



ANNA WYSS

# NAVIGATING THE EUROPEAN MIGRATION REGIME

MALE MIGRANTS, INTERRUPTED JOURNEYS  
AND PRECARIOUS LIVES

GLOBAL MIGRATION AND SOCIAL CHANGE



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# NAVIGATING THE EUROPEAN MIGRATION REGIME

Male Migrants, Interrupted Journeys and  
Precarious Lives

Anna Wyss





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## Series Preface: The Unwanted of the European Migration Regime

Anna Wyss' *Navigating the European Migration Regime* offers a compelling account of the hopes, aspirations and daily challenges that young, single, male migrants, perhaps the most ostracised cohort among the immigrant population in Europe, face in Europe. Through a fine-textured ethnography that follows the journeys of migrants across various European countries in their interaction with the law, bureaucratic and police apparatuses, and rampant anti-immigration rhetoric, the book constructs a complex portrait of multi-sited and asymmetrical border struggles, in which young migrants are confronted with a system designed to exclude them and grind down their resistance.

While central, migrant agency in Wyss' book is not romanticised. Instead, Wyss captures the encounter between migrants' agency and the working of migration regimes and how, faced with migrants' attempts to legalise their position, create better opportunities for themselves, and simply avoid immigration control and detection, states react by installing new measures attempting to turn migrants' endurance into exhaustion. These measures, Wyss argues, may not succeed in their goal of controlling human movement and combatting irregular migration, but they certainly contribute to reproducing and reinforcing racialised and classed structures of oppression, exploitation and inequality.

We are delighted to add *Navigating the European Migration Regime* to our series. Drawing on an in-depth examination of migrant journeys across Europe, the book returns from a novel perspective to core concerns in the Global Migration and Social Change series: the encounter between states and their migration regimes, in their multiple permutations, and migrants; the racialised, gendered and classed impact of borders and bordering; and the spaces for a politics of hope centred on migrant agency and solidarity across communities.

Nando Sigona  
Oxford, 20 May 2022



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## Introduction

'I left [my country of origin] with much energy. I needed to find a life on my own. ... I wanted to live, to do many things. I wanted to have my work. I wanted everything. I wanted to go wherever I wanted to, visit many things. ... I don't know – the time I have spent here in Europe ... I have not found what I have wanted to. I have not yet arrived at the point where I wanted to be. I know that I could be ok and that I could give more than I do at the moment. Because sometimes I feel a bit frozen in my situation. ... For instance, I don't want to always talk about document issues. I want to talk about other things. I want to be happy, to make fun, you see. But the situation leaves you like this. It leaves you blocked in a point from where you want to move on. ... [I would want to] “explode” feelings and be normal. For example, I would like to scream right now but I don't have documents, which is why I cannot do this at the moment because there is a police guy next to us.' (Interview with Eymen in Switzerland 2015)

One sunny afternoon in a city park in Switzerland I sat down with Eymen, a man in his early thirties and originally from a North African country, and listened to the account he gave of his time in Europe,<sup>1</sup> where he had spent almost nine years trying to legalise his presence. After his arrival in Europe in 2008, he worked illegally in Italy for two years under exploitative conditions. Later, when he was unemployed because one of his temporary jobs had ended, he moved to Switzerland to lodge an asylum application, which was rejected, as were subsequent appeals. At the time of the conversation quoted above, Eymen was living in a male-only shelter for rejected asylum seekers in Switzerland. These shelters are known for their poor conditions aimed at compelling inhabitants to leave the country when Switzerland fails to deport them.



Like in many of our encounters, Eymen was able to find the right words to describe the insecure and often unbearable conditions he and many other people with a precarious legal status find themselves in. It is a condition characterised by great uncertainty and insecurity and strongly shaped by migration control attempts and a politicised discourse where Eymen and others are portrayed as ‘economic refugees’ and ‘intruders’ undeserving of legal inclusion and protection. Yet, despite increasingly sophisticated border controls and public pressure for ever more effective migration controls, migrants continue to arrive, defying European states’ attempts to keep them out. This book is an ethnography of an often-demonised group of male migrants who have entered Europe unauthorised and who have unsuccessfully applied for asylum. The underlying research project has followed individuals across space and time, using a combination of methods that allows for capturing both moments when individuals exhibit increased mobility (such as when they need to go into hiding to avoid law enforcement measures) and periods when they are immobile (such as when they are stuck in legal procedures or detained). Building on a year and a half of ethnographic fieldwork in camps for (rejected) asylum seekers, narrative interviews with men holding a precarious legal status and follow-up interviews with key interlocutors in different European countries, *Navigating the European Migration Regime* traces the interrupted journeys of some of those many migrants who are classified as ‘unwanted’ and denied legal residence, but who nevertheless stay and endure the harsh living conditions and hostile political rhetoric to which they are subjected.

The situation Eymen describes is shaped by people’s hopes and aspirations, by their incredible endurance in the face of violent environments and by their everyday resistance against restrictive and oppressive laws which exist to safeguard the European territory for those whose presence is deemed desirable, legitimate and profitable. While Eymen pointed out how he internalised the state of ‘illegality’, which prevented him from realising his full potential, he always also emphasised the strong determination of people in a similar situation in their pursuit of personal aspirations in Europe. He recounted stories of people who had made their way through several European countries and who had found loopholes in the law. Some of them were on the move for years, covering long distances and crossing several European borders in their attempt to achieve their goal, for instance finding a safe place to live and stable working conditions. This hope of fulfilling one’s ambitions is often what makes people cope with all the uncertainties and hardships. People do not give up hope mainly because occasionally they learn of the success stories from people in similar situations who obtain residence papers through a favourable asylum decision, marrying a European citizen or being economically successful in the informal labour market. Yet, many of them also get trapped in a situation where they feel unable to

move forwards or backwards – just as Eymen felt during our conversation. Despite these feelings of being stuck, Eymen hardly ever considered returning to his country as an acceptable alternative.

The harmful conditions and policies migrants encounter in Europe reflect and reproduce racialised ‘human hierarchies’ (Mayblin et al, 2020) that normalise and legitimise exploitation, precarity and overall unequal opportunities. We are currently witnessing increasing militarisation at the borders of the EU, a constant refinement of border technologies, including surveillance and biometric databases, and political calls for ever more restrictive migration laws. Given these ‘hostile environments’ (Canning, 2017), created by states in order to deter those deemed unwanted, I am often astounded at – and impressed by – the number of people who successfully cross borders, circumvent legal constraints and find new legal loopholes to avoid states’ migration control attempts.

When I was at university, I worked part-time as a night watch in a Swiss asylum centre where I spent a great deal of time – particularly during weekends – chatting with residents and listening to their experiences and struggles in Switzerland and in other European countries. Many had been en route for years, being labelled as ‘Dublin cases’ and subjected to various intra-European deportations (Chapter 2). I remember one young man who had been deported from Switzerland to Italy but had made it back to Switzerland before the authorities had even deregistered him from the asylum centre, which is why he was sent from the Swiss-Italian border to the address from where he had been deported, rendering his deportation completely absurd. Hence, I observed not only rigid migration control practices (which in my position as a member of staff of an asylum centre I was unquestionably part of), but also everyday practices of resistance by migrants with a highly precarious legal status.

It is essential to acknowledge migrants’ enduring resistance towards states’ attempts to exclude them from European territory or to keep them in a highly vulnerable and exploitable state – while also acknowledging the harsh consequences of the contemporary European migration regime for individual migrants. In the public and political debate, we often hear about new strategies that promise to ‘manage’ migrant ‘flows’. A ‘new pact on migration and asylum’ is being concluded, promising an efficient management system (European Commission, 2020a) – after old ones have failed. Indeed, when studying migration law enforcement, it is important to note that the implementation of these new strategies often fails to correspond to their promises. People from all over the world continue to arrive in Europe looking for new ways to improve and save their lives.

By ‘following’ some key interlocutors on their journeys throughout Europe, I show in this book how individual migrants disrupt the smooth implementation of migration law and how, at the same time, their hopes and

plans are constantly interrupted by attempts of migration control that inflict severe suffering in terms of mental well-being on them. I am interested in the ways in which migrants with a precarious legal status influence the formation of the European migration regime. They creatively adapt their tactics to new policies, restrictions and migration control measures, while state authorities react to migrants' subversive tactics by readjusting their own strategies and making people's journeys ever more precarious and dangerous. This book therefore acknowledges the interdependencies between state control mechanisms and migrants' tactics of manoeuvring restrictive policies, border control and precarious conditions. However, it does not ignore the fact that these negotiations take place between actors in highly unequal power relations. The narratives of people with a tenuous residence status testify how migration governance makes people endure insecurity and unpredictability when they become trapped in lengthy bureaucratic procedures, in one of the many European asylum or detention camps, in precarious working conditions or in cycles of state-enforced mobility. Yet, these stories also evidence how non-citizens appropriate and react to attempts of control in their everyday navigation of the European migration regime. By focusing on mobile people's everyday practices and complex trajectories, the book conceptualises the role of migrants in the constitution and contestation of the migration regime.

The interview with Eymen quoted at the beginning of the chapter took place one and a half years before he was deported to his country of origin. Since then, we have kept in touch, and our conversations often revolved around how he could make his way back to Europe. Living with his parents again, he was spatially immobilised, but his aspirations were shaped by the hope of being able to move again. The years Eymen had spent in Europe – navigating borders, legal precarity, stigmatising discourses and the opacity of laws – bear testimony to the endurance of migrants with a precarious legal status given the severe restrictions European states apply in their attempts to 'manage' migration.

### **Interrupted journeys within Europe: what this book is (not) about**

*Navigating the European Migration Regime* engages with one of the most publicly stigmatised and politicised groups of people in recent years: unwanted single male migrants, who are represented and socially constructed as the 'undeserving other' in media discourse and who are unlikely to be granted permanent residence status in Europe. Such public images effectively divert attention away from the harmful conditions created by current policies aimed at deterring people seeking protection and a better livelihood. This public discourse normalises, legitimises and conceals state violence that takes place

not only at Europe's external borders, in deportation camps and centres, but also in the precarious everyday lives of people who have no right to remain. It is urgent to provide nuanced and sensitive accounts of the experiences, practices and tactics of those whose lives are pushed to live in precarity without either victimising or demonising them but instead paying due attention to the underpinnings and implications of how their lives are governed, racialised and marginalised.

The multi-sited ethnography 'follows' the journeys of people who continuously strive to find new ways to legalise their status, who are repeatedly detained or deported within and beyond Europe and who nevertheless do not give up on their migration projects. The protagonists of this book highlight a complex migration pattern which is characterised by permanent 'transit' across Europe, which is in effect a multi-linear movement shaped by the opportunities and obstacles that arise during the course of their trajectories. My interlocutors' journeys are discussed against the background of a heterogeneous Europe that largely contributes to producing these seemingly erratic journeys. Migrants with a precarious legal status are forced to respond with flexibility and spontaneity to suddenly changing conditions, such as work opportunities, rejection of asylum claims, detention or deportation. Their experiences reflect a deep ambivalence between a sense of autonomy, on the one hand, and of profound hope- and powerlessness, on the other.

The course of these interrupted journeys varies, including pathways into and out of illegality, as well as into and out of the asylum system. Some people apply for asylum in a European country, yet their applications are – often repeatedly – rejected. They might move on to another state and enter the asylum system anew – often only to learn that their application will not even be processed, due to the Dublin Regulation that allocates one European country to each asylum seeker (see [Chapter 2](#)). In the case of such so-called 'secondary movements' people seeking protection can be sent back to the country responsible for their case, adding yet another layer of (enforced) mobility.

Other people find work in the informal labour market for short or long periods of time. In the case of job loss or because of precarious and exploitative working conditions, they might consider moving to another country in the hope of improving their living conditions. Some apply for asylum as they do not have social networks that could offer support or access to informal employment. Others manage to obtain legal status in a European country, yet they still experience precarity because of the temporary nature of their permit or because they cannot access the labour market and social allowances. As a consequence, they might decide to move to a country that promises better economic conditions and work opportunities, but end up once again in a state of uncertainty, because despite holding valid residence

papers in a Schengen state, which protects them from deportation to their country of origin, they are often still not allowed to work.

These examples demonstrate how so-called irregular migration can overlap with the asylum regime, as people are pushed into illegality due to the negative outcome of an asylum application and because illegalised people (re-)enter the asylum system as they try to find a solution to secure their stay in Europe. It is undoubtedly impossible to draw a coherent picture of these overly complex, diverse and fragmented journeys. They differ in their overall length, in the length of time spent in one place, and also in their geographical scope and the legal status held by the individuals. What connects the journeys of this book's protagonists, however, is their multi-linear movement based on opportunities that arise along the way, on the one hand, and law enforcement, on the other. The result is an often spontaneous and short-term way of movement and a high degree of instability regarding many aspects of migrants' lives – a condition defined by permanent transience.

*Navigating the European Migration Regime* seeks to understand the consequences and implications of migrants' everyday resistance, both for themselves and for migration governance. Focusing on migrants' continuing journeys, I ask how – and at what cost – people with a precarious legal status navigate the migration regime on their interrupted journeys throughout Europe. I am thus interested in individuals' tactics of bypassing the constraints of a migration regime that seeks to gain control over their movement into and within the Schengen area. Beyond that, I explore how and based on what legal, discursive and political rationales or categorisations the European migration regime produces precarity, vulnerabilities and specific migration patterns.

My interlocutors' intricate trajectories defy simple conceptualisations of migration movement with clear starting and end points and challenge conventional approaches to and categorisations of migration. Much migration research focuses on either the causes or the consequences of individuals' migration process (BenEzer and Zetter, 2015) and fails to pay enough attention not only to the periods between departure and arrival but also to 'pre-migration mobility and post-migration mobility' (Schapendonk et al, 2021: 3245). This becomes even more pertinent when people are continuously en route for extended periods of time.

The analytical power of focusing on mobile people's journeys has been acknowledged by a number of migration scholars in recent years (Schapendonk and Steel, 2014; BenEzer and Zetter, 2015; Brigden and Mainwaring, 2016). Ethnographic research on trajectories of people seeking protection throughout and beyond Europe has shed light on how migrants navigate external and internal European borders and an intricate bureaucratic maze (see, for instance, Collyer, 2010; Belloni, 2019; Fontanari, 2019; Schapendonk, 2020). Taking individuals' complex journeys as a starting point



helps to overcome certain epistemological and methodological challenges that migration studies have been confronted with.

First, focusing on journeys allows for the denaturalisation of state-induced categorisations (Wimmer and Glick Schiller, 2002; Dahinden, 2016) as it pushes researchers to recognise that individuals occupy – or are categorised into – diverging ‘mobility categories’, such as ‘asylum seeker’, ‘irregular migrant’ or ‘refugee’ throughout their lives. At the same time, it is crucial to pay attention to the different kinds of ‘regimes of mobility’ (Glick Schiller and Salazar, 2013) that produce these categories, and thus render visible ‘the making of migration’ (Scheel and Tazzioli, 2022).

Second, taking journeys as a starting point of a migration regime analysis points to the ineptitude of limiting research to a single nation state. This became evident during the many hours I spent listening to people’s narratives about their mobile biographies, their tactical engagements with policies and state control, their social networks, their imagined futures, and the effects of contemporary migration policies on their lives. Policy-making and migration research still rely largely on national evaluations of, for example, ‘reception conditions’ or migrants’ ‘integration efforts’ and therefore fail to take into account the transnational dimension of migrants’ experiences and practices (Glick Schiller et al, 1992). Besides, migration governance itself increasingly takes place across borders as well (Collyer and King, 2015). The various sites of migration control, such as asylum and reception centres, migration authorities, police stations, are always embedded in an international migration regime that is divided into national and subnational entities that complement, contradict or contest each other. Only by adopting a transnational perspective (Dahinden, 2017) can we understand that many protection seekers often live for lengthy periods in places with extremely limited room for manoeuvre, where they experience a lack of privacy and where they are forced to endure a legal limbo. Such a perspective is central to render visible that people’s journeys often end up in veritable odysseys when they move – or are pushed – from camp to camp or from one abusive employment to another.

Third, and related to the previous point, concentrating on journeys highlights the temporalities of being on the move. In policy making and research, the fact that many people are on the move for a long period of time and are repeatedly uprooted from different contexts is often overlooked. As a result, the consequences of such long-term instability are neglected. Given the durable nature of ongoing – but repeatedly interrupted – mobility and the lack of a clear direction, I focus on people’s mobility as a particular mode of existence, which may or may not result in permanent settlement (Moret, 2018).

While concentrating on people’s movements may run the risk of overemphasising periods of actual physical mobility and thus neglecting

phases of being stuck in one place, I decided to discuss ‘interrupted journeys’ (Wyss, 2019) to pay due attention to the various structural barriers and disruptions encountered by migrants and to the fact that both mobility and immobility play a constitutive role in people’s trajectories (Schapendonk et al, 2021). On their journeys, mobile people can find themselves – for short or long periods – held in a detention centre (Bosworth, 2014; Amit and Lindberg, 2020), trapped in asylum camps (Campesi, 2015), or the fulfilment of their migrant project is on hold as they are caught up in lengthy legal procedures (Tuckett, 2018). Taking ‘interrupted journeys’ as a starting point helps to render visible the interaction between migrants’ subversive mobility and states’ suppressive control of people’s movements.

Rather than limiting my research to one nationality, ethnicity or state category, I look at how contemporary migration discourse and politics create a group of migrants by ascribing them ‘undeservingness’ through processes of othering. This – medially and politically constructed but highly heterogeneous – group especially concerns male (often Muslim) migrants of low social class. I take this problematic politicisation as a starting point to analyse current border control effects on individual practices, experiences and forms of exclusion. The book thus focuses on those least attributed with deservingness and by extension people who lack public sympathy due to the negative image assigned to them. Importantly, it acknowledges the gendered and racialised dimensions of these public representations. Applying an intersectional perspective, this book demonstrates how the negative representation of certain groups of (Muslim) male migrants (mostly from North and West African countries) fuels the call for repressive policy making and impacts the way law is implemented. Overall, the objective is to create alternative narratives of those who are so often depicted as fraudulent ‘tricksters’ and dangerous, undeserving others.

With a focus on migrants’ journeys within Europe, I run the risk of portraying my interlocutors’ experiences as being limited to Europe. Despite the well-known fact that 86 per cent of refugees currently live in so-called developing countries (UNHCR, 2021), contemporary public discourse in Europe often gives the impression that Europe shoulders the main ‘burden’ and that precarious migration only happens in the direction of Western countries. It is key to keep in mind that the journeys of many of my interlocutors went beyond Europe (see also Collyer, 2010; Schapendonk, 2010; Crawley et al, 2016). Many of them have already been en route across numerous non-European countries for months or years before their arrival on European soil. Migrants’ journeys might also continue beyond Europe after they first arrive in a European country. For instance, five of my 23 key interlocutors were deported to their countries of origin. Three of them later returned to Europe. Moreover, four other people spent some time in

their country of origin after having received temporary permits in Europe, which enabled them to legally move back and forth between their country of citizenship and their current country of residence. Finally, one person returned to his country of origin on his own.

Despite these – at times long – stretches of migrants’ journeys outside of Europe, the focus of this book is on migrants’ mobility *within* Europe to demonstrate that their movements do not stop upon arrival on European territory. While the EU and its bilateral partner countries open the internal borders in the Schengen area to their own citizens (and acknowledged third-country residents), they close them to ‘unwanted’ migrants by applying the Dublin Regulation, making the navigation of this space more hazardous for people who lack the right documents. I show that the European migration regime, in fact, ensures the prolongation of migrants’ journeys, which migrants experience as highly exhausting. This also challenges the common representation of Europe as a safe haven and as the upholder of human rights (De Genova, 2017b) and sheds light on the fact that journeys not only *to* Europe but also *within* Europe can be dangerous.

## **Navigating the European migration regime**

The following chapters in the book build on a migration regime perspective that goes beyond a state-centric approach and presents migrants, state actors, non-state actors (such as civil society, non-governmental organisations and private companies) as mutually entwined forces and as co-constitutive for migration governance – however, endowed with highly unequal stakes (see for instance Eule et al, 2018, 2019; Pott et al, 2018). Accordingly, the focus here is on a praxeological and relational understanding of the migration regime, which is interested in everyday practices, concrete relations and interactions between different actors as well as in the multi-layered nature of its formation. Such an approach captures the emergence of a migration regime that is defined by complexities and contradictions, strongly impacted by contemporary discourse and politics, and that produces unintended consequences (Horvath et al, 2017) – and is thus inherently ‘messy’ (Eule et al, 2019). In this understanding, a migration regime is ‘usually not the outcome of consistent planning’ but of ‘waves of “quick fix” to emergencies’ and thus the ‘result of continuous repair work through practices’ (Sciortino, 2004: 32f). It is in constant flux and evolves from continuing negotiations and struggles between conflicting actors, institutions and discourses (Hess et al, 2018).

Such an understanding inevitably diverges from seeing Europe as an impermeable fortress (Tsianos and Karakayali, 2010) and underlines the always provisional character of migration law and control practices, which react to new migratory movements and practices as well as to changing political trends.

This was one of the driving factors which led migration scholars to build on the regime concept as it encourages the consideration of migrants' agency as a co-constitutive and disruptive aspect. State power to control, filter and deter politically unwanted migratory movement is always incomplete for different reasons: law implementation fails to accomplish its policy goals (Hollifield, 1986); states' sovereign power to halt 'unwanted migration' is limited by their own legal frameworks (Joppke, 1998); a prospering 'illegality industry' has its economic profits (Andersson, 2016); and there are autonomous aspects of migration (Tsianos and Karakayali, 2010; De Genova, 2017b).

A migration regime approach benefits also from insights from anthropological literature on the micropolitics of the state, which explores how the state functions in everyday life and is experienced and shaped by different actors (Sharma and Gupta, 2007; Fassin et al, 2015). This strand of literature can be translated to the migration regime approach to throw light on how the latter materialises in banal everyday practices and interactions with authorities and institutions, such as in the context of refugee camps, during consultations with lawyers or migrant support networks, but also in paperwork, in the categorisations of people according to their residence permits or during police checks. What is of interest, therefore, is how the migration regime operates in practice and thus in the concrete everyday actions of and encounters between the various actors.

Notably, a migration regime approach allows for the acknowledgement of the highly unequal bets at stake but at the same time takes seriously the disruptive effect of migrants' practices for migration control attempts. While foregrounding the experiences and tactics of individual migrants who challenge and co-shape the formation of the migration regime, I interpret their encounters and negotiations with other actors without assuming a simple 'state versus migrants' dichotomy (Kalir and Wissink, 2016). My approach to the migration regime is rooted in the conviction that on-the-ground practices by a multitude of actors – be it street-level bureaucrats, non-governmental organisations, or migrants – are important for the ways migration governance takes shape. The following chapters oscillate between descriptions of how migration control is enacted and how migrants react to these exclusionary state practices, on the one hand, and on the other, how migrants appropriate illicit mobility (Scheel, 2019) and how states respond to migrants' subversive practices. Thus, the chapters of this book explore both the way in which migrants are subjected to the effects of the migration regime and the way in which they navigate and contest the migration regime.

Focusing on the *navigation* of individual border-crossers is helpful for such an actor- and practice-based approach as it drives us to disentangle different – both structural and individual – dimensions that contribute to the shaping of migrants' subjectivities, their (im)mobility, their struggles

and their social, legal or economic inclusion. Vigh (2009: 420) defines ‘navigation’ as ‘a special form of movement: that is, the way we move in a moving environment’. As I will demonstrate, the legal and political migration landscape is constantly changing (Chapter 2). Hence, what my interlocutors encounter is indeed a ‘moving environment’, which they somehow have to manoeuvre. Importantly, Vigh conceptualises navigation as an active engagement with shaky grounds fraught with uncertainties and unpredictability. Navigating ‘is directed both towards making one’s way through immediate difficulties as well as directing one’s life positively into the future’ (2009: 424). People’s movements thus follow a – however vague – direction that promises to lead to a desired future. Navigating thus captures both the violent conditions and simultaneously considers migrants’ active engagement, negotiations and struggles with these conditions (see also Schapendonk, 2018, 2020).

I find it important to examine different levels on which such navigation within the migration regime takes place. First, my interlocutors are confronted with a public and political discourse, which they have to deal with (Chapter 3). They are ‘othered’ and constructed as undeserving and are thus forced to counter such negative stereotypes. They confront stigmatising, racist and de-vulnerabilising representations that affect their lives and which they are forced to act upon. Such a *navigation of discourses* thus includes processes of distancing, contestations and ‘de-criminalisation’ when it comes to creating new self-representations. Second, migrants constantly have to *navigate migration control* on their way to and through Europe. In Chapter 4, I argue that they can escape certain control practices by remaining mobile, while at the same time there is an increasing attempt on the part of states to regulate migrants’ unruly mobility through enforcing mobility, as in the case of deportations. Third, migrants need to find ways to *navigate the uncertainty* they experience (Chapter 5). The European migration regime remains highly inscrutable, and it is difficult for individuals to anticipate the implementation of laws, which is why migrants often have to rely on informal and unreliable channels of knowledge transfer. Finally, the stories of my interlocutors reveal how they are forced to manoeuvre laws and regulations on various political (supranational, national and subnational) levels defining different aspects of their lives. *Navigating the law* (Chapter 6; see also Chapter 2) consists of finding a way through bureaucratic mazes, learning about loopholes in the law and acquiring knowledge about local policies. The common factor in all of these – overlapping – dimensions of navigation is that they are highly ambiguous and unpredictable, which requires people to constantly weigh up the risks and opportunities in situations where it is difficult to anticipate the outcome. The following empirical chapters shed light on each of these various dimensions.

## Migrants' tactics within spaces of asymmetrical negotiation

Media and politicians frequently cast the protagonists of this book as 'economic refugees' or discuss them within the context of 'asylum abuse', implying that they do not deserve international protection. Furthermore, their image in the public eye as 'bogus' refugees, 'illegals', villains or potential terrorists grants them – one might say – too much agency (Bhatia, 2015). Simultaneously, and somewhat paradoxically, the depiction of refugees and asylum seekers is often based on a passive, dependent and apolitical image (Chapter 3; see also Agustin, 2003). Thus, the public and political discourse attributes either an absence or an abundance of agency to those who hold a precarious residence status (Mainwaring, 2016).

Ignoring migrant agency, as Mainwaring (2016: 291) argues, 'reifies the power of the state to "secure" borders and control migration, and conceals the contested politics of mobility and security evident in negotiations between migrants, border guards, smugglers, fishermen, and other actors'. Envisaging my interlocutors as actors who find ways to navigate insecure, unstable and quickly changing circumstances requires regarding them as 'strategic actors' (Collyer, 2012) – something that is rarely done in policy making where rhetoric on the 'management' of migration dominates. Despite their room for manoeuvre being severely limited, people with insecure residence status still manage to find loopholes and continuously challenge and contest the migration regime. Increasingly elaborate border control has failed to thoroughly 'manage' migration, but these state attempts to control nevertheless heavily restrict individuals' practices, for instance by forcing border-crossers to take longer and more dangerous journeys (Collyer, 2007; Andersson, 2016).

In this book, I foreground individuals' tactics as a disruptive element to the smooth functioning of migration control practices. Combining a migration regime approach with literature on ordinary people's everyday resistance allows us to zoom in on the interdependencies of migrants' tactics and states' control practices without neglecting individuals' agency nor denying the violent effects of states' control practices. State authorities and migrants 'engage in a reciprocal cycle of discipline and resistance, of law enforcement and avoidance' (Eule et al, 2018: 2717). These negotiations between different actors within the migration regime are constantly evolving within 'spaces of asymmetrical negotiations' (Eule et al, 2018).

The narratives I listened to during my research were almost devoid of political organisation or collective struggles. Only a few of the research participants came into contact with or were part of political organisations such as No Borders activist groups (cf Sigona, 2012). Their high degree of mobility

renders inclusion in local networks difficult and thus also challenges participation in collective political action. However, my interlocutors' accounts were full of stories regarding everyday negotiations with border guards, acts of avoiding law implementation, secretive border crossings and forging documents. In order to theorise such everyday resistance of marginalised migrants within the migration regime, I find it helpful to draw on anthropological and sociological approaches.

De Certeau's (2002) distinction between *strategies* and *tactics* differentiates between the calculated practices of actors endowed with power, on the one hand, and actors who lack power, on the other. Whereas strategies are within the realm of those in power, tactics are understood to be the 'art of the weak':

The space of a tactic is the space of the other. Thus it must play on and with a terrain imposed on it and organized by the law of a foreign power. ... It operates in isolated actions, blow by blow. It takes advantage of 'opportunities' and depends on them. ... What it wins it cannot keep. This nowhere gives a tactic mobility, to be sure, but a mobility that must accept the chance offerings of the moment. ... It must vigilantly make use of the cracks that particular conjunctions open in the surveillance of the proprietary powers. ... It creates surprises in them. It can be where it is least expected. (2002: 36f)

This quote can be aptly applied to describe migrants' 'tactical' navigation of the European migration regime. Migrants 'make use of the cracks' in the legal framework, they need to apply flexibility to take advantage of the 'chance offerings of the moment' and 'the advantage of opportunities' and they repeatedly leave and enter spaces of legality – and thus win what they 'cannot keep' (see also Collyer, 2012).

Similar to de Certeau's tactics, Scott coined the term 'everyday resistance' in his book (1985) on peasants' struggles during the Green Revolution in Malaysia. Everyday forms of resistance may not overthrow the system, but nevertheless disrupt it. These 'weapons of the weak' 'are unlikely to do more than marginally affect the various forms of exploitation' (2002: 29f). Yet, it would be a mistake to view such modes of resistance as trivial, for they in fact limit the state's power to control its population. The conceptualisation of everyday forms of resistance is applicable to the notion of the migration regime, which is understood to be constituted through everyday practices and encounters or struggles between a variety of actors within asymmetrical power relations. Whereas migrants engage in different forms of everyday resistance, states respond in different ways by recasting policies, 'encouraging voluntary compliance' (Scott, 1985: 36) or employing more coercion. I will identify different forms of such everyday resistance or, in de Certeau's



terminology tactics, aimed at enabling migrants to prolong and eventually secure their presence in Europe.

Critical border and migration scholars have subsumed the creative force and transformative power of migration as ‘autonomy of migration’, presuming that the movement of people always *precedes* the movement of capital and state control (Bojadžijev and Karakayali, 2007; Moulier Boutang, 2007: 169f; Papadopoulos et al, 2008; Mezzadra, 2011; De Genova, 2017b). Papadopoulos and Tsianos (2013: 184), for instance, write that ‘migration is autonomous, meaning that it has the capacity to develop its own logics, its own motivation, its own trajectories that control comes later to respond to, not the other way round’. Migration is thus conceived as a social and political movement and an autonomous force, which transgresses borders and challenges nation states (Benz and Schwenken, 2005; Papadopoulos and Tsianos, 2013).

While I agree with many aspects of this perspective, I am hesitant to speak of a primacy of migration over state control because human mobility can also occur as a response to state control, for instance as a reaction to state persecution or when migrants engage in onward mobility as a result of hostile conditions they encounter in European countries (see Chapter 4). Moreover, the autonomy of migration approach tends to conceive of migrants and states as permanently opposed actors whose strategies and tactics inevitably contradict each other. Of course, the fact that migrants are illegalised and deemed unwanted implicates such an understanding. However, when we examine in more detail on-the-ground practices, we find a more complex picture than the simple opposition of migrants and the state (Hasselberg, 2016; Kalir and Wissink, 2016). As I will show in the following chapters, migrants also comply with laws and appropriate them, which is why we cannot merely perceive migrants’ tactics as always being ‘against the state’ (Chapter 6).

Furthermore, the autonomy of migration approach risks romanticising migrants’ movements and failing to take seriously the restrictive effects of border control (see, for instance, criticism from activist networks: Omwenyeke, 2004), and tends not to take into account the very different conditions under which people migrate (Benz and Schwenken, 2005). Despite the emphasis by proponents of the autonomy of migration approach that ‘there is no space for romanticisation of nomadism and migration in the autonomy of migration approach’ (Papadopoulos and Tsianos, 2013: 184), the notion still suggests celebrating migration (see also Chapter 7).

Yet, there are several aspects of the autonomy of migration approach that I consider useful and that have informed this research. First, it enables an understanding of migration that normalises the process of migrating and consequently refrains from a need to react to migration either through humanitarianism (Fassin, 2012) or securitisation (Huysmans, 2000). Second,



the approach pushes migrants' practices and struggles to the forefront of the discussion instead of taking the nation state as a starting point, and third, it allows for the perception of migrants as tactical actors with a strong will to pursue their aspirations rather than as a manageable flow of people invading the 'fortress Europe'.

## **Naming and categorising people on the move**

The journeys my interlocutors undertake thwart clear-cut categorisation of mobile people and emphasise the importance of going beyond the dominant and simplistic discourses about migration which frequently dehumanise migrants. Categorising a group of people as 'migrants' already reinforces 'the naturalization of the borders' (De Genova, 2017a: 6). Similarly, the very act of identifying human mobility as 'migration' implies that a person's 'mobility appears as a problem, that is as something to be governed and controlled' (Tazzioli, 2020: 6; see also Anderson, 2019). Following Schapendonk and colleagues (2021: 2), I do not 'see "migrancy" as a pre-given marker of difference, but as a normative artefact of mobility regimes'. Thus, the objective is not to normalise migration-related differences (Dahinden, 2016) but instead to render visible how 'regimes of mobility' (Glick Schiller and Salazar, 2013) and concomitant state categorisation produce particular social realities – and indeed also 'migrants' themselves. Borrowing from Scheel and Tazzioli (2022: 2), a migrant is 'a person who, in order to move to or stay in a desired place, has to struggle against bordering practices and processes of boundary-making that are implicated by the national order of things'.

Migration governance hinges upon the allocation of clear administrative categories – such as 'asylum seeker' versus 'political refugee' – to individuals (Feldman, 2012). These categories do not define distinct groups of people but rather produce legally constructed phases, between which people frequently shift. Yet, migration studies tend to limit research to one of these categories and thus reinforce nation states' categorisation (Wimmer and Glick Schiller, 2002). Hence, they often fail to consider the fluctuation between different legal statuses. A focus on mobile biographies thus seeks to 'disrupt such categorizations through its knowledge of interconnection, transnationalism, complexity and hybridity' (Mayblin and Turner, 2021: 38) and simultaneously pays due attention to how the very categories severely circumscribe individuals' room for manoeuvre and stem from states' attempts to limit and channel people's movements.

Both activists and scholars have pointed out the power of labelling and the problematic effects of simplistic and often dichotomous categorisations of migrants (Zetter, 1991; Dahinden, 2016; Crawley and Skleparis, 2018; Sigona, 2018). In practice, distinctions between ‘voluntary’ (mostly individuals moving for economic reasons) and ‘forced’ migration (referring to ‘genuine’ refugees) are far from being dichotomous, but rather evolve on a continuum (Yarris and Castañeda, 2015; Crawley and Skleparis, 2018). The use of other categories – like ‘il-/legal’, ‘ir-/regular’ or ‘un-/documented’ migrants – has been rightly deemed problematic due to their normative connotation (see for instance Andersson, 2014; Menjívar and Kanstroom, 2014).

An essential characteristic of migrants’ interrupted journeys throughout Europe is the frequent changes of labels and statuses assigned to them, which makes it challenging to find a suitable terminology. People move in and out of legality and thus show what Schuster (2005) has termed ‘status mobility’. Their legal status is mostly ‘liminal’ (Abrego and Lakhani, 2015) because of its temporary nature or because of the restrictions associated with it (for instance, the prohibition to work during asylum procedures).

A major theme that runs through this book is the connection between asylum and illegalised migration. Claiming asylum is often the only way for many non-European citizens to obtain a residence permit. All my interlocutors have applied at least once for protection status in Europe – none of them, however, was granted refugee status. All research participants thus had in common that – for different reasons – they were unlikely to obtain legal residence permits in their country of choice and that they were exposed to restrictive migration control attempts. While they switched between different legal statuses, these were all marked by uncertainty, unpredictability and instability, which is why I use the term ‘migrants with a precarious legal status’ (cf Goldring and Landolt, 2013). This notion includes people who are illegalised – either because they have never been registered and live in a ‘space of nonexistence’ (Coutin, 2003) or because their asylum application has been rejected. It also includes people who remain in an asylum or other legal procedure as they await a decision regarding the right to reside; or others who have been granted a residence status in one country but have travelled to another, only to once again find themselves in an irregular situation. Finally, some of my interlocutors have previously held a legal status but have lost it again due to its temporariness.

Stressing the precarity of my interlocutors’ legal statuses also acknowledges that states tacitly tolerate allegedly ‘unwanted’ migrants whose presence is defined by a state of ‘deportability’ (De Genova, 2002) as ‘they offer a cheap and readily disposable supply of labour’ without burdening states with social and welfare costs (Bloch et al, 2011: 1288; see also Wyss and Fischer, 2022). The illegalisation and precarisation of migrants hence serve certain economic interests and thus render them also *wanted* to some extent.

## On mobile and not so mobile research methods

There is an abundance of studies – both academic or commissioned by policy makers – that attempt to anticipate or measure ‘migration risks’, ‘migration flows’ or degrees of ‘integration’. The governance of migration depends upon the counting of people, who are rendered visible as numbers to state authorities (Scott, 1999). This book is about a group of people that move in and out of sight of the state and that are thus by definition difficult to count – despite the increasing number of data banks storing fingerprints and other information on migration. In such numeric accounts, complexities and contradictions mostly vanish as individual nuances and differences within single social entities are easily overlooked. Individual aspects of experiencing migration, people’s multi-layered struggles and their perspectives on migration control are barely taken into account; nor are their gendered and racialised experiences in Europe and their everyday negotiations with different actors. To capture all these aspects, this study is embedded in the anthropological tradition of actor- and practice-centred research. Its aim is to chart migrants’ narratives and mobile life stories in order to theorise migration and its governance through the asymmetrical interplay of different regulations and actors constitutive of the European migration regime.

This book builds on two techniques suggested by Marcus (1995) to capture the transnational dimensions of social realities. Taking individual migrants’ journeys as a starting point, on the one hand, I ‘followed’ people’s narrated biographies, and on the other, I ‘followed’ people themselves (1995: 106ff). Such an approach allows for the understanding not only of the inherently transnational character of migrants’ practices, aspirations and social networks, but also of migration control attempts. Similar to what Schapendonk (2012b; see also Schapendonk and Steel, 2014) calls ‘trajectory ethnography’, I revisited some key interlocutors after they had (or were) moved to other countries or places and stayed in touch with them over an extended period of time through phone calls or Internet communication. The combination of narrative interviews and the ongoing contact enabled me to focus on the *past* and *present* of my interlocutors’ journeys, and to a certain extent their *future* prospects. Such a long-term perspective renders visible the changing nature of living conditions that affect migrants’ everyday lives, as well as individuals’ transnational tactics to take advantage of opportunities and deal with obstacles they encounter along the way. It also allowed for the consideration of alternating moments of resistance and powerlessness as well as the understanding of how struggles, hopes and conditions change over time.

However, there are limitations to a multi-sited research design and the focus on journeys. By concentrating on individuals’ journeys, the importance

of – however short-term – embeddedness in a local setting might be neglected. Yet locality matters: it is the local context where legal regulations are put in practice, where migrants are fingerprinted, cared for, or detained, and in which people go about their daily lives. For these reasons, participant observation played an essential role during my research. Over the course of a year, I spent many hours in an asylum facility in Switzerland to gain a deeper understanding of the variety of interrelating institutions and actors that play an important part in shaping my interlocutors' everyday lives. Participant observation unveiled crucial aspects that were absent from oral accounts. During interviews, interlocutors often emphasised significant disruptions to their journeys or incisive experiences, such as successful border crossings, losing a job or memorable encounters with people. Instances that enforced, enabled, or limited onward migration were particularly dominant. Yet, the emptiness and idleness of everyday life during lengthy periods of waiting for a border to open, for a legal procedure to end or for a new opportunity to arise are also fundamental aspects of migrants' journeys which remained less articulated and would have been difficult to capture through interviews only.

I conducted a large part of my research in a federal facility for asylum seekers in Switzerland,<sup>2</sup> led by the Swiss State Secretariate for Migration, where I spent several days a week from August 2014 until August 2015. In Switzerland, asylum seekers are first sheltered in federal asylum facilities before they are allocated and transferred to the cantonal level. At the time of my research, those with a good chance of being admitted to the national asylum procedure usually spent only a few days or weeks in a federal asylum facility before being transferred to a cantonal shelter.<sup>3</sup> This was different for many people with 'likely unfounded applications' (Poertner, 2017) who were accommodated in these large securitised federal asylum camps for longer periods of time (up to 90 days) while authorities reviewed their cases. The isolated location and securitisation in these camps facilitate control over their residents and help prevent their 'integration' into the local community, which could help them remain in the country clandestinely after their applications are rejected – a risk that authorities seek to avoid.

The asylum camp where I conducted my research was a charmless complex located on a military compound. Housing up to approximately 150 asylum seekers, the camp was surrounded by walls and fences and only accessible through a gate, with tight security measures in place. Residents were only allowed to go off site during the day and over the weekend. Sleeping arrangements were large dormitories equipped with bunk beds for 20 people, and the common area comprised a TV and table football.

During hundreds of informal conversations, I heard many accounts of arduous journeys throughout and beyond Europe. People told me about their travels through the desert and across the sea, about their concerns for their families and about how much they suffered from long-term insecurity

and experiences of continuous social, legal and economic exclusion. They talked about their desires and aspirations to finally arrive at a destination and find a job. Others showed a thirst for adventure and proudly told me how many borders they had crossed illegally and how they managed to outsmart migration controls. These conversations informed large parts of my study and contextualised the narrative interviews I conducted with key interlocutors. Besides fieldwork in the asylum camp in Switzerland, I conducted participant observation in different locations. This included accompanying people to legal counselling or to meetings with their lawyers and visiting them after they were transferred to other shelters or deportation centres or after they had absconded to circumvent deportation.

Since individuals' lived experiences are at the heart of this study, narrative interviews with 23 individuals holding a precarious legal status formed a central part of the collected data (Rosenthal, 2011).<sup>4</sup> As Eastmond (2007: 254) points out, narratives allow for a nuanced representation of people and thus counter 'over-generalised and de-individualizing images promoted in a receiving society or a camp situation'. This is particularly important as individual variations often cease to exist in the bureaucratic handling of clients and in the formalised language of policies where standardised categories are predominant (2007: 254). Personal stories explain how individuals make sense of the bureaucratic maze in which they find themselves, or how they keep their hopes and aspirations alive.

Within the asylum context, narratives occupy a special position as narrated life stories form a cornerstone of every asylum procedure (Good, 2007). Accounts of past suffering profoundly impact the chances of being granted protection. Importantly, migration authorities do not only scrutinise the *content* of these stories but also the *way they are told* because asylum decisions are to a large extent based on the assessment of 'credibility' due to a frequent lack of 'hard proof' (Bohmer and Shuman, 2018; Affolter, 2021). Thus, asylum applicants are required to possess 'narrative capital' (Beneduce, 2015): They need to convincingly tell their life stories and to present themselves according to 'criteria that define an "ideal" victim' (2015: 554).

Accordingly, the oral narration of personal biographies was an essential experience for all my interlocutors. This fact made the interview situation challenging, and subjected interviewees to a similar experience to that of their asylum hearings. In order to distance myself and the interview situation from legal proceedings, I tried to avoid questions that too closely resembled those likely to feature in asylum procedures and focused instead on issues such as experiences of illegalisation and criminalisation or people's personal hopes and aspirations (Black, 2003). For instance, I did not ask direct questions about people's reasons for leaving their countries of origin. In addition, I shared my own critical assessment of current migration governance in

Europe and informed my interlocutors about my involvement with an activist and anti-racist NGO which provides legal support for migrants.

My interlocutors had very slim chances of obtaining international protection or any other form of residence permit. This is due to a combination of characteristics such as their socio-economic background or situation in their country of nationality.<sup>5</sup> Ten interlocutors originated from a North African country, seven from a West African country, two from an East African country, two from the Middle East, one from a South Asian country and one from a Balkan country. Their ages ranged from early twenties to late forties. In most cases, I got in touch with interviewees during my fieldwork in the asylum facility or (in a few cases) through snowball sampling. Additionally, I interviewed three people who I met through other personal contacts. I conducted interviews in a café or a public place, with the exception of a few interviews that I carried out within the asylum camp due to reasons of practicality (for instance, time constraints because residents had to return to camp in the early evening).

A significant part of data collection for this research project centred around 'following' journeys of a few key research participants. On the one hand, I kept in touch via the Internet or telephone with 19 of the key research participants over a prolonged period. This way, I could (virtually) follow their journey, even if it went beyond the borders of Europe as in the case of research participants who were deported to their country of citizenship. On the other hand, approximately a year after our first encounter, I conducted a follow-up interview with nine people after they had left or been transferred to other places (two within Switzerland, one in Italy, three in Germany and three in Austria) where I re-visited them. These second interviews were slightly more structured and centred around my interlocutors' current living conditions and the time between our different encounters. I spent two months in Italy where I visited two former residents of the Swiss asylum facility (one of whom I had already interviewed in Switzerland). Both had been deported to Italy according to the Dublin Regulation. I met them on several occasions during my stay in Italy, was introduced to some of their friends and visited places where they spent their time.

Importantly, I was taking part in the lives of research participants to quite different degrees. I have kept in touch with some participants for several years. I have met them not only for interviews but accompanied them to appointments, visited them in their temporary accommodation and discussed for many hours the (limited) options for improving their situation. If possible, I supported them with more minor things such as writing a statement for their legal proceedings, trying to act as an intermediary between legal counsellors and themselves as clients or by just being a friend in a difficult moment. With other research participants I conducted only one interview and with still others I had only informal conversations. The quality and

depth of data thus varied considerably from interlocutor to interlocutor. This heterogeneity of data is reflected in the way I used the collected information in the analysis. Information from more sporadic conversations or observations has been given less priority and was considered only if identified as being part of a repetitive pattern. In contrast, reconstructions of the live stories of my key research participants constitute a central part of the empirical chapters (Chapters 2 to 6) in the form of lengthy descriptions, which are visibly set apart from the rest of the text. It was important to me not just to weave individual interview fragments into the chapters, but to let these life stories stand on their own, as I believe they already reveal much of the complexity, experienced insecurity and the perseverance of migrants that this book is about.

Additionally, semi-structured interviews with 17 people employed in the field of asylum and migration served to complement the picture.<sup>6</sup> Also, I had numerous informal conversations with members of staff of the asylum facility where I conducted a large part of my research, with state officials, legal experts, and also with activists and volunteers, as well as fellow researchers. These interviews and conversations not only offered a better understanding of the ‘many hands’ involved in the formation of the migration regime (see [Chapter 5](#); and also [Eule et al, 2019](#)), but also provided more information on legal regulations, institutional settings as well as the issues of asylum and so-called irregular migration in general.

Data collected from marginalised, criminalised and illegalised people is particularly sensitive because of the risk of disclosing information about individuals who actually rely on remaining invisible, which in turn could make them more vulnerable to law enforcement ([Düvell et al, 2008](#)). My frequent exchanges with colleagues who conducted ethnographic research with border police officials and in migration agencies enabled me to make sure that my texts do not contain such information which could potentially harm my interlocutors (see also [Düvell et al, 2008: 8](#)). To ensure that my interlocutors cannot be identified, I have anonymised all names and omitted the nationality of key research participants (instead I refer to the broader geographical region), their exact age, the locations where I conducted research and certain dates (for instance of asylum applications or deportations).

## **How borders permeate research relationships and knowledge production**

The years I spent conducting research on this topic were accompanied by a certain unease in participating in discourses where we talk *about*, instead of *with*, people categorised as migrants. I think such unease is inevitable when research concerns people who are exposed to precarious and violent conditions. Given the persistence of global – racialised, gendered and classed – inequalities, which manifest themselves not least in research



relations, we cannot and should not simply overcome these feelings of unease but instead seek to learn from them and mobilise them by reflecting and problematising these inequalities in public in our role as scholars.

Reflecting on research relations not only enables the fulfilment of an essential anthropological task, but it also has an epistemological value of its own, as it helps to analyse the multi-layered power dynamics at play not only between the individual researcher and the research participants, but also within a broader social field. As the researcher herself is her primary research tool (Gill and MacLean, 2010), reflections on her racialised, classed and gendered positions are not only important as they contextualise the research and the results, but also because they are a tool to understand certain things and not others (see also Lumsden, 2009). Part of this has been the constant reflection on how borders permeate research relationships, which I want to exemplify with the following examples about migrants' perception of my position during research:

'I think [it] is because you joke and talk with people so freely that [they] think you want to get info from people or that you work with the police.' (Internet communication with Daniel in 2015)

On the way out of the camp, Malek approached me and asked me if I knew that some people were claiming that I was from the police or the migration office. I affirmed that I had heard of similar rumours. Habteab sat down next to him and said that people are used to not trusting anyone. (Field notes, 2014)

These two examples describe the ubiquity of a 'culture of suspicion' (Bohmer and Shuman, 2018; Borrelli et al, 2021a) which permeates the migration regime, both on the part of the host community that 'others' those who are not seen to belong and on the part of individuals in a precarious legal situation who must constantly weigh up whom they can trust (see also Chapters 3 and 5). The suspicion towards me within asylum structures highlight the pervasive effect that the state and borders have on interpersonal relationships. Thus, during my research, I also encountered mistrust myself when people raised concerns about my position and my independence from the migration control apparatus. Many of them probably wondered what I was doing sitting with mostly young and male camp residents, showing an interest in their hardships and tactics to cope with them. This was the sort of curiosity they usually experienced in encounters with state authorities.

Because of this prevailing culture of suspicion, it was essential to first gain my interlocutors' trust in order not to reinforce their feeling of powerlessness (Bilger and Van Liempt, 2009). This included taking the time to inform them about the aims and conditions (such as voluntariness) of participating in the research project. I particularly emphasised the fact



that my research project had nothing to do with migration authorities and that all personal information would be treated as strictly confidential. Also, I found it important to share personal information about myself and my political positioning in an open and candid manner to make at least myself a bit more transparent. The fact that several people informed me about the aforementioned rumours demonstrates that over time it was indeed possible to develop relationships based on trust.

I had met most of the research participants on several occasions prior to the interview. By accompanying my main interlocutors over a longer period of time, they had the chance to express and discuss criticism and concerns, and the chosen research approach allowed me to adopt a listening, learning and respectful position during interviews. This meant, for instance, taking seriously stories of people feeling criminalised or racialised by authorities (Chapter 3), this perhaps not being the case if analysed from a legalist perspective; or listening carefully when people claimed that law implementation happens on an arbitrary basis (Chapter 5).

During my research, certain expectations towards me as a woman were sometimes expressed. This reveals not only the gendered tensions between a female researcher and a male interlocutor, but also the impact of illegalisation and the ways migrants act upon their exclusion. As in every long-term ethnographic involvement in a social field, I became part of my interlocutors' social network. This included the role of a potential wife, which could enable illegalised migrants to obtain a residence status. During my research, this was a recurrent topic – at times addressed in a roundabout way and at others directly (Chapter 6). I mention this not only to describe certain challenges and vulnerabilities that I, as a female scholar conducting research with a group of male marginalised people, faced, but also to depict the intersectionality of power relations. Vulnerabilities as a woman are here interwoven with my position as a non-marginalised, White woman with a Swiss passport. Thus the trust gained from my research participants might sometimes also have been guided by the prevailing hope of obtaining information, relevant networks, rights or eventually even a residence permit. These asymmetries thus demonstrate how socio-political and gendered boundaries shape the relationship between the researcher and her interlocutors and consequently also the collected data and the interpretations that are drawn from them. Such observations teach us how border regimes are deeply entangled in gender regimes and how they both permeate and affect everyday life (see also Chapters 3 and 6).

While I cannot deny that the knowledge acquired during my research was produced within unequal conditions, I hope that on the basis of this listening stance and in solidarity with migrant struggles, I can nevertheless contribute to a discourse that normalises migrant aspirations and practices while it denaturalises migration politics and renders its violent consequences more

visible. For this reason, it is crucial to take seriously the historical construction of ‘illegality’ to shed light on the way the law produces subjectivities via legal classification, instead of studying illegality as in ‘showing it just to show it’ (De Genova, 2002: 422). Indeed, it was a challenge throughout the research process to find a way to carry out research and write about a group of people who are publicly denounced as ‘bogus refugees’ or undeserving abusers of the ‘system’ without falling into the trap of either victimising them or nurturing their negative public image. I found the migration regime perspective helpful to confront this challenge, as it considers both the overwhelming power of state migration control practices as well as the disruptive and creative tactics of migrants in their everyday navigation and avoidance of migration law implementation.

## Outline of the book

The book is organised into seven chapters that alternate between descriptions of migrants’ life stories, ethnographic accounts and interview fragments. After this introduction, [Chapter 2](#) centres around the story of Walid, one of my principal interlocutors, as he navigates Europe’s legal maze and is repeatedly deported from different European countries to Switzerland, the country responsible for processing his asylum application according to the Dublin Regulation. Readers are introduced to migrants’ cyclic experiences of legal procedures and the exhaustion the latter generates for individuals on the margins of the state. The chapter introduces relevant information on migration policies and the context in which contestations and encounters among migrants, state and non-state actors take place. It demonstrates the relevance of supranational laws (such as the Dublin Regulation or the Geneva Refugee Convention) as well as national and regional law implementation. Along their trajectories, individuals move in and out of the visibility of the state as they enter legal procedures, such as asylum or regularisation procedures, or as they go into hiding to avoid detention or deportation. The chapter illustrates how migrants both seek the support of the state and keep it at arm’s length. Thus, it provides a first account of the dialectic of migrant agency and the migration regime, which this book is all about.

In the media, male migrants with a precarious legal status are often represented as potentially dangerous. [Chapter 3](#) explores how they are constructed as the ‘undeserving other’ and demonstrates how the media and political discourse on unwanted migration is highly gendered and racialised. The chapter thus contributes to an intersectional analysis of migration processes with a focus on men. Often, migrant men are represented as strong and enduring while vulnerability is mostly reserved for women and children. This frequent denial of men’s vulnerability can lead to male-specific

vulnerabilities as this chapter highlights. My interlocutors have to navigate such stereotypes – often characterised by anti-Muslim sentiments and colonial underpinnings – using different tactics, which will be introduced in this chapter.

Many migrants with a precarious legal status are highly mobile within Europe and beyond. [Chapter 4](#) underlines the ambiguous nature of mobility as both a resource for migrants to bypass migration control and an obstacle to the pursuit of their personal interests. On the one hand, migrants navigate and subvert migration and border control through exhibiting a high degree of mobility. On the other hand, they are pressurised into forced mobility as a result of migration governance. At the same time, migration control is enacted both through state strategies of enforced mobility (as in the case of deportations) and strategies of immobilisation (as when asylum seekers are prevented from moving on to other European countries). As a result, policies such as the Dublin Regulation contribute to both impeding and enforcing migrants' mobility. The protagonists of this study are basically deprived of the ability to lead a sedentary lifestyle and can become 'stuck in mobility'. Applying a mobilities perspective, this chapter makes an argument for the need to theorise the downsides of mobility that has so far been rather neglected in literature.

[Chapter 5](#) shows that migrants experience law implementation as highly unpredictable, arbitrary and as a matter of 'luck'. The chapter draws on [Veena Das' \(2004\)](#) concept of 'illegibility' to explain that the power the state holds partially lies in the difficulty for people to anticipate when and how state authorities strike. Such unpredictability is a result of the complex entanglement of actors and the always provisional and messy nature of migration law implementation which has a highly disempowering effect on migrants. The chapter argues that the unpredictability of law implementation forces migrants to rely on rumoured information, which influences their decision-making and plays a significant role in migrants' navigation of the uncertainties they encounter. Rumours transmit relevant information about law implementation or opportunities and influence the course of migrants' journeys. They also hold a subversive force as they generate new hopes and opportunities that help people overcome the challenges resulting from their social and legal marginalisation.

[Chapter 6](#) disentangles migrants' ambivalent relationship with the law from a socio-legal perspective on the migration regime. Rather than simply standing 'before' the law ([Ewick and Silbey, 1998](#)) – and thus outside of it – migrants with a precarious legal status frequently seek to act 'with the law' ([Ewick and Silbey, 1998](#)) in order to use it to their advantage. However, they often get caught up and lost within legal procedures when trying to legalise their presence, simultaneously feeling trapped by the law. The chapter conceptualises migrants' tactics as they navigate migration laws and

policies. These tactics can both involve practices of avoiding the law (such as eluding states' law enforcement) or practices of appropriating the law (such as engaging in legal proceedings in the hope of regularisation). Finally, this chapter discusses the issue of marriage, which is one of the last resorts to legalise a migration project. The chapter focuses on migrants' relationship to, and navigation of, the law and further discusses marginalised migrants' agency.

Given the mutual interrelatedness of migrants' journeys and state control practices, the concluding chapter returns to the question of how we can theorise migrants' agency in the face of an increasingly repressive migration regime. It asks what conclusions we can draw from the incompleteness of migration control for its effects on individual migrants. I argue that a long-term perspective on border struggles, on the one hand, reveals how migrants' endurance indeed poses a challenge to the smooth implementation of laws. On the other hand, I contend that states react to this endurance by putting in place new measures which attempt to turn migrants' endurance into exhaustion. Instead of celebrating migrants' resistance and capacity to navigate their way through a repressive migration regime, the chapter concludes that a long-term perspective on migrants' interrupted journeys exposes the hidden and silent forms of violence unfolding from such a vicious circle of mutual contestations.

## **Intricate Migration Policies in a Heterogeneous Europe**

Migrants' interrupted journeys are circumscribed, slowed down or spurred on by a range of structural factors like regulatory frameworks or socio-economic and political conditions. Instead of presenting a rather traditional 'context chapter' that systematically introduces relevant legal, political, social and economic circumstances within which these journeys take place, I adopt an alternative approach: in this chapter, I 'follow' Walid, one of my main research participants, on his interrupted journey through Europe since he arrived in Italy more than a decade ago. Indeed, his accounts have inspired and informed much of this research project, and I believe it is helpful to thread his journey through this chapter in order to illuminate some of the many factors that shape the course of migrants' movements in Europe. The chapter thus focuses on Walid's trajectory to see what places, laws and other aspects have been relevant for his navigation of the migration regime. It touches on a number of experiences shared by most of my interviewees – such as being frequently uprooted from different places, staying in the asylum system, being subjected to deportations within Europe and working in precarious conditions.

Tracing an individual's journey reveals the many twists and turns people face when trying to secure their stay. I will recount Walid's trajectory in a relatively chronological manner and describe certain stages of his journey, but I will also insert extended excursions to present country-specific information or particular policies which will offer essential information and provide an overview of the context shaping migrants' experiences and tactics. Such an approach also avoids conveying an all too orderly view of the current migration regime with its many – often conflicting – institutions, laws and actors. The aim of this chapter is thus to provide an initial insight into the countless aspects that contribute to the course of migrants' journeys, and by doing so the chapter offers a first mapping of Europe's intricate legal frameworks, highlighting the multi-layered, multi-sited and 'multi-actored'

nature of the European migration regime. The micro perspective on an individual journey allows to examine the consequences of such macro structures on migrants' lived experiences but also to consider how migrants challenge the smooth implementation of the law.

Legal frameworks on the supranational, national and subnational level shape migrants' living conditions. Different fields of law – such as asylum law, immigration law and social welfare law – and their inherent controlling or caring functions circumscribe migrants' practices and tactics as well as their experiences of in- and exclusion. These include supranational legal instruments such as the Geneva Refugee Convention, national regulations on the regularisation of illegalised individuals as well as subnational asylum reception conditions. However, this chapter does not provide an exhaustive description of relevant laws and factors that matter for the formation of migrants' trajectories – nor does it account for all the differences between individual nation states or the uncountable number of subnational policies affecting migrants' lives. It would be impossible to provide a detailed elaboration on relevant migration and asylum policies not only due to the sheer number, but also the fast-changing nature of said policies. The conceptualisation of who is illegalised and who can obtain a residence permit – and under what conditions – is subject to constant change and contestation. This is reflected in the high number of changes to asylum and migration laws on the European, national and subnational level (Bloch and McKay, 2016; Eule et al, 2019). What was true some years ago – and what my interlocutors might still refer to, as it has affected their pathway throughout Europe in the past – might already be different now. It is thus essential to keep in mind the volatile nature of legal frameworks.

A particular catalyst of such changes was the 'long summer of migration' in 2015 (Hess et al, 2016b), framed by many politicians, journalists and scholars as Europe's 'migration crisis' or 'refugee crisis' (De Genova and Tazzioli, 2016; Crawley et al, 2017). The research for this book was conducted when hundreds of thousands of people seeking protection arrived in Europe, and although most of my key research participants had come to Europe before 2015, many of them were still affected by the arrival of so many newcomers in one way or another. Some took advantage of the temporary border openings in 2015, while others were negatively impacted because the reception of protection seekers was indeed in 'crisis', which led to overcrowded housing facilities and delays in receiving the outcome of a legal procedure. In addition, the framing of refugees' arrival in 2015 as a 'crisis' was highly effective and was instrumentalised by different actors. For instance, it helped legitimise more restrictive migration policies and border control technologies, and was used by right-wing politicians in their nationalist endeavours (De Genova and Tazzioli, 2016; McMahon and Sigona, 2018). Many of my interlocutors also felt the increasingly negative media attention towards unwanted migrants

shortly after the burgeoning of civil society initiatives for the support of refugees (Colombo, 2018). It is important to emphasise, however, that this period has not seen the emergence of something radically new in terms of the functioning of migration control or in terms of migrants' practices. Rather, this so-called 'refugee crisis' has manifested and accentuated already existing problems, which is why this book will focus less on the crisis itself than on these very issues (Geddes and Scholten, 2016: 2; Eule et al, 2019: 13ff).

However, let me turn now to Walid.

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### Walid's journey

'That is my life. It just goes like this – once here, once there.'

(Interview in 2014)

I first met Walid in Switzerland in 2011 when he was 17 and I was working part-time in an asylum centre. Since then, I have encountered him on many occasions and have 'followed' his zigzag journey throughout Europe. In 2014, he returned to Switzerland after spending a few months in Germany, and I asked him if I could interview him for my research project. We met at a café close to the shelter for rejected asylum seekers, where he was staying at the time.

He began by describing life in his North African country of citizenship. As the only child of his mother he had had to start working from an early age due to his mother's ill health and the fact that she was raising him on her own. Walid's mother died when he was about 12 years old, and his grief was still evident in many of our conversations.

It remained unclear to me what exactly had caused Walid to leave his country of origin. He always emphasised that he did not get any support from his relatives, particularly from his biological father who had started a new family with another woman. Walid felt he had been let down by his father. Later when Walid was in Europe, he was in touch with his half-sister from time to time, although his father forbade their contact later. This seemed to have weighed heavily on Walid because it made him feel very lonely, as he repetitively told me.

In 2009, when he was approximately 15 years old, he set out on a boat journey across the Mediterranean Sea to reach European shores. After a short stay in Lampedusa, Walid was transferred to and sheltered on another Italian island, where he stayed for three months before being told to return to his country of origin. However, he decided to disregard this order and to look for a job in Italy instead.<sup>1</sup>

Over the course of a few months, he tried to find employment and recalled: 'For three months, I was always walking, looking for work, looking for work. I also did not have money for food' (interview in 2014). In the hope of finding better opportunities, Walid decided to move on to France. Although he recalled having moved around a lot within

France, he was unable to find a job or accommodation. However, on occasion, he was able to help out as a cleaner or work in a coffee bar in return for food and a place to sleep.

'[In France], it was the same as in Italy. Once here, once there, never a place forever. ... Always changing the place. ... Because I had no friends, no family to help me. Also, no passport. Without a passport, you cannot work in France. In all Europe, without a passport, without papers, you cannot work.' (Interview in 2014)

### **Excursus 1: Italy – being invisible to the state**

As legal and safe channels to arrive in Europe are mostly reserved for people from a wealthy or well-educated background, Walid, like many of my interlocutors, set out on a perilous boat journey across the Mediterranean Sea to reach Italian shores. Due to its geographic location at the external Schengen border, Italy serves as an important country of arrival for many migrants entering Europe unauthorised from the African continent, a fact that was also reflected in my interviews. Indeed, about two thirds of my interviewees spent a considerable amount of time in Italy.<sup>2</sup>

As in Walid's case, quite a few of my interlocutors did not enter the asylum system in Italy although, according to the Dublin Regulation, the first country of arrival in Europe is responsible for processing asylum applications, as I will demonstrate later. Instead, several of my research participants tried to take advantage of the large informal economy in Italy – much like in other countries in the south of Europe (for instance, in Greece and Spain). In contrast to Northern and Central European countries, Italy's rather weak migration control apparatus makes it easier for people to take advantage of loopholes in the law and find work and accommodation without having the necessary documents (Tuckett, 2018: 12f; Campesi and Fabini, 2020: 52f). Interviews with NGOs and state representatives in Italy supported this observation, thereby confirming the country's implicit toleration of cheap and exploitable labour (Bloch et al, 2011: 1288; see also Triandafyllidou and Ambrosini, 2011). It was not uncommon to hear people's stories of finding temporary jobs but having to work in poor and abusive conditions and being deprived of essential labour rights given that they usually lacked the right to work. Indeed, the more precarious somebody's legal status is, the more they are at risk of exploitation in the workplace and unstable living conditions (Anderson, 2010; Dwyer et al, 2011; Waite et al, 2015b; Wyss and Fischer, 2022). Most of my interlocutors thus failed to find steady employment in Italy and were unable to make a satisfactory living while working temporarily



in such fields as gastronomy, tourism, the agricultural sector or low-level drug dealing.

Interestingly, however, some had quite positive memories of working in the Italian informal sector. They explained that in contrast to the often patronising and restricted everyday life in asylum structures, working in the informal economy brought with it a sense of self-determination – despite the highly insecure and precarious situation. I remember a conversation in the Swiss asylum camp with a young man from Tunisia who had worked for several years in Italy. Although he had obtained a work permit in Italy, he had come to Switzerland and lodged an asylum application because the economic situation in Italy was too unstable. Confronted with life in a strictly regulated asylum camp, he told me that he would probably return to Italy soon. He did not like it in Switzerland at all because the people were not ‘*libero*’ (free).

Yet, in order to be ‘free’, social networks are essential, particularly in countries like Italy that lack a well-functioning welfare system and where, in general, support structures rely predominantly on family networks (Busch-Geertsema et al, 2010). Social networks can alleviate the difficulty in finding accommodation, help to stave off particularly precarious phases and can provide the necessary connections to enter the informal labour market. The conditions in which illegalised people live thus vary remarkably depending on existing – or lack of – social networks but also on the availability of NGOs providing food, clothes, legal counselling or shelters (Waite et al, 2015a). For short periods, it might be possible to stay with acquaintances or relatives, which can help bypass a particularly destitute period. Many people, however, expressed that they struggled with the feeling of such idle dependency on others. Moreover, such opportunities are mostly short-term solutions, and people need to find other channels to secure food and more permanent accommodation.

Almost all of my interlocutors recalled periods of sleeping rough in Italy and other European countries, for instance in parks or abandoned trains. During my stay in Italy, the homelessness of migrants with a precarious legal status was omnipresent. This is supported by studies and reports on the intersection of homelessness and precarious legal status (FRA, 2011; Rosenberger and Küffner, 2016). The people I met and visited in Italy were forced to find makeshift solutions, such as sneaking unauthorised into refugee camps, or renting a room from fellow citizens while working in the informal economy.

As Walid noted in the earlier quote, it is difficult to find work without the required residence permit. He had travelled across Italy and France but had only managed to work from time to time in exchange for food and shelter. Despite Italy’s high demand for unauthorised workers (De Wenden, 2010; Ambrosini, 2015), finding employment is challenging, even more so if

people – like Walid – lack a social network to assist with accessing informal employment. Several people told me that if they could not find work, it would be very difficult to obtain state-funded support in Italy. Due to the country's inadequate reception system and integration programmes, this was even the case for registered asylum seekers or those who had been granted a residence permit (Triandafyllidou and Ambrosini, 2011; SFH, 2016). Experiencing precarity and exploitation when working informally was often a reason for people engaging in onward movement, in the hope of finding better living conditions elsewhere, for instance, by lodging an asylum claim. Thus, precarious living and working experiences are strongly linked to migrants' interrupted journeys and also explain the observed intersection of asylum and so-called irregular migration to some degree.

During Walid's first few months in Europe (and additional months in the years to come), he remained *invisible* to state authorities in order to avoid the implementation of the law, mostly detention or deportation. At other times, he became *visible* to state authorities, as when he later entered legal procedures in the hope of receiving state support or of regularising his status. Importantly, this distinction does not directly concern the legality of somebody's presence on a given territory. For instance, rejected asylum seekers are not permitted to stay, but some of them remain visible to state authorities in order to gain access to accommodation and health services, yet remain at risk of being detained or deported due to their illegal presence. Migrants who find themselves in a precarious legal situation thus move not only between countries and different legal statuses, but also between visibility and invisibility in their relationship with state authorities.<sup>3</sup>

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### Walid's journey

It remained a little unclear what Walid's life in France looked like and how long he had stayed there. He said that after a few months, he gave up trying to find stable employment and decided to move on to Switzerland where he submitted his first asylum application in Europe. In Italy, he was apparently unaware of the right to lodge an asylum claim. In France, however, he said, he did not request asylum because this would not be an option for people from his country of origin. When I asked him why he decided to go to Switzerland, he noted, 'I was looking for a new chance'.

During the first months in Switzerland, he was sheltered in two different federal reception camps for asylum seekers at the Swiss border before being transferred to a transit centre on a cantonal level where he stayed for six months. Later, he was again moved to another accommodation.

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## **Excursus 2: Into legality – entering ‘asylum’ in Switzerland**

When Walid arrived in Switzerland, he entered ‘asylum’, as most of my interlocutors referred to it when describing being registered as asylum seekers.<sup>4</sup> Filing an asylum application involves becoming visible to state authorities and getting tied up in a complex set of bureaucratic and legal procedures. This stands in stark contrast to living invisibly and thus (mostly) out of sight for states’ control (and care) mechanisms.

The status ‘asylum seeker’ guarantees a temporary legal condition and protects people from deportation while their application is pending. Thus, throughout the refugee determination procedure, their presence in the host state is lawful and they should be granted access to support structures as defined by the Reception Conditions Directive in the case of EU countries or by the Asylum Act in the case of Switzerland. Yet, the status of asylum seekers is bound to numerous restrictions, such as granting only limited access to the right to work or to receive social welfare.

Although this book is about people who have (almost) no chance of obtaining asylum or another protection status and whose claims have been (repeatedly) rejected, the asylum regime has played an essential role in all of my interlocutors’ journeys, which is why this section will introduce some relevant information on the European asylum system with a particular focus on Switzerland.<sup>5</sup> Also, it is important to note that the European approach to asylum increasingly overlaps with Europe’s general fight against so-called irregular migration. As O’Nions writes, ‘the illegal migration agenda has come to dominate the CEAS [Common European Asylum System] as asylum is viewed narrowly as a matter of immigration control and, perhaps more fundamentally, as a security concern’ (2014: 76).

Although Switzerland is not part of the EU, as an associate member it has signed both the Schengen acquis and the Dublin Regulation and furthermore has aligned its asylum law considerably to that of the EU (O’Nions, 2014: 5). The Schengen acquis with its 26 signatory states officially entered into force in 1997. With its establishment, internal border controls were abolished whereas the external borders of the Schengen area are increasingly guarded by a common European approach including the European Border and Coast Guard Agency FRONTEX, EU-wide databases storing information on migrants as well as the negotiation of readmission agreements with so-called third states, which aim to facilitate the forced return of illegalised migrants (Geddes and Scholten, 2016; Soysüren and Nedelcu, 2020).

The central concern of the asylum system is deciding whether a person should be considered a ‘genuine refugee’. According to the 1951 UN Geneva Convention Relating to the Status of Refugees and the accompanying 1967 Protocol, signed by all European countries, a refugee ‘is someone who is

unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion' (UNHCR, 2010: 2). Crucially, whereas the Geneva Refugee Convention obliges signatory states to protect refugees from 'refoulement' – return to a country where their life or freedom is threatened – it does not grant the right to *seek* asylum, which would include providing legal and safe escape routes to Europe for those seeking protection (O'Nions, 2014: 8). Consequently, there is no guarantee for refugees to find a legal way to enter a given country. As a result, like Walid, every year thousands and thousands of people seeking protection set out on dangerous and often deadly journeys through deserts and across the sea.

The European attempt to create a CEAS and essentially to harmonise procedures regarding asylum has been high on the political agenda in recent decades. Its starting point was the Treaty of Maastricht in 1992, where EU Member States agreed on a common approach to asylum politics. Competences regarding asylum were gradually delegated from the national to the supranational level following the treaties in the past two decades (for further details on the Europeanisation of migration policies, see Good, 2007; Boswell and Geddes, 2011; Fischer, 2012). The CEAS provides guidelines for procedural standards regarding reception conditions, asylum procedures and return,<sup>6</sup> but also grants states a degree of sovereignty in deciding individual asylum applications. Despite the developments to harmonise national approaches to asylum and so-called irregular migration, differences with regard to implementation and reception conditions still abound (Good, 2007; NOAS, 2018).

Like most of my key research participants, Walid has applied for asylum in Switzerland. Because of its excellent economic situation, and despite its increasingly restrictive migration and asylum policies (Stünzi and Miaz, 2020; Huter, 2021), Switzerland remains an important destination for many migrants (D'Amato et al, 2019). When asylum seekers arrive in Switzerland, they are first accommodated in one of the reception camps where they can file their asylum applications and where personal data is registered. Later, applicants are often transferred to other centres – usually dispersed across the country. This distinction in first-line accommodation (for newly arrived asylum seekers) and second-line accommodation (for asylum seekers during the asylum procedure) is widespread throughout Europe, but not formally defined by the EU legal framework. As we will see in the following chapters, it is not only cross-border mobility that plays an important role in shaping migrant journeys, but also internal mobility, such as in this case of transfers between different asylum shelters.

In Switzerland, the State Secretariat for Migration (SEM) is responsible for examining an asylum application. An asylum procedure typically involves

a hearing where the applicant states the reasons for his or her request for international protection. In the further course of the procedure, the credibility of the reasons for escape, their compatibility with the Geneva Refugee Convention, and the lawfulness of a possible expulsion are examined (see also Gill and Good, 2019; Affolter, 2017; Poertner, 2017; Bohmer and Shuman, 2018). The duration of an asylum procedure differs considerably not only from case to case, but also from country to country.

There can be various outcomes of an asylum application. If a person is recognised as a refugee, she or he is granted asylum, which includes the right to work, to engage in family reunion and provides access to health insurance as well as social allowances if necessary (UNHCR, 2010). In the EU, people who do not qualify as refugees but who can provide evidence or ‘credible’ reasons that they would risk suffering serious harm on returning to their country of origin are granted a so-called subsidiary protection status (often also referred to as a humanitarian protection status). In Switzerland, they receive a ‘temporary admission status’, which is more precarious compared to the refugee status as it complicates access to employment, includes only a restricted right of family reunion and grants only limited access to social welfare. A third outcome of the asylum application is a so-called inadmissibility decision, which is when countries reject the processing of an individual’s application overall, mostly because of the Dublin Regulation (see later). As we will see, this happened to Walid in several countries during his stay in Europe. Finally, if an asylum procedure leads to the rejection of an application and if there are no legal obstacles to removal, the concerned person is obliged to leave the country or can ultimately be deported as her or his presence has been rendered illegal. If applicants are not granted international protection, they can lodge an appeal and their deportation is in most cases suspended until the appeal decision (European Commission, 2016: 11).

It is important to note that in Europe, there is an increasing political pressure to be ‘tough’ on asylum seekers, which is accompanied by a weakening of the protection granted to refugees (Good, 2007: 49) and increased questioning of the credibility of asylum seekers (Jubany, 2011; Affolter, 2021). The political tendency of limiting the possibility of asylum instead of extending its reach results in proportionally fewer admissions every year (Bohmer and Shuman, 2018: 2). As Bohmer and Shuman (2018: 6) write, ‘[a]sylum law is based on the idea of protecting people from persecution, but it has turned into a discourse about protecting the receiving country from potentially dangerous migrants’. The discourse on the ‘dangerous other’ has further fuelled a shift from ‘the goal of protection to prosecution and imprisonment’ (Bhatia, 2020: 40). These developments continuously affected my interlocutors who were viewed with suspicion when applying for protection or who were regularly labelled as ‘bogus’ or ‘economic refugees’ and thus approached as ‘undeserving others’ (see Chapter 3).

## Walid's journey

Shortly after his 18th birthday, Walid received a negative decision with respect to his asylum application in Switzerland. As he stated, his psychological condition deteriorated, he became more and more demoralised and even threatened to commit suicide. His hopes of legalising his status in Switzerland were dashed.

Some months after his asylum application was rejected, he moved on to Germany where he submitted another asylum request and was sheltered in a centre for young people in difficult personal situations. He recalled these months as good, mainly because he found a supportive social network and had the opportunity to take German classes and do an internship as a cook.

'I went to Germany to try another chance. However, there was also no chance. ... [In the beginning], there was a chance. I went to school and also did an internship. I did well. I did not do any bullshit or problems or stealing or ... I was always thinking for my chance, for life but the chance didn't come. Not yet. After eight months, the police took me back to Switzerland again. ... They said, "you have to go". This day, I made a problem. I hurt my hand ... with a Gillette razor. Yes, Anna, that's life. When I think positively, then the negative comes.' (Interview in Switzerland in 2014)

In accordance with the Dublin Regulation, Walid was deported back to Switzerland, where upon arrival he was detained for three days at the airport. He was then sent to the migration office, which in turn referred him to the cantonal social welfare office, where he could register for emergency accommodation for rejected asylum seekers. However, Walid spent only a few weeks in Switzerland before he left for Germany again. Due to his poor mental condition, he was admitted to a psychiatric hospital.

In all the time I have known Walid his health condition has always been a concern. Like his legal situation, his psychological state was always very unstable. He has spent months in different psychiatric clinics, has attempted to commit suicide several times and his arms showed scars from self-injury. His very mobile life, however, made it impossible for him to access any kind of long-term treatment.

Walid was always somewhat 'starving' to be integrated into a family and longed for the support and loving attention that this idea seemed to promise. In the German clinic, he told me, he had found friends, had 'made a family'. He said to me, 'if you behave well in life, there is always a family. However, always [just] for a moment. Not forever. In asylum, there is only shit. Once here, once there. Always changing' (interview in Switzerland in 2014).

Despite the impediments to engage in any kind of stable social networks, I was often stunned by Walid's skills in finding people to support him. His supporters came from very different backgrounds: volunteers and staff he met in asylum structures, squatters and activists who gave him shelter, women who adopted maternal roles, as

well as girlfriends. I was impressed by how quickly Walid adapted to different contexts. However, inclusion was mostly temporary. These contacts frequently followed a similar pattern: initially, there was mutual engagement in the relationship, but then at some point the relationship would end abruptly because Walid struggled with feelings of being patronised while simultaneously demanding support when he needed it. He was often very pessimistic about his future, and it became difficult for his supporters to cheer him up when he was in such a negative state of mind. In these moments, he kept saying 'I am tired', 'I have tried everything', or 'I am lost in this life', 'where is my chance?', 'I have no job, no love, no family.' Walid could bury himself in these feelings of being lost. At the same time, he also knew how to deliberately use these emotions to his advantage to evoke compassion in his social surrounding, which often secured him a place to sleep or at least some pocket money. However, many of these relationships fell apart. Yet, Walid manages to keep others going – often on a transnational level.

There were also times when I found him enthusiastic and very caring about others. For instance, he loved cooking for a group of people. Once, he invited me and some friends from the shelter for rejected asylum seekers he was staying at in Switzerland for his birthday, where he had gone to the trouble of preparing plenty of food for us and set it all out on a beautifully laid table.

During his second stay in Germany, the threat of being deported yet again to Switzerland soon became tangible, and to prevent deportation, Walid decided to move on to Belgium to submit a new asylum application. His claim was refused, and soon after, he applied for asylum once more in Luxembourg. After another rejection, he decided to go to Denmark with a friend, but was intercepted by the police on the way in Germany and deported to Switzerland where he was held for two days at the police station.

In Switzerland, he again spent several weeks in a centre for rejected asylum seekers before deciding to go to Italy, accompanied by an acquaintance from the same country of origin. Soon afterwards, I learned that Walid was in Austria. Again, he had entered the asylum system and started to set up a new social network. However, unsurprisingly, he was subjected yet again to the Dublin Regulation and after a few months, deported back to Switzerland.

### **Excursus 3: The Dublin Regulation**

Walid's back-and-forth movements between different European countries was strongly influenced by both deportations within Europe according to the Dublin Regulation as well as his attempts to subvert the implementation of this European policy, which resulted in his state of being 'once here, once there', as he framed it. Whereas his case might be a rather extreme example, most of my interlocutors were affected in some way by the Dublin Regulation and suffered from its disruptive implications (Schuster, 2011a; Belloni, 2016).



The Dublin Regulation – a central part of the harmonisation of asylum policies in the EU – is one of the main legal instruments introduced to combat the so-called abuse of the asylum system. Whereas the Schengen Agreement led to the opening of borders for citizens of the EU and its bilateral partners, the Dublin Regulation ‘closes’ internal borders to asylum seekers. Its main aim is to undermine so-called secondary movements by (rejected) asylum seekers and subsequent asylum applications in another state.

Based on different criteria,<sup>7</sup> the Dublin Regulation assigns the responsibility of administering an individual’s asylum request to a particular Member State so that a person’s asylum application will only have to be considered in one state. These ‘criteria establish a *principle of causation* that is, the state that has “caused” the entry of an asylum seeker is also responsible for processing the asylum claim’ (Kasperek, 2016: 62, emphasis in the original). The most frequently applied criteria is that of the country of first arrival, which leads to the states located at the EU’s external border being responsible for a proportionally higher number of asylum applications (Markard, 2020).

In 2003, the EURODAC database was introduced, storing fingerprints and additional personal data of asylum seekers, of people being found to be crossing Schengen borders illegally and of people found illegally present on the territory of a Schengen country (European Commission, 2013b). The database aims to guarantee the implementation of the Dublin Regulation by identifying applicants who engaged in onwards mobility and entered other Schengen states (O’Nions 2014, 78). The biometric information of these people is compared with the data already stored in EURODAC, and if a match is found the person in question can be deported to the country responsible for his or her case.

The whereabouts of ‘fingers’, as my interlocutors often referred to when talking about the country responsible for their case (pointing to the crucial role of fingerprint identification for the Dublin system), was a constant topic of discussion in conversations with people trapped in the European asylum and migration regime. Fingerprints are biopolitical traces of migrants’ movements across Europe and serve as important evidence for state authorities trying to track migrants’ subversive tactics. Some people recalled attempts to remove the outer layer of their fingertips to outsmart modern technologies of identification. However, skin grows back, and so does the marker of an individual’s identity.

A prerequisite for the successful functioning of the Dublin Regulation is the homogeneous implementation of asylum laws in all Schengen countries, as the regulation is supposed to ensure an equal assessment of applicants’ cases. Yet, despite the attempts of harmonisation in recent decades, it is clear that a truly common approach to migration law is far from being accomplished. The persistence of differences between countries is one of the weaknesses of the Dublin Regulation, which has provoked numerous critical comments



(see, for instance, [Ngalikpima and Henessy, 2013](#); [Hruschka, 2016b](#)). These differences consist of vast deviations regarding recognition rates ([Trauner, 2016](#); [Parusel, 2017](#)) and implementation practices ([McNally, 2017](#); [Eule et al, 2019](#)), but also the socio-economic contexts of different countries ([Brekke and Brochmann, 2015](#)). Consequently, the Dublin Regulation has been compared to a kind of ‘lottery’ ([Belloni, 2016](#)). Other critics have emphasised the regulation’s disruptive effects on protection seekers who become entangled in exhausting cycles of deportations back and forth across Europe ([Ngalikpima and Henessy, 2013](#); [Fratzke, 2015](#); see also [Chapter 4](#)). Importantly, the Dublin Regulation does not account for individuals’ aspirations as it lacks a mechanism that would allow asylum seekers to choose their destination country ([Eule et al, 2019](#): 53ff). Many of my interlocutors knew of the Dublin Regulation, especially if they had already been issued a Dublin transfer decision. However, in many cases, they moved on despite the risk of being deported within Europe – not least because they were aware of the uneven application of the regulation across the Schengen area because they hoped to get a better chance in a new place.

Despite the broad acknowledgement of a dysfunctional system over the past decade and the failure to meet its objectives, the Dublin Regulation continues to play a significant role in the European asylum regime and particularly in combating the ‘abuse’ of the latter. The arrival of hundreds of thousands of refugees in 2015 has once again heated the discussions concerning the Dublin system, when its implementation was de facto temporarily suspended. The narrative of the ‘crisis’ further nurtured calls for revisions of the regulation ([Hruschka, 2016b](#)). In September 2020, the European Commission presented their new ‘Pact on Asylum and Migration’ promising to ‘put in place a predictable and reliable migration management system’ and ‘more efficient and faster procedures’ ([European Commission, 2020a](#): para 3, para 8). According to this pact, which has not yet been ratified, people originating from a state with a low protection rate (below 20 per cent) would be subject to procedures most likely taking place in collective closed camps with the aim of swiftly issuing decisions on asylum and pledging to process returns as quickly as possible ([Engler, 2020](#); [European Commission, 2020a](#); [Markard, 2020](#)). The Dublin Regulation is due to be suspended but many of its regulations would be transferred to the new pact despite their flaws ([Engler, 2020](#); [Thym, 2020](#)). For instance, the ‘state of first entry criterion’ and the EURODAC database are likely to be retained ([Bakshi, 2020](#)) as is the failure to take into account individual preferences and wishes of protection seekers ([Bakshi, 2020](#); [Markard, 2020](#)). The prevention of so-called secondary migrations are planned to remain top priority ([Engler, 2020](#); [Hein, 2020](#)), which is for instance mirrored in the plan to immobilise protection seekers in closed asylum camps. Although these new developments have not affected the journeys described in this

book, it is worth mentioning that these suggested policy changes particularly target the group of people this book is about: migrants with low chances of obtaining asylum who are highly mobile within Europe.

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### **Walid's journey**

After Walid's deportation from Austria to Switzerland, insecurity and unpredictability weighed heavily on him. He was acutely aware of the risk of deportation to his country of origin. Also, he missed his friends and supporters in Austria, which is why he decided to go back there. This was in 2015 when Austria was witnessing the arrival and transit of hundreds of thousands of refugees. Walid, for once, experienced being needed by many volunteers who were supporting the newly arrived refugees. With his language skills in both Arabic and German, he could voluntarily work as a translator and became immersed in a network of volunteers.

I was sometimes in contact with a woman who supported Walid during his stay in Austria and who also offered him a place to stay. After a few months, she called me early one morning. Apparently, the police had forcefully removed Walid from her home at 7 am and he was once again on the way to Switzerland. She sounded very upset and shocked by the police's violent intrusion into her home where she lived with her small children.

After returning to Switzerland, Walid's mental state worsened again, and he talked about wanting to die. He was again admitted to a psychiatric clinic. Later, he submitted a reconsideration of his asylum case with the help of a legal counsellor. Two months after his release from the clinic, Walid's case was yet again rejected. His legal representative appealed against this decision, which, however, only resulted in a further rejection. Walid's ongoing mobility beyond Switzerland prevented him from submitting a so-called case of hardship, which requires at least five years of residence in Switzerland. All legal channels for regularisation in Switzerland seemed to have been exhausted. Walid's fear of deportation to his country of origin grew, and he was afraid to live in state-provided accommodation for rejected asylum seekers where authorities could easily find him in the event of his deportation. During this time, however, Walid started to become embedded into a new social environment in Switzerland, which provided him with housing for a few weeks.

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### **Excursus 4: Re-entering illegality – the case of 'non-removed persons'**

As described earlier, there are different degrees of visibility of illegalised individuals to state authorities. From Walid's example, we can see that there were times where he lived in hiding and stayed with friends and acquaintances. There were other times where he was registered in Switzerland and received

so-called emergency aid, which encompassed accommodation, allowances for food and access to healthcare. The periods of time when somebody's unauthorised presence is known to authorities often follows the rejection of an asylum application or after a Dublin deportation has been enforced. People whose application for protection has been rejected subsequently stay in the country illegally. If they do not leave the country immediately, their illegal stay is often known to the authorities, which puts them at particular risk of law enforcement. Nevertheless, not all of them are instantly deported from the country's territory.

Rosenberger and Küffner (2016) use the term 'non-removed persons' to refer to migrants who have been issued removal orders and whose presence is known but whose deportation is for various reasons postponed. Non-removed persons occupy the so-called 'deportation gap', which has been defined by Gibney (2008: 149) as 'the gap between the number of people eligible for removal by the state at any time and the number of people a state actually removes (deports)'. The European Commission estimates that more than one million non-deportable people live on EU territory (Rosenberger et al, 2018: 1), indicating the challenge for states to smoothly implement expulsion orders. According to Gibney (2008: 150), states face several challenges when deporting individuals. First, if an individual is firmly integrated into local social networks, impending deportation could lead to protest activities, which can challenge the enforcement of a deportation order (see also Ellermann, 2009). Second, there are individuals who get 'lost', respectively who abscond, and thus for obvious reasons cannot be deported. Lastly, 'unreturnable' migrants cannot be expelled due to humanitarian and legal constraints on deportation (Gibney, 2008: 150). This may be the case due to the lack of a readmission agreement with the country of origin or due to health issues of the deportee in question.

The deportation of many of my interlocutors, although not officially postponed, was not (yet) completed at the time of my interviews for a variety of reasons. This was the case for Walid, who constantly expected or feared the deportation to his country of origin. At various times, he was registered with the cantonal authorities for several weeks in a shelter for rejected asylum seekers without any attempt being made to deport him, although Switzerland and Walid's country of origin had signed a readmission agreement that should facilitate such forced removals from Swiss territory. I am not aware of the reasons why authorities did not enforce his deportation. However, this points to the fact that deportations are not always easy to implement. In Italy, a member of a supranational organisation explained that the country simply does not have the infrastructure to deport everyone who is eligible for deportation. Moreover, deportation is a task that no one likes to do, as a migration official in Switzerland and an employee of a supranational organisation in Austria explained to me.

The deportation gap produces a paradoxical situation whereby states do not grant a person permission to stay on their territory but struggle to exercise their sovereign power for different reasons. As a consequence of their limited capacity to remove illegalised individuals, states increasingly develop a two-fold strategy: on the one hand, they try to make possible or accelerate returns (for instance, by signing readmission agreements with people's countries of origin). On the other, they develop disincentives (Ataç, 2019) to 'make life intolerable' (Suárez-Krabbe et al, 2018), with the ultimate aim of convincing people to leave of their own accord. Above all, this creates an unbearable situation for non-removed migrants getting stuck in a 'deportation limbo' (Lindberg, forthcoming) where inclusion into the host society is severely restricted as they are not allowed to work, as they receive only minimal social allowance and are under constant risk of detention and deportation.

According to the EC-Return Directive 2008/115, EU Member States are responsible for the situation of deportees whose removal is postponed or not possible to enforce (Rosenberger and Küffner, 2016). The directive proposes 'a general, albeit rather vague, set of safeguards for irregularly staying third-country nationals pending return' (FRA, 2011: 19). Yet, it obliges European states to guarantee access to certain fundamental social services such as healthcare, basic education for minors, basic conditions of subsistence according to national law (FRA, 2011). De facto, this is very unevenly applied across Europe and even within single nation states (Rosenberger and Küffner, 2016). In Italy and France, for instance, rejected asylum seekers have no rights to accommodation (FRA, 2011; Ataç, 2019) and might only receive support from humanitarian associations or their individual social network.

In Switzerland, Article 12 of the constitution guarantees minimal assistance to anyone residing on Swiss territory who is unable to provide for his or her own basic needs, including people without a valid residence permit. This emergency assistance, however, covers only a fraction of the social assistance benefits received by Swiss citizens or people with a residence permit. It differs from canton to canton but is in all cases very precarious. Most of the accommodation is in remote areas, and shows a complete lack of privacy because residents have to share their rooms with several other persons. In some cantons, people are even sheltered in underground military bunkers.

This example of how Switzerland treats rejected asylum seekers reflects a trend in European migration governance hinting at an increasing convergence of migration control practices and social services (Ataç and Rosenberger, 2019). De Coulon (2019) speaks of 'regular illegality' in the case of people living in Swiss emergency aid accommodation, where they have access to basic rights but where they are simultaneously subjected to a rigid regime of control – and are constantly at risk of being detained<sup>8</sup>

or deported.<sup>9</sup> This tension forces people with a precarious legal status to constantly weigh the stakes and to decide whether they want to accept state support and risk being detained or even deported, or whether they should go into hiding in order to escape state control, at least for a while, but at the same time increase the danger of not being able to meet their basic needs. I remember how difficult it always was for Walid to weigh up these risks.

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### Walid's journey

In 2017, following the last rejection of his case, and given the very tangible threat of deportation, Walid went to Italy. His transnational solidarity network got in touch with Italian activists. With the help of a lawyer, one year later, in 2018, Walid received a humanitarian status.<sup>10</sup> However, he lost these documents only a year later, as they were only temporarily valid and Italy introduced new restrictions on humanitarian permits (Boitiaux, 2018). Instability and precarious living conditions still define Walid's situation.

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## Excursus 5: The heterogeneity of Europe – a pathway into legality in Italy

Whereas Walid exhausted the legal channels in Switzerland, Austria and Germany, he managed to obtain a legal status in Italy, which is, however, temporary and therefore again precarious. His trajectory through the European asylum and migration bureaucracy exemplifies the heterogeneity of Europe despite its envisaged common approach towards asylum and migration.

Earlier, I touched upon the proliferation of vast disparities regarding recognition rates and reception conditions, which ultimately lead to significant discrepancies concerning the prospects of obtaining a protection status in different countries (Schuster, 2011b; Ngalikpima and Henessy, 2013; Hruschka, 2016b). Thus, while the EU influences national asylum and migration policies (including the Swiss one), many differences between European states still prevail (Geddes and Scholten, 2016). The European migration regime is characterised by a 'multi-level governance' assigning different responsibilities to different tiers of government such as the supranational, the national and the subnational level (Spencer, 2018).

The EU's focus on harmonising different national approaches of governing migration has largely been concentrated on the prevention of unwanted migration and on the tightening of Europe's borders (O'Nions,

2014: 5; Bloch and McKay, 2016). Thus, while laws regarding asylum, return and deportation have been aligned to a certain degree (Geddes and Scholten, 2016: 144), other migration policy areas have remained rather un-Europeanised. This is particularly the case with policies regulating labour migration, admissions and integration (Geddes and Scholten, 2016: 17). Hence it is essential to consider both the effect of the EU on national migration and asylum policies and the simultaneous proliferation of national differences.

In addition, not only the laws but also the ways they are implemented differ significantly across Europe even in cases of a harmonised law such as the Dublin Regulation (Eule et al, 2019). Certain countries (such as Germany and Switzerland) are known to apply the regulation in rather strict ways – and enforce a proportionally large amount of Dublin deportations whereas others (like Italy and Spain) are known for their somewhat lax implementation of the Dublin system (Fratzke, 2015; Takle and Seeberg, 2015). Significant differences can also be observed with regard to the recognition rates of refugees. For instance, while in 2016, 57 per cent of Syrian refugees were granted asylum according to the Geneva Refugee Convention in Germany, in Italy, this was the case for 93 per cent and in Hungary for only 1 per cent of the people (Burmam and Valeyatheepillay, 2017: 49).

Regularisation schemes are another policy area where the national level continues to be decisive and where consequently significant national differences prevail. The term ‘regularisation’ describes state procedures conferring ‘legal residence status upon third country nationals who are without any legal status or otherwise lacking the right to remain’ (Kraler et al, 2014: 5). Technically, asylum procedures can also be understood as a regularisation mechanism. However, commonly, regularisation refers to legalisation procedures concerning people whose asylum claims have either been rejected or who have never initiated an asylum procedure. Such regularisations mostly require a minimum time of residence in the host country and evidence of ‘integration’ into society. Furthermore, humanitarian considerations can also play a decisive role (Kraler et al, 2014: 6). Almost all European states have some kind of regularisation mechanism for illegalised people, but the approaches and number of applicants who succeed in regularising their status vary considerably (Kraler, 2011: 297).

Two different state approaches to regularisation can be distinguished (Ambrosini, 2018): on the one hand, collective amnesties, which are not part of the regular migration policy framework and are only effective for a limited period of time. These schemes are particularly common in Southern European countries. On the other hand, there are, typical for North-Western European countries, case-by-case regularisations, which are mostly issued for humanitarian reasons.

Southern European countries have frequently applied a ‘kind of micro-social do-it-yourself approach’ (Ambrosini, 2018: 80) on migration. Italy, for instance, has issued a number of amnesties based on migrants’ inclusion into the labour market (Ambrosini, 2018). Since 2002, the country has authorised three amnesties that have regularised nearly one million people (Kraler, 2019: 100). Similarly, Spain has enacted large-scale regularisation programmes legalising the status of hundreds of thousands of people (Kraler, 2019: 100). Italy has also managed legal entry through annual quotas resulting in ‘mini-regularisation programmes’ (Triandafyllidou and Ambrosini, 2011: 252). The so-called ‘flow decree’ sets an annual quota of workers who will be admitted to the Italian labour market (Ambrosetti, 2009; Tuckett, 2018). Employers act as intermediaries in the regularisation procedure, which renders migrants’ legalisation largely dependent on their employment. This suggests that regularisation is justified by the demand for cheap, flexible and docile labor in certain labour segments (Ambrosini, 2018: 64). Under pressure from the EU, Southern European countries formally gave up such regularisation strategy in 2008 and instead now follow a case-by-case strategy (Kraler, 2011; Ambrosini, 2018). Nevertheless, Italy authorised a further two amnesties in 2009 and 2012 with more than 400,000 applications (Ambrosini, 2018: 63). Contrary to Italy, and like many other North-Western European countries, Switzerland has not allowed collective amnesties. An exception to this was the recent ‘Operation Papyrus’ in the (liberal) canton of Geneva, where around 3,000 illegalised migrants received a residence permit (Kaufmann and Strebel, 2021). They had to be considered hardship cases and prove their continuing stay in Switzerland for at least five years (in the case of families) or ten years (in the case of single people), as well as lack of a criminal record.<sup>11</sup>

Instead of collective amnesties, Switzerland usually adopts a case-by-case approach where applicants have to prove severe personal hardship in order to qualify for legalisation. The assessment of a case is based on the person’s ‘integration’, her or his family situation, financial conditions, time of residence and the possibilities of reintegration in the country of citizenship (Morlok et al, 2015; SFH, 2015). Importantly, the prospects of economic integration play a decisive role for individuals’ chance to obtain residence papers, pointing to the neoliberal rationales of such schemes (Wyss and Fischer, 2022). Rejected asylum seekers can only be legalised after five years of continued presence in the country and only if their place of residence was always known to authorities (de Coulon, 2013; Morlok et al, 2015). Cantonal authorities have considerable discretion in the assessment of hardship cases, resulting in significant variations regarding the number of applications and acceptances of hardship cases from one canton to the other (Morlok et al, 2015).



Importantly, all regularisation opportunities involve the requirement of becoming visible to state authorities and thus entail the risk of deportation in the event the process is unsuccessful. Hence people have to carefully consider the risks and opportunities involved in engaging in such legal procedures. In addition, the high degree of mobility my interlocutors show makes it particularly difficult to fulfil the requirement for regularisation, as evidence of long-term residence in the host country is often one of the conditions for obtaining a residence permit.<sup>12</sup> Walid, for example, never lived in one place for a long period of time because he kept losing legal proceedings, because he lacked stable social networks, or employment in the informal labor market that would cover his basic needs, but also because he was repeatedly pressurised to abscond in order to avoid detention and deportation.

This section has emphasised the proliferation of disparities in national migration governance. Of course, there are also other differences between the various European countries that are not related to migration law and its implementation, but which nevertheless play a role for the protagonists of this book. These include, for example, the economic situation of a country, the language, which can facilitate or impede social and economic inclusion, but also the existence of migrant communities, which can provide essential social networks.

This heterogeneity of Europe is reflected in migrants' everyday discussions about different countries and potential future destinations. While in the 'South' legal loopholes might allow some more personal freedom, North-Western European countries like Germany and Switzerland are considered as strict in terms of migration law enforcement, but also as places with intact state support structures that can temporarily help to bridge hardship. Oral exchanges among migrants about such differences between countries and regions lead to a specific mapping of Europe, which is shaped by migrants' experiences and aspirations (see also [Chapter 5](#)). This kind of mapping assigns different countries to different prospects, ranging from job opportunities, regularisation options, loopholes in migration law implementation but also the risks of being detained or deported. These images of particular European countries contribute to the shaping of migrants' movement.

## **Concluding remarks**

In this chapter, I have followed Walid's journey since his arrival in Italy more than a decade ago. His experiences in different European countries, within different legal frameworks and social contexts, is just one of many examples, and the description of his journey is not an attempt to draw a general picture of the situation of individuals in a precarious legal situation. With such a detailed account of one person's journey, I instead sought to emphasise the many aspects that affect migrants' living conditions. Walid's



story was drawn upon to provide a first mapping and impression of Europe's intricate legal frameworks and of the uncertain circumstances migrants have to navigate. His journey has also illustrated the cyclical experience of legal procedures and the exhaustion they cause. It is the overall sense of remaining in a limbo-like situation, of living in permanent transience, that defines the state of irregularity and creates the feeling of having no control over one's life. Some of my interlocutors have been stuck for more than ten years in such bureaucratic cycles of applying for different residence permits and being time and again rejected. They have tried their luck in numerous European countries and through different legal avenues without ever finding a lasting solution. This search for opportunities – and not least the continuing hope for legalisation – contributes to the formation of these complex trajectories.

The example of Walid has also shown that despite all the difficulties, people show impressive endurance in circumventing migration control practices (see also [Chapter 7](#)). Indeed, proportionally few illegalised migrants are actually deported to their country of origin ([Ambrosini, 2016: 148](#)), but this does not diminish the effect of deportation as an ever-present 'Sword of Damocles' hanging over migrants' lives, creating a persistent sense of uncertainty.

Notwithstanding the importance of legal frameworks for the experiences of people with precarious legal status, there are other relevant dimensions of the migration regime that circumscribe migrants' navigation of Europe. The [next chapter](#) takes a race- and gender-sensitive look at how negative public representations of migrants with a precarious legal status influence the implementation of laws and ultimately shape their interrupted journeys.

# Navigating Discourses: Masculinities, Racialisation and Vulnerabilities

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## Rachid's journey

I met Rachid in the federal asylum camp where I conducted a large part of my research. He always managed to keep himself busy in the facility, which was a challenge due to the idleness people were subjected to. Diligently, he made sure that all the plastic tea glasses that were scattered around the compound found their way back to the kitchen. In general, he was polite and seemed to get along with both the staff and the other residents.

In his North African country of origin, Rachid told me, he left school when he was 13 and started working from a young age because his family depended on his financial contribution. He remembered his youth as quite wild, with minimum control from his parents. He would meet up with friends, drive around on his scooter and play sports. He also experienced his first relationship with a woman – and was profoundly disappointed by her. However, he later married another woman with whom he had a daughter. This relationship did not last long, and Rachid's wife took their daughter and left the flat they shared.

As Rachid told me, it was these family problems, but also financial difficulties, that prompted him to go to Italy in 2006 when he was 29 years old. With the help of smugglers, he reached Italy by boat via Libya. His mother was already living in Italy with her new husband and supported Rachid during his first years there. Rachid hoped to work in Italy so that he could afford to divorce his wife – which he actually did after some time – and start a new life.

'I arrived in Italy. It was a different thing [to what I had imagined]. It was not what they say in our country. That is not true. There was no difference [to the life in my country of origin]. ... Even there was no work in Italy. Italy has become full, full, full of migrants. You don't find any work. ... I sold some things on the market. ... Later, in winter, I worked in agriculture. I collected olives, also oranges,

kiwis. ... And later, the law of 2009 came, the law to make the *sanatoria*, to make documents.' (Interview in Switzerland in 2014)

In 2011, Rachid succeeded in regularising his status in Italy due to a specific regularisation programme in Italy, the so-called *sanatoria*, which allows employers to apply for a residence permit for irregular workers so that they can legalise their stay and work activities (Sciarra and Chiaromonte, 2014: 123). Rachid told me that he had to pay 2,000 euros for someone to organise an employment contract for him, which was a requirement to qualify for the *sanatoria* programme (see also Tuckett, 2018: 15f).

With an Italian residence permit he was now able to travel to his country of origin, where he could finally see his daughter again, who was already five years old at the time. Back in his home country, Rachid wanted to give his marriage another chance, as he also wanted to be closer to his child. And so he married his daughter's mother for the second time.

However, Rachid soon returned to Italy for work reasons. This time he went to Central Italy where, he said, he sold merchandise on the beach. After a year, he moved back to his country of origin. This time he even resumed his former job as a taxi driver but was unable to earn enough money. Rachid remembered this time as difficult and recounted that he was constantly tired – 'both morally and physically'. Following the failure of their marriage, Rachid divorced his wife a second time and returned to Europe – but this time he left for France.

I asked him why he decided to go to France, to which he replied: 'Because I speak some French. I did not have difficulties in communicating with people. However, his situation in France was difficult.' He said that he did not receive any support from his fellow citizens living in France. 'They have changed, they don't help you. They have become French.' He stayed in France for four months but could only find work for a few weeks.

'I did not work for three months. I did not work. ... There is an association where you go and eat, take a shower. ... It's like Italy. ... You lose much time just for moving around.' (Interview in Switzerland in 2014)

Rachid still had valid papers in Italy, which allowed him to travel within the Schengen area, but not to work in European countries other than Italy. Lacking good contacts in France, it was not possible for Rachid to find a job in the informal labour market, and he decided to return to Italy where he also had to renew his residence permit. He was able to stay with relatives in Italy and tried for three months to find work, but again he was unsuccessful. Then he moved to a town in Northern Italy, hoping that the job situation would be better there.

'I heard that in [North Italian city] there is much work. But these are lies. There is nothing. I made requests at the work agency. I left my CV. However, nothing. It was like the first time [I came to Italy].' (Interview in Switzerland in 2014)

Rachid described how he was homeless during this time and had to resort to makeshift solutions. When a friend recommended that he apply for asylum in Switzerland, he hesitated at first. He said, 'I have never done asylum and I never thought about doing it'. However, his friend convinced him:

'My friend told me that they would give me some work. ... Better than having nothing at all. Even 10 francs a day or 20 francs is something. "You will find a place to sleep and take a shower" [my friend said].' (Interview in Switzerland in 2014)

Once in Switzerland, however, Rachid's asylum application was rejected within a short time because he had already obtained documents in Italy. After four months in Switzerland (including one month in a deportation prison), he was deported back to Italy.

A year and a half after our first meeting in Switzerland, I interviewed Rachid again, this time in Germany. He was now almost 40 years old and did not seem to be in good shape. Some of his teeth were missing and I got the impression his living conditions were still very precarious.

Rachid recalled that shortly after arriving in Italy, he left the country again and travelled by train toward Germany. Originally, he wanted to go to Sweden, but since it was winter and very cold at the time, he spontaneously decided to stay in Germany instead of moving even further north. During our conversation, Rachid compared his situation in Germany with that in Italy:

'It is good. No – it is the same thing but different. It is a little different. Also, there are opportunities. If you have papers here, it is not like Italy. It is expensive, but you can live. Without asking for asylum and all that. ... In Italy, I searched for two years for work. Two years! Here, I searched for two weeks, and I found something.' (Interview in Germany in 2016)

Rachid stated that upon arriving in Germany he was able to stay in a homeless shelter for some time before he then managed to arrange a room of his own at an acquaintance's place. Having made some contacts with Arab people in the city, he was supported in finding a job in the informal labour market. However, these jobs were only temporary and did not offer much stability. Nevertheless, at the time of our encounter in Germany Rachid seemed hopeful that he would soon be able to exchange his Italian documents, which he had renewed every year, for a permanent residence permit. This would allow him to work throughout the European Union. Regarding his Italian papers, he said, 'Italy has given me only documents. ... How can I explain? Their only value is [that they allow me] to cross borders. That is their value for me.'

I asked him how he feels now in Germany. He said:

'I don't feel well. ... I feel like when I came for the first time when I entered Italy without documents. That's how I feel now as well. ... You feel like a clandestine.

I became a clandestine after I had documents and everything.' (Interview in Germany in 2016)

After our conversation, we went for a walk through the city centre. At one point Rachid glanced at me and said, with a look of exhaustion, 'Without documents, you're worthless. I am nothing. I count nothing.' He had not yet succeeded in finding what he had wished for: 'It's my dream to live in peace. Live in peace. That's it. And afterwards ... when I have the means, I want to think about starting a family.' He expressed his desire to fulfil this dream in his country of origin, where he wanted to return and work as a cab driver again. But to do so, he would first have to earn enough money in Europe to be able to afford a car.

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When I switched off the recording device after my second interview with Rachid, he seemed worried about an observation he had shared during our conversation. It was a comment about how the world had changed after the 9/11 terrorist attacks and how it had become more difficult for Arabs (than for people from Latin America or India, as he said) to find work in Italy. Although I did not find his comment particularly problematic, he seemed to fear that it would put him in a potentially vulnerable situation, as suspicion of Muslims had become pervasive in the Western world. I was surprised by his concern, especially since Rachid had also revealed information that seemed more sensitive, such as regarding his informal employment and the acquisition of illegal documents – both aspects that put him at risk of prosecution. However, he seemed mainly concerned about being associated with terrorism or fundamental Islam.

Most of my interviewees came from countries with a high proportion of Muslims and identified themselves as Muslims. Only five of my key research participants from West Africa, and one from North Africa, had a Christian background. Much of the public discourse on unwanted migration today revolves around the association of migrants with militant Islam. In addition, images of migrants from Africa circulate, linking them to criminal networks (such as media reports on people from Nigeria who are often associated with drug dealing; see, for example, [RTL NEWS, 2019](#); [NZZ, 2021](#)). My conversation with Rachid shows how this public discourse about and portrayal of certain migrant groups permeates everyday interactions in that individuals feel pressurised to distance themselves from terrorism and criminal behaviour, testifying to the pervasive atmosphere of mistrust towards migrants – in particular male migrants with a Muslim background.

Migrant men are often portrayed as potentially dangerous in public and political discourse. It has been argued that such a representation is often instrumentalised to enforce and legitimise restrictive migration policies

(Scheibelhofer, 2017). This was the case, for example, after the ‘Event Köln’ (Dietze, 2016) when sexual assaults by ‘North African-looking men’ were reported on New Year’s Eve 2015 (see also Yurdakul and Korteweg, 2021). The incidents were highly publicised in the media, and political demands to expel ‘those who were believed to endanger post-feminist Germany’ (Boulila and Carri, 2017: 286) followed. This incident is just one of several cases where calls for the protection of women fuelled the demand for tougher migration law enforcement, serving nationalist agendas (Farris, 2017; Wyss, 2018).

These public discourses contribute to the social construction of certain migrant masculinities – particularly those with a Muslim and/or African background. Such racialised and gendered public images manifest themselves in the narratives and experiences of men with a precarious legal status who are often portrayed in the media and by politicians as ‘bogus refugees’ or discussed in the context of ‘asylum abuse’ in order to imply that they do not ‘deserve’ legal inclusion or access to support structures.

In this chapter, I will describe the group of people this book is about. However, I am not interested in delineating their socio-cultural ‘identity’. Given the heterogeneity of their backgrounds, this would be an impossible undertaking. Rather, I attempt to explore how this – however heterogeneous – group of people is legally, politically and discursively constructed. Bridging the literature on migrants’ ‘deservingness’ with work on the social construction of migrant masculinities, I examine the production of the ‘undeserving other’ and its impact on migrants with a precarious legal status from an intersectional perspective. Exploring the question of how gender-specific experiences of racism, criminalisation, but also incapacitation manifest themselves in the everyday life of male migrants with a precarious legal status, the chapter thus provides a counter-narrative to the public discourse by shedding light on the gendered experiences, affective needs and vulnerabilities of migrant men.

Some authors have rightly criticised that attributing vulnerability<sup>1</sup> to certain groups of people risks disregarding their agency (Ticktin, 2017). However, I use the term here deliberately because this book is about young heterosexual migrant men, who are often fundamentally denied vulnerability in political discourse, as vulnerability is usually attributed to women, children, people identifying as LGBTIQ\*, people with health problems and older people. Indeed, ‘gendered expectations regarding men’s agency and strength may actually increase their vulnerability’ (Griffiths, 2015: 483f). However, my point is not to label male migrants as vulnerable a priori, but rather to draw attention to certain male-specific vulnerabilities that arise from men being denied vulnerability.

The chapter first explores the question of how migrant men with a precarious legal status are portrayed in public discourse. With reference to

literature on migration and gender, the second section underlines the need for an intersectional analysis of men's migration processes. Such an analysis allows for shedding light on how the 'undeserving other' is a gendered and racialised social construction, which is based on the colonial image of the 'threatening foreigner'. Drawing on my fieldwork and interviews, I then explore how such gendered and racialised images of migrants affect law implementation, but also permeate into migrants' personal lives and push them to react to these negative representations. This chapter thus also illuminates how my interlocutors are forced to navigate not only complex laws and regulations, but also discourses and stereotypes that exclude and 'other' them.

### **Constructing the 'undeserving other'**

Given the heterogeneity of national and socio-economic backgrounds, migration motives and the fluidity of legal categories, I have already pointed to the difficulty of applying clear-cut categorisation to individuals with a precarious legal status ([Chapter 1](#)). Rather than focusing on a nationality, an ethnicity or a specific legal category of people, I have chosen to look at a group of people who are socially constructed as the 'undeserving other', thereby also not running the risk of perpetuating otherness on the basis of cultural attributions ([Abu-Lughod, 1991](#)). Instead, this chapter aims to reverse the gaze and examine how the European migration regime discursively, politically and legally creates 'undeserving others' in the first place and the consequences this has on the lives of those concerned. The ways my interlocutors are represented in the public are underpinned by gendered, racialised and classed rationales shaping their experiences of in- and exclusion.

In recent years, marginalised male migrants have been at the centre of media and political attention in European countries and have often been used as scapegoats to justify harsher border controls or security measures. Negative connotations such as 'fraudulent asylum seekers' or 'economic migrants' serve to discursively portray certain migrants as 'undeserving' and to distinguish them from those who are seen as 'deserving' ([Malloch and Stanley, 2005](#); [Sigona, 2018](#)).<sup>2</sup> Deservingness is 'a core and long-used tool of governmentality' ([Patel, 2015: 11](#)) and shapes the relationship of an individual to the state. In the context of migration, it refers to the 'extension of entitlements and social and citizenship rights to those who cross national boundaries' and defines 'whether or not [migrants] are viewed as deserving of such support, which in turn is based largely on the discursive framing of border-crossers' motives for migrating' ([Yarris and Castañeda, 2015: 64](#)). Consequently, attributions of deservingness are important preconditions for access to rights and support services – both in relation to state authorities

(Ataç, 2019; Kraler, 2019) and civil society actors (Kalir and Wissink, 2016). The legal procedures my interlocutors have experienced mostly define them as undeserving of protection – and in many cases, also of the right to work and reside in Europe. Such attribution of ‘undeservingness’ legitimises in turn the implementation of strict and often-excluding laws and practices (Lynn and Lea, 2003).

There are different grounds on which deservingness is attributed to non-citizens (Chauvin and Garcés-Masareñas, 2014): on the one hand, there are performance-based rationales (such as successful ‘integration’ in the country of residence) emphasising the neoliberal underpinnings of mechanisms of inclusion (Matejskova, 2013). On the other hand, there are vulnerability-based rationales, which are, for instance, related to a person’s persecution in the country of origin, or to health issues (Fassin, 2012). In my opinion, what is often missing is an intersectional analysis (Yuval-Davis, 2006) of those aspects that influence the assessment of deservingness. It is important to analyse the ways in which deservingness is attributed to some people and not others from a perspective that takes into account the role of race, gender and class. I will first focus on the role of race and class in this section, before then looking in depth at the role of masculinity in the attribution of deservingness in the next section.

The current production of the ‘undeserving other’ needs to be understood in a tradition of colonial othering (among many others, see, Said, 1979; Abu-Lughod, 1991) as the construction of the ‘dangerous male perpetrator’ perpetuates colonial thought patterns and knowledge categories (Castro Varela et al, 2010: 179), reproducing racialised images of non-European others. Processes of racialisation differentiate people based on attributions of ‘racial and/or ethnic subordination caused by societal, political and historical processes, which has constituted racial identities, privileges, and discriminations’ (Keskinen and Andreassen, 2017: 65). Importantly, these socially constructed and ascribed differences, in turn, normalise and legitimise power inequalities and are materialised in people’s everyday lives (Keskinen and Andreassen, 2017: 65) inflicting upon them structural violence (Galtung, 1969). This structural violence is inscribed in and reproduced through the precarity of migrants’ legal status.

Often, the racialisation of marginalised migrants is related to anti-Muslim racism that associates migrant men *a priori* with patriarchal Islam and the oppression of women (Hess et al, 2016a). Indeed, ‘looking “like a Muslim” is to become hyper-visible and racialized as a type of danger’ (Mayblin and Turner, 2021: 142), which is mirrored in the interview fragments presented later in this chapter. Such social constructions of the ‘other’ also determine who is seen as belonging to a national community – and especially who is seen as not belonging – and can thus serve the agenda of political nationalism (Dahinden et al, 2018, 2020). Lastly, racialisation



always intersects with class hierarchies. Attributions of ‘deservingness’ must therefore always be considered in the context of a neoliberal capitalism that includes the ‘other’ only under conditions of its productive labour force (Rajaram, 2018).

In short, ascriptions of (un)deservingness describe and affect the positioning of individuals within the migration regime, which in the case of my interlocutors manifests itself in the (legitimisation of the) precarity of their legal status. In the public discourse, the protagonists of this book are frequently represented as ‘fraudulent refugees’ or potential ‘perpetrators’, and, at the same time, due to their mostly low-class background they are not welcomed as skilled workers who promise to benefit the labour market, as they are often ‘unable to valorise their body power’ (Rajaram, 2018: 628).

### **Gendering the ‘undeserving other’**

In general, the ‘bad migrant’ is a man. (de Noronha, 2015: 9)

Discourses on unwanted migration, which subject male (often Muslim) migrants with a precarious legal status to a specific (racialised) suspicion are highly gendered (Allsopp, 2017; Scheibelhofer, 2017). As de Noronha argues in the earlier quote, the typical figure of the undeserving migrant is represented as male. Griffiths (2015: 469) notes that ‘gender is an unspoken but critical dimension of the creation and management of the “failed asylum seeker” immigration category’. And Khosravi (2011: 77) argues that ‘[i]n the case of Muslim men, the gender and racial aspects of the border intersect, making Muslim men the main targets of the current border regime’. Indeed the public discourse on the fight against terrorism is often blended with the discourse on unwanted migration, which is quickly identified as a major gateway for terrorists. Hence, migrant men run the risk of being perceived and socially constructed as dangerous. Whereas the male gender generally entails being advantaged, I argue that there are certain male-specific vulnerabilities worth mentioning, resulting from male migrants’ predominantly negative public image in combination with generalised attributions of male strength (Wyss, 2018).

Studying the effects of ascriptions of undeservingness from an intersectional perspective includes considering how ‘different social categories mutually constitute each other as overall forms of social differentiation or systems of oppression’ (Christensen and Jensen, 2014: 69). As Christensen and Jensen (2014: 69) write, ‘masculinity can intersect with other categories in specific configurations that challenge or even subvert male privilege’. The male gender of my interlocutors attributes them a particular position within the migration regime, an aspect that deserves still little attention in migration and border studies.

Until the 1980s, migration research mostly lacked a perspective on gender. Men were seen as the ‘universal reference’, which led to the invisibility of women in migration processes – even though women have always been present in migratory movements (Morokvašić 2015, 356). Whereas early studies on migration have often focused on single ‘young economically motivated male’ (Morokvašić 2015: 358), attention to the ‘feminisation of migration’ (Castles and Miller, 1998) has shed light on women’s migratory experiences (see also Phizacklea, 1983). The critique by feminist migration scholars resulted in increasing awareness of gender as an essential structuring aspect of migration experiences as well as of the governance of migration. This has led to a growing number of studies paying attention to women’s migration patterns and experiences (among many others see, Phizacklea, 1983; Morokvašić, 1984; Constable, 1997).

Whereas the invisibility of women in migration studies has been reduced, it has been noted that gender-sensitive explorations of male migrants’ lived realities remain rare (Krause and Scherschel, 2018) and that ‘gender’ is often used as a ‘substitute’ for women (Morokvašić, 2015). Similar to other research fields, engagement with gender more often addresses women than men, which strengthens the conceptualisation of men as the ‘unmarked’ category (Wyss, 2018). While research on precarious migration is often based on interviews where the majority of research participants are male (see, for instance, Collyer, 2007; Schapendonk, 2011; Bhatia, 2015), many studies nevertheless rarely consider gender as a structuring category of the migration process. In recent years, however, there has been an increase in contributions to constructions of migrant masculinities and male migrants’ experiences (see, for instance, Ahmad, 2011; Charsley and Wray, 2015; Griffiths, 2015; Allsopp, 2017; Ingvars and Gíslason, 2018; Scheibelhofer, 2018; Turner, 2019; Wyss and Fischer, 2021). Much of this literature draws on Connell’s (2005) book *Masculinities* and particularly her notion of ‘marginalised masculinities’, which refers to men who are disadvantaged, for instance, because of their class, their sexuality or race, and which thus takes an intersectional approach to study the lived experiences of men.

The representation of male migrants and refugees is ambivalent and revolves around a broad spectrum of racialisation, emasculation and criminalisation (Khosravi, 2009; Wyss and Fischer, 2021). In relation to male asylum claimants, for instance, Griffiths (2015) states a certain contradiction: on the one hand, they are demonised to a certain extent, which leads to a securitisation of migration policy, and on the other hand, men experience emasculation, as they are basically made dependent on authorities and support structures. Mainwaring (2016: 290) emphasises the temporality and spatiality of such ambivalent ascriptions: boat refugees may be portrayed as victims

on a dangerous journey across the Mediterranean Sea, only to ‘become risky, securitized bodies, possible villains, who must be detained’ after their arrival on European territory. This fluidity of representation is reflected in the interrupted journeys of my research participants, who move along a continuum between being surrendered to a humanitarian regime (Fassin, 2012) and having to grapple with securitisation, surveillance and lack of support. This highlights their requirement to adapt quickly to changing expectations and adjust practices and tactics to the respective context.

Some scholars have pointed to the productive role of gendered discourses regarding migrants with a precarious legal status (Dietze, 2016; Farris, 2017). Scheibelhofer (2017: 97), for instance, illustrates how political discourse in Austria on ‘foreign masculinity’ was used ‘to portray refugees as a threat to society, to delegitimise solidarity with them and to argue for restrictive measures’. Similarly, in the aftermath of the incidents in Cologne, the appropriation of feminist argumentation by conservative groups served to strengthen the narrative on the threatening Muslim migrant other, which ultimately was used for nationalist purposes (Boulila and Carri, 2017). As Ticktin (2016: 285) argues, ‘through a discourse against sexual violence, men of North African and Muslim origin are excluded as barbaric and uncivilized, and now as violators of women’s human rights’; sexual violence is indeed more likely to be problematised when it is perpetrated by the identified other.

What is often missing in contributions on migrant masculinities is an analysis of the consequences of such gendered and racialised images on migrants’ lived experiences (but see Griffiths, 2015; Scheibelhofer, 2018). As Rowe (2009: 19) has argued, whereas the vulnerabilisation of particular groups of women are ‘sound and defensible, the emphasis not only reifies patriarchal notions of feminine weakness but neglects the often severe vulnerability of particular groups of men’. While there is a certainly necessary trend towards growing awareness that migrant women need specific support (Hess et al, 2016a), I find it essential to explore how gender-sensitive measures are often accompanied by a certain de-vulnerabilisation of migrant men, who are implicitly presumed to be strong and who, as a consequence, receive less attention and support (Schuster, 2003; Freedman, 2007).

The negative image of (Muslim) migrant men has been very present in the narratives of my interlocutors and amplifies their feelings of exclusion, stigmatisation and precarity. In what follows, I am interested in how social constructions of foreign masculinity impact my interlocutors’ everyday lives as migrants, fathers, sons and partners. Thus, for the remainder of this chapter, I will focus on how these attributions impact and shape male migrants’ experiences of marginalisation and their navigation of the European migration regime.

## **Impact of gendered and racialised images on migrants' lived experiences**

Negative representations of migrant masculinities can result in experiences of general mistrust from authorities, during police checks in public spaces or within asylum structures. Drawing on observations and interviews, I demonstrate how the social construction of the dangerous (mostly Muslim or African) man becomes evident in gendered state practices and the private lives of people with a precarious legal status, but also how my interlocutors negotiate their public representation.

### *Everyday victimisation, suspicion and criminalisation*

The ambivalent public images of male migrants with a precarious legal status range from them being represented as 'deceptive, dangerous, and too undesirable to live in mainstream society' to being addressed as victims, resulting in emasculating and infantilising treatment within state structures (Griffiths, 2015: 483). These representations lead to equally ambivalent modes of governance: criminalisation and securitisation (Huysmans, 2000; Stumpf, 2006; Gerard and Pickering, 2013; Bhatia, 2020), on the one hand, and humanitarianism (Fassin, 2012; Campesi, 2015), on the other. Here, I will first show how the victimisation of individuals within the asylum regime subjected my interlocutors to a paternalism that gave them little room for manoeuvre and led to forced idleness that was experienced as profoundly emasculating. I will then argue that men are sometimes deprioritised compared to women when it comes to support structures. Finally, they are continuously exposed to criminalisation because of the gendered and racialised suspicions they face.

Being involved in asylum and other legal procedures, and thus visible and within reach of the state, people are compelled to be very compliant with a substantive body of state regulations. Bureaucratic guidelines, house rules within asylum facilities and limited rights regarding work and residence impose various restrictions on migrants' room of manoeuvre. Above all, asylum seekers are somewhat expected to lack agency as their victimhood is the prerequisite to be granted protection. Whereas the expectation to comply with the law is surely not restricted to protection seekers, in the case of people with a precarious legal status, adherence to laws and rules permeates everyday life more than is the case with citizens, and the 'care' of the state is highly conditional and only available to those who abide by the many rules imposed on them.

Besides having control over the people in their care, collective centres for asylum seekers draw on the image of the refugee as a victim. People who have often lived for years under difficult conditions, who have despite all the impediments eked out their way to Europe and who have shown extreme

strength and endurance are suddenly denied agency and decision-making ability. Consequently, asylum seekers experience a loss of control over their already heavily constrained lives.

The following quote from Khosravi's autobiography (2011) has always moved me as it so aptly depicts the process of 'becoming a refugee' when entering the asylum system. In his auto-ethnography, the present-day anthropology professor wrote about his arrival in a Swedish asylum camp after fleeing Iran:

Apart from the medical examinations of my body, I was treated, according to the most positive interpretation, as a child who did not know what was good or bad for him. The clientization of the refugee began as soon as she or he entered the camp. In the Arctic camp, I was educated to become a 'victim'. Neither lashes on my back, time in prison nor a year of statelessness could take away my dignity as the Arctic camp did. Until then, I might have lacked documents and a state, yet I was full of life, will and courage. All that I lost in the process of 'becoming a refugee'. As a Rwandan man in a refugee camp put it, 'they educate us to be refugees' (Malkki 1995: 222). (Khosravi, 2011: 271)

The excerpt clearly highlights the powerlessness that the migration regime produces – moreover, that it demands. In Sweden, says Khosravi, he experienced the deepest degradation. While he had lived before under often precarious and dangerous conditions, now he was de facto denied agency and dignity. In the refugee camp in Sweden, he was 'educated' to behave like a refugee. Such victimisation not least renders people more manageable and controllable.

In the refugee camp where I conducted one year of participant observation, residents followed a meticulously structured daily routine, where they were not allowed to work and where they received weekly pocket money which could also be suspended if residents broke any house rules. If residents did not show up for cleaning duties, they were not allowed to leave the camp the next day. Another sanction – mostly used in cases of conflicts – consisted of making people sleep outside the camp in a container – the so-called 'consciousness cell' (*Besinnungszelle*). Many residents criticised being stripped of any decision-making capacity, which made them feel they were not being treated like adults. Everyday life in the camp was thus heteronomous and surveyed, not least due to the constant presence of security staff in these centres, entering dormitories without knocking and thus invading residents' privacy. Many people experienced the restrictions as degrading, patronising and often dehumanising.

Everyday life within enclosed asylum facilities is furthermore defined by an enforced idleness. Many of my interlocutors told me how they suffered

from being dependent on state support and not being allowed to work and earn their own money. In a follow-up interview in Austria, in 2016, Daniel from a West African country, remembered his time in the Swiss camp: 'Staying in asylum makes you a nobody, like a guy in a wheelchair.' This idleness is accompanied by feelings of worthlessness and de-personalisation as there is little space to accommodate individual needs and aspirations. This experienced denial of 'personhood' was a recurring theme in conversations around the condition of illegality but especially around experiences within the asylum system. Some people explained how they felt like animals, their daily purpose being to eat, sleep and be housed in a kind of 'poultry house' as Obinna, a young man from Western Africa, described it.

Because people who are awaiting an asylum decision rarely have an opportunity to work, they are faced with an abundance of 'empty time' in their daily lives: except for sitting in the courtyard, fulfilling one's cleaning duties, taking part in a limited number of occupational programmes or watching TV, there are not many things to do. In addition, the lack of money makes it difficult to do anything else.

In an article on gendered experiences of men living in a Tanzanian refugee camp, [Turner \(1999: 145\)](#) writes: 'In this situation young men are particularly challenged, as they are at a stage in life where they ought to be finding their place in society as fathers, husbands, protectors, and providers – in short, as men'. And [Charsley and Wray \(2015: 407\)](#) observe that male asylum seekers who are stuck in a limbo-like situation while waiting for a decision on their case often experience 'frustration over inability to fulfil masculine role aspirations' ([Charsley and Wray \(2015: 407\)](#)). This feeling of not being able to comply with their ascribed gender roles was similarly present in the narratives of my interlocutors.

In asylum camps, we can thus see how processes of victimisation intersect paradoxically with processes of securitisation, which yet again are reflected in the ambivalent and gendered depiction of migrants with a precarious legal status. Increasingly comprehensive security measures are legitimised by the prevailing image of threatening masculinities. The resulting enforced idleness, in turn, has gendered repercussions on male migrants who fail to accomplish the expectations associated with their ascribed breadwinner role.

Furthermore, the image of the male 'unwanted' migrant in combination with the assumption of men generally being less vulnerable than women and children results in a certain deprioritisation of men in terms of care services. This has repercussions on the ways they are sheltered, supported and controlled in the asylum system ([Schuster, 2011a: 402](#); [Morokvašić, 2015: 359](#)). For instance, this is reflected in the gender-specific accommodation of (rejected) asylum seekers in Switzerland. In certain cantons, men are housed in extremely precarious conditions in underground military bunkers with no natural light. Women are also housed

in very poor conditions, but tend to have a little more privacy and slightly better accommodations.

Adama, whom I met for a follow-up interview in Italy in 2015 after he had been subjected to a Dublin deportation from Switzerland, had no access to state accommodation while he was waiting for a decision on his asylum request. He explained that this would not be the case for women: ‘They “overwelcome” them!’.<sup>3</sup> This is of course an over-exaggeration, but NGO workers in Italy confirmed that female asylum seekers are more likely to access accommodation than men. Griffiths (2015: 474) states that ‘there is a systematic assumption that male refused asylum seekers can cope with hardships that would not be the case for their female counterparts’.

The implementation of deportations from Germany to Afghanistan is another example that demonstrates the de-vulnerabilisation of men and their elevated risk of being exposed to rigid law enforcement. German authorities argued that it is legitimate to deport healthy young men to Afghanistan – despite the confirmation by several human rights reports that the security situation in the country had in fact exacerbated (Schuler and Klormann, 2017; UNAMA, 2018). Importantly, the official discourse on these deportations emphasised that only male Afghan delinquents, people posing a threat or people who refuse to disclose their identity are deported. However, newspaper reports have argued that some of these deportees did not, in fact, belong to any of these groups (Bauer et al, 2018; see also Sökefeld, 2019). This supports the argument that political discourse often draws upon the image of the threatening migrant man who does not deserve protection to legitimise harsh enforcement of laws. Gendered images of migrants thus become manifest in migration control practices, which aggravates feelings of exclusion and processes of othering, and notably shows how men are perceived as more threatening and less deserving of protection and care.

The security regime established within the Swiss asylum camp, which was located on a military compound, epitomised the suspicion directed at migrants with a precarious legal status. Regular body checks upon entering the facility, the constant patrolling of security staff and locking away of personal belongings such as mobile phones made many people confide in me that they felt they were being treated like prisoners. They told me that they had not expected it to be like this in Europe. Sometimes, police would come to the camp, handcuff a person and take him or her away to deportation prison. After such incidents, residents were shocked and worried, realising that similar things could soon happen to them as well. Many wondered: how could a refugee be taken away like a criminal? This reflects a Europe-wide trend towards encampment and the convergence of criminal and migration law (which scholars have termed ‘crimmigration’; Stumpf, 2006) and is closely linked to the perception of migrants as a threat to European security.



The topic of police control and racial profiling frequently caused a lot of outrage, and people shared their personal experiences of it. When I explained my research project to Ebrima, a young man from Western Africa, he suggested writing some pages of my book himself as he could tell me a lot about how ‘crazy’ Switzerland is. Just the weekend before, he had gone to a nearby city with his friend. At the central station, while waiting for a bus, the two men were stopped and checked by four policemen. They had to open their mouth and stick out their tongues so that they could be screened for drugs (the image of the West African cocaine dealer is prevalent in Switzerland). They were then ordered to return to the camp, even though asylum seekers in Switzerland are allowed to move within the country.

Noah, another camp resident from Western Africa, described a similar experience. Clearly very agitated, he showed me a police report and told me about his experience of being frisked at the train station while he was taking a stroll. According to the report, the way Noah was looking around and over his shoulder was interpreted as nervous and therefore suspicious, which is why the police decided to stop him. The report also described Noah’s resistance to take his hands out of his pockets and to show the police his documents. Noah said that this was not an accurate depiction of the incident. Also, he could not understand why, for no apparent reason, the police wanted to check his identity. Allegedly, due to Noah’s resistance and his unruly behaviour, the police handcuffed him in the middle of the train station. When they saw his nationality on his asylum seeker’s papers, they asked him if he was carrying any drugs. The report mentioned that his unwillingness to disclose his hands, together with his nationality, was interpreted as an indication he was involved in drug dealing. When Noah resisted being searched, he was taken to the police station. In the end, they found nothing and therefore could not hold him. Noah could not understand why someone could be treated this way just because of his nationality. These examples and many other similar observations indicate that men are more at risk of being exposed to racial profiling (Schwarz, 2016: 258; Naguib et al, 2017). Thus, on the one hand, men can be denied support because they are assumed to be able to cope with destitution, and on the other, they are more exposed to everyday racialised suspicion than female migrants, which again reinforces the dominant discourse on dangerous migrant men.

Curiously, migrants are categorised along the lines of (un)deservingness by different actors – state officials, non-state agents as well as civil society actors (Kalir and Wissink, 2016). They thus all take part – albeit in different ways – in the reproduction of the social construction of undeservingness. A man providing pastoral care to asylum seekers in a Swiss refugee camp, for instance, admitted being most worried about shy Eritrean women who risked being deported to Italy according to the Dublin Regulation. ‘How



can such a woman survive there? ... Because a man, I think, can somehow muddle through.'

To give another example, it can be more difficult for men to access legal counselling than women. Isabella, a legal advisor in Switzerland, reflected on being often overwhelmed by the number of people who needed her support and on how she had to decide whom she would help. Whereas she found it obviously challenging to select the cases that were 'worth' dealing with, she admitted that her decision was usually based on the chances a case has. When asked whom she would support in trying to prevent a Dublin deportation, she said: 'In the case of Italy, I am really consistent: single women – whether young or old – and families with children. ... As for the men, I must honestly say that they have zero chance in the case of Italy' (interview in Switzerland in 2015). Overworked NGOs know that male applicants are less likely to win an appeal against a negative decision than women or families. Hence, as in Isabella's example, appealing might more often be considered a waste of time if it concerns a young and healthy man, which renders access to legal support again highly gendered. Coutin (2000, 79) aptly remarks that although advocates challenge decisions by the state, they reinforce official and unofficial legal notions at the same time and therefore 'become, in an odd way, agents of the state'.

The support individual migrants receive, or the control practices they must fear, are thus dependent on gendered perceptions of vulnerability. Migrants, in turn, internalise, appropriate, or reject such ascriptions of deservingness. The next part of the chapter explores how these images are reflected in the self-representations of individuals with a precarious legal status.

### *Ambivalent self-representations*

'In Italy, I have a white page. The police have never arrested me for something. ... I found out that these people [who apply for asylum] are not good people. ... People come to get asylum, but they are not really [here] to get asylum, to get the documents, to get a job. ... They don't like anything. ... They always [say], "I don't like this, I don't like that". What is this? ... This is not our country. ... These people [working in the asylum system] help them, they have the right to put them far away from the city, far away like that. They analyse you. ... They see how you behave. ... They don't find difficulties with me because I was always like that.' (Interview with Rachid in Switzerland in 2014)

The negative public image of male migrants was reflected in many of my interlocutors' accounts. Being aware of their limited chances to obtain refugee status and of their ascribed lack of deservingness, research participants

frequently distanced themselves from other migrants by highlighting their integrity, honesty and their willingness to work, thus acting upon the experienced public suspicion and their negative image as perpetrators, potential terrorists or abusers of the social welfare system – just as Rachid did in the interview fragment above where he highlighted having a clean slate in comparison to many other asylum seekers who, in his opinion, would just complain about restrictive rules and who would not be willing to work.

Within asylum structures, an atmosphere of general suspicion is omnipresent (Poertner, 2017; Bohmer and Shuman, 2018; Jubany, 2018; Borrelli et al, 2021a). It infiltrates asylum hearings and determination procedures, which rely to a large extent on the ‘credibility’ of the motives of flight presented by asylum seekers to bureaucrats responsible for the assessment of individual cases (Good, 2007). Asylum seekers need to present a coherent and credible story that complies with the Geneva Refugee Convention, as their narratives will be considered by decision-makers who are trained to disbelieve them (Affolter, 2021).

Jamal, a man in his mid-thirties from a South Asian country who had spent the past 16 years trying to legalise his status in various European countries (Chapter 4), suffered from the recurrent experience of not being believed during asylum hearings. He told me about acquaintances who had apparently lied and invented a ‘good story’ and had been granted a residence permit. He said he could not do this. Evidently exhausted from being repeatedly denied access to a legal status, he stated, in a calm voice:

J: Nobody is going to believe me. ... If you talk to someone they say ‘Ok, this guy is just talking bullshit.’ ... Nobody is going to listen to you. Refugees are just like cheap, cheap things, you know? ... Anna, it’s not just once, it’s not twice, I told you it’s [been] 16 years. Ok? If you go, if you put yourself at that point as a refugee. If you go inside somebody’s interview. She or he looks at you like, like a ... to be honest like someone ... someone asking you for a lot of money. ... It happened so many times [that] she or he said straight to me, ‘You’re lying.’ Ok? Straight. ... Because these people [other asylum seekers] make nice stories. Yeah. And they have everything. Nice. Lying stories. Because I know about their lives. ... Ok? And I never did that.

A: Why [not]?

J: Because, you know, from inside I’m not good at lying. (Interview in Germany in 2016)

Jamal’s continuing experience of not being believed aggravated his feeling of being stuck in a limbo-like situation. Like him, other interviewees felt that they were not listened to or believed when they expressed their individual

problems and needs, but that bureaucratic decisions were simply made as quickly as possible to fit their story into a box. Several research participants – like Rachid and Jamal in the earlier quotes – emphasised that they were honest and distanced themselves from the many others who apparently lied to tailor their personal stories according to the requirements of the Geneva Refugee Convention. Thus, by highlighting their honesty, they underlined their deservingness – not least because of ‘the import placed on truth-telling in the asylum system’ (Griffiths, 2012: 8). This insistence on being honest reflects the constant experience of mistrust by the host society, and also during court proceedings aimed at establishing the (in)credibility of a person.

Jamal felt unfairly treated during the asylum procedures he experienced in different countries as he was convinced that he actually deserved a protection status which in fact, many of his fellow citizens were granted. Others among my interlocutors were only too aware of the slim chance they had of being granted a protection status. Fozi, for example, a man in his early thirties from a Maghreb country, made it clear that he knew there was no legal ground for him to obtain a residence permit through an asylum procedure. Nevertheless, what seemed to be more important to him – like in Jamal’s example earlier – was that he told the truth during the asylum hearing. He had travelled a long way from his country of origin via Turkey and the Balkans and had been intercepted by the police while crossing the border from Italy to Switzerland. Exhausted from his long journey across the so-called Balkan route, the option to ‘rest’ in an asylum shelter seemed like a good temporary solution – and importantly, it prevented him from being arrested due to his illegal entry into Switzerland. As a result, he submitted an asylum claim, which was, however, swiftly dismissed, as Fozi had been registered in Hungary. I asked him if he understood why the Swiss authorities rejected his asylum claim.

F: I don’t know why. But I did not do anything here in Switzerland. I did not get any *Strafe*, any punishment, I don’t make a fight, I don’t have any problem with anyone, but they give me a negative. ... Maybe after one year, two years, if I make papers [somewhere else], I will come back here. ... I want to come back here to tell [them] ‘I am a good person.’ Ok? They don’t accept me, but I will be back.

A: Do you think that they believe you are a bad person?

F: Yeah, yeah. They gave me negative. (Interview in Switzerland in 2015)

Fozi assumed here that decisions are based on the individual applicant’s good, or respectively bad, behaviour. During the rest of the interview, he demonstrated some understanding of asylum and migration policies

that included, for instance, information on the Refugee Convention and the Dublin Regulation. However, he clearly saw the rejection of his case as being at least partially caused by authorities' – in his opinion, wrong – assessment of his character and not because they failed to identify a need for protection in his case.

This kind of distancing is partially a result of the experience of stigmatisation by the racialised images of male migrants. People from countries with a high proportion of Muslims, for instance, often distanced themselves – mostly without me even mentioning the topic – from terrorists and Islamic fundamentalists. Others affirmed that they would behave correctly and thus resisted the image of the criminal foreigner. Gendered and racialised representations and the negotiations thereof by male migrants thus become manifest in their self-representation as illustrated by the following quote of Hedi, a man in his forties, also from a North African country:

Well, there are things where the police are right. You know why? Because there are many [of my co-nationals] here. I have heard that they steal. That they do many strange things. They are right. ... I came to Switzerland and have not done anything abnormal. I don't steal. ... You have to respect me. Not all [of my fellow citizens] steal. ... Not all [of them] are bad. One needs to respect that. (Interview in Switzerland in 2014)

Interestingly, he reproduced the prevailing image of North Africans as petty criminals and thus sought to 'de-criminalise' himself by dissociating himself from his fellow citizens. Like Hedi, many research participants felt compelled to distance themselves from the behaviour of other people in a similar situation and stressed that they were not involved in criminal activities.

Interlocutors who admitted being involved in criminal activities (such as low-level drug dealing or stealing), underlined that due to their precarious situation they felt forced to 'misbehave' and emphasised that in the past, they could never have imagined committing a crime. They thus justified their illegal activities with the fact that they had been driven into precarity.

The constant suspicion and criminalisation of migrants – and above all, the state of 'deportability' (De Genova, 2002) – also holds an inherently disciplinary dimension (Wyss and Fischer, 2022). 'The incessantly communicated threat of possible deportation that, along with the quest for employment, structures the lives of undocumented migrants represents a first-class disciplinary instrument that serves perfectly to keep the lowest echelon of an increasingly split society both in line and at arm's length' (Wicker, 2010: 240). Staying away from, however petty, criminal activities

might thus help people to remain inconspicuous and avoid interception by the police or deportation to their country of origin. An employee of a supranational organisation working in the field of migration in Austria told me, for instance, that authorities prioritise the deportation of criminals (note also the aforementioned discourse on deportation of Afghan nationals), which might simultaneously delay the removal of people who show a more law-abiding behaviour.

Besides being portrayed as villains or as a threat, migrants with a precarious legal status are in many contexts treated as victims devoid of agency and incapable of deciding for themselves what is good for them. Presumably, not least as an attempt to act upon this infantilising image, some of my interlocutors depicted their journeys to and through Europe as a kind of adventure, proudly narrating how they outsmarted border police and managed to resist state control attempts.

I first met Obinna in Switzerland. He had previously applied for asylum in Italy. After his claim was rejected, he appealed but found himself without shelter or other state support, which is why he decided to move on to Switzerland to lodge an asylum request. However, according to the Dublin Regulation, his case was dismissed. Fearing deportation to Italy, he decided to go back on his own. When I met him for a second interview in Germany, where he had moved on after his return to Italy, he recalled this decision:

It wasn't what I wanted, to [leave the Swiss asylum camp] with handcuffs. So, I had to just go to Milan by myself. That's how I went to Italy. Yes. It was December, something like that. ... It was cold. But it was good. Because it was my idea. No one told me to do that, it came from me. I had to do this. For what came out of it, I had to blame myself. I don't need to blame someone else. ... Follow your mind. Either good or bad. That's how I went to Italy. (Interview in Germany in 2016)

Even in the most constraining and patronising context, Obinna found a way to frame his actions as self-determined. Other interlocutors presented their journeys more in terms of an ongoing adventure (see also [Bolay, 2017](#)). Representing successful border crossings as empowering moments can be understood as a re-appropriation of manhood in a context otherwise experienced as infantilising and emasculating. [Palillo \(2018: 28\)](#) demonstrates in an article on male asylum seekers in Italy how his interlocutors renegotiated their masculinity by framing their journeys to Europe in a heroic way and thus 'contesting the dominant image of the passive, feminized, helpless subject at the heart of "the genuine refugee" public narrative'. Such a self-representation highlights 'endurance, courage, and competence' ([Palillo, 2018: 28](#)), characteristics associated with masculinity.

During two lengthy interviews with Mustapha, a man in his late twenties from a North African country, he told me in detail about his numerous border crossings. His journey took him in a sometimes-erratic order from a North African country to Turkey, to Bulgaria and Serbia. After several failed attempts to enter the EU, he went back to Turkey, from where he later managed to enter Greece and then arrived in Switzerland. He applied for asylum but was soon deported to Bulgaria, the country responsible for processing his asylum case. Shortly after his deportation, he moved on again and managed to go to Germany.

As with other research participants, Mustapha's narrative focused heavily on border crossings, which he depicted as difficult, risky and dangerous (which they certainly were). Mustapha represented himself as tricking border guards, mastering mapping technologies to find his way, helping others to do the same and being resistant to the numerous failures he experienced (such as being imprisoned when intercepted or being deported to a country where he had stayed before). After he was forced to leave Switzerland, he continued to keep me informed about his experiences via Internet communication. He even sent me pictures of himself and a compilation of animals that were potent symbols of strength (like horses, wolves or lions). Sometimes these animals stood in a dark forest, illustrating the danger of Mustapha's clandestine border crossings, where he spent nights and days in the woods. He once wrote to me: 'I admit that I am a lion. ... Unfortunately, I leave [probably, he meant 'live'] [the] life of monkeys and traitors.' His self-representation shifted here from very masculine symbols to illustrations of his restricted and constrained masculinity, which were also present when he later sent photographs of empty beer bottles, signifying his desperation during the first period in Germany.

Like Mustapha, Khaled, a man in his mid-twenties from a Maghreb country, portrayed himself as an unafraid adventurer – only fearing Allah, as he said – who is not bothered by his very uncertain and unstable lifestyle. He said that not even the boat journey to Italy, where he apparently lost two friends and where many others on the same boat died, frightened him. At the end of our interview, he opened up a bit and told me that he missed his family and that his situation was quite unbearable to him. Like the earlier narrative by Mustapha, I got the impression that Khaled's self-representation as a resistant and opposing character was one way of dealing with the fact that he lived in a fenced asylum facility, an environment which he described as agonising. Emphasising successful border crossings and overcoming hardships instead of focusing on daily suffering and the resulting weakness was probably not least a strategy to avoid losing face as a man in front of a female researcher.

The ambivalent public images of migrants with a precarious legal status thus become manifest in people's self-representation in a similarly ambivalent way. On the one hand, some emphasise their peacefulness or honesty to

counteract prevailing images of them as potential threats to society or as being untrustworthy. On the other hand, some of them portrayed themselves as resistant and being capable of subverting states' attempts of control, thus re-appropriating their masculinity within a highly disempowering setting.

### *Contested intimate lives*

Research has highlighted the gendered and racialised nature of street-level bureaucrats' decision-making (Scheel and Gutekunst, 2019). For instance, bureaucrats' assessments of binational couples who apply for family reunion are often fraught with suspicion towards foreigner men who are accused of only marrying to obtain residence permits while their female partners are in turn believed to need protection from such alleged abuse (Lavanchy, 2014; Gutekunst, 2016). In contrast, and as I have argued elsewhere (Wyss, 2018), several of my interlocutors who told me about their present or current relationship with a European woman felt themselves vulnerable because of their precarious legal status, which rendered them dependent on others' support. In combination with the negative image of male migrants, the precarious living conditions put pressure on such relationships. Degrading public images, mechanisms of illegalisation and marginalisation infiltrate lives and evoke further gender-specific vulnerabilities of migrant men with a precarious legal status.

A precarious legal situation makes it extremely difficult to fulfil the role of the male breadwinner as access to work is severely restricted – if not illegal. Not being able to work and depending on others is experienced as humiliating, as Jamal, for instance, expressed to me. He wished to be finally able to work 'like a man'. Goran, from a Balkan country, said:

'If you are without a status, you cannot marry, right? ... You are not registered here. ... Look, I come to Switzerland, I don't take asylum. I don't take anything, I live with you – just with you. I don't pay anything, no food, no ... nothing at all. ... How can I get married?' (Interview in Switzerland in 2015)

Also, Obinna could not even imagine thinking about creating a family in his situation, living in an asylum shelter awaiting the decision of the migration agency:

'I'm alone. Life of a man begins when he has a responsibility. When there's responsibility. Responsibility is like ... he'll be thinking of how to feed and to put food on someone else's table. Like a kid or a wife. ... That's when life begins. You take care of someone else. You are now an adult man.' (Interview in Germany in 2016)

In these two quotes, Goran and Obinna expressed that their inability to provide for a partner or children due to their precarious living conditions prevented them from starting a family or getting married because they could not fulfil their role as breadwinners.

Also, men's marginalised position in Europe puts them in a vulnerable position in relation to their families back home who might hope to receive support in the form of remittances. I got the impression that most relatives in the countries of origin were not aware of the very precarious living conditions of their brothers, sons or fathers. Hedi, a man in his forties from a North African country, felt embarrassment towards his teenage son but at the same time missed him dearly: 'I cannot talk to my son [on the phone]. ... What would I tell him? What would I tell him?' (interview in Switzerland in 2014).

Some interlocutors also shared their embarrassment because they engaged in criminal activities, which put them in an ambivalent position towards their families in the country of origin. Family members back home might be aware of certain aspects about their son's or husband's life in Europe, but many difficulties are not easy to tell – such as living in a camp environment or being involved in criminal activities like a man from Western Africa who was selling drugs in Italy emphasised:

'This one is very dangerous, this money. At the same time, you say that you are Muslim. You are Muslim and you are doing this thing ... So that money that you send to your mum. Then, she "eats" that money. In our Islamic way, it's not good. ... So, Anna, for me, if I get a job. Even if they pay me [only] 20 Euro a day, I will do it.' (Interview in Italy in 2016)

On the one hand, people told me that they felt responsible for supporting their families financially. On the other hand, there were no legal job opportunities, which compelled them to obtain money illegally to fulfil their family's expectations. However, they were too embarrassed to share information about their living and working situation with their families.

Several interlocutors also told me that the prevailing mistrust against male migrants affected their encounters with European women. Mustapha had the impression that women in Europe were hesitant to meet him when they learned that he was from a North African country. Karim, who also originates from a Maghreb country, had an Austrian girlfriend. He recalled a meeting with a judge of the Federal Office for Immigration and Asylum, during which the judge warned the girlfriend of Karim's impending deportation. According to Karim, the judge said to his girlfriend, 'You don't need this person. You can leave this person because he will get a negative anyway and has to leave Austria' (interview in Austria in 2016). As a result, the couple



separated because Karim's girlfriend was afraid that the couple would not be able to stay together in the event of deportation. Karim's precarious legal situation thus not only put his stay in Europe at risk but directly affected – and made impossible – his relationship.

Eymen who was relying on emergency aid in Switzerland after his asylum request had been denied similarly experienced how his legal situation put a severe strain on his relationship with a Swiss woman. Not only did his living situation in a collective accommodation for rejected asylum seekers make it almost impossible for the couple to have any privacy, but Eymen's girlfriend also had doubts about the genuineness of his feelings. Eymen recalled the situation as follows:

'We talked a lot, until we came to the topic of papers. She did not have trust one hundred per cent or something like this. ... She wanted to know how I am thinking about getting papers. I told her I want to find a solution on my own. Okay, we were two. Maybe we can find a solution together. But, for example, I did not want to ask her to get married ... so that I will have papers. That was an important issue in our relationship. ... I wanted that she feels good with me, that she feels that I am a man ... that I am normal ... that I have a real feeling for her. If she can tell me this, we can find a solution to marry for this reason. But I don't want papers, and I have really told her that I don't want this. Up to now, I don't want to have a relationship in order to have papers.' (Interview in Switzerland in 2015)<sup>4</sup>

As this interview fragment shows, borders penetrate even romantic relationships. Eymen struggled to convince his girlfriend of his genuine feelings as she feared that he was only with her for the sake of regularising his status (Wyss, 2018).

In her ethnographic study in a German consulate in Morocco, Gutekunst (2016) underlines how border control practices overlap with gender constructions, and thus how *doing border* overlaps with *doing gender*. She explored how the discourse on forced marriages has gendered repercussions on officials' decision-making. Consulates scrutinise couples applying for a family reunion in Europe to identify sham marriages. Gutekunst observed that Moroccan men applying for reunion with their spouses in Europe are construed as dangerous and deceiving. According to her, the reproduction of the social construction of the single Muslim man as a danger and the incorporation of patriarchy is even reinforced by authorities' victimisation of the German partners (2016: 235). Again, the racialised and gendered image of the fraudulent male migrant is highly effective in that it can lead to the rejection of applications at the consulate (see also Scheel and Gutekunst, 2019). Whereas being a woman often implicates a disadvantage in struggles

over mobility, [Gutekunst \(2016: 235\)](#) shows how, in the context of her research, it can also be an advantage.

Compelled to unmask potential sham marriages, street-level bureaucrats doubt the ‘authenticity of love’ of couples who want to get married and live in the same country. In a way, this reverses the relation of marriage and the ‘authenticity’ of romantic feelings as the marriage is not seen as proof of love but rather as a cause for suspicion ([Wyss, 2018](#)). Eymen did not want to ask his girlfriend to marry him as this might have intensified her concerns. However, by not getting married their relationship was severely jeopardised as Eymen was constantly at risk of deportation. Similarly, Karim shared the impression with me that European women are always scared that a relationship would only be about obtaining a visa.

Several of my research participants who were – or had been – in a relationship with a European woman thus found themselves in a vulnerable position as a result of the asymmetrical relationship because of their illegalised status. On the one hand, their illegalisation put pressure on them to get married; on the other hand, they feared that they would fit the image of the fraudulent migrant who pressures European women to marry in order to obtain residence papers. Migrants’ illegalisation and the effects of racialisation thus make it difficult for marginalised migrant men to engage in intimate relationships and to build a family, both of which are strongly shaped and constrained by migration control practices. However, as I show in [Chapter 6](#), marriage is indeed often the only way for many to legalise their status.

## **Concluding remarks**

An intersectional approach considers a variety of entangled social divisions including the negative implications of a precarious legal status. I have argued that the governance of migration is predicated on social constructions of the ‘undeserving other’ that legitimise the implementation of restrictive measures and the ignorance of male migrants’ vulnerabilities. It is important to acknowledge the racialised and gendered underpinnings of such representations and their effects on migrants’ lived realities.

Migrants with a precarious legal status are sometimes depicted as victims, which manifests in patronising and often degrading state structures that are legitimised by humanitarian reasons. This also allows for state authorities to deflect how the current migration regime takes part in creating vulnerabilities, on the one hand, and on the other hand, it disregards the agency of migrants at the margins. At the same time, representations of male migrants as dangerous and criminal call for more securitisation of migration governance. Colonially shaped representations of the threatening male intruder are productive as they serve to legitimise restrictive policy making and harsh law enforcement. Migrant (Muslim) men are thus placed in

a difficult position: on the one hand, they are represented as a threat to European society and on the other, it is precisely this representation that leads to increasing precarity. It is essential to emphasise how these negative representations cause even more precarious living conditions and result in male-specific vulnerabilities.

Turning our focus to the discourse around labelling and categorising migrants helps us gain an understanding of how political and public discourse and legal classification mutually influence each other but also how many actors, contexts and policies are involved in corroborating or contesting the categorisation of certain groups of people. Concentrating on the discursive construction of migrant masculinity has thus brought literature on gender and migration into conversation with migration regime studies, which has to date rarely been done (but see [Amelina and Horvath, 2020](#)). I have demonstrated that the way migration law is set in practice relies strongly on gendered and racialised assessments of deservingness, which become manifest in the way migrants are perceived, categorised and treated. Simultaneously, migrants have to navigate these stereotypes by distancing themselves from negative images and creating new representations for themselves. They thus act upon these ascribed categories and challenge them. Furthermore, the chapter has highlighted the relevance of looking into how migrants' representations manifest themselves even in the everyday personal lives of migrants with a precarious legal status, for instance when they affect intimate relationships.

By underscoring male-specific vulnerabilities, I certainly do not want to neglect female-specific vulnerabilities or challenge in any way the rise of awareness for women's need for specific support. However, critical *deconstruction* of simplified gender constructions needs to avoid an essentialist conception of gender, as [Charsley and Wray \(2015\)](#) rightly argue; not least because blindness towards vulnerabilities of specific groups of men, in the end, runs the risk of reifying ideas of female weakness ([Rowe, 2009](#)).

Despite the numerous discursive, social and legal exclusions, migrants with a precarious legal status continue to navigate and subvert states' attempts to control their presence. The [next chapter](#) will turn the focus on how my interlocutors navigate migration control practices that paradoxically both prevent and enforce mobility. They react to state efforts of 'managing' their movement with subversive tactics including attempts to elude the aforementioned infantilising and constraining asylum and detention structures as when they go into hiding in order to avoid imprisonment. Tying in with the theme of this chapter, it should be said at this point that this high degree of mobility is probably possible not least because the protagonists of this book are young, healthy and single men.

# Navigating Migration Control: Deromanticising Mobility

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## Jamal's journey

'My friends call me Marco Polo.' (Interview in Switzerland in 2014)

Like many others I met Jamal, a man in his mid-thirties from a Central Asian country, in the camp where I conducted a major part of my fieldwork. Jamal was a calm, always friendly and helpful person and somebody others asked for help and advice. He seemed to have a lot of experience with moving around in Europe, applying for asylum in different countries, but also with being disappointed when his claims for protection were repeatedly rejected. Given the many years of living in different parts of Europe, he appeared to be very well connected, yet he expressed that he nevertheless felt lonely. In an interview in 2014 he said to me: 'There is no trust. You have a friend, but you are alone. Because you want to move.' His unsettled lifestyle prevented him from establishing any sort of social stability. I remember him repeatedly complaining about looking old, which sounded as if he was concerned about how the many years of being en route might have left their traces on his face.

Jamal told me how he had left his home country in 2000 and headed towards Turkey when he was still a minor. From Turkey, he made his way through Greece where he worked for six months 'packing oranges and other fruits'. Later, he managed to get to Italy by stowing away on a ship, and thereafter he moved on to France and stayed in the 'Calais Jungle' from where many refugees try to cross over to the UK. Hidden in a lorry, Jamal succeeded in reaching the southern shores of England approximately one year after leaving his home country.

After arriving in the UK, Jamal lodged his first asylum application. He recalled that he had to wait a long time for a decision on his request, but it was eventually rejected. Jamal appealed against the Home Office's decision and initiated further legal proceedings, which took several years and cost him a lot of money. During the almost seven years Jamal spent in the UK, he worked for two to three years, as he said, unauthorised in a

bar. He told me how hard he had worked and that he had contributed significantly to the success of the business. In the end, however, the owners still owed him a considerable amount of money, which, he bitterly recalled, they never paid.

Jamal was reluctant to talk about his time in the UK. He said everyone asked him what he had done in the time he spent there and people wondered if he had 'at least got something' out of it. He seemed ashamed that he had not achieved much in the years he spent in the country.

When Jamal received a rejection from the court of last resort, he was ordered to leave the UK. Consequently, British authorities sought to deport him to his country of citizenship. During our first interview, he described to me how he resisted when the authorities tried to deport him:

'I knew I have to make problems on the airplane, so that they stop it. Later, it happened again. I cancelled my plane twice. The third time, they deported 38 persons in a private jet from Germany. I was one of them.' (Interview in Switzerland in 2014)

After having successfully resisted two deportations, in 2006, the British authorities managed to enforce their deportation order. He recalled feeling like a foreigner when he arrived in the country of his citizenship: 'My homeland, was really, really strange, like a jungle.' Jamal explained that he barely knew anybody and thus lacked a support system. However, he found a job as an English translator and worked for a few months. Because of the insecure situation in the country, Jamal soon decided to set out in the direction of Europe again.

'It was very hard. I started [the journey] again. ... I went to Bulgaria. They caught me at the airport because of my fake passport. ... Twenty police officers came as if they catch a big terrorist, like Bin Laden, like the mafia, not like a refugee.' (Interview in Switzerland in 2014)

He was imprisoned for two years in Bulgaria where he was subjected to a violent regime, as he stated. I did not understand the exact reasons for his imprisonment, but they were probably related to the fact that Jamal had entered the country with a forged passport.

After his release, he was deported back to Greece, where he subsequently lived for six years without a residence permit. Jamal told me that he was occasionally able to earn some money by teaching English to people from the same country of origin. During this time, he lived in different flats, sometimes sharing them with other people. Life in Greece was difficult, however, and due to a change in the law in 2014, it was now possible to detain illegalised migrants for up to three years instead of 18 months, as Jamal explained to me. This was the reason – besides his unstable living situation – why after six years he left Greece and moved to Western Europe. 'When I came here, I didn't know it was Switzerland. My plan had been to go to Finland. However, I had no money and no energy to move. I was really tired' (interview in Switzerland in 2014).

Jamal decided to apply for asylum in Switzerland, not least because it would give him a place to sleep and rest.

After a few days in a reception centre, Jamal was transferred to the asylum centre where I first met him. We spent numerous hours talking not only about his experiences, but also many other issues. Jamal often found the right words to explain his story to me and to make me understand how exhausting this life of constant uncertainty, instability and unpredictability was for him. For instance, he once said to me during an interview: 'Sometimes I think, I am not alive. ... I am dead, I am not in this world'. In the Swiss asylum camp, he feared that he would soon receive a new deportation order and that he would be deported to Greece. He told me, 'If they want to send me back from Switzerland, they have to put a dead body back to Greece'.

After about three months in Switzerland, Jamal was transferred to a smaller cantonal asylum shelter. When I visited him, he told me that he was very busy in this accommodation, as he was always translating for other residents. He shared his room with young men from his country of origin who had recently arrived, and he told me how difficult it was for him to be around them all the time. Evidently, they were constantly talking about their journey to Europe. It seemed that Jamal was tired of this kind of talk, which he must have had to listen to for the past 15 years.

Despite the help of a legal advisor, Jamal's asylum application was not processed in Switzerland. Within a few months, he received a decision from the Swiss authorities that ultimately dismissed his application. As Jamal explained to me, Switzerland claimed that he had already been granted protection status in Greece. He strongly denied this because he had never received a permit when he lived in the country. Apparently, Greece had issued him with a particular document a few times, which was, however, only valid for three months. According to Jamal, it was never certain whether these papers would be extended again. He was afraid that if he were deported to Greece, he would be immediately detained. His exact legal situation in Greece remained unclear to me.

As he told me later in a follow-up interview, he was surprised early one morning to learn the police were asking for him at the asylum centre where he was staying. A friend of his informed him about their arrival.

'[In the] morning, at six o'clock ... my friend from downstairs called me: "Some people are coming. They're asking for you." ... Ok ... and then I ran away. It happened so fast. Like within one minute. I put on my clothes and then jumped from the second floor.' (Interview in Germany in 2016)

In his attempt to escape, Jamal injured his leg. However, he managed to hide somewhere until a friend of his brought him to Germany. That was in 2015, when Germany had to deal with a large number of asylum seekers due to the opening of the so-called Balkan route. As a result, Jamal's asylum procedure dragged on.

We kept in touch and during our conversations, it became evident how tired Jamal was of the continuing limbo-like situation defined by prolonged periods of waiting for his situation to improve. The ongoing uncertainty obviously had a severe impact on his

wellbeing. Talking to Jamal and listening to his narration, I remember, weighed heavily on me – as did reading all the notes from our conversations. On several occasions, I had been worried about his psychological state as he mentioned suicidal ideations. Jamal obviously suffered immensely from his never-ending attempts to legalise his status. He once wrote to me, 'I told you, I have been 16 years on the way, and I am the oldest refugee in Europe who is still looking for a safe place'. When sharing such heavy feelings, he would always add some words of concern about how his narrative could affect me. He said he didn't want to worry me and always asked about my own wellbeing. At the same time, he kept a polite distance and seemed wary of crossing any lines.

I met Jamal in 2016 for a follow-up interview in Germany a year and a half after our first meeting in Switzerland. He appeared calm and tried to be content with his current situation, as he waited for yet another negative decision on his asylum application.

'Really, I don't care what's going to happen. Ok, they take me anywhere. I'm ready for anything. ... Really, I am really tired. I cried, I prayed, I did so much. I don't care about this life any more. ... I'm just happy now. To be honest with you, there is no more power [in me]. There is nothing left. If I move, I can't move. If I go somewhere, if I walk, there is just nothing left.' (Interview in Germany in 2016).

At the time of our second interview, Jamal was expecting to receive an inadmissibility decision from the German authorities and to be deported to Switzerland according to the Dublin Regulation. However, when we talked a few months later, he explained to me that Germany had become competent for his asylum application.<sup>1</sup> In 2017, he wrote to tell me that he had received another negative decision and that he could not take it any more. 'They keep giving me negative and then deport me.' However, in a conversation we had a year later, he was still living in Germany and sounded better, although his legal situation had not really changed. Jamal also mentioned that he could work in a restaurant and he seemed to enjoy his work. Nevertheless, the fear of deportation to the country of his nationality was still very present.

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In Jamal's narratives, there was a constant sense of how much he struggled with the expectation of receiving another rejection of his asylum application, which could then be followed by another deportation, resulting in further uprooting and displacement. Like him, many of my interlocutors frequently moved – and were moved – between different countries and places. None of my research participants stayed in the first country of arrival as intended by the Dublin Regulation. In the attempt to meet their aspirations, many were on the move for years and covered long distances – a mobility which comes at a high social, economic and emotional cost.<sup>2</sup> Jamal's account demonstrates how this mobility is experienced as deeply trying and destabilising.

In this chapter, I am interested in how migrants with a precarious legal status navigate the European migration regime in light of this high level of mobility. I argue that migrants' ongoing journeys throughout Europe are a direct result of different legal frameworks and migration control practices. For example, while the Dublin Regulation was introduced – among other reasons – to prohibit the onward movement of asylum seekers (see [Chapter 2](#)), it is essential to acknowledge that the Dublin system not only impedes people's mobility, but in many cases contributes to a situation where migrants become 'stuck in mobility' (Wyss, 2019). Similar ways of governing migration through enforcing mobility take place on national and subnational levels.

As we can learn from Jamal's accounts, the movement of my interlocutors often showed a back-and-forth pattern not only as they were deported and their journeys rerouted within or beyond Europe (Tazzioli, 2020), but also as they returned on their own to places they had been to before, when they were unable to find what they were looking for in a destination. In this chapter, I explore, on the one hand, how migrants use mobility to access support structures, and conversely, how this prevents them from achieving any sort of stability. On the other hand, I am interested in how states react to migrants' 'unruly mobility' (Tazzioli, 2020) not only by immobilising them, but also by enforcing further mobility. This chapter thus zooms in on how migrants navigate migration control by staying mobile. Building on mobility studies, I highlight the ambiguous nature of mobility, which, on the one hand, can be a barrier to accessing support structures and stable living conditions, and on the other, a way to secure basic needs and avoid migration control or deportation. Given the public outcry over alleged asylum abuse mentioned in the [previous chapter](#), this part of the book also highlights the particular vulnerabilities that migration policies create for those migrants who find themselves at the intersection between asylum and illegalisation.

## The downsides of mobility

The narratives I collected during my research show how the lack of access to employment and social support structures often engenders onward movement. In this chapter, I approach migrants' livelihood struggles from a mobilities perspective (Urry, 2007). What these interrupted journeys have in common is their high degree of mobility within Europe<sup>3</sup> – a mobility, however, that is repeatedly interrupted by moments of immobility.

The so-called 'mobility turn' (Urry, 2007) promises to apply a 'framework of mobility' while moving away from 'methodological and conceptual "sedentarism"' (Hackl et al, 2016: 21). Instead of focusing on structure and social order, mobility scholars suggest an alternative epistemological take on societies that centres around the movements of people and things



(Urry, 2007). For three reasons, I think a ‘mobility lens’ helps to analyse my interlocutors’ interrupted journeys: first, such an approach goes beyond grasping people’s movement with a clear start and end point but instead encompasses the complex trajectories at the centre of this study. Second, in contrast to much migration research, mobility studies do not only consider cross-border mobility but likewise take into account movements within a country, which often plays a significant role in shaping these interrupted journeys as we could, for instance, learn from Jamal’s story. Within the asylum regime, he, and many others, were transferred from place to place within and beyond national borders. Also, many people with a precarious legal status move within countries in search of work or accommodation. Whereas cross-border movement is undoubtedly shaped by specific legal aspects, internal migration can still have a considerable disruptive impact on migrants’ lives. Using a mobility approach, then, allows subnational, national and supranational frameworks to be taken seriously and the intertwinement of these different political levels to be acknowledged.

Third, a mobility lens is useful as it allows for the consideration of not only mobilities but also their counterpart – immobilities or moorings, with which they are inextricably linked (Cresswell, 2010). Due to their precarious legal status, the protagonists in this study are indeed often stuck in one particular place, be it because they are waiting for a decision on their asylum application, or they find it difficult to move to another place (due to lack of money or transport) or because they are detained (Jefferson et al, 2019). Nevertheless, after a phase of immobility, it is often necessary for them to react quickly and with a high degree of flexibility to available opportunities. This includes going into hiding to avoid deportation, but also responding to opportunities such as finding a place to stay or accepting a work opportunity. Using the plural form – both in relation to mobilities and immobilities – renders visible the multiple, intertwined forms of mobility and immobility that can exist simultaneously (Hackl et al, 2016). For instance, a person can become trapped in mobility and thus be spatially on the move while feeling existentially immobilised (Hage, 2009) due to not being able to fulfil personal aspirations as when borders make living in a desired destination impossible.

Mobility studies are concerned with groups of people as diverse as backpackers, commuters, highly skilled migrants and refugees. Yet, it has been acknowledged that access to border crossing is highly unequal (Schapendonk and Steel, 2014; Hackl et al, 2016; Moret, 2018). Border control has a selective effect and is not simply aimed at preventing migration altogether, but instead at ‘letting the right ones in’. It is thus necessary to pay close attention to the power structures and ‘regimes of mobility’ (Glick Schiller and Salazar, 2013) at play. I follow recent publications engaging with the differential and ‘unequal access to means of mobility’ for unprivileged groups of people (Söderström et al, 2013: 7). These studies are concerned

with the interplay of mobility and power and focus on access to mobility, which is unequally distributed along socio-economic parameters. Both the ability of individuals to be mobile and their ability to settle are largely shaped by structural aspects such as class, gender and legal status (Bougleux, 2016).

The unequal access to mobility is indeed mirrored in the dangers of border crossing, in the precarious living conditions and not least in the formation of interrupted journeys of this study's research participants. However, as I argue, these barriers simultaneously prevent people from arriving in a place, which is why migrants become, in a sense, trapped in mobility. Consequently, what remains underrepresented in these discussions is the unequal access to *immobility* – or, rather, stability and access to a sedentary lifestyle (Faist, 2013). Although an overly positive reading of the modern world, constantly in flux and celebrating cosmopolitan mobility, has been accused of romanticising mobility (Sheller, 2011: 2), access to mobility is still mainly discussed against the background of the idea that movement is desirable. It is crucial to look at the downsides of mobility to avoid its romanticisation.

Therefore, we need to address issues of inequality in terms of both mobility and immobility. The lack of stable living conditions and the need to be constantly on the move lead to exhaustion and insecurity and make it exceedingly difficult to fulfil personal aspirations, such as settling down or starting a family. As we saw in Jamal's example, in their search for a safe place to live, migrants can find themselves forced to undermine complex border regimes by appropriating mobility, thus falling into a vicious cycle of seeking stability while needing to remain mobile. In the following sections, I will show how legal frameworks push migrants into mobility and prevent stillness (Gill, 2009), and therefore I will emphasise the downside of mobility instead of relating it naïvely to freedom (Adey, 2009: 62; Tazzioli, 2020).

Interestingly, the 'darker side of hypermobility' (Cohen and Gössling, 2015) has been mostly addressed with regard to highly skilled migrants (see, for instance, Redfield, 2012; Schaer et al, 2017; Schaer, 2020) rather than in the field of precarious migration. One notable exception is Gill and colleagues' (2011) introduction to a special issue on mobilities and forced migration (see also Picozza, 2017b; Tazzioli, 2020). With regard to refugees and *sans papiers* they write that, 'in contrast to the volitional mobility of the nomad, mobility is a last-ditch attempt to exercise agency' (Gill et al, 2011: 303). The authors point to the unpredictability and uncertainty that is felt while being on the move and the instability that results from a very mobile life. In line with Gill and colleagues, I will demonstrate how mobility – especially if it is very short-term – can prevent people from reaching any stability in their life and that, as a consequence, 'there is as much un-freedom in mobility as there is in fixity' (Gill et al, 2011: 304).

## Migration governance through mobility

‘Of course, people are moving around. They have the right to apply for asylum because this is a legal guarantee for everybody. So, they apply, but what was found as a solution to avoid these double, triple procedures, is to send people back to that country [of first arrival]. Of course, it costs money. It’s complicated to go against people’s will. Because that’s the main thing about Dublin: it is going against people’s will. People have a strong will to go somewhere, and you tell them they cannot. But these secondary movements are still a problem. However, at least the Dublin Regulation allows the Member States to not do a second analysis of the asylum claim.’ (Interview with a staff member of the Swiss State Secretariat for Migration in 2015)

In this quote, Philipp, a state official working at the Swiss State Secretariat for Migration, highlights some of the systemic problems of the Dublin Regulation but simultaneously emphasises the limited capacity for states to control migrants’ movement (see also [Chapter 2](#)). His words also illustrate that migrants’ complex patterns of movement emerge from a combination of their creative tactics to evade law enforcement and secure their basic needs, on the one hand, and the attempts of migration control to channel migrants’ mobility, on the other.

Migration control attempts include ‘practices of obstructing, containing and circulating movement, which prevent, fracture, complicate and prolong people’s journeys to and across Europe’ ([Ansems de Vries and Guild, 2019: 2157](#)). Governance of migration can therefore not only lead to a spatial immobilisation of migrants, but also often pushes them into even greater mobility. This section focuses on two examples on different political levels. First, I zoom in on the canton of Zurich and its controversial attempts to govern non-removed migrants, which operate on a spectrum between forced mobilisation and immobilisation of migrants. Second, I show how the Dublin Regulation both prevents *and* evokes mobility.

### *Between mobilisation and immobilisation*

Depending on the national context, rejected asylum seekers are entitled to certain types of accommodation and other support services. One example is the provision of minimal assistance in Switzerland, which is guaranteed by Article 12 of the national constitution to anyone present on Swiss territory who is unable to provide for his or her basic needs (see [Chapter 2](#)). This constitutional right leaves cantonal migration authorities in Switzerland in a paradoxical situation: they are in charge of removing people who are not authorised to stay in Switzerland, yet they are simultaneously obliged to

provide support to them. If forced return is not possible, migration authorities often take disincentive measures to persuade non-deported people to leave of their own accord.

In the canton of Zurich,<sup>4</sup> the implementation of such disincentives took place on a spectrum between mobilisation and immobilisation. In 2005, a new practice – the so-called dynamisation – was introduced, targeting rejected asylum seekers living in cantonal shelters. It aimed at signalling to ‘non-removed persons’ (Rosenberger and Küffner, 2016) that they were not tolerated as permanent residents in these emergency shelters. According to this practice, every resident had to change accommodation once a week. This programme, referred to by most interlocutors as the ‘seven days’, can be seen as a particular form of forced mobility aimed at preventing non-removed migrants from gaining a foothold and, consequently, at encouraging them to leave. It illustrates how state actors can use mobility as a way of governing migration. This practice joins a series of other compulsory measures in the canton of Zurich designed to deter rejected asylum seekers from staying in the country.

Interestingly, this practice was only applied to male rejected asylum seekers, which echoes the arguments made in the [previous chapter](#) about gendered state practices and male-specific vulnerabilities. Amin, a man in his mid-thirties from North Africa whom I interviewed in Switzerland in 2017, explained that this was due to the lack of infrastructure: at that time, there was only one shelter that also accommodated women and children. All other accommodations were for men only. Two of the shelters in the canton of Zurich were located in underground bunkers, which further exacerbated the precarious living conditions.

Three men I interviewed had been exposed to the ‘dynamisation’ programme at some point in their journey. One left for Germany shortly after having been forced to change accommodation every seven days. After a few weeks or months in the ‘seven days’, the other two interlocutors managed to secure a ‘permanent’ place in one of the shelters with the help of a doctor’s certificate which proved their need for stability.

At the time of our interview, Amin had been in Europe for nine years and had been to several other countries in the Schengen area. In our interview, he reflected on his experiences in the canton of Zurich:

‘In this period of the “seven days”, you had to take all your belongings every week and go to the migration office and then to the social welfare office in order to receive a place to sleep. If you were lucky, you got one. If not, the police already waited for you at the migration office. ... Sometimes I think this is a process for them to know where the people are – so that they are easier to arrest. ... And it has worked with some people. Such moral pressure. No stability, hope lost, you know?’

The “seven days” is the worst thing I have experienced.’ (Interview with Amin in Switzerland in 2017)

Amin’s words illustrate how access to accommodation comes with the risk of being detectable and thus controllable. The police regularly visited the shelters and detained some people. Residents experienced such visits as highly unpredictable and as a result suffered from stress. The repercussions of this instability are described by a rejected asylum seeker who wrote an article about the issue of living in such emergency shelters in Switzerland that was published in an online newspaper run by a grass-roots anti-racist organisation:

These people don’t know the taste of sleep any more; they have even forgotten the meaning of the words ‘quietness’ and ‘stability’ because of the efforts of the migration office. These words were deleted from their memory. Often the ‘rooms of the seven days’ are full of alcohol and drugs. People don’t live there, they survive – in fact, they try to survive. (Bournane, 2016; my translation)

Amin surmised in our conversation that with this state-imposed enforcement of instability, including random police visits and repeated arrests, migration authorities may have succeeded in getting some people to leave the country. However, people often just moved on to somewhere else in Europe. Amin said: ‘But they [law enforcement authorities] always bring them back’. Here, he referred to the Dublin Regulation and the specific ‘regime of mobility’ (Glick Schiller and Salazar, 2013) it causes. His words illustrate one example where local law enforcement practices are challenged not only by migrants’ lack of compliance but also by policies on a supranational level: here, the canton of Zurich’s deterrence strategy succeeded in driving some migrants out of Switzerland, but the implementation of the Dublin Regulation thwarted their disappearance by allowing other European states to deport these migrants back to Switzerland. This example therefore shows how important it is to consider the interrelations of – at times contradictory – policies on the regional, national and supranational level and how they affect migrants in diverse ways and cause new struggles and im/mobilities in this contested field of migration control. In the case of the ‘seven days’, enforced mobility on the subnational level contradicts, to a certain extent, enforced mobility on a supranational level and these contradictions evoke specific forms of being trapped for migrants. Importantly, this example also points to how different political levels try to avoid responsibility for marginalised migrants as these seemingly frustrated state attempts to govern the presence of illegalised people seem to be mainly guided by the motto ‘out of sight, out of mind’ (see also [Chapter 7](#)).

Interestingly, because the ‘dynamisation’ programme did not appear to have been successful in its attempt to make people leave (Hanimann, 2017), it ended in 2015 and was replaced by a converse practice: instead of forcing rejected asylum seekers to move, they were immobilised or confined in a small area. Residents of these emergency shelters were not allowed to leave the district in which their accommodation was located. Should they leave the district, they were threatened with a prison sentence of up to three years.

Mobilities and immobilities are thus intricately linked: the spatial confinement of illegalised migrants aims to deter them, which should ultimately lead to people’s ‘voluntary return’. In other words, strategies of immobilisation are used here to generate state-desired mobility. This is similarly mirrored in the increasing use of detention of foreign nationals as preparation for deportations (Bosworth, 2011; Bhatia, 2020).

We can furthermore identify state-imposed mobility on a subnational level. Migrants with a precarious legal status are frequently transferred from shelter to shelter or from one detention centre to another (Griffiths, 2013). Such ‘politics of dispersal’ (Tazzioli, 2020: 12) make inclusion in a local context – and thus potentially relevant support structures as well as collective political action – difficult. The lack of attention to such internal mobility corresponds to the low level of interest paid to the phenomenon of internal migration in general (King and Skeldon, 2010).

### *The Dublin Regulation: between preventing and encouraging mobility*

As the descriptions of the journeys of Walid, Rachid and Jamal have already shown, migrants with a precarious legal status often engage in onward movement when opportunities decline, when the risk of deportation seems to increase, when legal procedures to regularise their status are lost, when support by social networks is lacking and when – as a result – migrants are not provided with the necessary support structures.

Most of my research participants initiated different asylum proceedings, some in the same country, some in different countries. A few people were not fully aware of the Dublin Regulation, which may have led them to make another asylum application in a new country. However, and this is the crucial point, people who knew about the regulation still engaged in onward migration and re-entered the asylum system despite the poor prospects of their case being processed. Even though Jamal, for example, was aware of the Dublin Regulation, he moved on from Switzerland to Germany because he feared deportation and because he probably also hoped that his case would be dealt with there. The fact that Germany became responsible for processing his case shows that the implementation of the Dublin Regulation is far from

smooth and that the rate of Dublin deportations carried out remains rather low (see [Chapter 2](#)).

One of the main objectives of the Dublin Regulation is to prevent protection seekers from engaging in so-called secondary movements within the Schengen area ([European Commission, 2016](#)). However, as numerous publications and reports show, the Dublin Regulation fails to achieve this goal ([Jesuit Refugee Service, 2013](#); [Takle and Seeberg, 2015](#); [Hruschka, 2016a](#)). This became very apparent through the arrival of hundreds of thousands of asylum seekers during 2015 when the implementation of the Dublin Regulation was officially suspended and when Germany became responsible for processing the cases of hundreds of thousands of asylum seekers.<sup>5</sup> However, this failure to achieve the official aims of the Dublin Regulation is not a new phenomenon. The following words by Peter, a state official working for the Swiss State Secretariat for Migration, highlight the modest capacity of migration law implementation:

‘Those who have been en route for 16 years have presumably spent one part of it in Europe. We have seen cases, in which applications were submitted and rejected in 12 states. ... [People] who are somehow just making tours across Europe. On a quantitative basis, this is the main work we have had in the past years.’ (Interview in Switzerland in 2015)

In 2014,<sup>6</sup> about a quarter of asylum seekers in Europe submitted more than one asylum claim in countries in which the Dublin Regulation is applied ([eu-Lisa, 2015](#): 15). More than two thirds of those multiple applications were submitted in different Member States, while the rest reflects cases in which a person made a second application in the same country.

However, it is essential to show that the Dublin Regulation not only fails at *preventing* onward movement but at the same *enforces* mobility. In the case of illicit movements to another European country, thousands of people are deported every year within Europe back to the state responsible for their case ([eurostat, 2018](#)), which migrants experience as a severe interference to pursuing their aspiration to settle in a place. Such intra-European deportations of asylum seekers do indeed contribute to people’s high mobility, as Picozza has also noted ([2017a](#): 73): ‘In fact, while the Dublin Regulation was purportedly established in order to solve the issue of “refugees in orbit”, the clash between its lengthy bureaucratic machinery and the self-determination of refugees resulted in an effect of hypermobility.’<sup>7</sup> At the same time, of course, the Dublin Regulation has an immobilising effect, preventing asylum seekers from settling in their desired country of destination and sending them back to the same country if they continue their journey.



In recent years, the enforcement of mobility as a means of controlling and deterring migration has attracted scholarly interest, with deportations in particular receiving increasing attention (see, for instance, [Ellermann, 2009](#); [De Genova and Peutz, 2010](#); [Drotbohm and Hasselberg, 2015](#); [Walters, 2018](#)). However, and surprisingly, this strand of literature tends to mainly consider deportation to the country of origin and fails to address the similarities with other forms of state-enforced mobility like Dublin deportations (but see [Picozza, 2017a](#); [Soysüren and Nedelcu, 2020](#)). Interestingly, the wording in EU legislation for the forced removal of a person under the Dublin Regulation is ‘transfer’ ([European Commission, 2013a](#)), which belittles the disruptive impact of intra-European deportations on migrants. [Gibney \(2013: 119\)](#), who understands deportees as forced migrants par excellence, defines deportation as the ‘departure of individual non-citizens under the threat of coercion by state authorities for breaches of immigration or criminal law’ – which perfectly applies to Dublin deportations. It is important to include forced removals in accordance with the Dublin Regulation in deportation studies without neglecting the existing differences between the two forms of state-imposed mobility. Both rely on similar institutional practices and infrastructures such as detention or the use of airplanes to enforce removal. Comparable is also their production of instability concerning migrants’ living conditions as well as deportees’ reactions to deportations (such as return upon deportation; see, for instance, [Schuster and Majidi, 2013](#)). Like a pending deportation to the country of origin, the threat of an intra-European deportation causes anxiety as the following quote by Jamal emphasises. He wrote to me in 2014, when he was in Switzerland waiting for a ruling regarding his appeal against a negative decision on his asylum application:

Hi Anna. How are you? I hope you are doing well in this cold weather. Last week I received a letter from the court they are saying until the 18th of [month] they will decide [if I can] stay or [need to go] back to Greece. This time it is really hard for me. Take care. (Internet conversation)

A short time later, Jamal received a decision that claimed Greece was responsible for his case. After moving to Germany to avoid deportation to Greece, he wrote to me a few months later when he was going through another similar phase of uncertainty: ‘The same story is going to start here. If they find my fingerprints from Switzerland, they are going to deport me back to Switzerland’ (Internet conversation in 2015).

During an interview, Farhan, a man from East Africa recalled his time in a camp for so-called Dublin cases in Germany. He said, ‘Everybody was waiting for deportation. All of them were waiting for deportation’ (interview in Switzerland in 2014). This constant awareness of an imminent deportation caused extreme anxieties and lack of stability with many research participants.



The sense of stress and instability is further exacerbated by the fact that state-enforced mobility is usually characterised by the unpredictability of the timing of deportation (Gill, 2009; Borrelli, 2021). The state strategy of governing through unpredictable migration control activities is exemplified in the following case: early one morning, Benjamin, a young man from West Africa, was taken by the police to a deportation prison because France was considered responsible for his asylum request. Before his detainment, he had not received a decision on his asylum application, and thus, was utterly unprepared. He had not even been able to collect contact details from the friends he had made during his time in the asylum camp. When I visited him in the detention centre, he told me that the negative decision on his admissibility procedure was given to him in the presence of the police – making absconding impossible. Legally, Benjamin still had the right to appeal against the authorities’ decision. However, as he told me, the prison staff informed him that this would entail a longer stay in prison because that is where he would have to await the court’s decision. Consequently, the threat of being imprisoned for some months prevented him from using his right to appeal. This example underscores the intricate interrelations between enforced mobility and enforced immobility.

Tazzioli (2020) echoes my arguments when paying attention to how migrant mobility is governed ‘through mobility’ (see also Gill, 2009). In a Foucauldian sense, she conceives of mobility as a ‘technology for regaining control over migration’ (Tazzioli, 2020: 4). Migrants’ autonomous and ‘unruly’ mobility is disrupted and migrants are constantly forced to ‘reroute their journeys’ (Tazzioli, 2020: 4; see also Scheel, 2019). Therefore, ‘spatial restrictions do not necessarily involve immobility or strandedness; they can also consist in convoluted or repeated movements that migrants are forced to undertake, diverting from their established routes’ (Tazzioli, 2020: 10). In the next section, I steer the focus towards migrants’ reactions to such interruptive policies.

### **Moving on in order to stay**

To discuss the ambiguous nature of mobility for migrants with a precarious legal status, I consider to what extent migrants’ mobility can be a way of accessing support structures or employment opportunities and of ensuring their stay within Europe. In this regard, ‘mobility is not the “ultimate aim” ... but ‘a resource people use to gain access to certain advantages’ (Moret, 2018: 2). Migrants appropriate mobile practices to enable and prolong their presence in Europe. In the following, two potentially intersecting tactics are identified where such spontaneous mobility can be framed as a resource to avoid law enforcement and secure basic support.

*Securing access to support structures*

Many migrants face precarious living conditions and lack access to shelter or livelihood opportunities in the country that is responsible for their asylum case. This includes people who are still in the asylum procedure in the country of arrival, and others still who have acquired a temporary residence permit. One way of reacting to such precarity is to engage in onward movement to seek new opportunities.

The conditions in which people live vary remarkably depending on the national or regional context, the legal status of a person, but also on existing – or lacking – social networks. At times, it might be possible to stay with acquaintances or relatives. Yet, such opportunities are mostly short-term solutions, and marginalised migrants often have to find other channels to secure support structures. All my key interlocutors were sometimes forced to fall back on makeshift sleeping arrangements due to lack of support structures. One way to overcome such precarious living conditions is to apply for asylum, which at the same time protects against deportation and (most of the time) ensures access to housing, albeit again only for a short period of time. The Reception Condition Directive obliges EU Member States to provide adequate accommodation to applicants for international protection (Wagner et al, 2016: 84). As a result, some rejected asylum seekers make multiple asylum applications in the same or in different countries.

Rachid had been living unauthorised in Italy for seven years before he finally obtained temporary residence papers. He explained why he nevertheless moved on to Switzerland and applied for asylum:

‘In Italy, I had no help. Because when I made my documents, I said, “Finally, I have documents. I can have a job like the others”. But it’s nothing. ... That’s as if your dream gets destroyed. ... I have sacrificed my life to come here. And afterwards? No work. What can I do? Stealing? No, I don’t steal. Dealing with drugs? ... I cannot do this, not even think about it.’ (Interview in Switzerland in 2014)

As described in the [previous chapter](#), after Rachid’s asylum application was rejected in Switzerland, he was deported to Italy, where he renewed his papers. I met him again more than a year later in a German city where he had found occasional work in the informal labour market. His example illustrates the fluidity of legal status. Like him, other interlocutors had received residence documents in southern countries – mostly in Italy. However, the failure to find work and support structures led them to another country where they hoped to find better conditions. This creates yet another form of irregularity within Europe: people who have received residence papers in one country but move on to other countries where they are allowed to

stay for three months but have no right to work (Ahrens, 2013; Picozza, 2017b). Therefore, they use their capacity to be mobile in order to either find work in the informal labour market or to obtain at least some basic state assistance – even if it is only during an asylum procedure. Borri and Fontanari (2015) have shown how this sometimes leads to migrants moving back and forth between the country that issued their temporary documents and the countries where they were able to establish a support system or where they found a job in the informal labour market (see also Picozza, 2017a).

Daniel, a man in his mid-thirties from West Africa, had been in Europe since 2003 and had since lived in Austria, Spain and Switzerland. When I first met him in 2014 in Switzerland, he said, ‘I fly around Europe. ... In 2008, I went to Spain, and from Spain, I went back to [Austria], and from [Austria], I came back here [to Switzerland]’. He had already lodged an asylum application in Switzerland before 2008. I met him again more than a year later for a follow-up interview in Austria. He reflected on how his two stays in the Swiss asylum system differed considerably:

‘[The first time], I had the chance to stay there for ten months before they started kicking me out. I thought I would have a chance there. ... Get accepted again. ... Like the first time, I wasn’t given asylum, but at least I had the chance to live there. For me, to see that the country is a nice place to be. ... I was taking the time to stay there, find a way to live there.’ (Interview in Austria in 2016)

While Daniel was able to live in state-funded accommodation for almost a year the first time he came to Switzerland, the second time he received an inadmissibility decision just three months after his arrival. This shows that the current tendency in Europe to accelerate asylum procedures (see Chapter 2) leads to increasing short-term mobility and prevents people from building stable social networks that can support them.

Multiple asylum applications are, of course, not only lodged due to the need to access benefits and services; people make multiple applications in the hope of legalising their status. Furthermore, an asylum application not only guarantees access to support structures, but also a temporary legal status that protects illegalised migrants from detention and/or deportation if the police control them.<sup>8</sup> Several interlocutors explained that applying for asylum was their only hope when all other alternatives had been exhausted.

Repeated asylum applications may reflect one way of accessing accommodation and other social services, at least during the short period, in which migration authorities examine whether they are responsible for processing an asylum application or can dismiss it according to the Dublin Regulation. Such efforts of migrants to engage with the asylum regime in a way that benefits themselves is indeed not a long-term solution for people

with poor chances of being granted a protection status. States attempt to prevent multiple applications by introducing a series of new disincentives – for example, shortening the bureaucratic procedures and thus reducing the time for people to obtain access to housing and other support.

The degree with which migrants feel forced to enter the asylum regime and/or to move to another country also depends on the national, and even regional context. As outlined in [Chapter 2](#), in Northern and Central European countries, my interlocutors experienced more rigid migration control and it was harder to find a way into the informal labour or housing market. Thus, applying for asylum or moving on to other countries often seemed to be the only options to protect themselves at least temporarily from deportation.

### *Going into hiding*

Trying to make use of the asylum system is often followed by yet another passage into illegality and by another move to another place. Such decisions to go elsewhere require a high degree of flexibility and spontaneity. Responding spontaneously to opportunities is one way of resisting migration governance, as the following quote from Abdoulaye shows: ‘If they accept me, it’s good, if not, I will go to another country. Germany’ (interview in Switzerland in 2014). Plans often change daily as new opportunities open up or others fall away. The need to be spontaneous and flexible is mirrored in the everyday conditions people experience. As described earlier, in the asylum facility where I conducted fieldwork, transfers to other asylum centres or detention were announced the evening before being implemented, after the compound gates were shut – leaving almost no room for preparations.

Having exhausted the chain of appealing against decisions made by state authorities, people often move on to avoid deportation. This points to the second tactic wherein I locate mobility as a resource: going into hiding. The description of Jamal’s journey has already illustrated how he managed to elude the police who came to the asylum shelter in Switzerland where he was staying at the time. Jamal then went to Germany where he submitted a new asylum request.

Going into hiding and moving on to a country that is not responsible for one’s asylum procedure can also reduce the risk of deportation to the country of citizenship. Adama, a man from West Africa in his mid-thirties, came to Switzerland from Italy because the Italian asylum procedure took too long, as he explained. He applied for asylum in Switzerland, but his application was dismissed according to the Dublin Regulation. One day he was apprehended by the police, who told him, ‘We’re going to deport you,’ as he recalled. Adama was scared: ‘I was thinking that they would want to deport me back to my country. So, the policeman started to laugh, you know? He said, “No, it’s ok. We are going to deport you just to [the

country where] they took your fingerprints” (interview in Italy in 2016). The Dublin Regulation thus indirectly compels rejected asylum seekers to engage in onward mobility if they want to avoid deportation to the country of their nationality, since the country responsible for their case would carry out such a deportation. Thus, if rejected asylum seekers move to another Schengen state, they ‘only’ risk deportation within Europe. This tactic was repeatedly applied by Walid and played a key role in the way his interrupted journey unfolded. His nationality put him at significant risk of deportation from Switzerland because of an existing readmission agreement between Switzerland and his country of citizenship that facilitates forced deportations. Going into hiding was thus one possibility for him to decrease the risk of deportation to his country of origin.

However, states react to migrants’ subversive tactics of circumventing migration control by creating additional hurdles and by refining existing policies to curb migrants’ unruly mobility. For instance, Peter, who worked for the Swiss State Secretariat for Migration, described the reappearance of rejected asylum seekers at the Swiss border shortly after their Dublin deportation to Italy. They submitted a new asylum application in Switzerland and thus rendered the deportation absurd. In response, Swiss authorities limited access to reception centres for claimants who had repeatedly submitted a request. Peter explained: ‘We had to tighten the screw a bit regarding access to asylum procedures. Basically, there was no access any more to reception centres. People just received emergency aid, and the new application had to be submitted in writing. These are not attractive conditions’ (interview in Switzerland in 2015). Despite such state reactions to migrants’ persistent struggles, this example highlights the limited capacity of states to control individuals’ movements – while also underscoring how migration control forces migrants to reroute their journeys.

A key objective of recent policy making in the EU has been to prevent the use of the asylum system by migrants who are not eligible for international protection. The new ‘Pact on Asylum and Migration’ provides that reception conditions apply only in the responsible Member State, ‘disincentivising unauthorised movement’ (European Commission, 2020b: 3). Such state responses to migrants’ tactics highlight the need to understand the European migration regime as a site of constant negotiation between state authorities and migrants, taking place within unequal power relations (Tsianos and Karakayali, 2010; Eule et al, 2019).

Framing mobility as a resource is not meant to join the romanticisation of mobility as such, but to see it as a form of everyday resistance (Scott, 1985) necessary for navigating the European migration regime. Much of my interlocutors’ onward movement arises from experienced precarity or imminent deportation. The described tactic of going into hiding is thus a consequence of the obstacles preventing individuals from realising their

migration projects. In this section, mobility has been identified as a tactic to stay, with the term ‘stay’ here referring to remaining in the Schengen area rather than being able to stay in a specific local context.

### **The effects of short-term mobility on the lived experiences of migrants**

Depicting these journeys as shaped by partially autonomous and flexible actors that creatively juggle with different locations is only one side of the coin and inherently bears the risk of romanticisation. This very mobile life is accompanied by numerous undesirable consequences for the personal lives of migrants, and these journeys must be understood as a concrete result of migrants’ reactions to repressive control mechanisms.

A migration pattern defined by short-term stays in various countries, spontaneous movements and a high degree of instability has many downsides and impacts the emotional state of migrants. Short stays in one place and the uncertainty of life prospects make it particularly difficult to develop concrete plans for the future. As Picozza (2017b: 75) writes about ‘Dubliners’: ‘On the one hand, engaging in further mobility is an autonomous refugee strategy, also in spite of restrictive asylum laws; on the other hand, however, this hypermobility reflects the precarisation of refugee lives as a technique of governing that renders them perpetually mobile subjects.’ The constant need to be ready to leave again, the recurrent experience of uprooting and thus of permanent temporariness, are among the most incisive effects of the migration regime.

#### *Longing for stillness*

‘If you don’t have papers, Anna, you are nowhere. Yeah. ... Nowadays it’s very difficult. Very, very difficult without no documents you are just like ... when you throw papers in the air. You can go and hang somewhere else like this. Air is just pushing you. You have no destination.’ (Interview with Adama in Italy in 2015)

Adama’s words emphasise how migrants’ journeys are shaped by the lack of a clear direction and by how this condition creates feelings of powerlessness. Due to often obscure interdependencies of migration control practices and state support services, migrants find themselves constantly evaluating the risks and opportunities of their next steps: should they go into hiding to avoid detention and/or deportation or is it better to stay in a familiar environment? The constant threat of being detained or deported causes considerable stress for migrants in an illegalised situation. Yet they have little power to determine the direction of their journeys or even to anticipate it – as Adama said, ‘air is just pushing you’.

Migrants with a precarious legal status can become ‘stuck in mobility’ when they see no alternative but to move on, exacerbating already high levels of instability and having serious implications for their wellbeing. A high degree of mobility makes it difficult to build stable social networks, which in turn aggravates the lack of support structures. Therefore, people often long for constancy. However, the lack of permanent solutions for marginalised migrants pushes them into precarity and further mobility including multiple asylum applications, which is precisely what public and political discourse condemns.

A recurrent topic in conversations was the fear of developing mental problems in this situation. Interviewees observed that many of their fellow migrants struggled severely with their unstable living conditions, had psychological health issues or used drugs. Obinna, a man from West Africa, shared his fear of struggling to cope if his living situation did not improve. In Italy, as well as in Switzerland, his asylum applications had been rejected, and he said to me: ‘Maybe in ten years people will be asking, “Are you sick?” Something like that. Running mad ... Be talking ... Something like that’ (interview in Switzerland in 2014).

My interlocutors’ experiences were often defined by their tiredness of running away and an extreme instability over a long period of time. Several of them displayed signs of depression and talked about previous suicide attempts or mentioned suicidal ideations (see also [Bhatia, 2020](#); [Topak, 2020](#)). Both Jamal and Walid were hospitalised in psychiatric clinics. Having experienced such permanent instability and transience for more than a decade, Jamal said:

‘And sometimes I’m so sorry about myself. I think this world has no place for me because I try, try, try. People in this situation, friends, they ... nearly five of them committed suicide. The rest of them is crazy. They use drugs. The only one that still has hope is me. Still at this age, I am looking for a tiny little hope.’ (Interview in Switzerland in 2014)

As described in the introductory description of his journey, his exhaustion seemed to have intensified when I met him for the second time in Germany. He reflected on how his energy had been flagging in the many years of living on the move and said that he was ‘just thinking about now’ as he was ‘scared about tomorrow’ (interview in Germany in 2016).

Importantly, many interlocutors have described how every new move to another place required them to ‘start from zero’. Rachid said:

‘If I had had work in Italy ... and stability, a little stability, I would not think of coming here. It is difficult to start over. ... I already made an effort to learn the language and so on [in Italy]. And afterwards,

after six or seven years in Italy, you come and start over.’ (Interview in Germany in 2016)

Acquired knowledge of the local language or about a specific context can thus lose its value when people feel forced to move on. Eymen emphasised how much the constant leaving of places to which he had become accustomed pained him:

‘Every time I change the country I have to start from scratch. And this is sometimes ... You feel tired. You want to stay in a country. ... But this is normal. You have to do this. You need to be strong. ... Every time you need to do this. ... But you have really liked the place, liked the people. However, you need to leave everything and depart anew. This is the most painful thing in this situation.’ (Interview in Switzerland in 2014)

In such cases, people are repetitively uprooted from their – however fragile – inclusion in local contexts, which is also emphasised in the following quote by Amin:

‘Well, you know if you stay for a while in one place, you know people. However, leading time and again a nomadic life, you see new people time and again and need to get to know them from scratch. Also, if they [migration authorities] take you back [according to the Dublin Regulation], for instance to Switzerland, you need to make contacts again. It is just difficult. It is better to stay in one place where everybody knows you and to try to form a network.’ (Interview in Switzerland in 2017).

When I met Amin, he had established a rather large social network in Switzerland. This enabled him to stay with friends and thus reduced the risk of detention or even deportation, as his whereabouts were not known to state authorities, as was the case when he lived in a shelter for rejected asylum seekers. He even planned to marry his girlfriend, which could simultaneously lead to a regularisation of his status. However, such local integration takes time, which is often not available given the short-term mobility that people exhibit.

These are just a few examples that illustrate how this unsteady lifestyle is accompanied by severe hardship and suffering. It affects the emotional state of migrants, their ability to find employment, but also to have a family or a relationship, pointing to how borders permeate the private sphere. Several people mentioned the incompatibility of their unstable way of living with their wish to start a family, reflecting how many migrants in



a precarious legal situation struggle with the feeling that they are wasting their time.

### *Wasting time*

‘There are people who have many dreams, much energy. They won’t stay quiet. They will stay in Switzerland, in Italy, in Germany. They will change a lot. They don’t know what they want in the end. They want one thing, but they cannot have it because they move a lot. They want to see Europe. ... Like this, time passes quickly, and in the end, you have nothing, and find yourself in a very difficult situation. Like this, they will start using alcohol, drugs and all that and like this, they will lose their life.’ (Interview with Eymen in Switzerland in 2014)

Eymen described in this quote how the seemingly never-ending search to fulfil one’s aspirations can make people feel like they are squandering valuable life time. Short stays in one place and the uncertainty of life prospects make it extremely difficult to develop concrete plans for the future. Farhan, a man in his early thirties from East Africa, expressed his tiredness of having to keep moving to another country and searching for a place where he would be granted a protection status: ‘Next time, I cannot make asylum. ... I am tired. ... I feel so bad, seriously. I feel it is a waste of my time’ (interview in Switzerland in 2014). Almost all of my interlocutors expressed feelings of exhaustion, psychological distress, loneliness and hopelessness.

As we argued elsewhere (Eule et al, 2019: 155ff), time is an important aspect of states’ governance of migration (see also Griffiths, 2017). In the asylum regime, valuable time is ‘stolen’ from people (Bhatia and Canning, 2021a) as bureaucratic procedures often force applicants to endure long periods of ‘sticky time’ (Griffiths, 2014: 1994f) while they wait for decisions on their legal procedures. Individuals are exposed to forced idleness as they are ‘living in a prolonged state of waiting’ (Topak, 2020: 1858). Eymen described this sense of stagnation in his life as follows: ‘And the most important time of my life has passed, you know?’<sup>9</sup> For seven years, he had failed to obtain residence documents in Italy and Switzerland. The repeated lack of success in trying to legalise one’s status, as well as the recurrent experience of being detained or deported, lead to a sense of hope- and powerlessness. These observations resonate with recent work on states’ ‘politics of exhaustion’ (Welander, 2020: 30), a ‘new technology of border control and mobility governance, which aims to deter, exclude and control through the mental and physical exhaustion of individuals’ (see also Chapter 7).

Therefore, one might ask why migrants do not prefer to return to their country of origin in the face of all these hardships. Leaving one’s country of origin by crossing borders illegally involves many risks and dangers as

well as high financial costs. Once migrants have managed to enter Europe, many do not abandon their plans when they encounter obstacles to obtaining residency. The realisation that it is not easy to stay and work legally in Europe does not necessarily lead to the conclusion that return is the better alternative. Indeed, despite their exhaustion, most of my interlocutors could not imagine returning – especially after overcoming so many difficulties. They had invested not only money but also their lifetime, which would have turned the years spent in Europe into a pure waste of time. Also, they foresaw a lack of prospects in their country of citizenship and embarrassment when returning empty-handed (Schuster and Majidi, 2013). Some people told me that after several years abroad, their social networks in their country of origin have dissolved, leaving them with the feeling that they have little or nothing to return to.

I remember a conversation between Karim, who had already been living in Europe for several years at that time, and a man from Nigeria who had just recently arrived and was thinking about returning to his country of origin. Karim said to him that he would feel differently once he had been in Europe for three, four, five years. Initially, Karim had also thought that he would return to his country of origin if he did not manage to get papers after some time. At some point, however, it was simply too late. Amin made similar comments in the following quote:

‘It is very bad to go back ... to the country of origin because of fear of ... shame. They are ashamed to go back, being deported without nothing. And all your friends have moved on, and you go and need to start from scratch. Your friends don’t talk to you any more, your family looks at you strangely. ... Because it has been such a long time. ... If you are deported, what do you bring with you? Only stories? People at home have enough stories to listen to. ... They think that you go and work there [in Europe] and if you want to marry, you marry immediately and find a place to work. And you just have to make a little effort. But they don’t know that it is impossible to work. They don’t know many things. That is why they think that the problem comes from you and not from the world.’ (Interview in Switzerland in 2017)

Schuster and Majidi (2013) described how Afghan deportees faced severe difficulties upon their return, which caused many to emigrate again. Four of my key research participants have experienced deportation to their country of origin, three of whom managed to return to Europe after a few months. Khaled was deported to his North African country of origin but returned to Europe shortly afterwards and was immediately deported again. However, he returned again to Europe despite having experienced two deportations. These observations not only underline the disruptive effect inherent in any

deportation, but also emphasise the sheer absurdity of some state practices of expulsion.

## Concluding remarks

In this chapter, I have explored the ambiguous meaning of mobility for migrants with a precarious legal status. The threat of detention or deportation and the lack of access to support structures push migrants into onward mobility because, having exhausted alternative options, they have to find new ways to secure their basic needs. The interrupted journeys outlined here highlight how so-called secondary movements of migrants with a precarious legal status within Europe are provoked by the same legislation that was meant to prevent their onward mobility. Moreover, tight deadlines for the deportation of protection seekers under the Dublin Agreement and faster processing of applications further limit migrants' access to support services and increase their short-term mobility.

Mobility is to a certain extent the result of international, national or subnational policies but also of the very limited access to permanent residence papers. Within this context, I have discussed mobility as a resource and tactic, because, on the one hand, it can enable migrants to extend their presence in Europe, and on the other, because onward movement might provide them with new opportunities to secure their livelihoods. This results in migrants becoming what I called 'stuck in mobility', as they struggle to find a place to settle permanently and as they are pressured to move from country to country or from shelter to shelter. Consequently, this very mobile and short-term migration pattern is accompanied by constant experiences of uprooting and has detrimental consequences for migrants' wellbeing as they live in a permanent state of transience and uncertainty. Thus, as [Gill and colleagues \(2011\)](#) have pointed out, engaging in mobility might be a last-ditch attempt to regain some limited agency, but simultaneously shows how difficult and painful it is for migrants with a precarious legal status to reach any sort of stability.

Mobility studies have highlighted the unequal access to mobility for different groups of people. However, there seems to exist an overemphasis on mobility as the preferred mode of being and thus a certain celebration of mobility. What remains underrepresented in many discussions of the interplay of mobility and inequality is the unequal access to stable living conditions. From a mobilities perspective, it is key to look more closely at the downsides of mobility and at how a high degree of mobility can add to the marginalisation of migrants with a precarious legal status. I suggest doing this by paying particular attention to unequal access to both mobility and immobility – and to the stability the latter can entail. This implies analysing different types of mobility and their driving forces in light of the regulatory

frameworks set up to channel and control people's movement. Taking migrants' complex journeys as a starting point highlights that mobility has different causes: enforced by state authorities as in the case of deportations, appropriated by migrants as in their attempts to subvert migration control, or provoked by precarity as when people move on in the hope of finding better opportunities elsewhere. These observations support the argument that state practices and migrant tactics are interdependent – albeit within exceedingly asymmetrical power relations. Migrants react to states' attempts to control their movement, and states, in turn, invent new strategies to govern migrants' mobilities.

Importantly, enforced mobility is not only a driving force behind primary movements but also behind so-called secondary movements within Europe, which are vividly condemned by EU policy makers. Enforced mobility is indeed often a result of legal frameworks such as the Dublin Regulation and the lack of regularisation opportunities. The example of the canton of Zurich has furthermore shown how deterrence measures can be explicitly used to push migrants to move on, which enables states to denounce responsibility for migrants' welfare. Consequently, a focus on the interplay of mobility and inequality also requires an analysis of how certain groups of people are denied stability as they lack the means – particularly permanent residence papers – that facilitate secure living conditions. Mobility studies, thus, need to pay closer attention to enforced movement due to persecution and precarity as well as migration law enforcement.

The hope of achieving one's aspirations and fulfilling the dreams of making it in Europe often endures and makes migrants continue their journeys despite all the obstacles, hardships and states' politics of exhaustion. The following chapter sheds light on how migrants' hopes are held up mainly because they hear of occasional success stories from fellow migrants who obtained residence papers due to a positive asylum decision, marriage with a European citizen or denizen, or who were economically successful in the informal labour market. I will explore how migrants navigate the illegible working of the migration regime and how hope is an important aspect for them to endure the hardships caused by their marginalisation within Europe.

# Navigating Uncertainty: Illegibility, Rumours and Hope

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## Eymen's journey

In 2014, I got to know Eymen through another research participant. Both were staying at the same shelter for rejected asylum seekers in Switzerland. One day, I was invited to a picnic in the forest not far from their accommodation, and Eymen started telling me about how he had been moving back and forth between Italy and Switzerland in the past years. He agreed to take part in my research project, and since that evening, we have remained in touch. We have met on several occasions, and I have learned a lot from Eymen about the effects of living in legal precarity. In many conversations, he told me in a calm and thoughtful way about the impact of living in legal precarity, but also about his hopes and struggles for a better future.

Eymen's migration story started long before he reached Europe. When he was 16, he used to dream of leaving his North African country of origin. Several friends of his had already left for Italy, France or Germany.

'Yes, I started to think about travelling to Europe. I don't know how, but [*laughs*]. I had the idea to do something important and go to Europe. It did not matter how – with a [*working*] contract, with the boat. For me, it started as a dream. I had to leave [*my country of origin*] and start a new life. And so I started talking to my friends and family.' (Interview in Switzerland in 2014)

In 2008, in his early twenties, Eymen finally arrived in Sicily on a rubber boat. He had embarked three times prior to this, but had always been intercepted by border guards and taken back to his country of origin. In Italy he immediately received a *foglio di via* – a paper ordering him to leave the country. Instead of leaving, however, Eymen went to a town in Northern Italy to join some family members and friends.

During the first year in Europe, Eymen remembered experiencing a discontinuous time between different places in Northern Italy. He could only find temporary employment

in the informal labour market, which was poorly paid. When he heard of a promising job opportunity, he moved south and first found work in agriculture and later a job by the sea. He enjoyed the latter, as he said. However, it was only a seasonal job, which is why he was soon unemployed again and returned to the north of Italy.

In 2010, a friend recommended that he move to Switzerland and apply for asylum. Eymen decided to take this chance. Under the impression that he could work and maybe even find a woman to marry, he made his way to Switzerland.

'I have heard of people going to Switzerland. There is asylum there. They give you houses; they give you money. This way, you find the chance to work. ... I had been in Italy for two years. When I entered Switzerland, it changed a lot. The language and many new things. Like this, I started to love this country. ... It was a new experience. It felt like it was Europe. It does not [feel like this] in Italy.'  
(Interview in Switzerland in 2014)

Unfortunately, Eymen's asylum application was rejected after six months, and he returned to Italy. However, he said that his situation did not improve there, as he was again only able to find temporary jobs in the informal labour market. Therefore he moved to Switzerland again in 2011, applied for asylum again and, not surprisingly, was rejected again. After four months, he was caught by the police with a bag of marijuana and sentenced to a prison term of several months. While participating in a work programme for inmates, he had an accident and seriously injured his hand. Despite two operations, his hand remained in poor condition.

Eymen recalled that he felt very stressed after his release from prison and decided to return to Italy once more. Again, he looked for work. However, due to his injury, he could only do very light physical work, which made him very dependent on his friends and relatives. For this reason, he returned to Switzerland in 2013 for the third time, where he wanted to claim his right to medical treatment. During his second stay in Switzerland, Eymen had already contacted a lawyer who specialised in insurance cases. Eymen hoped that the insurance company would pay for another operation so that his hand would be fully functional again. Moreover, the risk of deportation to his country of citizenship seemed lower while his court case was still pending, as he once told me.

In Switzerland, Eymen received so-called emergency assistance, which provided him with a bed in a collective accommodation. Despite the precarious living situation in this shelter, he seemed to feel better, and he remembered the year and a half he spent there as being good. He got along well with the staff who worked there and established close contacts with other residents.

At the end of 2014, Eymen was arrested for illegal entry and stay in Switzerland. The two and a half months he had to spend in prison were very hard for him. When I met him after his release, he seemed depressed and even more anxious about the threat of deportation. After all, the unpredictability of such arrests had become even more tangible.

Despite being illegalised and living in precarious and isolated accommodation, Eymen only rarely considered returning to his country of origin. Instead, he was constantly thinking about what he could do to improve his situation. As time went on, it became increasingly clear that the last option for Eymen to become legalised somewhere in Europe would be to marry a citizen or permanent legal resident. Albeit Eymen initially told me he could not imagine entering into a marriage of convenience, he found himself increasingly considering it as a last resort.

Eymen seemed more and more depressed and frustrated in his idleness. We discussed some ideas on how he could fill his many hours of 'empty time'. Although he seemed interested at first, he always told me later that he could not muster enough energy to participate in activities like sports or free German classes. Eymen's situation seemed to worsen when he was transferred to a men-only camp in a very remote location.

In 2016, Eymen was arrested in his accommodation and taken to the deportation prison. With the help of his lawyer, he tried to fight his deportation by pointing out that he was still waiting for his insurance company to decide whether it would pay for another operation in Switzerland. These attempts were unsuccessful, and after two months in prison, Eymen sent me the following message: 'Hello Anna, how are you? I am in [country of origin]. This morning, I left with a special flight.<sup>1</sup> I will contact you soon. Ciao!'

Since his deportation, we kept in contact by phone. Eymen went back to live with his parents, where he worked in their olive and apricot groves, as he was unable to find work himself. From his country of origin, he continued trying to contact his lawyer in the hope that the insurance would pay for another operation. I was involved in mediating between Eymen and the lawyer and experienced for myself how difficult it was to get the legal support he needed. Since it was a pro bono case, it seemed to be low on the lawyer's priority list, and he let the case slide. Our numerous attempts to get the lawyer to pursue the case were unsuccessful.

In the summer of 2017, Eymen told me in a phone call that he had heard about a boat that would be heading to Italy in the next few days. It was obvious that he was unsure whether to leave, as he was of course aware of the dangers of such a journey and the increased control in the Mediterranean. But he was also hopeful, as he had just heard from some friends who had successfully arrived in Italy three weeks ago and were already in Milan. He was not ready to give up his migration project, even though he had experienced years of marginalisation in Europe. In the end, there was a problem with the boat and Eymen did not manage to leave the country. The last time I heard from him, he was still looking for different ways to reach Europe.

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In the various conversations I had with Eymen, he constantly weighed up the different – albeit extremely limited – options available to him that could have brought about an improvement in his situation. Since it was always very difficult to predict what would happen, he often had to base his decisions on unreliable information.

The implementation of migration laws is experienced as difficult to anticipate, but people still have to make decisions about how to proceed. Given the overly complex legal frameworks and the unpredictability of law enforcement practices, migrants must constantly navigate the various pieces of information they receive in order to make decisions within their limited room for manoeuvre. Vigh (2009: 431) describes social navigation as a constant attempt to anticipate what is ‘coming’ and to align one’s actions with it ‘in the knowledge that the context of enactment is always potentially changing’. Precisely because it is difficult to understand how the European migration regime works and what risks one might be exposed to, it is essential for marginalised migrants to constantly keep themselves informed about changing circumstances not only to find new tactics to escape migration control attempts targeted at their exclusion, but also to find opportunities that might improve migrants’ situation. They thus must figure out ways to navigate the uncertainty they encounter.

In this chapter, I first show how the implementation of laws is perceived and experienced as highly unpredictable and arbitrary. Second, I draw on Das’ (2004) concept of ‘illegibility’ to explain that the power of the state lies partly in the fact that it is difficult for migrants (as well as citizens) to anticipate when and how state authorities might strike. The often confusing intertwining of different actors, policies and the inconsistent implementation of law across Europe renders navigating the migration regime particularly challenging (Eule et al, 2019). Third, I ask what knowledge migrants rely on to make decisions given these challenges of predicting law enforcement. I argue that ‘rumours of rights’ (Eckert, 2012) play a significant role in migrants’ decision-making processes as they are essential resources that help migrants act upon the illegibility within the migration regime. Moreover, rumours have a subversive power as they raise new hopes and make people endure the challenges arising from their social and legal marginalisation and precarity. By relying on information shared among acquaintances, migrants seek ways to appropriate laws, exploit loopholes in the system or circumvent migration control. Ultimately, then, this chapter is about better understanding the complicated relationships between the unpredictable implementation of laws, the decisions migrants make and the tactics they use.

## **Unpredictability and arbitrariness of law implementation**

In conversations with people caught up in the bureaucratic cycles of the asylum and migration regime, many expressed their perception of the law as utterly unpredictable, arbitrary or even absurd. Decisions on their legal cases were assumed to be made based on bureaucrats’ individual assessments of their clients’ deservingness and thus highly contingent on state officials’



discretionary power (Eule, 2014; Eule et al, 2019; see also Chapter 3). One telling example is the following quote by Daniel whose asylum application had been rejected by Austrian authorities and whom I asked during an interview in Austria in 2016 how he interpreted the denial of protection. He assigned a high degree of authority to individual state officials for the outcome of decision-making processes: ‘If he wants you to stay, he can make you stay.’ Yet, Daniel said that most state officials are ‘heartless’. As we can see from his words, he seemed to ascribe more importance to individual bureaucrats than to the role of the legal framework in determining who is entitled to state protection. Not surprisingly, this leads many people to see the outcome of court cases as a matter of luck, rather than a matter of due process or the rule of law. Many of my interviewees experienced the implementation of law as unpredictable and uneven.

Farhan, a young man from an East African country, had been travelling long distances within Europe with stays in Italy, Switzerland, Sweden, Denmark and Germany. Switzerland was the first country where he had submitted an asylum request although his first country of arrival in Europe was Italy. However, he told me that he left Switzerland before receiving a decision on his case and returned to Italy, fearing that his claim would be rejected by the Swiss State Secretariat for Migration and that he would be detained. He subsequently received a subsidiary protection status in Italy in 2012. After regularisation, he neither managed to find a job in Italy nor to receive any state financial support. Because he was unable to earn a living in Italy, he applied for asylum in other countries. He explained that both Germany and Sweden claimed that Switzerland was responsible for processing his asylum application. When I met him at the end of 2014, he had applied for asylum for the second time in Switzerland. According to Farhan, the Swiss authorities had informed him that his case would not be processed in Switzerland because of his Italian papers. Farhan was confused because he felt he was being pushed from country to country. He concluded that ‘it’s like football’ where countries push asylum seekers from one place to the other. ‘They just play with my life. Switzerland just plays with my life.’ Similarly, Jamal wrote to me in 2015 after almost having been deported from Switzerland to Greece: ‘After nine months, they just played with my life.’ And Goran, whom I interviewed in Switzerland in 2015, described the asylum system as ‘a big game’.

The ‘law’ seems quite absent in these conceptions of how the migration regime works. Decision-making on asylum and other legal procedures is understood as a result of an arbitrary game – or ‘lottery’ (Belloni, 2016) – in which highly unequal stakes are at play, rather than the result of a meticulously organised legal framework that clearly defines who deserves what kind of rights.

Adama too had the impression that Italian state officials based their decisions more on personal animosities towards refugees than on the rule

of law: ‘They don’t want for us to have documents’, he said to me in Switzerland in 2014. A similar understanding is found in many accounts of people interpreting the decisions of state officials as racist or otherwise discriminatory. During lengthy waiting periods within asylum camps and other places, migrants try to make sense of the legal system and to understand how decisions are made. Observing that certain groups of people receive papers and others do not is frequently attributed to discriminatory application of the law. I heard numerous explanations for why certain groups are granted residence permits and others are not. The following examples illustrate such an understanding of law implementation:

‘There are many foreign people [in Switzerland] ... but I don’t know, they don’t allow the Black people to stay.’ (Adama; interview in Italy in 2015)

‘It is difficult to receive asylum in Switzerland. In other countries, it is easy. In Switzerland, they don’t give asylum to people from West Africa.’ (Abdoulaye, interview in Switzerland in 2014)

‘I think they favour Muslims more.’ (Daniel, Internet conversation 2015)

However, it is important to note that there were also many interlocutors that linked the rejection of their asylum application to the fact that they did not come from war-torn countries or were not politically persecuted – and referred (often indirectly) to the application of the Geneva Refugee Convention.

Importantly, views of the law being arbitrary were likewise expressed by NGOs and legal experts working with migration and asylum legislation as we demonstrated elsewhere (Eule et al, 2019: 116ff; see also Barsky, 2016). Many of them viewed the decision-making processes as unpredictable and dependent on the use of discretion by individual bureaucrats. It is therefore essential not to interpret such a perception of the law as a mere misunderstanding by migrants who are not familiar with the relevant legal frameworks. Rather, such an understanding arises from the messiness inherent in the implementation of laws, state officials’ scope of discretion and the contradictions systemic to the migration regime – and not least, of course, from the actually discriminatory underpinnings of current regimes of mobility that de facto make legal inclusion of persons from certain regions of the world almost impossible.

My interlocutors’ view of law being implemented in an unpredictable, uneven and arbitrary way is echoed in studies on street-level bureaucrats and their discretionary powers, which show that these are heavily shaped by individual moral convictions, momentary states of mind and pragmatism

(Lipsky, 2010; Eule, 2014, 2018; Borrelli and Lindberg, 2018; Eule et al, 2019). As Eule (2014) has shown, decisions by migration authorities vary from office to office – notably in the case of migrants with a precarious legal status. Furthermore, in Switzerland, for instance, an evaluation of judges’ decision-making on appeals to asylum decisions has shown that decisions depend heavily on the party affiliation of the competent judge (Rau and Skinner, 2016).

Additionally, given the complexity of migration law in Europe and its uneven implementation between and within countries, legal frameworks themselves can be contradictory and appear as absurd. The following two examples shed light on contradictions which do not arise from discretionary implementation of law but rather from different policies that seem to oppose each other.

The first example is the ‘hotspot approach’ established to manage ‘exceptional migratory flows’ (European Commission, 2015) by distributing refugees from reception camps in Italy and Greece to other Schengen countries because the former were overwhelmed with high numbers of new arrivals (particularly during 2015 and 2016; Sciarba, 2015; Tazzioli, 2018). A legal counsellor in Switzerland pointed out to me the inherent absurdity: while the hotspot approach is meant to relocate asylum seekers from Italy to Switzerland, Switzerland simultaneously deports hundreds of asylum seekers to Italy under the Dublin Regulation (EASO, 2016b: 29).

To provide a second example: given the efforts made to prevent migrants from coming to Switzerland, the difficulty of leaving the country sometimes seemed absurd to people. Walid, for example, could not understand why Switzerland always readmitted him when another Schengen country asked to take him back under the Dublin Regulation. He said: ‘Afterwards, Switzerland will say, “Yes, ok, bring him back.” Why? If Switzerland does not like me? Why does it annoy me?’<sup>2</sup> He was referring to the fact that he had been deported several times to Switzerland according to the Dublin Regulation. It seemed bizarre to him that Switzerland kept taking him in even though it also repeatedly ruled negatively on his asylum application – an example which also underlines states’ difficulties to enforce deportation orders.

The implementation of law thus appears – and many times *is* – absurd and arbitrary because of its inherent complexity, its vicissitude, its sometimes contradictory policies, and because of uneven implementation across Europe. It is impossible not only for lay people, but also for experts in the field of migration governance to see through this heterogeneous landscape of policies as illustrated by the quote of an employee of the International Organisation for Migration in Austria:

‘There are as many residence permits in Austria as in no other country. We have, I think, 28 legal statuses. I cannot remember all of them.

I don't know who receives which one. ... This system is there to confuse people. Also, the experts don't understand it all. I have to say, I have no idea when you receive which title.' (Interview in Austria in 2016)

It is telling that this interviewee even sees the 'system' being deliberately opaque when she says that it is there to confuse and leave people in a state of ignorance. Above all, the migration regime is experienced as very unpredictable. Obtaining reliable information about the outcome of legal proceedings often seems impossible, leading to further disempowerment of migrants with a precarious legal status.

### **Magic and illegibility within the migration regime**

One day during my stay in Italy, Lamin, Adama's best friend, contacted me. They were both from an East African country and had been living in Italy for a few years. Whereas Lamin had obtained subsidiary protection, Adama was still awaiting a decision on his asylum application. That day, Lamin wrote to me as he was worried about his friend from whom he had not heard for three days and assumed that he had been arrested. Apparently, Lamin had already talked to Adama's lawyer who speculated that Adama might be in trouble. Lamin wrote to me: 'So I asked him, "How can you help us with that problem?"', and he said that we must pay him 600 Euros if we want him to be free. So, I told him, "That's the only solution?", he said "Yes". As I learned later, no one had been in contact with Adama at that time and no one knew what had happened – including the lawyer.

The next day, I met Lamin at the main station at half past one in the afternoon so that we could meet with the lawyer together. We waited for him in a busy square. When the lawyer failed to show up, Lamin began to be annoyed. He kept calling him only to be continually put off by the lawyer saying, 'Only five more minutes.' After a while, I also started to lose my patience. I had expected a personal meeting with the lawyer where we could discuss Adama's case in a calm manner. In the meantime, Essa, another of Adama's friends, joined us. It was now four in the afternoon. More than two hours had passed.

Suddenly, Lamin pointed to a man who was surrounded by a group of Black people. I realised that this lawyer probably came to this place every day so that people could approach him with their cases. He seemed to know everyone by sight. He spoke to many people, told everybody that he would be right there and answered his phone simultaneously. Everyone waiting for his attention to their cases seemed to have a similar impatience while cherishing the hope that the lawyer might help them in some way. The dependency on some sort of legal support was very clear in this situation.

Essa told us that this lawyer once helped him to organise documents for a journey to Africa within only ten days, a story that made Lamin trust the lawyer at least to a certain extent. The lawyer kept promising every single person that he would right be there for them – a promise he was incapable of fulfilling. He did not spend time explaining to his clients what he was planning to do about their case. Instead, he kept looking for files in his briefcase while continuing to talk to the few dozens of people in a random order.

It wasn't until about five o'clock that we finally managed to speak to the lawyer. In the meantime, the cluster of people had moved to a rather shabby kebab store – which apparently served the lawyer as some sort of informal office space. The number of people was continually increasing. Somebody would show up, the lawyer would throw a pile of papers on the table and tell his waiting clients to sign them while he talked to somebody else or accepted a phone call. It is doubtful anybody understood what exactly they were signing. The lawyer did not make any time or effort to listen to the different cases and discuss their chances, their options, or what would happen next. I got the impression that he spent most of his time justifying his haste and demands for payment by reminding everybody that he also needed to make some money.

To us, it was unclear if the lawyer had ever met Adama before and if he knew whom we were talking about. We simply did not get through to him. The only substantial information we received that late afternoon, was that – if Adama really was in prison – the only time that he would be released would be at 5 pm. The lawyer continued to explain that the three of us would not be allowed to get any further information because we were not relatives of Adama. He enumerated three scenarios: first, Adama had swallowed cocaine capsules and was in the hospital to get rid of them. Second, he was in some way related to people linked to criminal activities or third, he had attacked somebody. He also explained how long the whole procedure could take. We still did not even know if Adama was in prison. That is why we decided not to pay 600 euros for the lawyer's services.

These descriptions of an encounter with a lawyer highlight how difficult it is to read what is going on within the migration regime with its variety of actors and policies that are interrelated and influence one another. The example describes how lack of information leads to a feeling of powerlessness and at the same time to feelings of stress because decision-making and the weighing up of risks become very difficult in the face of so many uncertainties. As [Vigh \(2009: 431\)](#) writes, for 'people who are caught in bureaucratic situations that work beyond their grasp and logic, such bureaucracies paradoxically ... seem to produce precisely the uncertainty that they seek to eliminate'. The law and the state are hardly found in everyday

life through their ‘written’ dimension, but rather through everyday practices such as police checks, bureaucratic procedures or in encounters with lawyers.

To capture this inaccessibility and simultaneous omnipresence of law in the migration regime, we drew on Indian anthropologist Das’ (2004, 2007) conceptualisation of the state in our book *Migrants before the Law* (Eule et al, 2019). Das describes the state as being powerfully present in everyday life but remaining intangible at the same time:

[W]e come to see the state as neither a purely rational-bureaucratic organization nor simply a fetish, but as a form of regulation that oscillates between a rational mode and a magical mode of being. As a rational entity, the state is present in the structure of rules and regulations embodied in the law as well as in the institutions for its implementation. From the perspective of the people with whom I worked, the law is the sign of a distant but overwhelming power that is brought into the framework of everyday life by the representation and performance of its rules in modes of rumor, gossip, mockery, and mimetic representation. (Das, 2007: 162)

Whereas Das’ work is based on research in India, she emphasises that her understanding of the state is not specific to non-Western countries, which we have further developed in our elaborations on how the migration regime both imposes its power through an apparently rational logic while simultaneously being unpredictable (Eule et al, 2019). Das distinguishes between law in books and the law as experienced and perceived by ordinary people. Following her lead, I am less interested here in migration law as manifested in legal texts than in how it plays out in people’s everyday lives, during the meticulously structured days in refugee camps, while waiting for decisions, while trying and failing to have access to the law, while discussing the law or merely considering how to ‘circumvent’ it or instead ‘appropriate’ it for one’s own benefit (see also Chapter 6).

Das understands the state as functioning both through a rational as well as through a magical *modus operandi*. She makes four claims on how the state imposes its presence in a magical way:

First, magic has consequences that are real – hence I prefer to speak of the magic of the state rather than the fictions of the state. Second, the forces that are mobilized for performance of magic are not transparent. Third, magical practices are closely aligned to forces of danger because of the combination of obscurity and power. Finally, to engage in magic is to place oneself in a position of vulnerability. (Das, 2007: 163)

To illustrate the ‘magic of the state’ based on my research, I return to Eymen’s story. The first part of Das’ quote is rather too obvious: the consequences of Eymen’s illegalisation are undoubtedly real. It is the law that has prevented him from legally settling down, working and building a family in Switzerland – aspirations that he repeatedly expressed. The second point addresses the lack of transparency in state practices. This claim is mirrored in the unpredictability of law enforcement, which is perceived as a major instability by most illegalised migrants. During our first interview, Eymen was considering returning to his country of origin because of the constant fear of unannounced police checks he experienced in Switzerland when living in a so-called emergency shelter for rejected asylum seekers. In a similar way, Daniel also expressed how he suffered from the unpredictability of such police control and its overwhelming power in a message he wrote to me in 2015 when he was living in Austria: ‘You know, here one never knows their plans. They [migration authorities] can wake up one day and say that my asylum is finished. They can come with police to pick someone where he is sleeping in the morning. Everything is in their hands.’

The third of Das’ claims – magical practices being aligned with danger – I identified in many narratives from migrants. Eymen lived under constant stress because the fear of being deported was omnipresent. Law enforcement could indeed lead to his expulsion and hence endanger the migration project he had been trying to realise for over a decade. Finally, I find the last point – ‘to engage in magic is to place oneself in a position of vulnerability’ – to be particularly interesting since it takes migrants’ active engagement with the migration regime seriously. Migrants appropriate migration law to a certain extent, and thus seek ways to ‘engage with magic’; indeed, this might implicate that they place themselves in a position of vulnerability as when they become visible to the state. This emphasises the ambivalent relationships between migrants and the law (see also [Chapter 6](#)) that my interlocutors have in common, in a certain contrast to ‘undetected migrants’ who never entered the asylum regime and try to avoid any sort of visibility (see [Chapter 2](#)).

Das also speaks of the ‘illegibility’ of the state to explain why it appears as even more powerful precisely because it is difficult to anticipate or read and often seems completely out of reach. She writes: ‘It is this *illegibility* of the state, the unreadability of its rules and regulations, as well as the location of legitimacy of customary institutions ... that allows the oscillation between the rational and the magical to become the defining feature of the state in such margins’ (Das 2004, 234, emphasis in original). Experiencing law enforcement and bureaucratic encounters as arbitrary and difficult to anticipate contributes to the illegibility within the migration regime, challenges the navigation of it and causes feelings of stress, powerlessness and instability.



In the following sections, I add three further explanations of why illegibility is a persisting experience of migrants' everyday navigation of the law. First, access to information is difficult. Second, the many actors and laws contributing to the formation of the migration regime make it hard to disentangle the different regulations and the various actors' responsibilities. And third, the law in books and the law in practice are often two very different things.

### *Access to information*

For migrants with a precarious legal status, access to information is often rendered difficult – both in situations of increased mobility as well as in phases of increased containment. Yet access to information is vitally important in order to understand legal processes, act upon authorities' decisions, or engage in regularisation strategies. Assessing the risks and opportunities of legal procedures often remains a challenge. During my research within the asylum facility, several interlocutors approached me with letters which I was asked to translate and explain. People had many questions about the bureaucratic proceedings they were involved in but also about possible future destinations or the risk of deportation. Of course, as I am not a legal expert, it was often impossible to answer these questions – also because of the inherent unpredictability of law enforcement.

In Switzerland, asylum seekers are, to a certain extent, informed during their first hearing in the reception centres at the border.<sup>3</sup> However, language barriers and the fact that people are often not used to reading make it difficult to transmit information. Among the staff working in the camp, few people seemed to be competent, willing – or indeed allowed – to answer case-related questions. Decisions on asylum applications by the Swiss State Secretariat for Migration are written in German or French with a very short section in English. Camp staff sometimes helped with translation, but they were not educated in asylum law and were also instructed not to give any recommendations to asylum seekers regarding how to proceed after receiving such letters.

When residents received a letter with an inadmissibility decision,<sup>4</sup> they were informed about the possibility of appealing within five working days. The letter of appeal had to be written in French, German or Italian and required substantial legal knowledge for it to be formulated reasonably. Hence, support from a lawyer or legal counsellor was essential if somebody wanted to use his or her right to appeal. Together with the decision letter, camp residents received a flyer advertising a legal counselling organisation in a nearby town. To make an appointment, potential clients could call the organisation twice a week.



Obinna recalled that he tried to get support from the legal aid office but was already turned away on the phone because his chances of successfully appealing his decision were considered too low. He thus did not even get the opportunity to appeal his negative decision – however small his chances would have been to win the case. It would have been a challenge to find another organisation or person to help him because restricted access to the Internet made it difficult to search for other legal counsellors or lawyers. Also, he did not have enough money to pay for a ticket for public transport<sup>5</sup>, let alone for a private lawyer. Finally, living in a fenced-off camp, he lacked social contacts to support him in his undertaking. Inaccessibility of legal advice hence additionally enhances the difficulty of accessing information about one's legal case. This emphasises the omnipresence of the law and its simultaneously felt absence: migrants' room for manoeuvre is tremendously circumscribed and constrained by legal regulations while opportunities to proactively engage with the 'law' are restricted.

An additional obstacle for gathering relevant information were the restrictions on the use of information technologies in asylum or detention camps. In the Swiss camp where I conducted my fieldwork, house rules prohibited the use of personal phones, and residents could only access the Internet on four afternoons a week in a building outside the camp facilities. Limited access to the Internet not only restricts access to news or websites with helpful information, but also makes it difficult to contact family members and friends who can also be an important source of information. Instead, camp residents had to resort to information provided by fellow residents or camp staff.

While enforced immobility in asylum camps can severely hinder access to legal support, a high degree of mobility can have a similar effect. Entering new local contexts again and again requires that relevant knowledge be acquired anew.<sup>6</sup> Besides, language difficulties and low levels of formal education can make it difficult for people to collect the necessary information. As these examples show, my interlocutors were often confronted with a scarcity of information, which, in turn, caused them to resort to unreliable information, such as rumours, as I demonstrate later.

### *Many hands and laws*

The large number, as well as the sheer complexity and interrelatedness, of the actors and regulations that constitute the migration regime, make it impossible for individuals to comprehensively understand how it works. Building on [Thompson's \(1980\)](#) work on the overlapping responsibilities of public officials, we argued that – besides the complex nature of legal policies – the vast number of actors involved in the migration regime challenges the deciphering of actors' specific roles and tasks ([Eule et al, 2019: 119](#)). In

addition, migrants struggle to ascertain who could be considered trustworthy and who could not – not least given the ‘opaque boundaries and shifting roles’ between those who facilitate and those who control migration (Schapendonk, 2018: 665).

I often had the impression that camp residents sought to impress staff working in the camp with ‘good behaviour’ in order to possibly favourably influence the outcome of a procedure, although employees working in asylum facilities have no direct influence on the decisions of the Swiss State Secretariat for Migration. However, occasional informal forms of support can have a decisive influence on the outcome of legal proceedings. Due to the geographical isolation of many asylum centres, counsellors, security staff and chaplains often play a central mediating role and may, for example, refer asylum seekers to legal advice centres – or actively refrain from doing so, thus reinforcing the lack of access to information. Different actors within the migration regime take on, respectively deflect, responsibility towards migrants with a precarious legal status based on assessments of people’s deservingness (see Chapter 6 in Eule et al, 2019).

Therefore, such an intricate entanglement of actors, tasks and regulations makes it hard to understand and dissect the intersecting responsibilities held by different people – not only because migrants are not capable of distinguishing the different stakeholders but also because an actual overlapping of competencies among actors exists. For example, the security staff in the camp used to ask residents upon entrance into the facility for receipts if they had bought new goods. This did not seem to fall within the remit of their responsibility. On the one hand, there is no law in Switzerland that says you must carry around receipts for everything you buy. On the other hand, it is usually the police that oversees uncovering potential thefts, which was the apparent reason for these control practices. Hence, struggling to decipher who is who not only results from migrants’ unfamiliarity with local contexts and laws, but is also rooted in the actual entanglements, messiness and complexity within the migration regime.

### *The law in books versus the law in practice*

Law as text and law as being implemented do not always overlap, which leads to ambiguities and gives space to illegibility. Scholars studying law in practice have emphasised the high degree of informality that characterises the implementation of migration law, which as a result often deviates from law as text (Giudici, 2013; Eule, 2014; Tuckett, 2018; Eule et al, 2019). Even familiarity with the law in its written form therefore does not guarantee knowing how it will be implemented.

The implementation of the Dublin Regulation is an excellent example. Its application varies considerably from country to country (Schuster, 2011a;

Fratzke, 2015). Some states have high numbers of actual Dublin deportations (for instance, Switzerland; Soysüren and Nedelcu, 2020) while others have meagre effective transfer rates (for instance, Italy; Fullerton, 2016). This is not only due to certain countries receiving more ‘secondary movers’, but also to the uneven enforcement of deportations. Many migrants are in fact not deported to the country that was officially considered to be competent for their case (Belloni, 2016). Thus, people may be well aware of the Dublin Regulation, but at the same time hear about asylum seekers who have moved on within the Schengen area and still have not been deported to their first country of arrival.

Similar inconsistencies can be observed regarding deportations to individuals’ countries of citizenship. While certain nationalities remain undeportable due to the lack of readmission agreements or because their identity cannot be proven (Gibney, 2008; Rosenberger and Küffner, 2016), it remains unclear why in other cases rejected asylum seekers are not deported – at least for a considerably long period of time. This was the case with Eymen. There is an agreement between Switzerland and his country of origin to facilitate forced deportations. Nevertheless, Eymen was never deported from 2014 to 2016, even though he was registered in a state-funded shelter and was thus very ‘deportable’. He once told me that he was not afraid of being expelled from Switzerland as he did not know any fellow citizens who underwent a deportation from Switzerland. Formally, the law had not changed when Eymen was eventually deported to his country of origin in 2016, but the implementation practices had obviously altered. This shows that shifting and inconsistent implementation practices lead to illegibility and unpredictability of state control practices, forcing migrants to base their decisions on unreliable information.

## Rumours: hopes and fears

Hey,  
 here are rumors in Germany that in France they stopped Dublin and deportations. So, many people with bad chances think of going to France. Does anybody have any news?  
 Best wishes,  
 [XY]

Hi!  
 I think this is a rumor ... the tendency in Europe is to increase Dublin transfers (this is true for example for Germany).  
 France deported 20 persons to Switzerland from the beginning of the year. ... This is an example to show you that it is probably not true at all.  
 [YX]

This email communication, originating from an international network of legal advisors and activists, illustrates how the implementation of law is in constant flux and causes confusion not only among migrants themselves but also among their supporters, among migration experts and legal experts. The two emails were followed by a third that attempted to analyse ‘what’s behind these rumours’. The author assumed that these rumours arose following the demolition of the unauthorised Calais refugee camp in Northern France, from where migrants attempt to enter the UK. Apparently, after the demolition by French police in 2016, the Minister of the Interior had promised the inhabitants of the ‘Calais Jungle’ to process their cases in France and thus suspend the Dublin Regulation. Besides, French authorities had generally not been ‘putting a lot of energy to deport people in Dublin procedures’, according to the person responding to these emails. Both observations had resulted in rumours about France being lax in its implementation of the Dublin Regulation. This has apparently led to people with little chance of asylum in Germany considering moving to France in the hope of being less exposed to the risk of deportation there. It is important to note that both practices – the temporary suspension of Dublin deportations in connection with the demolition of the camp in Calais and the lax implementation of Dublin deportations – had been changed in the meantime and replaced by a stricter application of the law.

This example epitomises the crucial role of unreliable information – rumours – for the deciphering of an illegible migration regime. Rumours are ‘word of mouth communication of “unsubstantiated” information’ (Harney, 2006: 376) and can be important sources of knowledge. This is particularly the case in situations where more reliable and substantial information is not accessible. Given the illegibility of law enforcement and the consequent need for individuals to be knowledgeable in order to make decisions, it is worth paying attention to rumours.

The constant sharing of unreliable information about how to cross borders, where to move to next, how to improve one’s legal status and how to avoid detection by police affects the shape of migrants’ journeys. ‘People invest a great deal of time in making sense of and predicting the movement of their social environment, in clarifying how they are able to adapt to and move in relation to oncoming change’ (Vigh, 2009: 420). The following quotes by Eymen illustrate how the collection of oral information is a constant part of everyday life when people spend long periods of time waiting with others in similar situations, such as during asylum procedures in refugee camps or when stranded somewhere trying to cross borders (Borri and Fontanari, 2015; Brekke and Brochmann, 2015):

‘If you live in this situation, you have to know everything. You have to know many people. Tunisians, Algerians, Africans ... Like this, every

day you will get to know another story [laughs]. ... This one came out of prison. Why? He got a wife. Another one will enter prison. ... There are many stories like this. Like this, you have experience. Every person tells you, you have to do this, this, this. ... Like this, you find a solution.’ (Interview in Switzerland in 2014)

‘If we speak, for example, about people who have no papers and who are looking for a solution to get papers. They are trying to get information on all European countries. ... For example, I am now in Switzerland, I have to change [the country]. I have a little information that in Spain you can make papers. Maybe I will depart there. Maybe in Italy, there is a law that they issue papers. ... People can also look for marriage. ... For example, I have heard that in Norway there are many women ... [laughs] ... “Ok, I’ll try my chance.” Like this, all persons will search for what they want. And like this, they will make their direction.’ (Interview in Switzerland in 2015)<sup>7</sup>

Eymen’s quotes point out how unequal Europe is in terms of national regulations, employment opportunities, access to papers, or in terms of control practices that expose illegalised migrants to the risk of detention and deportation. A specific mapping of a heterogeneous European migration regime results from endless conversations about opportunities or loopholes in the law. This mapping is oriented towards the needs and fears of migrants with a precarious legal status. It is based on vague ideas of law, impacts migrants’ decision-making and consequently their journeys within Europe. Stories are shared with fellow migrants, discussed, weighed up against other information and, importantly, passed on to other people. These stories seem ‘true enough’ for migrants to act upon (Eule et al, 2019: 129). As Vigh (2009: 420) writes, in contexts of social uncertainty, poverty and conflict, people ‘spend a great deal of time debating how global, regional and local influences and conflict will affect their lives, what spaces of possibility will emerge or disappear, what trajectories will become possible and what hopes and goals can be envisioned’.

The interrupted journeys of migrants with a precarious legal status may exhibit a seemingly directionless pattern of movement that triggers the question: what causes the course of these trajectories? This section draws attention to the mobility-provoking role of informal knowledge transfers and argues that rumours play an essential part in shaping migrants’ journeys against the background of a highly complex and often enigmatic migration regime. Rumours help migrants to find ways and loopholes to avoid migration control. They create hopes and encourage people to continue their journey throughout Europe. Such a focus not only helps to explore decision-making processes by people on the move but also to understand

how rumours are important means relied upon in attempts to ‘read’ the state. It is the illegibility of the state itself that makes rumours a crucial channel for the dissemination of information, especially for marginalised migrants.

### *Knowledge transfer and the fragility of social ties*

Social networks – however fluid – are essential for rumours to flourish. Within migration studies the importance of social networks for migrant decision-making has long been acknowledged (see, for instance, [Massey, 1990](#); [Glick Schiller et al, 1992](#); [Bashi, 2007](#)). However, only a few studies have examined the role of social networks for people en route.

Most of the people I met were travelling alone with no one to help them make decisions about their migration project, not least because restrictive policies and unplannable journeys lead to the separation of friends or relatives en route and make it difficult for people to stay together. [Collyer \(2007: 682\)](#) found that contacts between African migrants who were ‘stranded’ in Morocco while attempting to enter Europe were ‘weak and used instrumentally to advance individual journeys’. Although the social networks of highly mobile individuals are often informal, transient and dynamic in nature, they are nevertheless crucial for the course of migrants’ journeys ([Schapendonk, 2012b](#)).

In the following quote, Ali, a man in his early twenties from a Middle Eastern country, pointed to the mutual solidarity that he experienced with one man from Morocco during his stay in Greece, but also stressed the limitations to such friendships:

‘Look, we are friends, right? Me and this Moroccan guy are [friends]. However, if he has the opportunity to leave ... he leaves without telling [me]. *Capisci?* We are now together, we live together, we laugh together. ... “If you need help, you call me, and I help you.” But there is one thing: I came for this reason [referring to his migration project]. Will I let go of this thing for you? Why? Did you understand?’ (Interview in Austria in 2016)

I have already pointed to the ‘culture of suspicion’ ([Bohmer and Shuman, 2018](#)) pervading asylum camps, legal procedures and even social relations among migrants. Lack of trust among migrants was an issue that was raised several times, and this adds to the fragility of social networks ([Schapendonk, 2012b](#); [Suter, 2012](#)). The following quote by Obinna illustrates such limited trust: ‘I can’t trust anybody, yeah. ... Maybe if anything happens, you say he’s your friend. ... Maybe he’s in trouble. ... You have something to do with this ... friend. ... Maybe he will be caught. You can get caught too. So, I don’t want to distract from my paper’ (interview in Switzerland in

2014). The precarity of living conditions determined by illegalisation and the always present fear of being intercepted by the police become tangible in these examples and also penetrate personal relationships, as the constant feelings of mistrust render even friendships difficult. In addition, some people mentioned that friendships with fellow migrants are challenging, as everyone has their own problems and cannot cope with the suffering of others. Obinna said: '[W]hen you add your problem to someone, it's not ok' (interview in Germany in 2016).

As a consequence, my interlocutors' social networks can be considered as fluid and rather loose but nevertheless of relevance (Borri and Fontanari, 2015). Scholarly work on the impact of interpersonal relations on migration decision-making has mostly focused on the involvement of families and households in such processes and less on the impact of acquaintances (but see, for instance, Dahinden, 2010; Ryan, 2011). My observations, by contrast, show that what informs migrants' decision-making is often based on, or triggered by, communication with acquaintances and less with family and close friends.

Karim, for instance, a man in his late twenties from a North African country, who was travelling from Greece towards Western Europe, described the situation when he arrived with a friend in Austria where they were not planning to stay: 'When we arrived in Austria, we spoke to many people. Because there is always much news when you arrive in a country.' It is this form of oral communication that enables people to exchange information.

While the principle of orality is one of the most important features of rumours (White, 2000; Coast and Fox, 2015), social media and other communication technologies must also be considered as essential channels for the spread of rumours. Especially in the context of high and often sudden mobility, such communication tools can help maintain contact with acquaintances that would otherwise have been cut off (Schapendonk, 2018).

Being embedded in however flimsy and dynamic social networks can thus still be vitally important for the emotional wellbeing of migrants in precarious living conditions and is often instrumental 'to emphasise a shared experience, a common suffering' (Colyer, 2007: 686). As we could see, these social networks, crucially, serve as important information channels that assist migrants to take decisions on how to navigate the migration regime as they help to make sense of an otherwise rather illegible system.

### *Decision-making*

Rumours circulating on social networks influence migrants' everyday decision-making. While the room for manoeuvre for illegalised migrants

is severely limited, they still have to make decisions on a daily basis. Such decision-making processes were a recurring theme in my interviews. Feelings of stress were often related to weighing up different opportunities and risks, as migrants in uncertain circumstances have to choose between alternatives that are similarly unappealing or risky. Should they leave a place because the risk of interception was rumoured to have increased due to a new wave of deportations to one's country of origin? Or is it safer trying to organise a place to sleep in a familiar environment?

Here, I am less interested in *what* decisions are taken or *why* certain decisions are made. Instead, I want to explore *how* decision-making takes place against the background of illegibility within the migration regime. To show how stressful the experience of such decision-making can be, I refer again to Eymen, who described how he felt stressed by the pressure of having to decide what to do next. The following quote is from an interview conducted immediately after his release from prison, where he was serving time for illegal stay in Switzerland:

‘And this put some pressure on me now, and I thought a lot about making another programme in my life. I am not 100% sure. ... You see? For instance, I don't know, if I should go to another country. Maybe I ... I don't know. ... There are many things, but they are not at all clear by now. ...

It is very difficult. I don't know. I don't know. Really, I am blocked in a situation. I don't know what to do. Sometimes I think about leaving to Germany, for example. I don't want to return to Italy because there is nothing at the moment. There is not a lot of work. There is nothing at all.' (Interview in Switzerland in 2015)

Later in the conversation, when we were discussing alternative options to staying in Switzerland, Eymen told me that he had recently been thinking about going to Germany:

- E: I was thinking about some things, but I don't know. I don't want to do it, but sometimes, I am thinking to go there [to Germany] because the truth is there are many possibilities for a marriage. ... There are many [North African persons] in Germany who are with a “mariage blanc” [marriage of convenience].
- A: And how does it work?
- E: I don't know. They are there ... I have little information; I am not 100% sure.
- A: You have heard it?



- E: Yes, information from friends. ... And that women ... there are a little bit ... I don't know ... that contact is easy. Not like here [in Switzerland].
- A: But before you told me that you cannot imagine getting married to a woman without really having a relationship with her?
- E: Yes, before, yes. But sometimes ... I think about doing it for the papers. ... But ... if I had enough money ... maybe I could find a solution like that. Depart to another country, do a "mariage blanc", and like this, I would be free. I could do everything.
- A: And how does this "mariage blanc" work in Germany?
- E: *Alors*, in Germany you can marry without returning to [your country of origin].<sup>8</sup> ... It is easy. It is not like here. ... Like this there are solutions, but the problem is that every time you have to start from zero. Until you have arrived. (Interview in Switzerland in 2015)

What I find interesting about this quote is how partial knowledge of the law is interwoven into Eymen's reflections. He heard that in Germany it is easier to get married if one of the spouses has no residence permit, whereas in Switzerland a law introduced in 2011 makes such a marital union difficult (Swiss Civil Code, Art. 98, section 4). However, the number of times Eymen said 'I don't know' is striking. This might partly result from his unease and embarrassment because he confessed to me that he was considering a marriage of convenience. But it is also a result of the actual unreliability of the information he had at his disposal. It was highly uncertain if Eymen would succeed in organising such a marriage of convenience. The quote illustrates how rumours are used to clarify the available options and thus how they affect decision-making, but also, that the information conveyed remains very unreliable.

Rumours 'fill in the gaps in our knowledge' (Knapp, 1944: 22) and provide people in ambiguous and uncertain situations with information, however unverified it is, which helps them to make sense of the situation and make decisions (DiFonzo and Bordia, 2007: 23; Coast and Fox, 2015). Eckert (2012: 153) understands 'rumours of rights' as an important mode for spreading the law:

[W]hat is known about law is shaped by the fears and hopes of those who transmit the rumour and those who hear it. These processes of horizontal knowledge transfer thus select legal knowledge in relation to concrete situations, particular perceptions of problems and conflicts that differ from the often discussed top-down processes of legal dissemination. (Eckert, 2012: 148)

The reflections by Eymen on marriage options in Germany are just one example of such rumours of rights. On the one hand, there are rumours spreading information on potentially favourable rights, on the other, there are rumours regarding potentially threatening law enforcement – and thus rumours that serve as a warning function (Eule et al, 2019). Importantly, rumours heavily inform and shape the course of migrants' journeys as they might both provoke mobility and immobility.

While rumours are spread, their content might change as certain aspects are highlighted by those who tell them and other aspects are omitted and forgotten about (Eckert, 2012). Information may be accurate for a particular individual at a particular time, but because of rapidly changing circumstances, the complexity of individual cases, and the discretion of street-level bureaucrats, such information may not readily apply to other individuals. In the following quote, Daniel described how asylum procedures can evolve very differently from case to case, referring to a conversation with a fellow migrant:

'[H]e will tell you his own process. And you will think this guy has good luck. ... But when you come, you find out that the stories, the case now changed, it's different. Instead for one month, you have to stay for three months [within one of the enclosed federal camps in Switzerland].' (Interview in Austria in 2016)

Frequently, people base their decisions on such individual experiences of other people which might not exactly fit their own case.

While a characteristic feature of rumours is the lack of evidence for their content, their content is not necessarily false (White, 2000; DiFonzo and Bordia, 2007). Yet, acting on the basis of rumours is associated with many uncertainties. The frustration at the misinformation that asylum seekers acted upon was expressed by a legal advisor in Switzerland in a conversation about the summer of 2015, when rumours of Germany's generosity emerged after the country suspended Dublin deportations for Syrians for a few months and processed asylum applications of people who had arrived in other countries within the Schengen area. Apparently due to false rumours, some people moved from Switzerland to Germany:

'I have to say I find this nonsense of information that they sometimes have ... really bad. ... For instance, they thought everybody can just go to Germany now and receive asylum. Then I have to say, "From where do you have this information?" ... They also understood that people who have F [temporary admission of foreigners in Switzerland] here would receive refugee status in Germany and many packed their suitcases and went to Germany with the result that the Germans sent

them back here again. So I have to say that sometimes the information they have is bad.' (Interview 2015 in Switzerland)

Rumours reflect migrants' reality in that they are uncertain. This inherent vagueness is accompanied by uncertain outcomes if people act upon them and provokes new instability and unpredictability. As has been shown, rumours might transmit false information and lead to unnecessary mobility and thus add to the zigzag shape of migrants' interrupted journeys.

*Hopes and fears: clutching at straws*

I was often struck by the hopes that were nourished by rumours. I spoke to people who had spent more than a decade without being able to regularise their legal status, being rejected time and again, experiencing precarity and suffering from being illegalised and marginalised. Given these hardships, I was at times puzzled by the fact that people did not give up and that they found the strength to continue. One reason for people to extend their stay in Europe, despite the extreme material and social discomfort they endure, is the continuing hope that their situation will improve (de Coulon, 2015). Writing about rumours, Eckert (2012) points out the unsystematic selection of the content of the news that is shaped by what the teller wants to tell and what the hearer wants to hear. Thus, what is known through rumours is shaped by the fears and hopes of those who transmit the information and those who hear it (2012: 148). While scholarly work on rumours emphasises that hopes (and fears) are important in terms of which rumours are *selected* to act upon, less attention has been paid to the fact that rumours also *generate* hopes (and fears).

Following Rosnow (1991; see also Knapp 1944) it makes sense to distinguish between 'wish rumours', on the one hand, and 'dread rumours', on the other. Wish rumours nourish the hope and belief that one's situation can be improved, for example, that one can obtain a residence permit. In the context of my research, wish rumours are about opportunities where the law could work to one's advantage, whereas dread rumours are about opportunities where the law could work to one's disadvantage. Dread rumours invoke feared consequences. They include rumours regarding the potential risk of states' control attempts and thus serve as a warning function in that they help migrants to anticipate law enforcement practices directed against themselves.

One rumour I heard during my research in the camp concerned the at times widespread suspicion about my role in the camp (see also Chapter 1). I learned from different sides that someone had been spreading the information that I belong to the Swiss migration authorities. Repeated explanations on ethnographic methodology on my part were not always

enough to reassure people about my intentions. Given the difficulty in distinguishing between the different actors and their roles and responsibilities within the camp, and thus in dissecting the illegible composition of the camp, it is not surprising that such rumours have arisen. Other rumours circulating in the camp included information that the computers were being monitored or that the medication given out by the camp staff could be harmful. Such dread rumours are thus used to circulate information about possible risks and control attempts by state authorities, in the hope of circumventing them.

Interestingly, however, I heard many more wishful rumours expressing the hope of finally finding a solution, which recalls [Scott's \(1990: 147\)](#) observations: 'Why is it that oppressed groups so often read in rumors promises of their imminent liberation? A powerful and suppressed desire for relief from the burdens of subordination seems not only to infuse the autonomous religious life of the oppressed but also to strongly color their interpretation of events.' It seems that people rather hear rumours nourishing their hopes than those diminishing their hopes. I can only speculate that this is because otherwise, the condition of illegalisation is even less bearable. In this regard, my data speaks to [Eckert's \(2012\)](#) criticism that in the literature on rumours fear is often overemphasised.

[Brun \(2015: 31\)](#) states that in situations of 'protracted uncertainty' hope can be a 'way to cope with the unpredictability of the future'. This was reflected in many conversations and is illustrated with the following quote by Obinna whom I asked what exactly he was hoping for as he waited in a German asylum facility for a decision of his claim for protection: 'I'm feeling hopeful that I stay. ... I still have more things to do. ... There's good things coming. ... A lot of good things coming. It's going to be better than today. It's going to be better in life' (interview in Germany in 2016).

Directing our focus on hope should by no means obscure or neglect the feelings of hopelessness caused by the condition of illegalisation and the repeated failure to legalise one's status. Walid, for instance, constantly oscillated between hope and hopelessness. At times, he saw a new opportunity, such as receiving papers through asylum or marriage, at others, he held an asylum seekers' permit and was struggling with the awareness of its temporariness. Sometimes, he was emotionally crushed when some minor hope was destroyed again. In Walid's case, such disappointments frequently resulted in psychological breakdowns, even provoked suicide attempts and stays in psychiatric hospitals. Not surprisingly, his hope seemed to decrease the more his attempts of regularisation failed. During our first interview in 2014, Walid said to me: 'Yes, I am waiting. I am waiting until the chance comes. I also have to fight for my life. For the positive to come.' Almost one year later, he wrote to me: 'I have already tried everything', indicating that hopes are changing and dynamic.

However, hopes are a major driving force with regard to continuing one's journey, as the following interview fragment with Adama exemplifies:

'I thought when I come to Europe ... it will be easier than staying in my country. Because, you know, [they] say that if I go to Europe I can have ... good work there, you know? ... So, that one also gives me the hope, but still when I come to Switzerland, I don't see any ... because I don't have an opportunity here, I am just you know, in the asylum camp. But maybe in the future.' (Interview in Switzerland in 2014)

In a similar way, Obinna described how he felt during his stay in the camp in Switzerland and then how he regained some hope after having moved on to Germany: 'The feeling was not the same, because the feeling in [the Swiss asylum facility] was ... hope lost. It was hope lost. And the one in Germany it was ... hopeful' (interview in Germany 2016). These quotes illustrate how hope and disappointment exist in close proximity. Again, this is a result of the unpredictability experienced in the condition of illegalisation.

One crucial source of rumours and simultaneously of producing new hopes are success stories by other migrants in similar situations. Hearing positive reports from fellow migrants keeps individuals' hopes up and encourages them to continue their journeys in spite of all the obstacles and hardships. People learn about stories of migrants who have successfully married a European citizen, who have acquired papers via regularisation procedure in a specific country or who have succeeded in making a living in the informal labour market. Several individuals told me that they wanted to try 'until the end' – until all options have been exhausted. The alternative would be to accept one's failure in comparison to others who were previously in the same position but who 'made it'.

Through the Internet and modern communication technologies people virtually accompany each other on their journeys through Europe. Accounts of the whereabouts of friends and acquaintances were recurrent themes during interviews and other conversations. Also, stories about people who have successfully settled and built a family became points of orientation for my research participants. For instance, Jamal who told me about a friend of his: 'He got a baby now. Here in [Germany]. He got a baby, and his baby got a passport' (interview in Germany 2016). Not surprisingly, the hope for regularisation was the most persistent source of rumours, and despite repeated failures of attempts of regularisation people continued to hold on to it (de Coulon, 2013). This was expressed in many rumours about where and how to receive papers. For instance, Hedi said to me in an interview in Switzerland in 2014: 'There were some people who told me that Switzerland is a beautiful country. Switzerland gives papers. ... That is why I arrived here.'

Such stories – as incomplete as they are – generate hope, and explain, to some extent, the endurance of migrants with a precarious legal status (see also [Chapter 7](#)). ‘It is this rather than the question of whether the rumour exactly reproduces “facts”, that gives rumour and gossip their power. Rumours define and create worlds as much as “facts” do’ ([Harney, 2006: 377](#)). Rumours are thus inherently productive in making people continue their interrupted journeys against all the odds.

### *Subversive power of rumours*

‘The rapidity with which a rumor is propagated is astonishing’ ([Scott, 1990: 144](#)). It is this very mobile aspect of rumours that gives them their powerful role. Due to the frequent changes in policy and implementation, migrants need to adapt quickly to these fluid legal conditions. I was at times astounded by how fast information about such changes travels among migrants. The velocity of rumours helps to explain the flexibility and spontaneity with which migrants are sometimes capable of reacting to changing realities. Indeed, rumours are an important resource in migrants’ everyday navigation of the migration regime.

Fozi, a man in his early thirties from a North African country, had been travelling towards France after he had lived and worked unauthorised for several years in Greece. In the following citation, he explained the importance of oral information: ‘I get all information from friends. Not from the Internet. ... In the Internet, everything is legal. [About] visa, passport, ID card. [They] have no work for persons without papers on the Internet. You cannot find it’ (interview in Switzerland in 2015). The exchange of rumours is thus indispensable to find ways around the implementation of migration control, because, on the one hand, official legal information is inaccurate as the law in books often diverges from the law in practice. On the other hand, illegalised migrants need to know how to subvert or appropriate legal frameworks – information which is hardly stated in official texts. In addition, ‘official’ channels of knowledge transfers often fail not least because information shared by authorities is often deemed untrustworthy, given states’ priority to develop strategies to deter and exclude unwanted migrants. It is the marginalised and illegalised position of migrants that makes informal knowledge so important. Policy makers and street-level bureaucrats often seem to assume that the lack of access to the ‘right kind’ of information makes migrants make ‘irrational’ decisions (like moving on within Europe despite the Dublin Regulation; [Eule et al, 2019](#)). However, unwanted migrants who seek to remain in Europe, which is to be prevented by restrictive laws, need access precisely to such – mostly informal – information that helps them to circumvent the implementation of these laws.<sup>9</sup>

Over time, many people gather on-the-ground expertise on how laws are enforced in different countries, which is crucial for their navigation of Europe. Often this concerned information about the (uneven) implementation of policies across Europe. To give an example, Karim explained to me: ‘“Dublin” exists only in Hungary, Austria, Germany, Scandinavia, for example.’ Even though the Dublin Regulation was signed by many more countries, Karim was right about the regulation being implemented in a highly uneven way. He continued: ‘When you go to France, Spain, Italy, nobody cares about you.’ Indeed, these three countries enforce very low numbers of Dublin deportations ([eurostat, 2018](#)). It is this information about how law is *implemented* – and not what is written in the actual regulations – that was of relevance to Karim. Such informal knowledge about laws in practice, thus, holds a subversive potential, which helps migrants subvert, circumvent and at times appropriate laws.

While I have focused on migrants’ knowledge production and transfer, I might not have paid enough attention to states’ reactive role regarding the subversive power of rumours. States can also seek to counter the effects of subversive rumours ([Coast and Fox, 2015: 228](#)) as when they attempt to oppress the circulation of informal knowledge. Limiting migrants’ access to mobile phones and the Internet – as was the case in the camp where I conducted my fieldwork – is one way of making the circulation of informal knowledge difficult. Another example would be information campaigns in the countries of origin to show potential migrants that their rumoured knowledge about Europe is wrong ([Pécoud, 2010](#)). For instance, the Swiss State Secretariat for Migration produced a series on ‘the risks of travelling to Switzerland’ in collaboration with a Nigerian filmmaker ([SWI swissinfo.ch, 2017](#)). Similarly, Germany launched a campaign called #RumoursAboutGermany<sup>10</sup> with the objective of dispelling rumours about Europe being a ‘paradise’ and thus discouraging would-be migrants from leaving their countries of citizenship ([Oeppen, 2016](#)). In a way, this can be understood as states’ attempts to produce counter-rumours to the rumours circulating among migrants.

## Concluding remarks

This chapter has shed light on how difficult it is to understand how and when migration laws are enacted and on how this creates unpredictability and uncertainties that migrants are forced to navigate. I have argued that illegibility in the migration regime is not merely caused by migrants’ lack of comprehension of the law but that it is also a systemic feature of the migration regime itself. In the face of a dynamic, capricious and unreadable migration regime, navigating it requires a constant attempt at deciphering and reading on the part of migrants ([Vigh, 2009: 425](#)). To find their way

through the muddle of law and control practices, migrants often rely on rumoured information. The empty time experienced in camps or during periods of unemployment allow for many discussions on how to interpret and predict control practices, which sometimes leads to wrong interpretations and anticipations, sometimes to right ones, but mostly to uncertain ones.

Rumours can have, as I argued, a mobility-engendering dimension as when they transmit information about opportunities and legal loopholes in other countries or regions. Learning about new prospects in other places may also inspire hope among migrants with a precarious legal status – hope, which is necessary to endure the insecurities of their living condition. Knowing about the incompleteness and unevenness of law implementation, for instance, makes people hope for regularisation despite repeated experiences of rejection. While the state succeeds in many cases in denying migrants access to papers, it often fails at destroying their hopes. Or how [Sutton and Vigneswaran \(2011: 637\)](#) put it with regard to their study on deportees in South Africa: '[T]hey found ways to prevent the state from undermining their ability to imagine the future.' In order to endure precarious living conditions, many cling to success stories of fellow migrants, which give them hope that perhaps things will change for the better after all. State actors, in turn, react to such prevailing hopes that help migrants sustain the suffering of the moment; for instance, through concrete attempts at destroying people's hopes to stay in Europe and convincing them to 'voluntarily' return to their countries of origin ([Lindberg and Edward, 2021](#)).

While this chapter has attempted to capture the distant but overwhelming power of the law and how migrants perceive it, the [next chapter](#) looks at how migrants actively engage with the law and use creative tactics to both evade the implementation of laws targeted against them as well as to appropriate legal frameworks to their advantage.



# Navigating the Law: Tactics of Avoidance and Appropriation

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## Adama's journey

At the very beginning of my fieldwork in the Swiss asylum camp, in 2014, I got to know Adama who was in his early thirties and who was originally from a West African country. I often chatted with him when I visited the camp. He had a joyful personality and usually shared a lot of jokes. During our first encounter, he told me about 'having his fingerprints' in Italy. He seemed aware of his limited chances to have his asylum case processed in Switzerland.

When I interviewed Adama for the first time, he often seemed unsure whether he could trust me and what information to reveal. When talking about the Swiss asylum system, he often addressed me as being part of the migration authorities, for instance in the following sentence: 'You people too, you don't allow anybody to stay.'

Adama told me that in his country of origin he had attended high school, majoring in art and geography. However, it remained unclear exactly what kind of school it was, how long he attended and whether he had also worked before leaving for Europe. In general, it was not always easy to understand Adama's accounts.

In 2013, Adama left his country of origin and travelled via different countries to Libya, as he told me, where he worked in construction for a short time. However, he experienced Libya as a hostile place towards Black people, as he pointed out. Within two months, he managed to organise a passage across the Mediterranean to Europe. He and his fellow passengers were rescued at sea by the Italian coast guard and then taken to Sicily, where Adama applied for asylum. He was later transferred to another Italian province, where he stayed in an asylum shelter for eleven months, together with other people from West African countries.

It remained unclear what happened during Adama's asylum procedure in Italy. He told me two slightly different versions – one during our first conversation in Switzerland and the second when we met again in Italy a year later. First, he said he had received a negative

decision from the Italian authorities, which prompted him to move on to Switzerland. During our second interview, he explained that the Italian asylum procedure had taken too long, which is why he wanted to 'try his luck' in Switzerland.

In another conversation we had in Italy, Adama mentioned a further reason for his move to Switzerland. He had heard rumours about other migrants who were lucky enough to marry a European citizen and thus legalise their status.

'I get the hope, you know, that maybe, when I go there, I can have some luck, different from here. Maybe I can be lucky and have a wonderful wife there [*laughs*]. ... Because my brother told me he sees those people. They came here with no documents but afterwards, you know, luck comes. ... They have opportunities with ladies, eh, women.' (Interview in Italy in 2015)

After his arrival at the Swiss border, it took him only a few weeks to learn of the rejection of his case by the Swiss State Secretariat for Migration, as Swiss authorities had learned about his asylum application in Italy. In the courtyard of the asylum camp we talked about the rejection, and it was obvious that Adama was extremely stressed about what to do next. He confided in me that he was not ready to move to another country as he was tired of always only staying for a short time in one place.

Adama was later transferred to another part of Switzerland, where he was housed in a cantonal shelter for rejected asylum seekers. He had a good friend in a nearby town with whom he could stay most of the time because, as he said, he preferred this to the emergency shelter, where residents were subject to restrictive rules, such as being home at a certain time. After about six months, Adama was intercepted by the police and taken to a deportation prison because of his illegal stay in Switzerland. He was detained there for a month before he was deported to Italy.

In 2016, I visited Adama in Italy. We met in front of the McDonald's near the main station, which proved to be a frequent meeting place for Adama. Several passers-by greeted him and exchanged a few words with him. He seemed to be well connected, and later I had the opportunity to meet some of his friends.

Adama seemed a little nervous at the beginning of our meeting. He asked if I was still working in the camp in Switzerland, which made me understand that he was still unsure about my position in the Swiss asylum facility. Again, I took some time to explain my research project to him. It was a few more meetings before I was sure that Adama understood that I was not working for the Swiss migration authorities.

Adama looked older and thinner than I remembered him when we met in Switzerland. He seemed very restless. At our first meeting during my visit to Italy, he excused himself after a while and disappeared for a few minutes. Later he explained to me that he was doing some illegal business in Italy to earn a living. He was worried that I would judge him and he justified his actions by stressing that this was the only way for him to support his mother and that he would much rather do another job. He also considered moving to another country in the hope of finding a better job there – and not having to do this 'dirty work', as he called it.

Adama recalled the time after his deportation from Switzerland as particularly precarious. When he arrived, he was not given any accommodation and was forced to sleep on the street. At times he would sneak into asylum shelters where friends and acquaintances were staying. Apparently, his asylum case was still pending in Italy, and he was waiting for a hearing with the authorities on his case. We talked about the fact that according to the law people should be accommodated in Italy during their asylum procedure – but it was common knowledge that the reception conditions in Italy were precarious (SFH, 2016). Nevertheless, and despite the experienced negligence of the Italian authorities, Adama continued to hope to obtain residence documents in Italy.

A few months before my visit to Italy, he had found a possibility to move into a friend's flat. Now that he was earning some money, he could afford to pay his friend rent. He was excited that he had finally found a place to stay and told me about it:

'Maximum! The time I got my house. ... Anytime I like, I open my gate, I sleep, anytime I need to. I invite people to come and [they] visit me. I'm the king! ... Nobody harasses me. But before, I told you, I sleep outside here.' (Interview in Italy in 2015)

He was visibly relieved about his new independence.

It was only in Italy that Adama told me he had a fiancée in his country of origin. He dreamed of marrying her and starting a family as soon as he managed to get residence papers in Europe. That way he could commute between Europe and Africa, work in Europe and still be there for his family and his wife.

During my stay in Italy, Adama was arrested.<sup>1</sup> When I met him after his release, he seemed even more exhausted, almost broken, and complained of stomach pains. He had spent 14 days in prison and could not – or did not want to – tell me about the reasons for his arrest. He also seemed even more nervous about police checks.

When we wrote to each other six months after my visit to Italy, Adama still had an ongoing court case. His asylum application had been rejected. However, he had appealed the decision with the help of a lawyer and was now waiting for the court's decision. He told me he wanted to wait until he could hopefully find a way to legalise his status before moving on to yet another country – as he had previously intended to do. In mid-2017, Adama was still in Italy, waiting for his status to be legalised. He complained that the legal procedures were too slow. In a chat over the Internet, Adama asked me for help. He wrote: 'Please, can we do false marriage? Even in Italy just in two months they would give me the paper.' He said that most of his friends had managed to get papers by now, some through marriage. He even offered me some money. I explained that this was not such an easy commitment for me, and he said he understood. Nevertheless, he expressed the hope that his situation would eventually be sorted out: 'One day there will be solutions. No condition is permanent.'

As we can infer from the account of Adama's journey, migrants with a precarious legal status actively engage in negotiations with the law. They try to claim their rights by initiating asylum procedures, they appeal negative decisions with the support of lawyers and legal advisors, or they take part in regularisation programmes. In many cases, however, they experience periods of illegalisation and therefore have to avoid the application of laws that target their unwanted presence.

The previous chapters have demonstrated how stigmatising discourses, high mobility, precarious and unstable living conditions as well as unpredictable law enforcement evoke feelings of powerlessness and uncertainty. Simultaneously, I have emphasised that migrants with a precarious legal status act upon their marginalisation by inventing new creative tactics in their navigation of the migration regime and their daily struggles to remain in Europe. Migrants appropriate mobility or become 'invisible' to elude migration control attempts, they navigate uncertainty within Europe by resorting to rumoured knowledge and they enter legal procedures to claim more rights. This chapter concerns this last point: the ways migrants seek to navigate the law.

Migrants' agency is strongly circumscribed and limited by legal frameworks defining their relationship to the states in which they reside. This chapter asks how, given the manifold legal constraints, we can conceptualise migrants' relationship to the law. Whereas the law is experienced as omnipresent and constraining, it simultaneously holds the promise to improve migrants' situation in case they succeed in regularising their status. Thus, this chapter is about the ambivalent relationship between the law and migrants with a precarious legal status against the background of increasingly elaborate border technologies intending to keep out unwanted migrants. This ambivalence is mirrored in migrants' everyday tactics.

Building on literature on legal consciousness (Ewick and Silbey, 1998; Hernández, 2010), I will first disentangle the relationship of migrants to the law and show that migrants are not simply 'against' the law, but often seek to act 'with' the law when trying to improve their legal situation. I will then zoom in on individuals' concrete practices and argue that, on the one hand, migrants apply tactics aimed at avoiding law implementation, and, on the other, they develop tactics aimed at appropriating legal frameworks to their own advantage. By doing so, I seek to conceptualise migrants' practices regarding their position to the law. In the last section, I address one tactic that migrants employ in the hope of regularisation when alternative legal avenues have been exhausted: I show that marriage to a European citizen (or lawful resident) must be considered as a last resort in migrants' fight for regularisation.

## Migrants with a precarious legal status and the law

Anthropological and sociological approaches to law provide insights not only into how law works in practice, but also how law is accessed, appropriated and experienced by individual actors (see, for instance, Merry, 1985; Sarat, 1990; Lipsky, 2010; Calavita, 2016). Law, its implementation, and the negotiations revolving around it, shape migrants' journeys to a great extent. It is the law itself that produces the illegality that migrants find themselves in and the consequences resulting from the lack of a secure status. Yet the law can make the presence of people in a certain country not only *illegal*, but also *legal*. Hence, all of my interlocutors have engaged in legal proceedings in the hope of being able to regularise their status. They therefore had to 'deal' with the law in some way.

Underlining the ambivalent position of the law for migrants, Coutin (2000: 12) writes: '[T]hough law makes legal status a prerequisite for particular rights and services, law simultaneously creates mechanisms through which the illicit can regularize their status. As a result, law cannot be characterized as exclusively hegemonic'. Consequently, migrants with a precarious legal status – despite *and* because of their exclusion through the law – have to constantly negotiate legal procedures.

Since the 1980s legal consciousness or the question of how law is experienced and understood by ordinary citizens became a relevant focus of scholars in socio-legal studies (Silbey, 2005: 326). This body of literature is interested in how ordinary people perceive, appropriate and sometimes also misunderstand the law. Ewick and Silbey (1998) developed three schemas according to which individuals position themselves in relation to the law: 'before', 'with' and 'against' the law.

The first schema – 'before the law' – concerns a positioning in which the law is seen as a separate sphere to ordinary social life. The law is perceived as a 'formally ordered, rational, and hierarchical system of knowledge' (Ewick and Silbey, 1998: 57). Contrary to that, being 'with law' implies a form of legal consciousness in which 'the law is described and "played" as a game' (1998: 58). Here, the law is accessed, used as a resource by people aware of their rights. In this arena, actors engage in tactical manoeuvring to fulfil their self-interest. Finally, the third way of positioning oneself towards the law is being 'against the law' where individuals are either caught up in the law or are up against the law – 'its schemas and resources overriding their own capacity either to maintain its distance from their everyday lives or play by its rules' (1998: 58).

Hernández (2010) criticises that many studies on legal consciousness too quickly assume that the poor and marginalised hold a legal consciousness of the last type – and are thus seen as being positioned against the law. She

develops a more fluid theoretical framework on legal consciousness which allows for encompassing shifts between these different schemas. I would even go beyond her understanding of how individuals' legal consciousness develops and argue that different standings can exist simultaneously or that there can be a shifting from one schema to another and back again (see also [Abrego, 2011](#)).

Indeed, we must consider that migrants often get caught up in legal procedures, much more than citizens. [Ewick and Silbey \(1998: 15\)](#) argue that 'often, we don't feel the presence of the law although it is omnipresent'. However, my research participants were constantly confronted with the law as they were repeatedly involved in legal cases. Therefore, they might have a closer and more imminently experienced relationship to the law compared to people in a privileged legal situation, which, in turn affects migrants' legal consciousness. Thus, it is important to reflect on how specific exposure to the law also affects the ways people engage with the law. Being particularly exposed to the law, migrants with a precarious legal status may therefore be more aware and constantly 'feel the presence of the law', and some may also be more likely to resort to legal resources; all aspects affecting their legal consciousness. [Hernández \(2010: 100\)](#) similarly observes that 'minority men have more opportunities to develop legal consciousness as they are subjected to the law frequently compared to women' – only because the latter are less often imprisoned than men.

At the same time, negative experiences with the law can make people turn away from the law ([Hernández, 2010: 101](#)) and try to avoid its enforcement. Hence, we need to bear in mind the situational nature of individuals' engagement with the law. Illegalised migrants who are registered with state authorities are *visible* to the state ([Chapter 2](#)). In these situations, they might more actively engage in legal procedures (such as in attempts at regularisation). During periods where migrants remain *invisible* to the state, their tactics might revolve more around eluding any contact with states' law enforcement actors to avoid detention and expulsion. However, even in these periods, it is inevitable that migrants accumulate legal knowledge and know how to circumvent migration control attempts, as I demonstrated in the [previous chapter](#).

## **Tactics to circumvent law implementation**

States' attempts to control unwanted migration are, among other aspects, aimed at detecting illegalised migrants, and eventually expelling them from their national territory. In turn, unauthorised migrants need to develop tactics to thwart states' law enforcement practices aimed at detecting and deporting. These tactics can thus be categorised as 'against' the law ([Ewick and Silbey, 1998](#)).

*Eluding migration control*

In [Chapter 5](#), I have described the flexibility and spontaneity inherent in migrants' decisions to move somewhere else. Plans often change daily based on new opportunities opening up and others ceasing. [Papadopoulou-Kourkoula \(2008: 2\)](#) argues in her book on transit migration that a common characteristic of her interlocutors was their dependence on 'the coming about of a particular opportunity', such as a gap in border control, the possibility of a work permit or of a chance to legalise their status. This illustrates well what [de Certeau \(2002: 37\)](#) has called using 'the chance offerings of the moments', an important feature of tactics by those who lack power. Quick reactions to new opportunities are a result of the unpredictability and insecurity inherent in migrants' living conditions. Employment in the informal labour market can suddenly be terminated, legal procedures are lost and eventually followed by (yet another) shift into illegality, and support structures are often likewise of a short-term nature. It is the elusive nature of migrants' actions that simultaneously makes it challenging for states to control people's movement and practices. Migrants learn about different options for regularisation, types of law implementation or reception conditions in different countries and adjust their journeys accordingly, as I have demonstrated with regard to migrants' high degree of mobility ([Chapter 4](#)) and the importance of rumours in decision-making processes ([Chapter 5](#)). Acting spontaneously upon available opportunities is the first field in which I locate elusiveness as a migrant tactic to circumvent migration control.

Walid, with whom I was in contact over several years, seemed to change his plans on a weekly basis, mirroring the unstable conditions he was subjected to. After he was deported from Germany to Switzerland – the country responsible for his case according to the Dublin Regulation – he told me about his plans to marry his young German girlfriend, which might have led to the regularisation of his status. However, briefly afterwards, their relationship fell apart. Nevertheless, Walid then contemplated moving back to Germany and staying with one of his acquaintances. Yet, he struggled with the thought of going back to a country that had just deported him, and he was not hopeful that this time things would be different. Walid also considered staying in Switzerland and looked for employment opportunities in the informal labour market but was unsuccessful. In the end, he made a spontaneous decision to leave for Italy with a man from the same country of origin whom he had just met in Switzerland. This all happened in approximately four months while he was living in a shelter for rejected asylum seekers in Switzerland.

To give another example: one day, I met Youssef, a man in his mid-thirties from a Maghreb country, in the asylum camp where I was conducting my

research, and he told me about having received a decision that dismissed his asylum application according to the Dublin Regulation. However, he had not yet decided what to do next. He told me, depending on the amount of money he received from working in an occupational programme offered in the asylum camp,<sup>2</sup> he would pick a destination. He added that it would take him only ‘ten minutes to decide’.

Khaled, a man from a North African country in his late twenties, had been living and working unauthorised in Italy for more than a year, as he explained to me. When he lost his job, he talked to a friend of his who was living in France after having obtained documents in Italy. The way Khaled recalls their conversation exemplifies how the flexibility mentioned earlier is embodied in migrants’ everyday practices:

“‘Come, come! We will search for a job, we will live in France,” [my friend said]. I met him there in Italy. He stayed for three, four days. And I prepared my suitcase and we left [*laughs*]. ... All of a sudden, like that, “let’s go!” ... I am crazy. ... Even now, today, I am with you, I am in Switzerland. ... I don’t know, tomorrow, you can find me in another country [*laughs*].’ (Interview in Switzerland in 2015)

In the following extract of an interview with Obinna, we were talking about the reason for him to go to Germany. Obinna had previously stayed in Italy for two years where he had requested asylum. His application was rejected; however, he appealed the decision. As the procedure took too long, he moved to Switzerland and entered another asylum procedure, which was, however, dismissed in line with the Dublin Regulation. After returning to Italy, he started talking to a friend who was staying in Germany at the time:

‘I told you when I was in [an Italian city] a friend called me from here [Germany] and told me that here it is better than there [in Italy]. ... So, if I don’t like what I’m doing, I should come over, maybe I’ll have a chance there, so ... that’s how with the little money I had, I had to buy a ticket. At that time ... the road was free somehow. Not too much control. Because you know, these days, if ... you come from Italy, before you get to Germany, [there is] so much control. ... That’s why he told me if I want to do something, I have to do something fast. Because every day is another day, it may change.’ (Interview in Germany in 2016)

This example demonstrates that speed is also needed to exploit loopholes in migration control. In the [previous chapter](#), I demonstrated how law implementation occurs in an unpredictable way, which pushes migrants to apply practices that are equally unpredictable for state authorities. As Obinna



explained, the necessity of migrants to react quickly to states' attempts of control results in the sheer impossibility to plan even the immediate future: 'Yeah. ... Like I told you earlier, like I told you in Switzerland. ... We know only about today. About this moment. We only know about this moment. Like ... we are talking now. ... Yeah. ... But tomorrow? We don't know what happens tomorrow' (interview in Germany in 2016). The unpredictability of state practices requires migrants to constantly weigh up the risks and opportunities, especially regarding the timing of going into hiding (see also [Chapter 4](#)), which is experienced as extremely stressful. However, it is exactly migrants' elusiveness that makes it difficult for states to act upon migrants' tactics, which is particularly evident when people go into hiding to avoid detention or deportation. This can happen covertly or in a more overt form of resistance during encounters with law enforcement agents. One of my interlocutors from a Maghreb country, for instance, described a moment of such open resistance. He had been in Sweden and early one morning the police arrived and tried to deport him back to Switzerland, which was the country competent for his asylum application:

B: They came to me around seven o'clock in the morning to deport me. They were very friendly with me and one of them was an Arab man from Iraq. ... Migration officials. ... One told me: "Take your things and we go to the airport." I said, "Ok." Then I packed my things. I told him, I will go and buy *smus* [powder tobacco]. ... The petrol station [with a shop] was approximately [100 meters] away. Not far but a little bit far.

A: And then you escaped?

B: Yes. ... Then, he saw me how I left. I bought *smus* but I did not go back to him. I just went around the petrol station and ran a bit. He ran, ran, ran, ran. ... And you know, the police did not run behind me, just him, the migration official. ... After about 800 meters I turned around and just saw him alone. And I also stood there. He came to me ... and I said: "You really want to arrest me? You cannot do this." ... "How can I not do this?" I said, "I will beat you up, and ... nobody knows my real name and where I am from. ... I can also take your cell phone. I don't want any problems, I just want to bunk off. Let me bunk off. Don't try to hold me back." Then he realised that it was becoming a bit serious. Then, he let me go. (Interview in Switzerland in 2017)

The inherent speed and surprise of such movements enable migrants to display everyday resistance to states' attempts to control their presence, as it renders migrants 'hard to catch'. The rather slow mechanisms of bureaucracy and law implementation often cannot keep up with migrants' elusiveness. Yet,

it is exactly this need to react flexibly that makes migrants' lives unpredictable and highly unstable.

### *Being imperceptible*

For states to get hold of their subjects they need to first be able to 'see' them (Scott, 1999), which requires the identification of people on a state's territory. This means registering them, counting them – and nowadays – fingerprinting them. Accordingly, one tactic used by migrants to escape the view of the state and avoid migration control attempts is to make their identity imperceptible. Papadopoulous and colleagues (2008: 8f) write that imperceptible subjectivities 'are marked by their intimate relation to potentialities which escape fixed forms of regulation and control':

Becoming imperceptible is an immanent act of resistance because it makes it impossible to identify migration as a process which consists of fixed collective subjects. Becoming imperceptible is the most precise and effective tool migrants employ to oppose the individualizing, quantifying and representational pressures of the settled, constituted geopolitical power. (Papadopoulos and Tsianos, 2007: 228f)

Thus, remaining undetected, refusing to disclose one's identity or using somebody else's identity are everyday acts of resistance to avoid law enforcement (cf Ellermann, 2010; Scheel, 2019).

People who are at risk of deportation can attempt to elude the state's view by not attracting any attention in their everyday life (Chauvin and Garcés-Mascareñas, 2014). This is mostly in situations where individuals have not been registered at all. Mustapha, a man in his late twenties from a North African country, explained to me that in situations in which he feared being intercepted by police – especially while attempting to cross a border without being caught – he would make sure he was well dressed as he appeared less suspicious like this:

'If anybody sees you like this and you have an Arab face and you don't have good clothes, they will call the police directly. [So] what do I do? I have a costume ... and cravat like this, do you understand? ... I change because when [you have been] in the jungle you are dirty. [So that they think] "Oh, this is not an Arab, this is a Greek [man], this [one] does not come from the border"' (Interview in Switzerland in 2014)

This quotation recalls the potent and excluding effect of racialised, classed and gendered ascriptions of otherness discussed in Chapter 3, where I have also emphasised the disciplinary dimension that can be evoked through an

atmosphere of suspicion. This is reflected in migrants' attempts to behave correctly to avoid any sort of attention by law enforcement agents, which can diminish the risk of being apprehended (Wyss and Fischer, 2022). 'Correct' behaviour includes always having a ticket when using the bus, obeying street rules or not engaging in criminal activities (Fassin, 2013). Obinna said: 'People like me that look for documents ... I don't want to ruin my document. Maybe [because of] selling some drugs, something like that. If you are caught, then your document can be delayed. ... I just want my document to come out clear' (interview in Switzerland in 2014). Some of my interlocutors highlighted that correct behaviour and distancing oneself from criminal engagement was crucial both to avoid being caught by the police but, notably, also for a potential future regularisation, which often depends on a clean criminal record (Schweitzer, 2014).

Given the increasingly sophisticated border technologies such as the use of biometric data to reliably confirm people's identity, it has become more difficult for migrants to fake their identity to circumvent law implementation. Increasingly, fingerprints are stored in databases so that migrants cannot use multiple identities and, for instance, circumvent the application of the Dublin Regulation by applying for asylum under a false name. However, migrants nevertheless seek ways to outwit technologies, however elaborate. A man from Algeria, for instance, recalled being in Sweden with a good friend from the same country of origin. They applied for asylum and pretended to be two brothers from Palestine in the hope of having a better chance of receiving a protection status. Both had previously applied for asylum in Switzerland. One evening, they talked to a group of Sudanese people who recommended they chop off their fingertips with a razor to make identification impossible. The two friends from Algeria followed this advice. Unsurprisingly, in the end, this did not lead to a change of competency for their case from Switzerland to Sweden as their fingertips grew back – also highlighting the indirect violent effects of ever more pervasive control practices.

Another tactic to challenge the fingerprinting is the evasion of registration in the EURODAC database in general, which again involves remaining undetected. It was common knowledge that this often happened in Italy, a country where many migrants arrive and which was thus in theory responsible for processing their asylum claims according to the Dublin Regulation. Without fingerprints being registered in the EURODAC database, it is difficult for states to prove that another state is responsible for processing a person's asylum application.

Remaining imperceptible, however, does not necessarily imply that there is 'nobody to see' for state authorities. Migrants can also apply tactics of deception by pretending to be somebody else. During asylum determination procedures, this includes the adaptation or re-invention of

individual biographies for them to fit into the definition of the Geneva Refugee Convention.

In both of our interviews, one taking place in Switzerland and one in Italy, Adama described the narratives he had presented to decision-makers during his asylum hearings. In Italy, the story differed from the one he told authorities in Switzerland. When I asked him in Italy about these inconsistencies, he apologised, embarrassed, and told me that his ‘brother’ had sent him details of ‘what to say in the [Italian] commission, how to say it and how I got a problem’. He was therefore advised to adapt his story to increase his chances of obtaining a protection status.

As [Beneduce \(2015: 562\)](#) writes, ‘lying is often the only possible reply to the hypocrisies that regulate migration, or the laws on the recognition of human rights’. He continues: ‘Leaving behind documents that prove one’s identity, losing or destroying them ... inventing a new name, age, and, in some cases, even nationality, are acts that represent a complex and tiring work of bricolage aimed at overcoming these problems’ (2015: 562f). The prevailing culture of disbelief surrounding and circumscribing migrants with a precarious legal status is particularly apparent during asylum determination procedures – where only certain types of suffering are recognised and where others are deemed incredible or insufficient in order for applicants to be granted protection ([Beneduce, 2015](#)). Hence, it is unsurprising that migrants feel pressurised to tailor their stories and identities to find ways to remain in Europe. Such an elasticity of identities and the capacity to adapt to changing circumstances again highlights the requirement to be flexible.

I was often impressed by the way people could play their different roles depending on the context. Migrants subjected to illegalisation learn how they need to behave, what biographical note might be useful to mention, and what kind of appearance might help them avoid attention. People thus have to invent and adapt identities as they are subjected to increasingly narrow – and changing – definitions of who is deemed vulnerable or deserving enough against the background of a political context in Europe that calls for border closure.

However, it is not only their biography that is adapted but also certain aspects of individuals’ identity. For example, people may pretend to be minors, as underage people claiming asylum have more rights than adult asylum seekers ([Malmqvist et al, 2018](#)). In Mustapha’s case, the head of an asylum facility in Austria turned a blind eye when Mustapha pretended to be underage. Mustapha recalled their conversation:

“‘How old are you?’ ‘Me, I am 17.’ [He] told me, ‘You joke with me or what? Ok, I know you are maybe 26, 25 years old.’ I said: ‘No, I tell you the truth.’ He told me, ‘I give you one week here. ... You

are afraid of prison. ... I give you one week and then you leave this place". I told him, "Ok".' (Interview in Switzerland in 2014)

States react to such subversive tactics by applying new technologies to reveal the 'real identity' – or in this case the real age – of people seeking asylum. For instance, in the context of age assessments, state authorities increasingly rely on medical examinations (Hjern et al, 2012).

At another occasion, instead of hiding his real age, Mustapha felt forced to lie about his country of citizenship. On his way from Turkey to Switzerland, he pretended to be from Syria as it was during the time when thousands of Syrians were fleeing their war-torn country to Europe and were portrayed by the media as 'genuine refugees' who deserved protection, thus also arousing sympathy for their escape. Mustapha recounted one conversation with a border guard when he tried to cross from Greece to Bulgaria:

"“You have a document?” [the border guard asked]. I told him, “No, I am from Syria.” He told me, “Ah, from Syria.” ... He told me, if you are from [a North African country], you have one year prison in Greece and you go back to [your country of origin].” (Interview in Switzerland in 2014)

As this example shows, border control practices can involve very sweeping generalisations and discriminate certain nationalities. However, such declaration of the wrong country of citizenship mostly does not lead to obtaining a protection status because state techniques for establishing a person's identity are becoming increasingly elaborate. Nevertheless, it might result in a different initial treatment as in many cases people are already classified according to the likelihood of receiving international protection upon arrival in a particular country.<sup>3</sup>

Often, migrants with a precarious legal status also have to resort to forged documents, for instance, in their attempts to gain access to support structures or employment opportunities. Ali, for instance, managed to organise a document in his Middle Eastern country of citizenship that 'proved' him to be underage despite him having already turned 18 at the time. Several other people acquired some sort of documentation to ease their stay in Italy: Youssef, for instance, arrived in Europe with the help of a fake work contract. Similarly, the issuing of a forged visa or the use of somebody else's passport may allow people to avoid the dangerous route across the Mediterranean and enter by air instead (see, for instance, Scheel, 2018).

Eymen bought forged papers that made it possible for him to work in Italy:

E: I made a fake paper. ... [In Italy] you can make everything. ...  
A permit, papers, passport, everything.

- A: And this helps to find a job?  
 E: Of course, because without papers you cannot do anything.  
 (Interview in Switzerland in 2014)

Of course, migrants with a precarious legal status can also be deceived by false promises as I was made aware of by two legal counsellors in Italy: ‘When we had the *sanatoria* and the quotas,<sup>4</sup> there were many fake contracts ... This is a business. ... Two persons in a CIE [Centre of Identification and Expulsion] have told me that they were promised a work contract but without any result’ (interview in Italy in 2015).

In my second interview with Jamal in Germany in 2016, he explained to me that he had learned – supposedly through conversations with other migrants or legal counsellors – that there were three ways to prevent deportation from Germany: first, he was told, he could get married to a person holding valid residence papers, thus regularising his legal status via family reunion. Second, if he converted from Islam to Christianity, he might be able to convince the authorities that as a Christian it would be too dangerous to live in his Muslim country of citizenship. And third, he was advised that pretending to be mentally ill might render the enforcement of a deportation order impossible. The latter option highlights that adjusting one’s identity can also entail an enactment of ‘the suffering body’ (Fassin, 2012). In all of these cases, Jamal would have had to bend at least part of his identity to prevent his deportation. What these tactics that were suggested to him would also have in common is that Jamal would actively mobilise legal means that make law enforcement difficult, impossible, or at least delay it. Consequently, in these cases, tactics to circumvent the enforcement of certain laws overlapped with tactics to appropriate alternative legal frameworks.

As Chapter 3 has illuminated, this book’s protagonists confront racialised, gendered and classed representations stereotyping them as ‘the undeserving other’. Concealing their identities or taking on a new one thus serves as one tactic to oppose these adverse reception conditions – but simultaneously reproduces them to some extent.

## Tactics of appropriating law

As shown in the previous chapters, migrants actively engage with and seek ways to appropriate different regulations as when they partake in procedures to legalise their status, appeal unfavourable decisions with the help of lawyers or use their right to access state support structures. Hence, despite occupying a sphere that is defined by illegalisation, migrants attempt to appropriate certain legal frameworks, and act ‘with the law’, such as lodging asylum applications – to prevent the implementation of other policies – for

instance, detention due to unauthorised residence. Both by avoiding law enforcement and by appropriating laws, migrants can complicate states' achievement of policy aims. This tension between avoiding and appropriating law (enforcement) is mirrored in the conflicting relationship between state practices of care and control (Ataç and Rosenberger, 2019).

Importantly, appropriation of the law requires some degree of compliance with states' regulatory frameworks. Certain forms of compliance – or 'reluctant compliance' (Scott, 1985: 26) – must be understood as tactically employed everyday acts of resistance (see also Hasselberg, 2016). However, following Scheel (2018: 2755, see also 2019), I identify such resistance only if the mechanisms of control are recoded 'into means of appropriation': 'The success of practices of appropriation hinges, paradoxically, on a convincing *performance of compliance* with the regulations, conventions and requirements these practices seek to efficiently subvert' (Scheel, 2019: 92). Notably, tactics to appropriate the law require a certain degree of legal expertise – as do tactics aimed at avoiding the implementation of law. Also, in order to act 'with the law', migrants often have to resort to lawyers or legal counsellors to ensure they receive the right support in their cases.

### *Putting law enforcement on hold: prolonging legality*

When migrants initiate legal proceedings, they are sometimes not (only) concerned with regularising their legal status. In Chapter 4, I have shown that applying for asylum can serve the purpose of obtaining a temporary legal status for the duration of the asylum procedure. Similarly, if migrants move on to another country and apply for asylum for a second (or third and so on) time, this can be a way of 'making time'.<sup>5</sup> Entering a new asylum procedure can thus prolong migrants' authorised presence and act as protection from deportation to the country of origin and might even help to access welfare services (Wyss, 2019).

The 'indeterminate nature of documentary regimes' creates room for manoeuvre (Tuckett, 2018: 20). As Daniel, whose asylum application was rejected in Austria, told me: '[Authorities] don't decide so fast. ... You make an appeal, and they leave you for two years, three years, four years'. While waiting for the bureaucratic procedures to be decided, applicants can use the time to find other means of improving their situation. These can include developing a network of people who can help them to find informal work and living arrangements, or finding alternative opportunities for regularisation. There is no guarantee that an appeal procedure will be a lengthy process and of course there is no guarantee that it will result in a favourable decision for the appellant. Nevertheless, being involved in a legal procedure might suspend a deportation order for a certain amount of time – although this would not apply to all cases (AIDA, 2017: 6).



Hasan, a man from South East Asia, told me about his 23 asylum applications in four different countries. Being certainly aware of the almost non-existent chance of being granted a protection status, he explained that having an ongoing legal case would at least allow him to show confirmation of his application to the police in the event of being stopped and checked. In Belgium, he had lodged three asylum claims (respectively appealed the negative decisions), as he recalled, and was provided with a place to sleep while the legal procedures were still pending. After the rejection of the third application, he failed to find accommodation, which is why he moved to another country where he initiated a new asylum procedure.

An employee of the International Organisation of Migration in Austria emphasised that in many cases, the right of appeal slows down the implementation of legal decisions and helps some people to find an alternative way through the legal maze as it might prolong their temporary legal status:

‘You have to have an appealing system, otherwise you are not by law. And people have a right to this. That an individual tries to muddle through, to find their own way, that is reality, and you cannot blame this on somebody. That is how it works. That works for some and for others not at all.’ (Interview in Austria in 2016)

This way of ‘making time’ can be used to find other legal avenues that could help to improve an individual’s (legal) situation. Such appropriation of legal procedures by migrants is often a thorn in the side for the authorities. Griffiths (2017: 52) writes that in the UK, immigration ministers criticised migrants who supposedly ‘drag their feet so as to draw out their time on British soil, which they can then use to override the state’s timespace edicts’. Such potentially ‘profitable temporal delays ... reflects the fact that time accrued in a place can feed into successful claims to remain or settle’ (2017: 52).

Indeed, one’s presence in a country – even if unauthorised – over a long period of time can in certain cases lead to regularisation (Kraler, 2019: 104; see also Chapter 2). In Switzerland, for instance, rejected asylum seekers can apply for regularisation in the case of serious personal hardship if they have lived in the country continuously for five years and can prove their ‘advanced integration’ (Asylum Act, Art. 14 Sec. 2a). In the Swiss canton of Geneva, between 2017 and 2019, a regularisation programme was launched that regularised around 3,000 unauthorised migrants – mostly female domestic workers. Their regularisation was conditional on the length of their stay (five years in the case of families and ten years for adults without children; Kaufmann and Strelbel, 2021: 9). Importantly, these hardship cases are subject to the discretion of state authorities and thus, their outcome is not guaranteed and in case of rejection applicants’ risk of deportation might even increase as their identities are disclosed. Note also that the high



mobility of people within Europe makes such a regularisation impossible as the criterion for continuous presence is mostly not applicable – placing most of my interlocutors in an even more precarious position.

Yet, states react to migrants' tactical use of time by extending the duration of presence that is required to acquire a legal status or devaluing the time according to how it was spent (as when time is spent in prison or abroad; Griffiths, 2017), or by accelerating bureaucratic procedures (Poertner, 2017), including the shortening of appeal deadlines as to render lodging an appeal more challenging (AIDA, 2017).

### *Paperwork*

The second kind of tactics of law appropriation identified refers to practices aimed at the regularisation of a person's legal status. 'Paperwork' mostly describes bureaucrats' everyday practices of processing and producing documentation – and thus the materialisation and legitimisation of laws (Borrelli and Andreetta, 2019; Borrelli and Lindberg, 2019). It is worth emphasising that migrants themselves are not only objects of paperwork but also actively participate in it. I propose to broaden the understanding of the term to include, on the one hand, practices related to 'papers' such as case files and, on the other hand, practices related to 'papers' in the sense of residence papers. Also, while most asylum seekers and illegalised migrants are prevented from working, it is worth acknowledging how much 'work' – in the sense of effort – is needed to obtain papers. Paperwork, in this understanding, thus includes participation in legal procedures assessing individuals' right to remain (like collecting – or withholding – proofs), making efforts to provide the necessary ground for obtaining (and keeping) residency (such as demonstrating one's 'integration') as well as finding ways to 'work around' limitations assigned to specific residence papers. Notably, to engage in 'paperwork', 'making time' is often a prerequisite as preparing and dealing with the necessary paperwork takes time.

Importantly, paperwork related to residency does not end after having obtained a legal status, as the example of Rachid highlights. He had finally received temporary residence documents in Italy but soon realised that despite the regularisation of his legal status, he lacked employment opportunities and access to welfare services (Chapter 4). Thus, Rachid went to Germany where he found occasional work in the informal labour market. With his temporary Italian residence permit, this was, however, illegal. He described how he repeatedly had to return to Italy to prevent losing his residence permit in Italy. This involved forging a work contract and other proof of his local 'integration' in Italy despite him working in Germany. Rachid explained that he hoped to finally receive a permanent residence status, which would also allow him to work in other countries in the Schengen area. For this, he

had made considerable efforts such as passing a language test in Italy, which is a precondition to apply for a permanent residency. However, Rachid was confronted with a difficult situation: despite having legalised his status in one country, he found himself in yet another illegal situation in another country, which endangered, in turn, his residence papers in Italy where he was expected to live and work. If proven otherwise, his status could be withdrawn. Rachid's example highlights how mobility can, on the one hand, enable migrants with a precarious legal status to improve their economic situation, but on the other, how it severely challenges and endangers their efforts to legalise their stay, respectively to keep their right to stay.

Let me illustrate this with another example: Karim, a man in his late twenties from a Maghreb country, whom I met in Switzerland, had previously lived in Austria for almost two years where he had submitted an asylum application. He told me that upon his application, he had given a false name to the Austrian authorities because initially he had not planned to stay but instead to move on to France, which required him to circumvent the implementation of the Dublin Regulation. However, he later changed his mind because he started to like the idea of living in Austria and because he was in a relationship with a woman who lived in Austria. As his asylum application had been rejected, he sought an alternative way to remain in Austria.

Being known to the authorities under a false name became a problem when he wanted to marry his girlfriend, which would also lead to a regularisation of his status. For the marriage, he needed his birth certificate and documents proving that he was unmarried. As the name on those documents did not match his 'Austrian identity', Karim sought to 'correct' the latter. He hoped that if he applied for asylum in Switzerland under his birth name and later be returned to Austria (according to the Dublin Regulation), he could change his name back to the original one. This was a tactic suggested to him by a lawyer in Austria. Unfortunately, his plan did not work out. Karim underwent a Dublin deportation from Switzerland to Austria, and upon arrival in Austria, he was asked to provide the authorities with his original documents. However, becoming identifiable for the authorities could have also enabled his deportation, which had so far been impossible because Austria lacked information on his official identity. Thus, to obtain some sort of proof of his integration (a language certificate in his case) or to marry his partner, both of which could lead to regularisation, he would have been required to disclose his true identity, which at the same time could have led to his deportation. This example indicates that such 'paperwork' aimed at recoding the mechanisms of control into means of appropriation (Scheel, 2018, 2019) always takes place under great uncertainty and unpredictability and might not always result in the desired outcome.

Importantly, Karim's example points to the crucial role of legal intermediaries (such as lawyers or legal advisers) when migrants engage in practices to appropriate law. As the staff member of the International Organisation in Austria said: 'It depends also a lot ... if somebody has the right legal advisor, if one has somebody who is strongly committed' (Interview in Austria in 2016). Successful navigation of the law often requires committed support from legal advisors and lawyers 'facilitating migrant mobility, easing communication channels, or enabling the production and completion of bureaucratic paperwork' (Tuckett, 2018: 94).

After many years of 'paperwork', Karim and his partner got married, and through their marriage he was able to obtain a residence permit. This brings me to another important pathway to legalisation. Especially, for non-European citizens who are neither deemed vulnerable nor 'profitable' for the labour market, marriage is often the last resort for regularisation. Many interlocutors have mentioned this as one of the only ways to secure their residency in Europe. Hence, trying to get married to a European citizen can be conceived of as one way of committing to 'paperwork'.

### **Marriage as the last option**

After about five years of knowing Walid, we met one day for a coffee and discussed once again his options for regularisation that seemed to keep disappearing one after the other. Together with a local legal counsellor, he had tried to reopen his case with reference to the psychological difficulties from which he suffered, but he had just received the absolute final negative decision on this. His general prospects looked now particularly bad especially since Switzerland had just started to deport a considerable number of people to his country of citizenship – among them a friend of Walid's. On that afternoon, I struggled to find ways to cheer him up. At one point, he looked at me and said: 'Look, Anna, if you really want to help me, you have to marry me.' Unsure how to react to this – knowing how true it was – I tried to explain that I would not be willing to marry him. As the introductory description of Adama's journey has already shown, it was not the only time I was asked this question, which reflects the sheer impossibility for many people to legalise their status based on either a claim for protection or on labour market integration.

The European Convention of Human Rights (Article 8 and 12) states the right for private and family life as well as the right to marry. As other publications demonstrate, marriage, respectively family reunion, is often the only way for non-European citizens to enter Europe, respectively to obtain a residence permit (Beck-Gernsheim, 2011; Scheel and Gutekunst, 2019; Moret et al, 2021). Different European countries have developed new policies to fight so-called marriages of convenience, and street-level bureaucrats

view marriages between EU and non-EU citizens as suspicious and seek ways to distinguish a ‘genuine couple’ from a ‘bogus’ one (Lavanchy, 2015; Scheel, 2017; Kristol and Dahinden, 2020). State authorities thus strive to prevent migrants from undermining migration control by way of obtaining residence permits through marriage. Accordingly, states’ attempts to limit unwanted migration not only affect migration policies but also other legal frameworks, such as marriage law, by introducing new obstacles to marital unions that are perceived as ‘suspicious’. Public discourses on belonging shape how policies on marriage and family migration are implemented (Dahinden et al, 2020). These discourses play into bureaucrats’ assessments of couples’ ‘genuineness’. Lavanchy (2014: 15), for instance, writes that ‘couples comprised of African men and Swiss women’ are often viewed with particular suspicion; mirroring the dominant colonially coined imperative of White men ‘saving brown women from brown men’ as famously pointed to by Spivak (1988: 296; see also Wyss, 2018).

Yet, marriage certificates are a ‘valuable resource for border artistes’ (Beck-Gernsheim, 2011: 63). Choosing a European spouse ‘is a kind of action ... testing the limits, stretching the borders but also submitting to the rules of the majority while, at the same time, subtly challenging and eroding them’ (2011: 63). Marrying a European citizen therefore needs to be seen as both a tactic to subvert dominant discourses (and the concomitant legal frameworks) of excluding the ‘other’ and as a tactic that seeks to appropriate the laws of nation states, which allow for spouses to live in the same country. States in turn seek to enact migration control by governing intimate relations – for instance by normatively defining the ‘acceptable’ couple (Kristol and Dahinden, 2020).

In Chapter 3, I have highlighted how borders penetrate intimate relationships. Many of my interlocutors struggled with the realisation that marriage was their last option to legalise their status. In his relationship with a Swiss woman, Eymen felt that his girlfriend was suspicious as she was afraid that he had engaged in the relationship just to get married. Hence, he distanced himself from the idea of marriage to prove the sincerity of his feelings towards her. I have argued that this somehow turns the relation between marriage and the ‘authenticity’ of romantic feelings on its head. The relationship between Eymen and his girlfriend eventually ended and when I conducted the second interview with him, he was considering looking for a woman whom he could marry only for the sake of obtaining a residence permit. His change of strategy highlights how the exhaustion caused by long-term cyclical experiences of trying and failing to improve one’s situation pressurises people into finding alternative avenues – even if they are as incisive as considering a sham marriage. This example also demonstrates how finding a solution for regularisation is in many cases relegated to the private domain.

The political discourse has been shown to attribute little agency to (particularly Muslim) women engaging in marriage migration, as they are predominantly depicted as mere victims of their patriarchal cultural background (Bonjour and de Hart, 2013; Jashari et al, 2021). In the context of my research, gender roles have sometimes played out differently to what the public discourse claims. Some of my interlocutors confided in me that they felt used by their girlfriends who seemed unwilling to commit to a serious relationship and eventually to marriage (Wyss, 2018). One day during my visit to Italy, I was conducting a follow-up interview with Adama when he told me, with a mix of indifference, frustration and embarrassment, that he engaged in sexual relationships with Italian women in the hope of being able to improve his situation by getting married:

‘Let me come clear to you, Anna, because you are asking me, right? They just need a man. Something like this. So ... I experience it, Anna. I have four of them. I even ask one lady. We were sleeping in bed. I said, “Would you marry me, because you know that I don’t have paper?” She said, “Adama, *niente, niente*, no problem.” ... But I see that, you know, one month, two months, three months, she was just trying to use me like that, so ... I think it’s better for me to leave them, you know? The first time I slept with her, she really appreciated me. I said maybe this would be of my interest. ... She [might] even marry me. For the second time ... I said that you know it’s better for me to give them up. ... They are not good, anyway. They tried to use people.’ (Interview in Italy in 2015)<sup>6</sup>

Adama’s account resembles what Scheel (2017) wrote in his article on aspiring migrants’ tactics to seduce European women to appropriate mobility via family reunion. Instead of reproducing the image of ‘male foreign villains’ who abuse European female victims, Scheel proposes a different reading that sheds light on the intertwinement of these migratory practices with exclusionary border regimes and the resulting deflection of unequal power distributions. He highlights that these asymmetrical relationships and their inherent ambivalence must also be analysed against the background of ‘unequal access to mobility, economic resources and life opportunities’ (2017: 396):

Instead of a simple victim – villain dichotomy we encounter young local men trying to take advantage of often much older European tourists who, in turn, take advantage of their privileged position in the ‘geopolitics of mobility’ (Hyndman, 2004) as they look for sexual adventures and romantic opportunities in the anonymity [of] (North) African tourist destinations. (2017: 396)

These power asymmetries create ‘precarious intimacies’ – ‘uncertain and shifting gendered relations of dependency that [migrants] use to advance their lives, but which also expose them to vulnerabilities’ (Vuolajärvi, 2019: 1102). Their illegalisation makes it difficult for them to maintain intimate relationships and to build a family, whereas a relationship and marriage hold the promise to improve illegalised migrants’ legal situation.

Several of my key interlocutors considered trying to find a woman to marry because other legal pathways to regularisation had been exhausted or seemed out of reach. However, to my knowledge, there was only one person among my interlocutors, Karim, who indeed managed to legalise his status through marriage. The high degree of mobility, their social and legal marginalisation and their negative public image make the construction of intimate relationships exceedingly difficult.

### **Concluding remarks**

Migrants with a precarious legal status get stuck in limbo-like situations in refugee camps and bureaucratic procedures, they work under precarious conditions, are forced to leave familiar surroundings under the threat of deportation and are rarely able to plan their future as it remains highly unpredictable. Despite this overall sense of powerlessness, I have shown in this chapter how migrants’ tactical behaviour can repurpose or circumvent migration law enforcement targeted at their exclusion – often, however, with tremendous side effects. I have identified migrants’ tactics in relation to the law and highlighted how we can locate migrants’ everyday resistance in both tactics ‘against’ and ‘with’ the law. The fact that migrants not only avoid law enforcement but instead seek to appropriate legal frameworks underscores again the interrelatedness of legal frameworks, state practices of control and migrants’ resistant tactics.

Adama actively engaged in legal proceedings both in Italy and Switzerland when he lodged asylum claims, respectively appealed negative decisions. In Italy, he had turned to a lawyer who supported him with his claim. Hence, he ‘played the game’ and was – to a certain extent ‘with the law’ (Ewick and Silbey, 1998). However, during the time he spent unauthorised in Switzerland, his relation to the law would better be described as ‘against the law’. He found himself in a situation whereby he had to remain, as far as he could, invisible to law enforcement agencies. After his deportation to Italy, he once again engaged in a legal procedure. Hence, the legal consciousness of migrants whose legal status shifts along their journey is ‘fluid and contextual ... as is legal status’ (Abrego, 2011: 360). Furthermore, a person may simultaneously exhibit different forms of positioning in relation to the law. For instance, migrants whose presence in a particular state is unauthorised and who therefore seek to avoid states’ attempts of law enforcement might

at the same time engage in legal procedures in the hope of legalising their status. The previous sections have shown how migrants seek to appropriate law on their behalf in order to avoid the implementation of other laws. Instead of acting only ‘against the law’, people thus also try to find ways to be ‘with the law’. Indeed, they act *against* certain laws (those aiming at their legal exclusion), while simultaneously seeking to be *with* certain other laws (those promising to legally include them). Considering the fragmented nature of journeys outlined here, the legal consciousness of migrants can thus not be understood as stable, but rather as shifting, as a result of their spatial mobility, adaptation to new contexts, the accumulation of knowledge and experience, but also as depending on individuals’ actual legal situation. This shows how such different and contradictory relations to the law can exist simultaneously, revealing the complex and ambivalent interactions of migrants with a precarious legal status and the law, which is again intensified in the case of people who frequently shift between different contexts.

This ambivalent nature of law for migrants with a precarious legal status puts them in a situation where they must endure the threatening side of the state and be compliant with it, even though it seeks to exclude them. As Coutin (2000: 12) writes:

It is difficult to definitively locate power and resistance within immigrants’ legalization struggles. It is tempting to view immigrants’ legal consciousnesses, their alternative accounts of immigration law, as a subversive discourse. Yet if this discourse is intrinsically connected to and in some ways reproduces law, which in turn justifies the social and physical exclusion of the undocumented, then immigrants’ legal notions are less a form of resistance than an account of law narrated from a particular subject position.

I agree with Coutin that the tactics outlined in this chapter must not be understood as capable of overthrowing the prevailing power asymmetries. However, building on the migration regime as an analytical approach, which views migrants as constitutive agents who are disruptive to the smooth functioning of migration control, in this chapter, I have shown how we can conceptualise migrants’ agency within these restrictive regulatory and controlling frameworks – not as collective resistance but as ‘weapons of the weak’ (Scott, 1985).

Migrants need to consider their options carefully – do they resort to the law, which includes becoming visible to state authorities – or do they circumvent the law by remaining invisible or imperceptible. Both types of tactics carry an enormous element of risk given migrants’ precarious situation and given the unpredictability of law in practice. Yet, the capacity to endure this uncertain condition indeed constitutes a challenge for states to ‘manage’ unwanted migration.

## **Conclusion: Endurance and Exhaustion**

'Just imagine a cage and a bird. You are a bird, and you fly all around. If you don't have any hope, it means all the world is a cage. Now I understand why people get crazy, use drugs and do bad things.' (Interview with Jamal in Switzerland 2014)

Jamal seemed hopeless at the time of the conversation from which this quote is taken. He was in a refugee camp in Switzerland awaiting the authorities' decision on his asylum claim. He had nothing left to lose, he said to me, and he had no more energy. He made a circular motion with one of his index fingers, indicating that he had travelled around a lot. Then he referred to another camp resident who seemed to have problems with his mental health and was acting strangely. Jamal expressed a fear that he might be in a similar state like this man in a few months. He said that maybe the next day the police would come and deport him to Greece. Yet, in the same conversation, Jamal also told me that he was one of the few refugees who were still hopeful after so many years of living on the move and after so many failed attempts to find a safe place to live. As a metaphor for his feelings, Jamal described a bird that flies around in a cage, probably beating its wings against the bars again and again, but still it does not stop flying. This image symbolises the mobility of many of this book's protagonists within (and beyond) Europe, who are repeatedly held up by border controls, by the lack of financial resources or by state-imposed containment, but who at the same time persevere despite the instability and precarity imposed on them. 'Undesirable' migrants have to show endurance when trying to realise their migration projects. They are striving to find a solution, and it is not least their capacity to bear harsh living conditions that poses a challenge for migration governance.

The collected narratives show how migrants with a precarious legal status face the struggle of navigating different dimensions of the European migration regime: finding ways to cope with demeaning, racialised and



gendered representations they confront, navigating a maze of illegible and restrictive legal frameworks, resisting the constant threat of arrest or detention, and manoeuvring through and around ambivalent information. What does this navigation and these individual practices, tactics and pathways tell us beyond enabling us to hear the individual stories of people often portrayed as ‘flows’ or ‘masses’? What do their complex, interrupted and seemingly erratic journeys reveal about the European migration regime? What can we conclude from the observation that migration control always remains incomplete?

Narratives of individuals’ interrupted journeys within and beyond Europe have guided this book, illuminating the complex interrelationship between individual migrant practices and tactics on the one hand, and attempts at migration control and structural marginalisation on the other. It was important for me to give descriptions of migrants’ complex routes the space they deserve, to prioritise them within the individual chapters and to reflect them in their (always incomplete) entirety, rather than just using short interview fragments that are immediately analysed. I believe that by considering the extensive temporal and spatial scope of these journeys, we can learn not only about certain consequences of the contemporary migration regime, but also about migrants’ agency, which cannot be captured if we only focus on certain phases of the migration process, such as departures, border crossings or arrivals. When we primarily pay attention to ‘border spectacles’ (De Genova, 2002), much of the everyday silent violence goes unnoticed, as does migrants’ endurance of such harmful effects.

Most of my interlocutors were still in Europe when I last spoke to them. Although many of them did not have a valid residence permit for the particular country they resided in, they had not left the European territories. Migrants will keep arriving and finding new loopholes to enable them to cross borders and challenge their forced removal, no matter how high the walls and fences will be that aim to keep unwanted migrants out of Europe, or how ‘smart’ technologies will become at identifying the ‘undeserving’ from the ‘deserving’ or with how much hostility European states will try to deter newcomers. Does this mean that migration policies have simply failed to deport these unwanted migrants, who are publicly represented as ‘tricksters’ or ‘bogus refugees’, to their countries of origin? What do these observations tell us about migrants’ agency and their capacity to resist migration control attempts? What are the consequences of the migration regime for individuals who have very little chance of being recognised as refugees, people in need of protection or so-called hardship cases?

In this conclusion, I first revisit some of the central messages of the previous chapters, which highlight that migrants’ everyday forms of resistance are always entangled with state attempts at mobility control and show how this leads to a situation in which both migrants and law enforcement actors have

disruptive power in relation to the respective other. Second, I argue that it is the endurance of migrants that poses a great challenge to the ‘fantasies’ (Coutin, 2015) of migration ‘management’. I then contend that states react to such everyday resistance by trying to transform migrants’ perseverance into exhaustion that will eventually persuade ‘undesirable’ migrants to return – or will turn them into docile labour. The final section concludes that it is within such ‘politics of exhaustion’ (Ansems de Vries and Guild, 2019) that we must locate and render visible the violence of contemporary migration governance that is inflicted upon migrants.

### **Interrupted journeys – disrupted control**

This book has built on the migration regime literature that seeks to understand migration control practices through the complex entanglement of actors, laws and discourses within ‘asymmetrical spaces of negotiation’ (Eule et al, 2018). Although several publications have analysed the migration regime from an ethnographic perspective (see, for example, *Transit Migration Forschungsgruppe*, 2007; Hess, 2012; Eule et al, 2019), only a few studies have explicitly focused on migrant tactics as a disruptive element of the smooth functioning of migration control practices. Migrants take an active part in the constitution of a migration regime by disturbing or openly contesting states’ attempts to ‘manage’ their mobility. Their creative practices of circumventing law enforcement that either immobilises them or pushes them into undesired mobility thus eventually forces regulations and attempts at control to be amended.

Throughout all of the chapters, I have clarified various aspects of these entanglements and have therefore contributed to the migration regime literature by shedding light on different dimensions of the European migration regime that non-citizens with a precarious legal status have to cope with. By doing so I have brought different theoretical perspectives – ranging from those used in gender, postcolonial and mobility studies to those used in the literature on the anthropology of the state and the law – into conversation with the migration regime literature. All of these different dimensions that migrants have to navigate contribute to shaping and challenging migrants’ journeys and tactics and ultimately the formation of the contemporary migration regime.

The first two chapters of this book have provided an introduction to the conceptual, methodological and policy contexts in which these interrupted journeys develop. In *Chapter 3*, I have argued that the migration regime largely rests on racialised and gendered images of the ‘undeserving other’ that allow a legitimising of the consolidation of a ‘human hierarchy’ (Mayblin et al, 2020) which grants rights and privileges to some and discursively justifies inflicting state violence on others as well as depriving them of

their rights and making them the subjects of precarisation. I have argued that male (Muslim) migrants with a precarious legal status are particularly ‘de-vulnerabilised’ and deemed to be the least deserving because they are depicted as threatening intruders. Distancing themselves from these images and creating new self-representations are ways for migrant men to react to such negative representations that manifest in the implementation of state law and permeate people’s personal lives. [Chapter 4](#) has demonstrated how people at risk of deportation use their mobility as a resource when they go into hiding or when they move to another country to secure access to support structures. In turn, states similarly capitalise on mobility in their attempts to control people’s movement, such as when they subject people to deportations within and beyond Europe or when they shift them from camp to camp. Hence, states react to migrants’ subversive mobility by enforcing mobility themselves, a vicious circle ultimately resulting in a condition, which I have called ‘stuck in mobility’. [Chapter 5](#) has shed light on how the migration regime remains utterly illegible and arbitrary and on how migrants have to resort to informal knowledge, including ‘rumours of rights’ ([Eckert, 2012](#)), to navigate the uncertainties they encounter. Access to information is very limited for marginalised migrants, and they need to find ways to make sense of the constantly changing legal frameworks and recent changes to how law is implemented, as well as the opportunities to move and work. Rumours help to obtain and transfer essential – but always unreliable – knowledge. States react to such informal channels of knowledge transfer by limiting access to communication tools and trying to impede the spread of rumours, for instance through information campaigns in countries of origin, which deny the veracity of rumours that might trigger more undesired migration. Finally, [Chapter 6](#) has zoomed in on concrete practices of everyday resistance in relation to the law and has shown that disenfranchised migrants develop different tactics that can be aimed at both avoiding the implementation of laws against them and appropriating laws to gain an advantage from them. However, migrants often get entangled and lost within legal procedures when trying to legalise their presence, simultaneously feeling trapped by the law, which yet again underlines the asymmetrical nature of negotiations among actors within the migration regime. These examples all point to the mutual interdependencies of migrants’ tactics and states’ attempts to control the presence and mobility of non-citizens deemed unworthy of protection or residence rights.

On the one hand, *Navigating the Migration Regime* has thus emphasised how migrants’ journeys are continually interrupted by state control practices, such as when they are rerouted due to deportation, or they are put on hold due to detention and stays in refugee camps. Interpersonal relationships are challenged when restrictive policies and stigmatising discourses put strains on people’s personal lives. Desires and aspirations are dampened and hopes

are diminished as the precarious and unpredictable living conditions render planning for the future almost impossible.

On the other hand, migrants with a precarious legal status have disruptive power when they challenge states' attempts to control their mobility as when they go into hiding to avoid detention or deportation, when they find loopholes in the law or use regulatory frameworks to their advantage, or when they conceal their identities in order to circumvent modern technologies of identification. Such subversive practices then trigger reactions of law enforcement actors who seek ways to refine their policies or the ways in which laws are implemented in an attempt to better control these subversive practices. This highlights the regime's characteristic of constant 'repair work' (Sciortino, 2004) that operates in an emergency mode instead of providing any long-term solutions.

Yet, whereas migrants' everyday acts of resistance disrupt the facile 'management' of people's 'unruly' and delegitimised mobility and presence, these acts of resistance do not fundamentally change migrants' marginalised position. The current set-up of European nation states forces disenfranchised people to grasp at whatever straws they can find. The mutually disruptive dynamics thus have very different implications for the actors concerned. Where do these observations leave us in our analysis of the power relations within the migration regime?

This book has foregrounded everyday acts of resistance by individuals rather than collective political struggles that demand more rights for refugees and migrants. Indeed, my interlocutors' accounts were rather devoid of stories about involvement in collective political mobilisations. Their high level of mobility, the transnational space they inhabit and their short-term inclusion in local political contexts render embeddedness in such networks difficult. My interlocutors' everyday acts of resistance are thus rather 'noises' that are made in response to the managerial discourse of policy makers (noises that can easily be overheard or ignored by those in power) than 'voices' that potentially have the power to fundamentally change the political landscape of Europe (Dikeç, 2004; Swerts, 2021). These noises interfere with the smooth implementation of law and blur the image of states having the requisite powers to thoroughly manage their respective populations. Hence, these disruptions contribute to the overall messiness and illegibility of the migration regime and to the ongoing refinement of migration control rather than to the overthrowing of the system.

Similar to proponents of the autonomy of migration approach (Moulier Boutang, 2007; Papadopoulos et al, 2008; De Genova, 2017b), I took migrants' practices and their border struggles as starting points from which to investigate and theorise the migration regime as well as to consider how migrants' actions force the control apparatus to constantly adapt, transform and reorganise itself (Scheel, 2019). But I have refrained from depicting

migrants' resistance to migration control practices as heroic as this would underestimate the disempowering and violent effects of migration and border control on marginalised individuals. Whereas the autonomy of migration approach sees potential for political change as arising from migration at the margins of the state, I have expressed my doubts about a too romantic reading of migration as a force triggering fundamental changes. Even the collective struggles of illegalised people and their citizen allies have been shown to fail to cause real disruptions to the political order – among other reasons because they lack homogeneous shared intentions and are often simply ignored by those in power (Swerts, 2021). Instead of framing individuals' everyday resistance as a trigger for radical changes to Europe's socio-political mapping to occur, I have interpreted them as challenges to states' 'fantasies' (Coutin, 2015; see also Lindberg and Edward, 2021) of smoothly 'managing' migration. Following de Certeau (2002) and Scott (1985), I understand migrants' everyday acts of resistance as (always risky) attempts that may – or may not – help to prolong their stay in Europe and that might eventually also lead to legalising their condition. The disruptions I have described here are silent, imperceptible acts of non-compliance with states' regulatory frameworks. Acknowledging the incompleteness of governing projects as a result of migrants' everyday disturbances does not, therefore, necessarily imply radical changes to the structural violence resulting from global inequalities. Also, this incompleteness does not indicate that governing projects have no effects – maybe these effects just differ from their officially declared intentions.

Whereas 'moments of autonomy' (Mezzadra, 2007) were certainly manifest in many of my interlocutors' accounts, I am more interested in the long-term understanding of how we can conceptualise migrants' agency vis-à-vis elaborate migration governance. Taking such a perspective allows us to capture how the contemporary European migration regime results in migrants being exposed to permanent temporariness, precarity and uncertainty, as the lengthy and interrupted journeys presented in this book bear witness to. The autonomy of migration approach fails to grasp the lasting power imbalance at play, which keeps migrants in a waiting position and sustains stark inequalities between those who are seen to belong and those who are defined as undeserving of legal, social and economic inclusion. Thus, in the long run, the 'autonomy' of migration seems to have little effect on changing the regime's highly unequal structural underpinnings. I agree with Tuckett (2018: 5) and contend that whereas migrants' everyday tactics and practices might 'offer individual migrants certain opportunities, they also reproduce the structural inequalities they are attempting to overcome'. It is this long-term dimension that I have sought to grasp in this book by giving migrants' lengthy journeys considerable space. It seems essential to add such a perspective to the often incidental, emergency-related and

nation states' centred thinking of much policy making that neglects the fact that many migrants have been en route for years, a fact which challenges inclusion and participation both in their host countries and their countries of origin. The longevity of precarity causes me to frame migrants' agency less as autonomy and more in terms of migrants' persisting endurance to bear constant insecurity, marginalisation and precarity.

### **Enduring long-term legal precarity**

When migrants arrive in Europe, they often face a long, uncertain journey through Europe's bureaucratic and legal maze. Taking migrants' interrupted journeys spanning time and space as a starting point for analysing the European migration regime allows an acknowledgement of the many steps and lengthy periods preceding the arrival of individuals in a given context and a consideration of the continuing instability and socio-legal marginalisation that may lie ahead. Such a perspective is essential to fully comprehend the persistence of legal precarity that many people are forced to endure. Jamal, for instance, had been on the move for more than a decade; he had experienced deportation to his country of citizenship, had struggled his way back to Europe and had suffered severely from the cyclical experience of repeatedly losing legal claims to regularise his presence and from having to leave yet another place to avoid another deportation. Just like him, Eymen, Walid, Rachid and Adama (and many others I spoke to) had also moved and were displaced from country to country, or from accommodation to accommodation, forcing them to repeatedly readapt to new places, implying also that their legal situation was always changing. Some of them had obtained a temporary residence permit only to have it withdrawn again. Others had worked informally under exploitative conditions and lacked any job security, leaving the asylum system being one of the few alternatives available so they could meet their basic needs. But applying for asylum is often only another short-term solution preceding yet another move into illegality, such as when an asylum claim is rejected. These observations emphasise the persistent instability and temporariness that was common to all narratives informing this book.

A secure legal status is increasingly difficult to obtain and keep (Ellermann, 2020), forcing people with an insecure legal status to be extremely patient and put up with long-term uncertainties. More and more countries issue only short-term residence permits while making access to permanent residence or even citizenship exceedingly difficult. Examination of such temporalities in migration governance reveals that migrants are enduring legal, economic and social precarity for longer and longer periods of time. Griffiths (2017: 53), for instance, points to the fact that in 2017, it took 30 years of 'extreme uncertainty' to qualify for indefinite leave to remain in the UK if 'any of

a person's residence was unlawful' – in contrast to it taking less than half that time before 2012. Importantly, the precarity resulting from a tenuous residence status persists even after eventual regularisation, and people have to still spend a great deal of effort and time on their 'paperwork' (Chapter 6) to avoid the expiration or withdrawal of their residence papers. Hence, legal trajectories do not always lead towards a more secure residency – even some residents and naturalised citizens can lose their status (Ellermann, 2020). This becomes particularly evident in the issuing of temporary documents, which pushes people to continually prove that they have 'earned' their right to stay (Wyss and Fischer, 2022). This 'spread of legal precarity and temporariness' (Ellermann, 2020: 2470) therefore coincides with requirements which are conditional on how useful migrants are in the labour market, forcing non-citizens to continually verify their 'integration', which is primarily assessed according to their economic performance (Matejskova, 2013). Many people remain in a state of 'temporary admission' and stuck in long-term insecurity, allowing states to limit their financial allowances while simultaneously blaming and eventually punishing recipients for not 'integrating' well enough (Borrelli et al, 2021b). This also deflects attention from the fact that the state-imposed 'precarious inclusion' (Rytter and Ghandchi, 2019) renders participation in the labour market, social life and educational programmes particularly challenging, permitting only the fittest and most resilient to succeed (Wyss and Fischer, 2022).

The mobile life stories presented in this book testify to the ongoing effect of contemporary migration governance on people without a secure right to remain, but likewise shed light on the incredible endurance many of them display. As Brigden and Mainwaring (2016: 407) note, '[m]igrants themselves view stopping, waiting and containment as part of the journey to be endured'. Many of my interlocutors had the same painful experiences of repeatedly having to start all over again in a new place and of living through the repetitive and cyclical nature of trying to find a new 'chance' only to realise that it soon develops into another failed attempt to improve their situation. They expressed the fear of developing mental problems as a result of the negative psychological consequences of repeated rejections of legal claims or of unsuccessful endeavours to find or keep employment, however precarious (Chapter 4). Yet my interlocutors' accounts also demonstrate that many of them do not give up and do not consider returning to their country of origin to be a viable option – despite the 'violent conditions' (Laurie and Shaw, 2018) they are continually forced to navigate. This perseverance often baffled me, given states' efforts at deterrence. In Chapter 5, I have pointed to the importance of hope when dealing with such unsettled, uncertain and precarious living situations. Having hope of finding a way to legalise one's status and being able to secure one's livelihood often prevails; it helps people to bear their unsettled living conditions. Perhaps one of the



biggest challenges to the smooth implementation of migration laws is in fact migrants' ongoing endurance of the violent conditions that are put in place to make them leave.

The tireless efforts by migrants to climb up the ladder towards more secure living conditions are reminiscent of those required for a Sisyphean task. Although I emphasise migrants' agency and the challenges that states face regarding putting migration policy goals into practice and hence controlling and rendering unwanted migrants' presence in Europe difficult, I do not want to claim that migration control is entirely dysfunctional. Instead, I think it is essential to highlight that its effects may lie less in being able to control human movement in a planned way than in reproducing racialised and classed inequalities.

### **States' efforts to turn migrants' endurance into exhaustion**

The fact that migrants' endurance of adverse circumstances is a challenge for law enforcement is reflected in the seemingly frustrated state responses to the presence of thousands of rejected asylum seekers whom states are unable to deport for different reasons (Chapter 2). In order to 'convince' these 'non-removed persons' (Rosenberger and Küffner, 2016) to leave the country, states increasingly resort to penal interventions (Bhatia, 2020), deny them the right to work while simultaneously limiting their access to social support (Ataç and Rosenberger, 2019), and shelter them in poor and isolated accommodation where only minimal support is provided (Chapter 2; see also Lindberg, 2020). Governments across Europe continue to introduce new policies that contribute to the creation of 'hostile environments' (Canning, 2017) targeting unwanted migrants. On the one hand, these policies are aimed at preventing access to European territory by anyone attempting to enter without the required permission, and on the other hand, the living conditions of those who are already in Europe are rendered 'intolerable' (Suárez-Krabbe and Lindberg, 2019) pressuring them to leave on their own. A central component of these state strategies is the upholding of a general state of precarity that keeps many migrants in an indefinite waiting position and renders their bodies and lives exploitable. Migrants' endurance must therefore be understood not only as a way of resisting repressive practices of migration control, but as a direct consequence of state policies that keep migrants in this liminal state. It is the result of the lack of any meaningful solution to their condition of being 'stuck'. Importantly, the introduction of 'incentives' for 'voluntary return' (Webber, 2011) and the 'politics of deterrence' (Poertner, 2017) are strategies that aim at *turning migrants' endurance into exhaustion*.

All of these strategies are captured well in what Ansems de Vries and Guild (2019: 2157) term the 'politics of exhaustion', which refers to the 'felt



effects of the stretching over time of a combination of fractured mobility, daily violence and fundamental uncertainty'. The term describes how migration governance strategically causes feelings of hopelessness, tiredness and stuckness among those with a precarious legal status. As my interlocutors' narratives have confirmed, they are continually kept in a state of protracted uncertainty, which has a severely exhausting effect on them, resulting in feelings of powerlessness. Still, many of them are forced to endure the hostility and the precarity of the living conditions they encounter because of the lack of an alternative solution.

There remains the question of the intentions behind these strategies of deterrence and exhaustion that appear to be somewhat frustrated responses to migrants' persisting endurance of hostility, precarity and instability over long periods. But should these state responses necessarily be framed as frustrated?

Migration policies have indeed been shown to fail at fulfilling their proclaimed objectives, resulting in a gap between policy goals and policy outcomes (Cornelius et al, 1994; Castles, 2004). This so-called implementation gap is mirrored in the inability of states to prevent migrants from arriving in Europe or in the previously mentioned incapacity to deport all individuals who have received a deportation order. But policies do not simply fail, and it makes little sense to look only at the *official* goals of policies; instead, the *actual* effects of those policies must be analysed.

On the one hand, the rhetoric of firm migration control helps states to uphold the image of a capable nation state with sovereign power that protects its citizens from outsiders (Kalir, 2019), who are variously framed as threatening perpetrators or welfare scroungers undeserving of protection and a right to stay (Chapter 3). On the other hand, enforcing precarity and uncertainty onto these ostensibly unwanted migrants facilitates commodifying them into a cheap, exploitable and docile labour force, as many scholars have argued (for instance, De Genova, 2002; Harrison and Lloyd, 2012; Basok et al, 2014; Wyss and Fischer, 2022). Above all, the migration regime creates (fluid and contested) legal subjectivities with highly differential access to security, rights and mobility (Mezzadra and Neilson, 2013). Legal statuses (and the lack thereof) are powerful tools for disciplining the population, and the issuing of increasingly precarious and differentiated residence permits keeps migrants in a subordinate position. This contributes to the reproduction and cementing of social inequalities that are based on intersecting social divisions like class, nationality, legal status, gender and race. De Genova (2002: 429) argues that it is precisely the perseverance of unauthorised migrants that makes them an obedient labour force: 'it is not difficult to fathom how migrants' endurance of many years of "illegality" can serve as a disciplinary apprenticeship in the subordination of their labor, after which it becomes no longer necessary to prolong the undocumented condition'. Endurance therefore represents a way for migrants to 'wait out

the state' (Eule et al, 2019) and a challenge to the implementation of law *as well as* an advantage for states and industries, which can capitalise on these exhausted bodies who might only be rewarded with more rights if they prove their economic utility.

As I met most of the interviewees at times when they were registered as asylum seekers, these exploitative working conditions are likely to have been less prominent in the collected narratives than would have been the case had I taken a different research approach. Yet most of the people I talked to had spent periods of time being registered in state institutions and bureaucratic procedures as well as periods of time when they had lived out of the sight of the state and had worked informally in restaurants, construction sites or in the agricultural sector before the precarity of these working conditions forced them to engage in onward mobility. At the same time, several of my interlocutors were relegated to the informal labour market after their claims for asylum were rejected. Therefore, this book has also shed light on how the exploitation of disenfranchised migrants is closely interrelated with a restrictive asylum regime.

### **The invisibility of and indifference towards silent forms of suffering**

*Navigating the European Migration Regime* has foregrounded the creative and subversive tactics that migrants with a tenuous legal status use to muddle through an illegible maze of laws, actors and discourses and, above all, to confront migration control attempts targeted at steering their mobility. Public discourse, state actors and politicians frequently frame migrants with a poor chance of obtaining residence permits as 'tricksters' 'with excessive agency' – and thus as 'cunning rational-choice actors using various modes of deception' (Scheel, 2020: 2) to make their way to and through Europe and to abuse the welfare systems of European countries. Male migrants in particular are denied vulnerability and are depicted as threatening perpetrators (Chapter 3). This is visible in the fact that even many migrant support networks capitalise on the image of vulnerable women and children who deserve more protection and support, thus reinforcing the agency of men and their lack of deservingness while simultaneously concealing state violence. Such representations are highly productive as they facilitate the obscuring and legitimising of the harm inflicted on disenfranchised non-citizens. They thus contribute to justifying harsh policies targeting 'undeserving others' who are represented as unworthy of protection and even of having elementary rights.

Both activists and researchers have mapped and raised awareness of the violence migrants experience when taking dangerous routes to cross borders, when being pushed back during border crossing attempts (Border Violence Monitoring Network, 2021), when being deported (Gibney, 2013;

Drotbohm and Hasselberg, 2015) or when being subjected to destitution and physical assaults in refugee camps (Topak, 2020; Amnesty International, 2021). Importantly, it has been indicated how such violence is often displaced to remote places far away from public attention, allowing European countries to maintain the image of liberal states upholding humanitarian values (Isakjee et al, 2020). But it is essential to acknowledge that violence within the migration regime is not only obscured when it is moved to spatial margins of the state and to places outside the realm of public visibility; violence is similarly obscured when it is inflicted in small doses over a long period of time. The violence imposed on migrants should thus not only be seen in terms of direct and physical violence, but also in the long-term consequences of lengthy periods spent in limbo-like and uncertain conditions, of being prevented from making plans for the future, of being denied a stable living situation and of enduring legal precarity.

Recently, scholars have started to theorise these ‘silent’ forms of violence (Galtung, 1969) inflicted on non-citizens. Structural factors leading to the exposure of certain groups of people to a heightened risk of destitution, homelessness, psychological distress and marginalisation (Mayblin et al, 2020) are understood as forms of violence which are ‘normalised’ and ‘legitimised’ (Davies, 2019) by a public discourse on undeservingness and justified by refined legal frameworks (Abrego and Lakhani, 2015), thus obscuring their harmful effects. Galtung (1990: 291) speaks of ‘cultural violence’ that makes such ‘structural violence look, even feel, right – or at least not wrong’. It is not least legal procedures, experienced by migrants as illegible and arbitrary, that contribute to masking and normalising such structural violence that manifests in people’s unequal life chances. Hidden, everyday forms of violence that unwanted migrants are subjected to in Europe have also been theorised in reference to Nixon’s (2011) concept of ‘slow violence’, which refers to ‘violence of delayed destruction that is dispersed across time and space’ (Davies, 2019: 2).

The exhaustion my interlocutors expressed as a result of constantly being uprooted and exposed to precarious living conditions can indeed be understood as a form of violence manifesting not necessarily in direct physical harm but in the accumulation of repeated uprooting, enforced mobility and state abandonment, which results in long-term instability and uncertainty. They feel that valuable time in their lives has been wasted – indeed, their time is ‘stolen’ (Bhatia and Canning, 2021b) – when they are treated as if their lives, aspirations and fundamental needs do not matter. Postcolonial scholars have pointed to the racial underpinnings of such indifference when ‘some human lives are worth less than others’ (Mayblin et al, 2020: 108). Such state negligence and exclusion are experienced as exhausting, or as Jamal expressed it: ‘[T]here is no more power [in me]. There is nothing left.’ Like him, others were also afraid of the severe psychological repercussions of

the ‘violent conditions’ that restrict their potential and put them in a state of misery (Laurie and Shaw, 2018), even to the point where they expressed suicidal ideations. As Eymen said in the very first quote of this book, like many others, he had left his country of origin with a lot of energy and many plans and aspirations. The long-term experience of being stuck – or ‘frozen’, as he called it – by his illegal status, however, had prevented him from ‘giving more’ and realising his full potential. Making individuals live in limbo for many years when they are not allowed to work yet sufficient state support is not granted has severely harmful effects on them.

The multiplication of incidents of neglect, rejection, uprooting and marginalisation over a long period of time is what my interlocutors’ accounts of their lengthy journeys have testified to. It is this temporal dimension, the persistence of precarious inclusion that constitutes this slow violence as a systemic part of the European migration regime; state violence within the migration regime does not just consist of forms of complete exclusion or banishment, such as detention or deportation.

Silent and invisible forms of violence are more difficult to locate and name, however, because they express themselves in the in-between spaces, in the emptiness of ordinary, everyday elements of life, and in long-term uncertainty, precarity and marginalisation. Slow violence often remains ‘out of sight’ (Davies, 2019), and it is therefore more difficult to discover it and be scandalised by it, thereby allowing states to stay inactive and deflect responsibility towards those who are marginalised (Davies et al, 2017).

The life stories presented in this book point to different aspects that facilitate the invisibility of slow violence and its harmful effects on marginalised migrants. First, Chapter 3 has demonstrated that (particularly male) migrants with a precarious legal status are classified as being neither deserving nor particularly vulnerable, which legitimises the denial of state care. Those who are portrayed as undeserving are more likely to be under the radar of law enforcement agencies rather than benefiting from the welfare functions of the state, as they are portrayed as potentially dangerous, fraudulent or abusive. Such discourses allow the responsibility for migrants’ suffering to be shifted onto themselves; they are blamed because of their presence, which allows the violence they experience ‘to appear self-afflicting’ and ‘as of their own making’ (Isakjee et al, 2020: 1756).

Second, the high degree of involuntary mobility my interlocutors exhibit (Chapter 4) contributes to them remaining unseen by individual nation states that could eventually be claimed to be accountable for people’s destitution or for (rare) cases of regularisation, such as when a person has stayed for a considerable amount of time in a country. This involuntary mobility provides an additional opportunity for states to ignore the suffering of migrants and deflect responsibility. The mobility of my interlocutors thus implies that many of them do not receive even the minimal ‘caring’ dimensions of the state,

not least because of policies such as the Dublin Regulation that facilitate such state negligence. In addition, the hypermobility that some of them are subjected to makes it difficult for them to be included in social networks that might allow collective politicisation against state-induced suffering.

Finally, migrants with a precarious legal status are pushed to the margins of the state *spatially*, such as when they need to hide from law enforcement agents or are sheltered in remote and fenced-off refugee and detention camps; *socially*, as their unstable lifestyle disrupts social relations; and *legally*, because the illegalisation excludes individuals from accessing fundamental rights. Hence, ‘border violence is obscured by the concealment and displacement of violence to spatial [and, as I add here, social and legal] “peripheries” where they are less likely to be detected’ (Isakjee et al, 2020, 1752). All these factors enable states to turn a blind eye to the suffering of marginalised non-citizens. Such negligence or indifference towards migrants with a precarious legal status concurs with what Davies and colleagues (2017) have called ‘violent inaction’, denoting states’ failure to respond to human suffering and instead deliberately ignoring the needs of certain marginalised groups of people.

The invisibility of this slow violence and not least the unspectacularity of the suffering make it difficult to politicise these harmful conditions. Indeed, the violence is deliberately opaque ‘so that we do not see the violent act or fact, or at least not as violent’ (Galtung, 1990: 292). Demonising the ‘undeserving other’ – here, young male migrants – legitimises the violence at play and makes it more difficult to bring attention to it. There is thus an essential need to find ways to identify and render visible such silent forms of violence that are always at risk of remaining unnoticed and normalised by those not affected.

# Notes

## Chapter 1

- <sup>1</sup> When I cite ‘Europe’, I am referring to the countries that have signed the Schengen and Dublin Agreements, which almost but not completely overlap with the Member States of the European Union (for instance, Switzerland is not part of the European Union but has signed these two agreements).
- <sup>2</sup> I decided not to unveil the location of the camp for reasons of anonymisation.
- <sup>3</sup> The Swiss asylum system has undergone a significant restructuring since the revision of the asylum law, which came into effect in 2019 and has as its primary aim the acceleration of asylum procedures (see, for instance, [SEM, 2016](#)). Since then, asylum seekers are accommodated in large collective centres for up to six months, within which time most people receive a decision about their application. This recent revision of the asylum system mirrors a general trend in Europe to accelerate asylum procedures to make the asylum system more efficient (and thus less expensive) as well as to avoid asylum seekers remaining in limbo-like conditions for too long ([Bernhard and Kaufmann, 2018](#)).
- <sup>4</sup> The duration of the interviews varied considerably (between one and six hours), and some interviews were conducted on two different days. In most cases, I was able to record the conversations, except for six cases, in which people felt uncomfortable with a recording device and in which I wrote down our conversation as accurately as possible. Language barriers caused some problems as I carried out several interviews in a language that was neither my mother tongue nor that of the interviewee (in English, French or Italian). However, since I have spent time with most of my interlocutors before and after the interviews, I was often able to clarify certain gaps in information or misunderstandings.
- <sup>5</sup> I decided not to focus on one ethnicity or nationality as this runs the risk of ‘culturalising’ experiences. Instead, I turned the focus on the effect of illegalisation ([Dahinden, 2016](#)).
- <sup>6</sup> Six of these interviewees worked for state asylum authorities (four in Switzerland and two in Italy), one for a security company subcontracted by the state for its services in an asylum camp, two were employees of a supranational organisation working on migration (one in Austria and one in Italy), four were employed by NGOs (three in Italy and one in Austria), one person offered pastoral care in an asylum camp, three worked as legal counsellors (two in Italy and one in Switzerland), and three people conducted research about so-called irregular migration or forced migration (two in Italy and one in Austria).

## Chapter 2

- <sup>1</sup> In Italy, unaccompanied minor asylum seekers do not risk deportation to their country of citizenship ([Demurtas et al, 2018](#)). It was not possible for me to understand what exactly happened in Italy with regard to Walid’s legal case.

- <sup>2</sup> The fact that most of my interlocutors resided in or passed through Italy is also related to the circumstance that most interviews were conducted in Switzerland, Italy's northern neighbour country, and therefore an important transit country to other European countries.
- <sup>3</sup> Many thanks to Michael Collyer for pointing out this distinction in a personal conversation.
- <sup>4</sup> People often also referred to 'asylum' when describing being registered as rejected asylum seekers who receive so-called emergency aid (see later).
- <sup>5</sup> For a more thorough description and analysis of asylum laws and their implementation, I refer readers to other publications (see, for instance, [Bohmer and Shuman, 2018](#); [Gill and Good, 2019](#); [Affolter, 2021](#)).
- <sup>6</sup> Cf the 2011 Qualification Directive (recast), the 2013 Asylum Procedures Directive (recast), the 2013 Reception Conditions Directive (recast), and the 2011 Temporary Protection Directive ([EASO, 2016a](#)).
- <sup>7</sup> The following list of prioritised criteria determines how responsibility is allocated to Schengen states. An asylum seeker's case will be processed a) in a country where she or he has close family members who have been granted international protection or where a family member has filed an asylum application that is still pending; or b) in a country that has issued a residence permit or visa to the asylum seeker, or whose borders the asylum seeker has illegally crossed (additional rules apply to minor asylum seekers) ([European Commission, 2013a](#)). If none of these criteria apply, the country in which the first asylum application is submitted is responsible for processing it.
- <sup>8</sup> In Switzerland, people can be imprisoned for up to 18 months due to their illegalised status ([SFH, 2015](#)).
- <sup>9</sup> Most of my interviewees were at increased risk of deportation in Europe due to their nationality, as their country of origin has bilateral agreements with EU Member States to 'take back' their citizens.
- <sup>10</sup> Unfortunately, I do not have any information about the legal grounds on which humanitarian protection was granted.
- <sup>11</sup> Interestingly, 70 per cent of regularised people were women (see also [Chapter 3](#)).
- <sup>12</sup> In case neither the asylum procedure nor other regularisation procedures were successful, one of the last resorts to obtain a residence permit would be marrying a European citizen or a person holding a European residence permit. I will return to this option in [Chapter 6](#).

### Chapter 3

- <sup>1</sup> The notion 'vulnerability' has recently been discussed in migration studies, and particularly in studies and policy discourse on forced migration (see, for instance, [O'Higgins, 2012](#); [Atak et al, 2018](#)). What I refer to in this chapter is what [Mackenzie and colleagues \(2014: 7\)](#) have called 'situational vulnerability', which results from context-related aspects, such as the precarious legal status but also ascribed gendered and racialised attributions.
- <sup>2</sup> At the time of writing the last lines of this book, this is particularly evident in the public discourse surrounding refugees from Ukraine who have fled to various European countries. These are predominantly women and children, who are consistently portrayed as 'real refugees' (and thus deserving) – in contrast to men from the Middle East, for example ([Dahinden, 2022](#); [Neff 2022](#)). Here we can see in a particularly clear way how much the discourse around deservingness is racialised and gendered.
- <sup>3</sup> I used the same quote in an article published in *Tsantsa* ([Wyss, 2018: 122](#)).
- <sup>4</sup> I used the same quote in an article published in *Tsantsa* ([Wyss, 2018: 123](#)).

## Chapter 4

- <sup>1</sup> I do not know why the competency for his case changed to Germany. Supposedly, German authorities had fallen behind with the processing of asylum cases due to the chaotic circumstances in 2015 and 2016 with the arrival of almost one million asylum seekers. The Dublin Regulation sets a time limit for deportations. If a state fails to remove a person within six months (or 18 months if the person absconds), the responsibility for the asylum case is transferred to the state where the person is staying. I assume this is what happened in Jamal's case.
- <sup>2</sup> This chapter contains different fragments that were previously used in an article published in the *Journal of Immigrant and Refugee Studies* (Wyss, 2019).
- <sup>3</sup> In the context of the European Union, the term 'mobility' has recently been used mainly in connection with the movement of EU citizens within the EU and was thus contrasted to cross-border migration by non-EU citizens (Moret, 2018: 11). This is a legal and political distinction between migration and mobility, and I will not draw upon it in this chapter (see also Faist, 2013 on the juxtaposition of labour migration versus mobility).
- <sup>4</sup> For reasons of anonymisation, I deliberately chose not to disclose the canton of the asylum facility where I did a major part of my fieldwork. I speak here about one cantonal practice of migration control, which took place in Zurich and not in the canton in which I conducted fieldwork in the asylum camp. I made sure that the citations quoted here do not stem from interlocutors whose journeys figure prominently in the book so as not to reveal too much information on where they were registered during their stay in Switzerland.
- <sup>5</sup> Surely, it is worth underlining that the Dublin Regulation does not completely fail with regard to its intentions. It enables states to establish competencies concerning the processing of asylum applications and consequently to dismiss a substantive examination of their asylum application and eventually remove them from state territory.
- <sup>6</sup> I prioritise data from 2014 because this was the year I started my fieldwork. This covers a period during which my interlocutors were already in the Schengen area.
- <sup>7</sup> 'Refugees in orbit' refers to protection seekers for whose claim no state accepts responsibility, resulting in 'delaying access to protection' (Fratzke, 2015: 4).
- <sup>8</sup> See also Chapter 6 on making time through prolongation of a temporary legal status.
- <sup>9</sup> The same quote has been used in our book *Migrants Before the Law* (Eule et al, 2019: 152f).

## Chapter 5

- <sup>1</sup> A special flight denotes a flight specifically scheduled for migrants expected to resist deportation and during which severe coercive measures are applied (among others, the deportees may be tied to a chair; SEM, 2021).
- <sup>2</sup> We used the same quote in our book *Migrants Before the Law* (Eule et al, 2019: 60).
- <sup>3</sup> Since the 2019 revision of the Asylum Act in Switzerland, asylum seekers now receive free counselling and legal representation during the asylum procedure, which presumably facilitates receiving information on their legal proceedings.
- <sup>4</sup> If, according to the Dublin Regulation, another country is responsible for processing an asylum application, state authorities can reject the respective claim on the grounds of being 'inadmissible'.
- <sup>5</sup> Camp residents received free tickets only for the officially affiliated legal counselling office.
- <sup>6</sup> Interestingly, a common problem was the blocking of Facebook accounts. It took me a while to understand that this, indeed, had to do with the high mobility of people. If a Facebook account is accessed from different localities in a short amount of time, the user



is asked to confirm her or his account by answering some personal questions or linking the correct name to pictures of his or her friends on Facebook. Many people struggled – due to lack of language or technical skills – to solve this issue and, consequently, lost their contacts and had to set up new accounts.

- <sup>7</sup> Parts of these quotes have been used in our book *Migrants Before the Law* (Eule et al, 2019: 128).
- <sup>8</sup> In Switzerland, illegalised migrants wishing to marry have to overcome many obstacles. Marriage in the country of origin could in some cases ease the marriage procedure, after which the couple could apply for family reunion in Switzerland.
- <sup>9</sup> However, decisions are of course not only based on rumours but also on individual experiences and written information. Farhan, for instance, said that he bases his decisions on what he hears on TV or reads on the Internet: “I always listen to the news, [I use the] Internet. I learn from many [sources]. CNN, Aljazeera, different channels.”
- <sup>10</sup> See <https://rumoursaboutgermany.info/> (accessed 11. 4. 2019)

## Chapter 6

- <sup>1</sup> See also vignette in Chapter 5 (pp 106f) on the circumstances of Adama’s arrest.
- <sup>2</sup> He was referring to money camp residents received for taking part in occupational activities, which amounted to a maximum of 30 Swiss Francs per day. 30 Swiss Francs is roughly equivalent to an average hourly wage in Switzerland (watson, 2016).
- <sup>3</sup> See for instance Scieurba (2016) who describes how migrants in the Italian hotspots system are separated upon arrival according to their nationalities.
- <sup>4</sup> The two interlocutors refer here to two regularisation programmes in Italy (Sciarra and Chiaromonte, 2014: 123).
- <sup>5</sup> See also Chapter 5 in our book *Migrants Before the Law* (Eule et al, 2019) where we elaborate on how ‘making time’ is a tactic applied by different state, non-state and migrant actors.
- <sup>6</sup> I used parts of this quote already in an article on ‘Illegalisation, Masculinity and Intimacy’ (Wyss, 2018).

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*Anna Wyss is a social scientist and works as a postdoctoral researcher for the Institute of Public Law at the University of Bern.*

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Amid the heavy politicisation and problematisation of male migrants in Europe, this ethnographic study casts new light on their experiences, struggles and everyday resistance.

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