Chapter 2
Defining and Explaining Irregular Migration

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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 lawbreaking, 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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