyone was interested in the fact that I was from Turkey, and this was definitely more interesting than if I were American or European. At the level of institutions, people were asking questions about life and the situation in Turkey, as Turkish TV serials are shown on Moroccan channels, and Turkey had become a popular destination for the Moroccan middle class. 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 was able to meet some officials because I was a foreigner who had 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. I also faced ethical dilemmas as I was seen as a person capable of helping irregular migrants get documents such as asylum papers, residence permits, or visas. I had to clarify that I was not connected to an authority that could grant them papers, but I was open to helping with paperwork such as translation, writing petitions, or dealing with bureaucracy.

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 feared that migrants in Istanbul may not be opening up to me, whom they consider an insider, as much 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 is challenging without intermediaries. Because of the long work hours of the majority of informants, most interviews took place during weekends. I showed respect and appreciation for being able to conduct 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 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 regularization of undocumented migrants were at their peak and when there was no apparent prospect for improvement. Between this time and the launch of the regularization 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. 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, social media enabled me to follow the mobility of individuals across borders.

## 1.5 Mapping the book

Chapter 1 framed the conceptual and methodological tools that I used in my study. I sketched out the theoretical implications of the production of migrant illegality and migrants' incorporation for new immigration countries. The chapter raises 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 elaborated on the methodological approach.

In line with the main theoretical, methodological, and empirical motivations of my research, the rest of the book is structured in five chapters. Chapter 2 explores how the international context contributes to the production

of migrant illegality in new immigration countries and also reflects on domestic factors. The chapter describes the external and internal dynamics through which irregular migration has become a policy concern. The impact of the international context, mainly 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. 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 3 and 4 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 practices on the ground 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 provide an empirical answer to the sociological question that the book addresses: 'How do migrants seek legitimacy and access rights and legal status, as nation-state policies and practices make them illegal?' Chapters 3 and 4 are structured as mirror chapters to enable interested readers to cross-read sub-sections. I explain each country case separately to enable the reader to follow the interaction among 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 3 and 4, Chapter 5 is a systematic comparison of the production of migrant illegality and irregular migrants' experiences of incorporation at the periphery of EU borders. The chapter argues that the production of migrant illegality arguably gave rise to different forms of incorporation despite the similar international context that led to the production of migrant illegality at the edge of European borders. Thus, Chapter 5 refines the findings of my research by explaining the prevailing forms of economic, social, political, and legal incorporation in both contexts. After sketching the major differences in migrants'

experiences of incorporation (without overlooking similarities), Chapter 6 (the concluding chapter) refers back to theoretical and empirical puzzles that were introduced in Chapter 1 on different aspects of migrant illegality. As discussed in the concluding chapter, the research findings are prone to generating hypotheses for further studies on migrant illegality and on the incorporation of irregular migrants in new as well as old immigration countries.