

Chapter 3

The Political Challenge of Irregular Migration



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

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

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

3.1 Social Protection and Access to Welfare Services for Irregular Immigrants

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

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

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

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

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

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

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

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

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

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

3.2 Cities in the Spotlight

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

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

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

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

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

3.3 The Battleground of Immigration Governance

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

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

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

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

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

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

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

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

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

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

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

3.4 The Selective Treatment of Irregular Immigrants

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

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

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

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

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

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

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

Table 3.1 The reception of immigrants: a typology

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

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

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

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

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

At a more general and political level, one observes that the hardening of asylum policies in most developed countries is related to the issue of social acceptance of such immigrants. Donald Trump's presidency (2016–2020) was a case in point. In the EU, besides the Visegrad group and other new member states, Denmark and Italy have been probably the countries in which the shortage of social acceptance has had the most visible consequences on the political regulation and legal treatment of asylum seekers. Moreover, political accusations against and legal prosecutions of NGOs rescuing lives in the Mediterranean – being also supported by a large share of public opinion – have been probably the most striking demonstration of how stigmatisation can also anticipate and prevent the protection of unwanted immigrants.

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

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

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

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

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

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

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

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

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

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

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

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

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

3.5 A Contested and Dynamic Boundary (Conclusion)

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

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

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

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

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

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

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

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