The governance of international migration in Turkey and Morocco: Irregular migrants’ access to right to stay

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

How migrant illegality is produced?
How does it impact migrant incorporation and their quest for rights in the new immigration context?
How do I use comparative methodology and qualitative methods to answer these questions?

Conceptual Framework

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

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

The majority of research on irregular migration in new immigration countries at the periphery of the EU either provides macro level policy oriented studies that review changing the legal and political framework or micro analyses of migrant livelihoods, focusing on how irregular migrants cope as a stigmatised and vulnerable group. A third category of research on the subject includes increasing numbers of semi-academic but more policy-oriented reports on human rights violations and migrants’ (denial of)
access to rights. There is an accumulation of knowledge on changing policies, migrants’ participation in socio-economic life and rights violations by different disciplines, even in diverse academic and non-academic fields. Meanwhile, few studies explain the linkage between immigration policies, migrants’ presence in socio-economic life or their strategies to gain access to rights.

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

2.1 Legal Production of Migrant (Il)legality

Irregular migration is often a complex phenomenon, juridically defined as the existence of non-citizens breaching the border, residence and employment regulations of nation-states. The term irregular migration generally refers to the presence of migrants in a given territory without authorization of sovereign states. Irregular migration is more complex than crossing borders without the necessary documents. An immigrant who is staying in a country legally with a residence permit may be considered an irregular worker if he/she is working without the necessary permits or
beyond the hours he/she was authorised. An immigrant with genuine entry documents such as a tourist visa could be living and/or working within the country with no legal status. An irregular migrant can also be a former asylum seeker whose application for refugee status was rejected. Given this legal complexity, terms such as “irregular” (with no regular/legal status), “undocumented” (without the appropriate papers) and “unauthorised” (without legal permission for entry, to stay or to work) migration are used interchangeably to denote various facets of the wider phenomenon. Despite categories of legal and illegal fixed by law, people with no status may acquire a legal status just as legal entrants or legal workers may fall into irregularity (Cvajner and Sciortino, 2010: 214; Villegas, 2014).

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

The production of migrant illegality has been sustained through certain tactics of governmentality (De Genova, 2004: 165; Willen, 2007: 13). These tactics, representing irregular migrants as villain, range from deploying statistics/estimations of the presence of unauthorised non-citizens within the national territory to framing the phenomenon in particular ways. Politically, reducing irregular migration to a technicality of numbers (of arrests, deportations) and to security budgets may serve to represent the issue within the sphere of national security and criminality. The convergence of immigration law with anti-terrorism laws and with criminal law reinforces the image of irregular migrants as a security threat to the nation and to social order. The criminalisation of migration may go as far as classifying “migration as a crime, penalization of humanitarian aid, criminalization undocumented work” (Estevez, 2012: 176). At times, irregular migration is equated with particular spaces or types of law breaking such as illegal border crossings or with particular ethnic groups.
of migrants. For instance, De Genova gives the example of racialisation in the use of the word “Mexican” as a synonym for illegality in the American context (De Genova, 2002: 439).

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

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

2.2 Migrant illegality in practice and informal incorporation

As articulated in socio-legal studies, it is the law itself that produces “illegality”, which undermines the human rights of migrants and reinforces their vulnerable position in society (De Genova, 2004; Calavita, 2005). Here, one needs to take into account social as well as legal meanings of migrant illegality. In this sense, migrant illegality is shaped by discourses, institutional practices and day-to-day interactions between migrants and state as well as non-state actors (Willen, 2007; Bommes and Sciotino, 2011; Villegas, 2014: 278). Research has underscored tensions between legal, institutional mechanisms and their exclusionary practices that exclude migrants without legal status from the political community and migrants’ de facto presence in the labour market, within welfare arrangements and at times in political movements.
Hence, it is necessary to consider migrants’ own experiences of inclusion and exclusion in depth to reveal “local configurations of migrant ‘illegality’ and ‘irregularity’” (Willen, 2007b: 3).

Deportability in practice

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

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

**Migrants in the economy: informal but legitimate?**

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

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

A widely considered economic consequence of irregular migration is the fact that migrants’ deportability renders them more vulnerable to exploitation in the labour market, especially in countries and specific sectors that are characterised by widespread informality (De Genova, 2002, 439; Calavita, 2005; Ahmad, 2008; Villages, 2014). The precarious work and exploitation it entails can be a form of migrant incorporation into social and economic life and amongst other unprivileged segments of society such as unskilled legal migrants, ethnic minorities and other underclass
groups within urban economies. The informal economy constitutes one important mechanism of inclusion for irregular migrants as well as a potential way out of their illegality. Several studies have shown the implications of the absence of legal status with respect to precarious forms of labour market participation and irregular migrants’ right to stay.

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

\textbf{Recognition through access to fundamental rights?}

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

\textsuperscript{\textsuperscript{4} There is a similar logic in the regularisation campaign in Morocco implemented throughout 2014 as discussed in Chapter 3.}

\textsuperscript{\textsuperscript{5} The involvement of a trade union in Morocco in immigration issues strengthened migrants’ cause in seeking legalisation. I will come to this issue in Chapter 4, Section 4.4.}
the provision of services to undocumented migrants under the rubric of a larger target group (people with no health insurance) in Germany. In Wilmes’ analysis, providing healthcare to migrants without checking documents is illegal but useful, as it serves the general interest of the public health and matches the ethical duty of treating a person in need of healthcare. Similarly, providing services to asylum seekers in need of protection regardless of the fact that they possess asylum papers has become the basis for most humanitarian organisations’ legitimisation of their services to irregular migrants (Coutin, 1998: 908). The practices of bureaucratic incorporation show that migrants’ access to institutions enabling fundamental rights may even constitute a mechanism of incorporation in contexts that are defined by economic and social exclusion.

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

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

*Migrants as political actors?*

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

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

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

Studies have long employed a political opportunity structures (POS) approach, prioritising the institutional environment for explaining collective actions by migrants (Laubenthal, 2007; Chimienti, 2011; Nicholls, 2013). Acknowledging the importance of pro-migrant actors and the importance of institutional factors, Pero and Solomos’
(2010) review makes two substantive critiques that underscore my findings on irregular migrant mobilisation in the case of Morocco. First, they argue that research using POS as the main explanatory factor has put less emphasis on lived experiences as a key reason that migrants associate amongst themselves. They rightly point out other factors such as the political socialisation, background, networks and social capital of migrants. Second, they explain that it is the necessity to include transnational opportunity structures in analyses of institutional contexts and pro-migrant rights alliances (Pero and Solomos, 2010: 9-10).

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

As articulated by Taylor and Marciniak (2013: 152), “it is of critical importance that we examine the ways in which irregular migrants and their allies negotiate the contradictions, losses and gains of in/visibility in their interactions with sovereign power”. While existing research mostly analyses where immigrant subjects are politicised and actively seek recognition, cases of non-mobilisation are equally important. Visibility and representation bear risks of exposure to state control (Tyler and Marciniak, 2013: 152), and therefore mobilisation may not always be desirable for irregular migrants. Chimienti’s (2011) comparative study analyses political opportunity structures for immigrants’ rights movements in three European cities. Chimienti argues that not only restrictions but also a shift in state practices from tolerance to restriction is a factor in migrants’ mobilisation and also influences pro-migrant rights actors. The case of Paris, where regularisation campaigns and labour market opportunities have become more and more exclusionary, is an example of mobilisation that extends beyond ethnic ties around the issue of irregularity (Chimienti, 2011: 1343). From a comparative perspective, migrants’ mobilisation is more scattered and more ethnically divided in the case of London, where illegality regimes generate interstices for tolerance and legitimacy. In the case of Copenhagen, invisibility, the lack of interest from NGOs that are more focused on asylum related issues than irregular migrants are factors contributing to irregular migrants’ lack of mobilisation (Chimienti, 2011: 1348). While Chimienti’s (2011) comparative lens is useful, my research goes one step further by exploring the link between mobilisation, as a mode of being-in-the-world and other incorporation styles, in relation to other
aspects of migrant illegality as juridical or socio-political condition. Irregular migrants may activate alternative “social resources that compensate for the lack of inclusion in the political system” (Bommes and Sciortini, 2011: 224-5). At this point, there is a need to explore the manifestations of migrant illegality that lead irregular migrants to opt for or against the risks involved in mobilisation.

**Individual tactics**

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

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

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

Staying docile in the shadow economy and possessing genuine or forged identification papers (not necessarily the proper ones) allow migrants to stay under the radar until they have the opportunity to reverse their illegal status (Chauvin and Garcés-Mascareñas, 2014: 411). Migrants may get opportunities to acquire a legal
status through their own efforts for example through convincing employers to apply for necessary work permits, applying for student residence permits through enrolment in schools or through marriage. When there is a prospect for regularisation, migrants are especially active in negotiating their presence by being “visible enough” without becoming “too visible” (Chauvin and Garcés-Mascareñas, 2012: 252). In order to use this conceptual toolbox it is necessary to further unpack the interconnection between immigration policies, migrant incorporation styles and irregular migrants’ tactics to access rights and legal status.

2.4 Researching migrant illegality in new immigration countries

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

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

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

6 As articulated in Chapter 2, the use of the category of “transit country” serves to justify migrants’ protection needs.
is that the production of migrant illegality gives rise to a cheap labour force, readily exploitable in the labour market. In her comparative inquiry on the connection between market demands for cheap labour and rights constraints in Malaysia and Spain, Garcés-Mascareñas (2012: 31) suggests that whether the production of migrant illegality turns into the production of cheap, flexible labour is more of “an empirical question than a starting point of inquiry”. This empirical question is even more open-ended in the comparison of Turkey and Morocco as new immigration countries where the production of migrant illegality has resulted from the international contexts surrounding them, rather than an explicit demand and political will to receive immigration. Another related open-ended question is if the informal incorporation into the market provides a source of legitimacy for irregular migrants’ presence in the society and the extent to which labour force participation provides a basis for migrants’ quest for legal status, insofar as it is deserved through one’s contribution to the economy.

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

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

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

2.5 Case selection

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

I acknowledge that the selection of cases in comparative research is rarely completely neutral but rather is constructed (Green, 1994: 6). Earlier research on irregular migration in the Mediterranean pointed to Turkey and Morocco as comparable sites for looking at the impact of external dimensions of EU policies (Fargues, 2009; Scheel and Ratfisch, 2013; Papadopoulos, Stephenson and Tsianos, 2008: 165). In terms of the generalisability of my findings, the analysis does not claim that Turkey and Morocco are representative of peripheral countries that are subject to external dimensions of the EU migration control regimes. However, the case selection is likely to reveal the differential impact of EU border measures on the two nation-
state contexts most affected by these measures. Despite their differences in terms of the existence of colonial ties, the scale of their economies, state capacities and colonial regimes, there are certain key factors that have enabled the comparison of the two nation-state contexts. Most notably, these include their similar migration histories, as migrant-sending regions to Europe, their similar geopolitical positions and their relations to the EU. More specifically, they have common historical transition patterns from countries sending labour migrants to Europe into lands of destinations (İçduygu and Kirişci, 2009; De Hass, 2014). Plus, both countries receive similar types of flows in terms of transit migration, asylum, labour, student and retirement migration, albeit from different source geographies, which is further explained in Chapter 3. Another basis for the comparison between Turkey and Morocco is their geographical similarity. Both countries are located at the tightly controlled gates of Fortress Europe, at both ends of the Mediterranean, which has been identified with irregular migratory flows since the early 1990s. Their geographical similarity also makes them similar in their position towards external aspects of EU migration policies. Turkey and Morocco have become subject to similar pressure to control their EU borders. In their comparative work on the role of UNHCR in Turkey and Morocco, Scheel and Ratfisch (2014: 927) highlighted the fact that in both contexts, “migration has not been framed and treated as a ‘problem’ that needs to be regulated until a short-time ago”.

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

One direct implication of the new and external character of the issue has been the underdeveloped legal framework regarding international migration in general, irregular migration in particular. The legal frameworks on immigration in the two counties have gone through changes in the post-2000 period. Migration policies simultaneously represent a reaction to incoming flows of migrants and the external pressure to control these flows, with few concerns for migrant rights. In the cases under scrutiny, irregular migration has emerged as a subject of governance in similar terms at around the same period. Given their changing roles from migrant sending countries to countries that act as gates that control irregular migration, to sites of immigration management, both countries are constrained in the process of stopping irregular mobility flows to the EU and respecting fundamental rights.
Along with the geographical, political and historical aspects explained above, personal and practical reasons influenced the case selection. Being from Turkey and interested in irregular migration within Turkey has contributed to my focus. The selection of Morocco as a comparative case has arisen from my personal interests in the Mediterranean region. My fluency in French and already established relations with scholars working on Moroccan migration made Morocco a viable option for my comparative inquiry.

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

2.6 Data collection in two contexts

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

Dividing the fieldwork time had advantages as well as disadvantages. Morocco was a new terrain of research for me, and it took time to become familiar with the migrant scene as well as to introduce myself to different actors. During some of the interactions, I felt sorry for not staying in Rabat for longer periods to strengthen trust relations within migrant communities and activist networks and to better grasp the daily power relations in encounters with the state, as well as within the community. Aside from the practical reasons, dividing fieldwork time enabled me to travel back and forth, not only physically but also mentally between data collection, analysis and
literature review. Data gathered and pre-analysed at initial visits affected my data collection strategies at later visits. Dividing the fieldwork time provided me with the necessary mind-set to constantly compare and contrast the two cases. While conducting fieldwork and learning specific aspects of migrant illegality in Morocco, I always kept in mind the specificities of Turkey. One particular challenge was to keep the data collection process balanced in the two contexts. Differences in the contexts and in my subjective position as a researcher influenced my access to resources.

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

*Legal documents*

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

The access to official statistics was limited in both contexts, but such limitations were prevalent in Morocco. In Turkey, in theory, any person is entitled to make inquiries and ask for official data. In practice, I did not always get positive responses to
my inquiries, and the information received was not as detailed as requested. In the end, I was able to obtain statistics from institutions and from secondary literature, providing an indication on irregular migration in both contexts, although the data gathered may not always be comparable.

Expert interviews with state officials and civil society actors

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

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

Interview findings are triangulated with observations in public meetings organised by state institutions and/or civil society. To complement interview data especially in cases of a lack of access to certain institutions, I analysed institutional documents (press

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7 See Annex 1, Tables 1-2-4-5 for more information on stakeholders interviewed.
8 Looking at my data retrospectively, I could have put more emphasis on the functioning of street level bureaucracy and focused more on the perspectives of “street level bureaucrats” (van der Leun, 2003: 28-29) (such as the police, doctors and school presidents) along with high and mid-levels. This is a task I will save for my future research, which I hope to conduct in the context of the implementation of new policies in both contexts.
Regarding the selection of institutions interviewed, the primary criterion was explicit interest and expertise in the area of immigration and asylum. For instance, I did not approach trade unions because irregular migration has not been on the agenda of trade unions in Turkey. Therefore, I did not approach trade unions in Turkey for interviews like I did in Morocco. Similarly, migrant organisations have been either formal ethnic associations established by migrants who acquired citizenship and/or ethnicity-based informal solidarity networks. Including their members as informants in Turkey would require doing the same in Morocco, which is to say interviewing members from every single formal and informal ethnicity/e nationality-based migrant association. Instead, I limited my inquiry to associations making political demands on behalf of irregular migrants in general, rather than for particular ethnic groups. The visibility and accessibility of migrant organisations in Morocco and the invisibility of those in Turkey shaped the list of informants in both contexts.

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

Migrant interviews

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

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9 In a similar fashion with Şenses’ comparative research on irregular migration in Turkey, Spain, Greece (Şenses, 2012: 110).
moving between legality and illegality- were conducted in each country. In a parallel
vein to expert interviews, migrant interviews probed four major issues around migrant
experiences of illegality. These are 1. Policies controlling stay (deportability) 2. Labour
market situation 3. Access to fundamental rights 4. Political mobilisation to reverse
migrant illegality. Interviews revealed migrants’ own accounts of their illegality, their
experiences of deportation and settlement as well as available social and legal
mechanisms for them to gain access to rights and legal status.

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

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

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

\(^{10}\) Other researchers/ journalists confirmed that some informants are being used by researchers and were
already interviewed several times.
some them with necessities for example, I invited them to eat together, and I brought small gifts (food, fruits, deserts, milk or toys for children, chocolates on special days etc.), especially when they invited me to their houses.

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

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

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

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11 See Annex 1 Tables 3 and 6 for information on basic information on migrants interviewed in the two contexts.
neighbourhoods where migrants reside to grasp local perceptions on the presence of foreigners.

2.7 Ethical issues and negotiating resources

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

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

The recordings, their transcriptions and/or my interview notes were kept locked. The material was made anonymous, coded and managed using N-Vivo software. While transcribing interviews, I made clear notes on what had not been brought up by the informants as well as what they preferred to bring up without me asking. During coding, I generated explicit memos on my perceptions of what was willingly or reluctantly told to me. I did not use direct quotes from unrecorded
interviews unless my notes were clear enough that the statement was a direct quotation. The anonymity of the informants was secured by keeping all possible information, which may identify the informants, out of the analysis. Keeping informants anonymous is a crucial component of ethics in this research considering that the informants are either state officials, i.e. people in power positions or migrants i.e. people in vulnerable situations.

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

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

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

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

13 I also faced ethical dilemmas. One of them even asked me to write an invitation for him to be present at the Turkish embassy in Rabat for a visa application. Faced with an ethical dilemma, I had to tell him that I could not help him. The next time we met, he told me that Turkey is full of opportunities, and he wants to go there even with a few day visa to try his chances.
relations. Frequent contact has been crucial to understanding how migrants change legal status and gradually develop strategies to participate in socio-economic life, get legal status or arrange their future journeys and how these strategies might fail.

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

Conclusion

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

The literature on irregular migrants’ access to rights and legal status rarely focuses on contexts outside of North America and Western Europe (Sadiq, 2008; Garcés-Mascareñas, 2012). Going beyond traditional geographies of comparison in migration research, the research questions explore external and domestic dynamics in the production of migrant illegality. Going beyond state centric approaches to irregular migration, I explore the impact of this illegality on migrant experiences of subordinate incorporation and access to rights and legal status. Going beyond the focus on EU borders, the research provides a more comprehensive perspective than earlier research on the impact of EU migration control regimes on migrant rights at the periphery. Using the explanatory power of comparative studies, I aim to transpose the emerging discussions on migrant illegality, incorporation and legitimate access to right
to stay onto new immigration contexts. Like other researchers studying lived experiences of illegality, the researcher bears in mind a transformative social justice agenda without taking “nation-state and its interests at face value and as a point of departure” (Pero and Solomos, 2010: 11).