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Irregular Migration

IMISCOE Short Reader

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Chapter 1
Introduction: Understanding the Challenge of Irregular Migration

International migration is a critical issue in contemporary societies. A well-known textbook calls it "a major theme for public debate" (De Haas et al., 2020: xii). Migration is at the centre of the 'transnationalized social question' located at the interstices between the Global South and the Global North, where people seek a better life or flee unsustainable living conditions by migrating abroad (Faist, 2019). International population mobility has moved to the top of political agendas, becoming a 'hot topic' for governments and political parties (Spencer & Triandafyllidou, 2020). It has become a matter of controversy in mass media, and in ordinary people's conversations as well. In most cases, it is depicted as a threat to the social stability of receiving societies. As Anderson efficaciously puts it, "'Migration' signifies problematic mobility" (Anderson, 2017: 1532). This perceived threat of migrants provokes increased efforts to halt, restrict, and prevent migration, often by limiting legal migration channels and increasing border controls. The, perhaps unintended, consequence of this is not that migration stops, but instead that a part of migration becomes irregular.

Whilst irregular migration is problematised and criminalised especially in the Global North, in sending societies, on the contrary, venturing abroad is often viewed as a dream or a hope, regardless of the legal framework in which this mobility and subsequent settlement occur (Alpes, 2013). It gives the impression that migrants take the time spent in an irregular condition while waiting for a residence permit for granted.

Migration, especially unwanted international migration, is a vital concern for contemporary societies worldwide, be they sending, receiving or transit countries. This form of migration will be the main focus of this Reader. Throughout it, we hope to provide ample insight into the contentious theme of irregular migration by elaborating on its origins, the policies devised to deal with it, possible responses to it, the actors involved, and the agency of irregular migrants themselves. This introduction highlights the issue of irregular migration, discusses terminology, provides some estimates of the population involved, and presents the book's structure.

1.1 Human Mobility and the Reaffirmation of National Borders

Contrasting views on human mobility find an important locus of confrontation at national borders and during border crossings. National borders are sites where the sovereign power of states is politically highlighted (Geddes, 2005) because "states have historically claimed near-absolute authority over their territories by regulating the inbound movement of people across their borders" (Opeskin, 2012: 552). Since the beginning of the last century, modern states have pursued the goal of achieving close control over human mobility by introducing passports and the related bureaucracy (Torpey, 1999; Adamson, 2006). Irregular immigration, which was more tolerated in the period of development of Western economies in the 1950s and 1960s, started to become a political concern, especially in Europe, in the second half of the 1970s, after the first oil crisis and the decision to stop the entry of new working immigrants. Provisions became more stringent in the 1990s, when immigration began to be treated as a security issue (Andersson, 2016). Terrorist attacks, at the beginning of this century, reinforced this trend. Since then, in various parts of the world, including Europe, North America, and Australia, forms of 'neo-nationalism' have informed international relations, enhancing the ability of states to control border crossings (Schain, 2009). Nation-states, which appeared to be declining in their political role in the final decades of the last century, have claimed a new centrality in the current period of perceived growing insecurity, international tensions, and terrorist threats.

Governments, furthermore, have externalised migration controls, establishing agreements that commit transit countries to controlling the flows of migrants and asylum seekers (Lavenex, 2006). They 'stretch their borders' by multiplying the institutions involved in border management and extending and reworking sovereignty in new forms (Casas-Cortes et al., 2015). The European Union, in particular, has connected intra-regional opening and inter-regional closure in the process of state-led regional integration by developing an ambitious external migration policy agenda (Lavenex & Piper, 2021). The agreements between the EU and Turkey, Libya and Niger, or the *Frontera Sud* programme between Mexico and the United States of America, highlight this trend: more powerful governments engage their neighbouring partners as border guards without paying much attention to how they perform that role. By contrast, when their neighbours do not fulfil this role adequately, as in the case of Belarus (allowing transit to Poland), or Bosnia (allowing some passage to Croatia), or Morocco (allowing entry to Ceuta in some cases), or Turkey (applying pressure, from time to time, on its border with Greece and the EU), or Mexico, governments of the Global North protest, denounce these behaviours, and threaten the perpetrators with sanctions. For the same reason, cooperation in controlling unauthorised border crossings has become a weapon in the hands of the authorities of these neighbouring states to pressure developed countries and obtain concessions, as the cases of Belarus and Turkey illustrate.

In recent years, scholarship has emphasised the formation of a "fluctuating landscape of frontiers" (Agier, 2014) with the establishment of various types of walls and fences (Balibar, 2012). This involves the growing use of sophisticated technologies (Dijstelbloem & Broeders, 2015; Andersson, 2016) and forms of control at a distance (Tsianos & Karakayali, 2010). By means of these instruments, states enact a "selective and targeted" border management (Rumford, 2006: 164), allowing some forms of international mobility (by citizens of developed countries and by elites of developing and intermediate countries) and preventing other forms of border crossing, notably by ordinary people from the global South. Travellers encounter borders from the moment they depart, in airports often very far from their final destination, when they are required to display valid documents and visas to be allowed to board. They are rechecked on multiple occasions, not only on their arrival at the official border but also when renting a room in a hotel or an apartment, exchanging their money, accessing a public service, entering employment, or registering at a university. Borders and related controls in some way follow foreign sojourners in many interactions with host societies. They take on various forms, agents, sites, practices and targets (Burridge et al., 2017).

The blame attributed to, and the fight against, smugglers complement the picture. While maintaining some caution when directly blaming people on the move, because they may also be asylum seekers escaping war and persecution, states have redirected their opposition towards (visible) agents who favour border crossings (Sanchez, 2020). Irregular migration can be seen as encompassing a number of interrelated aspects, from border closure, the lack of legal means to move abroad, the search for alternative routes, the market for (various types of) support to the irregular border crossing, to the dangerous journey itself. However, only the last link, between dangerous journeys and smuggling, is commonly recognised. As Guiraudon (2020: 151) has recalled, "very early on, at the signing of the Schengen Agreement, a number of international organisations and NGOs denounced the measures meant to fight illegal migration as targeting all asylum-seekers that could not obtain a passport and visa and thus would be stopped at airports by the personnel of transport companies that wanted to avoid carrier sanctions".

Nevertheless, despite these advances in the prevention and repression of undesired human mobility, the enduring presence of immigrants who do not fulfil the legal requirements to settle legally demonstrates the "patchy, makeshift, inconsistent and failure-prone character" of national borders (Burridge et al., 2017: 245). Borders are polymorphic and complex in that they have been reinforced with multiple controls at various moments and in various places. Controls, however, have not achieved complete regulation of human mobility. Other forces, ranging from markets to human rights, limit the effectiveness of border controls in various ways (Hollifield et al., 2014) and involve other actors, values, and interests (Ambrosini, 2018).

Against this backdrop, irregular migration has acquired a particular salience as the most striking demonstration of the challenge that unwanted international mobility raises for receiving societies' political and social order. On the one hand, economic globalisation has improved the lives of millions of people worldwide, but not

enough to discourage people from venturing abroad. On the other hand, it has spread social, cultural and personal insecurity in the Global North (Bauman, 2000; Beck, 1986). Anxiety regarding the arrival of migrants from developing countries has gained ground and generated fierce political opposition against migration, especially against unauthorised migration.

This Reader considers irregular migration in its various forms. However, in public opinion and in political debate, irregular immigrants are frequently confused with asylum seekers, who often cross borders by undertaking dangerous journeys without legal authorisation. Settings such as the borders between Belarus and Poland, between Turkey and Greece, between Bosnia and Croatia, between Italy and France (Ventimiglia and Val Roja), or the Spanish enclaves of Ceuta and Melilla, the tiny Italian island of Lampedusa, the French region around Calais, are commonly perceived as the places in which the issue of unauthorised immigration arises and shows its challenging features (Queirolo Palmas, 2019; Filippi et al., 2021; Queirolo Palmas & Rahola, 2020). While this is true, it is only one part of a much broader and multifaceted phenomenon.

In the past decade, asylum seekers have become the target of growing concern by developed receiving societies. However, when foreign citizens have accessed the territory of another state and applied for asylum, according to international conventions they have the right to have their case carefully evaluated by the authorities. In principle, their irregular entry is not a reason for them to be sanctioned until examination of their application has concluded. Only if the application is rejected does the infraction of rules upon entrance become relevant and can cause their expulsion. Asylum seekers become a segment of the irregular immigrant population when they remain on the territory after the rejection of their asylum applications. The UK and Denmark, however, have recently moved towards a policy of deportation to Africa of asylum seekers before their applications have been examined.

'Irregular immigrant', however, is a broad and diversified category. In most cases – as we will see – irregular migrants have entered a country regularly. In Europe and the USA, most irregular immigrants are overstayers: people who have remained in a foreign country beyond the terms of their permit (Triandafyllidou, 2010; Andersson, 2016). As Alden states regarding the USA on the basis of sound statistical evidence, "the majority of additions to the US unauthorised population is now arriving on legal visas and then overstaying; enforcement at the Southern border does nothing to respond to this challenge" (Alden, 2017: 482).

Furthermore, unwanted population mobility highlights the clash between opposing forces (Echeverría, 2020). On the one hand, the logic of globalisation and markets emphasises international exchange and various forms of mobility, together with people's will to improve their lives or escape war and persecution. On the other hand, the logic of nation states, as already observed, seeks to reaffirm sovereignty by selectively regulating access to their territory (Anderson, 2017; De Haas et al., 2018). The increased mobility of financial capital, traded goods, and industrial production in recent decades has weakened the role of states in the governance of socio-economic issues, and their ability to protect their citizens against economic uncertainty. Governments have reacted by trying to reinforce their capacity to check

and select the entry, stay and settlement of foreigners: they have strengthened the monopolisation of legitimate means of movement across national borders that has been a visible symbol of national sovereignty for more than a century (Torpey, 1999).

More than 20 years ago, Massey already identified the emergence of a postmodern paradox: "while the global economy unleashes powerful forces that produce larger and more diverse flows of migrants from developing to developed countries, it simultaneously creates conditions within developed countries that promote the implementation of restrictive immigration policies" (Massey, 1999: 313). More recently, Faist has echoed this statement by talking of a 'mobility paradox' from the point of view of the people involved. Namely, the tension between aspirations to find a better life abroad and political opportunities to migrate to the global North: "at the time when location matters even more for life chances than before, there are fewer chances for cross-border migration" (Faist, 2019: 7) for people possessing weak passports and few resources.

The 'mobility turn' claimed by Urry (2000) involves deep inequalities around the world (Glick Schiller & Salazar, 2013): citizens of developed countries and some economic, political and professional elites of developing countries at present enjoy rights of mobility across national borders that are greater than ever before. Labour immigration, on the other hand, has been in principle stopped or severely restricted and reserved for skilled migrants (notably in the health care sector) or some seasonal workers, notwithstanding some recent cautious openings in countries such as Germany, Spain and Japan. Humanitarian immigration, in the form of family reunification, marriage or asylum, faces growing political and legal obstacles. Besides these cases, people from developing countries, and conceived as useless and worthless, are excluded from entry, if possible, or from settlement in a new country. Migration governance reflects this concern, as well as its contradictions, which include the formation of a population residing on a territory without possessing the legal status to do so: "One of the core objectives of migration governance is precisely to prevent migration from happening outside of the legal framework. However, the same legal framework has long rendered irregular migration the only form of mobility available to many people in search of better life chances" (Schweitzer, 2022: 1). Hence the policies of receiving states are involved in the production of a population of irregular migrants.

1.2   Securitisation and Unwanted Immigration

Securitisation is the consequence of the tension between human mobility and attempts to stop or regulate it. Even though a link between new immigration and terrorism has been rarely demonstrated, terrorist attacks have furnished a powerful justification for border enforcement. The border between Mexico and USA after September 2001 is probably the best-known case of the transfer of a security threat to another segment of the immigrant population, even though it was already in place before 2001 and targeted many immigrants who had nothing to do with the possible

sending countries of radical fighters. Nevertheless, the link between unauthorised immigration and terrorism is often cited as the reason for the 'securitisation' of immigration policies on both sides of the Atlantic (Faist, 2002). To provide just one example, the then Spanish Foreign Minister Josep Piqué argued: "the fight against illegal immigration is also the reinforcement of the fight against terrorism" (As quoted in Adamson, 2006: 195).

For this reason, in Europe, migration governance has progressively shifted from labour and industry ministries to home affairs ministries. During the 1990s, at the EU level, migration governance became an issue for what is now called 'DG HOME' (Guild, 2005; Andersson, 2016). The establishment of the Frontex agency in 2004 by the EU, and its increasing reinforcement in terms of budget (from 6.3 million euros in 2005, to 333 million in 2019, to 1.1 billion in 2021, to a planned outlay of 1.9 billion in 2025) highlights "the extreme politicisation of migration and its presentation as a security threat" (Léonard, 2010: 231), downplaying humanitarian concerns. In the USA, Massey and Riosmena observed some years ago that "the Mexico–US border became the most militarized frontier between two peaceful nations anywhere in the world. Indeed, Border Patrol grew into the largest arms-bearing branch of the federal government except for the military itself. From 1986 to 2004, its budget increased tenfold, the number of officers tripled, the number of hours they spent patrolling the border grew eight times, and internal deportations expanded by a factor of ten" (Massey & Riosmena, 2010: 295). Needless to say, that the Trump Presidency emphasised this trend, adding the famous proposal to build "a big beautiful wall" that would cover the entire border (Alden, 2017).

The issue of unwanted immigration is thus linked to a range of major concerns of contemporary societies, including internal security and defence against terrorist attacks, national sovereignty and border enforcement, political stability and social order, employment of national citizens, cultural identity and social cohesion, sustainability of welfare states and competition over social expenditure. Not surprisingly, securitisation has triggered 'crimmigration', i.e., the unprecedented convergence of immigration and criminal law (Stumpf, 2006; Coutin, 2011): "aliens become synonymous with criminals" (Stumpf, 2006: 419). A 'membership theory' has gained ground, restricting individual rights and privileges to the members of a social contract between the government and the people. At the same time, decision-makers are provided with justification for excluding unwanted individuals from society, using immigration and criminal law as the means for such exclusion (Stumpf, 2006).

As we will see throughout this Reader, however, irregular migration is not only the target of prevention and closure by receiving societies. Some forms of irregular immigration are widely tolerated, as in the case of immigrant women taking care of seniors in Italian households (Ambrosini, 2013, 2018). Furthermore, a key issue in public discourse and on the political agenda is the solidarity immigrants with weak, precarious or without residence permits attract from various actors in receiving societies, such as NGOs, especially when engaged in rescuing lives in the Mediterranean Sea, humanitarian associations, social movements, faith institutions and groups, trade unions, local authorities, and also ordinary citizens. This

heterogeneous composition of the pro-immigrant fronts induced Zolberg (2006) to jokingly call these actors 'strange bedfellows', taking inspiration from the title of a famous comedy. With all their differences, they form an advocacy coalition that tries to counteract exclusionary policies, protect human beings, and pave the way for more welcoming solutions to the issue. Immigration, especially unwanted immigration, is a crucial locus for evaluating the health of democratic institutions, measuring compliance with human rights, and gauging the orientation, quality, and strength of civil societies.

Reflecting this trend, international migration and related policies have not surprisingly become the topic of a growing body of academic scholarship, whose origin dates to the end of the nineteenth century and which intersects several disciplines, perspectives and countries (Hollifield, 2020; Levy et al., 2020). International migration at present is a significant ground of discussion among international institutions, political actors, mass and social media, and academic networks. It is a field in which scientific work is challenged and at the same time required, in order to grasp the shifting landscape of international population movements, to answer questions arising in sending, transit and receiving countries, discuss the current and possible solutions, and suggest new ways to deal with the various issues involved.

1.3   The Issue of Terminology

It is not easy to find agreement on the best term with which to denote immigrants in irregular legal conditions. Scholars use different labels for the phenomenon. Today, there is a broad agreement that it is not respectful of human dignity to employ terms such as 'illegal immigrant' or, even worse, 'clandestine', because no human being can be defined as illegal or clandestine (Triandafyllidou, 2010; Ambrosini, 2013). People can be in a condition of irregularity or illegality in regard to the laws of a country in which they try to enter, reside, or work (Bommes & Sciortino, 2011). However, it is always necessary to distinguish the legal status or behaviours that may break the rules of a state from the human being concerned. A person cannot be reduced to their legal status or actions. Although the term 'irregular immigrant' can be subjected to the same criticism, it is less imbued with a derogatory meaning, and many scholars commonly adopt it, although 'an immigrant in an irregular legal condition' might be a more accurate expression. However, for the sake of brevity, we will employ the term 'irregular immigrant' throughout this book, bearing this precision in mind.

Several scholars, and many civil society actors, prefer the term 'undocumented immigrants', or its French version, 'sans papiers'. This choice often derives from a sympathetic attitude towards irregular immigrants (Ruhs & Anderson, 2010) because being undocumented renders individuals more vulnerable to abuse and exploitation. However, this choice also entails an objection: an immigrant can possess some documents, but they may not be valid, or are no longer valid, or not valid to enter, settle or work in a particular country. They may be forged or misused. In

some countries, immigrants sometimes borrow valid documents from other, authorised immigrants (Van Meeteren, 2010; Horton, 2015). A similar problem regards the term 'unauthorised immigrant' because an immigrant can be allowed to perform some activities but not others. For instance, a mother can be authorised to reside in a country to take care of her new-born baby but not to work. The same may apply to a sick person who is authorised to enter or stay in a country to receive medical treatment but cannot access its labour market.

Another term used by scholars is 'illegalised immigrants'. The intention is to highlight that some immigrants are labelled 'illegal' because state policies define them as such. As Ruhs and Anderson (2010) rightly argue, foreign residents are not inherently 'work permit holders', 'student visa holders', or 'illegal'; state laws produce legality or illegality. These labels can be considered political constructs. Furthermore, the term 'illegalised' implies a moral and political criticism of such laws. However, some misunderstandings may arise from this correct observation. Firstly, 'illegalisation' could create the perception that these immigrants were legal in the past, but at some point, the governments of receiving countries decided to exclude them from the legal framework. While it is true that they were more tolerated until the 1970s, a 'golden age' in which all immigrants were legal and provided full rights has never existed. What is also true is that the prosecution of immigrants in an irregular situation has become harsher with time, especially since 2001.

The second misunderstanding regards the idea of an abuse of power by states. Some human actions are indeed defined as 'crimes' because a positive law defines them as such, sanctioning their perpetrators. Sometimes the social disapproval of such actions is more evident and widely recognised. In contrast, for other actions, public opinion is more varied (as is, for instance, sex work), or subject to different evaluations in different cultural systems (as is polygamy), or under different circumstances (as in times of war). Legislative production has the power to change the legal framework of what is acceptable or not acceptable in the political space subject to its jurisdiction. It can soften the regulation of some activities (for instance, in recent years, the trade of certain drugs) or more harshly sanction some others (for instance, hate speech). In this perspective, the fact that democratically elected public powers define the entrance or stay of (some) third-country nationals as 'illegal' can be vigorously contested, but it is not in itself inconceivable or unreasonable. Hence the fact that immigrants are 'illegal' because they have been 'illegalised' by states and their laws is correct, but at the same time also quite obvious. In addition, the employment of this term tends to support a view of immigrants as victims of state policies (Ruhs & Anderson, 2010), which risks downplaying their space of agency.

In sum, there is no clear and undisputed definition of irregular migration, and the terms commonly used to define the people involved are not fully convincing. Each of them encounters some objections. In this book, we will talk of people in 'irregular condition', or more briefly, of 'irregular immigrants', bearing this issue

in mind, but we will sometimes use other labels as well, citing other authors, or simply to avoid repetition. Moreover, we will sometimes also use the term 'unwanted immigrant(s)' to express the political attitude of receiving societies towards immigrants classified and treated as undesirable. However, this term is also not always appropriate because many irregular immigrants are in some way socially accepted.

1.4   The Issue of Numbers

The difficulty of precisely identifying what foreign sojourners can be termed 'irregular immigrants' complicates the task of estimating how many they are. Some figures, however, can help to depict the actual dimensions of the issue. It is estimated that there are about 280 million international migrants globally, 3.6 per cent of the human population. Migrants in an irregular situation represent between 15 per cent and 20 per cent of the total, i.e., between 30–40 million individuals worldwide, or 1 per cent of the world population, according to institutional estimates (Spencer & Triandafyllidou, 2020: 2). Figures vary among different regions of the world. In several countries of Asia and Africa, irregular immigration is pervasive, reaching or exceeding half of the immigrant population (Spencer & Triandafyllidou, 2020). In the United States, more precise figures are available. According to the Centre for Migration Studies of New York, the total US population not possessing a valid permit was 10.6 million in 2018 (Warren, 2020). Contrary to what is commonly believed, since 2010 about two-thirds of new arrivals have overstayed temporary visas, and only one-third have entered 'illegally' across the border (Warren, 2020). In other words, walls and border patrols would at best be able to stop about one-third of irregular immigration. On the other hand, in 2019, the population which did not satisfy legal residency requirements had declined by 1.4 million, or 12 per cent, since 2010 (Warren, 2021).

In the EU, estimates are less up-to-date and less precise. According to the last major effort to identify the size of the irregular resident population, the Clandestino Project (Kovacheva & Vogel, 2009), in 2008 the number of irregular migrants in Europe was between 1.9 and 3.8 million, that is, between 7% and 12% of the total migrant presence in the EU-27 (including the UK but not Croatia) (Spencer & Triandafyllidou, 2020). A decade later, a contested analysis by the Pew Research Centre (2019) estimated the number at between 2.9 and 3.8 million in 2017. According to this study, a peak was reached in 2016 (5.3–4.1 million), then numbers declined. Furthermore, about half of these immigrants were presumed to live in only two countries, Germany (1.0–1.2 million) and the UK (08–1.2 million). Italy followed with 0.5–0.7 million, and France was ranked fourth in the list, with 0.3–0.4 million irregular migrants.

1.5   The Structure of the Book

First of all, as regards methods, our analysis in this book is based on the available international literature on the issue, with especial regard to recent studies. Because it is a reader, this book does not present original research; rather, it elaborates on the findings of previous studies, including ones conducted by the authors.

After this introduction, Chap. 2 will discuss two main issues. The first is the possibility of finding a clear definition of irregular immigration, identifying various aspects of the legal condition that may entail a violation of the norms on legal residence. The second concerns the main reasons that induce irregular migrants to enter receiving countries. As we will demonstrate, the reasons range from economic interests, human rights and migrants' agency to the effects of stricter regulations, as well as the costs of arrest, detention, and removal of unauthorised immigrants.

Chapter 3 will discuss policies concerning the treatment of irregular immigrants settled on the territory of receiving societies. We will consider the disputed issue of the access to certain public services and benefits, the attitudes of local authorities, and the intervention of civil society actors. Immigration policies will be presented as a 'battleground', especially at the local level. In this framework, we will also highlight the selective treatment of irregular immigrants by public authorities and societies.

Chapter 4 will analyse the opposite outcomes of the relation between immigrants without proper residence permits and state authorities: on one side, irregular migrants risk detention and repatriation or are offered a so-called 'voluntary return' (also referred to as 'soft deportation'). This section will elaborate on the consequences of 'deportability', the constant threat of being forcibly removed. On the other hand, other irregular migrants may find ways to regularise their stay. This is the dynamic aspect of irregular immigration. However, it depends on different opportunities and channels according to the legal frameworks in different countries. This section will detail the main avenues to acquiring legal status.

Chapter 5 will consider the actors that enable and support irregular immigration. While smugglers, traffickers, and exploitative employers often receive the closest attention, our analysis also gives space to supportive actors, such as co-ethnic networks, municipalities, social movements and other civil society actors. These supporters play a vital role in the lives of irregular migrants; they help them to obtain the basic necessities of life and enable them to find alternative forms of inclusion.

Chapter 6 adds a crucial element to the analysis, namely the agency of irregular migrants, which is apparent in the instances where they find ways around the restrictions that are placed on their irregular presence, while forms of inclusion can be created through social interaction with citizens and participation in society. The chapter will pay particular attention to the ways in which irregular migrants can participate in the political arena, their mobilisations and social movements. It will show that irregular migrants are not as excluded as is often assumed; however, simultaneously the alternative ways in which irregular migrants can be

included should not be overestimated. The informal inclusion of irregular migrants and their citizenship from below should always be seen in light of their formal exclusion.

A concluding chapter will summarise the main findings of the book.

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Chapter 2
Defining and Explaining Irregular Migration

As we saw in the introduction, international migration has become a crucial issue on the political agenda across the world. While in the post-World War-II period in Western Europe and North America, political discussions of the issue were more related to labour market needs, today they refer more to security concerns and border enforcement. But it is not easy to define precisely what irregular immigration is and which immigrants exactly fall within this definition. Discussion of this issue will be the first concern of this chapter. Secondly, it is necessary to understand why irregular immigration occurs and why it is so difficult to eradicate it in democratic states endowed with market economies. A discussion of the main reasons for this phenomenon will be the second concern of this chapter. We will identify six main reasons for the presence of irregular migrants in receiving countries, concluding that it is not, or not only, an effect of external pressure; it is also a mirror of several societal contradictions.

2.1 Irregular Immigrants: A Popular Concept in Search of a Clear Definition

Irregular immigration stems from the encounter and tension between selective policies of admission of foreigners into a different national space and the aspirations to mobility of people who are not entitled, in principle, to enter that space or settle in it. However, it is not easy to define exactly what irregular immigration is and which immigrants can be defined as 'irregular' (Baldwin-Edwards & Kraler, 2009; Triandafyllidou & Bartolini, 2020a).

Common sense often identifies irregular immigration with illegal entry into a country. In the USA, irregular immigrants are persons crossing the border from Mexico. In Central Europe they are those arriving from the so-called Balkan route. In Southern Europe, they cross the Mediterranean Sea by boat. Or, in all receiving

countries, they use fake identity papers, or forged visas, or valid permits sold illegally by corrupted officials.

Several studies, on the contrary, have found that most irregular residents have entered in legal ways, mainly as tourists, and secondly as students (Triandafyllidou & Maroukis, 2012). They have become irregular when they have exceeded the period of stay for which they were authorised (Düvell, 2006; Andersson, 2016): they are 'overstayers'. Despite spontaneous entries by asylum seekers in recent years, over land or sea, on the whole it still remains true that, in the population of irregular immigrants in Europe, "'status-related flows' seem to be much more important than 'geographical flows'" (Triandafyllidou & Vogel, 2010: 294). In other words, flows of people who have entered regularly, and then overstayed their permit or engaged in activities, especially work, for which they were not authorised, outnumber the flows of people who have crossed the border without valid documents.

In any case, illegal entrance is a crime, except for asylum seekers, at least in principle and with exceptions, such as the UK, while overstaying has long been conceived as a minor misdemeanour. However, the political trend is towards the criminalisation of every form of settlement defined as 'illegal' by national laws. The EU's 'Return Directive' of 2008 defines 'illegal stay' as "the presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State" (European Union, 2008, art. 3.2). This definition identifies the issue only in negative terms: a stay is illegal when it does not fulfil certain conditions. Furthermore, because national laws can differ, also in a relatively homogeneous political space like the EU, it leaves grey areas of uncertainty and raises interpretative problems (Baldwin-Edwards & Kraler, 2009). However, it clarifies that 'illegal stay' arises from the interaction between certain forms of spatial mobility by third-country nationals and the legal system of receiving countries. This interaction can change with time: conditions of entry and settlement can be modified, or people can transmute their legal status through various circumstances such as marriage, pregnancy, sickness, or presenting an asylum application.

The issue becomes even more complicated when considering the fact that foreigners can possess a residence permit, for instance as tourists, students, or asylum seekers, but might not be allowed to engage in other activities: typically, work. Baldwin-Edwards and Kraler (2009) distinguish, in addition to entry and residence cited in the EU Directive, the dimension of 'legal status of employment' (whether foreign sojourners are legally entitled to work) from the dimension of the 'nature of employment'. This concerns compliance with broader employment regulations, notably tax and social security payments. Baldwin-Edwards and Kraler (2009) also introduce a fifth cross-cutting dimension: whether illegally residing persons are 'documented', i.e., known to the authorities. According to this study, it is possible to identify seven types of illegal entry, three types of illegal stay, and a semi-legal one, nine types of illegal status of employment, and so on. The outcome is a complex combination of regularity, semi-regularity, and irregularity, which leads the

authors to conclude that determining exactly into which category a particular group of migrants falls "will inevitably turn into a lottery" (Baldwin-Edwards & Kraler, 2009: 4).

Furthermore, the boundary between authorisation and prohibition can be subtle and easily crossed: sometimes migrants can reside in a country, but they are not allowed to work, or be subject to restrictions on their participation in the labour market. Students are a case in point. They are often allowed to work for a certain amount of time, usually twenty hours a week. But when a student accumulates two part-time jobs, each of them is regular, but their aggregation breaks the law. This type of situation has been labelled 'semi-compliance' by Ruhs and Anderson (2010), highlighting another complicating factor in drawing a clear-cut distinction between legal and illegal conditions. Residence can be legal, and employment can be legal, but their combination can be illegal. Combining residence and employment gives rise to various and complex cases, forming a disputed space of contention about the legal status of immigrants.

Not surprisingly, the legal status of immigrants is sometimes unclear. They may be in a condition of 'liminal legality' (Menjívar, 2006), i.e., neither undocumented nor fully authorised. Or they may be in a situation of 'semi-legality', for instance, residing legally but working without proper authorisation (Kubal, 2012). Or, they may be in a grey area of transition, for instance, as they wait for the response to an appeal concerning an initially denied asylum application, or for acceptance of an application for regularisation (Ambrosini, 2016). Immigrants in Canada fall into a similar grey zone, when they are entitled to what Goldring and Landolt (2011) call 'precarious legal status', summarising several forms of temporary and revocable permits. Other scholars have introduced the term 'befallen irregularity' to highlight that some immigrants may lose their status of regular resident because they no longer satisfy the legal conditions, for instance having lost their employment; or they alternate periods of regular stay with periods of irregular sojourn or partial regularity (González-Enríquez, 2010; Vickstrom, 2014). Irregular status is thus produced by legal norms (Triandafyllidou & Bartolini, 2020a).

Overall, "legality must be considered as a spectrum rather than a dichotomy, reflecting the range of interactions between migrants' structural realities and their agentive responses" (Hellgren, 2012: 35). Triandafyllidou and Bartolini likewise argue that "irregular migration needs to be conceptualised not as a black-and-white distinction between legal and illegal status but rather as a continuum of different statuses between regularity and irregularity" (Triandafyllidou & Bartolini, 2020a: 13).

2.2 Explaining Irregular Immigration

Policies tackling unauthorised forms of immigration have become harsher and also more effective in most receiving countries. The overlap between border control and security threats has legitimised a wide deployment of resources in patrolling national

borders and monitoring the presence of (poor) foreign citizens in the country. Internal controls, which are more difficult to implement, have been strengthened in regard to identity checks, access to public services, police controls, and – with more difficulty – participation in labour markets (Broeders & Engbersen, 2007). The numbers of irregular immigrants have been contained, and also reduced (see, for the USA Warren, 2021; and in general Triandafyllidou & Bartolini, 2020a), although it is not certain if this is the effect of specific policies or the consequence of a decrease in work opportunities due to a prolonged economic crisis, as has occurred especially in Southern Europe since 2008 (Echeverría, 2020).

However, there remains a distance between the declared aim of eliminating unwanted immigration and its effective implementation. According to Czaika and de Haas (2017), three gaps limit the success of these policies: a discursive gap between political discourse and 'policies on paper', an 'implementation gap' between policies on paper and implemented policies, and an 'efficacy gap' between implemented policies and their capacity to affect migratory dynamics.

We will now discuss the reasons for this persistence of irregular immigration in all developed countries, focusing the analysis on the reasons underlying the three gaps mentioned above.

2.2.1 Labour Markets

The first and most frequently cited reason for the failure of immigration control is the functioning of labour markets, especially in a neo-liberal era. Economic deregulation has favoured an expansion of casual employment whereby workers are hired by the hour or for specific tasks. Casualisation often leads to informalisation of employment relations, and informal recruitment can easily involve immigrants without legal authorisation to work in formal labour markets (Lewis et al., 2015; Chen, 2012; Düvell & Jordan, 2006).

Historically, economic forces have been at the forefront of opening borders to foreign workers. The need for a workforce for domestic activities was the driving factor of guestworker policies in Europe after the Second World War (De Haas et al., 2020). Following a trend of importing foreign workers established in the nineteenth century in the Americas and to some extent in Australia and New Zealand, Gulf countries and several countries of East Asia also developed guestworker policies in more recent decades. Immigrants were in demand especially to fill the gap in the provision of what can be called the three-D jobs (*dirty, physically demanding and dangerous*: Abella et al., 1995: 5). Those menial jobs are still required by economic systems but are not sufficiently covered by national workers, or not covered at the employment conditions offered by employers. At that time, industrial activities and related services were most concerned by this demand. But also agriculture, construction and poorly qualified services were involved. At the time of the oil crisis of the 1970s, most governments, especially in Central and Northern Europe, declared the end of these needs and closed the doors to new labour immigration. At

best, seasonal entrants were preferred, framing economic needs as temporary, together with highly skilled professionals and qualified workers in some sectors, primarily health care (Finotelli, 2014). Immigration policies became increasingly selective (De Haas et al., 2018).

However, the socio-economic demand for workforce has not ended, and it does not regard seasonal activities alone. In the EU, enlargement towards the East has partially filled the gap, granting free circulation to millions of foreign workers. But it has been not enough. While industrial activities and related employment have declined in the most developed countries, this has not occurred, or has not occurred to the same extent, in other sectors. Foreign workers are still required for activities which cannot be outsourced abroad, or easily replaced by new technological equipment: health, care and domestic services, hotels and restaurants, delivery of various types of goods, cleaning and logistics, together with the persistence of agriculture and the building industry (Triandafyllidou & Bartolini, 2020b). In all these activities, production and consumption are spatially linked and cannot be dissociated: they occur in the same place, at the same time. Furthermore, they are often labour-intensive, do not require large-scale investments, and are subject to fierce competition between fragmented providers. Employers (and clients) demand flexibility and reliability, but at a low cost.

On the other hand, the same innovative, high-tech activities usually outsource non-strategic services to external providers nearby, such as delivering products, or managing storehouses. Also public institutions outsource services, such as cleaning or maintenance. Outsourcing activities to small providers and cutting costs often entail the irregular employment of workers, and among them immigrants in irregular legal conditions: the weakest and most available, even in exploitative situations (Morice & Potot, 2010). Sassen (2001), in her analysis of global cities, highlights how the functioning of the most prominent cities of the world economy, together with the lifestyle of their upper classes, depends on the labour of many immigrant workers, often unprotected and underpaid. The rich need the poor, and their proximity. In the same vein, Wills et al. (2010) show how London's economy depends upon the labour of low-paid workers from a variety of countries as cleaners, builders, waiters, and in several other occupations. Needless to say, a significant proportion of this new immigrant workforce does not possess regular residence or work permits, although the rate is contingent upon the size and importance of the informal economy and the tolerance of undeclared work in different countries.

This neo-liberal economy demanding flexibility, developing outsourcing strategies, favouring casualisation, and cutting labour costs, is in contrast with the political will to close borders and reject immigration by poorly qualified workers. The global migration of women to satisfy the demand for care workers (Parreñas, 2008) adds a gender dimension to analysis of the under-recognised demand for immigrant workers by receiving societies. In addition, it intertwines the functioning of conventional labour markets with the daily life of households and with cultural assumptions about the division of work and the appropriate production of care services in contemporary societies at various levels of development.

Southern Europe is a case in point here (Ambrosini, 2018). It began to attract immigrant workers when its Northern counterparts developed the new orthodoxy of selective immigration. In Southern Europe, the discrepancy between the needs of labour markets and the challenge to align immigration policies with the restrictive vision of the EU partners, came to a head between the 1980s and the economic crisis of 2008. Repeated amnesties confirmed this phenomenon, as labour markets attracted many more immigrants than were authorised by states' policies.

In Southern Europe as a whole, the economic system is a mix of old and new features, of traditional activities and modern demands. The large proportion of small and medium-sized enterprises (SMEs) and independent work, the size and relevance of the informal economy (Baldwin-Edwards & Arango, 1999), the importance of tourism and related services, the survival of petty trade, traditional agriculture, and craftmanship, coexist with new lifestyles and industries competing on global markets (Calavita, 2005; for agriculture: Corrado et al., 2016; for construction: Dimitriadis, 2018). Social innovation generates new labour needs: progress in women's participation in the labour market has fostered vast demand for domestic workers. Modernity is supported by traditional arrangements. The ageing of the population and the growth in the number of frail seniors, without a corresponding expansion of public services, has triggered the spontaneous formation of an invisible welfare system: families have started to hire foreign care workers, entrusting their elderly relatives to them, in a regime of cohabitation and an around-the-clock work schedule (Ambrosini, 2013; Degiuli, 2016).

Overall, this socio-economic regime was one of the most attractive destinations for labour immigration across the world for at least two decades, while political regulation has in principle precluded settlement by immigrants. Repeated mass amnesties have been the outcome of this tension, as we shall see throughout this book.

Indeed, care needs are a major factor in attracting irregular immigration in various regions of the world. Moreover, in Germany, for instance, domestic and care services are typical work settings for undocumented migrants, with the silent complicity of public authorities: "The official policy in Germany is to turn a blind eye to the demand for domestic and care services, neither expanding the public care sector nor creating regular immigration venues for domestic and care workers" (Schwenken, 2013: 135). Lutz and Palenga-Möllenbeck (2010) have called this an 'open secret' of German society. Cornelius (2005) has highlighted the same tolerance towards the employers of unauthorised domestic workers in the USA. The case of households as employers of irregular immigrants is interesting for another reason as well: it contradicts the idea that unauthorised immigration is driven by unscrupulous capitalists, eager to exploit a weak workforce, against the interests of the wider society. In the case of domestic care work, the demand extends beyond affluent classes and is related to a failure in the provision of public services, and to a widespread preference for domestic assistance, not simply to capitalists' strategies or to an imbalance in sharing domestic tasks between genders and generations. Here economy and society, capitalists and common people, greedy exploiters and frail members of society tend to overlap, and clear boundaries between these categories blur.

A controversial topic of discussion is the relation among tightened policies, labour demands, and the formation of large pools of irregular immigrants. For several scholars, especially ones using a political-economic approach, this is the outcome of a hidden strategy – namely, a kind of secret agreement reached between governments and employers in order to provide the labour market with a workforce that is highly flexible, silent, and deprived of rights (see for instance Jordan & Düvell, 2002; Lewis et al., 2015). Exacerbation of restrictive policies, on the one hand, and employers' engagement in regularisations on the other, indeed go in the opposite direction, casting doubts on the existence of such an astute strategy and highlighting a distance between employers and governments. However, it is true that the discrepancy between labour demand and the politically restricted official supply of immigrant workers is a major reason for the development of irregular immigration (Spencer & Triandafyllidou, 2020).

2.2.2   Globalisation and Human Mobility

The social and economic interests of receiving societies are involved in the production of irregular immigration also for another reason, one not related to a direct demand for external labour, but indirectly favouring the entry of new immigrants. Here international exchanges, many forms of mobility across borders for various reasons, or globalisation itself, enter the spotlight. Many domestic activities with economic importance, cultural recognition, or social significance, require open borders and freedom of circulation. The most important case is tourism. According to the UNWTO (United Nations World Tourism Organisation), international tourists in the world numbered 25 million in 1950. They increased to 1.4 billion in 2018 (Raffini & Giorgi, 2020). International tourists today do not only come from highly developed countries; they do so also from many other countries in the world. China is now the most important sending country of international tourists worldwide, preceding the USA and Germany. Also Russian nationals are increasing their international mobility (Federturismo Confindustria, n.d.). Consequently, competition among countries to attract international tourists has developed, and a competitive resource has become the easing of their entrance by relaxing requirements, visa criteria, and economic guarantees. For example, the EU countries have abolished visas for citizens of the non-EU Balkan countries in 2009-2010, and in 2017 of Ukraine and Moldova, for tourism journeys lasting less than three months in a year. Several countries in Latin America, such as Brazil, enjoy the same treatment. Obviously, people who want to access a new country for work-related purposes can exploit this opportunity. As already said, tourism is considered the first mode of entry by irregular immigrants into the EU.

Educational systems, and primarily universities, play a similar role. Governments push them to attract international students, often developing new courses taught in English, also because international rankings emphasise this aspect. However, like tourists, international students do not only come from highly developed countries.

Consequently, as we have already said, education has been identified as the second reason for entry by unwanted immigrants (Triandafyllidou & Maroukis, 2012). The same reasoning can be applied to other economic activities: entertainment, for instance, triggers an inflow of musicians, dancers, performers and other professionals. Some of them do not return to their country at the end of their contract. Entertainment is also a legal way to favour the entry of sex workers and their exploitation. In turn, international sports competitions allow entry, even if usually for short periods, but long enough to give young athletes the opportunity to become unauthorised immigrants. Religious pilgrimages, which give access to foreign countries, can be exploited in a similar way.

In short, globalisation generates a greater circulation of people across borders for manifold reasons; and in various ways, it allows entry by unwanted immigrants. Especially when labour markets provide the latter with employment opportunities, legal entrance can give rise to overstaying and irregular settlement. Overall, as Finotelli and Sciortino state (2013: 502), "the actual key variable for the development of a large-scale irregular migration system is provided by the availability of short-term visas for circular irregular migration or for subsequent overstaying". Border policies try to select candidates for international mobility with increasing precision, but they are rarely able to halt this mobility completely or identify with absolute accuracy the true reasons for the movement. Every human activity offering the opportunity to obtain a visa, if necessary, can enable entry by unwanted immigrants.

Furthermore, people are sometimes not fully aware of their aspirations and possible developments, or they may modify them when interacting with receiving societies. Students, for instance, usually enter a country to attend a course; but they may find a job or realise that the cost of living is higher than expected, or they no longer receive sufficient support from their families, so that they are compelled to find economic resources. In this way, they transform themselves into irregular immigrants, although this was not their initial aim.

Different, and even conflicting interests in receiving societies are also reflected in public bodies. While some of them (departments of Home Affairs and its apparatus, in principle) fight against irregular immigration, strengthening controls and procedures for legal entry into the country, other bodies, engaged in the promotion of tourism, economic exchanges, higher education, or cultural activities, are more interested in relaxing restrictions and in favouring mobility across borders. Consequently, democratic states are not monolithic entities; rather, they are internally divided organisations. They encompass various institutions and departments, with manifold tasks, interests, and capacities in devising and implementing public policies (Ruhs & Anderson, 2010). Different sectors pursue different objectives, operate according to partially autonomous rationales and procedures, are in contact with different stakeholders (and lobbies), and are under their influence, with a consequent divergence of visions, priorities, and logics within the same state apparatus (Van Amersfoort, 1996). The production of legislation, government action, and the practical implementations of declared policies must take account of vested interests and pressures. These interests may directly or indirectly conflict with the goal of more rigid border controls, thus helping to explaining the 'implementation gap' noted by Czaika and De Haas (2017).

In other words, irregular immigration can be conceived from this point of view as a by-product of globalisation; or, according to a more militant view, a kind of reaction by common people to the selective approach to globalisation enacted by powerful economic and political actors, such as international organisations, multinational companies, financial markets: i.e., globalisation from below.

2.2.3   Institutional Production of Illegality

Another source of irregular immigration relates to the intricated, uneven, and overlapping rules which try to divide authorised and unauthorised forms of human mobility. This can be termed 'the institutional production of illegality' (see Calavita, 2005). As we have already said, every normative regulation imposing restrictions implies that some actions are illegal. But, in the case of international immigration, long and unclear procedures, contradictions and uncertainties of the rules, discretionary interpretations by officials and public bodies, delays in treating applications, have been often highlighted as factors which push foreign sojourners out of the legal framework or into a liminal condition (Menjívar, 2006), also contrary to their intentions. For instance, in Spain, but the same applies to many other countries, lengthy bureaucratic procedures and staff shortages in the offices that have to deal with visa applications contribute to producing the 'befallen irregularity' already mentioned (González-Enríquez, 2010). Another example concerns the rules on family reunification, which differ markedly among the EU Member States, not to mention other developed countries. Some have established high standards of income, employment and housing to allow the reunification of families, while others have less codified rules. The European Court of Human Rights has intervened in a number of specific cases (Baldwin-Edwards & Kraler, 2009). Rejection of applications for reasons related to income, stability of employment, or quality of the accommodation restrains the number of new entrants, but at the same time, it begets forms of unauthorised family reunification (Bonizzoni, 2011). The institutional production of illegality also regards the 'cage effect' of harsher border controls on migrants' circularity: in the past, unauthorised immigrants circulated more frequently across borders, going back and forth to their homeland; now, fearing that they will be intercepted, they tend to settle permanently in receiving countries, as has been detected in the case of Mexican immigrants in the USA. Somewhat paradoxically, they circulate less than authorised immigrants (Massey et al., 2015).

Something similar occurs in renewals of residence permits for work purposes: the rules often require stable employment to grant residence status to immigrant workers, but markets offer increasingly precarious, provisional or unstable jobs. Furthermore, the economic crisis since 2008 has undermined the position of immigrant workers in the labour markets of many countries (Southern Europe is probably the clearest case), spreading unemployment, short-term contracts, contracts with a low number of working hours, and other weak forms of employment. This may mean that immigrants who were regular become unable to renew their permits. When denying renewal, authorities want unemployed immigrants to return to their

countries of origin, but this rarely occurs: the outcome of such restrictions is more frequently an increase in the unauthorised sojourning population.

2.2.4 Liberal Constraints

A fourth internal reason limiting the success of state policies in repressing irregular migration is connected to the 'liberal constraint' (Hollifield, 1992; Hollifield et al., 2014) or 'embedded liberalism' (Ruggie, 1982) of democratic states, and to legal protection of human rights (Jacobson, 1997). The 'liberal constraint' regards the guarantees established by legal systems to protect the rights of persons, including non-citizens. If democratic states by-pass such rules, they fall into a contradiction dangerous to their very nature.

The obligation to respect basic human and civil rights then restricts the capacity of states to enact harsher policies to detect, detain, and deport immigrants without proper documents. In other words, such rights limit the effectiveness of immigration policies. They constitute another reason for the 'implementation gap' observed by Czaika and de Haas (2017).

The fact that in the past decade, the issue of asylum has become so prominent in the public debate both in the USA and the EU, beyond actual numbers and the distribution of international refugees in the world (UNHCR, 2021), has made this aspect crucial for the governance of international immigration. In other words, governments struggle to strike a balance between the aspiration to curb unwanted immigration and the respect for human rights embedded in their constitutions and international conventions.

We can recall some examples of the tension between liberal principles and the fight against unwanted immigration. For instance, police authorities can enter private homes and properties only under certain conditions and with authorisation by the judiciary. This prevents raids on private homes in search of immigrants without proper documents. The use of weapons to stop border crossings is also in principle forbidden or strictly regulated, allowing the passage of immigrants in some instances. Foreign citizens demanding asylum cannot be rejected, in theory, without their reasons being heard on an individual basis. Collective refoulement is not allowed. When it occurs, those responsible can be accused by the judiciary.[1] Asylum seekers whose application has been rejected, in democratic states have the right to lodge an appeal and avoid deportation, at least gaining time and sometimes escaping control by the authorities. As a consequence of this web of rules, some tolerance towards irregular immigration is a toll to pay to the liberal infrastructure of democratic societies (Ellerman, 2010).

The principle of sovereignty (often referred to as the 'Westphalian order', namely the structure of international relations established by the religious wars of the

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[1] The European agency Frontex is currently under investigation for precisely this reason.

seventeenth century in Europe) recognises the right of nation-states to patrol national borders and to establish procedures and limits for the admission of foreign citizens into their territory. In a liberal order, these states' prerogatives are tempered and constrained by human rights, from which every individual benefits not because they are a citizen but because they are human beings (Benhabib, 2002). International charters, primarily the Universal Declaration of Human Rights established by the United Nations, have been adopted by every national parliament of Western countries and enshrined in their legal systems, restricting the exercise of national states' sovereign power. Moreover, the old principle of reciprocity in international relations, by which a national state grants rights to foreign citizens only if the same rights are granted to its citizens in their countries, has been largely superseded, in fundamental matters, by universal human rights. Consequently, liberal democracies have the duty, when monitoring their national borders, to demonstrate that the ways in which they exercise their surveillance do not violate basic human rights. The same can be said when they inspect the legal status of foreign citizens on their territory. Therefore, respect for human rights enters into tension with the sovereignty of receiving states, which consider the entry and stay of unauthorised aliens as an infringement of their prerogative to control access to their territory.

In order to become more efficient in the repression of irregular immigration, states would have to become less liberal. Many of them have taken steps in this direction, on both sides of the Atlantic, but the securitisation of borders and the fight against unwanted immigration are hampered by rules established by national constitutions and international treaties. It is true then that the "state strikes back" (Schain, 2009), and immigration policies are probably the field that best reflects this resurgence of nationalistic instances, but this turn is not absolute nor without room for exceptions.

Another set of liberal values constraining the efficacy of anti-immigration policies regards the treatment of specific categories of irregular third-country nationals. Unaccompanied minors have probably been the most important one in recent years (Wernesjö, 2020), both in the EU and in the USA, but so too have pregnant women, people with serious health problems (Fassin, 2005), immigrants exploited in the sex industry or in other work-settings (Carrera & Guild, 2016). All these immigrants are protected, at least for some time, by liberal laws and considered (provisionally) non-deportable. Sometimes, the protection of these foreign citizens entails the acceptance of other people related to them. For instance, courts can grant a residence permit to the parents of children born on the national territory or who arrived during infancy and are now attending school and are developing their social lives in this environment. Governments have tried to evade such constraints in various ways. The one that has been most important and disputed in the past decade has been the outsourcing of bordering policies to neighbouring states, in order to prevent the arrival of migrants claiming asylum, independently of their countries of origin and the reasons for their flight. Especially transit countries have been involved through agreements with states such as Turkey, Niger, Libya in the case of the European Union, and pressure on Mexico in the case of the USA.

Even if numbers in the EU have dropped for some years (2017–2021), and receiving states can claim the success of such measures, these policies have not been enacted without contestation and resistance. Reluctant governments are often reminded of their commitments to human rights by various civil society actors – anti-racist movements, international NGOs, immigrant associations, religious organisations, trade unions – which have voiced their opposition and advocated for the protection of asylum seekers and migrants, including people in dubious or irregular situations (Della Porta, 2018). Their lobbying influences the political debate and often affects public opinion, at least partially offsetting anti-immigrant pressures (Zincone, 1999). We will explore their activity later.

2.2.5 Difficulties and Costs of Removals

The efficacy of the repression of irregular immigration can be disputed from another point of view, one less inspired by high-minded liberal principles and more conditioned by mundane concerns. It is undeniable that states have increased their determination to enforce – with the consequent investments – border policies, internal controls and the implementation of removals of unwanted immigrants (Broeders & Engbersen, 2007). Gibney (2008) has talked of a 'deportation turn' in immigration policies, highlighting the rising numbers of removals of rejected asylum seekers in the UK and other countries. Deportations have huge human costs for the people involved: they disrupt families, spread fear in immigrant communities, and provoke psychological, financial and social traumas (Hagan et al., 2011). This may be true, but only so in relative terms. Deportations have increased, but only a minority of detected irregular immigrants are repatriated, either voluntarily or forcibly (see Chap. 4).

In official documents, the EU has acknowledged the scant results of removal policies: "Every year, between 400,000 and 500,000 foreign nationals are ordered to leave the EU because they have entered or are staying irregularly. However, on average only one-third of them goes back to their home country or to another third country through which they travelled to the EU" (European Commission, 2020a: 36). The proposal of a new Pact on migration and asylum reports the same rate of success in removals, but only refers to rejected asylum seekers: "On average every year around 370,000 applications for international protection are rejected but only around a third of these persons are returned home" (European Commission, 2020b:1). This key political document devotes close attention to the issue: return/returns are mentioned 93 times in the English version of a document of 28 pages. This persistence represents not only a statement of EU priorities in immigration policies but also an indirect admission of failure in their regard.

Removals are expensive and not simple to implement (Stavilă, 2015).[2] They require, first of all, precise and irrefutable definition of the personal identity of the person involved and the exact identification of their homeland. Needless to say, immigrants, in order to avoid or delay their deportation, often destroy their documents, refuse to reveal their identity, deny the identity previously declared, or claim to be citizens of another country. They may even erase their fingerprints, making their identification impossible (Ellerman, 2010). Even extreme forms of resistance can be seen as the 'weapons of the weak'. Because they have no interest in complying with the restrictive immigration policies of receiving states, irregular migrants render themselves 'unclassifiable'. In this way, they hamper deportations and can stop the exercise of sovereign power by (liberal) states, even if it will not lead to a legal status (Ellerman, 2010).

Second, necessary is the cooperation of the immigrants' countries of origin, i.e., their willingness to accept the forced return of their citizens (Cassarino, 2020). Sending countries, in general, are not interested in providing such cooperation. This counts even more for immigrants who have been involved in some crimes: precisely those immigrants that are the first category receiving societies want to remove, are the least attractive to take back for sending countries. Cooperation must have some sort of quid pro quo: economic aid, trade agreements, opportunities for legal immigration. In other words, it involves costs and complex diplomatic negotiations, and even the acceptance of supplementary immigration.

Third, removals often require the detention of the people to deport. Foreign citizens whose main fault is having overstayed their visa or having presented an asylum application that was rejected after a long procedure, are deprived of their freedom. However, beyond moral and political considerations, detention entails substantial economic costs for facilities, surveillance, and the sustenance of 'inmates'. Fourth, journeys involve other costs and problems. While the USA can deport most irregular immigrants to Mexico by coach, in Europe, flights are commonly used. It is not easy to embark immigrant deportees and their escorts on commercial flights; governments often have to rent planes and organise special flights (Ellermann, 2006). Obviously, the travel, remuneration and maintenance of police officials in these operations entail other costs. Fifth, repatriations are not irreversible. Both on the US-Mexico border and the Balkan route, deported immigrants often try again several times until they fulfil their aim of settling in the country that they want to reach (see Chap. 4).

Moreover, the various forms of irregular immigration and related forms of law-breaking, not to mention the complex grey zone of semi-compliance, requires huge investments to monitor the various places, circumstances and procedures that can

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[2] In the case of Italy for example, the government spent 64 million euros on the forced repatriation of immigrants from 2015 to 2020, plus the expenditure on the staff involved and on detention before removal. The results were meagre: 6531 deportations in 2019; 3351 in 2020 (also because of the pandemic). Furthermore, 21 percent of removals in 2019 and 55 per cent in 2020 concerned just one country, Tunisia: it is near, less expensive, and willing to collaborate (Zandonini & Filpi, 2021).

encompass violations of immigration laws. This fact induces state authorities to concentrate their efforts (and resources) on some forms of irregular immigration perceived as more dangerous or socially stigmatised, while downsizing investments in other directions: sometimes this strategy is openly declared by the authorities, as Ruhs and Anderson (2010) show for the UK. For instance, failed asylum seekers (who often represent a cost for public budgets), convicts, and homeless persons, are more often the target of removals than are irregular immigrants who have jobs and accommodation, abide by the laws, and avoid any problems with the authorities.

2.2.6   Immigrants' Agency and Ethnic Networks

So far, we have mentioned mainly external factors which can favour irregular immigration or hamper restrictive policies: labour markets, globalisation, institutional production of illegality, liberal constraint, costs and difficulties of deportations. In the past two decades, however, scholarship has also paid more attention to irregular immigrants' agency, in some way reacting against views of their uncomfortable situation expressed (only) in terms of victimhood (Van Meeteren, 2010; McIlwaine, 2015).

Agency is a key concept in contemporary sociology. It is often seen as being in tension with structure, i.e., external constraints. Without addressing such debate, for the purpose of this book we can define agency as the capacity of individuals to shape their lives and exploit opportunities, or indeed open up new possibilities for themselves, or for their family (Triandafyllidou, 2019). Agency does not mean absolute freedom of choice. Paying attention to it helps to understand "decision making, the room for manoeuvre, opportunity structures and migration trajectories" (Anderson & Ruhs, 2010: 178), as well as interactions among migrants, state policies, and other relevant actors (employers, civil society, local societies). Furthermore, a 'spectrum of agency' can be identified (Ruhs & Anderson, 2010) on considering different individuals and groups in different times, places, and social and political circumstances.

Moreover, different forms of agency can be identified. For our purposes here, we can distinguish *adaptation*, as the effort to deal with a personal situation (in our case, a lack of legal status) by finding private solutions at the micro-level, without trying to change the overall context: for instance, informal employment in the underground economy, some support by compatriots or by solidarity institutions. At the other extreme of the continuum, agency can mean *mobilisation*: political activism and struggle in the public arena to change the legal framework or soften the enforcement of rules, achieving some more space for regularisation. Here we can locate demonstrations, marches, or the occupation of public places by irregular immigrants (Chimienti & Solomos, 2020). Somewhere in the middle, agency can be conceived as *reframing,* i.e., as an attempt to rework one's personal circumstances, often in connection with other people in the same situation, by trying to change one's social representation and to find an opportunity to become more accepted,

tolerated, and, sometimes regularised (see Katz, 2004; Triandafyllidou, 2019). In this category, we can place efforts to gain acceptance by accumulating demonstrations of being a good person deserving acceptance: for instance, by attending a religious congregation and displaying a disciplined lifestyle with the purpose of being considered worthy of support and, if possible, access to legal status (Guzman Garcia, 2020).

Later in this book (Chap. 6), we will analyse political mobilisations of irregular immigrants. Here we consider the two other types of agency among such immigrants by considering their entry, settlement and survival as the outcomes of their aspirations to find a better life and more opportunities in a new country. We view immigrants in irregular conditions as social actors engaged in a struggle, often arduous, to survive, improve their situation, and provide for their families.

Migrants lacking formal authorisation can first try to enter a category eligible for acceptance by a hosting state: the main case has been asylum in recent years. This may entail crossing other national borders, searching for a country in which their asylum application can be accepted or in which they wish to receive better assistance (Schuster, 2011).

If they are young, they can declare that they are unaccompanied minors. If they are adults, they can find a partner and marry, or develop a stable relationship. Having children can reinforce this strategy. However, most irregular immigrants try to develop practices of survival, carving out a life for themselves in the interstices of receiving societies (Datta et al., 2007). Hard work is often their main asset and a way to achieve some form of tolerance. Through work and irreproachable behaviour, immigrants can foster a 'moral economy' in which their irregular stay, from a legal point of view, becomes compensated and silently overshadowed by the utility attributed to their work (Chauvin & Garcés-Mascareñas, 2012, 2020). Gender (feminine), and domestic work at the service of native families, in particular, are factors that favour this development (Bonizzoni, 2017; Näre, 2011).

Entry, hospitality, survival in a first period, moral support, and matching with the local labour demand are mainly provided by relatives and co-ethnic networks. Hagan (1998), in particular, has detected the influence of ethnic networks at various stages of the migration process: (1) the decision to migrate; (2) the direction and persistence of migration flows; (3) transnational links; and (4) settlement patterns and incorporation. In the final stage, migrant networks – especially well-established ones – can provide newcomers with various crucial resources, including accommodation, information, and assistance in accessing labour markets, mainly in niches where ethnic networks control employment opportunities.

Migrants can then find alternative methods to enter and find job opportunities abroad, especially when they are backed up by networks of contacts linking them to migrants who arrived previously and are now permanently settled (Castles, 2004). They use their social contacts to squeeze themselves into a gap in the hidden economy, where they await the longed-for opportunity to come out into the open and regularise their situation. Also, asylum seekers' choices of routes and destinations are influenced by their connections with relatives and compatriots (Koser, 1997; Castles, 2004): this is the main reason why most of those who land in Italy or

Greece try to cross internal borders of the EU to reach compatriots settled in Central and Northern Europe.

For a while, a body of literature, above all North American, claimed that networks enable migration processes to continue even at times when market conditions are unfavourable: migrants gravitate towards particular countries or locations, not on account of better economic opportunities, but thanks to hubs established by the settlement of relatives, neighbours and friends (Massey & Espinosa, 1997; Massey, 1999). Since the economic crisis of 2008, this has become less evident: flows of irregular immigration, according to available statistics, have decreased as a consequence not only of stricter regulations but also of declining economic opportunities (for the USA: Warren, 2021). The same consequence of the economic downturn is very visible in Southern Europe, where immigration has considerably diminished in recent years, despite the widespread narrative of a 'refugee invasion'.

It appears more realistic to state that co-ethnic networks favour the encounter between local demand and the immigrant supply of labour. This aspect is especially crucial in the case of irregular immigration, which is by definition excluded from institutional recruitment channels: irregular immigrants depend on their social networks more than regular immigrants do (Bloch et al., 2014). When an immigrant worker is needed – for instance, by a construction company requiring additional manpower (flexible and low-cost, if at all possible), a cleaning firm seeking to replace a worker, or a family wanting someone to look after an elderly member who is no longer self-sufficient – the tendency is to approach someone who is already known. Therefore, an approach is made to immigrants that are already employed in the same environment, or who have arrived in the country some time ago and have a good reputation for finding the workers that are needed.

Newcomers, for their part, rely on relatives who already have a foothold in the receiving society, or on other compatriots acting as intermediaries when searching for work. The borderline between regular and irregular tends to become blurred, and it is often ignored during these processes.

Moreover, this gives rise to specialist 'brokers' in the immigrant labour market: intermediaries with various degrees of specialisation and various motivations who put unemployed compatriots in touch with potential employers (Ambrosini, 2017).

However, the degree of solidarity in migrants' networks is disputable. A research study in the Netherlands distinguished in this regard three patterns of incorporation of immigrants into social networks: a) a *(transnational) community pattern*; b) a *bounded solidarity pattern*; c) a *market pattern*. In the first case, newcomers are relatives, support is long-standing, based on communal sharing, and provided for free, but it entails a long-term dependence. In the second case, support regards compatriots more in general, but it is only incidental. It is provided in principle for free but it mainly involves random support, situational giving and taking. In the third case, beneficiaries are strangers, no solidarity bonds matter, and support is exchanged with monetary compensation, in a kind of market exchange: for instance, newcomers have to pay to find a job or accommodation (Engbersen et al., 2006).

Taking account of these differences, irregular immigrants' ability to negotiate the support of ethnic networks is of crucial importance for their chances of economic survival and social insertion (Bloch et al., 2014). This also explains why irregular immigrants often see as 'benefactors' not only relatives who support them, but also people who, from the legal point of view and in the eyes of receiving societies, are exploiters of their social and institutional weakness. The same occurs, as we will see, in the case of smugglers who provide transport across borders to people who cannot access regular travel services because of visa requirements: despite the dreadful reputation that smugglers have in receiving societies, they often enjoy much better consideration among their clients and in their communities (Alpes, 2013; Maher, 2018).

Typical settings in which migrant networks can furnish employment opportunities 'off the books' to irregular immigrants are economic activities run by other immigrants (Kloosterman et al., 1998) – what in the scholarship are often referred to as 'ethnic economies' (Light & Gold, 2000; Edwards et al., 2016), or 'migrant economies' (Räuchle & Schmiz, 2019). Here exploitation can also mean an opportunity for people lacking the eligibility in the official labour market. For a new immigrant, the prospect of being accepted and hired (informally) to work alongside compatriots, even without possession of the proper papers and without knowledge of the local language, may constitute a considerable incentive, especially in the early stages of settlement.

On the other hand, the availability of a highly cooperative labour force, fully flexible as to working hours and tasks, willing to work without particular demands in terms of wages and contractual rights, in need of concessions and favours in other areas (housing, regularisation procedures, support for the arrival of relatives, etcetera), is a competitive resource for immigrant entrepreneurs (Waldinger et al., 1990). Not rarely, the employer lays down arduous, exploitative conditions in exchange for the 'favour' represented by the journey, the entry and the welcome of a newcomer. Furthermore, informal self-employment may also be a survival practice for people without legal papers and devoid of other economic opportunities (Raijman, 2001).

2.3   A Mirror of Societal Contradictions (Conclusion)

This chapter has addressed two related matters: first, the fact that, beyond common wisdom, it is not always easy to define precisely what irregular immigration is, and where the boundaries of this category lie. Secondly, it has discussed the various factors which produce irregular immigration and its settlement in receiving societies, despite growing restrictions in immigration policies. Immigration, in general, reveals several aspects of hosting societies and how they function. The same can be said for migrations defined as 'irregular', as this phenomenon highlights several fields of tension. In general terms, it is a typical case in which overarching structures

are confronted with human agency as regards aspirations, capabilities, and social connections. More specifically, restrictions and efforts to circumvent them reveal deep inequalities in mobility regimes around the world (Glick Schiller & Salazar, 2013; Anderson, 2017). Following Faist (2019), today's social question is not primarily between labour and capital; rather, it is located at the interstices between the Global North and the Global South. It concerns huge distances in economic opportunities, political rights and social protection among different regions of the world. At the same time, these differences trigger efforts to subvert mobility regimes by venturing abroad in search of a better life.

Irregular immigration also evidences the discrepancies between political closure and labour markets in search of flexible and willing workers, between globalisation and the prevention of unwanted mobility, between liberal political systems and the refusal to grant protection to asylum seekers. It is indeed a mirror of many contradictions of the current era. Irregular migrations are then a challenge for states' policies and societies trying to enforce global regimes of inequality; at the same time, they reveal their internal tensions and competing interests. On the other hand, they highlight forms of daily resistance and response, mainly peaceful and silent, by the targets of such policies: common people who would like to cross borders and settle in another country, for multiple reasons. In this chapter, we have distinguished in this regard three forms of agency by irregular immigrants: adaptation, reframing, and mobilisation.

As we will see in the next chapters, irregular immigrants are not equal. They are not seen and treated in the same way by hosting societies and their institutions: there are in effect wide differences in attitudes towards unauthorised immigrants, in consideration of their actual role in receiving societies, and in the practical enforcement of policies in their regard (Ruhs & Anderson, 2010). 'Law on the books' diverges from 'law in action' (Schuck, 2000). Furthermore, receiving societies are not compact in fighting against irregular immigration. Not only do internal interests weaken the coherence of border closure, but vocal minorities disagree with policies of deterrence and exclusion, and in various ways act in support of unwanted immigrants, favouring their resistance or settlement despite efforts to remove them. The same unauthorised immigrants may try to overcome their situation through forms of protest and political mobilisation, especially if they find support among local actors (see Chap. 6). Also, for these reasons, the irregular status can be reversed and transformed into a legal authorisation under certain conditions, although with different degrees of opening in receiving countries. The new policy announced by the US President, Joe Biden, has refreshed the conception of irregularity as a transient status. The tremendous difficulties that Biden is facing, and what appears at the time of writing (end of 2022) to be a partial reneging on his promises, confirm the political complexity of this issue. The next chapter will explore, together with deportations, also the opposite outcome: social acceptance of irregular immigration and opportunities to remedy this uncomfortable legal status.

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Chapter 3
The Political Challenge of Irregular Migration

As we saw in Chap. 2, there is little doubt that the political salience of irregular migration has grown significantly. Moreover, the main direction of immigration policies is increasingly selective: substantially liberal for people coming from the Global North and for the elites of developing countries; quite tolerant, in many respects, for would-be migrants coming from intermediate regions (such as Eastern Europe and several countries of Latin America and Asia); harsher towards common people coming from the Global South, where the majority of the world's population lives. Nevertheless, millions of irregular immigrants live and circulate in receiving countries, and they often do so for many years. They raise many challenges for political institutions, especially in states that claim to comply with democratic standards and to respect human rights.

Recent events have highlighted deep dilemmas about the political treatment of unwanted immigrants. The Covid-19 pandemic raised the issue of health care and vaccination for all people sojourning in the country, also for those who do not possess a legal status. Furthermore, it revealed not only that millions of 'essential workers' were immigrants, who performed crucial tasks in food production, delivery of goods, and assistance to frail people, but also that many of them were also irregular from a legal point of view (Kerwin et al., 2020). Besides this specific aspect, in the USA the newly elected President Joe Biden immediately declared his intention to legalise, under certain conditions, the majority of irregular residents (about 10.3 million) and took some steps in this direction. With his initiative, Biden relaunched the issue of political solutions for the problem, with some form of an amnesty in favour of wide segments of the unauthorised population. Subsequent actions during the first years of Biden's presidency were contradictory, also because of the strong opposition that he faced from the Republican party, state authorities and some judges. We will discuss possibilities or regularisation in the next chapter, as a possible 'solution' to irregular migration.

In this chapter we will elaborate on the political treatment of irregular immigrants, once they have in some way settled in receiving developed countries, considering their access to (some) social services and their selective management by authorities and societies.

3.1 Social Protection and Access to Welfare Services for Irregular Immigrants

A first challenge regards the access of irregular immigrants to some form of social protection in host countries. First of all, some irregular migrants are minors, and therefore in need of some form of social protection. Moreover, like everyone, irregular migrants need food, shelter, clothes, sanitation and other basic services; and if they fall ill, they need medical assistance. The principle of sovereignty pushes states to exclude irregular sojourners from welfare provision, while on the other side human rights and liberal values advocate their inclusion. Furthermore, practical concerns also require prudence in excluding irregular immigrants from public services. The clearest case is medical assistance, because a lack of proper care entails the risk of contagious diseases spreading also among citizens.

In addition, a growing number of homeless people in cities, panhandlers, or people induced to commit crime to survive, can become a problem, especially for local authorities. This issue can be addressed through the enforcement of public order – by mobilising more police and resorting to detention – but this solution is expensive, not without drawbacks for civil rights, and does not solve the problem in the long term. Some international institutions, furthermore, advocate a wider extension of rights to irregular immigrants. The Office of the High Commissioner of Human Rights of the UN, for instance, has issued a publication (2014) demanding, as the first key issue, the adoption of legal and practical measures to prevent discrimination against irregular migrants, removing "rules that make access to basic services conditional on the production of documents that irregular migrants cannot obtain" (UNHCR, 2014: 135). Removing discrimination would allow access to a wide array of services providing health care, an adequate standard of living (including housing, food, water and sanitation), education, social security, work, and just conditions of work.

At the EU level, on the contrary, the policy of exclusion from welfare provision has gained ground with time, the aim being to create a 'hostile environment' deterring unwanted immigrants from settling, and inducing them to return to their homeland. Exclusion from public services has been conceived as a means with which to exercise 'internal control' on the presence of irregular migrants, restricting their opportunities to live a dignified life in receiving societies (Broeders & Engbersen, 2007). For instance, the *European Pillar of Social Rights*, approved by the EU Parliament in 2017, explicitly restricted the scope of application of its principles to EU citizens and legally resident foreign immigrants (European Parliament, 2017).

The trend is not linear, however. Some EU documents: – for instance, the *Europe 2020 Strategy* – talk of migrants' rights in general terms, without reference to their legal status. Overall, the stances of EU institutions vis-à-vis irregular immigrants have oscillated between inclusion and exclusion (Delvino, 2020).

As a consequence, some basic rights are widely granted (although not equally so, even in the EU) by national laws also to irregular sojourners. The most common are rights to urgent and necessary medical care, including childbirth and assistance to the new-born child, and the education of minors (Spencer, 2016). Children are generally the recipients of better social protection because democratic states usually recognise that the consequences of exclusion would be particularly harmful to them. Moreover, from a moral and political point of view, children are not considered to be responsible for the immigration decisions of their parents (Spencer, 2016: 42). Even when migrants are entitled to a service, however, legal or practical barriers may hinder their effective access to it. Access is typically hindered by the question of who will bear the costs of services (for instance, having to pay for health care), or by the requirement that service providers report unauthorised users to the authorities (Delvino, 2020). This, however, raises a special challenge for local administrations, which have to cope with the task of managing urban settings where a variable number of residents have limited or no entitlement to social services (Spencer, 2018). What Kreichauf and Glorius (2021) say concerning forced migrants also applies, and even more so, to irregular immigrants: while questions are often reflected at the national level, migrants arrive, settle, and require specific policies at the local level. The effects of social exclusion become unavoidably visible at this level, especially when illegal migrants remain in the country. They translate into problems of visible destitution, and consequently of human dignity, urban quality, social cohesion.

Furthermore, from the point of view of local authorities, providing access to some services can help them monitor the presence of irregular immigrants. Building trust with them can mean also gaining their support in combatting crime, whereas their exclusion pushes them deeper into the shadows and fosters their allegiance to criminal networks (Engbersen et al., 2006). Typically, different priorities are at stake: states emphasise national sovereignty and border control, while municipalities tend to privilege the well-being, and then the cohesion, of local communities. This explains why municipalities may allow irregular immigrants to receive some forms of social protection, give them access to (some) universal services, or establish specific forms of assistance, or simply avoid checking their legal status when they request admission to some service or facility.

Another widely used strategy consists in triangulation: local authorities in many cases do not challenge national restrictions directly; rather, they delegate assistance to immigrants not eligible for public services to NGOs (and fund them, totally or partially) (Ambrosini & Van der Leun, 2015). NGOs, as non-public actors, often enjoy – at least under liberal regimes – more freedom to provide services to people in need. They are in most cases morally engaged in protecting the most destitute and

politically weakest people, and receive support from donors and contributions from volunteers because they are trusted to fulfil aspirations of justice and solidarity. They are thus in a more acceptable position to provide help to people at the margins of the legal system without triggering an overt institutional conflict with national governments.

Beyond explicit policies, another level of tension and negotiation between public authorities and irregular immigrants, with their needs and demands, involves the civil servants in contact with them. Called 'street-level bureaucrats' in a seminal work by Michael Lipsky (1980), social workers, teachers, police officers, health sector workers, and many others, belong in this category if they interact with the public: in our case, immigrants who do not possess the right documents to live on the territory. Lipsky (1980) demonstrated that these public employees have a greater discretionary power than is commonly assumed, applying general rules to individual cases. They can enforce the rules, and even discriminate immigrants, or treat some cases with tolerance, or help people understand and follow the correct procedure to access a service, or grant access also to people who should be formally excluded from it. This may occur in the case of irregular immigrants as well. While being subjected in many cases (for instance in the UK and in the Netherlands: Schweitzer, 2022; Van der Leun, 2006) to political pressure to exclude these immigrants from access to many public services, street-level bureaucrats can resist and follow their own professional ethics, as occurs especially in the case of doctors or teachers (Van der Leun, 2006). Actually, some sectors of public services and some categories of public employees seem more likely to internalise the logic of migration control, while others are less compliant and assert their autonomy. International human rights norms appear to be more influential in the spheres of education, especially when minors are involved, and urgent health care than in that of social assistance (Schweitzer, 2022).

Not only do unauthorised migrants live in specific local settings, but they also develop relations with specific social service providers. Their legal status also has an impact on these providers and on their work. Laws oblige providers to translate lack of permission into the everyday exclusion of people, including families, minors, students, patients, peaceful and honest workers. Moreover, policing the access to services requires, besides time, energy and emotional self-control, is also a competence that service providers do not possess, and a task they often do not like. Furthermore, engagement in checking the legal status of people and in excluding those not entitled to access, determines an adaptation of rules and practices, so that "the more effective a public welfare system thereby becomes at controlling immigration the less effective it tends to become at providing public welfare" (Schweitzer, 2022: 202). Vogel framed this issue in terms of the 'cooperation dilemma': "the agencies which cooperate with the aliens' authorities must sacrifice part of their other objectives" (Vogel, 2000: 416). Not surprisingly, the practical implementation of legal exclusion at the street level has to deal with reluctance, open or silent opposition, while searching for possible loopholes and various forms of practical circumvention.

3.2   Cities in the Spotlight

The division of tasks between national and local levels of government has become increasingly blurred in recent years. Several governments have tried to restrict the autonomy of both municipalities and NGOs in giving irregular immigrants access to social services. The policy of the Trump administration in the USA (2016–2020) is a case in point. During that period, the political conflict between the federal government and pro-immigrant cities on (irregular) immigration issues grew dramatically (Lasch et al., 2018), with a series of court cases in general unsuccessful for the Trump administration. But several national governments have instead enacted restrictions on the local provision of social services to irregular immigrants, in the Netherlands for instance (Van der Leun & Bouter, 2015).

Another site of political conflict involves NGOs and private citizens that have been legally persecuted for having helped aliens without legal rights. The criminalisation of solidarity is a growing issue in immigration policies at an international level. The Institute of Race Relations of London has documented 27 cases of legal persecution in the EU between September 2015 and 2017, involving 45 people, accused of misbehaviour for actions in favour of unwanted immigrants (The Institute of Race Relations, 2017). The French legal and political dispute on 'solidarity crime', i.e., the support provided by common citizens to immigrants who have crossed the border illegally (the most famous of such citizens being the farmer Cédric Herrou) and the Italian dispute on NGOs rescuing lives in the Mediterranean are probably the best-known cases. Here, two competing approaches are at stake. On the one hand, state authorities, in the name of border security and national sovereignty, want to deter actions in favour of unwanted immigrants. In this regard, the EU agency Frontex has fostered suspicion about search and rescue activities run by NGOs, triggering a narrative of complicity with Libyan smugglers. On the other hand, the moral (and political) imperative to help people in need is affirmed by an engaged minority of citizens (Müller, 2020).

Against this backdrop, the most interesting development is probably the assertion of a view of immigration policies by city governments which contrasts with that of national authorities (Baumgärtel & Miellet, 2022). A movement of 'sanctuary cities' (Bauder, 2017) has developed. It has done so first in the USA, starting from San Francisco in 1985, and later also in Europe. In sanctuary cities local authorities, together with civil society organisations, social movements and immigrant groups "challenge national immigration laws, policies, and practices" (Bauder, 2017: 174). Taking this position, municipal governments have declared their intention to protect asylum seekers and immigrants with a dubious or irregular legal status, also when this contrasts with national policies. These cities consequently supply some shelter, health care, education, and other municipal services regardless of the applicants' legal status. They have established various forms of cooperation, and political alliances, with the advocacy coalition of pro-immigrant and pro-refugee actors from civil society. These cities present themselves as "sites of pragmatic politics and hotbeds of inclusion", and at the same time they claim "a de facto sovereignty over what was once a clear national competence" (Oomen, 2019: 121).

In Europe, examples of this municipal activism encompass Barcelona, with the 'Ciutat Refugi Plan' (Garcés-Mascareñas & Gebhardt, 2020); the 'Solidarity City' network of German cities (Christoph & Kron, 2019); and the British 'City of Sanctuary' movement (Darling & Squire, 2013). Furthermore, in Europe a transnational municipal network of 'Solidarity Cities' had been set up, with the goals of developing alternative narratives about migration, influencing national and international policies, and overall improving global migration governance (Oomen, 2020). Oomen has identified 20 networks of this kind primarily based in Europe. In particular, the 'Solidarity Cities' network, established in 2016, links several European mayors in order to promote the reception and integration of refugees. This alliance includes Athens and Thessaloniki, Amsterdam, Barcelona, Ljubljana, Naples, Stockholm and – as of January 2019 – Berlin. Its aim is to push for an efficient and coordinated management of refugees' reception, and to call on the EU institutions to increase funding for cities in Europe in which most refugees arrive or are already living (Christoph & Kron, 2019; for a critical approach: Kreichauf & Glorius, 2021).

Conversely, in some countries, for example, Italy and Canada, and in some southern states of the USA (Chand & Schreckhise, 2014), local authorities have acted, not in favour of irregular immigrants, but against their settlement and their access to rights (Ambrosini, 2021a). They have enforced local controls on the presence of newcomers on their territory, and adopted ordinances or local regulations to constrain settlement, circulation, access to services and other opportunities for unauthorised immigrants (Gilbert, 2009; Varsanyi, 2008). In Italy, local 'policies of exclusion' have been termed 'institutionalised forms of intolerance' (Ambrosini, 2021b). Initially, these policies particularly targeted irregular immigrants, in the name of security and public order. Since 2014, these policies have been redirected against asylum seekers especially. Many local governments have protested against their arrival and tried to resist the settlement of asylum seekers on their territory (Marchetti, 2020). A variety of arguments have been used to legitimise these actions: a claim for local autonomy against the imposition of reception facilities by the national government; and a 'victim complex' whereby local governments present themselves as the 'victims' of an 'invasion', constructing an opposition between 'us', the peaceful local community, and 'them', the 'aliens' who invade its territory. Various other reasons, such as a lack of proper facilities and social services, excessive numbers of immigrants in the area, damage to the image of the area, especially in the case of tourism sites, a threat to citizens' security, especially when reception centres are located near schools attended by local girls; and, even before the Covid pandemic, the risk of spreading disease. These policies have often created a paranoid sense of community based on the perception of invasion and threat. In this way, native residents also find an explanation for their problems – such as reduced public services, economic decline, poor prospects for young people, a growing sense of insecurity – by shifting the responsibility to newcomers.

3.3   The Battleground of Immigration Governance

Immigration governance, and in particular the management of asylum seekers and immigrants with a dubious or irregular legal status, has become increasingly complex and disputed, as illustrated in the previous section. Several institutional levels are involved: not only national governments but also international institutions such as the UNHCR for refugees, or the EU with Frontex, and local authorities. Furthermore, the practical governance of migrants involves not only public authorities but also non-public actors: employers and labour markets, immigrant networks and movements, and several other civil society actors, ranging from NGOs to trade unions, associations, religious institutions, social movements, spontaneous mobilisations by ordinary citizens. On the other side, anti-immigrant groups and political forces have become very vocal in the public sphere and achieved political success in several countries.

This intricate situation has been conceptualised in terms of the 'multilevel governance of immigration' (Scholten, 2013), to which some interpretations also add 'multi-actor' or 'multi-polar' governance. This stream of literature has focused especially on local policies, highlighting their growing importance for newcomers' integration in receiving societies. Scholars also distinguish a 'vertical dimension' of immigration's governance, considering the interaction among international, national and local public powers. A second dimension is the 'horizontal' one and regards the interaction between public and non-public actors. Relations between the vertical and the horizontal dimensions have been also considered (Caponio & Jones-Correa, 2018).

Several authors in this field tend to see multilevel governance as a coordinated action, or a 'negotiated order' (Alcantara & Nelles, 2014), with a certain amount of congruence among levels. Tensions between the levels, especially between national and local authorities, is often interpreted as no more than a case of 'decoupling governance' (Scholten et al., 2018). This means the absence, or weakness, of arrangements among different levels of government, and then of joint policy coordination between the state and municipal authorities, which can entail 'policy paralysis' or 'policy fiascos'. The case of political conflict on the treatment of migrants (and especially legally weak or irregular ones) is rarely examined (among the exceptions: Spencer, 2018); if it is considered, the contrast is essentially analysed along the vertical dimension, i.e., between central and local authorities, and less along the horizontal one. As Spencer admits, "the key role of civil society is (…), a further, underexplored factor to be assessed" (Spencer, 2018: 2048).

The case of irregular immigrants, however, highlights multiple roles played by civil society actors. A broad definition of civil society conceives it as all the formal and informal social institutions between the state, the economy and the private sphere (Odmalm, 2004; Putnam, 1993; Simsa, 2017: 78–79). In hostile political contexts, they often offer practical help to people without access, or with a restricted access, to public services, adding, in several instances, various forms of cultural and political support for their claims. Chapter 5 will elaborate on this point, by bringing

the conflictual aspect of immigration governance and the intervention of civil society actors into the discussion. Here, the concept of 'battleground' can aid understanding of the dynamics and tensions of this contentious policy field, in which different actors interact, sometimes cooperating, and in other cases conflicting. Different levels of public responsibility are involved, but also non-public actors play a role. Among them, various pro-migrant supporters undertake significant action, but also xenophobic movements are active. Old and new media amplify and radicalise the contrast between their positions; both sides can establish alliances and coalitions and try to mould public policies (Ambrosini, 2021b).

As we have seen, borders extend their significance far beyond national boundaries. Public services and many other institutions (banks, schools, landlords, firms) are involved as checkpoints to monitor the legal status of migrants. At the same time, local settings become fields of confrontation among different stakeholders in migration policies, when irregular immigrants or asylum seekers claim their rights, urban governments supply or deny help, actors from civil society deliver services, or citizens demonstrate for or against reception. The battleground concept can be applied at the international level when considering the ships of NGOs that rescue migrants despite governmental and judicial opposition (Stierl, 2016), or other forms of activism and reception across and beyond national borders (Giliberti & Queirolo Palmas, 2020; Müller, 2020). However, the local level is the most frequent site of confrontation. It involves public authorities, non-public actors, activists, volunteers, nativists' claims, immigrants and refugees' movements. The fact that support activities by local actors can curb the effectiveness of restrictions in some respects is particularly interesting, and typically happens in cases of rejected asylum seekers and unauthorised immigrants.

Irregular migrants can remain on the territory without possessing legal status, without access to the official labour and housing markets, and to many social services, if they find alternative sources of essential goods. Help granted by NGOs, together with families, ethnic networks, unscrupulous employers of unregistered labour, and other civil society actors, represents a crucial asset. The formula of the 3Bs – bed, bath and bread – expresses the most basic and common forms of support provided to immigrants in need, in general beyond consideration of their legal status (Ambrosini, 2021b). Nevertheless, both activities of reception and local integration in labour and housing markets can be endangered by the spread of xenophobic attitudes that influence employers, landlords, local bureaucracies, police officials, thereby complicating, and not rarely thwarting, efforts by immigrants and their supporters to achieve integration into local societies.

Indeed, the concept of 'battleground' depicts a contrasted backdrop for the redefinition of borders, belonging, and entitlements (Fontanari & Borri, 2017). Actions conducted by different actors on the ground blur institutional boundaries between authorised and unauthorised immigration, legal rights and actual settlement, official acceptance and daily survival: for example, when civil society actors provide food, shelter, language classes, to irregular immigrants officially excluded by public services and enable them to remain in the country. For this reason, the practical

governance of immigration and asylum eventually differs from official statements and declared policies.

To recap, we can draw up a scale of different types of relationships – ranging from conflict to cooperation – between public authorities, especially at the local level, and pro-immigrant civil society. Developing a previous study on the Italian case (Campomori & Ambrosini, 2020), we can identify:

1. *Conflict*: this occurs when civil society actors provide support to irregular immigrants against the will of authorities and have to face enforcement of rules. This often concerns informal support at the margins of the legal framework, for instance, the provision of shelter in squatted buildings (Hajer, 2021).
2. *Passive opposition*: this regards local authorities which remain inactive, not providing vulnerable immigrants and asylum seekers with services, or delaying replies to their requests, or denying registration or other bureaucratic procedures. Although not openly blocking settlement by unwanted immigrants, urban governments impede their access to education, health care, soup kitchens, or accommodation. At the same time, they implicitly overburden civil society organisations (henceforth CSOs) with the urgent task of responding to these needs, with their limited means, and by times trying to hinder or discourage their activities (Dimitriadis & Ambrosini, 2023)
3. *Implicit Tolerance*: this regards forms of support provided outside the legal rules and known to the public authorities, but which are strategically ignored and not contrasted. Public decision-makers are aware that there is a population of irregular immigrants that they cannot remove, or not completely, and that harsher exclusion from services and support could create more problems than informal inclusion in (non-public) services. A silent agreement favours the supply of such services, because authorities avoid monitoring or complicating the access by beneficiaries. A case in point is health care for irregular immigrants in several countries (Castañeda, 2013 for Germany; Fernández-Kelly, 2012 for the USA).
4. *Devolution*: in this case, local authorities go beyond tolerance, giving funds or other types of support to NGOs or CSOs in order to provide some services to irregular immigrants, without being directly involved. This relationship involves the triangulation strategy that was highlighted previously. In this way, local governments avoid openly disobeying a national policy of excluding irregular migrants from public services, but at the same time they resolve practical and uncomfortable problems, like human suffering and urban degradation, by delegating them to civil society actors.
5. *Cooperation*: this is established when local authorities officially and openly enter into agreements with pro-immigrant actors in order to protect unauthorised immigrants. This is especially the case of sanctuary cities, in which the alliance between advocates of immigrants' rights and local governments is a pillar of a (more) friendly reception of many kinds of migrants, and especially those who are most vulnerable.

3.4   The Selective Treatment of Irregular Immigrants

In the first chapter we argued that irregular immigrants, although they are in a weak legal and social position, are not passive victims. We mentioned the efforts made to reframe their situation, with the purpose of being considered good persons worthy of acceptance, as a form of agency enacted by irregular immigrants, who can try to demonstrate 'moral qualities' through compliance with the law, hard work, and irreprehensible behaviour. Attainment of legal status can thus be conceived as an achievement based on an effective performance of deservingness (Chauvin & Garcés-Mascareñas, 2020; Bonizzoni, 2017). Immigrants negotiate access to resources with their co-ethnic networks (Engbersen et al., 2006) and with hosting societies (McIlwaine, 2015) and try to invent practices of survival (Bloch et al., 2014). Effective 'coping strategies' are often out of reach, but immigrants can adopt a 'range of tactics' to endure (Datta et al., 2007), gaining time and waiting for the opportunity to legalise their status. In extreme cases, as we recalled in the previous chapter, irregular migrants can try to 'buy time' and avoid deportation by confusing authorities, also hurting themselves (Ellermann, 2010). Here, we elaborate on this aspect from the point of view of receiving societies.

Despite official policies, which are held to the principle of equality, in practice not all the aliens deprived of legal status are persecuted with the same determination by public authorities. As we saw, 'law in action' differs from 'law on the books' (Schuck, 2000). Controls, detentions and removals are applied selectively, concentrating on immigrants perceived as more dangerous, worthless, expensive for public budgets – as in the typical case of rejected asylum seekers hosted in public facilities. As a consequence, irregular immigrants holding a job are less targeted than those that are unemployed and often very visible in city space; irregular immigrants who have an accommodation or conceal themselves from the eyes of the majority are more tolerated than homeless ones who sleep in parks or in other visible places. Likewise, beggars, people who abuse alcohol, or who in some way harass passers-by, have a higher probability of being intercepted, controlled and jailed. The gender dimension is also important: men are more likely to be perceived as a potential threat than women, and consequently are more frequently checked and detained. Women, in general, are less targeted by security controls, with the exception of sex-workers in public locations. Visible minorities – in Europe especially young men of African origin – have often been picked on in recent years, more than immigrants who can easily blend with the local population (European Union Agency for Fundamental Rights (FRA), 2021).

This dimension, namely the selective perception of irregular immigration by public opinion, the mass-media, security bodies, and political actors, adds another element to the issue of drawing clear-cut dividing lines between regular and irregular immigration. Not only is this distinction sometimes unclear in the legal system and in formal procedures (Chap. 2), but the fact that a part, often substantial, of the unauthorised population is widely tolerated, and does not come under the spotlight, greatly contributes to blurring such a distinction. In practice, at the moment of the

implementation of policies against irregular immigration, the (undeclared) selection of the main targets redefines such policies, and their effectiveness. The 'implementation gap' identified by Czaika and De Haas (2013) does not depend only on inconsistencies in legal rules, or on shortages of resources to enforce removals; it also depends on social representations of who the irregular immigrants are, where to detect them, how to treat different cases and situations. 'Law in action' depends, in its practical implementation, also on 'law in their minds' (Schuck, 2000), notably in the minds of officials, public authorities, street level bureaucrats, and the other actors involved.

On the other hand, some segments of the immigrant population, although they possess some kind of legal authorisation, have to face wide disapproval by public opinion. In recent years, this has been typically the case of asylum seekers and refugees. Historically, the situation of the poorest and most visible components of Roma and Sinti minorities, including EU and national citizens, is even worse. In this case, many voices in the majority often demand tighter controls and harsher sanctions, and possibly a restriction of the possibility to access or maintain legal status. This complex process of practical and daily redefinition of the unauthorised immigrant population develops an uneven array of different living conditions, access to opportunities, possibility of regularisation, risk of removal. We suggest in this regard a typology of four cases (see Table 3.1) which cross-references the two dimensions of 'official authorisation' and 'social acceptance' (Ambrosini, 2016, 2018).

The first, *official authorisation*, refers to the legal framework and formal procedures. It descends 'from above', in the form of residence permits, and is managed by public authorities. The second, *social acceptance*, on the contrary, arises from below, being mainly produced by public opinion and by the actual behaviour of immigrants in receiving societies: in particular, employers, neighbours, people in contact with them. There are clear connections and reciprocal influences between these two dimensions. Amongst others, through the action of political actors and mass-media, formal exclusion can translate into social marginalisation for some categories of irregular immigrants. Social reproval exerts an influence on official policies, pushing for more controls and restrictions. On the other side, social acceptance can pave the way to amnesties or other kinds of legalisation in favour of some categories of irregular immigrants. These four intersections will be examined below.

1. *Exclusion*. This case refers to the poorest categories of irregular immigrants: people who remain on the national territory of receiving states although they have failed to achieve legal status or have lost their previous permit, are not

Table 3.1 The reception of immigrants: a typology

		Formal authorisation	
Social acceptance		−	+
	−	1. Exclusion (e.g., homeless and destitute immigrants)	2. Stigmatisation (e.g., asylum seekers)
	+	3. Tolerance (e.g., care workers)	4. Inclusion (e.g., immigrants regularly employed)

included in the (informal) labour market, or are so too occasionally, and are not supported by relatives, ethnic networks, acquaintances, public and social institutions, or are not helped sufficiently or only at random. They are often very visible because they tend to move to big cities, in which they hope to find resources such as public shelters, soup kitchens, or free clinics. Often, they circulate around railway stations or other crucial points of urban passage: also for this reason, public opinion often emphasises their number, and overlaps issues of urban security and urban decorum with irregular residence.

Sometimes those excluded can become politically active, organising protests, such as demonstrations or occupations of public spaces in the heart of Western cities, as in the case of the 'Lampedusa in Berlin' group in the German capital (Fontanari, 2019). Chap. 6 will develop this aspect with more details. In recent years, however, their success has been limited. The strong politicisation of migrations and asylum has made it more difficult to reach pragmatic solutions and compromise at the political level. Leerkes (2016) has described how destitute irregular immigrants in Dutch cities are treated with rather archaic practices of poor relief and anti-pauperism. Various forms of 'secondary poor relief' have the function of countering the external effects of poverty in terms of public health, nuisance and public safety. As regards young males especially, detention and imprisonment are also frequent, and these immigrants are trapped between institutions and policies of public order and measures of limited social assistance. They circulate among prisons, streets, and contemporary 'poorhouses'. Hajer (2021) has complemented this picture by showing how many of them find precarious accommodation in squatted buildings, surviving with help provided by local supporters, or by charitable institutions, and, if possible, through sporadic access to the informal labour market or other expedients. In Hajer's study, a paradoxical aspect is that squatting sojourners in an affluent city like Amsterdam, well equipped with public services, sometimes declare they would prefer to move to Southern Europe, where they think they can find a job in the underground economy.

2. *Stigmatisation*. This case regards immigrants who have achieved some form of formal authorisation, although it is often provisional, but who are not socially accepted as legitimate members of society. Asylum seekers have, in recent years, been the group that often falls into this category, both in the EU and in the USA. This decoupling between the official and the social condition of foreign sojourners has several consequences: it influences the possibility of finding employment, of renting an apartment, and of accessing public services. At some point, it may condition the possibility of renewing a residence permit, or of receiving a positive response to an asylum application. Among other examples, Jubany (2011), in her study on the treatment of asylum applications by public officials, shows that "paradoxically, perhaps the most powerful criterion applied by officers relates also to the most ambiguous one: what officers refer to as 'intuition' or 'feeling'" (Jubany, 2011: 86). If emotions have such an influence on decisions crucial for the destiny of asylum seekers, it is also likely that public opinion and the mass-media influence not only officials' attitudes towards

applicants, but also a wide array of social and economic interactions between hosting societies and stigmatised sojourners.

At a more general and political level, one observes that the hardening of asylum policies in most developed countries is related to the issue of social acceptance of such immigrants. Donald Trump's presidency (2016–2010) was a case in point. In the EU, besides the Visegrad group and other new member states, Denmark and Italy have been probably the countries in which the shortage of social acceptance has had the most visible consequences on the political regulation and legal treatment of asylum seekers. Moreover, political accusations against and legal prosecutions of NGOs rescuing lives in the Mediterranean – being also supported by a large share of public opinion – have been probably the most striking demonstration of how stigmatisation can also anticipate and prevent the protection of unwanted immigrants.

The point can be nuanced by observing, with Ellermann (2006), that prejudice is highest when asylum seekers (or immigrants more in general) are considered in general and abstract terms. They are not seen as people, but as a category, and as such they can be more easily depicted as a threat, or as a burden for public budgets. When local residents develop personal relations with newcomers, and the latter become persons in flesh and blood, with faces, names, sometimes families with children, the situation may change: in the case of forced removals, local authorities, school managers, worship ministers, and also common citizens have risen in their defence, hindering deportations.

3. *Tolerance*. This occurs when, in contrast with the previous case, immigrants enjoy wide social acceptance, which can off-set their lack of legal authorisation in some ways. This is generally the case of 'deserving' irregular immigrants, as already mentioned: foreign sojourners who try to legitimate their presence through good behaviour, low visibility, and especially hard work (Ruhs & Anderson, 2010). Many studies have observed how irregular immigrant workers are *de facto* incorporated into the economic functioning of host societies, because the official economy is in many ways intertwined with and supported by various forms of undeclared ('black') or semi-informal ('grey') work. The outsourcing of activities and services, the casualisation and fragmentation of contracts – what in a certain neo-liberal discourse is called 'flexibility' – foster the underground economy; and underground economies rely heavily on immigrants deprived of a legal status (Lewis et al., 2015). The size of undeclared economies is notoriously diverse among developed societies, the USA being the best-known case of extensive reliance on the labour of irregular immigrants in several economic sectors – a point that the recent pandemic has highlighted (Kerwin et al., 2020). Southern Europe is also deeply concerned by this phenomenon (King & Black, 1997; Reyneri, 2013).

It is true, however, that in the last two decades states have tried to exert closer control of this issue, imposing more obligations on employers, and harsher sanctions for the employment of irregular immigrants. Moreover, states seek to counter practices that circumvent legal rules (Broeders & Engbersen, 2007), like forging, borrowing, copying, or renting the identity documents or social security

numbers of other immigrants (Horton, 2015; Vasta, 2008). As already recalled, the narrative on 'illegalisation' as a conscious strategy by receiving states in order to provide employers with a weak and docile workforce has to be treated with some caution, because the space for the employment of irregular immigrants appears to have narrowed, with time, investments, and greater determination by public authorities (see, for the EU: Spencer & Triandafyllidou, 2020: for the USA: Warren, 2021).

Nevertheless, and despite national differences, employment is still a major factor in the acceptance of irregular immigrants by receiving societies. Immigrants, from a subjective point of view, can perceive and defend their stay as 'legitimate' on the basis of their contribution to the economy; and not only their supporters, or segments of civil societies, can share this vision (Chauvin & Garcés-Mascareñas, 2014). Employers and other actors can – although often not explicitly – distinguish 'useful', 'peaceful' and 'deserving' immigrants from ones perceived as dangerous and illicit. In various ways, they can not only exploit but also protect 'their' immigrants. Through their daily practices they pave the way, both willingly and unwillingly, for subsequent claims of legalisation by these 'deserving' immigrants. We will develop this point in the next section.

Domestic and care work is a case in point in several countries. Here, employers are households with care needs, often for their fragile seniors, and not traditional economic actors searching for more profit. Their workers are mostly women. Since labour settings are private homes, they are much more difficult to control than firms. Social perceptions go in the direction of a silent legitimisation of the hiring, formal or informal, of domestic care-workers as an alternative to the insufficient provision of public services (Ambrosini, 2013). Furthermore, this 'invisible welfare' is spreading not only in Southern Europe, in which it has been more often studied (Marchetti & Venturini, 2014; Salis, 2014), but also in Asia and in other European countries in which the role of the state in this field is more substantial, such as Germany (Lutz & Palenga-Möllenbeck, 2010), Austria (Weicht, 2010), and more recently also the Netherlands (Bruquetas-Callejo, 2019). Needless to say, the pandemic has spread distrust of retirement homes for seniors, especially in Southern Europe, reinforcing the preference for private solutions.

Social acceptance, however, does not mean that problems have ended for immigrants who achieve it. Although they rarely have to face detention and deportation, 'deportability', i.e., the possibility of being deported, remains a constant threat (De Genova, 2002), a sword of Damocles hanging over their daily lives, mobility in the city space, possibility for social and political action. Second, if social acceptance is related to work, it cannot be taken for granted outside the workplace. Especially men who gather in public places can easily switch from being seen as accepted workers to dangerous aliens. Acceptance can be contingent and spatialised. Furthermore, loss of (informal) employment may have serious consequences for immigrants who cannot access social measures in favour of unemployed workers. Third, as already observed, irregular immigrants in general depend more than regular immigrants on ethnic networks to find

employment, accommodation, or other resources, and this is not always comfortable (Engbersen et al., 2006). Last but not least, even in the best cases, also the more accepted social workers remain 'caged' in receiving societies, without the possibility of visiting their families, because they fear being detected and prevented from re-entering the host country (Massey et al., 2015).

4. *Inclusion*. The last case intersects social acceptance with formal authorisation. In theory, this is the best possibility for immigrants. Some specifications, however, are necessary. First, the traditional reason for the inclusion of immigrants in Western industrial societies was, for about a century, the demand for labour. This demand has diminished, since the oil crisis of the 1970s, or it has become more selective, targeting skilled workers, or less explicit because it concerns mainly marginal economic sectors (Baldwin-Edwards, 2008). Political reasons for resistance to new immigrant inflows have worsened this, and for some years several governments have preferred to admit immigrant workers through other channels (Pastore, 2014). Only recently have some governments (Germany, Japan. Spain, France) announced a new, prudent opening to foreign workers, and not only highly skilled ones. Racial issues are also relevant: 'visible minorities' are more often the target of various forms of discrimination, for instance in the housing market, or in the event of security controls (FRA, 2021), even in the case of regular workers. Social acceptance related to employment is not always transferred to other social settings.

Second, state policies often require stable employment for a residence permit to be granted, while labour markets demand flexibility, due to their instability, and often search for immigrants in order to satisfy such demand. The link between labour and legal rights has weakened. Labour does not necessarily grant a set of rights in receiving societies. Some authors have talked of "a vicious circle of disintegration" whereby "employment precariousness becomes both the rising source and the dire consequence of legal precariousness" (Chauvin et al., 2013: 127). In some regions of the world, such as the Gulf countries, the separation between labour and rights is particularly harsh: immigrants are required as workers, but they enjoy very few civil and social rights. Family reunifications or access to citizenship are almost impossible for immigrant manual workers in most of these countries. Even the freedom to change workplace and employer is hampered, not to mention labour rights.

Third, national economic systems have historically required immigrants to fill voids in the lowest tiers of their labour markets. The story has been replicated in the last three decades in Southern Europe, at least until 2008. Segmentation of labour markets has softened the, much feared, competition between national and foreign workers (Piore, 1979; Ambrosini, 2018). Some legal rules, such as those applying to the recognition of educational certificates, have protected the privileges of national citizens. But this implies that the inclusion of immigrants is informally embedded in a silent pact, in which access to white-collar employment is in practice reserved to native citizens, and remains hard to obtain for immigrants. Again, in Gulf countries and in other regions of the world this inequality is openly stated in national laws. This implies that social mobility

remains uncommon for the first generation of immigrants. Most of them accept downward social mobility at the beginning of their stay abroad, hoping to achieve a better social position later: their aspired career is U-shaped. But their hopes encounter many obstacles, and for most of them their actual career assumes an L-shape, especially in Southern Europe (Fellini & Guetto, 2019): after an initial drop, there is no substantial improvement.

Self-employment has historically been a way to escape such entrapment in menial employment for immigrants. Excluded from formal careers, they try to improve their economic and social circumstances by setting up their own businesses. The results of such efforts are the subject of a vibrant debate. Aspects such as the level of success, the differences between various ethnic groups and host societies, the costs and social implications of such endeavours, have been widely discussed in the international literature (Ambrosini, 2012; Edwards et al., 2016; Kloosterman & Rath, 2003; Waldinger et al., 1990).

3.5   A Contested and Dynamic Boundary (Conclusion)

In principle, the boundaries between regular and irregular immigration should be clear. In the past two decades, many governments have worked to sharpen these boundaries by enhancing not only external barriers but also internal controls. Again, in principle, unauthorised immigrants should have limited chances of settling, making a living, and accessing public services in receiving societies.

In practice, and especially in democratic societies, matters are more complicated, and distinctions between regular and irregular immigration often become blurred. Concerns for human rights, on the one hand, and pragmatic considerations about urban life and social cohesion, on the other, pave the way for some form of inclusion of unwanted immigrants in the provision of basic services. Health care is a typical case. Furthermore, some categories of immigrants are in general more protected: unaccompanied minors are the most visible category, but also pregnant women, sick people, families with children are entitled to receive better treatment.

Another consideration concerns governments and receiving societies. States are not unitary actors, with a single vision and a coherent set of policies (Ruhs & Anderson, 2010). This becomes especially clear when all branches of public bureaucracies and all levels of governments are considered. The role of cities and local governments, in particular, can differ from national policies (Oomen et al., 2021; Sabchev, 2021). Across the Atlantic, many cities have declared to act differently from national immigration policies: in most cases, declaring a more liberal commitment to the reception of asylum seekers and to the protection of all migrants' rights. By contrast, in some other cases, for instance in some southern states of the USA, in Canada, or in Italy, local governments enact forms of exclusion harsher than the national policy (Ambrosini, 2021a).

Societies are obviously even more complex. Electors have demonstrated in many cases a growing hostility against immigrants, asylum seekers, and, even more so, immigrants without proper authorisation. Brexit and Donald Trump's election, both of which were not expected by most polls, stand out as the best-known cases in which the issue of immigration has played a major role. Nevertheless, against a backdrop of polarisation on immigration issues, civil societies have also expressed pro-immigrant attitudes. The mobilisation of German society in the reception of asylum seekers during the 'September miracle' of 2015 (Pries, 2018; Fleischmann, 2020), the search and rescue operations of NGOs in the Mediterranean (Irrera, 2016; Stierl, 2016), and more recently the wide solidarity towards more than four millions of Ukrainian refugees in Europe, are probably the most renowned examples, but many other cases can be cited (see Chap. 5).

The governance of immigration is consequently a locus of confrontation among these contrasting forces: public authorities at the international, national and local level; bureaucracies and public services; anti-immigrant and refugee movements; employers and labour markets; pro-immigrant civil society actors; mass-media and public opinion. This can be seen as a 'battle' whose outcome can curb official policies, contributing to widening the gap between 'law on the books' and 'law in action'. In other words, more immigrants remain in the country, in contrast with its government's will.

Immigrants take part in this battle with their efforts to enter, settle, avoid removal, and when possible to acquire legal status. In reality, irregular immigrants are subject to different treatments, and they are subject to different forms of control and exclusion. Hence, official authorisation and social acceptance often diverge. Irregular immigrants who achieve some form of acceptance, are better equipped to deal with the enforcement of restrictions. At some point, social acceptance can translate into legal inclusion through the recognition of deservingness. Public authorities, although reluctant, from time to time recognise that the immigrant population living on their territory does not coincide with the formally registered one (see Chap. 4). Formal exclusion can be contrasted from below by demonstrating *de facto* inclusion. This is a crucial point, which shows how rules can be subverted and redefined through the initiative of individuals: in this case, immigrants and their supporters. Thus, the practical governance of irregular immigration is influenced not only by the interests of some segments of receiving societies (employers, households), and by the action of advocacy coalitions and advocates of human rights, but also by the initiative of immigrants themselves and their networks.

We conclude this chapter with three final remarks. First, the domain of irregular immigration is less separate from that of receiving societies than is commonly believed. Second, this domain is also mobile: social acceptance or stigmatisation can affect the possibilities of settlement by unauthorised immigrants and affect the implementation of declared policies. Finally, and consequently, the governance of irregular immigration, and its outcomes, often differs from official policies, and it is shaped by various forces, not only by public authorities and not only by some combination of political power and economic interests.

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Chapter 4
Responses and Solutions to Irregular Migration: Detention and Deportation Versus Regularisation

Irregular migrants lack formal authorisation to reside in the country in which they live. Therefore, they are at risk of being detained and deported. The detention and deportation of irregular migrants is a controversial issue, and it often sparks protest by social movements (see, for a description of anti-deportation movements, for instance, Hinger et al., 2018; Patler, 2018; Nyers, 2003). But deportations also make the news when they are (almost) stopped by individual citizens, who for instance find themselves in the same aeroplane as someone who is being forcefully deported.[1] When irregular migrants are deported they are, in one way or another, removed from the national territory and taken to their (believed) country of origin by the authorities, with the aim that they will remain there. Deportation is a final (legal) means to enforce immigration policy, because it involves the physical removal of those migrants who are not allowed to stay on national territory following immigration procedures. Deportation means they are caught and arrested by the authorities, and, sometimes forcefully sometimes less forcefully or even voluntarily, 'repatriated'. While many conceive deportation as a single event in which an 'unauthorised' migrant is repatriated, in reality, it can be best seen as a process that starts before the actual deportation itself and continues long after it (Drotbohm & Hasselberg, 2015). There is usually a period in which irregular migrants are held in a detention facility, awaiting deportation. Also, the fear of being deported can have a profound impact on the everyday lives of irregular migrants – a condition referred to as 'deportability' (De Genova, 2002). Besides, certain practices can be considered as forms of deportation before migrants have even reached their destinations, since so-called 'push-backs' can also be seen as forms of 'pre-arrival' deportation. Moreover, little attention is paid to the effects of deportation on the lives of deportees. Deportation is usually depicted as 'going home', which implies that deportees are being returned to a situation familiar to them. Often, however, and in particular when migrants have

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[1] See, for instance, stories like the Guardian article: Swedish student's plane protest stops man's deportation 'to hell' (Available at: https://www.theguardian.com/world/2018/jul/25/swedish-student-plane-protest-stops-mans-deportation-afghanistan).

been away from 'home' for a long period, this is more complicated. It is so, for instance, because social networks – and also families, indeed – have changed, weakened, or even dissolved due to the long period of absence.

However, what a deportation perspective fails to see is that irregular migrants are irregular by virtue of being defined as such. This means that for irregular migrants to become regular, they do not necessarily have to 'go home', but can also be redefined as 'regular'. Regularisation, therefore, is an alternative response to irregular migration and a solution for the presence of irregular migrants in society. The last part of this chapter will focus on this alternative solution to the issue of irregular settlement, and in particular on the ways in which irregular migrants can become regular ones.

4.1 Deportation

Whilst the arrival of irregular migrants, or their presence in society, attracts a great of attention in the media and in political discourse, the same cannot be said about the departure of irregular migrants. Deportation tends to be a somewhat mysterious occurrence that is largely invisible to the public eye.

Deportations from Europe are often made by aeroplane, both on commercial flights, where deportees and their accompanying deportation officers are usually seated in the back rows, and on special charter flights, with which numerous deportees are deported to the same destination at once (Walters, 2019). Deportations can also happen over land with buses – sometimes referred to as 'buses of tears' – for instance for journeys over shorter distances, e.g., to neighbouring countries within the EU, or deportations from southern US states to Mexico.

Deportations, especially those that take place forcefully, are subject to numerous rules. In the case of the European Union, these rules are set out in a 'Return Handbook' (European Commission, 2017) which describes precisely what kind of force can be used, by whom, and at what moment during the deportation, as well as the rights of deportees during their deportation. For example, deportees can be restrained, but "coercive measures shall be implemented with due respect to the individual rights of the returnees" (European Commission, 2017: 116), and restraints cannot "endanger their dignity and physical integrity" (European Commission, 2017: 117). Likewise, the person who is being deported cannot be sedated, unless sedation is an emergency measure "to ensure flight security" (European Commission, 2017: 117). Although these rules exist, many critical scholars and activists have argued that, due to the secrecy surrounding deportation, it is difficult to check whether they are always followed – even more so because deportations are often executed by private companies. Walters (2019), for instance, argues that migrants deported on charter flights are particularly vulnerable because there is no controlling mechanism in the form of the fellow passengers that would be present on commercial flights.

To give an idea of the scale of the deportation phenomenon, by the end of 2016, US President Obama had deported more than 3.4 million non-citizens from the United States during his administration. This was a significant increase compared to the 2.2 million deported under President Bush in the preceding years. This induced some scholars to refer to Obama as the 'Deporter-in-Chief', while other scholars argued that the increase in the number of deportees was mainly the result of policies put in place before the Obama administration (Martínez et al., 2018: 173). In 2016, the last (fiscal) year of the Obama administration, the USA deported 331,717 persons from its territories, compared to 359,885 persons in 2019 under the Trump administration (US Department of Homeland Security, 2020). In Europe, Germany, for instance, carried out 22,097 deportations in 2019 (Deutscher Bundestag, 2020). To be noted is that of this total number of deportations from Germany, 8835 were not repatriations of irregular migrants to their country of origin, but deportations to other EU member states, Norway and Switzerland. This was because, under the Dublin Convention – a European convention that seeks to define which state is responsible for processing asylum applications (Soysüren & Nedelcu, 2022: 1931) – asylum seekers must apply for asylum in the first country in the Schengen zone that they enter. Migrants remain under the authority of that specific member state, and can consequently be deported back to that state when other member states encounter these asylum seekers on their territory. For example, the number one destination country for deportations from Germany is Italy (2,692 deportations in 2019). These figures, however, only represent the number of deportations. They do not show the full picture, because some migrants that have been deported re-enter the country. The Covid-19 pandemic temporarily reduced the number of deportations. To resume the example of Germany, in 2020 it deported almost half as many persons as in 2019 (10,800) (Deutscher Bundestag, 2021). Moreover, as one can imagine from the above description, deportations are quite costly. Camarota (2017) calculated that the US government spent on average 10,854 dollars per deportation in 2016, including the apprehension, detention and processing of the migrants to be deported. This is not to mention the human costs of the forceful removal of individuals from their communities, families, and workplaces (Ellermann, 2005). However, the practice of forced removal is only one form of deportation. Below, this chapter will show how states increasingly try to convince or coerce irregular migrants to depart 'voluntarily'.

4.2 Deportability and Undeportability

Irregular migrants, in one way or another, live under the constant threat of deportation. Even if deportation does not happen frequently, or the chances of being 'caught' and deported are slim, it always remains a possibility. Deportability can be described as someone's potential to experience deportation (De Genova, 2002), or as the "ever-present implicit fear of deportation" (Gleeson, 2010: 580) and how this influences the everyday life of irregular migrants.

There are various ways in which this threat of deportation affects the everyday lives of irregular migrants. Deportability, for instance, not only makes irregular migrants prone to exploitation, but it also makes them less able to stand up to their employers because of their fear of being reported to the authorities. This unequal or unfair relationship often results in lower salaries or wage theft (Fussell, 2011). Likewise, Horton (2016) shows how the employers of irregular migrants who work with borrowed identity documents or social security numbers can use their knowledge of this 'identity borrowing' to, for instance, deny workers' claims for compensation after being injured in the workplace or to exploit them in other ways. In other words, deportability sometimes causes irregular migrants to be unable to use the (limited) rights that they have, for fear that the use of these rights would notify the authorities of their irregular presence. Moreover, the employers of irregular migrants may be afraid that the authorities will discover that they irregularly employ irregular migrants, which could mean that they are charged with a criminal offence. Furthermore, the fear of immigration enforcement can limit the social participation of irregular migrants. For instance, they may be hesitant to participate in formal education, seek medical help, or use other social services, because of their fear of deportation. Likewise, they may avoid visiting public spaces, to minimise the risk of being detected and deported (see, for instance, Enriquez & Millán, 2021; Hacker et al., 2011; Jefferies, 2014; Maldonado et al., 2016). The effect of this deportability is that it creates a group that is particularly vulnerable because of its fear of deportation, which in turn creates a cheap labour force deprived of a political voice to protest against its "unbearable living and working conditions" (Fauser, 2019: 609). While the fear of being deported hinders political mobilisation and protest by irregular migrants, Chap. 6 will show that it does not preclude political action altogether. However, a contributing factor to the active political participation of irregular migrants, for instance in migrant social movements, is the knowledge that one is undeportable. This could, for example, be the case of irregular migrants that states have unsuccessfully attempted to deport, or irregular migrants from countries that will only grant laissez-passer documents if migrants declare that their return is voluntarily. The knowledge of being undeportable may allow irregular migrants to choose political visibility (Hajer, 2021).

Whilst deportation may be a constant threat, experiences of deportability are not the same for irregular migrants everywhere; it is not always certain that deportations will happen. The risk of actually being deported depends on whether states want to spend time, effort, and money on deporting irregular migrants. Echeverría (2020), for instance, compared the lived experience of irregular migrants in Amsterdam and Madrid and described how different combinations of factors shaped the experience of being deportable. In Amsterdam, on the one hand, minor infractions such as using public transportation without a ticket could easily lead to administrative detention and deportation, but there were no *ad hoc* controls or raids on the street or in public transport. In Madrid, on the other hand, there were *ad hoc* controls in various public places, but the actual risk of deportation for irregular migrants without a criminal record remained low (Echeverría, 2020: 214–215).

Another main reason why deportations are not certain to occur is that they are restricted by international law, such as the Geneva Convention and other specific international conventions regarding human rights and children's rights (e.g., Fekete, 2005). The most important concept in this regard is that of non-refoulement. The basic premise of non-refoulement is that states cannot deport migrants to countries, or situations, that would constitute a danger to them. This mainly concerns the "risk of persecution, torture, inhuman or degrading treatment or punishment" (Kakosimou, 2017:167). In practice, this means that people cannot be deported to active war zones or places where there have been natural disasters. Moreover, the European Court has also used the concept of non-refoulement in rulings on so-called 'medical cases'. These cases have concerned applications where the deportation of a person with a serious illness was challenged on the basis of the lack, the poor quality, or the inaccessibility of medical treatment in the country to which they would be deported (Greenman, 2015). Altogether, this means that only lacking formal permission to reside in a country is not a sufficient condition for being deported.[2] States that want to deport irregular migrants must be sure that the deportees will not be at risk.

Moreover, just because states want to deport irregular migrants does not mean that all 'destination states' are willing to receive them. Countries of origin have often been reluctant to cooperate with the return of their own nationals, given the social, political, and economic costs that such a cooperation would entail (Cassarino, 2020: 97). The greatest problems occur in the case of those irregular migrants that are entirely undocumented, and therefore lack proof that they originate from a particular country. Authorities often use the period in which irregular migrants are in detention to determine both what their country of origin is and to retrieve proof of their nationality. As Broeders (2010) reports, authorities investigate the identity of migrants through interviews and languages tests, and by researching documents, registrations and databanks. When these investigations point to a 'suspected' country of origin, the authorities present the person concerned to the embassy of that country. This embassy must then recognise the person as a citizen of that country and grant them a new passport or a laissez-passer, i.e., a temporary travel document with which the person can 'travel' to this suspected country of origin. Moreover, authorities engage in what has been referred to as 'embassy-shopping', a practice whereby they present the same irregular migrant to various embassies (see, for instance, Ellermann, 2010). However, unless otherwise agreed, the burden of proof lies with the state that wants to deport an irregular migrant; and because states receiving deportees generally have little to gain from deportations, they do not always cooperate, unless provided with clear and convincing evidence that a person is a citizen of their country (Ellermann, 2010: 416).

Furthermore, the decision to allow migrants to be deported to a certain country depends on the relations between states. Some scholars have even argued that the relationship between states is a better predictor of a 'successful' return than whether

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[2] See, Wissink (2021) for a detailed overview on how states, and bureaucracies, create deportable subjects.

irregular migrants themselves are motivated to return (Leerkes & Kox, 2016). These relations between states regarding deportations can for example be formalised in re-admission agreements. Irregular migrants themselves, under international law, have always the right to return to their 'home' country, or the country of their citizenship/nationality. Article 12.4 of the International Covenant on Civil and Political Rights, for instance, states that "no one shall be arbitrarily deprived of the right to enter his own country" (United Nations International Covenant on Civil and Political Rights, 1966). However, the right of someone to return does not mean that states are always cooperative with their return. In practice, return can almost only occur with the collaboration of the country of origin (Gallagher & David, 2014).

Readmission agreements are agreements between countries that want to deport irregular migrants and countries that are the countries of origin of those irregular migrants. In these agreements, countries of origin agree to admit their nationals in return for both financial aid and technical support, but also, for example, more lenient visa requirements for nationals who want to travel to the particular state of the agreement. In other words, readmission agreements facilitate the enforcement of return decisions (Gallagher & David, 2014: 699). Interestingly, this kind of agreement can be construed so that countries take back their own nationals; but there have also been agreements which establish that countries must 'take back' the nationals of third countries (Ellerman, 2008). However, as Ellerman (2008) writes, these readmission agreements are often mostly focused on the interest of states that want to deport irregular migrants. The interests of readmitting countries, as well as the costs of deportation to these states, are often not recognised. Readmitting countries often get little in return, aside from small amounts of money and a somewhat favourable international position. In the German case, for instance, these agreements changed little in longstanding diplomatic disputes regarding the readmission of irregular migrants (Ellerman, 2008: 175). Moreover, as Cassarino (2010) writes, readmission agreements with the EU, for instance, are often signed by states that wish to retain the option of EU membership, or by states that want the benefits of EU cooperation, for example trade, technical collaboration, or development aid.

4.3   Detention

The detention of (irregular) migrants can happen for numerous (administrative) reasons – for instance, to resolve immigration claims or to establish the identity of an immigrant – but perhaps the most common one is to facilitate their removal. Detention is usually used when authorities believe that someone will not comply with conditions placed on their temporary admission into the country or release (Silverman & Hajela, 2012). Detention therefore usually either occurs pre-admission, at the border, when migrants have not (yet) been admitted into a country but for instance, want to claim asylum in it, or it occurs prior to expulsion. Some countries – the Netherlands and Belgium, for instance – have even constructed special so-called 'family units'. In this special form of migrant detention facility,

irregular families with underage children can be detained together (Wittock et al., 2021). Immigration detention is often referred to as 'administrative detention', meaning that immigrants are being held under administrative law and not because they are suspected or convicted of crimes (Leerkes & Broeders, 2010). However, one should not be misled by the expressions 'detention' or 'administrative detention'. As Dow writes, "the people in custody are called 'detainees' but they are, in fact, prisoners, held in federal penitentiaries, private prisons, local jails, and 'service processing centers' while awaiting deportation or legal proceedings" (Dow, 2007: 535). Regimes in immigrant detention centres are comparable to those of prisons. Even though the migrants held in detention facilities are not criminals, they are not allowed to leave the centre; they are 'housed' in cells; and practices like solitary confinement happen as well. Sometimes, the regimes of immigrant detention centres are even worse than those of prisons because activities intended to 'reintegrate' prisoners, like work projects, education, sport, or theatre, are not organised in immigrant detention centres. Furthermore, contrary to imprisonment, immigration detention often does not have a predefined end date but concludes only once the immigration issue has been resolved (Dow, 2007: 535; Leerkes & Broeders, 2010). Often, authorities can only hold immigrants in detention when deportation is imminent; if this is not the case, migrants cannot be held. However, because this is a rather ambiguous criterion, the duration of detention varies. White (2012), for instance, shows that there is considerable variability in the lengths of immigrant detention before judges grant someone's release. This results in a situation in which some migrants are even detained indefinitely. Moreover, this causes authorities to hold those irregular migrants that can most easily be deported because, for instance, there is a readmission agreement. Authorities often do not detain migrants that they foresee will be difficult to deport, because they would occupy space and cost money without 'results'. Empirical research on migrant detention has often focused on the lived experience of immigrants in detention facilities. It has overwhelmingly documented immigrants' mental health struggles and anxiety caused by the imprisonment and their protracted uncertain situation in detention (see, for instance, Griffiths, 2014; Lietaert et al., 2014; Turnbull, 2016).

Some scholars have stated that the underlying assumption of immigrant detention sometimes seems to be that "if detainees experience the detention as sufficiently severe, and if the duration is long enough, they may eventually reveal their identity, hand over identification documents, and/or give up their claims to legal status" (Leerkes & Kox, 2016: 15). Furthermore, as Martin (2012) describes, from the early 2000s onwards, immigration detention, next to 'catch-and-deport', became increasingly used in order to deter undocumented migration. This resulted in a range of categories of irregular migrants to be detained which previously would not have been a priority for detention. An example is the family separation policy in the USA under the Trump administration, which mandated the detention of asylum seekers at the border, or the detention of children, with or without their family members (see, Frye, 2020 or Todres and Flink 2020). Likewise, Bosworth (2022) describes the British-run detention facilities, or short-term holding facilities (STHFs), for (potential) border-crossers near Calais and Dunkirk.

In other words, the detention of irregular migrants, and in particular the prison-like regime within detention centres, is used to break down the resistance of irregular migrants who resist deportation. But migrant detention is also used to scare potential irregular migrants into not migrating, which in its turn would explain the need to worsen the conditions in these facilities. Immigration detention is therefore not just a practical step in the process of deportation; it can be seen as a symbolic asset of policy regarding irregular migration because the general prison-aesthetic of detention centres presents (irregular) migration as deviant. Pugliese (2008), for instance, analyses Australian immigration detention from a visual and architectural perspective and describes how immigrant detention centres, because they are designed to resemble maximum security prisons, contribute to the criminalisation of irregular migration, even though the majority of those who are imprisoned in these centres have not broken any law by claiming asylum. Through the use of electrocuting iron plates on walls and barbed wire on fences, immigration detention centres create a 'spectacle' of both the suffering and trauma of those who are detained, as well as their exclusion from society.

Undeportability also has an influence on migrant detention. Undeportability, in this case, works in two main ways. On the one hand, irregular migrants can be undeportable in a legal sense when, for instance, the country in which they reside does not have a re-admission agreement with the country of origin, or when the country of origin is classified as too dangerous for irregular migrants to be deported to it. On the other hand, irregular migrants can be undeportable in a more practical sense, meaning that their deportation is not a priority for the country in which they reside. In regard to detention, both forms of undeportability may result in irregular migrants having less chance of ending up in detention because detaining undeportable migrants would be a waste of government money. This can cause certain irregular migrants of certain nationalities, or with certain characteristics, to be less likely or unlikely to be held in detention. Fabini (2019), describes the case of undeportable irregular migrants in Italy, and shows how the authorities can be lenient with irregular migrants who are not perceived as 'dangerous', for instance women, or with those who are employed even if irregular.

4.4 Voluntary Return and Soft Deportation

Deportation may seem to be a straightforward response to the presence of irregular migrants in society. In practice, however, a variety of constraints make deportation difficult. Deportation is costly, bounded by international regulations and treaties, and requires the cooperation of the states of origin of irregular migrants. Therefore, many states try to make irregular migrants depart voluntarily. Voluntary return means that migrants "return out of 'free' will or unforced compliance with an obligation to return to the country of origin" (Lietaert et al., 2017: 962). The most influential voluntary return programme is the International Organisation for Migration's (IOM) 'Assisted Voluntary Return and Reintegration' programme. It provides

participants with several forms of assistance for a successful return. This can be financial assistance, for instance, paying for plane tickets, but also providing documentation, medical assistance, formal education and funds for 'reintegration' (Ashutosh & Mountz, 2011). The IOM's programme is active worldwide, yet 'host countries' are mainly located within the European economic area, but the IOM reports an increase in non-European countries participating in assisted voluntary return programmes (IOM, 2022).

Assisted voluntary return programmes, however, are not uncontroversial. Moreover, these programmes cannot be seen as independent from restrictive migration regimes. In these programmes, counsellors working for either a government or NGOs try to influence the aspirations of irregular migrants, with the ultimate goal of making them decide to leave, or 'go back home' (see, for instance, Cleton & Schweitzer, 2021). Therefore, many scholars have disputed the 'voluntariness' of these voluntary returns. They have done so mostly because this option is predominantly tailored for the most vulnerable irregular migrants, who are largely excluded from other services or welfare state provisions, and are dependent on humanitarian aid by charities and NGOs. Kalir (2017), for instance, argues that "the notion of voluntarism under such circumstances is a double euphemism, standing de facto for an exclusionary state structure that benevolently 'offers' certain people to 'take a decision' when no other options are available." (p.60). Cleton and Chauvin (2020), moreover, show how voluntary returns are often the result of an elaborate process of persuasion by civil servants and/or NGOs. The task of these workers is not only to arrange for irregular migrants to return to their country of origin, or in any case to leave the country in which they reside, but also to make these irregular migrants believe that they are doing so of their own free will. As Cleton and Chauvin put it: "undocumented migrants must be persuaded to leave by themselves and convinced that the decision stems from their own choice. This requires the use not of raw force but of incentives that purport to make the desired behaviour objectively sensible and hence interpretable as the product of 'agency'. Rejected migrants must decide to leave 'in their own interest'" (Cleton & Chauvin, 2020: 300).

The objective of these voluntary return programmes, however, does not differ widely from deportation. Moreover, in between deportation and voluntary return, some countries, such as the Netherlands, also have a process of 'Assisted Voluntary Return from Detention' (AVRD). This means that someone held in detention is returned, but instead of being handcuffed on a flight they are taken to the airport and essentially 'released' after they have gone through passport control and met an IOM employee in the departure hall (Leerkes & Kox, 2016: 22). Some scholars, therefore, refer to these voluntary return programmes as 'soft deportations', which have the same characteristics as classic deportations but lack the element of force (Leerkes et al., 2017: 7). Lietaert et al. (2017) argue that the goals of the Belgian voluntary return programme have changed from "enabling those wanting to return to pushing the return of those who are no longer entitled to stay". Thus, voluntary return increasingly favours the government and 'forgets' its initial social goals of facilitating return (Lietaert et al., 2017: 974). AVR is beneficial for states because it saves them a lot of money. Webber (2011), for instance, calculated for the British

case that AVR amounted to just one-third of the cost of a forced deportation, and even less if the costs of detention were taken into account (Webber, 2011: 99).

4.5 After Deportation

Critical scholars have called for more research into what happens after deportation (see, for instance, Lindberg & Khosravi, 2021). While for states in the Global North, deportation is finished when an irregular migrant is 'returned', for deportees the story of their deportation has only just begun: they have to reconstruct a life after a 'failed' migration experience.

Deportation is often framed in terms of irregular migrants 'going home', as a return to a natural order where they are no longer 'out-of-place'. These conceptions do not take account of the complex reality that deported migrants face. As scholars have argued, seeing deportation as 'going home', or as a 'homecoming', hides the brutality of deportation and individualises the problems that deportees face. Moreover, seeing deportation as 'going back home to the family' disregards how deportation significantly impacts on families, and even tears them apart (Hasselberg, 2016). For example, the majority of the respondents in a study by Golash-Boza and Ciciliano-Navarro (2019) on the experiences of recent deportees from the USA had left children and/or a partner behind. Also, not unimportantly, this account disregards the fact that in some cases the family was the reason for migrating. Thus, deportation sometimes returns people to the situation that they were trying to escape – for example, women and children who are deported back to patriarchal oppression. In these cases, deportation is a form of "forced family reunification" (Lindberg & Khosravi, 2021: 360; see also Ahumuza Onyoin, 2017).

In general, research on the post-deportation experiences of migrants describes stigmatisation, emotional distress, financial hardship, and desires for re-migration (Turnbull, 2017). Golash-Boza and Ciciliano-Navarro (2019) identify two important factors that influence the experiences of deportees from the USA to various Latin American countries: the context of their reintegration in the country to which they are returned, and the social ties to both their country of origin and the United States. Golash-Boza and Ciciliano-Navarro describe how many deportees experience a stigma from their deportation which causes them to experience difficulties in finding employment. Moreover, deportees that returned after many years, experience more difficulties, as they largely lost their social ties, than those who were returned after a shorter period. Turnbull (2017) adds to this, by arguing to look at the enduring impacts of detention prior to deportation. Turnbull describes how migrants who are detained before being deported lack even the most basic preparation for their return. While in detention, for instance, migrants cannot sell their belongings in order to obtain some money; nor can they acquire (original) documents that they might need to obtain employment after deportation.

Furthermore, scholars critical of deportation, in particular regarding the US case, see deportation as part of the "neoliberal economic restructuring of global

capitalism" (Golash-Boza, 2015), because they argue that deportation is not just an instance of a state demonstrating its power to control who is present on its territory, but there are also economic factors at play in deportation. Scholars have, for instance, described the role of 'for-profit' detention centres in the USA in detention and deportation (e.g.. Gilman & Romero, 2018), or they focus on the role of commercial airlines during deportation (e.g., Walters, 2016). Others even describe how American call centres benefit from obtaining cheap bilingual labour from migrants deported from the USA and working in Latin American countries (Lindberg & Khosravi, 2021; Rodkey, 2016).

Moreover, in the USA, deportation has been used as a tool to combat the problem of Latin-American (street) gangs, even though some scholars have argued that this is an ineffective measure (see, McGuinness, 2020). Some scholars have even suggested that deportation has caused the internationalisation of these gangs; the most cited example being the *Mara Salvatrucha* (MS13), which was founded in Los Angeles by Salvadorian immigrants and now has also a strong presence in El Salvador itself (see, for instance, Banwell, 2018: 8). However, scholars have more widely discussed how deportees, and in particular those with tattoos, are perceived as gang-members, even if their tattoos are not gang-related. Consequently, they are stigmatised and encounter difficulties with their 're-integration', such as finding a job (Golash-Boza, 2014).

4.6   Pushbacks, Pullbacks, and 'Pre-Arrival Deportation'

The struggle against irregular migration does not just take place at borders, or in receiving states. Under the umbrella of 'preventing irregular migration', states have increasingly shifted their struggle against irregular migration away from their own territory and into sending or transit countries – or international waters in the case of, for instance, Europe and Australia. This 'externalisation' or 'extra-territorialisation' of migration policy takes various forms: from the French idea of creating 'hotspots' in the Sahel-Sahara region, where selection would take place of who would be allowed to apply for asylum (e.g., Guiraudon, 2018), to the (controversial) plans of both Denmark and Great Britain to process asylum-applications in countries like Rwanda (e.g., Sinmaz, 2022; Sparre, 2021), or Australia's longstanding 'Pacific solution' where detention centres on the islands of Nauru and Manus are used to process and filter asylum claims (Flaey & Hoffman, 2014). But externalisation can also be a more implicit goal. As Oliveira Martins and Strange (2019) describe, combatting or preventing irregular migration is increasingly a goal additional to other, previously not migration-related, activities in countries of the Global South. In this case, "the fight against irregular migration and associated criminal activities" is added to other EU policy agendas like: development, aid, counter-terrorism, or even certain military missions (Oliveira Martins & Strange, 2019: 196). In the case of the EU, external migration policies aim to persuade "non-EU countries into agreements, policy instruments, information exchanges, projects or cooperation

mechanisms and regional processes on various migration-related issues (expulsions, return and readmission, border controls and surveillance, asylum, etc)" (Carrera et al., 2015: 6). Criticism of this policy strategy maintains that it posits stopping irregular migration, and cooperation with readmission and return, as conditions for cooperating with legal migration and protection of migrants' rights (Carrera et al., 2015: 6). One could argue that these kinds of policies 'blackmail' countries in the Global South to participate in policies intended to stop migration so that they can receive legal channels for migration, but also (sometimes necessary) development aid.

As with the readmission agreements for deportations, states in the Global North can establish agreements with 'transit states' in order to halt irregular migration, thus *de facto* externalising border control. Examples of the externalisation of migration policies are the multilateral and bilateral agreements between the European Union and Libya, and, for instance, Italy and Libya. This cooperation focuses on creating 'buffer zones', strengthening border controls, (re-)admission agreements, and inclusion by carrying out the extraterritorial processing of asylum claims in 'reception' or detention centres. In exchange, Libya receives training, equipment, or technical support (Ferstman, 2020: 462). In other words, the agreements aim to keep migrants in Libya, preventing them from crossing the Mediterranean in exchange for goods like coast guard equipment. In some cases, as with re-admission agreements (for deportations), countries receive opportunities for their nationals to migrate legally, this being the case of Morocco and Tunisia, and the European Union (Andersson, 2016). Or countries receive additional fishing rights in the waters they have agreed to patrol, as stipulated in an agreement between Spain and Morocco (Andersson, 2014).

Especially the agreements with Libya have been heavily criticised by, for instance, the UNHCR (UNHCR, 2018), because Libya is not considered a safe country for migrants and refugees. Libya has not signed the Refugee Convention and has no laws on the processing of asylum claims. Undocumented entry into the country is criminalised, so that detention can be indefinite. Detention is poorly regulated, and reports of abuses and inhumane conditions are not uncommon. Centres are often overcrowded, have poor sanitation, and little food, water, and medical supplies (Ferstman, 2020: 463–464). Moreover, the Libyan coast guard has been reported to be involved in various violations during 'rescues'/inception operations at sea, like, but not limited to, deliberately sinking boats using firearms (UNHCR, 2018; UN Security Council, 2017).

Besides the prevention of (irregular) migration in third countries, policies to prevent migrants from arriving go a step further by directly intervening in the border-crossing itself. In the case of Europe, and migration across the Mediterranean, states have been actively involved in turning migrant boats, or at least their passengers, 'around'. This can be done by a third country like Libya, as part of an agreement that includes 'pull-backs': for instance, when the Libyan coast guard patrols the shores and blocks migrants from leaving or performs rescue operations and consequently brings migrants back to the Libyan shore. Another example, which can be seen as in-between a (bureaucratic) pull-back and a push-back, is the agreement

between the EU and Turkey signed in 2016. This agreement stipulates the policy goal that all people who have crossed to the Greek islands from Turkey have to be returned to Turkey. An important aspect of this agreement is that Turkey has been declared a 'safe country' for refugees, and therefore a safe country of asylum or a safe third country for the (asylum) applicant (Yıldız, 2021).

While the EU-Turkey deal is mostly bureaucratic, European authorities are also directly involved in 'push-backs' of actual boats or migrants that have been intercepted at sea. Before 2012, the Italian authorities would intercept migrants at sea, and 'push' them back to Libya from international waters. Sometimes, however, and especially in the period before 2009, they would let some migrants disembark on Italian soil (mainly at the island of Lampedusa) in the case of life-threatening (medical) conditions or situations, and then return the rest of the migrants to Libya, therefore not from international waters but from Italian territory (Cuttitta, 2014). This practice has since been found unlawful by the European Court, after 24 Eritrean and Somalian migrants managed to fight their pushback to Libya: the *Hishi vs Italy* case in 2012. In 2009, they were intercepted at sea by Italian authorities and returned to Libya without having had the opportunity to claim asylum and could not defend themselves against collective expulsion and the risk of refoulement (Giuffré, 2012), which violated their human rights.

Pushbacks are by no means limited to the Italian-Libyan bilateral agreements or 'friendship pact' (Andersson, 2016). In the Spanish enclaves of Ceuta and Melilla, Spanish police regularly perform 'pushbacks', or *devoluciones en caliente*, when people climb over the border fence. As migrants are immediately expelled, either taken to the Moroccan police or abandoned on Moroccan soil, they have no possibility to apply for asylum or to claim that they are in some particularly vulnerable situation, such as being a victim of trafficking or being a minor (Barbaro & Lopez Sala, 2021: 92). Moreover, at the border between Belarus and Poland migrants are repeatedly pushed back to Belarus by the Polish Border Guard (see Balicki, 2022; Grześkowiak, 2022). Likewise, Koros (2021) describes how pushbacks are a common practice also on the Greek-Turkish side of the Mediterranean. Various reports have described how the Greek coast guard intercepts migrant boats, both in international waters but sometimes only a couple of hundred metres from the shore. But it is also reported that migrants who have reached Greek soil and called the emergency number, instead of being rescued or allowed to ask for asylum, are (allegedly) pushed back to Turkey by the Greek authorities (Drakopoulou et al., 2020). Moreover, it becomes increasingly clear that pushbacks are not incidental acts performed solely by national border forces. Scholars describe a changing role of the European border enforcement agency Frontex in these illegal pushbacks (see, for instance, Aas & Gundhus, 2015; Frenzen, 2016; Karamanidou & Kasparek, 2020). Gkliati (2022) describes how, in 2020, German journalists published evidence of Frontex witnessing pushbacks by Greek authorities without interfering, as well as evidence of Frontex participating in illegal pushbacks. Likewise, the UNHCR reported in 2019 on the involvement of Frontex in the immediate return of Afghan migrants from Hungary to Serbia. This alleged involvement in pushbacks brings the agency under close scrutiny and investigation by the European Parliament and the

European Anti-Fraud Office for its alleged involvement in human rights violations (Gkliati, 2022: 172).

4.7 Pathways to Regularisation

The deportation and detention of irregular migrants are responses to irregular migrations that fit within a political framework that criminalises migration and aims to drive the return of irregular migrants by increasing their marginalisation. However, given that most irregular migrants are not deported, and irregular migrants remain present in society, the following questions arise: Will irregular immigrants remain irregular forever? Are there possibilities for irregular migrants to change their legal status? Can they access a residence permit, and if so, through what procedures? This section focuses on the main legal alternative to deportation, namely procedures and pathways to regularisation. As already recalled, in 2020 the change in the US presidency has opened a window for regularisation with the new policy towards irregular immigrants announced by President Joe Biden (The White House, 2021), but this solution has resulted impossible, at least on a large scale. Also, the Covid-19 pandemic has triggered amnesties for irregular immigrants in some European countries, namely Portugal and Italy.

In Italy, the government decided after fierce debate that workers in some essential sectors (agriculture, domestic work and care work for seniors and children) deserved a residence permit and full access to healthcare services; and over 200,000 persons applied for this partial amnesty (Ambrosini, 2022). In other words, the amnesty was mostly aimed at ensuring labour force in essential sectors than at preventing the spread of Covid-19 by including migrants in healthcare systems (Bonizzoni & Hajer, 2022: 1).

'Status mobility' (McIlwaine, 2015) is a crucial passage in the immigration experience. The importance of regularisation for immigrants, notably the award of legal status in the host country, is evident. It provides legal inclusion and membership, economic and social citizenship, including broader access to social welfare rights (Kraler, 2019). Yet regularisation policies have become politically more unpopular in the past decade. Many governments, however, have applied some form of regularisation in this period to some sections of the unauthorised population. In the EU, one can distinguish three normative approaches to regularisation (Kraler, 2019). Firstly, there are countries (e.g., Italy, Spain) in which regularisation is mainly dependent on employment, albeit informal. Secondly, there are countries (Germany, the Netherlands, Sweden, and to some extent France) in which regularisation is primarily granted on humanitarian grounds and especially targets rejected asylum seekers who are not removed for various reasons. Thirdly, there are 'residual' countries (e.g., Poland) wherein neither rationale can be clearly identified.

When one thinks about regularisations, one often imagines mass amnesties, policy programmes in which large groups of irregular migrants are regularised simultaneously. However, it is possible to distinguish two main types of policies that

governments adopt in this field (Baldwin-Edwards & Kraler, 2009). The first type consists of *Regularisation Programmes*: procedures of an exceptional nature, which are not part of the ordinary migration policy framework, are time-limited, have a clear deadline, target specific categories of irregular sojourners (typically, workers) and often involve large numbers of applicants. In the past, many governments applied regularisations in the EU, especially in southern Europe (Italy, Spain and Greece) between the 1990s and early 2000s. In recent years, they have become less popular, whilst President Biden has relaunched their possibility. Moreover, in early 2022 Ireland announced a regularisation scheme for long-time undocumented immigrants "aimed at those who may be economically and socially marginalised as a result of their undocumented status" (Irish Department of Justice, 2022).

The second type consists of *Regularisation Mechanisms*: these encompass every procedure, different from the specific regularisation programmes mentioned above, enacted by governments to grant immigrants a legal status. Regularisation mechanisms are usually open-ended provisions without a deadline. The regularisation is not part of a mass amnesty, but legal status is usually granted on demand, on an individual basis, case by case. There are many criteria that states can employ to grant this type of individual regularisation: for instance, *time* – the long-term settlement of a migrant on the national territory; *employment* – holding a job, even if informal; *parental responsibilities* – raising children on the national territory; *affective ties* – a stable relationship with a national citizen, or a legal resident; *health conditions* – a severe illness; or regularisation is based on *humanitarian considerations*, which is typically the case of rejected, but not deportable, asylum seekers.

Regularisation programmes and regularisation mechanisms differ in their degree of public visibility and political resonance. Regularisation programmes enter the spotlight for months and raise much more public and political debate in the media and political arena. When regularisation programmes involve large numbers of applicants, they can visibly impact on the demography of the immigrant population. Regularisation mechanisms are much more discreet, less charged with political meaning, and allow authorities to manoeuvre, deciding to accept or reject applications. For these reasons, North-Western European governments have preferred regularisation mechanisms for several years. Some countries, such as Spain, have shifted from the first to the second procedure.

In any case, both types of measure imply a dynamic vision of irregular immigration (McIlwaine, 2015; Van Meeteren, 2010). As the first two chapters have already demonstrated, the boundaries between regular and irregular immigration are not clear-cut and are actually often blurred. We can add that irregularity is not a static condition; rather, in several circumstances, immigrants can change their legal status, and achieve a residence permit, although usually after years and amid increasing obstacles. Irregular immigration is not separate from regular immigration and receiving societies. Flows in both directions occur, as some immigrants can lose their legal status, for instance, through long-term unemployment or denial of asylum, whereas others can move towards authorised settlement. Furthermore, 'liminal legality' (Menjívar, 2006) has also spread, because precarious and unclear conditions continue to exist, even when there is a possibility for regularisation. In

addition, general trends of labour markets towards forms of unstable and temporary employment, beyond recurrent economic crisis, make maintaining a legal status related to work more difficult. In turn, residence permits have become increasingly conditional and temporary. Consequently, one observes repeated transitions in and out of illegality (Chauvin et al., 2013).

Social acceptance, as seen in Chap. 3, is an important aspect that can increase the chance of being regularised. Public opinion, civil society actors, and the labour market can influence the implementation of laws against irregular immigrants, as well as the legal definition of such immigrants. Through this influence, social acceptance can become recognition through laws. Especially 'deservingness' – often derived from employment, but also from other merits or circumstances – is frequently utilised by migrants and their supporters to obtain legal status. Moreover, other humanitarian reasons such as maternity, sickness, minor age, or harsh exploitation can help irregular migrants to obtain legal status. Anderson (2008) shows that 'victimisation' – for instance, regarding women exploited in domestic work or the sex industry – can open some space for regularisation. Fassin (2005), in turn, highlights the role of 'biolegitimacy', that is, access to rights by virtue of the suffering body. In this case, sickness facilitates obtaining the status of refugee. Furthermore, various difficulties in enforcing removals can help irregular residents gain time and become eligible for a permit as *de facto* long-term residents.

As a consequence of the two types of normative approaches explained above, two main avenues of legalisation can be identified: *civic performance,* mainly regarding participation in the labour market, and *vulnerability* (Chauvin et al., 2013). In the same vein, Lakhani (2013) has identified two key principles which allow access to legal status in the USA beyond blood ties: *sweat*, referred to work, and *tears,* referred to victimhood. In Table 4.1, we widen the scope of this discussion by distinguishing five avenues of regularisation of newcomers and unauthorised sojourners.

The first avenue concerns integration through employment. This has been the pillar of regularisation programmes in Southern Europe, and it is also often rewarded in integration mechanisms, for instance in France. Here, deservingness through hard work is the salient condition for eligibility, even when employment is 'off the books'. Hence, deservingness often requires official recognition by an employer, who declares their willingness to hire the candidate formally. Labour, consequently, is the key principle.

The second avenue recognises the extended stay in the country (for instance, for five years), as the condition to apply for a legal permit. Besides the duration of residence, it often requires a clean criminal record, because resilience and good behaviour are rewarded. Demonstration of social integration – for instance through a stable affective relationship, and even better, having children born on the territory of the state – usually complements the time spent in the host society. Employment is also appreciated, combining this avenue with the previous one. Consequently, remaining invisible to the authorities, evading controls, resisting removal, or circumventing identification, are the tactics employed by immigrants in their struggle to resist and access legal status.

Table 4.1 Transition towards legal status

Condition for eligibility	Legalisation forms	Key principle	Beneficiaries	Possibilities for initiative by immigrants
Deservingness	Regularisation programmes and mechanisms	Labour	Irregular migrants included in the labour market	Demonstrate integration in employment, be hired by a formal employer
Extended stay (social integration)	Regularisation mechanisms	Resilience	Long-term irregular migrants	Capacity to evade document checks, resistance against removal. Establish and demonstrate social connections
Appeal to liberal protection	Assessment of particular biographical conditions	Distress	Newcomers (minors); sojourners (pregnant women, sick persons)	Demonstrate possession of the proper requirements
Marriage (sometimes a stable relationship)	Recognition of a civil right	Love	Newly arrived and long-term irregular migrants	Demonstrate authenticity of the marriage, maintain an enduring cohabitation
Victimisation	Recognition of a condition of danger or abuse	Persecution	Newcomers as asylum seekers; persons in particular conditions (e.g., women exploited in the sex industry)	Demonstrate real victimhood

The third avenue is not available to all irregular migrants but only to those with particular biographical conditions. At the same time, it is also accessible to newcomers. In this case, immigrants appeal to the liberal consciences of democratic states (Hollifield et al., 2014). According to democratic standards, authorities cannot easily deny admittance and protection to unaccompanied minors, pregnant women, or sick people. The common denominator of these cases is their condition of distress that allows them access to a legal permit, although it is often temporary. Protection, however, depends on possessing the right requirements. For instance, a young person has to demonstrate to be a minor in order to be accepted, and authorities often try to apply restrictions or additional conditions before recognition.

The fourth avenue – i.e., marriage with a citizen or legal resident – is more controversial than the previous ones (Engbersen, 2001). Here again, liberal principles are the ground for application. Citizens and legal residents appeal to the freedom of marriage and to the right of spouses to live together, emancipating the partner from their state of irregularity. This is one of the few opportunities for entry by newcomers and for regularisation in the case of immigrants without legal permits. But Western governments have begun to suspect that fraudulent use is made of this

opportunity through fake marriages. This suspicion has prompted restrictions, more controls, and long delays before rights can be exercised (Block, 2015; for Denmark: Rytter, 2012). For citizens, the legal framework of marriage and family rights is tending to become more inclusive, as an increasing number of states recognise same-sex unions, or as families living together without official recognition have become more common. But as far as new immigrants are concerned, often only official, conventional, heterosexual marriage is admitted (Hacker, 2017). Moreover, in this case, while love is the principle to which immigrants appeal, this can be contested, because states try to exercise a right of control over private life, emotional ties, and the personal preferences of their citizens and residents (Fassin, 2010).

The last regularisation avenue has also become very controversial in the past decade, especially in the case of asylum seekers. This concerns the 'forced migrants', obliged to flee their homes by war, ethnic conflicts, or persecutions. They claim acceptance through victimhood. Persecution – that is, human suffering produced by political circumstances – constitute the key principle for acceptance. In this case, however, recognition can be achieved only after long and complex procedures, because states tend to suspect that victimhood is employed to force admission without meeting the requirements for asylum. Assessment of the validity and credibility of each case is the rule (Kneebone et al., 2014). Asylum seekers must convincingly demonstrate their victimhood (Jubany, 2011). In other terms, they must enact a plausible performance of victimhood by behaving and talking like victims. Moreover, the supporters of irregular migrants can also play the card of victimhood in order to provide them with access and legal protection. Consequently, a paradoxical aspect of legalisation because of victimisation is that it is not easy to be recognised as a victim. Those who are eventually recognised as victims often achieve this 'success' only after having persevered and navigated through arduous bureaucratic procedures (Chauvin and Garcés-Mascareñas, 2014).

As well as asylum seekers, other types of migrants can appeal for regularisation based on victimhood by claiming to be victims of severe human rights violations (Anderson, 2008). They may be trafficked newcomers, workers harshly exploited in sweatshops or other workplaces in conditions close to slavery, victims of other forms of violence or abuse, and especially women involved in trafficking for the purpose of exploitation in the sex industry.

Nevertheless, also in these cases, states tend to be reluctant to accept applications and carefully investigate the claims for protection lodged by these migrants. In most developed countries, these forms of regularisation are characterised by increasing controls and complex procedures (see, for instance, De Hart and Besselsen (2021) on family (marriage) migration in the Netherlands). The assessment of some conditions is more objective and almost automatic: pregnancy, sickness, and to some extent minor age, can be easily demonstrated. In the case of marriage, governments are more suspicious and try to exercise more control, despite the intrinsic difficulty of checking human sentiments and intimate relations. In the case of asylum seekers and other victims, assessment requires long questionings, convincing stories, and detailed dossiers.

4.8   Removal or Regularisation (Conclusion)

The first chapter of this book considered the problem of defining what is precisely irrregular immigration; the second chapter factored the various ways in which people can become irregular migrants; the third chapter focused on the various policies that states have in place to deal with irregular migrants present in their societies. This chapter, however, has examined how states try to 'solve' the phenomenon of irregular migration and how states treat the fact that there are irregular migrants residing in their societies. There are two main ways to 'solve' irregular migration: either states remove irregular migrants from their territory, or they can remove the irregular status of migrants, making them regular migrants.

Many responses to irregular migration are seemingly influenced by this first (political) framework, in which irregular migration is considered an anomaly or a phenomenon that can be stopped. In some cases, governments have made it more difficult to maintain legal status, as in the case of unemployment, or restricted recognition of the right to asylum. For instance, hundreds of Afghans were deported from Europe, just before the Taliban seized power. Deportation can therefore seem like a solution to the 'problem' of irregular migration. As described, there is a tendency to devote a lot of attention and money to a relatively small population. Irregular migrants are caught, held in prison-like conditions, and either forcefully removed or 'convinced' or 'persuaded' to leave 'voluntarily'.

Moreover, sometimes migrants are 'returned' even before they have even fully arrived. For instance, in the first semester of 2021, 12,000 Afghan citizens were reportedly repatriated by Turkey, which stopped them during their journey to Europe (Anadolu Agency, 2021). All these measures are intended to 'solve' the problem of irregular migrants in society by removing a minority of them. Yet, simultaneously, these measures are used to discourage irregular migration. The idea is that the more brutal is a state's action against irregular migration, the more migrants will be discouraged from coming to that country, and fewer irregular migrants will settle in its society. Recent decisions, by Denmark and the UK, to deport asylum seekers to Rwanda, exemplify this policy. Moreover, the idea is that harsher treatment of irregular migrants will cause irregular migrants to leave 'voluntarily'. This fits within a situation in which irregular migration and irregular migrants are increasingly criminalised. Policymakers can lose sight of the actual dynamics of a phenomenon: for instance, irregular migrants settle because they are 'needed' in the informal economy.

However, irregularity is not a binary status that is only resolved if the irregular migrant returns 'home' in some way or form. As will become apparent in the following two chapters, irregular migrants are often more embedded and included in the receiving society than is commonly thought. However, a (political) discourse of closure of society makes it challenging to recognise this fact. Regularisations, where not the irregular migrants but their irregular status is removed, on the contrary, provide the opportunity to regularise those migrants who were unsolicited but proved to be useful or otherwise deserving of inclusion. States allow access to a permit, especially when confronted with the demands of employers, or various conditions

of vulnerability, or special links with citizens and permanent residents. We mentioned, besides the avenue of deservingness, four other avenues of regularisation: extended stay (resilience); assessment of a particular biographical condition (distress); marriage (love); victimisation (persecution). On the other hand, the risk of losing legal status has also increased in many receiving societies because of economic downturns, social closure and political restrictions. The outcome of the battleground of immigration and asylum policies, introduced in Chap. 3, is a fluid, dynamic, and contested picture of the governance of unauthorised immigration. Mass regularisations, in fact, are today not very common outside Southern Europe, but the US presidency has declared to be willing to move in this direction. Nonetheless, many countries have some form of regularisation mechanism that allows for case-by-case regularisation.

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Chapter 5
Enabling and Supporting Irregular Migration

Despite widespread efforts to stop irregular migration, it continues; and irregular migrants remain present in societies, often finding alternative modes of inclusion. However, irregular migrants are not alone. It is essential to recognise that a variety of intermediaries enable irregular migration. Between states, we can observe a complex interplay among 'facilitating' or 'enabling' actors that enable or facilitate irregular migration and include human smugglers, who provide services that help migrants cross borders. Human smuggling has become big business, not least because governments increasingly aim to restrict (irregular) migration. The consequential commercialisation of migration, in which people help migrants cross borders to make a profit, has been termed the 'migration industry' (Andersson, 2014; Schapendonk, 2018). Likewise, other scholars have observed the 'illegality industry', i.e., the industry created around border security (Andersson, 2016).

However, to a large extent, irregular migration is also enabled within states. It is so not least because a substantial number of irregular migrants cross borders legally, but their presence becomes 'irregular' when they 'overstay' their visa. Within states, supporters of irregular migrants play a prominent role in the interplay between migrants and states. These supporters act in favour of migrants and respond to their practical and social needs. They can be seen as belonging in the broader category of migrant intermediaries (Ambrosini, 2017; see Chap. 3). Because irregular migrants most often cannot depend on help provided by the state or local public authorities (see also Chap. 3), most of the help given to them is informal (Ambrosini, 2016). Irregular migrants rely more on their 'network' than do those who are regular (Bloch et al., 2009); and those with a strong network generally fare better than those without one.

This chapter will first discuss how border crossing is enabled and supported. It will describe the variety of actors that support irregular migrants in (receiving) societies. Moreover, it will dwell on these actors' various motivations for supporting irregular migrants. Lastly, it will elaborate on how these actions to support irregular migrants relate to the state.

5.1   Actors Enabling Irregular Border Crossing Through Smuggling

In order to become irregular migrants, people have to cross borders. Their border crossing often has to be enabled by third parties. Western states increasingly make it more difficult for an ever-larger group of migrants to enter their territories legally, thus creating a 'market' for human smugglers who enable border crossing because reliance on smugglers is a necessity in many places. This 'migration industry' shapes mobility patterns before, during, and even after migration (Alpes, 2012; Cranston, 2016; Schiller & Çağlar, 2009; Spaan & Hillmann, 2013). Triandafyllidou (2018) describes the relationship between restrictive border policies and human smugglers as a vicious circle where restrictions make migration 'irregular', increasing the risks and costs of migration, as well as the dependence of migrants on human smugglers. This leads to more advanced methods of circumventing border controls which trigger more restrictions and border controls. According to estimates by the US Border Patrol, 80 to 95% of the migrants apprehended at the US-Mexican border in 2015 had been helped by a smuggler to cross the border. This is confirmed by data from the Mexican Migration Project, which show the involvement of smugglers in almost 90% of cases in 2017. In Europe, the border agency Frontex reports – on the basis of voluntary interviews with newly-arrived migrants – that 84% of the latter had used a smuggler to arrive in Italy, Greece, or Spain (Campana & Gelsthorpe, 2021: 5–6; Sanchez, 2018).

Migrant smugglers are often portrayed as criminals who "exploit the desperation and vulnerability of migrants" (Europol, 2016, as cited in Siegel, 2019: 104), or as "ruthless criminal networks [that] organise the journeys of large numbers of migrants desperate to reach the EU. They make substantial gains while putting the migrants' lives at risk" (European Commission, 2015:1, as cited in Siegel, 2019: 104). In this way, smugglers are portrayed – by governmental reports and certain scholars alike – as violent and evil criminals who do not care about the suffering of the migrants that they are transporting, or even semi-kidnap them, and who treat migrants much like other illicit goods that can be smuggled, such as drugs (Siegel, 2019: 107–108). However, one wonders whether this is not a too one-sided picture.

Amidst the discourse on criminalisation and the many negative aspects of migrant routes and irregular border crossings, it is important not to base one's understanding solely on reports written from the perspective of crime or criminology. Many social scientists have sought to nuance the image of irregular border crossing and those who help migrants cross borders irregularly. For instance, they show how border crossing has increasingly become irregular because the means to migrate legally are increasingly limited (see, for instance, Spener, 2009). Providing this nuance, however, remains problematic. The graphic images of migrant smuggling conveyed by the global news media, ranging from dead migrants in unventilated and unrefrigerated trucks in both the USA and the EU to dead children washed up on beaches on both sides of the Mediterranean Sea, are so horrible that contextualisation of smuggling and the role of smugglers within the contemporary restrictive and punitive

migration regimes is a delicate endeavour (Zhang et al., 2018; Sanchez, 2017). One way to tackle this difficulty is to collect empirical data on who smugglers are and how they work.

First and foremost, it is important to differentiate between smuggling and trafficking – instead of equating the former with the latter – in order to understand the role of migrant smugglers (Carling, 2006). This also shines a different light on the binary relation between migrant enablers and migrants. The relation is not between a predator and a victim; rather, it is one in which both are active agents in the migration journey. As the objective of (irregular) migrants is to migrate, smugglers can be considered important helpers; the dynamic between migrants and smugglers may therefore be also viewed as a supply-demand relation, rather than one of pure exploitation. Instead of referring to two distinctly different phenomena, the terms 'smuggling' and 'trafficking' are often used interchangeably to refer to the facilitation of irregular border crossing, especially in everyday language. Moreover, these concepts are subject to debate within academic studies. The Protocol against Smuggling of Migrants by Land, Air and Sea defines smuggling as: "the intentional procurement for profit of the 'illegal' entry of a person into and/or 'illegal' residence in a state of which the person is not a national or permanent resident". In other words, smuggling involves a smuggler who enables border crossing, a form of payment, and the migrants' voluntary participation in this arrangement (Van Liempt, 2018: 140). Likewise, Campana and Gelsthorpe (2021) explain smuggling as a form of illegal trade where the illegal entry into a country is traded; where trafficking is a form of illegal trade in which the control over a person is traded (Campana & Gelsthorpe, 2021: 7–8; see also, Campana & Varese, 2016). On the basis of this definition, we can draw a distinction between smuggling and trafficking: the most significant difference is that smuggling involves voluntary participation, while trafficking involves victimhood. Another factor is time. Smuggling only concerns the time required for the border crossing. Instead, with trafficking the time during which traffickers have control over 'migrants', or better victims of trafficking, is prolonged even after they have reached their destination.

However, this distinction assumes a clear-cut dividing line between what is voluntary and what is forced. The reality of migrant mobility and border crossing is much fuzzier. Since irregular migrants are dependent on smugglers for their migration, they often have only a few choices about who will make their journey possible. Calling this choice 'voluntary' may not be to use the right word. Moreover, migrants who are smuggled, and are voluntary participants in the smuggling, can be coerced, taken hostage, punished by their smuggler during their journey (Van Liempt, 2018; see also, Baird, 2014; Gallagher, 2002), making the distinction between voluntary and involuntary mobility difficult to demarcate. Human trafficking is, for instance, often associated with (forced) prostitution. In this case, women are transported over borders, much like 'human cargo' (Hartman, 1997), to be forced to work in the sex industry. And while there certainly are scenarios in which this occurs in an entirely involuntary manner, there are many other imaginable scenarios in which there is a combination of voluntary and involuntary aspects. It may also happen that people purposefully and voluntarily leave their country of origin but become trafficked and

exploited for prostitution, or exploited in other ways, at a later stage or along the way (Andrijasevic, 2010; Van Liempt, 2007). Moreover, Freedman (2016) describes how women and sexual minorities with insufficient means to pay for their journey can use transactional sexual relations to move along smuggling routes. The distinction between smuggling and trafficking is both complex and important, because equating smuggling with trafficking paints a biased picture of the actual activities of those actors that make border crossing possible. In this chapter on the enabling of irregular migration, we will focus on forms of smuggling.

Smuggling occurs in various forms, of which Fig. 5.1 provides a visual representation.

The best-known form of smuggling is the practice of helping those who want to migrate irregularly to cross borders physically. Migrants can either organise individual border-crossings directly with the border-crossing executors or use a middleman. Migrants who do not have much financial capacity, or those who only need to cross one border, tend to arrange their journey directly with a smuggler. While many scholars contest the prevailing image of smuggling as involving pyramid-shaped, centrally organised, mafia-style criminal organisations (see, for instance, Demir et al., 2017, or Paus, 2021), a collaboration between smugglers in order to organise longer smuggling trajectories certainly occurs. In this way, smugglers collaborate with other smugglers or connect through a middleman in order to be able to guarantee a longer journey to migrants, sometimes with multiple borders to cross.

However, while physical assistance during border crossings may be the best-known form of smuggling, it is most certainly not the only one. A large part of smuggling, especially for wealthier migrants, occurs through documents and is performed with ordinary means of transport like commercial aeroplanes. This smuggling through documents can be divided into various subcategories. A first division can be made between genuine visas or travel documents and fake ones. When being smuggled with fake documents, migrants board regular planes, buses or boats, using
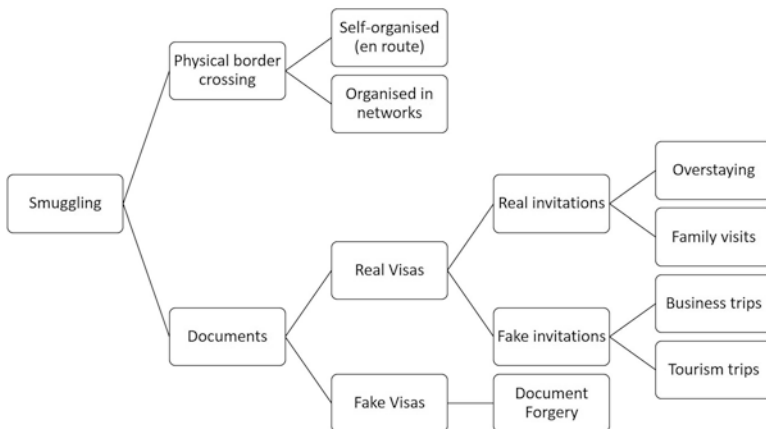

Fig. 5.1 The various forms of migrant smuggling

forged passports or visas or real passports that belong to someone else. The act of smuggling consists of arranging these fake documents directly or through middlemen. Those who forge passports and visas or sell their passport to prospective migrants can be seen as smuggling enablers. However, smuggling can also happen with real, not forged, travel documents; the smuggling aspect here lies in the mismatch between the application for a visa and the actual purpose of the journey. In this case, middlemen arrange the documentation for a visa application using contacts in a destination county or a third country. In this form of smuggling, visa applications are often made in a third country, For instance, in the case of Europe, any country in the Schengen zone can issue visas for the entire Schengen area, but obtaining a visa for some countries is easier than for others (Neske, 2006: 142). For visa applications, one often needs an invitation. Migrants can arrange this themselves when they, for instance, have a family member that can invite them for a family visit and act as a guarantor, even when the actual purpose of the journey will be to migrate irregularly by overstaying the visa. As described in Chap. 2, overstaying a visa is the most common way to become an irregular migrant. Another way to obtain a visa can be to use an intermediary who arranges a fake invitation or a fake tourism trip to the target country. They can, for instance, organise fake business trips in collaboration with local businesses in the target country or book a series of hotels to make the tourist application plausible (Neske, 2006). Citizens in the target country enable this form of smuggling but do not necessarily have to be conscious participants in the smuggling.

On the basis of these types of smuggling, we can identify three kinds of roles that actors have in the smuggling process. Firstly, there are those who execute the physical act of smuggling, also known as *passeurs*, *pilots*, or *coyotes*. These are the people that one often thinks of when considering smugglers because they actually accompany migrants during the border crossing. They are usually people with extensive knowledge of the geographical area that must be crossed, and they are trained to cross, and to guide people across, rugged terrain. They are, for example, former soldiers, shepherds in the case of land crossings, fishermen in the case of sea crossings.

Secondly, there are *brokers or middlemen*. These people connect the 'demand' for human smuggling to the 'supply' of smugglers. In other words, they connect would-be migrants with the smuggling services available. For instance, they connect migrants to *passeurs* who will help them to cross the border physically, or arrange for forged documents by connecting migrants with various types of document forgers. Moreover, because smuggling with visas is gaining importance, these middlemen have an important role in connecting the various aspects of a (fake or semi-fake) visa application.

Thirdly, there are *enabling services*. These comprise all the services that make the smuggling process possible: for instance, financial services, document forgers, or the organisation of safehouses and food for smuggled migrants *en route*. Smuggling is a business that has to be paid, and a facilitating service can therefore make these financial transactions possible. These transactions often happen covertly and informally out of necessity because states and institutions that want to combat

smuggling know that blocking the cash flow from migrants to smugglers is one way to make smuggling more difficult.[1] Belloni, for instance, describes the case of Eritrean *Hawala*, the financial agents of an informal money-transfer system who function as informal financial middlemen between (prospective) migrants and their family, and smugglers. The *Hawala* on the migrants' side transfers money to the *Hawala* on the smugglers' side, and because *Hawala* are often shop-owners who are therefore already involved in trade activities, they can arrange these informal transactions within a regular trade transaction (Belloni, 2019: 108). These types of financial middlemen have been described in other contexts, where they are used to pay smugglers but, perhaps more importantly, to send remittances to the family left behind after migration: for instance, *cashiers* in Turkey (Içduygu & Toktas, 2002) *moneychangers* in Pakistan (Koser, 2008), *Xawilaad* in Somalia (Lindley, 2010).

Another enabling service can be the provision of passports and visas, and documents that might be needed for a visa application like birth certificates and school diplomas. The example of document forgers shows that there can be a grey area between an enabling service and brokerage. These forgers can arrange false documents for middlemen, but, as Alpes reports, they can also target prospective migrants directly, for instance, with flyers at internet cafes or on university campuses (Alpes, 2017: 310).

Although the business of migrant smuggling seems to be rather male-dominated, women play a role as well. The involvement of women in the smuggling process mainly consists in its enabling. Sanchez describes how women recruit customers, negotiate fees or draw up payment plans. They are sometimes the people that withdraw the payment from banks or money wire shops. They also play an essential role in maintaining safe houses where migrants can be sheltered *en route* and in the provision of food and water along the way (Sanchez, 2016: 388).

As the above demonstrates, there are different forms of smuggling in which different types of smugglers play different roles. The popular image of migrant smugglers often portrays 'organised crime groups' (OCGs) or mafia-like organisations, of evil criminals who smuggle migrants only to make large profits and do not care about the fate of the people that pay them to cross borders. However, given the findings of empirical, often qualitative, studies, this picture should be nuanced. Starting from the organisational structure, scholars have observed empirically that smuggling most often does not occur in large OCGs, but can best be seen as involving a network of different smugglers, since "even the most structured form of a human smuggling network when compared to an organisational structure would only take the form of a decentralised, loosely coupled organisation" (Paus, 2021: 177). Moreover, while smugglers are certainly not all Good Samaritans, nor are they all ruthless and only profit driven. Zhang, Sanchez and Achilli describe how smugglers are often otherwise ordinary people, often have a migrant background, and often come from the same communities as the people that they smuggle (Zhang et al.,

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[1] Moreover, informal money transfer services have been targeted because authorities believe they are used to finance terrorism (Cook & Smith, 2011).

2018). Sometimes, smugglers are migrants themselves who act as enablers in exchange for a discount on their journey (Sanchez, 2015, 2017).

Moreover, most smugglers, or smuggling enablers, are not violent. Because smugglers often come from the same communities and are sometimes even friends, relatives, or acquaintances of the migrants they assist, they are often subject to some form of social control. In other words, smugglers can have social and moral obligations to their families and communities to provide a reliable and safe service for those who want to cross borders (Zhang et al., 2018). Hence, instead of malicious people, smugglers can also be seen as figures of trust within their communities. Zhang (2007) describes how Chinese migrants in the USA sometimes see their smugglers as philanthropists. Maher (2018) describes how, in Senegal, smugglers are often seen as respected and trusted members of the community of (potential) migrants. Likewise, Belloni reports the case of Eritrean smugglers that are not only seen as trusted persons but also actively try to maintain this trust. Smugglers do their best to protect the migrants in their care from, for instance, kidnappers in the Sinai desert, and they take pride in the safe passage of their customers (Belloni, 2019: 112–113).

Trust, reputation, and personal relationships are important to understand smuggling (Siegel, 2019: 108). This can be deduced not just from who smugglers are but also from how they work. While the voluntariness of choices is still a difficult issue, as described above, within their ability, migrants can be observed (trying) to carefully consider their options when deciding with which smuggler to migrate (see, for instance, Van Liempt & Doomernik, 2006; Alpes, 2012). Personal contacts and word-of-mouth information are major determinants of this choice (Campana & Gelsthorpe, 2021). Therefore, smugglers have an incentive to provide a good service to migrants to guarantee work in the future. Spener (2004), in his study on 'coyotes' on the Mexico-US border, shows how smugglers/coyotes have an important role in keeping migrants safe *en route* because their business model is based on providing a successful passage. This is because when migrants choose a coyote to entrust with their border crossing, they often rely on the coyote's proven record of safe trips organised, about which family or community members who have already migrated inform them (Spener, 2004: 310). Some (rare) survey studies on migrant smuggling confirm this. Sanchez et al. (2018) show that of 686 surveyed migrants who crossed from Libya to Italy, almost three-quarters used personal contacts to find the most trusted source of information regarding border crossing. The study by Slack and Martinez (2018) shows how, of the 655 migrants surveyed on the Mexico-US border, 53% stated that someone they knew had put them in contact with their smuggler.

Scholars have therefore sought to describe the field of migrant smuggling in terms of demand and supply. In the accounts of irregular migrants, smugglers are seen as supportive, important enablers of their journey in the case of the Mexico-US border (Sanchez, 2018), or as important helpers, not as criminals, in the case of migrants on Lesbos, Greece (Siegel, 2019). In the end, smugglers provide a service for which there is great demand, not least because of restrictive border regimes. As the opportunities to migrate regularly have decreased over time, people also rely on

smugglers to cross borders to escape warzones. Although the border crossing might be considered irregular in this case, this does not necessarily turn the migrants crossing the border into irregular migrants. Migrants can cross borders irregularly but then apply for asylum, for instance, which may grant them legal stay in the country that they have entered irregularly.

5.2   NGOs and Irregular Border Crossing

Another aspect of the debate regarding migrants' irregular border crossing and the support that migrants receive while crossing borders is the role of non govern-mental organisations (NGOs). Debate on this issue is perhaps most prominent in regard to search and rescue (SAR) operations in the Mediterranean Sea, for instance by the German NGO Sea-Watch or the Spanish NGO Open Arms, both of which are national NGOs operating internationally and in international waters. These NGOs used to have relatively good collaboration with coastguards, who coordinated SAR operations according to the vessels closest to a potential emer-gency, whether it was a coastguard ship or an NGO one. But when in 2018 the Italian government stopped accepting responsibility for SAR and started to deny NGO vessels access to Italian ports, the cooperation began to fail (Cusumano & Villa, 2021; Cuttitta, 2020). On the basis of this lays a change in how the activities of NGOs in the Mediterranean are viewed. The image of SAR NGOs was subject to change because they were targeted by nationalist and right-wing anti-migration campaigns, which influenced the position of politicians and governments with regard to the activities of NGOs. Cusumano and Villa (2021) describe how NGOs that rescue migrants at sea were initially seen as 'angels' because of the number of lives saved by their activities. However, due to this change in attitude regarding SAR NGOs, they became increasingly stigmatised and criminalised and were accused of functioning as 'sea taxis' and 'vice smugglers' because of their alleged aiding and abetting of illegal migration. A notorious case is that of Carola Rackete, the captain of the 'Sea-Watch 3' ship, who was arrested in 2019 and then prose-cuted by the Italian authorities for having forced a blockade by the Italian Navy in order to disembark people rescued at sea in the harbour of Lampedusa. Allsopp et al. (2021) describe how, by defining migrant smuggling not in terms of how smugglers benefit from enabling border crossing but by emphasising the violation of borders of nation-states, NGOs can become seen as smugglers (Allsopp et al., 2021: 66–67) because they *de facto* make this irregular border crossing possible. The subsequent policing of SAR NGOs at sea, and other civil society organisa-tions (CSOs) and even individual citizens on land, has been referred to as 'polic-ing humanitarianism' (see, for instance, Carrera et al., 2019). This policing has escalated from creating suspicion, intimidation, and harassment of NGOs, and it has even led to the criminal prosecution of NGOs for their alleged involvement in illegal migration. An important argument put forward is that the presence of res-cue vessels is a 'pull factor' for illegal migration (Cusumano & Villa, 2021: 24).

Another of the main accusations is that not only do NGOs SAR activities not reduce deaths at sea but that the actions of NGOs have actually increased the number of deaths, because the presence of rescue vessels encourages smugglers to force migrants to embark on unseaworthy boats (see, for instance, Deiana et al., 2019; Heller & Pezzani, 2018). This discourse, which paints a negative picture of NGOs, fails to mention the actions of governments in this matter. For instance, the increasing use of rubber dinghies could well be the (unintended) by-product of states' attempts to fight smugglers by sinking their wooden or iron boats so that they cannot be re-used, thereby making rubber boats more economically sustainable (Cusumano & Villa, 2021: 35; Heller & Pezzani, 2018).

These different frames and discourses regarding borders and border-crossing make borders a political issue. Moreover, it is important to keep in mind that, while irregular migrants who cross borders irregularly and consequently end up on these boats in the Mediterranean may be the most visible form of irregular migration, they are not representative of the phenomenon of irregular migration as a whole. As seen in Chap. 2, many irregular migrants use legal entryways and become irregular, for instance, when they overstay their visa. This shows the difference between irregular *entry* and irregular *stay* (see, for instance, De Haas, 2008). Irregular migration in this manner requires different competencies and different enablers. The Global North has increasingly tightened its physical borders and the administrative borders of visa applications for many people in the Global South. Border crossing to become irregular migrants has to be enabled by different actors. Instead of 'traditional smugglers', this type of border crossing is made possible by, for example, travel agencies, employment brokers, passport or visa forgers (Sanchez, 2017) – but also by family members who can, for instance, act as a guarantor. Alternatively, other actors and agencies can help potential migrants circumvent the 'Paper Curtain' of highly problematic and seemingly impossible visa applications (Lavenex & Ucerer, 2004) by applicants in the Global South (Van Wijk, 2010).

5.3 Supporters of Irregular Migrants in Society

After irregular migrants have arrived in the host country, they often continue to need support. There are numerous ways in which irregular migrants can require help and assistance, and therefore numerous ways in which actors in the receiving society can help them. As a general overview, Ambrosini (2016) describes five ways in which these *intermediaries* can help irregular migrants. They can help through *connection,* acting as bridges between the irregular migrants and various parts of the receiving society, for instance, the labour market. They can provide *services* to irregular migrants, for instance, medical care outside the state welfare system. They can give *help* by resolving basic yet fundamental needs, such as providing food or clothes to those who do not have them. They can support irregular migrants through their *tolerance* by turning a 'blind eye' to the irregular migration status. Moreover,

these supporters can help irregular migrants by applying *political pressure* and encouraging the state to change its stance on issues related to irregular migration or the policies that target irregular migrants (Ambrosini, 2016: 4–6). The following sub-section will outline how NGOs and CSOs, co-ethnic networks, social movements and activist networks, municipalities, as well as some specific professions, provide support to irregular migrants.

5.3.1   Civil Society

A first, and fundamental, entity that supports irregular migrants in the societies in which they live irregularly is civil society. A variety of civil society actors are involved in the reception and integration of migrants. CSOs are often service providers to those in the most marginal positions in society, like irregular migrants. Besides performing SAR operations, non-state actors provide a myriad of services and other forms of 'poor-relief' (see, for instance, Ambrosini, 2016; Hajer & Ambrosini, 2020; Leerkes, 2016; Panebianco, 2021). Civil society, and especially NGOs, have become the primary healthcare providers for immigrants who do not live in reception centres.

Moreover, the voluntary work of healthcare professionals has become a key non-monetary input to the organisation of healthcare services for immigrants (Bozorgmehr et al., 2019). In addition, civil society has become an essential provider of shelter to irregular migrants in need (Van der Leun & Bouter, 2015). In other words, CSOs have become especially important actors compensating for the restricted access that irregular migrants have to social rights (Laubenthal, 2011: 1363). They can compensate for the exclusion of irregular migrants by providing services. When they have high levels of organisation and professionalisation, CSOs are able to provide these services on a professional and long-term basis.

Furthermore, civil society can help negotiate the access of irregular migrants to public services. Schweitzer (2022), for example, points out how NGOs in Barcelona and London play a significant role in mediating the access to public services for irregular migrants, who are sometimes formally entitled to public services but unable to access them due to difficulties with bureaucratic procedures. Moreover, CSOs can help with the integration of (irregular) migrants into receiving societies; for example, through language classes organised by NGOs but also by social movements and grassroots initiatives (Hamann & Karakayali, 2016; Hoppe-Seyler, 2020).

Moreover, civil society can function as a watchdog for democratic values in general when it addresses issues related to the fate of irregular migrants. For this purpose, CSOs can use various lobbying and advocacy strategies towards governments. CSOs like trade unions can, for instance, lobby for the regularisation of irregular workers. Moreover, CSOs can lobby the government to uphold the human rights of irregular migrants. Laubenthal (2011) describes how the Catholic Church in Germany tries to use its influence to 'remind', and essentially lobby, government and policymakers of the human rights of (irregular) migrants hoping that they will

grant them access to certain social rights. The same has occurred in the USA, where Christian churches have played a key role in defending migrants' rights (Hondagneu Sotelo, 2006).

Moreover, CSOs can have an important role in promoting the cause of irregular migrants for the 'general public'. Tazreiter (2017), for instance, describes the advocacy strategies of Australian CSOs that addressed the violation of the human rights of irregular migrants, mainly those stuck on the islands of Manus and Nauru. They sought to remedy these violations by collaborating with international organisations, like the United Nations Human Rights Council (UNHRC), as well as international media to pressure the Australian government to change its policy. In this case, CSOs also had a task in promoting the issue of human rights of irregular migrants to the broader public, which, as Tazreiter describes, largely tended to agree with the restrictive government policy. CSOs can use both their professional competencies, such as their specialised legal expertise, and their practical experience with irregular migrants to help improve their situation.

5.3.2 Co-ethnic Networks

Irregular migrants are excluded from formal support structures. They therefore rely on informal support networks to both 'get by' and 'get ahead'. This informal support is often found within networks of (extended) family members and co-ethnics (Bloch et al., 2014; Bloch & McKay, 2016). Whether irregular migrants manage to establish a life in irregular conditions largely depends on whether they are able to construct a network of people who can function as 'brokers' that connect them to receiving societies (Faist, 2014). This network can be helpful in finding a place to live or a job in the informal economy (see, for instance, Van Meeteren et al., 2009). Hence, it may be said that "having a reliable contact in the receiving society pays more than a high school diploma" (Ambrosini, 2016: 7). Moreover, irregular migrants often find employment in their co-ethnic networks, because potential employers also tend to resort to their co-ethnic networks to find employees (Bloch & McKay, 2015; Jones et al., 2006). For irregular migrants, it is often important to be able to rely on close contacts like family members or close friends, who can support them in the case of a temporary setback. For instance, irregular migrants by definition in general work irregularly. Therefore, they lack both employment protection and forms of employment-related social security. Being able to rely on friends and family members' proximity is often needed to feel secure.

However, the flipside of this importance of co-ethnic networks is that the constraints that induce irregular migrants to rely on their co-ethnic networks also keep them within those networks (Sigona, 2012). As various scholars have shown, the more constraints there are for irregular migrants, the further irregular labour is pushed underground and deeper into immigrant circles (see, for instance, Bloch & McKay, 2016). Especially irregular migrants who do not speak the host country's language and work within their co-ethnic network are prone to exploitation (Bloch,

2013: 384). McIlwaine shows in a study on Latin American migrants in London that 40% of them experienced problems in the workplace, and that those who were irregular were most vulnerable to forms of abuse, like not getting paid, as well as verbal abuse (McIlwaine, 2015: 507). The strong dependence of irregular migrants on co-ethnic networks can hinder their contact with the broader society, essentially 'trapping' them inside those networks (Bloch & McKay, 2015).

5.3.3   Social Movements and Activist Networks

Besides many of the actors traditionally involved in supporting irregular migrants, social movements and activist networks have also become significant actors in the support of irregular migration. While previously more focused on 'traditional political action', like demonstrations, activists have started to provide more practical support to irregular migrants in recent years. How activists make help to migrants an integral part of their political mission has been conceptualised as 'direct social action' (Zamponi, 2017). Here, the political mission is carried out by directly influencing the issues that are considered to be unjust, instead of, or in addition to, making claims to a government, for instance. The resulting networks of help and services provided by community initiatives and activist groups can be referred to as 'welfare from below' (Montagna, 2006). Squatting and the support of informal settlements of irregular migrants have become vital ways in which activists support irregular migrants, because they are often formally or practically excluded from the housing market. Social movements, squatters' movements, and activists play a crucial role in these squats and camps (Belloni, 2016; Grazioli, 2017; Pogliano & Ponzo, 2019; Raimondi, 2019; Sandri, 2018). In Italy and Greece, but also in other countries such as the Netherlands, social movements have occupied empty buildings to host homeless migrants, often irregular, rejected asylum seekers, and other people in need of accommodation (Hajer, 2021). Moreover, these actors can also organise services ranging from legal advice to medical care and language classes for irregular migrants in these squats or camps (Belloni, 2016; Hajer & Ambrosini, 2020). Lastly, as will be the focus of Chap. 6, activists have a crucial role in the political mobilisation of irregular migrants who want to express themselves politically.

5.3.4   Municipalities

Chapter 3 already touched upon the unique role that certain municipalities have in influencing the life conditions of irregular migrants. Even though municipalities are part of the state, they sometimes adopt a rather different stance on irregular migration. Municipalities, and mayors in particular, are charged with the practical governing of cities. Therefore, the municipalities are confronted, on a practical level, with those who are excluded from state provisions on the national level. For instance,

while national governments can decide to exclude irregular migrants from welfare provisions like public healthcare, local-level governments are confronted with sick people who are not allowed to visit a doctor. Likewise, the national government may decide to block irregular migrants' access to housing, but the local governments are confronted with homeless irregular migrants, or illegal dormitories in poor conditions. These different viewpoints on practical matters can cause municipal policy to differ from national policy (Spencer & Triandafyllidou, 2020).

Perhaps the most telling example of this are the cities that have declared themselves *Sanctuary Cities*, as described in Chap. 3. However, also cities that are not sanctuary cities, or do not even have a political profile that usually aligns with a pro-migrant stance, can be observed to be more inclusive than national policies. Moreover, street-level bureaucrats can have, and use, some discretionary power to help irregular migrants beyond their formal professional mandate. While their official job is to execute government policy, which can be very strict and exclusionary towards irregular migrants, these bureaucrats can help irregular migrants by interpreting policies in ways that are less strict or exclusionary when they deem it necessary (Schweitzer, 2022). Especially professionals who comply with a professional code, such as doctors, teachers, school managers, can try to find possible favourable interpretations of the rules, establish exceptions, and avoid careful controls, in order to allow access to services when they are confronted with irregular immigrants and their many practical problems (Van der Leun, 2006). They can use their power "to cheat honestly" the state (Zincone, 1999).

5.3.5 *Employers, Medical Professionals and Legal Intermediaries*

Besides the various categories of actors described above, we can identify some professions that can be of importance to irregular migrants: business owners and other kinds of employers of irregular migrants, medical professionals, and legal intermediaries.

Employers

The way in which employers help irregular migrants is a delicate discussion. On the one hand, employers provide irregular migrants with an income that they otherwise would not have. Yet, on the other hand, employment in the underground economy is unregulated and can easily lead to situations of exploitation (see Ambrosini, 2018; Triandafyllidou & Maroukis, 2012). Moreover, as Van der Leun and Kloosterman (2006) show in the case of the Netherlands, the increased restriction of labour opportunities for irregular migrants since the late 1990s has pushed these forms of unauthorised labour further underground, making it even easier to exploit the weak

social position of irregular migrants. Waite and Lewis (2017) call the participation of irregular migrants in exploitative employment arrangements 'survival-oriented labouring'. However, also in this case, irregular migrants are not just passive victims of exploitation. Even when exploitative, employment in this form can be a conscious choice because it is, for instance, better than unemployment. Alternatively, even if the job does not pay a great deal, irregular migrants can earn some money. Schewel (2021), for instance, writes when describing the migration motivations of young Ethiopian women who want to work as domestic workers in the Middle East, how the vast majority of them are aware of the risks of labour exploitation, especially of irregular migrants employed as domestic workers, before they leave.

Moreover, employers can be an essential bridge between irregular migrants and society. An example of this is the particular case of migrant domestic workers and care workers in Southern Europe, who develop close relationships with their employers due to the intimate nature of this type of work. Although asymmetric and often unfair, these relationships are characterised by complex forms of affective and economic reciprocity, which can be beneficial to irregular workers (see, for instance, Näre, 2011). Employers are observed to help their workers to learn the language, access services, financially support their relatives (Artero et al., 2021). Decisive is their choice to regularise their stay, when periodic amnesties give them this opportunity, especially in Italy (Ambrosini, 2022).

Medical Professionals

Medical professionals are another essential category of supporters of irregular migrants; after all, everyone can fall ill. Moreover, people living in marginal conditions, like many irregular migrants, may be even more at risk of illness and, therefore, more in need of medical care than others. Irregular migrants often do not have the same access to medical care as citizens. Consequently, Bendixen (2018) describes how, in the case of Norway, the exclusion of irregular migrants from medical care is an integral part of the migration policy intended to discourage irregular stay in the country. The same can be said for other Northern European countries. An exception to this rule is usually medical care for conditions that are a risk to public health, sexually transmitted diseases, or highly infectious diseases like tuberculosis. Moreover, the inclusion of (irregular) migrants in health care, and specifically vaccination campaigns, is already a struggle in normal times. The Covid-19 pandemic prompted governments to devise strategies to include irregular migrants in health care and in the vaccination campaigns (see Armochida et al., 2021), even if only to prevent the spread of the virus. Likewise, regularisation programmes started during the pandemic, such as those in Italy and Portugal, were partially set up to grant access to irregular migrant workers to the healthcare system (e.g., Bonizzoni & Hajer, 2022; Mazzilli, 2022). Another exception, as also mentioned in Chap. 3, is emergency care, which is generally accessible in one way or another. Doctors have sworn the Hippocratic oath and are required to provide medical care to all those in need. Yet, as Wilmes (2011) writes, hospitals and other healthcare institutions have

to find ways to cover the costs that accompany the care for the uninsured or other-wise excluded from a country's social welfare provision. Consequently, medical staff can be, or feel, pressured into treating only financially secure patients. Or, health institutions report their irregular patients in the hope of receiving a (partial) reimbursement for the costs of their care. This can lead to a hesitancy to seek, or self-exclusion from, medical care by irregular migrants (Wilmes, 2011: 126–127). Gómez Cervantes and Menjívar (2020) describe the formal exclusion of irregular migrants from health care as a vicious circle. The exclusion from health care and the fear that healthcare institutions will report them to the authorities prevent irregular migrants from seeking care; yet this protracted situation of stress and fear makes them ill at the same time. In their case study of irregular Latino immigrants in Kansas, USA, Gómez Cervantes and Menjívar describe how this leads such immi-grants to seek health care in informal networks of indigenous medicine and self-medication because of a lack of other options, especially in rural parts of Kansas (Gómez Cervantes & Menjívar, 2020). The extent to which irregular migrants can access formal health care, as well as the extent to which fears of formal healthcare institutions are justified, depends on a combination of migration policy (see Chap. 3) and differences in welfare regimes. Echeverría (2020), for instance, describes how pregnant Ecuadorian irregular migrants living in the Netherlands go to Spain to have their babies because in the Netherlands they would be charged the full costs of their maternity care, while this is free in Spain also for irregular migrants (Echeverría, 2020: 217–218).

In any case, NGOs and CSOs, have an important role in medical care for irregu-lar migrants. The World Health Organisation calls NGOs and CSOs "valued part-ners of the WHO Europe, who play a crucial role in providing health care for refugees and migrants" (WHO, 2019: 1). NGOs and CSOs educate irregular migrants about their right to health care, help them access state services, transport them to medical appointments or pay for transportation, or even organise (non-urgent) medical care themselves (see, for instance, Hintjens et al., 2018; Ambrosini, 2015; Castañeda, 2013; Hajer & Ambrosini, 2020; Schweitzer, 2022; Wilmes, 2011).

Besides NGOs and CSOs, medical professionals themselves can play an impor-tant role. Bendixen (2020) describes the practice of irregular migrants in Norway to seek out doctors and other medical professionals with names that they believe indi-cate an immigrant background, as they consider them more likely to be sensitive to the particular problems of irregular migrants and less likely to report them to the authorities (Bendixen, 2020: 493). A simple practice with which physicians can make an important difference is 'Don't Ask, Don't Tell', in other words, not to ask for formal identification or proof of legal residence (see, for instance, Castañeda, 2013; Miklavcic, 2011; Bendixen, 2018). This 'turning a blind eye' to formal rules that exclude irregular migrants from health care makes medical professionals important supporters.

Legal Intermediaries

Irregular migrants are often excluded from, or have difficulty in accessing, basic rights such as education for their children or medical care. Moreover, they risk alien detention or may want to regularise their irregular status. For this purpose, they may need help from the law. One type of intermediary that warrants special attention is the 'legal intermediary', which is a term often used to denote lawyers or other legal professionals that help mediate transactions among citizens, government agents, and organisations (Lejeune & Orianne, 2014: 225). The activities of legal intermediaries that aim to influence law or policy are often described as *cause lawyering* or *legal activism.* The term cause lawyering denotes the activity of socially engaged lawyers who select their cases and clients according to the "broader stakes of litigation" (Scheingold, 1998: 118). Their aim is to use the law to achieve social change (Menkel-Meadow, 1998: 38) by connecting "law to morality" (Sarat & Scheingold, 1998: 3). 'Legal activism' refers to the activities of lawyers, and other legal experts, who use their expertise to achieve political ends and base their strategies on the political goals that they wish to attain (Kawar, 2015: 19). Lawyers can, for instance, use *strategic litigation* as an advocacy tool when they bring cases to court in the hope of achieving a result that goes beyond the specific interests of the parties involved in the case and is focused on the public interest instead (Roa & Klugman, 2014: 31). While most of the socio-legal literature on legal intermediaries deals with legal professionals, some scholars describe how non-legal intermediaries also play a role in "shaping legal consciousness" (Pélisse, 2019: 121). Civil-society actors, for instance, play an important role in framing social problems, in legal terms, as rights violations (Roa & Klugman, 2014: 31). An interesting example of strategic litigation for irregular migrants in Europe has been the 'bed, bath and bread' ruling of the European Committee for Social Rights. Here, CSOs brought a legal case against the state of the Netherlands, claiming that it should grant access to fundamental social rights also to those without formal authorisation to reside in a country, in the hope of creating a legal precedent (see, for instance, Roodenburg, 2019; Kalir, 2017). The subsequent ruling stipulated that the state, in this case the Netherlands, should grant access at least to shelter and food. The legal precedent determined the provision of 'bed, bath, and bed' to all irregular migrants in the country, not just those involved in the case. In this manner, we can consider legal intermediaries to be important supporters of irregular migrants.

5.4 Reasons to Support Irregular Migrants

A question that might arise while reading the above is: why do these diverse actors help irregular migrants? There is no straightforward answer to this question, because the vast array of actors and activities have a multitude of reasons and motivations. Reasons to help irregular migrants are often a combination of idealistic, religious,

and political motives, sometimes mixed with personal and utilitarian interests (Ambrosini, 2015). In other words, these reasons can be both societal and personal.

This could, for example, be related to literature that has investigated why people participate in social movements. The social movement literature maintains that participation can be *instrumental* when actors expect that the benefit they will receive will be greater than the cost of protesting. People can participate because they derive some sort of *collective identity* from their participation. Or, because they are susceptible to *group-anger*, or public outrage, regarding a particular political issue. Alternatively, they participate out of *ideological* motivations. This may occur when people want to adhere to a specific ideology, but it may also occur when people want to address that an opponent had violated their values (Stekelenburg et al., 2011: 92). Following this line of thought, people helping irregular migrants also have a variety of reasons and motivations that may be directly linked to the cause of irregular migrants but may also derive from other aspects of volunteering. Some see their volunteering as a way to be connected with like-minded people or to have a shared experience (see, for instance, Feischmidt & Zakariás, 2019). For instance, some retired doctors that provide free medical care to irregular migrants see it as an opportunity to remain professionally active and maintain the social identity that comes with that (Ambrosini, 2015). Sometimes, people do not have clearly formulated motivations but say they 'simply had to do something' or 'simply wanted to help' (Frykman & Mäkelä, 2019: 300). Clearly, some motivations count more for some categories of intermediaries than for others. Social movements, for instance, may see political goals and opportunities in their help for migrants, while initiatives by churches to help migrants may be motivated by their faith and ideas of charity.

We could say that migrant smugglers are primarily driven by financial gain because enabling border crossing has become an important industry. Yet this financial gain does not necessarily only benefit (criminal) smuggling organisations. Molenaar (2017) describes how, while counterproductive in the long term, smuggling networks in Niger provide important economic resources, especially for young people. Smuggling creates financial opportunities in both the formal and informal economy, sustaining and contributing to people's livelihoods (Molenaar, 2017).

Providing support to people in co-ethnic networks can also have a variety of reasons. They may range from seeing economic opportunities to employ, or even exploit, newly arrived co-ethnics, through feelings of solidarity for those who face the same difficult circumstances as the already-arrived migrants, to moral obligations towards family members (Engbersen et al., 2006). Yet it can also be combined with specific moments in time. Siruno (2021) describes, for instance, how a specific Filipino notion of solidarity, *bayanihan,* among both documented and irregular Filipino migrants in the Netherlands was an important motivation to start organising food distribution during the Covid-19 pandemic. The respondents in Siruno's study stated that they felt specific solidarity towards their fellow countrymen and women, saying that they believed that if they did not show solidarity within the Filipino community, there would not be other people to express this kind of compassion and organise help for irregular Filipino migrants in need.

Moreover, researchers have written about how the 'long summer of migration' – also referred to as 'the migrant crisis of 2015' – was characterised by grassroots initiatives to welcome refugees. People who were previously uninvolved with volunteering for initiatives related to migrants and refugees became active for the cause in this period. In the German case, this has been described as the *Willkommenskultur* or culture of welcome. Karakayali and Kleist (2016) describe, based on a survey of more than 400 people who volunteered with migrants in Germany, how an important motivation for volunteering is to 'do something for society', to make a difference. Almost half of the volunteers stated that media reports regarding the 'migration crisis' were the reason that they became active as volunteers. Furthermore, older volunteers more often had religious motivations for their voluntary work and indicated that they had people with a migration background in their social networks, while the younger volunteers more often had 'social closeness' to the migrant population, meaning that either they themselves had a migration background or had friends with one, and were not, or less, driven by religious motives. Fleischmann and Steinhilper (2017) confirm these findings by highlighting that German citizens committed to welcoming asylum seekers in 2015–2016 were mainly "ordinary citizens", neither politically engaged nor involved in other forms of voluntary work. They justified their commitment, in rather vague humanitarian terms, as a "humane duty to people in need aimed at providing assistance and care in order to relieve human suffering" (Fleischmann & Steinhilper, 2017: 19). Sutter (2017) describes how volunteers in German welcome initiatives mainly provided practical help stemming from a 'hands-on' pragmatism or an 'ethic of doing'. Yet, at the same time, this help for migrants could be a response to (extreme) right-wing political sentiments in society (Sutter, 2017).

Fleischmann (2020) describes a similar tendency among volunteers, for whom their voluntary work functioned as a way to express their disagreement with nationalistic and xenophobic attitudes and to show their support for a multicultural society. Volunteering, in these cases, was often a response to a hostile attitude towards migrants in society. It could be seen as enacting a vision of how society should act in a moment of 'migrant crisis': by supporting migrants, voluntary workers create an alternative to the sometimes-hostile response to the arrival of migrants in society (Fleischmann, 2020: 12–13). In other words, these forms of pro-migrant volunteering can be a response to right-wing anti-migrant sentiments and discourses in society (Hamann & Karakayali, 2016), or a way to express frustration with the governmental approach to issues related to migrants and asylum seekers (Togral Koca, 2016). Yet, what is surprising about these forms of volunteering is that many of the volunteers interviewed stated that, even when they were motivated by these 'alternative to right wing' sentiments, they considered their activities to be neutral and apolitical (see, for instance, Fleischmann, 2020; Fleischmann & Steinhilper, 2017; Karakayali, 2019; Sinatti, 2019; Schwiertz & Schwenken, 2020; Parsanoglou, 2020).

According to Fleischmann and Steinhilper (2017) one of the explanations for this could be that helping migrants has become more mainstream, in the sense that the increase of volunteers that were previously uninvolved with migrant issues makes

helping migrants a cause that is no longer solely the activity of religious charities or political activists. As they observe, especially these newly involved volunteers tend to avoid explicit political contextualisation (Fleischmann & Steinhilper, 2017). They tend to view the forms of overt 'political action' in support of migrants as destructive and unrealistic and prefer a 'hands-on' and practical approach to building a 'better society' (Fleischmann, 2020: 19). However, the dividing line between what should be seen as political action and what should be seen just building a better society is somewhat blurred (see, for instance, Feischmidt & Zakariás, 2019). Moreover, as already mentioned, other scholars have defined this 'directly transforming some specific aspects of society' instead of 'claiming something from the state or other powerholders as forms of 'direct social action' (see Zamponi, 2017: 97) as a kind of political action.

Similarly, Sandri (2018) uses the term 'volunteer humanitarianism' to describe how volunteers/activists see the connection between humanitarianism – specifically, doing voluntary work in the refugee camp in Calais – and forms of protest against institutional border securitisation practices. Vandevoordt and Verschraegen (2019) instead describe a 'subversive humanitarianism': "a morally motivated set of actions which acquires a political character not through the form in which these actions manifest themselves, but through their implicit opposition to the ruling socio-political climate" (Vandevoordt & Verschraegen, 2019:105).

To account for this tension between practices of humanitarian volunteering and its political meaning, we introduce the concept of 'debordering solidarity'. This expression refers to a vision and a rationale for action which extends concerns for humans in distress beyond the conventional conception of national communities. It disapproves of the idea that human rights are nationally bounded, and not universal, and the idea that solidarity is due only to co-nationals, or related to state reasoning and regulations. Debordering solidarity can also involve citizens not eager to engage in (conventional) political struggles. Their practices can be inspired by the belief that help should be given regardless of borders, both external and internal, and therefore can be political in its debordering effects. It is therefore not the action that is political in nature, because one can imagine a world in which saving human lives at sea, or taking care of ill people, are not political acts or even acts of rebellion but moral duties or acts of compassion. However, these actions become political because they run counter to the fundamental exclusionary state logic, which includes citizens and some migrants and excludes others.

The next chapter will elaborate on this topic further. However, it is important to recognise that the topic of (irregular) migration also works the other way around. Some 'ordinary' and previously uninvolved citizens begin to mobilise in favour of and help (irregular) migrants, while others move in the opposite direction and begin to mobilise against the arrival of (irregular) migrants. Moreover, volunteers who are primarily involved in giving practical help to irregular migrants and who see their help as apolitical can be 'accused' of political action, when anti-migrant actors see their (practical) help as transgressing borders and circumventing state sovereignty. In turn, this can cause previously apolitical volunteers to see the political meaning of their practical help.

5.5   Supporters of Irregular Migrants Versus the State

As stated at the beginning of this chapter, those who help irregular migrants (can) have a somewhat ambiguous relationship with the state. In the case of smugglers, their activities go directly against the wishes of states that increasingly want to close their borders. Other types of supporters provide practical help which irregular migrants desperately need, and which is sometimes even fundamental for saving their lives. Humanitarianism is often seen as "the provision of relief to victims of human-made and natural disasters guided by principles of neutrality, impartiality, and independence" (Barnett & Weiss, 2008: 3), or aid which enables survival (Fassin, 2007: 510). Sometimes it is interpreted more broadly to include the promotion of human rights, democracy, development, or peace building (Barnett & Weiss, 2008). However, it is often defined as apolitical. Following the logic of 'suffering and compassion' (Sciurba & Furri, 2018: 766) humanitarian aid is often seen as doing what is morally right.

But a stream of literature has been critical of this apolitical interpretation of humanitarianism within the academic literature. A common criticism is that humanitarianism focuses on relieving 'symptoms', i.e., the suffering, but it ignores, and consequently does not address, the causes of suffering. Moreover, some argue that remaining 'neutral' confirms existing power relations, and that therefore the humanitarian aid of non-state actors could be seen as cooperation with the exclusionary practices of states. Some forms of support to irregular migrants could be interpreted as reinforcing an oppressive order, as it reproduces inequalities or silences, intensifies, consolidates or aggravates conditions of exclusion and discrimination (see, for instance, Ticktin, 2011; Fleischmann, 2020). Using the example of medical care for irregular migrants, we can observe how the presence of non-state actors that provide medical care can be of vital importance for irregular migrants who cannot access the state healthcare system or encounter problems in accessing state facilities. As seen above, if irregular migrants do not or cannot trust state facilities, medical services by non-state actors can be crucial. However, a critical view of these service-providing NGOs and CSOs argues that, by taking over the state's tasks, they 'allow' it to circumvent its responsibilities.

Because non-state actors provide, for instance, medical care, they could be seen as responsible for maintaining a situation in which irregular migrants are excluded from a right to health care. Moreover, because the needs of irregular migrants are covered, states do not experience a negative (political) backlash for their 'negligence'. However, despite the high numbers of deaths on borders globally, the negative backlash against the states that allow this deadly situation to continue comes mostly from a minority. Cuttitta (2018) argues that when issues shift from the political sphere to the private one, in a process of 'de-politicisation', policies are often portrayed as 'natural' occurrences to which there are no alternatives, removing the possibility for debate, and therefore obscuring its political nature (Cuttitta, 2018). Especially forms of emergency care that require immediate action to preserve human life, like urgent medical treatment or SAR operations, can easily obscure the

structural (political) causes of these emergencies (Cuttitta, 2018: 636). Moreover, one can question whether it is morally and socially acceptable to let people die, or be deprived of medical care, in order to hold governments responsible for the abandonment and exclusion of (irregular) migrants. This would mean using human beings as weapons in a political struggle, even if it is for the right purposes. Governments, on their side, have amply demonstrated their ability to escape the blame for this loss of human life.

Subcontracting, the execution of state policies by NGOs, is often seen as a classic example of de-politicisation (Vandevoordt, 2019). It can also be argued that those who support (irregular) migrants largely collaborate or even 'work for' the state during their activities. CSOs, and especially NGOs, have acquired an important role in migration governance (Haselbacher, 2019). Because asylum and migration policies, in general, have been driven by an 'organised non-responsibility', meaning that EU member states passed responsibilities to each other (Pries, 2018; Vandevoordt 2019) during, and after, the 2015 'long summer of migration' (Hess et al., 2017), NGOs and CSOs that provided services to migrants filled this institutional gap. This can be interpreted as shifting responsibilities from the public sector to the private sector (Caponio & Jones-Correa, 2018). The critical anthropology of humanitarianism tends to see the activities of NGOs and volunteers as an expression of depoliticised humanitarianism, which softens the consequences of repressive policies against immigrants and asylum seekers (Fassin, 2012). According to Sözer (2020: 2164), "contemporary humanitarianism is a product, a symptom and a suggested solution to neo-liberal political and economic transformation: it is neo-liberal humanitarianism" (Sözer, 2020: 2164).

Moreover, as shown in Chap. 3, the services that non-state actors provide to irregular migrants are sometimes financed, or at least subsidised, by states. Bendixen (2018), for instance, describes how the Norwegian government declared the medical care of irregular migrants to be 'unwanted' but also 'not illegal', and at the same time partially funded the organisations of volunteer doctors that provided this medical care to irregular migrants (Bendixen, 2018: 486). On the other hand, for states, financing civil society to provide services to irregular migrants can be a pragmatic solution that enables them to preserve their 'internal borders' yet simultaneously provide some care that people need.

While some of those who support irregular migrants maintain an apolitical position, supporting irregular migrants can also be seen as (part of) a political mission, or it may have political aspects that coexist with the apolitical aspects of the support. As Cuttitta notes:

> SAR NGOs … political-humanitarian intervention does not only increase SAR capacities of governmental actors but is also able, to some extent, to condition and influence, to control and denounce the activities of the latter in international waters. (Cuttitta, 2018: 652)

In other words, the SAR activities of NGOs may be seen as tasks that ought to pertain to the state because they rescue people in need in the Mediterranean. Nevertheless, in doing so, these NGOs can address and criticise states' approach to handling the issue of people drowning at sea. Humanitarianism in this sense, is not

necessarily apolitical. While the initial aim of humanitarianism actors might be to 'relieve immediate suffering' with their actions, they also denounce states' practices of exclusion. Cook (2011), for instance, describes the motivations of the US citizens who appealed against the littering fines that they received for leaving water bottles in the desert of the Mexico-US border in a project called 'No More Deaths'. Their stated reason for not paying the fine was that 'humanitarian aid is never a crime'. In challenging the charges against them, they intended to reshape and negotiate the law so that their humanitarian work would be recognised (Cook, 2011). Humanitarianism's connotation with political neutrality and the idea of 'just doing good' or 'just saving lives' can be ways to criticise the authorities (see also, Leebaw, 2007) in a more indirect way. The NGO Sea-Watch, for instance, writes thus on its website about its participation in the #safepassage campaign: "With our actions we advocate for the creation of safe and legal escape routes. Until then, there must be a common European sea rescue operation to prevent further deaths" (Sea-Watch, n.d.).

Moreover, various scholars have shown empirically how forms of practical support can have or convey a political message simultaneously. By defining what is 'political' more broadly than what is traditionally seen as political action – for instance, demonstrations – these scholars show how support for (irregular) migrants becomes political "by *enacting* alternative modes of togetherness and belonging on the ground" (Fleischmann, 2020: 18, emphasis in the original). In other words, by supporting irregular migrants, supporters can express their disagreement with government actors or policies that exclude them; by showing alternative ways to interact with irregular migrants, they contest with their solidarity (Fleischmann, 2020). Moreover, as with debordering solidarity, activists and volunteers can contest policies of asylum and borders in practice by helping migrants even without aiming to achieve profound political changes and without sharing the ideology and rules of conduct of big humanitarian agencies. As shown by well-known cases, such as Cédric Herrou in France or Carola Rackete in Italy, against a polarised political backdrop humanitarian support can quickly assume a political meaning.

5.6   Enabling Irregular Migration: Including the Excluded (Conclusion)

This chapter has shown that all the stages of irregular migration are somehow enabled or supported. Irregular migration is a complex process in which various actors are involved, each with its own goals and motivations. Perhaps the most visible aspect of irregular migration is the migration itself, where, nowadays, attempts to cross borders are frequently countered with attempts to repel migrants. This visible representation of hostility towards immigrants and of their exclusion creates a 'border spectacle' (De Genova, 2013) which is clearly visible in the attempts to discredit, or even criminalise, NGOs' search and rescue operations, for example, in

the Mediterranean. Likewise, smugglers are often portrayed in popular discourse as malicious criminals that traffic migrants as part of their criminal enterprise.

In most instances, smuggling may best be seen as a business and therefore as part of the 'migration industry'. There is a demand for help to cross borders irregularly in this business. Such demand stems from the increasing difficulty faced by migrants to cross borders legally; the services that enable border crossing meet this demand. Therefore, it is important to remember that part of this business model is the success stories of migrants that have managed to cross borders safely; smugglers have a vested interest in enabling safe passage. Moreover, instead of criminals, people often see smugglers as trusted figures in their community. However, amid all this attention paid to the visible 'spectacle of borders', it is also important to remember both that most irregular migration occurs after border crossing because it takes the form of visa overstaying (see also Chap. 2), and that large part of the enabling of irregular migration therefore occurs within receiving societies.

Because irregular migrants are formally excluded from state support, their assistance is provided by private actors. The main actors are co-ethnic networks, NGOs and other CSOs, social movements and activist networks, and some municipalities. Moreover, this chapter has also shown how specific professions – namely employers, medical professionals, and legal intermediaries – provide support to irregular migrants. Together, these actors allow irregular migrants to live their lives in host societies even if they are not formally recognised. Actors involved in enabling irregular migration have a wide variety of motivations to enable irregular migration. Smugglers may be wanting to earn money. Employers may only be looking for cheap labour, but they might also be motivated to hire an irregular migrant out of solidarity or because of a felt connection with them due to the same ethnic background. Moreover, activists may help irregular migrants out of political conviction or as part of a larger struggle against the violation of human rights, racism, or even against the government in general. However, it is interesting to observe how this help can take the same form _– the provision of shelter, food and clothes, for instance – as the help given to irregular migrants out of humanitarian concern or charity. As described with the concept of 'debordering solidarity', both outright political motivations and those driven by humanitarian concern can be political in their effect of countering the process of bordering and exclusion.

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Chapter 6
Agency, Inclusion and Political Mobilisation of Irregular Migrants

The literature on irregular migration often deals with migration policies and the role of states. A smaller body of literature focuses on the role that irregular migrants themselves have, or can have. This chapter will explore the agency that irregular migrants have to influence their own migration trajectory. Moreover, it will discuss how irregular migrants can use their agency to become incorporated into the societies in which they reside despite their irregular status. By using a broad notion of citizenship, we will consider how irregular migrants can use their agency to obtain forms of inclusion, other than through regularisations, work, or marriage, and how they can have the capacity to trigger political and social change despite their irregular status.

6.1 The (Political) Agency of Irregular Migrants

In recent years, the literature on the agency of irregular migrants has evolved considerably. In the past, irregular migrants were often portrayed as passive or inactive, and little attention was paid to describing how they have 'agency', i.e., the ability to intentionally intervene in the world, and the possibility to reflect on this intervention (Johnson, 2003: 413). The recent literature furnishes a more nuanced picture of the extent to which irregular migrants can exercise agency.

Nonetheless, a dominant view of irregular migrants as victims continues to exist. Public policies often fuel this victimisation of irregular migrants, but, notably, human rights activists can also play a role in the victimisation of irregular migrants. They believe that, in order to have any hope of being accepted, irregular migrants must appear to be "pure victims" (Anderson, 2008). In this discourse, irregular migrants are often portrayed as the victims of war or (political) persecution or victims of human trafficking or malicious smugglers, or as victims of harsh and exclusionary border regimes and integration policies. As already described in Chap. 5, migrants who want to cross borders irregularly are closely dependent on the

smugglers and the smuggler-networks available, which causes the power relations between migrants and smugglers to be highly unequal. However, despite these unequal power dynamics, Van Liempt and Doomernik (2006) challenge this widely shared view that irregular migrants are only victims of their smugglers. They describe how the agency of irregular migrants, during the migration, often consists in finding the right smuggler for them. Migrants act upon stories from other migrants about the smugglers, whose reputation often derives from how they work, whether they take care of their clients, provide food or shelter, and their results or success rate, whether they have good contacts at the border, or provide good documents (Van Liempt & Doomernik, 2006). In a way, this nuances the idea of human smuggling. It sees the agency of irregular migrants in their decision to migrate, and in the decisions of how to migrate and which smuggler to use. While irregular migrants are dependent on unequal, exploitative and often dangerous networks of smugglers, as we already highlighted, they are often not necessarily 'kidnapped' over borders fully against their will.

Moreover, irregular migration could also be seen as a form of agency. In this form of migration, people move despite the restrictions that states impose on their movement (Squire, 2010). Media and right-wing politicians tend to frame this form of migration agency negatively. Irregular migrants are depicted as deliberately and maliciously breaking laws by 'illegally' crossing borders. Anderson and Ruhs (2010) nuance this image of irregular migration as a 'choice'. They argue that seeing the agency of irregular migrants as "their decision to migrate in an irregular manner" without paying attention to the structure/agency relationships in the process of illegalising migrants oversimplifies irregular migrants as either victims or villains. The agency of irregular migrants should be understood as a combination of decision-making, the existing room for manoeuvre, opportunity structures, and migrant trajectories. Representing irregular migration as a 'choice' by irregular migrants risks presenting the phenomenon in an overly simplistic way (Anderson & Ruhs, 2010: 177–178). Economic migration theories might tend to see migration decision-making as a rational choice. However, current sociological and anthropological scholarship paints a more refined picture. The 'decision' to migrate is influenced by many factors and cannot simply be seen as a voluntary decision to leave one's country of origin or community behind. These factors include extensive global processes. Saskia Sassen, for instance, argues that the processes of globalisation and increasing (global) economic inequality can be seen as drivers of migration (Sassen, 2014). Faist (2019) even calls the interstices, or in-between space, between the global South and the global North – and how this is expressed in movements of people searching for a better life or trying to escape "unsustainable social, political, economic, and ecological conditions" – the new or contemporary social question (Faist, 2019: 1). Other scholars pay attention to how factors that are 'closer to home' – like family obligations or community expectations – influence the decision to migrate (Paret & Gleeson, 2016). This decision could be called a 'constrained choice' that leads to benefits and sacrifices (Abrego, 2014). Moreover, this 'choice' to migrate irregularly cannot be seen as separate from processes of border closure and the decreased possibilities to migrate regularly.

Furthermore, within this process of crossing borders despite the constraints imposed on it, another form of agency that irregular migrants can use consists in the tactics of circumventing border control mechanisms. In Chap. 2, we described three types of agency: adaptation, reframing, and mobilisation. This chapter will focus predominantly on mobilisation. However, the overlap among the types is inescapable. Irregular migrants can express their agency through individual acts of noncompliance (Ambrosini, 2018). By not collaborating with what states and border enforcers want, or by actively sabotaging formal migration policies, irregular migrants can influence this process. Some scholars even argue that this circumventing of border controls challenges sovereign state power. In addition, when we look at the political discourse on irregular migration, we can identify precisely this sentiment: for instance, when we consider former president Donald Trump's desire to build a border wall or the actions of the former Italian minister of the interior Matteo Salvini, who closed Italian harbours to migrant vessels and rescue-ships. Both politicians legitimised their ideas by using a discourse of national sovereignty, arguing that only the state ought to decide who enters the country.

Broeders and Engbersen (2007) state that when surveillance and identification are the most prevalent government tactics regarding irregular migration, "the most important strategy to protect oneself against the state's inquisitive eyes is to hide one's personal (legal) identity" (Broeders & Engbersen, 2007: 1597). In this regard, Ellermann (2010), for instance, describes various tactics that migrants can use to avoid the process of identification by immigration officers – what she calls 'identity stripping'. These tactics include throwing away passports or other identification documents, but also, as we saw, mutilating fingertips to circumvent biometric identification. While these tactics can be seen as 'coping mechanisms' (see Chap. 3), they are also 'weapons of the weak', and can be seen as ways in which migrants can influence their migration process, and therefore as forms of agency. However, at the same time, one wonders whether they are acts of empowerment or whether they tend to be acts of desperation (Ellermann, 2010).

The agency of irregular migrants is apparent during their migration and in their settlement. Everyday forms of agency include the daily practices and social lives of irregular migrants (see, for instance, Sigona, 2012). An essential aspect of the settlement of irregular migrants is their incorporation into the labour market. A recurrent theme in this Reader is the discrepancy between the political rhetoric of closed borders and restricted access to the labour market for irregular migrants, on the one hand, and the need for a supply of (cheap) labour on the other. This two-sided immigration policy was more visible in southern Europe from the 1980s until approximately 2008 than in northern European countries (Ambrosini, 2018: 15). Moreover, the United States is a well-known example of a country that closely depends on the labour of irregular migrants. As Chap. 3 has already shown, (irregular) migrants who have found employment can present themselves as more 'deserving' migrants (Chauvin & Garcés-Mascareñas, 2014). Moreover, employment in sectors where there is a need for workers can cause migrants to be accepted socially, even if they are irregular (Ambrosini, 2013; Bonizzoni, 2018).

Even though irregular migrants have crossed the physical borders of states, migration and asylum regimes continue to produce distinctions between deserving and bogus, unwanted, and undeserving migrants. These distinctions, and the consequential stigmatisation of deportable (irregular) migrants, provide the rationale that legitimises juridical inequalities between categories of migrants (De Genova, 2013: 1181), even within countries. The exclusionary policies that are designed to keep migrants outside the community can be seen as 'internal borders'. These internal border policies target forms of social and economic relations and many forms of welfare and social assistance (Broeders & Engbersen, 2007; Lahav & Guiraudon, 2006; Walsh, 2014). Examples of internal borders can be found in various policies: for instance, those that exclude irregular migrants from accessing (regular) healthcare systems or labour markets, or that prevent irregular migrants from engaging in legal contracts, for instance to rent accommodation. These policies are intended not to keep irregular migrants out, but to prevent their integration (Schweitzer, 2017). Overcoming, contesting or undermining the legal restrictions, administrative barriers and everyday risks that irregular migrants encounter because of their irregular status can be seen as an essential form of agency (Ellermann, 2010; Inda, 2010; Schweitzer, 2017; Sigona, 2012; Vasta, 2011). The various studies that have explored the agency of irregular migrants in everyday life, show, for instance, how irregular migrants make choices and develop strategies to cope with increasingly restrictive and punitive immigration regimes, despite their situation of vulnerability or marginalisation (Bloch et al., 2009). For instance, as governments prevent their access to the formal labour market more stringently, irregular immigrants can borrow documents from other immigrants, or enter some informal labour market. Within the everyday lives of irregular migrants, agency can be found in circumvention of the restrictions imposed on their irregular presence.

Many of the studies on these forms of 'informal integration' of irregular migrants do not necessarily frame their description in terms of agency. Instead, they speak about, for example, contestation, autonomous migration, or resistance. For these scholars, crossing borders, the boundaries that are designed to exclude, can be seen as a way to challenge those borders politically; and thus, as a form of political action or expression of political agency by irregular migrants. Moreover, some authors focus on the agency of irregular migrants following the 'autonomy of migration' thesis, which emphasises the agency of migrants to cross borders as a way to defy them (Mezzadra & Nielson, 2013; Papadopoulos & Tsianos, 2013). Borders, both the external borders of states and the internal (administrative) ones, can in this sense be seen as a prime factor in the formation of new 'political subjects' because they present an opportunity to see irregular migrants, who usually are not viewed as political, as political actors. However, it is important to note that the development of increasingly restrictive immigration policies both in Europe and the United States has started to show the limits of the ability of migrants to cross borders despite their closure. States' determination to stop these flows has grown; their policies have become more incisive; and the arrivals of unwanted migrants, or at least the most visible ones, have actually decreased. Moreover, in certain countries, these restrictive immigration policies are increasingly targeted not just on irregular entry but

precisely on irregular stay. These internal bordering policies make it more challenging for irregular migrants to achieve inclusion and to use agency, even if they also provide possibilities for political contestation, as some authors argue.

6.2 Irregular Migrants and the Political Community

Irregular migrants provide an interesting case for reflection on who can be considered a member of a political community. They are formally excluded yet are physically present. In practice, it can therefore be quite difficult to exclude them entirely. As demonstrated by Chap. 3, which dealt with the various policies regarding irregular migrants in Europe, although irregular migrants enjoy forms of inclusion in different European countries, the extent of their inclusion varies among them. Moreover, irregular migrants can find forms of inclusion in their everyday lives. Therefore, it is not easy to draw a clear-cut binary division between the inclusion and exclusion of irregular migrants. There is a grey zone which comprises various forms of partial inclusion.

Membership of political communities – typically, nation–states – is often described in terms of citizenship. The notion of a political community refers to both the relations that its members have with each other (the horizontal dimension) and the relations between political institutions and the people that they govern (the vertical dimension) (Bauböck, 2017: 68). Put otherwise, it refers to both the community of citizens and that of citizens and state. Consequently, there are various debates on the meaning of the term 'citizenship', and how irregular migrants can be informally included in (forms of) citizenship. In everyday talk and some more traditional theories of citizenship, citizenship is often described as a binary status, something that one either has or does not have. In this case, 'citizenship' is often a synonym for 'nationality' and, simply put, refers to the country of which one has a passport. Citizenship can generally be received through 'blood' (*ius sanguinis*). In this case, someone obtains citizenship because at least one of their parents has citizenship of a certain state which is transmitted at birth; this is the case in many European states. Another way to obtain citizenship is through the place of birth (*ius soli*), meaning that one receives the citizenship of the state in which one is born regardless of the citizenship status of one's parents in that country – as is the case in, for instance, the United States of America. While no European state has a pure *ius soli* citizenship law since Ireland abolished *ius soli* in 2004, many European states have some provisions for children of (regular) migrants born on the territory of the state (Vink & De Groot, 2010). Citizenship can also be acquired later in life through forms of 'naturalisation'; for instance, through marriage (*ius connubii*) or after a given period of residence (*ius domicili*) (Stokke, 2017). With these forms of citizenship come certain rights – like the right to vote or run for political office.

One of the most influential theories regarding citizenship has been propounded by T.H. Marshall. For Marshall, citizenship is "a status bestowed on those who are full members of a community. All who possess the status are equal with respect to

the rights and duties with which the status is endowed" (Marshall, 1951/2009: 149–150). The theory describes how citizenship rights developed as civil, political and social rights in eighteenth, nineteenth and twentieth-century Britain (Marshall, 1951/2009). Civil citizenship concerns those rights necessary for individual freedom: "liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice". Political citizenship concerns the rights to participate politically, "the right to participate in an exercise of political power, as a member of a body invested with political authority or as an elector of such a body". Lastly, social citizenship concerns those rights that enable a person to live "the life of a civilised being according to the standards prevailing in the society" and relate to the right to a "modicum of economic welfare and security" (Rees, 1996: 5). Still today, Marshall's definition of citizenship persists in the conception of citizenship. However, as this chapter will show, this definition is problematic in a context of (international) migration, because it does not take account of the citizenship rights of those who come from outside the nation-state. Although it propounds an interesting explanation regarding the historical development of citizenship rights, this theory has been subject to criticism on various grounds.

One criticism focuses on how Marshall's theory seems to assume a rather linear development of rights of citizens, as it describes how citizens gain various forms of citizenship rights over time. However, this fails to show how many citizenship rights result from the political struggles of excluded or marginalised groups (Giddens, 1982). Historically, one can observe how various groups have struggled for rights; for instance, for women's rights, the rights of children, or indigenous people (see for instance: Cockburn, 1998; Lister, 2007; Peterson et al., 1998; Roche, 1999; Yuval-Davis, 1997). Another criticism points out that Marshall's theory does not account for inequalities within groups of citizens, because it pays little attention to differences among citizens – for instance, between rich and poor ones (Giddens, 1982; Turner, 2009), or between men and women (Siim, 2000; Turner, 2009).

Moreover, a criticism with close relevance to the theme of this book is that Marshall's theory does not account for ethnic and racial differences in citizenship (rights), nor does it pay attention to how religious, cultural and class differences influence national citizenship. Therefore, many sociologists have argued that the Marshallian model on its own does not provide an accurate picture of citizenship in modern, multicultural, ethnically diverse societies, where migration and various forms of diaspora are an everyday reality (Ong, 2005; Turner, 2009).

In other words, Marshall's theory assumes a closed community. Therefore, the theory only considers the development of rights of those who are full citizens. It consequently cannot account for a reality in which various people are not full citizens. Citizenship as an indicator of membership of a state does not consider persons who are in a country without holding citizenship, such as immigrants. Nor can it fully account for a reality in which immigration policies gradually grant access to (citizenship) rights to those who are not citizens – a process which interestingly often starts with social rights related to work and ends with political rights. For regular immigrants, this can be accounted for by seeing a residence permit as a form

of citizenship. Yet the case of irregular migrants challenges us to deepen our understanding of citizenship. Since Marshall's theory, many scholars have demonstrated how citizenship is not an 'all or nothing' concept; rather, it is composed of many different parts. This implies that those who are not formal citizens can still have forms of citizenship, and that likewise, those who are formal citizens can be excluded from aspects of citizenship.

Citizenship can, for instance, be seen as a sort of membership relation that ties the individual to the community and consists of various elements, which include: legal status, rights, participation, and identity (Bloemraad, 2000). Consequently, conflating one element of citizenship with citizenship as a whole prevents observation of how persons can be citizens by some standards, but not by others (Cohen, 2005: 223, 234). In other words, people may hold what may be called 'partial citizenship' (Soysal, 1994; Bauböck, 2011). An example of partial citizenship is the citizenship of children. Children have formal citizenship and would most probably identify themselves as citizens. However, at the same time, they are excluded from some aspects of citizenship until they become adults. For instance, children do not have the right to vote, they lack certain political rights. They cannot work, and consequently lack certain economic rights; a situation which could also be seen as not being allowed to participate in society in certain ways (for more insights on the citizenship of children see, for instance, Cockburn, 1998; Liebel, 2008; Roche, 1999).

Another example is the historically differentiated position of women, who, despite being formal citizens, only incrementally achieved equal citizenship rights to men (see, for instance, Blacklock & Macdonald, 2000; Voet, 1998; Yuval-Davis, 1997). These examples show ways in which the formal citizens of a country can still have partial citizenship or be included in citizenship differentially (Mezzadra & Nielson, 2013). Moreover, the examples serve to illustrate that there is a difference between formal or legal citizenship and substantive citizenship. Citizenship can be seen as an indicator of the legal membership of citizens in nation-states, but also as an indicator of who is a substantive member of the community (Evans, 2008: 240). In this sense, citizenship is seen not only as a status that comes with certain rights but also as the social, material, and political practices and ties that citizens actually develop (Isin, 2008: 17). Thus, this perspective on citizenship interprets the active forms of participation within communities of citizens as a form of citizenship (Stokke, 2017). As demonstrated above, the binary distinction between citizens and those who are not citizens fails to capture the multitude of categories and forms of membership that can exist (Bickham Mendez & Naples, 2015). When formal citizenship does not guarantee (equal) rights, one wonders whether, the other way round, a lack of citizenship does not necessarily block access to some (substantive) rights (Wonders & Jones, 2019).

On adopting this perspective, one wonders whether forms of partial citizenship could hold for the situation of irregular migrants as well. Irregular migrants are not formal citizens, but this does not necessarily exclude them from being part of the community. Irregular migrants are between inclusion and exclusion in many ways: they are not formal citizens; they lack legal status but can possess other elements of citizenship, which they can acquire informally. Swerts (2014a), for instance, argues

that the involvement of non-citizens in local communities constitutes an enactment of 'informal citizenship' that can be used to claim recognition as whole social beings (Swerts, 2014a). Hence, in other words, on distinguishing between formal and substantive citizenship, one sees how it would perhaps be short-sighted to think that just because irregular migrants lack legal status or formal citizenship, they are in no way part of the broader social community.

A variety of scholars of critical citizenship studies have conceived alternative, inclusive theories of citizenship in response to static and binary understandings of citizenship. They often argue that the different elements that constitute citizenship may be obtained in various ways that combine distinct strategies or acts, therewith it pays more attention to the agency of non-citizens (Bloemraad et al., 2008). Some scholars argue that citizenship can be transformed *from below* in various ways (see, for instance, Ataç et al., 2015; Lentin, 2012). The notion of 'citizenship from below' refers to how non-citizens can claim rights, membership, and belonging from the margins through struggles and social movements. In other words, citizenship from below describes how, in the absence of formal citizenship granted by the state *from above*, acting in certain ways can create citizenship *from below*. This has often been described in the context of social movements and protests of irregular migrants, on which the next sub-section will dwell.

One of the most influential theories regarding this citizenship perspective is *Acts of Citizenship* (Isin & Nielsen, 2008). 'Acts of citizenship' can be understood as:

> those moments when, regardless of status and substance, subjects constitute themselves as citizens – or, better still, as those to whom the right to have rights is due (Isin, 2008: 18).

The central issue for research is those moments when, maybe even against all the odds, migrants defy the seeming 'order of things' (see also, Rancière, 1999). In this 'order', irregular migrants are often considered as those who are invisible, inaudible, who do not play an active role in society. Therefore, by making themselves visible instead of invisible, audible instead of inaudible, acting instead of merely existing, irregular migrants break with or defy this 'order'. In these moments, irregular migrants, by behaving like citizens, can make themselves seen as citizens. 'Acts of citizenship' therefore also entail understanding and reproducing the "modes and forms of conduct that are appropriate to being an insider" (Isin, 2009: 372–372). Hence, critical citizenship studies would argue that, in an 'order' that distinguishes between 'good citizens' and 'bad illegals', irregular migrants can become less illegal and more citizen – and therefore people who should be entitled to rights – by acting as if they already are citizens with (political) rights. These performative ideas of citizenship depict the practice of citizenship not only as *exercising* rights but also as *claiming* rights. Irregular migrants can claim citizenship by behaving like citizens in acts of citizenship; with these acts by irregular migrants, making a claim not only creates citizenship from below, but also performatively brings a right to claim rights into being. Through claim-making, non-citizens performatively claim the right to claim rights and claim to be subjects of rights (Isin, 2017: 506).

These alternative theories of citizenship aim to account for a situation in which irregular migrants are neither entirely excluded nor fully included – a situation

where there may be a substantial difference between formal status (or the lack thereof) and informal inclusion. However, these forms of claim-making and 'informal' participation often do not 'solve' the situation of irregular migrants. Despite these alternative ways of seeing their belonging and inclusion, it is still fundamentally difficult for irregular migrants to create forms of citizenship, not least because they are generally confronted with hostile sentiments. Moreover, not every irregular migrant will find it easy to make these performative claims or engage in acts of citizenship. For irregular migrants who have a job, speak the language, or have more social capital, participation in society will be easier than it is for irregular migrants that are homeless, suffer from mental health problems or addiction, or have trouble communicating (see, Hajer, 2021). Women who work in domestic settings, especially if they do so around the clock, tend to be spread over large geographical areas, have fewer opportunities to gather, to be involved, and to take part in political activities. More generally, the 'familiar' intersectional axes of race, gender, and other hierarchical categories, like health and disability, apply also to the situation of irregular migrants (McNevin, 2011: 10).

Moreover, irregular migrants that group together and claim this recognition collectively, in informal groups and social movements, will find it easier to be seen and make their political demands heard. However, while acting in a collective may make it easier to 'speak up' politically, the collective aspect may also make it easier to see these groups of irregular migrants as a threat to public order. When their squats or encampments are cleared by the police, for instance, citizens can perceive their homemaking in those places as illegal or criminal, and not as an act of citizenship. The next section will elaborate on what political mobilisation and social movements can bring to irregular migrants.

6.3   Political Mobilisation of Irregular Migrants

Theories of 'citizenship from below' and 'acts of citizenship' are often used in combination with empirical studies on the political mobilisation and social movements of irregular migrants. Scholars have argued that this political mobilisation can be a way for irregular migrants to challenge borders and obtain forms of inclusion or citizenship despite their formal exclusion. The political opportunities for irregular migrants can mainly reside in challenging their ascribed categories.

6.3.1   Opportunities for Inclusion

Theories like 'acts of citizenship' are closely related to theories of politics. As stated above, when irregular migrants act as if they are citizens, they go against a particular order in society. The philosopher Jacques Rancière writes about a 'social order of things' in which everyone has a determined place (see also, Rancière, 1999). In this

order, irregular migrants are not seen as active participants in society but are assumed to be 'invisible'. According to this theory, the moments in which people go against this order are considered political moments. In other words, by focusing on moments of rupture with existing socio-historical patterns about 'who' can be citizens and 'what practices' are interpreted as practices of citizenship, the acts of citizenship literature establishes a way to see irregular migrants as people that belong in society, and 'unfamiliar ways of being political' (Ní Mhurchú, 2016; Isin & Nielsen, 2008; McNevin, 2011). Irregular migrants can be seen as non-citizens because they "have crossed state borders or remain in state territory without the sanction of the state" (McNevin, 2006: 136). This can be considered a direct challenge to both the binary categories of citizen versus non-citizen and the ways in which (physical) borders separate these categories. However, irregular migrants do not only cross and thereby challenge physical borders. Balibar, for instance, argues that non-citizens are produced by the external borders of the state and internal borders of belonging to the community (Balibar, 2010: 316). These symbolic boundaries are used to place non-citizens outside a bounded community of citizens (Benhabib, 2004). The challenging of these borders or various forms and processes of bordering can be interpreted as forms of agency of non-citizens. Challenging the boundaries, breaking with the social order, in turn, can be seen as a process of challenging the boundaries of the political – as a process of political subjectification (Oliveri, 2014).

With this and similar theoretical backgrounds, scholars have entered the field to empirically study irregular migration in general, and the instances of protest and social movements of irregular migrants in particular. From this a number of empirical case studies have emerged: for instance, on Berlin (Borri & Fontanari, 2015; Dines et al., 2015; Meret & Della Corte, 2014), Hamburg (Drangsland, 2020), Brussels (Depraetere & Oosterlynck, 2017; Swerts, 2014b, 2017), Paris (Caraus, 2018; Nicholls & Vermeulen, 2012), Vienna (Ataç, 2016), Amsterdam (Dadusc, 2019; Hajer & Bröer, 2020), Turin (Belloni et al., 2020; Bolzoni et al., 2015), Malmö (Nordling et al., 2017), and Oslo (Bendixsen, 2013). Moreover, scholars have studied migrants' protests in combinations of cities (Chimienti, 2011; Monforte & Dufour, 2013; Oliveri, 2014). These case studies describe not only acts and practices that are commonly understood as political, like protesting, marching, and occupying buildings and urban space, but also those acts and practices that are less commonly understood as political, or "unfamiliar acts of citizenship" (Ní Mhurchú, 2016). These practices include, for instance, making music (Ní Mhurchú, 2016), storytelling (Swerts, 2015), or cooking and sharing food (Depraetere & Oosterlynck, 2017).

As the above summary suggests, in many of these studies, cities play an important role as the sites of the social movements of irregular migrants. Maestri and Hughes (2017) argue that citizenship is in itself fundamentally spatial. New and old political subjectivities are contested and resisted in spaces of encounter and struggle; spaces can generate opportunities to rethink political subjectivities. The city can make irregular migrants visible, and irregular migrants can locate and substantiate their claims and demands in cities (Borren, 2008; Chauvin & Garcés-Mascareñas,

2014). It can be argued that the ability of migrants to become political subjects depends on their capacity to make themselves and their demands visible and audible in the public space. Studies describing how irregular migrants use urban space often view the city as a prime site for political contestation. The spatial aspect of both mobilisations and citizenship struggles by irregular migrants is not merely a background to claim-making or a 'container' of activism (Martin & Miller, 2003). Instead, claims can be made *through* the city, using its urban spaces (Isin, 2002). Studies describe, for instance, the protest marches of irregular migrants as a form of collective action that politicises the presence of irregular migrants in the public space (Monforte & Dufour, 2013), turning it into a front stage for their struggle for citizenship (Swerts, 2017). Another way in which irregular migrants can use the city to create citizenship is through squatting (Belloni, 2016; Dadusc, 2019; Dadusc et al., 2019; Hajer & Bröer, 2020; Maestri, 2018; Mudu & Chattopadhyay, 2016; Raimondi, 2019). Case studies in numerous European cities describe how irregular migrants use squats both to live in and as places to make political statements or claims. Squats provide irregular migrants – who in many contexts are increasingly excluded from the housing market – with a place to live, even if the living conditions in squats are not always very comfortable, for instance, because they lack heating or electricity. Moreover, living in a squat can be seen as a performative claim to citizenship by enacting a 'normal life' of a local, using urban space regardless of citizenship status. Furthermore, these forms of occupying (urban) space also occur in camps. The political struggle of irregular migrants has been described in the context of migrant (tent) camps, either in cities or at border sites (Ataç, 2016; Bendixsen, 2013; Depraetere & Oosterlynck, 2017; Maestri & Hughes, 2017; Sandri, 2018).

In the first five chapters of this book, we described some instances of inclusion of irregular migrants – in labour markets and sanctuary cities for instance. However, we also described many ways in which irregular migrants are excluded. To some, therefore, the theories described in this chapter might seem overly optimistic about the possibilities of the political mobilisation of irregular migrants. It is important to nuance both sides. On the one hand, as stated above, we can observe various forms of political participation by irregular migrants, even if they sometimes assume less traditional forms. This shows that irregular migrants are not entirely excluded from the political sphere and that political participation is to some extent possible. On the other hand, as will be stated below, these openings for political participation should not be overemphasised but should be seen within a context of exclusion.

6.3.2 Challenges for Inclusion

The inclusive citizenship theories risk overemphasising the political aspects of the 'citizenship struggle' of irregular migrants. Consequently, it is essential to consider these theories from a broader perspective. The idea that irregular migrants can become citizens by making claims to citizenship or by acts of citizenship can be

nuanced or criticised theoretically and empirically. Theoretically, one could, for instance, nuance the idea that claims and acts by irregular migrants cause a rupture of the social order. As, for instance, Swerts and Nicholls (2020) put it, the critical scholarship on the political and acts of citizenship "*presumes* rather than *explains* the disruptive qualities of undocumented activism" (Swerts & Nicholls, 2020:3, emphasis in the original). Moreover, these theories can also be nuanced on a more practical and empirical level by considering the specific constraints that irregularity imposes on political mobilisation. Making claims and mobilising politically entail a paradox for irregular migrants: they must be wary about not attracting too much attention in order to avoid arrest and possible deportation; but in order to be effective in claim-making and mobilising they need a form of visibility. Moreover, the marginalisation of irregular migrants is a major obstacle to their mobilisation. A brief review of the social movement literature can furnish better understanding of the (possibilities for) political mobilisation by irregular migrants and show the limits of such mobilisation.

Whilst the social movements of irregular migrants have been amply described by critical citizenship studies with a theoretical focus on political acts and claim-making practices among irregular migrants, and by scholars who study (irregular) migration, scholars of social movement theory tend to be reluctant to incorporate accounts of these types of mobilisations by irregular migrants. Yet the combination of the two topics can be valuable, because critical citizenship studies focus mostly on the subjects of actions that they consider political, while studies on social movements shed light on the practices of political action. Steinhilper (2018) argues that the reluctance to account for mobilisations by irregular migrants is precisely because the dominant theories on social movements – like 'resource mobilisation theory' (see, for instance, McCarthy & Zald, 1977; Klandermans, 1984; Edwards & Kane, 2007; Jenkins, 1983) and 'political opportunity structures' (see, for instance, Tilly, 2008; Giugni, 2011; Kriesi, 1989; Della Porta, 2013) – render (irregular) migrants unlikely political subjects or even unlikely contentious actors. (Irregular) migrants face legal obstacles, scarce resources, and closed-off political and discursive opportunities (Steinhilper, 2018: 574–575).

Irregular migrants are often not in an ideal position to mobilise politically, not just when they are in marginal conditions. Whether or not to mobilise depends on how one perceives the possibility of (future) change as much as it does on how one perceives political opportunities for protest. How marginalised subjects mobilise relates to their approach to political processes and resource mobilisation. Resource mobilisation theory accounts for the practical aspects of social movements by explaining that, in order to mobilise politically, members of social movements need elementary resources, like a printer to make flyers, a space to hold meetings, an 'address-book of useful contacts' (Giddens, 2009: 1015). Irregular migrants often lack these resources; nevertheless, social movements of irregular migrants still happen.

It is consequently important to note that the mobilisation of irregular migrants does not occur in a political vacuum. The likelihood of successful political mobilisation is greater if irregular migrants receive support from local citizens who have

these resources or know how to obtain them. Mobilisations of irregular migrants often collaborate with local citizens or are part of already existing social movements. Support from local citizens often provides a vital link between irregular migrants and the society in which they live (e.g., Nicholls & Uitermark, 2015). Local citizens can be a valuable resource for irregular migrants and help them mobilise further resources. As explained in Chap. 5, supporters of irregular migrants can furnish many necessities that irregular migrants are not able to obtain by themselves. These may include help with political mobilisation. Local citizen supporters can play a crucial role in identifying political opportunities. Theories of political opportunity structures primarily concern how (potential) activists *perceive* political opportunities (Koopmans & Olzak, 2004) instead of defining an 'objective' notion of what constitutes a political opportunity. Therefore, to identify political opportunities, one must know a society's 'rules', dynamics, agents, and rhythms (Crossley, 2002: 14). In other words, to identify and act upon political opportunities, one needs adequate knowledge of how a society functions.

A different stream of social movement studies focuses not on (perceived) political opportunities but on discursive opportunity structures. These studies examine how (potential) activists and opportunities are linked by framing. This entails that (potential) activists have to make issues resonate with existing cultural repertoires in order to be successful (Bröer & Duyvendak, 2009: 338). In other words, the frames of a social movement have to resonate with its target audience (Snow, 2013), and follow certain 'framing rules', i.e., "rules according to which we ascribe definitions or meanings to situations" (Hochschild, 1979, p. 566; Bröer & Duyvendak, 2009, pp. 337–338). Besides the problems that irregular migrants may have mobilising, they may also have problems framing their claims effectively. Again, supporters play a major role in sharing the cultural and symbolic resources that are needed to translate claims into powerful frames that resonate with the norms of the national political field (Nicholls, 2013b: 93).

In other words, the political mobilisation and acts of citizenship of irregular migrants must take framing rules and the norms of the political field into account. Moreover, especially because constructed citizenship relies upon the recognition of already-established citizens, the claims and acts of non-citizens may stretch existing notions of citizenship but they must never be too far 'out of the box'. Or, as Bloemraad puts it, they have to navigate a situation of 'structured mobilisation' (Bloemraad, 2018: 17). Practices of political action or instances of claim-making, in general, can never be *only* about breaking with the social order and be recognised as legitimate political action at the same time. If actions, of irregular migrants and citizens alike, are too far 'out of the box', either they are not recognised as a political action or those performing these acts are not considered valid political actors. They may, for instance, be considered as troublemakers instead of people trying to make a political claim. If claims only break the social order, this leads to the claims being considered *noise* instead of (political) *voice*. Moreover, in light of hostility towards immigrants and a narrowing understanding of citizenship, it is fairly easy to disqualify irregular migrants from being legitimate political actors in general, and it can be even more difficult for irregular migrants to become and remain legitimate

political subjects. Additionally, the risks of mobilisation, and its potential failure, are much greater for irregular migrants than they may be for citizens, because irregular migrants risk being deported; and, as we have seen in Chap. 4, the risk of being deported can be higher for those who are considered undeserving due, for instance, to undesired, trouble-making, or criminal behaviour.

Nonetheless, it is important to recognise that, despite the attention paid to these social movements in academia, the majority of irregular migrants do not mobilise politically. Precisely due to their irregularity, it is often unlikely that irregular migrants will mobilise. Sometimes, even irregular migrants living in squats that are part of social movements are not actively and consciously involved in a political struggle for citizenship (Hajer, 2021: 110). It is also important to look at the social movements of irregular migrants from a practical perspective, and to recognise that irregularity influences not just the chances of successful political participation, but also whether political mobilisation is even a priority. We can observe that, in order for irregular migrants to mobilise, they need the 'right degree of marginality', meaning that they have to be marginal enough to have reason to want to change their situation, not too afraid that political mobilisation will jeopardise the life that they have constructed informally (e.g., afraid of losing their job in the informal economy), and not so marginal that they are preoccupied with survival (e.g., looking for food and shelter) (Hajer, 2021: 114). In other words, a particular equilibrium among living conditions, availability of support, and political aspirations is needed for irregular migrants to mobilise, which explains why their mobilisation is still a rare occurrence.

Furthermore, it is important to critically evaluate the value of these forms of 'informal citizenship' or 'citizenship from below' for the everyday lives and living conditions of irregular migrants. The focus on how citizenship can be created from below, even without legal status, shows ways in which irregular migrants can use the agency that they have to become more included in the societies in which they reside. Therefore, these theories represent a way to overcome the binary interpretations of either insiders or outsiders. However, the role of the formal recognition of irregular migrants, in the form of a legal status, should not be underestimated. The absence of a legal status, or the absence of tangible rights tied to a legal status, can play a significant role in the everyday lives of irregular migrants (Sigona, 2012). A legal status can be an essential factor in the everyday lives of irregular migrants because it does not just give access to rights but guarantees certain rights. The lack of legal status can influence every aspect of everyday life because of the fundamental risks and uncertainty that it causes. As already recalled, without a legal status, migrants are at constant risk of deportation, which, even if the actual probability of deportation may be low, influences day-to-day life due to the state of 'deportability' (De Genova, 2002). For some, living with this fear causes severe psychological problems (Bloch, 2014). As shown in Chap. 3, the lack of legal status of irregular migrants can exclude them from many aspects of life necessary to sustain themselves in the long run. Therefore, it is important to recognise the importance of formal recognition, regularisation, and legal status for irregular migrants (see for instance: Das, 2006; Sigona, 2012). For example, irregular migrants may manage to sustain an irregular life when they are young and able to work (informally);

however, when they become elderly and unable to work, this lack of guaranteed rights to, for example, housing and health care, can become a real problem as they are no longer able to arrange for them informally. One could even go so far as to state that many of these struggles are perhaps not so much about full political inclusion as they are about reaching an acceptable level of civil inclusion. Irregular migrants can be observed mobilising politically in social movements in order to normalise their living conditions (Hajer, 2021). While it is appealing to see these migrant social movements as opportunities for political agency and as possibilities for alternative forms of (political) inclusion, it is essential to keep the practical aspects of these social movements in mind, and not to romanticise migrants' struggles.

6.3.3   Consequences of Inclusion

So far, we have seen that it is difficult for irregular migrants to mobilise politically. It is also important to evaluate the effects of social movements of irregular migrants. The success of such social movements should be nuanced even if they are 'success-ful', because the success of a particular movement may have negative consequences for other groups of (irregular) migrants. It may do so, for instance, when the grant-ing of rights to one group is accompanied with limiting the rights of another group. An example of this is provided by a regularisation measure for children without legal status in the Netherlands. This 'success' was only obtained for children with a (failed) asylum request, and therefore not for children with requests based on, for instance, family-reunification or medical grounds. Moreover, the regularisation measure was the result of a political compromise that made it more difficult for children to regularise in the future, because the policy was traded, amongst other things, for the abolishment of the discretionary space in which the minister of jus-tice can decide in 'poignant situations' (Alting von Geusau, 2020; Kamerstukken, 2018–2019).

However, the most telling example is provided by the *Dreamers* movement in the United States. This was a group consisting of young irregular migrants who had come to the United States at a very young age and who started to mobilise politi-cally in the hope of changing their undocumented status. The *Dreamers* movement can be seen as an example of a successful social movement that mobilised effec-tively and with high levels of professionalisation. It did so by efficiently appealing to notions of deservingness, and by conveying an image of the stereotypical *Dreamer* as 'the best and the brightest' of normal American youths (Nicholls, 2013a), often college students. As Fiorito (2020) writes, the *Dreamers* movement was "extremely successful in using emotion work to transform stigmatised and marginalised youths into confident agents with empowered subjectivities and a strong sense of personal and political agency." (Fiorito, 2020: 166). Moreover, the *Dreamers* movement was successful in achieving its political goals. The movement was most active during the Obama presidency, a period with more favourable circumstances for the

mobilisation of irregular migrants than under the Bush or Trump presidencies. This can be seen as an important contributing factor to the success of the movement. In 2012 the 'deferred action for childhood arrivals' (DACA) came into effect. DACA was a policy installed by the Obama presidency, and was not the desired Development, Relief, and Education for Alien Minors (DREAM) act, which failed to pass the senate numerous times. However, DACA still granted temporary protection against detention and deportation to undocumented persons who entered the country illegally when they were minors and gave them a (temporary) social security numbers and a work permit, for a renewable period of 2 years (Gonzales et al., 2014; Fiorito, 2020). This provided the so-called *dreamers* with a liminal legal status that allowed them to gain lawful employment and build a 'more mainstream adult life' (Fiorito, 2020: 134). Yet this relative success of the *Dreamers* movement simultaneously caused rifts within the larger immigrant rights movement. The members of the *Dreamers* movement successfully framed themselves as deserving migrants; however, this did not necessarily apply to their parents as well. By promoting the image of Dreamers as deserving migrants, they were criticised for simultaneously reinforcing the negative image of those irregular migrants who were not the best and the brightest all-American college students, making them seem undeserving in comparison (Nicholls et al., 2021). Moreover, the success of the Dreamers meant an increased risk for other irregular migrants, because DACA led to an increase in the detention and deportation rates of these 'other' irregular migrants, who were considered less deserving (Fiorito, 2020). In the case of the Dreamers*,* the stabilisation of their own legal status indirectly led to increased risk and uncertainty for their, also irregular, family members. The guilt associated with this caused some *Dreamers* to refuse to apply for DACA, and many more to 'struggle with their success' or to suffer from forms of 'survivor guilt' (Fiorito, 2020: 134, Fiorito, 2021). In other words, in the USA, the success of one group of irregular migrants can lead to an increased risk for other irregular migrants. Instead, in Europe, social movements of irregular migrants have not reached this level of success.

6.4 Agency, Inclusion, and Political Participation (Conclusion)

Irregular migrants, by definition, find themselves in a conflicting situation, because the state in which they reside does not recognise them as residents. Moreover, irregular migrants find themselves in a position in which states aim to contain their mobility and often prevent their integration. As also demonstrated in the previous chapters, irregular migrants experience various forms of exclusion in various areas of their lives. Therefore, it is easy to see irregular migrants as victims of these forms of exclusion, the smugglers that brought them to their destination country, or the war and persecution that triggered their mobility. However, this perspective does not

account for the various ways in which irregular migrants are active participants in their migration journey and in society.

Policies regarding irregular migrants are generally restrictive but never all-encompassing. Moreover, a policy or a state can never fully influence or control social life. Therefore, the agency of irregular migrants can be found in both individual and collective acts of non-compliance. Perhaps their irregular border crossing in itself is the best example of irregular migrants expressing their agency through transgressing exclusionary border policies. Moreover, within the everyday lives of irregular migrants, they can use their agency to find ways around the restrictions imposed on their irregular presence, and they can create forms of inclusion through social interaction with citizens and participation in society.

Furthermore, this chapter has shown how the informal inclusion of irregular migrants is not limited to social interaction. One can also observe how in various European countries, as well as in the United States, irregular migrants mobilise politically. This social and political participation of irregular migrants can be seen as an alternative form of citizenship 'from below'. Moreover, their mobilisation shows that irregular migrants are not banned from political participation. Mobilisations evidence that citizenship is not a binary of inclusion or exclusion. Instead, irregular migrants can participate in the political process and exercise the right to claim rights, and through their participation appear more as citizens. The political participation of irregular migrants shows their partial inclusion in society, just as their informal work shows their inclusion in the labour market (and therewith society).

The political mobilisation of irregular migrants has been amply described by critical citizenship and migration scholars alike. However, within these studies, there is a tendency to emphasise the political openings for irregular migrants, see possibilities for their inclusion, and describe the instances in which the protest of irregular migrants 'goes right'. Herein lies the risk of romanticising the struggles of irregular migrants and describing the potential for change in an overly optimistic way. This chapter has shown that it is precisely the irregular status of irregular migrants that makes it difficult for them to mobilise politically. Furthermore, if they manage to mobilise or make claims to citizenship, there remains the question of the extent to which they are able to effectively change their everyday lives without obtaining a change in their legal status. Moreover, even when mobilisation is effective in achieving goals for one group, it may be to the detriment of another group of irregular migrants.

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Chapter 7
Conclusion: Envisioning Better Governance of Irregular Migration

Irregular migration is a multifaceted phenomenon that comprises various perspectives, policies, and actors. In this concluding chapter, we sum up some key findings of research on this contentious issue.

7.1 Beyond the Narrative of Invasion

As the first part of this book shows, there is no empirical evidence to substantiate the idea of an invasion by irregular migrants entering the Global North from the Global South (De Haas et al., 2020). International migration exists and is a significant phenomenon, but the number of 'people on the move', although it has increased over time, does not justify the term 'invasion' so frequently employed by anti-immigrant actors in developed countries. To recall what we reported in the Introduction, at present, about 280 million people are involved in all kinds of international migration, but this figure represents only about 3.6% of the world population – a proportion that has only slightly grown over time. More than 96% of the people of the world remain settled in their country, notwithstanding the local, sometimes harsh, living conditions. In fact, mobility requires resources that people in need often lack: they are forcibly immobile. Moreover, irregular migration concerns a minority of migrants, maybe 1% of the world population (Spencer & Triandafyllidou, 2020). Whilst the phenomenon is widespread in several countries of Asia and Africa, estimates for the United States of America show that, despite what one might think on looking at migrant marches through Mexico or turnbacks at the Mexican border, the numbers of irregular migrants are declining in that country (Warren, 2021). Estimates for the EU, even if they appear less reliable, are similar (Spencer & Triandafyllidou, 2020).

An 'invasion' would imply a singular movement of irregular migrants towards the Global North, which governments would try to halt by enforcing their borders. This perspective disregards various aspects of the phenomenon of irregular

migration, primarily the fact that what is considered 'irregular' is a question of legal definition and social representation. Throughout this book, we have sought to show how the phenomenon of irregular migration is shaped by the combination of actual movements of people and the meanings and definitions that are attributed to these movements. This makes irregular migration a multifaceted and continuously evolving phenomenon; it comprises several dimensions and many 'grey areas' encompassing various uncertain cases. It is therefore essential to bear in mind that a crucial aspect of irregular migration is that what is considered irregular depends on what states define as irregular. Irregularity may concern entrance, stay, work, documentation, or a combination of these aspects (Baldwin-Edwards & Kraler, 2009). Irregular migrants exist by virtue of being defined and perceived as such.

As we pointed out in Chapter Two, the distinction between regular and irregular immigration is often blurred. Irregular migration is not a dichotomy; rather, it is a spectrum along which several situations fall between entirely regular and clearly irregular migration (Triandafyllidou & Bartolini, 2020; Hellgren, 2012), encompassing various biographical circumstances, legal aspects, and social conditions.

It is therefore important to take one's distance from the conventional wisdom and political discourse to see that immigration policies largely produce irregular migration. They define certain forms of migration as regular and others as irregular. The case of asylum seekers provides an example. In principle, asylum seekers are not irregular immigrants because, in their case, crossing a national border without authorisation is a matter of *force majeure*. Seeking asylum is a human right and, therefore, cannot be labelled as a felony. However, because irregular migration is increasingly defined, by governments, mass media and the majority of public opinion, in terms of unauthorised border crossings, asylum seekers are increasingly seen as illegal immigrants. Not only have governments made it nearly impossible to apply for asylum from abroad, but they have also increased controls on physical borders, built walls and fences, reinforced border patrols, and established and heavily funded agencies such as Frontex in the EU. This leaves people who want to claim asylum with no other option than to cross borders irregularly.

With all these measures, states have tried to reassure their citizens that borders are under control and internal security is ensured. However, not only does this turn people who are in principle entitled to at least apply for international protection into 'irregular' migrants, but identifying irregular migrations with the violation of borders is misleading. From what we know, both in the USA and in the EU, most people who sojourn in a country without possessing a valid permit have not entered illegally (for the USA: Alden, 2017; for the EU: Spencer & Triandafyllidou, 2020). They are mainly overstayers; they have entered with some kind of proper documentation and have remained beyond the expiry of their permit.

Anxiety about international migration, and especially about irregular migration, is then connected to fears concerning political stability, social cohesion, and the well-being of developed societies. Terrorist attacks have repeatedly triggered increased border enforcement, as in the USA after 2001 and in several European countries in the following years, instilling in citizens' minds the idea of a link between terrorism and unauthorised immigration. But this link has been only rarely

confirmed by the facts. Moreover, unauthorised migrants, together with asylum seekers, allegedly embody threats to the social order: not only, as in the past, in terms of competition on the labour market, but also in terms of tensions ranging from national sovereignty, personal safety, welfare provisions, to national identity. Migrants have in some way become the scapegoats of neo-liberal globalisation and its consequences, one of which is the increased insecurity that many citizens of the Global North now feel.

This anxiety relates to the fear related to the 'mobility paradox' (Faist, 2019), namely the deep inequalities in mobility rights. The difference between aspirations and opportunities to enter more developed countries forms the core of migration governance. As we saw, citizens of the Global North and elites of the South enjoy more freedom to move abroad than ever before, or at least in the past century. Citizens of intermediate countries, such as Eastern Europe or Latin America, or some Asian countries, stand in the middle of this cartography of mobility rights. Ordinary people with a 'weak' passport, mainly from developing countries, are excluded from international mobility, and especially from the right to settle in developed countries (Glick Schiller & Salazar, 2013). Because citizens of the Global North are favoured in their mobility rights against people of the South, they are scared by the possibility that people from the South may try to overcome this structural inequality.

7.2   Enforcement of Borders and Persistence of Irregular Migration

What is important for the legal framework of international migration is that people outlawed, or hindered, by the rules in place are in some way forced to search for other ways to fulfil their aspirations to settle abroad. Increased border controls have not completely stopped peoples' aspiration to move abroad. International migrations have come to occupy a high place on the political agenda, and national governments, together with supranational institutions such as the EU, have invested a larger amount of material and symbolic resources in controlling migration and fighting against unwanted population movements. These efforts have served "to create an appearance of control" (Massey, 1999: 288).

It is hard to deny that all these efforts have had an influence on the entrance and settlement of irregular immigrants. In the case of the EU, for instance, the efforts of European States to stop migration have transformed the Mediterranean Sea into a "macabre deathscape" (De Genova, 2018: 1766), where many people continue to die each year (Carling, 2007). Asylum seekers, as well as other migrants, have no alternative than try to cross one or more national borders irregularly to reach a country that they consider their desired destination. Since this may cause political protest and legal accusations if receiving states are openly involved in rejecting asylum seekers, many states have now delegated this part of border enforcement to states

that tend to be less compliant with human rights obligations. The efforts to stop migration lead to the externalisation of migration control to transit countries: Mexico for the USA, and a range of bordering countries for the EU, including Turkey, Libya, Niger, and Bosnia. Developed countries have engaged their partners in the 'dirty work' of stopping border crossings through a mix of economic support, political influence, and some other concessions. By paying this price, the EU has been able to reduce the numbers of landings and asylum applications: 416,000 in 2020, more than 200,000 fewer than in 2019 (631, 300), and one third of the peak reached in 2015–2016 (respectively, 1,321,000 and 1,259,000 applications).[1] The pandemic influenced asylum seekers' movements in 2020 and 2021, 2022 saw a new increase of numbers (881,000), but on the whole the decline of refugee reception has been a constant trend in the past few years.

Furthermore, the enforcement of border controls increasingly moves away from the actual borders because it is being externalised to transit states, as well as internalised as the establishment of boundaries within societies. Those migrants who, despite all the efforts to stop them, have managed to settle irregularly, are then confronted with internal borders designed to exclude them from society. These internal borders can be found in areas such as identity checking, access to the labour market, provision of social services, police raids and evictions. These controls have, on the whole, also been strengthened in most of the developed countries: recent provisions in UK and Denmark to deport asylum seekers to Rwanda are probably the most striking example in recent years, but Australia enacted a similar policy several years ago, involving its weak neighbouring countries. When unwanted migrants are not deterred from entering, social exclusion becomes the goal of receiving states, in order to hinder their settlement and frustrate their efforts to live a normal life (Engbersen & Broeders, 2009). The lives of irregular immigrants have often become more arduous and apparently without visible ways out (Hajer, 2021). More resources have also been devoted to forced removals and voluntary returns, widening what has been called 'deportspora', a kind of 'abject diaspora' (Nyers, 2018).

However, irregular migration has not been stopped or eradicated despite all these efforts. Although fewer in number than in the middle of the last decade, asylum seekers continue to arrive in Europe and put pressure on the US Southern border. Policies of containment have achieved substantial results, but they have shown persistent gaps at the *discursive*, *implementation* and *efficacy* levels (Czaika & De Haas, 2013). The implementation of migration controls and the related fight against irregular migration has proven to be more complicated in practice than what can be supposed on analysing laws and policies on paper.

An important factor that makes the enforcement of immigration policies less straightforward is the role of legal systems. In different ways, the political and legal systems contribute to forming a minority of unauthorised residents. Irregular migrants are produced, first of all, by complicated or unreasonable rules on either obtaining a residence permit or changing the type of permit from, for instance,

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[1] Source: https://ec.europa.eu/eurostat/web/migration-asylum/asylum

student to worker, or for reuniting the immigrant's family. Moreover, rules dictated by foreign policy can favour citizens from some countries by relaxing their visa requirements, as is the case of Eastern European countries engaged in the process of gaining EU membership or involved in cooperation agreements as part of a web of EU neighbouring policies. A relaxation of visa requirements fosters overstaying.

Furthermore, the infrastructure of human rights and international conventions maintains several 'liberal constraints' on immigration policies. Even though this seems to have been weakened by the restrictive turn of security policies, states must protect the civil rights of citizens, but in many cases also those of non-nationals and even irregular immigrants (Hollifield et al., 2014). Measures of detection, detention and removal therefore encounter obstacles to their harsh implementation. In addition, funding such measures is an obstacle, even though it is one that is often overlooked: public expenditure must be reduced in other sectors in order to redirect resources to the seizure, custody and deportation of unauthorised immigrants, which is also complicated by the problems of properly identifying them and their homeland (Ellermann, 2010). Moreover, sending countries often resist the repatriation of their citizens (Cassarino, 2020); their cooperation has to be achieved, often with economic costs and political concessions.

To recap, implementing policies that categorically exclude migrants is difficult because irregular immigration not only originates from outside but is deeply embedded in the internal dynamics of receiving societies. Several forces, interests, values and actors reduce the efficacy of declared closures of borders. Therefore, it is important to remember that irregular migrants are not 'ghosts' that manage to hide in the interstices of developed countries. As we have seen throughout this book, irregular migrants find a way to carve out a place for themselves in receiving societies, circumventing controls or enjoying tolerance, because they are situated at the point of convergence among different societal factors.

Labour-market needs are a case in point. Although the extent to which the informal economy and hidden labour are tolerated varies among developed countries, the overlap of efficient economic systems with segmented labour markets and traditional labour relations has been repeatedly recognised (Ruhs & Anderson, 2010). The functioning of global cities, households overloaded by care needs, outsourcing of activities, casualisation of work in supply chains, labour-intensive sectors which cannot be relocated abroad, such as construction, agriculture, catering: all these areas benefit from irregular immigration providing cheap labour (Lewis et al., 2015). Moreover, the need for labour force is combined with the internal interests that favour international exchanges and flows of external visitors, because these vested interests demand the relaxation of entrance requirements, thus indirectly paving the way for unwanted population movements. Tourism, education, international trade, culture, sport, and entertainment can be mentioned in this regard. They explain why most irregular immigrants are overstayers: they have entered legally which these kinds of visas.

7.3   Selective Enforcement, Selective Tolerance

The fight against irregular migration is not a categorical exclusion but a tacit selection which targets some cases with more determination while implicitly but systematically condoning other cases (Ambrosini, 2016). The term 'unauthorised immigrants', moreover, does not refer to a uniform category: it encompasses various cases, situations, and biographical careers. Selection may be based on various features: gender, economic role, type of accommodation, behaviour in public, relations with other residents – or better, with citizens. These differences create various categories of irregular sojourners in the eyes of the mainstream residents, whose perceptions and relationships influence the behaviour of the public authorities in charge of law and order. Authorities have limited resources in terms of personnel, time, means, and detention places. In practice therefore, they select the targets of their control and inquiries, concentrating their efforts on some security aspects, and paying less attention to others that they consider less threatening, less important for public opinion, too expensive, or sometimes too difficult to investigate.

Public opinion and various components of the receiving society, including ordinary citizens, take part in this selection process by deciding which migrants must be considered irregular and harshly persecuted, and which have to be tolerated, protected or even forgotten, or sometimes regularised. Citizens often demand more severity against certain types of migrations and certain migrant profiles and (implicitly) more acceptance of other migrants. What is surprising is that some migrants disappear almost entirely from the public discourse and remain invisible. A case in point is that of immigrant women engaged in domestic and care activities in many developed societies. Discussions and political disputes on irregular migrations rarely mention those women. Consequently, wide acceptance by receiving societies curbs public policies, induce security agents to overlook irregular immigrant domestic and care workers in their enforcement of immigration rules and focus their controls on other migrants.

But the opposite has also occurred in recent years. Migrants who used to be entitled to a residence permit as asylum seekers have been openly targeted by political forces, mass media, and voters as dishonest exploiters of the asylum system. Hostility has triggered political changes, legal reforms, restrictions in reception rules. An example of this is the criminalisation of NGOs and their search and rescue operations in the Mediterranean Sea, together with policies that have returned potential asylum seekers to Libya, Bosnia and Turkey. In this case, societal reactions – or more precisely, the interpretation of public opinion by governments – have stigmatised migrants, redefining them as unwanted, and criminalised those trying to save them.

This point recalls another key aspect of the relationship between irregular immigrants and receiving societies: the support that irregular migrants receive from various intermediaries (Ambrosini, 2017). Immigrants are not pure victims devoid of agency. They can search for possible gaps in the obstacles erected by receiving states, exploiting the limited opportunities to enter a destination country and then

remain after the expiry of their visa. But it is difficult for immigrants without valid documents to enter and settle in a foreign country without finding some form of assistance by intermediaries and local supporters. These intermediaries range from smugglers, through exploitative networks, unscrupulous employers, providers of forged documents, or of poor accommodation, to humanitarian actors, social movements, religious institutions, and trade unions. Moreover, irregular migrants are often supported by personal networks, especially when they have close relatives already established in the receiving society. If those relatives run a business, they often combine their social obligation with an economic interest by providing support in exchange for cheap labour and obedience.

Deplorable interests on the one hand, and various forms of solidarity on the other, form the complex context that allows irregular immigrants to escape the worst consequences of exclusionary policies. Ordinary citizens may also be involved, not only when they take part in some humanitarian mobilisation or when they hire a domestic worker without valid documents, but also when they engage in many everyday activities: giving money to a panhandler, buying a flower from an informal vendor, providing valuable information, recommending an informal worker to their networks. The manifold activities performed by this intermediation infrastructure can partially explain the efficacy gap and the fact that unwanted immigrants manage to remain, often for years, in countries that openly reject them.

7.4 Debordering Solidarity

In recent years, scholars have widely discussed what can be termed 'solidarity from below' (Agustín & Jørgensen, 2019), or 'debordering solidarity' as we have called it in this book. Such solidarity overcomes the distinction between citizens and non-citizens, authorised and unauthorised immigrants, and gives priority to human rights and people's needs. Issues related to international migration and asylum have fuelled a polarisation of receiving societies and triggered mobilisations in favour of newcomers, without much consideration of their legal status. The German mobilisation in favour of asylum seekers in 2015, during the so-called 'Summer of Welcome', is the most striking case. According to estimates, the mobilisation involved between 10 to 20% of the adult population (Karakayali, 2017), and it included people who often had no previous experience of voluntary work and no political or religious affiliation. Pries (2018) has emphasised that the 'summer of welcome' strengthened local ties, created new communities of old and new citizens, and subverted traditional political divides. Besides this case, initiatives favouring migrants in need have multiplied on both sides of the Atlantic.

However, not all researchers have evaluated these mobilisations positively. Those enacted by volunteers who deny any political engagement have been especially criticised, on the ground that 'humanitarianism' is a misleading solution for asylum and migrations issues. Compassion has been seen as complementary to the repression of unwanted immigration (Fassin, 2005), while the 'antipolitics of care' has

been stigmatised (Ticktin, 2011) and 'contemporary humanitarianism' has been condemned as an accessory of neo-liberal policies (Sözer, 2020). Other researchers, however, have emphasised the political implications of voluntary help, even when it does not assume an overtly political position. Askins (2015) claimed that "banal, embodied activities" of care can be viewed as "implicit activisms" and "acts or micropolitics"; while Kirsch (2016) called volunteering "politics by other means". In the same vein, Artero (2019: 158) argued that "volunteering functioned as a micropolitical practice: it allowed volunteers to be outraged by structural injustices, sympathise with migrants and (…) engage in outspoken forms of dissent such as lobbying, advocacy and public demonstration".

The concept of debordering solidarity is closely related to the concept of 'inclusive solidarity' introduced by Schwiertz and Schwenken (2020), who argue that "civil society initiatives acting in solidarity with those considered outside the nation have a crucial function in challenging social exclusion" (p.405). Other studies have detected a convergence between political activism and civil society actors working in favour of migrants. Fleischmann (2020: 18) states that "practices of refugee support can turn political when they strive to instigate change by enacting alternative modes of togetherness and belonging on the ground". As Della Porta (2020) observes, recent trends show that the distinction between social movements and civil society actors has blurred. On the one hand, social movements have developed forms of voluntary help to migrants. On the other hand, migration issues foster a hybridisation of civil society organisations and social movement organisations, especially when they are faced by politicisation and the increasing criminalisation of solidarity activities.

To conclude, a last point deserves attention. Overall, the conditions of irregular residence have deteriorated in most developed countries, and opportunities for regularisation have been restricted. Nevertheless, migrants continue to arrive, and most irregular immigrants remain in the country. Sooner or later, it will become necessary to admit that removal did not and will not succeed. Irregular migrants have settled, have often found employment, have formed families or have entered into other stable relationships, have children who attend local schools, have established social relationships with neighbours, and participate in social activities. The social needs of irregular migrants challenge local authorities, welfare providers, and street-level bureaucrats (Spencer, 2018; Schweitzer, 2022), a struggle that solidarity actors and civil society support. In democratic societies, it is not easy to deny access to social services, especially when the claimants are minors, pregnant women, families, sick people, or victims of exploitation. Receiving states must recognise this fact and confront the issue of a transition towards a legal status.

This book has identified several avenues of regularisation. They are mainly based on deservingness, which is recognised especially through work; extended stay; appeal to liberal protection; marriage; and recognition of victimhood. However, these regularisation opportunities should be better institutionalised, made to depend less on arbitrariness, and rendered more attainable for the people concerned. Regularisation recognises the reality that irregular migrants are present in contemporary societies and participate in and contribute to these societies, and it is a

practical alternative to the indiscriminate exclusion that demonstrably does not work. Moreover, we hope that policies will recognise that reducing the hardship of people crossing borders or sojourning irregularly is a fundamental aspect of protecting human rights. Mobility regimes are, at present, the main form of inequality at a global level (Faist, 2019). The Universal Declaration of Human Rights recognises the right of movement; but a corresponding duty to accept international migrants has never been established. For asylum seekers, the right to ask for asylum has increasingly been circumvented and is, in practice, often denied by precisely those states that have the most resources to implement it. We wish that states, by implementing the two Global Compacts for Migration and on Refugees, will establish the possibility of safe, orderly and regular migration, and that when people arrive and settle in a country without prior authorisation, they will be supported in finding solutions to their situation, and granted a regular status when possible and reasonable.

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