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

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Citation for published version (APA):

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

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

This chapter traces the interlinked processes of the production of migrant illegality and migrants’ experiences of incorporation in the case of Turkey. By exploring migrants’ experiences of deportability, participation in economic life and access to fundamental rights, I underpin processes of low levels of politicisation of immigration related issues in Turkey. As hinted in Chapter 3, I suggest that low level of politicisation, in the general sense that immigration is not considered high in public
policy agenda, has not only characterised irregular migration governance, but also migrant incorporation in Turkey. My findings aim to build causal relations between three separate empirical observations that emerge from research on irregular migration in Turkey. These are: i) migrants’ subordinate presence in the labour market, ii) converging categories of asylum seekers and irregular migrants in lived experience despite legal boundaries further separating them, and iii) the relative weakness of pro-migrant rights movements and migrants’ political mobilisation.

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

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

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

I argue that the de-politicisation of issues pertaining to the rights of irregular migrants is underpinned through practices of control and toleration by enforcers (the
policy context), through migrants’ participation in the labour market (the receiving economic context). In the absence of a civil society interest to channel their demands (the character of allies), migrants of irregular status have found less incentive to associate among themselves despite their marginal situation in society and their lack of access to fundamental rights. They seek access to legal status through individual strategies.

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

5.1 Migrant deportability beyond the EU borders

Harun’s account of his clandestine entry to Turkey from the Turkey-Iran border and his arrival to Istanbul were precise, as he wrote about his “adventures” throughout the journey. As they arrived the city of Van, after crossing the Turkey-Iran border without documents, the smuggler showed them the UNHCR office without really explaining much: “There, it is a foreign thing, they send you to other places and also to Europe”. As advised by the smuggler, he did not mention his relatives in Istanbul, where he was staying in Van or how he crossed the border. “Then, she [the officer] asked me if I ran away from my family. I said I asked my family before I left, I did not run away. As she insisted on why I came here, I did not say another lie, and I made it clear that I came to Turkey to work”. She was suspicious but she sent them to the police department for registration and settlement in a satellite city.\footnote{As explained in Chapter 3, Section 3.4, the Turkish asylum system requires a double registration procedure with UNHCR\textsuperscript{162} and the Turkish authorities. The Foreigners Department in the Provincial Police Department}
to the police department to register but was never re-settled in a satellite city because his smuggler insisted that they continued the journey without delay. They were travelling to Istanbul by car with a guide sent by the smuggler, when the police stopped them. “We had no authorisation to leave the city. We lied again, saying that we are going to a wedding and would come back to Van after the wedding”. Luckily, they were not detained but were taken to the police station and sent back to Van. The police gave them food and allowed them to spend the night in the station. “In the morning, he [the police officer] woke us up, we went out. He stopped a bus on the way and told the driver to take us to Van bus station. When we arrived, the station was empty, it was early in the morning. I told the smuggler to buy us our ticket to Ankara. He was reluctant first, we were caught once, he said, next time they might send you to Afghanistan. The second time was no problem. ... we took the bus, nobody asked anything. I was in Ankara next morning, it was the first day of Eid and I joined the morning prayer with other people in the bus station. The second day of Eid, I was in Istanbul and I celebrated it there. This was adventurous”.

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

The section first gives an overview of how migrants who depend on particular ways of entering and staying in Turkey are rendered deportable. Illegal entry as seen in the above examples, and overstaying one’s visa have become prevalent ways that migrants acquire an irregular legal status. Second, it shows how the possibility of registers asylum seekers and sends them to satellite cities where they are required to reside. Leaving the satellite cities without authorisation from the police is not possible. Asylum seekers are required to sign in at the police department on regular basis to prove that they are abiding by the rules.
migrant deportability has become a mechanism for taming migrants during their settlement and work experience in urban areas, which is elaborated in Section 5.2.

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

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

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

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

164 The major crossing points used by smugglers are along the maritime and land borders between Turkey and Greece (Frontex, 2012; 2014). An increasing mobility along the Bulgaria Turkey border is also noted.
The functioning of the asylum system is another factor pushing potential and actual asylum seekers into illegality. The connection between asylum and irregular migration regimes is crucial for understanding the practices of detention and deportation in Turkey. The regulation requiring asylum seekers and recognised refugees to reside in a remote city (the satellite city) intends to create a system of control over asylum seekers and one of the blockages over their mobility towards big cities and the EU border. In this sense, the asylum system intends to filter asylum seekers from irregular migrants (Biner, 2014). Meanwhile, as the number of applicants increase and re-settlement quotas shrink, the waiting period for re-settlement is getting longer. Moreover, asylum seekers that are required to reside in satellite cities face difficulties, especially in finding work to support themselves: “They do not find similar jobs there”.

Another NGO representative makes it clear that asylum is not appealing for migrants who have not decided whether to settle, work in Turkey or go to Greece. For some groups, asylum becomes another way for migrants to collect documents that enable them to negotiate their deportability. “We receive applications from Pakistani and Bangladeshi. They apply and never show up again. They just get the paper in case the police stop them. People apply as a last resort, when they are caught, get sick etc.” While asylum only provides a partial enjoyment of fundamental rights (as explained in Section 5.3), most satellite cities do not provide employment opportunities. As opposed to what is intended by the legislation, employment opportunities that pull asylum seekers to big cities result in blurring distinction between irregular labour migrants in bigger cities and asylum seekers who are legally required to reside in their designated provinces. In other words, the geographical limitation and malfunctioning of the asylum and re-settlement mechanism forces asylum seekers to either attempt the journey or breach asylum regulations.

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

165 Interview with ASEM, Istanbul, November 2013
166 Interview with HRDF, Istanbul, August 2013.
167 Data compiled by Turkish Armed Forces, the General Staff.
The analysis should acknowledge that the data on irregular migration is far from complete or reliable (SRHRM, 2013: 17), and the geographical and porous character of the nation-state borders along the Eastern borders of Turkey challenge state border controls. Nevertheless, one can deduce that the Turkish state has been preoccupied with controlling irregular exits which is also the EU priority, rather than irregular entries, in the context of the international production of migrant illegality, as explained in Chapter 3.

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

Experiences of deportability between tolerance and arbitrariness

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

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

168 According to data collected by Toksöz, Erdoğdu and Kaşka (2012: 43; 81) for the IOM report on irregular labour migration to Turkey, out of 44,433 deportees in 2001, 10,795 were deported from Istanbul, and out of 26,889 deportees in 2011, 8,592 were deported from Istanbul.
experiences of illegality and of incorporation. The narratives of being tolerated are enmeshed with those on being subject to arbitrary practices. What I call “arbitrary toleration” by security forces refers to myriad practices, ranging from turning a blind eye to the presence of irregular migrants to opportunistic crimes such as occasional controls that lead to harassment or to bribery if not detention (also documented by Suter, 2012, Yükseker and Brewer, 2011). After arriving in the city, the post-entry period is characterised by the possibility of detention but also by widespread toleration, especially for groups that are relatively less associated with transit migration. Even Afghan nationals who are overrepresented in deportation statistics and considered as a group that is likely to be subject to long detention (Toksöz, Erdoğan and Kaşka, 2012: 48; SRHRM, 2013: 12), have expressed that they feel being tolerated, as long as they stay away from the borders and from crime related incidents. A police officer once stopped Malik (22, from Afghanistan) to ask for his papers: “He did not ask anything more when I said I am from Afghanistan” he explained to me with a sense of security. In a similar vein, although Harun (22, from Afghanistan) defines himself and their way of life as “kaçak”, he also expresses that being “kaçak” may not necessarily affect one’s relations with the security forces:

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

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

Interviews with the security forces on the practices of control confirm the possibility of being subject to random controls rather than systematic inspection. The security forces themselves also confirm the situation of relative tolerance towards certain groups but especially to certain types of mobility. An officer from the Turkish National Office has explained that police raids target “shock houses” [tr. şok evleri] in Basmane in İzmir at the Aegean cost, in the suburbs of Istanbul where smugglers keep migrants before they organise their crossings out of the country. He also underscored the limits of their efforts, confessing that “the thief is always one-step ahead”. Raids of this type directly target those who might be subject to transit migration. Alleged
economic migrants are also subject to police controls but to a lesser extent. The officer interviewed highlighted the impossibility of entering houses: “Inspections are done in public spaces, in entertainment places. The controls are done through sampling [tr. sondajlama], there are no controls for every one we meet in the street”. Referring to African migrants in Istanbul and Ankara in particular, he added that migrants of irregular status are depicted as a problematic group in terms of security, “prone to criminal activities” especially when “they cannot earn money”.

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

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

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

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

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

172  The word “deport” is widely uttered rather than the Turkish word “sınırdışı”.
grounds for detention. There are cases where the police can detain a legal migrant just for being in the vicinity of an incident.¹⁷³

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

Being tolerated and being subject to arbitrary practices and abuse go hand in hand. In the context of the wide discretionary powers of the police and the absence of judiciary mechanisms available to everyone regardless of legal status¹⁷⁵, it is challenging for irregular migrants to contest violations of their rights. Dilbar (33) is an Uzbek woman, working in childcare in an affluent residential neighbourhood in Istanbul. Like other women from the region who come to work in Turkey, she came on a tourist visa and found her first job through an informal employment agency. Even after her passport was stolen after lending it to a friend to whom she was indebted, she was able to change jobs. Another Uzbek woman from her village recommended that her new employer accepted her without a passport because she had good reference: “It is so hard to find a job without a passport. They trusted me thanks to sister Shara”. She explains that because she is a woman, she refrains from being outside after dark and mentioned that she was actually stopped by the police. She used to go to Kumkapı on her days off during the weekend and also spent nights there with other Uzbek women who worked for the same agency. On the day of her first payroll, she went to Kumkapı to pay the informal agency the instalment for finding her a job. On her return, she was stopped by the police and was put in a police car:

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

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


¹⁷⁴ Interview with Mazlumder, Istanbul, November 2013.

¹⁷⁵ As a novelty, Article 53 of LFIP introduced the possibility to appeal the decision of deportation within 15 days, as discussed in Chapter 3, Section 3.4.
little money. I told him how much money I had. He asked for half of it. So, I gave him 200 dollars and kept the other 200 and returned home.

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

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

The police may stop you and ask for your identity. We, Afghans can show our passports to the police, and it is not much of a problem... When I came here, I saw my friends having got their passport. I also went to Ankara to get one for myself... The police never stopped me so far, but my friends were stopped. It is because I work in Zeytinburnu and only leave the area once in a while, during Eid or something like that.
By collecting certain papers and selectively using the urban space, migrants consciously re-draw lines between legality and illegality, and situate themselves in this illegal but licit sphere (Kalir, 2012: 27). On one of my early visits to the house where single Afghan men lived and worked in a district of Istanbul that was known for textile and leather workshops, I noticed the atmosphere was tense, and people were more reluctant to speak with me than they had been in the past. Then, someone explained that the police had arrested their friends who were living with a smuggler. There had been a police riot in their friends’ neighbourhood, and the police apprehended them. Three of them were released immediately (reportedly saying that they are 15 years old): “The police will release them, it will not do much”. As Mahmut (29, Afghanistan) explained, the eldest in the house who usually responds to my questions on behalf of everyone, the police were searching for one particular person, allegedly a smuggler, related to a recent boat sinking that killed 12 people. His explanation was followed by a cautious remark: “Obviously, we know those kind of people, but we do not let them to hang out with us. They, being around us, constitute a problem for us. As we are working here, we do not let those people among us”.

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

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

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

See also Suter (2012: 122-126) for an ethnographic account of encounters between African migrants and the police.
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2012), I suggest that migrants’ labour market participation contributes to the construction of docile subjects; additionally, I show that this is a selective process. Thus, the labour market is more likely to accommodate a young, flexible labour force that can survive tough and precarious working conditions. Findings also indicate that neither migrants’ experiences of market violence, commonly expressed in interviews, nor their exclusion from economic activities translates into political contestation.

**Settling into informality**

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

The availability of housing and labour market opportunities and the presence of community networks have enabled the concentration of migrants in certain areas. These neighbourhoods such as Kumkapı, Kurtuluş, Dolapdere, Tarlabası and Zeytinburnu are mostly situated at “the periphery of the center” (Danış, Taraghi and Pérouse, 2009: 469) of central neighbourhoods. They have historically shown ethnic and/or religious diversity. Housing is available through mechanisms of the informal economy and ethnic kinship ties with those already settled. Most of these areas are close to where migrants find work opportunities. Neighbourhoods such as Kurtuluş and Kumkapı are close to small-scale manufacture ateliers and cargo businesses widely used for textile trade. Zeytinburnu is largely inhabited by communities of migrants of Afghan origin who acquired citizenship after arriving in the early 1980s as well as migrants and asylum seekers arriving from Afghanistan, comprising a heterogeneous group in terms of legal status, ethnic and linguistic background. Citizens of Afghan origin and the new comers in the post-2000 period have worked in small-scale leather
and textile manufacturing, which was already common in the area (see Danış, Taraghi and Pérouse, 2009).\textsuperscript{177}

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

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

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

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

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

\textsuperscript{180} Dilbar (33) was not able to find employment as a domestic when she arrived. She stayed in the agency in Kumkapı and paid a daily rate for the bed she was provided with while looking for a job. It is noted that some new arrivals without connections and those with the intention to cross may live with their smuggler. They are usually overcharged for accommodation and pulled deep into bondage.
\end{flushleft}
newly arrived kin through their legal status. Landlords may ask for legal papers for rental contracts. In this case, former migrants having acquired legal papers may help newcomers get contracts, at times in exchange for money. Ahmed (21, Afghanistan) got help from kin from his village who left for Turkey back in the 1980s and became citizens: “I had relatives living here. I had called them and let them know about my arrival. We were three people on arrival. They rent a flat for us, we found the house, we found work, now we are all working”. Zerrin (34), and her kids moved from Afghanistan first to Iran and then to Turkey with the help of smugglers. She hopes to go to Europe legally to re-unite with her husband who received refugee status in the Netherlands after spending years in different EU countries. Upon arrival, Zerrin did not know anyone in Istanbul, but their smugglers made connections with her husband’s “friends” and found them a flat to rent in Zeytinburnu. Zerrin, unlike other migrants with initial connections, had to pay for this service. Over a year later, Zerrin and the kids are working in textile ateliers in the neighbourhood and are still paying their debts to people who initially found them a house.

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

My methodology and conceptual framework have been limited to reveal relations with locals and other migrant groups in what we can call *migrant neighbourhoods*, commonly characterised by illegal activities such as human smuggling, drug dealing, prostitution, etc. According to a survey conducted with African migrants in Istanbul in the early 2000s, 29.5% of respondents indicated ill-
treatment by strangers as their most common problem in Istanbul (Brewer and Yüksel, 2009: 702). As revealed by ethnographic research, migrants have been subject to stigmatisation and opportunistic crimes and are uneasy about being outside, especially after dark (Suter, 2012: 131-132). Black migrants, especially Nigerians, have been identified as drug dealers (Suter, 2012: 117). Women from post-Soviet countries have long been stigmatised as “Natasha”, the name commonly attributed to those coming to Turkey as sex workers. Recently, African women have also been seen as sex workers. They are subject to sexual harassment on a daily basis, in the streets and in the workplace. Blessing, a Nigerian woman in her late 30s, explained that she was reluctant to commute to work in Avcılar (a neighbourhood towards the Western end of the city) and return to Tarlabası at night. “There are a lot of ‘alibabas’”, she said, referring to neighbourhood gangs stopping her and asking for money. Men, from African countries in particular, articulated discomfort with approaching “white women” and interacting with locals outside of their work relations. The threat of neighbourhood violence exists, but migrants of irregular status have few channels for articulating their suffering. Non-state actors confirm that, women in particular are unprotected and cannot go to the police when they are sexually abused, and this is especially true for Africans. Reportedly, cases of racist attacks have not been widespread, but they occur and are marginally covered in the media. The media notably started to cover discussions of xenophobia against immigrants and refugees in Turkey due to increasing tensions between the Syrians and locals. Section 5.4 discusses few instances of the recent politicisation of racist violence. No comprehensive research focuses on racist attacks that target violence in the Turkish context, so it is hard to determine if migrants are unwilling to express their experience of violence or the cases of violence are indeed sporadic. It was surprising that neighbourhood violence towards migrants was not at the centre of migrants’ narratives of the neighbourhood life, while migrants have more openly expressed their suffering due to labour market conditions, as discussed in the next sub-section.

“**We came in, slept, and the next day we started working**”

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

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

183 For one of the few instances where attacks towards Syrians are covered in the media, see Syrian refugee residence set on fire after quarrel with locals. todayszaman.com, 08.05.2014. Retrieved 22.03.2015, from http://www.todayszaman.com/diplomacy_syrian-refugee-residence-set-on-fire-after-quarrel-with-locals_347290.html
and tourism (Gökmen, 2011; Toksöz and Ulutaş, 2012), rather than migrants of irregular legal status working amongst the urban poor. For groups such as domestic workers, economic participation results from a concrete demand of employers, as is well documented in the literature. It is surprising that other groups of migrants who are categorised as transit are equally present in the labour market regardless if they initially intend to work in Turkey or cross to Europe (Toksöz, Erdoğan and Kaşka, 2012: 20). I suggest that for some migrant groups who came to Turkey for other purposes than work such as for asylum or to cross to Europe their participation in the labour market unintentionally results from the interaction between the production of migrant illegality within the international context and the domestic structure of the labour market. In his study of the Pakistani and Afghani male labour force in London, Ahmad (2008: 872) makes the point that “the structure of the labour market that absorbs new migrants does not always make clear distinctions between the so-called ‘legal’ and ‘illegal’ migrants”. This observation also applies to the case of Istanbul. Migrants with temporary residence permits (but without work permits), overstayers, asylum applicants and undocumented migrants smuggled into Turkey have similar experiences in the labour market.

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

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

¹⁸⁵ As of early 2015, Said is still in Zeytinburnu, working on small production sites in the neighbourhood, while waiting for the right time to cross.
Migrants, including those on their way to Europe, have become a part of this labour market as an outcome of EU’s migration controls, as also implied in other research (Yükseker and Brewer, 2011; Danış, Taraghi and Pérouse, 2009; Suter, 2012). When employers know that migrants intend to cross to the EU, they may use the situation to their advantage. They may justify low wages and hard working conditions, saying that they are actually helping those stranded in Istanbul, while they are in transit. In one of my visits to Kumkapı in Spring 2012, I encountered an African man from the Ivory Coast in front of a cargo company in the area. It was easy to initiate a dialogue, as he was happy that he could speak French with me. He immediately expressed his intention to go to Greece and then France. He had already been in Istanbul for eight months and worked in the cargo firm for a couple of months. He did not know when he would be able to leave. In the middle of the conversation, the shop owners, who had been in the cargo business for two years, approached us. One of them explained that they did not have anyone working with them and said, “then came this ‘black boy’ [tr. kara çocuk]”. He continued, “he needed a job and we gave him a job. He is not doing much anyway. We are helping him because he needs money”. It is striking how the owner presented the situation as if the “black boy” was working there due to the benevolence of the employers, seemingly for very low wages. Precarious employment is a general characteristic of the labour market, and migrant illegality is embedded in the labour market, as is further explained in Chapter 3, Section 3.4.

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

The brother of my fiancée was here, I had relatives. We came in, slept and we started working the next day... yes, the very next day, he told me that this is how it works in Istanbul. I had planned to rest and take care of myself for one month or two. ‘Not here’ he said, and we kept on working, without any interruption for six months. Then we quit the job because the money was not enough. We went to another job in the Grand Bazar, I worked there for another five months. I quit again. Then, I went into printing [tr. baskı].
As Ahmad (2008: 864-5) explained, for some who fit the profile needed in the labour market, short term work is more available than regular jobs. Like in Malik’s story, it is widely observed that migrants working in leather, textiles or construction often have to move from one workplace to another and shift between sectors. Harun noted that there were fewer opportunities when he arrived in 2009, aftermath of the 2008 financial crisis. He found work in leather and textiles but often had to change jobs because of the seasonal changes in the market and the general flexibility of production in these sectors.

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

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

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

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

187  The daily wage was reportedly, 65TL as of Summer 2013, comparable to textile.
narratives of migrants, usually from Afghanistan, working in textiles, indicate that they experienced an increase in their wages as they gained skills and experience. Ahmed explained that in time he could generate enough income to enable him to send money to his parents in Iran: “Before, what I gained was not enough for myself, I was earning 600-700 TL per month. There was the rent and my expenses. Then, I moved to the machine and my wage now is around 1,300 TL. It is very good. I also send money back home”. Ahmed moved up relatively fast as he was experienced in textiles; he had worked in a textile atelier after school, when his family took refuge in Pakistan. Selma, also from Afghanistan, entered Turkey without legal papers, with her husband and two children, after several years of being a refugee in Iran. She had no prior work experience before coming to Istanbul. She had to work because her husband faced difficulties in finding a regular job in Istanbul. Selma’s narrative shows the volatile trajectory of workers in the textile industry, from being a middleperson [tr. ortacı] to a machine worker but also moving from ethnically homogenous to mixed workplaces, which seem to pay better:

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

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

Other groups without similar informal reception mechanisms such as informal agencies or more or less established ethnic economies may experience marginal forms of economic participation. Among the migrants interviewed, it is observed that those from African countries have a harder time finding employment in what they refer to as “çabuk çabuk” [eng. quickly / chop chop]. These are daily, poorly paying jobs that require the person to work as fast as possible. Chris, like other informants from Nigeria, had intentions to move up to trade after securing enough income through his smaller jobs: “We need money to do cargo business, first you do textile and you can start with cargo after saving some money”. However, Eric (34, Cameroun) made it clear that the work is sporadic and does not provide a stable income; it is only to
survive, and you cannot make enough money to save to cross or send to your family. “There is little money, you can still manage but you cannot save”, articulates Peter, another migrant from Nigeria who arrived in Turkey by plane with a one-month tourist visa.

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

![Image](source: Photo taken by the author.)

**Limits of labour market participation**

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

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

There is a thin line between engaging in sex work and migrant women using or being expected to use their sexuality as a currency in the labour market. Existing research has revealed sexual exchanges between migrant women from post-Soviet countries and their “business partners” in the context to suitcase trade (Yükseker, 2004; Bloch, 2011). However, less has been written on sexualised work by other migrant groups such as African migrant women or on sexual exchanges amongst migrants. Alima (34, Eritrea), as a relatively more experienced migrant, intermediates between employers and migrant women (usually from Eastern Africa) looking for jobs. One day, two young women from Ethiopia (one had an asylum application) visited Alima to discuss the opportunity to work in a restaurant run by Nigerian migrants on the outskirts of the city. Alima explained to them that the restaurant is safe in the sense that they will not be asked to offer sexual services. The young women looked sceptical but agreed to meet the Nigerian man running the place. Alima was supposed to receive 100 TL (around 35 Euro) from each for being the intermediary. I later heard from Alima that she could not receive the money because the women refused to work there when they learned that they would be asked to sit with customers. Blessing, a mother of two from Nigeria in her late 30s decided not to go back to the shop floor where she was employed to make jeans because she found the work too difficult: “You have to stand from 9 am to 11 pm”, and her body ached afterwards. She later found work in a kitchen in Avciyars, at the west end of the city, but she was not happy there because it was far, and she had to work until midnight because of security reasons. I asked her what kind of job she wanted: “I want something that will not tire me much.” She did not like “çabuk çabuk” because she had a problem with her knees. She wanted to be a salesperson for instance, but Blessing is not physically suitable for
this kind of work since most saleswomen are also asked to model for overseas customers, and S or XS size women are preferred. I later heard that Blessing had quit work and moved in with a Nigerian man who allowed her to stay in exchange for sexual favours. While these live-in arrangements are common among migrant women\textsuperscript{188}, their implications for labour market participation are dubious. Kuku, another young woman from Ethiopia was 5 months pregnant when I met her. She worked as a salesperson in Osmanbey but had difficulties keeping her job once her pregnancy became visible. She lived with her Nigerian boyfriend in Kumkapı and hoped that they would get married after the birth of the baby. It is commonly observed that young African women with children experience exclusion from the labour market after pregnancy (Suter, 2012: 110-111).\textsuperscript{189}

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

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

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

\textsuperscript{189} At the same time, their vulnerable position renders them more “eligible” for humanitarian aid and asylum applications (Suter, 2013: 112).

\textsuperscript{190} Dedeoğlu ve Gökmen (2010: 111) confirm widespread unemployment among middle-age men and widespread child labour in their study on migrant workers from Azerbaijan.
overtly conveyed the suffering that stemmed from labour market conditions. Given the exclusionary aspects of the labour market, people employed at the time of the interview expressed their gratitude for receiving an income. However, most informants complained about working long and compulsory extra hours. “Textile is not as big in Nigeria as it is here. The working hours are not as long in Nigeria. There you work for 6 hours. Here, it is up to 15 hours. Most guys cannot do it here”. (Peter, from Nigeria). Malik (28, Afghanistan) had worked several years in agriculture in Iran and explains how the hardship of work in Istanbul has impacted his body: “I have lost a lot of weight since I came to Turkey” (28, Afghanistan). Several people also discussed low wages and the possibility of not being paid or being underpaid. Most find themselves helpless when facing such situations because of their lack of legal status.

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

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

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

Unlike citizens, migrants of irregular status do not only fear losing their jobs but also deportation. The labour market reinforces this situation because migrants are tolerated as workers participating in the local economy, despite their lack of a formal right to stay in the country. Because their presence is tolerated but not recognised, migrants are left without rights, and very few channels exist to make their voices heard. Indirectly, the possibility of generating an income in the informal labour market contributes to migrants’ lack of interest in associating amongst themselves. Arguably, the image of a docile worker, rather than the rights claiming activist migrant, fits
better in the receiving context of Istanbul, which is characterised by a widespread informal market, low levels of recognition of migrants’ rights and limited institutional/civil societal support for pursuing the rights of irregular migrants. Harsh working conditions make this image of the docile, invisible migrant a reality. Most of them have little energy for engaging in activities outside of their long work hours let alone political mobilization.  

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

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

Some asylum seekers and recognised refugees waiting to be re-settled have faced the dilemma of following their asylum process or generating income through participation in the labour market. Asylum seekers who have lost hope in the asylum process stay in Istanbul at the expense of losing their status. Others commute between their satellite city and a larger city where they can work. Only a small number of asylum seekers can legally reside in Istanbul for medical reasons or special protection needs.  

Zerrin, a mother of two from Afghanistan, states that the availability of work is the only reason she wants to stay in Istanbul. Zerrin and her two sons applied for asylum months after their arrival in Istanbul. The family needed

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

192 In 2011, 1170, around 10% of total asylum applications were made in Istanbul (Toksoz, Erdogdu and Kaska, 2012: 83). Among those, the majority were assigned to satellite cities and only a minority of them in exceptional cases were allowed to reside in Istanbul. Some asylum seekers are settled in a smaller satellite cities near big cities. This arrangement enables them to informally reside and work in one city but also to commute to their satellite city when necessary to sign in with the police or follow their asylum procedure.
money to live and pay off debts while they waited to reunite with the children’s father.¹⁹³ To convince the police to allow her to reside in Istanbul, Zerrin had to repeatedly visit the police station to explain her situation. Finally, Zerrin and her sons were allowed to reside in Istanbul, where she could work in the informal labour market:¹⁹⁴

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

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

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

¹⁹⁴ Refugees technically have access to work permits but the implementation is really rare (Interview with ASAM, Ankara, December 2012).
5.3 Access to fundamental rights between asylum and market

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

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

Opening in access to health care?

“It is essential that applicants, recognized asylum seekers cover all of their health expenses, themselves”196

“These circulars do not work automatically, somebody has to push”.197

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

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

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

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

198 Interview with ASAM, Ankara, December 2012.

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

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

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

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

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

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

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

203 Interview with MSF, Istanbul, November 2013.

latest for termination of their universal health insurance and the expenditures related to the treatment and medication shall be reimbursed from them.\footnote{Taken the unofficial translation of the LFIP, Ministry of Interior, Directorate General of Migration Management, Publishing Number: 8. Retrieved 25.10.2014, from \url{http://www.goc.gov.tr/files/files/YUKK_INGILIZCE_BASKI%281%29%281%29.pdf}}

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

Given the laws and practices restricting irregular migrants’ access to health care, NGOs (such as ASEM, MSF, TOHAV) focusing on the health care of asylum seekers and migrants generally provide free basic consultations. Common diseases among migrants mostly stem from living conditions, lack of hygiene, infections and psychological problems resulting from the long journeys that some had to take.\footnote{Interview with TOHAV, November 2013, Istanbul. Until December 2013 when they closed down their office in Istanbul, MSF was the only NGO offering psychological support. While most of the participants of the programme had been asylum seekers, there were also migrants without legal status among them (Interview with MSF, November 2013, Istanbul).} While consultations are accessible to all migrants regardless of legal status, the possession of certain papers such as an asylum application or passport with valid entry may be necessary to negotiate access to hospitals for secondary level treatment or analysis (interview with ASEM and TOHAV). ASEM, an NGO running a small clinic – funded by Medecins du Monde- in the Kumkapı area explained that patients in need of secondary treatment can be taken to hospitals, but even church-related hospitals, known to be more open to migrants, require documents (at least a passport). Another option for negotiating migrants’ access to hospitals is through emergency rooms to lower the cost.\footnote{Interview with ASEM, Istanbul, November 2013.} Again, the latter strategy is more likely to work for legal entrants. These efforts are very limited given the human and financial capacity of these civil societal institutions.

There are two hospitals we have agreements with, one pharmacy, one private polyclinic. We work with those hospitals. Within our budget in our projects, we cover hospital fees. For instance, we cover medicine for everyone coming here. For some, further treatment x-ray scans. We cannot help chronicle cases and for operation. This is a challenge for us.\footnote{Interview with TOHAV, Istanbul, November 2013, (emphasis added).}

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

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

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

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

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

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

**Education**

Sima was eight years old when I met her. Her family was originally from Afghanistan and had come to Istanbul from Iran about a year ago. Sima and her younger brother Nader cannot go to school because the family crossed the border without the
necessary papers and settled in Istanbul. Sima’s parents knew that the kids could go to school if they applied for asylum. The family was reluctant to apply for asylum. They knew from their relatives that the process was especially long and inconclusive for Afghans, and they would have to go live in a remote city. Sima’s mother, Afsana (37), explained her main concern, “it is only for the kids, so that they can go to school”. The family had gone through hard times when I first met them. The eldest daughter, also at a schooling age, and the mother, despite her health problems, was working in textiles, and the father was unemployed, while Sima looked after her brother and undertook household chores such as cleaning and cooking. The situation deteriorated when they were expelled from their flat in the aftermath of flooding and fire accidents. When I met them 6 months later, they were more settled in another flat in the neighbourhood. The father had found temporary work in construction during the summer. Although no solution was found for the children’s schooling, asylum was no longer a viable option since it would mean sacrificing income-generating possibilities that had become necessary for the survival of the household.

The Constitution as well as the legislation on the access to primary education state that primary education is compulsory in Turkey for both citizens and foreigners with or without legal status. The Constitution and Article 2 of the Law on Primary Education, Law no: 222. See Article 42 of the Constitution and Article 2 of the Law on Primary Education, Law no: 222 05.01.1961. This Convention has been widely evoked to provide a legitimate ground for undocumented children’s access to schools in Turkey as well as elsewhere (Laubenthal, 2011: 1359). 211 Turkey has signed the Convention in 1989, and it came into force in Turkey in 1995. 212 This Convention has been widely evoked to provide a legitimate ground for undocumented children’s access to schools in Turkey as well as elsewhere (Laubenthal, 2011: 1359). Turkey has signed the Convention in 1989, and it came into force in Turkey in 1995.

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

The lack of a residence permit is a primary obstacle for children’s formal access to public schools (Danış, Taraghi and Pérouse, 2009: 627-8). In line with previous research, the interviewed Afghan families without residence permits underscored the continuing problem of schooling for Afghan children in the Zeytinburnu area (see also Toksöz, Erdoğdu and Kaşka, 2012: 123). For Harun’s (22, from Afghanistan) family, one
of the main motivations to apply for a residence permit through their relatives in Antakya has been the possibility of schooling of her younger sister: “The lack of residence is very difficult for children. My sister is crying all the time. She is supposed to start the third grade this Fall. It has been two years, she cannot be enrolled in the school, no residence”. Given the reluctance of school principles to admit students without papers, even informal enrolment becomes a privilege. School principals can decide if the children can be admitted as guest students and follow courses without receiving formal degrees. Minority schools such as the Armenian schools are known to accept undocumented children “as guest students” (EC, 2014: 61). Meanwhile, Sima’s parents tried all the primary schools in the area and were rejected several times. In the absence of opportunities for formal or informal enrolment in public schools, children attend temporary courses provided by church related NGOs or migrant associations. “We tried two times, and we were told that we do not have a residence permit. Now, she is going to school but 2-3 times a week as a course. The teacher helps them to learn how to read and write”, Harun explained.

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

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

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213 Interview with ASEM, Istanbul, November 2013.
distinction between irregular migrants and asylum seekers. The gradual recognition of certain rights in favour of asylum seekers, despite implementation problems, has had implications for the rights of irregular migrants as well as for civil society practices. For migrants who fit the asylum applicant profile, such as those from Iran, Iraq, Afghanistan, Pakistan and African countries, applying for asylum has been a short cut for getting a legal status. Asylum applicant status gives them and their advocates a degree of legitimacy in negotiating rights for forced migrants. This section has underpinned that bureaucratic incorporation, in the sense that irregular migrants can be regularised from below as example for citizenship practices from the grassroots (Nyers and Rygiel, 2012: 15) by getting legitimate access to certain rights, by sending their children to school regardless of their lack of legal status has been very limited in the case of Turkey. Civil society activities and claims based on the narrative of forced migration, i.e. refugees have arguably pushed the state to respond to these critiques by recognising certain fundamental rights of asylum seekers and refugees. Conversely, such legitimate ground has not been carved out for the rights of irregular economic migrants. Irregular migrants have found fewer channels to express their marginalisation. The absence of institutional support and protective measures reinforces their vulnerable role, comprising a cheap and available labour force in the informal market, as discussed in Section 5.2. The realm of advocacy has reinforced this legal separation and arguably precluded the emergence of a more comprehensive political movement for the rights of migrants in general, as discussed in the case of Morocco. Taking into account the low levels of politicisation of irregular migration, as discussed in Chapter 3, and limited or selective mobilisation, the next section discusses the factors that have led to the “de-policisation” of issues pertaining to the rights of irregular migrants.

5.4 Reversing illegality: mobilisation or “sideways”?

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

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

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

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

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

Figure 5.3 Protest against racist murders by Africans living in Istanbul

Civil society working on immigration issues

As discussed in Chapter 3, the emergence of civil society around migration and asylum issues in Turkey is rather recent. Its institutionalisation dates back to the heydays of the EU accession process in the pre and post-2005 period. Human rights organisations such as Helsinki Citizens Assembly (HCA), Mülteci-Der, the Association of
Human Rights and Solidarity for Oppressed People (Mazlum-der), Amnesty International and the Human Rights Research Foundation (IHAD) engage in advocacy and/or provide legal aid mainly to asylum seekers. Rights-based institutions working in the field of asylum and migration formed the Commission for Refugees in 2010. There are also organisations that provide humanitarian aid and services to migrants and refugees. For instance, the Association for Solidarity with Asylum Seekers and Migrants (ASAM), the Human Resource Development Foundation (HRDF), Doctors without Borders (MSF), TOHAV, ASEM, church-based organisations such as Caritas and the Istanbul Inter-Parish Migrants Program. Among these, organisations such as ASAM, HCA, TOHAV, Mülteci-der and ASEM benefited from EU and other international funding. With the arrival of Syrians, new civil society actors emerged such as GOC-DER, and Support to Life; furthermore, Islam-oriented charity organisations such as the Humanitarian Relief Foundation expanded their activities into the field of asylum.

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

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

218 DISK, the second largest trade union confederation in Turkey, revised its internal regulations in February, 2012 and included a clause requiring the union commit to conduct research on disadvantaged groups in the labour market, including migrants, along with women, elderly, retired, young, children and disabled. (see Art. 4 of the Regulation, retrieved 10.09.2014 from http://www.disk.org.tr/tuzuk-ve-kararlar/tuzuk/). While this sense reveals a formal interest to immigrants, it does not reveal a clear stance towards the position of irregular migrants in the labour market.
Research has also observed that the focus of civil society activities in Turkey has been on asylum seekers rather than irregular migrants (Ozcurumme and Şenses, 2012: 90, 104; Şenses, 2012: 210; Parla, 2011: 82; Balta 2010: 105). Civil society has prioritised the protection needs of asylum seekers even though there were few asylum seekers until 2011 compared to the estimated number of irregular migrants in Turkey in the early 2000s.²¹⁹ Despite this general trend, a closer look at the humanitarian practices of civil societal actors reveals that they do not totally exclude irregular migrants, as discussed in the Section 5.3. Meanwhile, the advocacy activities of civil society underscore human rights violations in relation to asylum. The NGO reports have mainly revealed malfunctions in the asylum system in terms of access to asylum procedures and asylum applicants’ access to fundamental rights (IHAD, 2009; AI, 2009; HRW, 2008). The analysis of such reports and civil society press releases show that there are almost no references to irregular migrants, their labour market conditions or their access to fundamental rights. Documents generated by civil society usually refer to irregular migrants in detention as potential asylum seekers who cannot get access to international protection procedures. For instance, a newspaper article by Taner Kılıç from Mülteci-der, an NGO working on refugee rights, based in Izmir, underscored problems faced by asylum seekers in urban areas (namely satellite cities) without mentioning that migrants without legal status are subject to similar conditions. The article refers to irregular migration only in the context of irregular border crossings, emphasising that the asylum system in Turkey forces asylum seekers and refugees to travel to the EU in precarious conditions:

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

(Kılıç, 2013, emphasis original).

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

²¹⁹ Only after 2011 did the country start increasing the number of asylum applications, nearly 30,000 per year in 2012 and 2013 (excluding Syrian refugees). (see Chapter 2).
care and hierarchies stemming from legal status that inhibited irregular migrants’ access to legal status.220

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

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

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

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


222 Interview with CARITAS, Istanbul, January 2014.
not have legal problems do not reach us or do not have the need to reach us. Those under the pressure of deportation come to us. People who face the danger of deportation to countries where they will face persecution is the exact area we study. We actively cover cases like this. For regular, irregular migrants, as I know, humanitarian aid organisations may help.\textsuperscript{223}

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

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

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

\textsuperscript{223} Interview with Mazlumder, Istanbul, November 2013.
\textsuperscript{224} Ibid.
taken by security forces (Yılmaz, 2012: 51-52). The Court took exemplary decisions against Turkey, acknowledging that asylum seekers do not have access to procedural guarantees in Turkey (Ulusoy and Kılınç, 2014: 255). Plus, decisions stated that detention and deportation practices violate Articles 3, 5 and 13 of the ECHR (Grange and Flynn, 2014: 19).225 Turkish NGOs critiques and their use of ECtHR as a transnational accountability mechanism have largely contributed to the preparation of the LFIP (Şenses, 2012: 218-9). The law has ensured that the practices of deportation and detention are in line with the requirements of ECHR (Yilmaz, 2012: 54-55).

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

*Legal sideways in the absence of mobilisation*

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

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

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

227 “The police is now more willing to take asylum applications. Before there have been decisions at the level of ECtHR that the rights of asylum applicants kept under custody were violated. Now, they cannot avoid detainees applying for asylum anymore, they have to take the application and release the applicant. This is why deportation paper is less used lately” (Interview with MAZLUMDER, Istanbul, November 2013).
politicisation of the detention and deportation of migrants who do not fit in the asylum seekers’ profile in Turkey.

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

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


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

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

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

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

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

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

He asked for 100 Dollar and told me to have me a residence permit in six months. I told him that I would give him 200, only after he get my permit. He called few days later. I gave him my passport [white passport taken from the Afghan embassy not a
travel document], he made copies. He told me he cannot get a permit without me paying him, first. I did not pay him and he did not help me. I know he would not, even if I pay him.

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

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

- Why two years?

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

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

\(^{232}\) See also Suter, (2012) for an analysis of the mechanism of distrust amongst Nigerian migrants in Istanbul.

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

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

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

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

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

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

Regarding irregular migrants’ participation in social and economic life and their access to rights and legal status, the Turkish case is characterised by: i) a somewhat
tolerant regime of deportation, ii) the selective participation of a cheap labour force in the informal economy, iii) limited access to fundamental rights without official status, and iv) limited civil societal backlash to rights violations and to claim rights and legal status for migrant of irregular legal status.

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

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

Along with labour market incorporation, a distinct aspect of the Turkish case is the interconnectedness between irregular and asylum regimes, especially for migrants from nationalities that are overrepresented in asylum applications. There is a thin line between irregular migrants and asylum seekers (İçduygu and Aksel, 2012: 8). Both groups drift amongst fluid categories, take part in the informal labour market and may try to cross to the EU. Meanwhile, the enjoyment of certain rights and services (such as access to residence permits and healthcare) is only possible through applying for asylum. Throughout the chapter, I have discussed how illegality and labour market and asylum regimes at times substitute or reinforce each other. These interconnections enable migrants’ incorporation into either labour market or bureaucracy—mostly through asylum.
Migrants’ incorporation, both through the labour market and through asylum, and the interconnection between the two, reinforce migrants’ invisibility and silence in the political sphere. The invisibility itself becomes a way for irregular migrants to present themselves as harmless workers, hence legitimate members of the society. In the absence of the recognition of basic rights, most NGO activities focus on asylum issues as a legitimate ground for activity. NGOs contribute to the de-politicisation of issues regarding migrants’ human rights when they channel migrants into the asylum tract or provide them with humanitarian aid without making explicit political demands on their behalf. In the absence of allies from civil society or interest from trade unions, and given the lack of communication amongst different migrant communities and the lack of trust within ethnic groups themselves, migrant associations are not powerful and visible enough to make political demands to claim rights and legal status for migrants.

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

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